

# EXPERTGUIDES

THE WORLD'S LEADING LAWYERS CHOSEN BY THEIR PEERS

*28 years' experience*

## WOMEN IN BUSINESS LAW



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The Queen's Award  
for Enterprise 2008



# WOMEN IN BUSINESS LAW

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# Methodology

Welcome to the 2022 *Guide to the World's Leading Women in Business Law*, the international legal market's leading guide to the top female legal practitioners advising on business law.

The inaugural edition in 2010 was met with an overwhelmingly positive response from the female business community endorsing the idea of a guide devoted exclusively to the best female practitioners globally. The *Women in Business Law*, is one of the prolific Expert Guides publications and clearly the benchmark in the industry.

The idea to promote and celebrate successful women in the legal industry was our initiative and the Expert Guides brand is unique among its competitors due to a solid reputation over 28 years.

When first published in 1994, the Expert Guides were the first-ever guides dedicated to leading individuals in the legal industry. Since then we have continued to focus on individuals considered by clients and peers to be the best in their field.

The guides for each practice area are updated regularly. Our research process involves sending questionnaires to senior practitioners or in-house counsel involved in each practice area in over 90 jurisdictions, asking them to nominate leading practitioners based on their work and reputation. The results are analysed and screened for firm, network and alliance bias. The list of experts is then discussed and refined with advisers in legal centres worldwide.

Our researchers have compiled a list of specialists in 89 jurisdictions and 32 practice areas for this guide. These specialists have been independently offered the opportunity to enhance their listing with a professional biography. The biographies give readers valuable, detailed information regarding each lawyer/adviser's practice and, if appropriate, their work and clients.

We owe the success of this guide to all the in-house counsel and firms that completed questionnaires and met our researchers. Thank you. We hope you find the guide to be a useful tool. All information was believed to be correct at the time of going to press.

The Research Team

## EXPERT GUIDES RESEARCH

Expert Guides has been researching the world's legal markets for over 28 years, and has become one of the most trusted resources for international buyers of legal services.

Our guides cover a broad – and growing – range of legal practice areas, including:

- Aviation
- Banking, finance and transactional
- Commercial arbitration
- Competition and antitrust
- Construction and real estate
- Energy and environment
- Insurance and reinsurance
- International trade and shipping
- Labour and employment
- Life sciences
- Litigation and product liability
- Patents
- Privacy and data protection
- Rising stars
- Tax
- Technology, media and telecommunications
- Trade mark
- Transfer pricing
- Trusts and estates
- White collar crime
- Women in business law

Our guides are distributed to and regularly used by the world's most prominent decision-makers and frequent buyers of legal services. Each guide has an extensive distribution list plus additional tailoring to its area of focus.

Each guide is also reprinted in full at [www.expertguides.com](http://www.expertguides.com)



## AVIATION

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Founding partner of Bernardi & Schnapp Advogados, Carla Schnapp has extensive experience in aviation and labour law. For the past 26 years, she has been representing major airlines operating in Brazil as well as aircraft manufacturing and insurance companies in various legal matters, mainly in the labour and litigation areas.

Her practice covers litigation on both civil, and labour and employment issues. Carla manages the litigation areas of Bernardi & Schnapp dedicated to assisting airlines and insurance companies with passenger cases of various natures, including disputes on baggage matters, flight delays, aeronautic incidents and accidents. Carla also advises airline clients with consultancy on civil and consumer law matters.

Labour law is an important area of her expertise. Carla has prepared a complete procedural manual for airlines, detailing all relevant aspects about compliance with Brazilian labour legislation and the airline's employee union statutes. This has significantly helped to decrease the number of labour claims against the airline clients of Bernardi & Schnapp. She has been representing clients in several class actions filed by unions and labour district attorneys in Brazil to challenge outsourcing programmes implemented by airlines locally. She also has extensive experience with negotiating and drafting agreements between airline employees and the Unions.

Carla received her LLM from the Catholic University of São Paulo in 2006, with a thesis on indirect termination of the employment relationship.



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Laura Pierallini is the founder and name partner of the Italian aviation law firm Studio Pierallini.

She spent several years in the legal and tax department of Arthur Andersen, and was the managing partner of the international law firm Coudert Brothers in Rome (2001 to 2005).

She is a professor of commercial law and air law, at the LUISS University of Rome.

Ms Pierallini has practised aviation law since 1988, providing expert advice to clients across the whole of the international aviation sector, including aircraft finance and leasing; antitrust and regulatory advice; litigation and dispute resolution; employment; and corporate issues. Her clientele includes Italian and foreign airlines, manufacturers, lessors, financiers, airports, handlers and travel agents.

Ms Pierallini was recognised in the aviation (regulatory) section of Thought Leaders – Global Elite (2018-2022), and is recommended as a leading lawyer in the regulatory, contentious and finance sub-chapters of the aviation section of WWL: Transport. She has been consistently shortlisted for Best Aviation Lawyer at the Europe Women in Business Law Awards and was named Best Aviation Lawyer for Italy at the 2020 Client Choice Awards. She has been named Italian lawyer of the Year in Transport Law at TopLegal Industry Awards 2021 and 2022.

Ms Pierallini regularly attends and organises conferences on aviation, delivering speeches and moderating panels at various Italian and international symposia, in particular those organised by IATA, EALA, EAC, IBA, EBAA and LUISS.

She is a committee member of the European Air Law Association and a member of the International Aviation Women's Association and the European Aviation Club.

She is the author of many national and international publications on aviation, tourism and commercial law.



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Jennifer Trock is chair of Baker McKenzie's Global Aviation Group, a member of the Firm's North America Regional Management Committee, and the immediate past chair of the North America International Commercial Practice Group. She leads the Firm's unmanned aircraft systems (UAS) and advanced air mobility (AAM) focus teams and is a member of the Firm's Future Mobility Task Force.. She is the immediate past chair of the ABA's Forum Air & Space Law. Ms Trock is based in Washington, DC.

Ms Trock routinely advises airlines, airports, aerospace manufacturers, travel distribution entities, and corporate entities on complex commercial, transactional, and regulatory matters.

Ms Trock is experienced in airline licensing, restructuring and citizenship requirements, eVTOL, automated vehicles, public-private partnerships (including for US airports and infrastructure), corporate aviation, airport grant assurance and compliance, travel distribution and global distribution systems, Part 77 obstruction evaluation, aviation safety and accident investigations, and associated transactional, commercial, and regulatory matters.

In addition to traditional commercial aviation matters, Ms Trock focuses a substantial portion of her practice on UAS and AAM, including range of regulatory and commercial matters, including manufacturers, small drone operators and contractors, as well as emerging technology in the areas of High Altitude Pseudo Satellite (HAPS) applications and passenger carrying self-piloted aircraft. Ms Trock is also focused on the emerging area of urban air mobility and advanced air mobility, including electrical Vertical Take-Off and Landing (eVTOL) aircraft, including regulatory, commercial, operational, and related-infrastructure issues.

Ms Trock has been recognized by *Chambers USA*, Aviation Regulatory-National (2007-2022) and received honors from Euromoney's Guide to the World's Leading Aviation Lawyers, Infrastructure Journal, and The Washingtonian. Ms Trock has also been recognized by Women in Business Law (Americas) as the Aviation Lawyer of the Year in consecutive years (2021-2022).

Ms Trock earned her BS from Wheaton College (*cum laude*). She received her JD from University of Notre Dame Law School.

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Maria Sagrado is a leading practitioner and a highly skilled negotiator with extensive high-level experience in structuring foreign investment and financial transactions. She represents the interests of numerous foreign clients investing in Indonesia, including companies and investors from China, USA, UK, Singapore, and European Union across various sectors, including nickel smelter, pharmaceuticals, distribution, payment systems, software as service and fintech.

Combining her European and Indonesian exposure, Maria's well-rounded experience in relevant corporate and commercial practices enables her to comprehensively advise and guide foreign clients entering into local investments or transactions in Indonesia, with due consideration of the various aspects involved.

Her ability to forge rapport between disparate parties and drive solutions is also showcased by her successful track record executing prominent finance transactions involving leading foreign banks, in particular banks from China, Germany and other European countries, as well as offshore export credit agencies in the financing of Indonesian borrowers including State Owned Enterprises (SOE), power plant, major mining-related industries and manufacturing companies.

Maria is a pioneer and among the few Indonesian lawyers who are active in payment systems and fintech transactions. She was involved in the drafting of the first Financial Services Authority (Otoritas Jasa Keuangan) regulation on Fintech, i.e. Peer-to-Peer lending in Indonesia that was issued in late 2016. She also published an article that discusses the country's central bank's regulatory sandbox initiative for fintech players as published in IFLR1000's Fintech Special Focus 2018 and was invited to speak in various seminars about fintech and payment systems.

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Caroline Clemetson is a member of the management committee, head of Schellenberg Wittmer's investment management group, and a partner in the banking and finance group in Zurich and Geneva.

Some examples of Caroline's expertise include counsel to major Swiss fund management companies for the set-up of very complex and innovative funds; advising fund managers on obtaining their FINMA licence as fund manager in Switzerland and implementing their new organization; and counsel to entrepreneurs and pension funds for the set-up of complex Swiss products, open or closed ended in different asset classes (including private equity, real estate, private debt). Caroline was the first to be able to transform successfully contractual funds into SICAVs in Switzerland.

Caroline is an authorised representative at the SIX Swiss Exchange, member of the legal and compliance specialist committee of the Asset Management Association of Switzerland and secretary of the executive board of the Swiss Trading and Shipping Association.

Caroline graduated from the Universities of Lausanne and Zurich in 2001 and was admitted to the Swiss Bar in 2003. In 2006, she earned an LLM from Columbia University.

Before joining Schellenberg Wittmer as a partner in 2014, Caroline worked for the Swiss Financial Markets Supervisory Authority.

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Anita Schläpfer is a partner in Schellenberg Wittmer's banking and finance, and investment funds groups in Zurich. Anita specialises in advising Swiss and international financial institutions and corporate clients on domestic and cross-border acquisition finance and syndicated lending transactions, securitisations and other finance transactions. She assists clients on asset and investment management, onshore and offshore investment vehicles and other financial products; and provides regulatory and transactional advice for technology-driven solutions and providers in the financial services industry.

Anita's expertise includes: advising Swiss financial institutions in the transition from LIBOR to risk free rates in lending transactions; advising Arsenal Capital Partners, in connection with its acquisition of ATP Group from Bregal Unternehmernkapital, on substantial secured syndicated credit facilities with UBS Switzerland as arranger, agent and security agent; advised Primeo Holding AG in connection with the issuance of its first green bond which was placed and listed at SIX Swiss Exchange with Zürcher Kantonalbank, Basellandschaftliche Kantonalbank and Basler Kantonalbank as joint lead arrangers; advising ING N.V. on Swiss aspects relating to the accession of a Swiss subsidiary to a syndicated credit facility financing of the acquisition of a strategic stake by Gilde Buy Out Partners B.V. in EDCO Eindhoven B.V.; advising Swiss banks and Swiss and foreign borrowers on various debt financing transactions.

Anita held various offices at the International Association of Young Lawyers and was president from September 2013 to August 2014. She is a regular speaker at seminars and conferences.

Anita holds a law degree from the University of St Gallen (1997) and an LLM focusing on banking and securities law from Columbia University (2002). After being admitted to the Swiss Bar in 2000, she worked for another large business law firm before joining Schellenberg Wittmer in 2007 as a senior associate. Anita has been a partner at Schellenberg Wittmer since 2009.

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Jennifer B Ezring is a member of the Executive Committee and of Cahill Gordon & Reindel LLP's corporate practice group.

Jenn's practice focuses primarily on advising commercial and investment banks in leveraged finance and asset-based lending transactions, including acquisition financings, leveraged buyouts, going-private transactions, recapitalizations, project financings, bridge lending and loan commitments, out-of-court debt restructurings, and other secured lending transactions.

Jenn has practiced in a variety of industries, including communications, gaming, retail, energy, manufacturing, media, publishing and internet technology. She has a broad range of financing experience in both US and international transactions.

Jenn was named to *Crain's* list of Notable Women in Law and was recognized as one of *The Secured Lender's* 50 Women in Commercial Finance. In 2022, Jenn was shortlisted for the Women in Business Law Awards Americas, Banking & Finance Lawyer of the Year.

Described in *Chambers* as a "great problem solver," with "great experience," Jenn has been recommended as a leading finance lawyer by *Chambers USA*, *IFLR1000* and *The Legal 500*, including being named as one of *IFLR1000's* Women Leaders since 2020. She is a member of the State Bar of New York, the New York State Bar Association and the American Bar Association.

Jenn is a member of the Board of Directors of LiveGirl, Inc. and the Board of Governors of Multiplying Good. She has served on the Leadership Advisory Committee of the National Women's Law Center and on Cahill's Diversity and Inclusion Committee, and Women's Initiatives Committee.

**Selected Matters**

- Advised the lead arrangers of financing for the combination of Construction Supply Group with White Cap, consisting of a \$700 million asset-based revolving credit facility, a \$2.335 billion Term B credit facility, and a \$50 million revolving credit facility.
- Advised the lead arrangers of a \$750 million asset-based revolving credit facility in connection with the combination of Nesco Holdings with Custom Truck One Source.
- Advised the lead arrangers in connection with a \$1.868 billion North American asset-based loan facility for Gap Inc.
- Advised the lead arrangers in connection with a \$1.5 billion Term B credit facility and a \$50 million revolving credit facility for subsidiaries of Virtu Financial, Inc. in connection with its acquisition of Investment Technology Group, Inc.
- Advised the lead arrangers in connection with a \$1.25 billion global asset-based revolving credit facility for Adient US LLC and certain of its domestic and international subsidiaries.

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Lauren Hanrahan is a partner in the New York office of Milbank LLP and a member of the firm's Global Leveraged Finance Group. Lauren's practice centers on representing banks, direct lenders and other financial institutions in debt financing transactions.

Recognized as a leading lawyer for bank lending and finance in *Chambers Global*, *Chambers USA*, *Legal 500*, and *IFLR1000*, she has significant experience in representing lenders in acquisition financings, recapitalizations, bridge and mezzanine financings, special situation financings and other complex secured lending transactions. She has a broad range of financing experience in both US and international cross-border transactions. Lauren devotes a portion of her practice to acting as agent's counsel or lead investor's counsel in connection with amending and restructuring troubled loans and negotiating workouts.

In *Chambers and Partners'* guide, clients describe Lauren as "*fantastic*" and "*commercial, smart and highly responsive*," noting that Lauren frequently handles asset-based and leveraged financings, counting both private credit funds and commercial banks among her clients. In 2022, she was highlighted as one of the leading women in the secured finance industry in the Women in Secured Finance Issue of *The Secured Lender* magazine. Lauren was shortlisted as "Banking Lawyer of the Year" at the *IFLR1000* Canada and Americas 2021 Awards and she was shortlisted for Best in Banking and Finance in *Euromoney's* Americas Women in Business Law Awards for 2021, 2020 and 2017. As a frequent author and co-author in industry publications, she has published the "Sponsor/Lender Negotiating Issues in Acquisition Finance" Note in *Thompson Reuters* and "A Comparative Overview of Transatlantic Intercreditor Agreements" in *The International Comparative Legal Guide to: Lending & Secured Finance*, among other publications.

Select recent matters include the representation of various arrangers and lenders on:

- The cross-border Term Loan A for medical device company **LivaNova**;
- The financing of Elanco Animal Health Incorporated's (NYSE: ELAN) \$5 billion acquisition of **Bayer AG's animal health unit**, which was shortlisted as "**Banking Deal of the Year**" 2021 at the *IFLR1000* Americas Awards;
- Orion's acquisition of **Redtail Technology** (and the financing in connection with Orion's initial LBO);
- A term loan facility for American food producer **Del Monte Foods**;
- CorroHealth's (a Carlyle company) acquisition of **Aergo Solutions** and **HFRI**;
- American Securities' acquisition of packaging manufacturer **Trace3**;
- The acquisition financing of **Veracode Holdings**; and
- The financings of Madison Industries' acquisition of **Nortek Air** followed by its acquisition of **Big Ass Holding**

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Eliza McDougall is a partner in the Debt Finance Practice in the New York office of White & Case LLP. She is the Regional Section Head of the Americas' Banking Group (comprised of the Debt Finance and Financial Restructuring Practices), the first woman to hold this position in the Firm. In addition, Eliza sits on White & Case's elected global Partnership Committee, which is responsible for partner promotions, lateral hiring decisions and partner compensation and is Chair of the Firm's Americas Operations Council. Eliza was formerly the Executive Partner for the Firm's New York office.

A highly successful dealmaker, Eliza's clients value her deal creativity, efficiency and professionalism. She is an incredibly versatile lawyer representing a broad spectrum of clients including leading investment and commercial banks, direct lenders, corporate borrowers and private equity sponsors on a wide range of financing matters, including leveraged and investment-grade acquisition financings, asset-based financings, project and structured financings and general corporate lending transactions. Eliza's exceptional work with clients is reflected in both a Chambers USA ranking and recognition in Legal 500 US as a Key Lawyer. Her clients include Stone Point Capital, Deutsche Bank, UBS, Bank of America, Riverstone Credit, Hess Corporation and JBS.

Notable transactions led by Eliza include:

- Representation of UBS, as arranger, in connection with the financing of ION Trading Technologies S.a r.l. and ION Trading Finance Limited's acquisition of Fidessa Group plc, a publicly traded UK company.
- Representation of Deutsche Bank in connection with financing for Wilsonart, LLC, a company that makes high-pressure laminates and other materials used in office and retail space.
- Representation of UBS, as lead arranger, in connection with the financing Antin Infrastructure Partners' acquisition of FirstLight.
- Representation of JPMorgan Chase Bank, N.A., as Administrative Agent, Collateral Agent and Lender in a financing for RSA Security LLC, a computer network security company.
- Representation of UBS Securities, Inc. in connection with a US\$200 million incremental term loan facility provided to Wheel Pros, Inc.

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Sabrena has over 20 years' experience in completing US domestic and cross-border financing transactions. She advises financial institutions and companies on complex financing transactions, including structured finance deals, acquisition financings, syndicated and bilateral loans, bridge loans, margin loans, investment grade loans, private equity and hedge fund financings, private banking transactions, debt restructurings, sovereign loans, trade financings, supplier financings, receivables purchases and non-performing loan (NPL) transactions.

Sabrena's broad international experience spans Europe, Asia and Latin America. She has a particular focus in Latin America, and has completed transactions in Argentina, Brazil, Chile, Colombia, Costa Rica, the Dominican Republic, Ecuador, Mexico, and Peru, as well as other Latin American jurisdictions.

Named by Chambers Global in 2021 as a Foreign Expert in Banking & Finance, Sabrena has led on many high-profile finance deals.

Recent matters include the representation of:

- Lenders in connection with the restructuring of the financing among USAVFlow Limited, as Borrower, Avianca Holdings S.A. and its subsidiaries as guarantors and/or receivables sellers and the Lenders: in connection with the Chapter 11 bankruptcy filing of Avianca Holdings S.A. in May of 2020 amidst the historic airline industry disruption brought about by Covid-19.
- Morgan Stanley, as lead arranger in its US\$125 million structured financing with Finsocial, a technology-based non-bank financial entity.
- Bayport Management Ltd (BML), a leading emerging market financial services group, on a US\$200 million financing with US International Development Finance Corporation (DFC), America's development bank, of their Mexico and Colombia operations.
- Bayport Management Limited in relation to the restructuring of its South African Business.
- Wilmington Trust, N.A., as First Lien Agent and Second Lien Agent in connection with an Amended and Restated Credit Agreement, which provides for the establishment of a second lien tranche of term loans and additional commitments of \$64,634,317 to IBT Health S.A.C., a Peruvian company, for the purpose of financing the construction and maintenance of certain hospitals in Peru.

**WHITE & CASE****UNITED STATES****Susanna M Suh****Cahill Gordon & Reindel**

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Susanna M Suh has represented financial institutions and companies in a wide variety of transactions for over 25 years, including cash flow and asset-based lending transactions, debt and equity securities offerings and tender offers, exchange offers and consent solicitations. She has extensive experience with companies in the energy, industrial, financial services, real estate and technology sectors. Susanna is recognized as a leading lawyer in bank lending and debt capital markets by *IFLR1000* and *The Legal 500*, and is featured in *Euromoney's* Women in Business Law Expert Guide in the area of banking and finance. She was honored as a Woman of Distinction by the Girl Scouts of Greater New York in 2017.

Susanna has practiced at Cahill since graduating from Yale Law School, where she was Editor-in-Chief of the Yale Journal of International Law. She became a partner in 2003. Susanna has served in various capacities at Cahill, including as the current Chair of the firm's Education and Training Committee. She has also served as Administrative Partner and Co-Chair of the firm's Diversity and Inclusion Committee.

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Ulrike Gantenberg is the founder of Gantenberg Dispute Experts and highly recognized in the field of dispute resolution – in particular for national and international arbitration. She acts as counsel and arbitrator in complex litigation and international arbitration proceedings (ad hoc, DIS, ICC, LCIA, VIAC, SCC etc.). Two main core areas of Ulrike's practice are turn-key construction (including energy related projects) and post M&A. She relies on her extensive experience as an advisor for corporate and M&A.

As a qualified German lawyer with experience of working in France, Ulrike Gantenberg is particularly dedicated to international work due to her international clients and her global network. Besides German, she speaks English and French fluently. Her experience includes arbitration proceedings under various jurisdictions (including Germany, Denmark, Greece, Austria, Switzerland, France, USA, Sweden, Finland and Turkey). Her vast experience as arbitrator impacts her quality of counsel work. Ulrike combines technical expertise with strategic advice to pursue or defend claims on behalf of her clients. She frequently speaks and publishes on issues of international arbitration and international private law.

Ulrike Gantenberg is Chair of the working group for alternative dispute resolution of the German Bar Association (DAV), Member of the Arbitration Court of the Swiss Chambers' Arbitration Institute (SCAI), Member of the International Advisory Board of VIAC, Co-Chair of the Dispute Resolution Forum Duesseldorf/Koeln (DRF) and a former member of the board of directors of the German Institution of Arbitration (DIS).

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Anne-Carole Cremades is a counsel in Schellenberg Wittmer's international arbitration group in Geneva. She specialises in international commercial arbitration and investment arbitration.

Anne-Carole has acted as counsel before international arbitral tribunals in a broad range of disputes involving inter alia oil and gas contracts, joint venture agreements, share purchase agreements, sales and distribution contracts, international construction contracts as well as investment disputes between states and foreign investors. She has handled arbitrations under the rules of ICC, UNCITRAL, ICSID, the Swiss Arbitration Centre, SCC and before the PCA, in English, French and Spanish.

Anne-Carole has also represented parties before the Swiss Supreme Court in proceedings related to challenges of arbitral awards rendered both in commercial and investment arbitrations. Anne-Carole regularly sits as arbitrator.

Examples of Anne-Carole's expertise in recent arbitration matters include representation of a state in several investment treaty cases; representation of an investor against an African state in emergency arbitration proceedings; representation of a North-African state-owned company in a dispute relating to a water desalinisation plant and project finance issues; representation of a Qatari company in a dispute regarding the termination of a subcontract for the construction of an airport in the Middle East and representation of a Turkish company in a dispute regarding manufacturing of consumer electronics.

Prior to joining Schellenberg Wittmer, Anne-Carole worked as an associate in a renowned Paris law firm. Additionally, she was a teaching assistant in contract law at the University of Paris and a trainee lawyer in a Madrid based-law firm.

Anne-Carole Cremades is a member of several professional associations, including the Spanish Club of Arbitration (CEA), the Comité Français de l'Arbitrage (CFA), the Swiss Arbitration Association (ASA) and ICDR Young & International. She is former president of the Swiss chapter of the Spanish Club of Arbitration (CEA). Anne-Carole has authored various publications on international arbitration issues and regularly speaks at arbitration conferences.

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Anya George is a partner in Schellenberg Wittmer's dispute resolution group. Her practice focuses on international commercial and investment arbitration. She represents states, state-owned entities and private companies in complex multi-jurisdictional disputes across a wide range of sectors, with particular emphasis on insurance and reinsurance, energy, commodities and manufacturing and sales agreements.

Anya has acted in over 60 arbitrations under the ICC, LCIA, CAS, UNCITRAL and Swiss Rules and in ad hoc proceedings. She has special expertise in arbitration-related litigation, including enforcement and setting-aside proceedings before the Swiss Supreme Court, in both French and German. She also advises clients on business and human rights issues.

Anya is trilingual (English/French/German) and dual-qualified as a Swiss attorney and a solicitor of England and Wales. She is a Lecturer in International Commercial Arbitration at the University of Zurich and a member of the ICC Swiss Commission of Arbitration and ADR.

Anya's recent arbitration and litigation experience includes: representing a multinational insurance company in a suite of multi-million-dollar arbitrations; representing an Italian engineering company in an ICC arbitration against a Turkish energy provider; representing a group of PV investors in setting-aside proceedings before the Swiss Supreme Court in a dispute with the Kingdom of Spain; and representing MOL Hungarian Oil and Gas Company Plc. in revision proceedings before the Swiss Supreme Court in a dispute with the Republic of Croatia.

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Dr Anna Kozmenko is a partner in Schellenberg Wittmer's dispute resolution group in Zurich. She represents states, state-owned and private companies as well as individuals in high profile international disputes, including complex litigations, commercial and investment arbitrations as well as sports disputes. She also regularly sits as arbitrator.

Anna's experience includes over 70 arbitrations, both ad hoc and institutional (under the ICC, LCIA, SCC, VIAC, AAA/ICDR, DIS, ICAC, CAS, UNCITRAL, PCA, ICSID, ICSID Additional Facility and Swiss rules), at various seats and under a broad range of applicable laws.

Anna recently represented a state in four investment arbitration matters as well as set aside proceedings before the Swiss Supreme Court. She also represented before the CAS 39 athletes who had been wrongly banned for life from the Olympic Games amid allegations of a systematic doping scheme around the Sochi Olympic Games; the Russian Antidoping Agency in a dispute against the World Anti-Doping Agency; Ms Kamila Valieva during the Beijing Olympic Games enabling her to compete during the games. She also successfully represented GazpromNeft PJSC before a Swiss court against the European Bank for Reconstruction and Development.

Anna is an adjunct professor of law at the University of Arkansas School of Law, where she teaches international commercial arbitration. She is also a visiting Lecturer at the Lomonosov Moscow State University, the Moscow State Institute of International Relations, and the National Research University Higher School of Economics. She was, until recently, a co-chair of ICDR Young & International.

Prior to joining Schellenberg Wittmer, Anna practiced at a leading international law firm in Paris and New York. She graduated with the highest honours from Peoples' Friendship University of Russia (BA, MA and doctorate degrees) and obtained an LL.M. degree in international dispute settlement from the University of Geneva (MIDS).

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Carolyn Lamm is a partner and Chair of International Disputes: Americas at White & Case. She regularly serves as lead counsel in high-stakes, cutting-edge cases, successfully resolving significant international arbitrations involving international corporations and sovereign clients. She also serves as lead counsel in arbitration-related litigation and international trade proceedings.

She advises clients in matters with ICSID and its Additional Facility, and other international arbitral proceedings involving States, and commercial arbitral fora including AAA/ICDR, ICC, Vienna Centre, Stockholm Chamber, Swiss Chamber and in federal court litigation.

She is the Distinguished Faculty Chair at the University of Miami School of Law in the White & Case LLM program in International Arbitration, where she teaches International Investment Arbitration and is a member of the Board of Trustees of the University. Carolyn is also a fellow at the American College of Trial Lawyers. She is a member of the USMCA committee on commercial arbitration.

Carolyn was appointed by President Clinton to the US Panel and later to two terms by the Government of Uzbekistan to the Uzbek Panel of Arbitrators for ICSID arbitration. She was a member of the American Arbitration Association Executive Committee and Board, and is Immediate Past President of the American Bar Endowment, a member of the ICCA Advisory Council and serves on its Judiciary and Inclusion Committees; an Emeritus member of the Council of the American Law Institute, and has served as an arbitrator in AAA International Rules, ICDR, SIAC, ICSID and NAFTA Chapter 11 disputes. Carolyn is a founding member of the American Uzbekistan Chamber of Commerce and currently serves as Chairman of the Board.

Carolyn is a past President of the District of Columbia Bar and the American Bar Association and until recently, was the ABAs' Representative to the International Bar Association.

Prior to joining White & Case, she was employed by the US Department of Justice under the Attorney General's Program for Honor Law Graduates and served as a trial attorney in the Fraud Section, Civil Division, before obtaining the position of Assistant Director, Commercial Litigation Branch, Civil Division.

Throughout her career, Carolyn has been highly active in professional associations. A thought leader in her field, she is a sought-after lecturer and author on topics related to litigation, international arbitration and international trade.

Carolyn received her JD from the University of Miami School of Law and her BS in Exceptional Education and English minor from State University of New York and holds 3 Honorary Doctors of Laws from SUNY, University of South Carolina and Drexel.

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Ank Santens is a partner in White & Case's International Arbitration Practice, and heads the Firm's Americas Disputes Section. She serves as counsel or arbitrator in commercial, investment, and construction arbitrations around the world, under all major international arbitration rules as well as under ad hoc and regional rules. Ank's industry focus includes energy, including oil, gas, electricity and renewables, infrastructure, mining, insurance, telecommunications, pharmaceutical, and financial services.

She represents corporate clients on a wide range of commercial disputes, post-M&A disputes, and disputes concerning shareholder arrangements, and both corporate and sovereign clients on investment treaty disputes and disputes involving public international law issues. Ank also regularly advises on the drafting of dispute resolution clauses in international contracts. She has a track record of obtaining an early resolution through creative strategies and the use of negotiation and mediation.

Ank is a Court Member of the London Court of International Arbitration, and a member of the Board of the International Institute for Conflict Prevention & Resolution (CPR), Delos Dispute Resolution, and the New York International Arbitration Center (NYIAC). She is the Vice Chair and Chair-elect of the Executive Committee of the Foundation for International Arbitration Advocacy (FIAA) and a member of the Executive Committee of the Institute for Transnational Arbitration (ITA). She also serves on the advisory board of the Arbitration Foundation of Southern Africa (AFSA) and the Editorial Committee of International Arbitration Case Law.

Ank is on the IEL Energy Arbitrators List and the arbitrator panels of the ICDR (American Arbitration Association), CPR, the Câmara de Conciliação, Mediação e Arbitragem CIESP/FIESP (Sao Paulo, Brazil), and the Lagos Court of Arbitration (Nigeria).

She is strongly committed to community service. She is a past chair of White & Case's New York's Women's Network and serves on the Board of International Senior Lawyers Project (ISLP), an international pro bono organization. She helped Haiti build a culture of international arbitration as part of the country's efforts to rebuild and attract foreign investment, and has recently advised an African country pro bono on its new arbitration legislation.

Ank received her LL.M from Columbia University and a Master in Law and Bachelor in Philosophy from KU Leuven in Belgium. She spent a semester as an exchange student at the University of Granada in Spain. She advises clients in English, French, Spanish and Dutch.

Recent matters include representing:

- The investors in an ICSID claim against Argentina concerning the nationalization of the country's private pension system.
- The Republic of Bulgaria in a number of arbitrations across various sectors including power and waste collection.
- The Kingdom of Saudi Arabia in two ICSID claims brought by investors in the retail and power/construction sectors.
- Pension funds in ICC arbitrations arising out of a shareholder dispute in relation to a joint venture for construction infrastructure projects in Latin America.

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Abby Cohen Smutny is Global Head of White & Case's world-leading International Arbitration Practice. She is widely recognized as one of the top international arbitration practitioners globally.

With over 30 years' experience, Abby has handled billions of dollars in claims and has obtained some of the largest victories in international arbitration. Her clients include multi-national corporations as well as sovereign States. She handles matters in a wide range of industries including banking & financial services, oil & gas, mining & metals, power, real estate development, water supply, retail, pharmaceuticals, construction, tobacco, railroads, telecommunications and manufacturing.

Abby handles both commercial and investment treaty cases and serves as counsel and arbitrator in arbitrations before all major arbitral fora including ICSID, ICC, HKIAC, VIAC, LCIA, ICDR, SIAC, PCA, and SCC, as well as in UNCITRAL ad hoc arbitrations.

Abby's leadership positions have included: ICCA Governing Board Member; Chair of the Institute of Transnational Arbitration (ITA); Vice President of the American Society of International Law; President of LCIA North American Users Council; AAA Advisory Board Member; IBA Arbitration Committee Vice Chair and Chair of IBA Investment Treaty Sub Committee; ALI Adviser on US Restatement on International Arbitration; co-Chair of the ICCA Task Force on Standards of Practice in International Arbitration; Chair International Law Section of Washington DC Bar. Abby is a member of the Singapore International Arbitration Centre Court and a member of the Board of Directors of the Saudi Centre for Commercial Arbitration.

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## COMPETITION AND ANTITRUST

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Feature for:

China, by Yingling Wei and Chen Yang

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**CHINA**

# Notes on the Amended AML a month on

**Yingling Wei (pictured) and Chen Yang**  
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On June 24, 2022, after two years of deliberation, China's National Peoples' Congress ("NPC") approved the amendments to China's Anti-Monopoly Law ("AML") which took effect on August 1, 2022 ("Amended AML").

The original AML was enacted in 2008 and has governed the enforcement of antitrust laws in China for 14 years. During this time, China has become one of the three most important antitrust enforcement jurisdictions. Despite its achievements, the AML had some shortcomings such as insufficient penalties, ambiguities in some areas, lack of hub-and-spoke rules, etc. The Amended AML aims to fill such gaps and is expected to bring antitrust law enforcement in China to another level.

## Highlights of the Amended AML

- *Fair competition review regime included in law.* The fair competition review system is designed to prevent government agencies or the like from treating business undertakings in an anti-competitive manner. Though the regime was included in the Amended AML, it has been implemented for several years as a ministry regulation. It has been reported that during the last decade, 4.68 million government policy documents have been reviewed under the regime, of which 53,000 policies were repealed or revised accordingly.
- *Hub & Spoke cartels added in law.* Hub & Spoke cartels are explicitly prohibited in the Amended AML and undertakings that facilitate cartels will be subject to the same penalties as competitors within cartels.
- *By explicitly putting the burden of proof on non-anticompetitive effect upon the defendants, the Amended AML resolves the long-standing divergency regarding resale price maintenance ("RPM") between the courts and the enforcement agencies.*
- *Safe harbor added in law.* Safe harbor for vertical restraints has been introduced to the Amended AML which authorizes the State Administration for Market Regulation ("SAMR") to craft detailed rules. The enforcement agency is currently debating and formulating whether RPM can be protected by safe harbor and the circumstances in which safe harbor will be applied.
- *Antitrust penalties have been drastically increased and individual liabilities introduced.* Maximum fines for certain viola-



tions (e.g., gun-jumping) are increased and individuals (e.g., senior management and employees directly responsible for monopoly agreements) are subject to fines of up to RMB 1 million. For egregious cases, penalties could be 2-5 times that of the maximum fines. It is yet to be clarified whether individual liabilities will only apply to cartels or be extended to vertical restraints.

- *Criminal liabilities added in law.* A general provision that companies and individuals may be subject to criminal liability has been introduced in the Amended AML for the first time. This clause shall be implemented until China's Criminal Law provides specific crimes.
  - The Amended AML empowers SAMR to review transactions that have potential anti-competitive effects but have not met the notification threshold, which shows a convergence with international enforcement trends regarding "killer acquisitions."
  - "Stop-the-clock" added to the merger review. It signifies that there is no need to pull and refile a notification with competition/regulatory concerns if SAMR cannot complete the review within the statutory review period. It remains to be seen how SAMR will apply this mechanism and its impact on merger review timelines in China.

"WHAT HAPPENED IN  
THE FIRST MONTH OF  
CHINA'S AMENDED  
AML"

## CHINA

## What happened in August 2022

- **The enforcement team at SAMR was expanded.** Understaffing has been a big problem in China's antitrust enforcement. More than ten newly hired officers were added to the SAMR enforcement team and the requirements on the provision of data in merger filings has been tightened.
- **Certain merger review work has been delegated to local enforcement agencies.** Local antitrust enforcement agencies have been authorized to investigate conduct violations for a long time. For the next three years, local counterparts of SAMR in Beijing, Shanghai, Guangdong, Chongqing and Shaanxi have been delegated to review some simple procedure filings with a local nexus. In the first month of the Amended AML, 8 cases were delegated to its local counterparts, while 37 cases were handled by SAMR itself, according to the information published by the agencies.
- **Enforcement focus on the digital economy and livelihood related products continue.** The Amended AML contains newly added sloganized rules regarding the digital economy that echo China's antitrust enforcement of digital big tech, which began in 2020. This trend will continue and livelihood related products/services such as pharmaceuticals and public utilities etc. will remain the focus of antitrust enforcement in China.
- **New modes of enforcement expected to be applied.** In April 2021, administrative guidance was adopted in the Alibaba case which required Alibaba to formulate a rectification plan and submit annual self-assessment reports. It was used again in the Meituan case in 2021. It is expected that there will be more cases with this type of administrative guidance in the future.
- **Local enforcement agencies motivated to enforce law more actively.** The Amended AML garnered a lot of attention from the public in China. The trend of local counterparts of SAMR investigating antitrust violations in a more active way, which first began in late 2020, would continue.

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Ms Wei is the head of the Anti-trust & Competition Group of JunHe.

Ms Wei has extensive experience in merger and acquisition transactions. She has provided advice on various aspects of such projects including the design of transaction structures, due diligence investigation, drafting and the negotiation of complicated legal documents in connection with such projects. She has also advised many domestic and international clients from different industries in corporate financing, commercial transactions and general corporate matters since she joined the firm in 1994.

Since the effectiveness of the PRC Anti-Monopoly Law, Ms Wei has represented various multinational companies and Chinese companies in their merger control filings, AML advice on cartel, and RPM as well as AML compliance issues. Ms Wei has also led the team handling multiple government investigation cases initiated by AML enforcement agencies in the area of Cartel, RPM and abuse of dominant position.

Ms Wei represented multinational companies defending them in antitrust litigations (including follow-on regarding RPM or abuse of dominant position suite.)

With award of the first “Beijing Excellent Lawyers Returning from Overseas Study”, Ms Wei was also frequently nominated and recommended as a China leading lawyer in the Mergers and Acquisitions and/or Competition by IFLR 1000, EuroMoney Legal Media Group, Legal 500, Who’s Who legal and the Asian authoritative legal media—Asialaw Profiles.

Ms Wei worked at the Hong Kong office of Mallesons Stephen Jaques from 2002 to 2003 where she advised clients on investment projects in China as well as international transactions.

**Education**

LL.B., China University of Political Science and Law, 1993.

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**Professional Associations**

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Setsuko Yufu is a senior partner at Atsumi & Sakai and is admitted to the bar in Japan. She is a member of the managing committee of the firm.

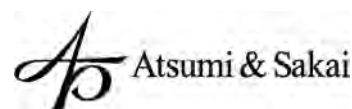
Setsuko headed for 13 years the firm’s antitrust/competition team, advising on international and domestic antitrust/competition matters and cases.

Since 2016, she has served as a member of the Antitrust Policy Council of the Japan Fair Trade Commission. She has also served as a board member of the Japan Competition Law Forum.

Setsuko was named Woman Lawyer of the Year at the 2017 ALB Japan Law Awards, and was inducted into the 2022 Legal 500 Hall of Fame as a leading individual in antitrust/competition law. She was ranked as Thought Leaders Competition 2022 (Japan) by WWL and awarded the honor of Lawyer of the Year Japan in Client Service Excellence (2020) in asialaw. She was ranked as a leading antitrust/competition lawyer by The Best Lawyers (2023) and by Chambers Asia-Pacific (2022). She was also highly recommended in the GCR 100 (2022).

Setsuko obtained an LLB from Waseda University, Tokyo. She was the first Japanese student to study EU law at the University of Amsterdam’s Europa Instituut.

Setsuko also is well known for her extensive knowledge of EU competition law, and acted as a board member of the EU Studies Association in Japan until 2020. She taught EU law at Keio University Law School and other graduate schools. She regularly publishes articles and books on the subject.



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Ilene Knable Gotts is a partner in the New York City law firm of Wachtell, Lipton, Rosen & Katz, where she focuses on antitrust matters, particularly relating to mergers and acquisitions. Recent transactions in which Mrs Gotts advised include CenturyLink/Level 3, Danone/WhiteWave Foods, Gaming and Leisure Properties/Pinnacle Entertainment, Faiveley/Wabtec, Charter/Time Warner Cable/Bright House, J.M. Smucker's/Big Heart Pet Brands, Publicis/Sapient, Essilor/PPG Industries, Deutsche Telekom/MetroPCS, ConAgra/Ralcorp, PPG Industries/Georgia Gulf, Aetna/Coventry and International Paper/Temple-Inland. Mrs Gotts is regularly recognized as one of the world's top antitrust lawyers, including being recognized in the 2006-2017 Editions of *The International Who's Who of Business Lawyers*, as one of the top five global competition lawyers, in the first tier ranking of *Chambers USA* Guide, the "leading individuals" ranking of *PLC Which Lawyer Yearbook*, and the Antitrust Lawyer of the Year for 2016 by *Best Lawyers*, and Top Lawyer of the Year for 2017 by *Cablefax*.

Mrs Gotts previously worked as a staff attorney in the Federal Trade Commission's Bureaus of Competition and Consumer Protection. Mrs Gotts serves on the American Bar Association's Board of Governors and is an officer of the IBA's Competition Committee. From 2009-2010, she served as the Chair of the American Bar Association's Section of Antitrust Law. In 2006-2007, Mrs Gotts was the Chair of the New York State Bar Association's Antitrust Section, which recognized her service to the antitrust bar with the Lifland Service Award in 2010; she has been a member of the American Law Institute for over 20 years. Mrs Gotts is a frequent guest speaker, has had approximately 200 articles published on antitrust related topics, and served as the editor of the ABA's Merger Review Process book, Law Business Research's Private Competition Enforcement Review (2008-2017 Editions) and Law Business Research's Merger Control Review (2010-2016 Editions). She is a member of the editorial board of *The Antitrust Counselor*, *Antitrust Report*, and *Competition Law International* publications. Mrs Gotts is a member of the Lincoln Center Counsel's Council. Mrs Gotts was named by the BTI Consulting Group as a BTI Client Service All-Star for her level of dedication and commitment to exceptional client service.

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The "extremely pragmatic" Rebecca Farrington "provides good market context and communications in a way that clients can easily navigate." She is nationally ranked as one of 17 "Leading Merger Control Lawyers" by The Legal 500, US (2022, 2021), and clients describe her as "highly credible" with "a lot of experience and judgment" in *Chambers USA* (2022). She was named "Retail, Consumer, Food & Beverage Dealmaker of the Year" by The Deal -- Best of the Middle Market Awards (2020), "Best in Antitrust/Competition" by Euromoney LMG Americas (2019).

Her practice focuses on government merger and non-merger investigations, private antitrust litigation, and counseling on antitrust issues.

Rebecca has developed a significant track record defending proposed and consummated mergers before the FTC and the DOJ. Clients she has assisted have operated in a broad spectrum of industries, including pharmaceuticals, healthcare, medical devices, semiconductors and related technologies, food products, aviation, petroleum, coal, broadcasting, gaming, software, industrial and building products, chemicals, energy generation, and retail sales. She has secured numerous high-profile merger clearances, such as:

- Saudi Aramco, the world's largest oil producer, in its US\$69 billion acquisition of SABIC, the fourth-largest petrochemical company in the world;
- Novasep Process SAS on a milestone FTC antitrust approval filed by Sartorius Stedim Biotech to acquire Novasep's chromatography equipment business, the first such approval after the FTC's new policy of imposing prior approval obligations in consent decrees;
- Newmont Mining Corporation in its US\$10 billion acquisition of Goldcorp Inc.;
- DIC Corporation and its US subsidiary Sun Chemical in its acquisition of BASF's global pigments business;
- Baxter International in US and Japan clearances for its US\$350 million acquisition of the Seprafilm adhesion barrier device business from Sanofi S.A.;
- Panasonic Corp. in its US\$8.5 billion acquisition of the remaining 80 percent of the capital stock interests of Blue Yonder.

Rebecca received her BA from the University of California, Los Angeles, and her JD from the University of California, Berkeley School of Law. She serves as the chair of the White & Case Washington Office Women's Network, and her recent pro bono activities include leading a team to advise Oxfam International on a variety of international human rights issues.

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Anna Kertesz has extensive experience in merger clearance, counseling, and civil and criminal litigation. After her experience at White & Case, Anna served as an attorney at the US Federal Trade Commission (FTC), returning to the Firm in 2016.

This combination of government and private practice experience allows Anna to provide practical, strategic insights for clients. In 2022, Anna won “Best in Antitrust/Competition” for Women in Business Law awards. The Legal 500 US ranked Anna as “Recommended” three years in a row and noted, “Thanks to her time spent at the FTC, Anna Kertesz has deep knowledge of merger investigations in oil & gas as well as pharmaceutical sectors.” In 2021, GCR – Who’s Who Legal named Anna a “Future Leader” in Competition.

Anna regularly defends clients in proposed and consummated mergers before the US Department of Justice Antitrust Division (DOJ) and the FTC in a broad range of industries, including healthcare, food products, food service, petroleum and technology. She also defends government allegations of price-fixing and bid-rigging in various industries, including transportation and construction materials.

She has secured numerous high-profile merger clearances, such as:

- Gained antitrust clearance in the US of Metso Corporation’s combination with Finnish rival Outotec. Expedited clearance was obtained, despite the deal combining two businesses that the US authorities forced Metso to separate in a prior enforcement action
- Vertex Pharmaceuticals, Inc. in its acquisition of cystic fibrosis drug, CTP-656, from Concert Pharmaceuticals, Inc., for up to US\$250 million
- XO Communications, LLC in its US\$1.8 billion sale to Verizon Communications

As an attorney at the FTC, Anna led or was actively involved in numerous in-depth merger investigations in the oil & gas and pharmaceutical industries. Her involvement spanned various aspects of complex merger investigations, from conducting the initial investigation through obtaining consent agreements. Anna also has experience in market manipulation enforcement activities relating to conduct in the oil & gas industry.

Anna is a frequent speaker and author on various antitrust merger issues. She received her BA from the Georgetown University, cum laude, and her JD from the Georgetown University Law Center.

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Sarah Biser is a partner in the New York office of Fox Rothschild LLP, a national firm with 27 offices and about 950 attorneys. Ranked by Chambers USA as a leader in construction law for 14 consecutive years, Sarah represents owners, contractors, developers, architects and engineers, both in the United States and abroad, in all stages of the construction process.

As Co-Chair of the firm's national Construction Law and International Arbitration groups, Sarah focuses her practice on large, capital-intensive construction projects, with a particular emphasis on drafting and negotiating contracts for complex and unique construction and infrastructure, as well as litigating disputes both in the courtroom and in domestic and international arbitration. She represents the Panamanian contractor that was part of the consortium that built the third lane (expansion) of the Panama Canal.

Sarah has been involved in the construction of industrial smelters, power plants, waste ammonia recovery systems, solar power installations, museums, manufacturing facilities, gambling facilities, educational institutions, health care facilities and other commercial and infrastructure projects. She defended a European construction company in connection with Defense Base Act claims arising out of the 1968 crash of a B-52 bomber carrying four nuclear warheads at an airbase in Thule, Greenland. Sarah prevailed in Administrative Law Court, at the Benefits Review Board, at the 1st Circuit U.S. Court of Appeals and at the U.S. Supreme Court.

Sarah, who also co-chairs the firm's Israel Practice Group, represented Technion-Israel Institute of Technology in connection with the Technion-Cornell joint venture, in the construction of a new applied science university and related facilities on Roosevelt Island in New York City. She was involved in the construction of InterActive Corporation's futuristic headquarters and AOL's headquarters, including the CNN newsroom, in the Time Warner building.

Sarah is co-author of the leading treatise on New York construction law, the New York Construction Law Manual. She also authors the chapter on New York law in Fifty State Construction Lien and Bond Law (3rd Edition) and the New York chapter in State-by-State Guide to Architect, Engineer and Contractor Licensing. Sarah also co-authored the chapter on "Legal Relationships" in Temporary Structures in Construction (3rd Edition).

Sarah is a frequent lecturer on construction issues, such as:

- Enforcing Domestic and International Arbitral Awards-Licenses and Franchise Issues
- Construction of the Third Lane of Panama Canal
- Beyond Covid-19: Impact on Construction Contracts and Projects
- Challenging and Enforcing Domestic and International Arbitral Awards
- Insurance Trends in the Construction Industry
- Discovery Best Practices for Construction Arbitration
- Why It's Smart to Require Dispute Review Boards in Your Agreements



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Karessa L Cain is a corporate partner at Wachtell, Lipton, Rosen & Katz, where she focuses on mergers and acquisitions, corporate governance and securities law matters. She has worked on a range of transactions, including domestic and cross-border acquisitions, takeover defense, private equity transactions, shareholder activism, proxy contests, joint ventures and capital market transactions.

Ms Cain graduated cum laude from Yale College in 2000. She received her J.D. from Columbia Law School in 2004, where she was a James Kent Scholar and a Harlan Fiske Stone Scholar. Following graduation from law school, Ms. Cain served as a law clerk to the Honorable J. Clifford Wallace of the U.S. Court of Appeals for the Ninth Circuit.

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Denise A Cerasani is a partner in the Mergers & Acquisitions Group at White & Case, practicing principally in the areas of securities, mergers and acquisitions (M&A), and corporate finance. She also heads the Firm's Global Financial Advisory Practice, which she developed as a leading and premier M&A practice for investment banking clients. Denise has counseled and represented firm clients in a variety of industries.

Denise received her JD from Georgetown University Law Center in 1984. She received her BA from University of Rochester in 1981.

Denise is recognized in *Chambers USA* (2022), *Who's Who Legal* (2020) and *Lawdragon* (2016) as a leader in the field of mergers and acquisitions. Additional recognitions that Denise has received in recent years include Top Women in Dealmaking, *The Deal* (2022); one of the Firm's key lawyers in *The Legal 500 USA* (2022); Leading Individual for US M&A, *Euromoney* (2021); and inclusion in *Euromoney's Banking Finance and Transactional Expert Guide* (2018-2021).

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Germaine Gurr is a partner in White & Case's global M&A practice in New York. Germaine advises clients on mergers and acquisitions, private equity, securities offerings, capital raising opportunities, joint venture and commercial transactions, and general corporate matters. She also regularly advises global companies on legal and business considerations in corporate and commercial transactions, operational structuring and management, and compliance and governance matters. Germaine has extensive experience in the energy industry, as well as the infrastructure, software, information technology, retail, healthcare, education and telecommunications sectors.

Germaine previously served as vice president and deputy general counsel at a global Fortune 500 energy management and automation company where she was responsible for and managed all of the company's corporate transactions and corporate governance matters.

Germaine was listed among *The Deal's* "Top Women in Dealmaking for M&A" in 2021 and 2022, and in *IFLR1000's* Women Leaders Guide for M&A in the US in 2022. She was named "M&A Legal Advisor of the Year" by *The M&A Advisor* in 2020. She is also listed in *Euromoney's Women in Business Law Guide* in 2022 and *Euromoney's Expert Guide* for Corporate/M&A in the US for 2021. Germaine was also recognized as a "Leading Lawyer for Private Equity Buyouts" by *The Legal 500 US* in 2022.

Germaine received her BA from Simmons College, and her JD from University of Michigan Law School, *cum laude*.

Recent matters include the representation of:

- ABM, a leading provider of integrated facility services and solutions, in its acquisition of RavenVolt, Inc., a leading nationwide provider of advanced turn-key microgrid systems utilized by diverse commercial and industrial customers, national retailers, utilities and municipalities.
- Schneider Electric in the US\$2.1 billion (R14,000 crore) acquisition of Larson & Toubro Electrical & Automation Division (in partnership with Temasek). The transaction was named "Cross-Border M&A Deal of the Year (Over US\$1 billion)" by the M&A Advisor (2020).
- AlphaStruxure, a joint venture between Schneider Electric and Carlyle Group, in its Integrated Fleet Electrification Infrastructure Project, a first-of-its-kind Energy as a Service (EaaS) fleet electrification project, to Support Montgomery County, Maryland's Growing Electric Bus Fleet. The joint venture will enable at least 44 buses in Ride On, Montgomery County Transit's fleet, to transition from diesel to electric.
- Sole Source Capital LLC, an industrial-focused private equity firm and its portfolio companies in numerous transactions, including the acquisitions of Dalosy Projecten Group, Siena Analytics, VisionID, Graphic Label LLC, among other.

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Erin Hanson is a partner in the Technology Transactions Practice, within White & Case's Global Mergers & Acquisitions Group and Global Intellectual Property Group. She is also a member of White & Case's Global Technology Industry Core Group.

Erin is a transactional attorney, specializing in intellectual property ("IP") and technology transactions and counseling. Erin offers clients legal and commercial advice across the spectrum of standalone IP and technology transactions as well as on the IP and technology aspects of M&A, private equity and other corporate transactions. Her work includes representing large corporations, including major technology companies, in matters ranging from technology development, licensing and distribution, to strategic partnerships, joint ventures and collaborations, and relating to a wide variety of technologies including e-commerce, platform technologies, artificial intelligence, and big data.

Erin's clients benefit from the experience she gained working on secondment at a global technology company and her strong international expertise, having practiced in both Australia and the United States.

Erin was named "Up & Coming" Lawyer for Technology & Outsourcing in New York (2021) and for Technology in USA (2022) by Chambers USA. Erin was also named a "Rising Star" for Mergers & Acquisitions by *The Deal* (2020), *IFLR* (2020, 2021) and *Euromoney* (2021). She is listed as a "Recognized Individual" by Intellectual Asset Management (IAM) Patent 1000 (2020) and is a recipient of the "Emerging Leaders Award" by *The M&A Advisor* (2019).

Erin received her BA and LLB from University of Queensland. Recent matters include the representation of:

- Falcon Capital Acquisition Corp. (NASDAQ: FCAC), a SPAC, in its US\$3.9 billion business combination with Sharecare, Inc., a digital health company based in Georgia.
- dMY Technology Group, Inc. IV (NYSE: DMYQ), a SPAC, in its US\$2.8 billion acquisition of Planet Labs Inc., a leading provider of daily data and insights about Earth.
- ION Acquisition Corp 1 Ltd. (NYSE: IACA), a SPAC, in its US\$2.6 billion business combination with Taboola.com Ltd., an Israeli private company and a global leader in powering recommendations for the open web.
- WhatsApp in connection with the WhatsApp commercial/product integration piece of Meta's (then Facebook) US\$5.7 billion investment into Jio Platforms Ltd.
- Meta (formerly Facebook) in connection with various intellectual property, product, content, and technology transactions and its Portal devices.

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Kristen Rohr is a partner in White & Case's Mergers and Acquisitions Practice Group, and is resident in the New York office. Ms Rohr focuses on the representation of corporate clients and private equity funds in connection with domestic and global mergers, acquisitions and equity investments in a broad range of industries.

Kristen received the "Emerging Leaders Award" from *The M&A Advisor* in 2022. Additionally, she was named to The Deal's "Top Rising Stars" for Mergers & Acquisitions in 2021. She is also listed as a "Rising Star" for M&A in the United States by *Euromoney* for 2021.

Kristen received her BA from McGill University; and her JD/MBA from University of Toronto.

Recent matters include the representation of:

- Newmont Mining Corporation (NYSE: NEM), a gold and copper producer based in the US with operations worldwide, in its US\$10 billion acquisition of Goldcorp Inc. (NYSE: GG, TSX: G), a Canadian senior gold producer.
- Altria Group, Inc. in its US\$1.2 billion sale by its subsidiary, UST LLC, of its Ste. Michelle Wine Estates (Ste. Michelle) business to Sycamore Partners Management, L.P.
- Dominus Capital in numerous transactions, including its sale of Cincinnati Fan & Ventilator, a manufacturer of industrial fans and blowers, and also its investment in Uptime Institute Holdings, LLC, which performs data center certification, data center training and IT consulting in over 100 countries worldwide.
- ION Acquisition Corp 1 Ltd. (NYSE: IACA), a SPAC, in its US\$2.6 billion business combination with Taboola.com Ltd., an Israeli private company and a global leader in powering recommendations for the open web.
- Diamond S Shipping Inc., one of the largest publicly listed owners and operators of crude and product tankers, in its US\$2 billion merger with International Seaways, Inc., one of the largest tanker companies worldwide providing energy transportation services for crude oil and petroleum products.
- NTT DATA, Inc., a recognized leader in global information technology services, in its acquisition of Nexient, LLC, a U.S.-based software services firm.
- I Squared Capital in their portfolio company's (American Intermodal Management) merger with FlexiVan Leasing, the third-largest marine chassis provider in the US.
- Roark Capital Group and Inspire Brands a global multi-brand restaurant company, in the acquisition of Jimmy John's LLC, a fast food sandwich restaurant chain.

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Michelle Rutta is a senior partner in White & Case's New York office and a member of the Securities Group and M&A Group, with over 30 years of experience in mergers and acquisitions, securities law, corporate governance, acquisition finance, high-yield debt and complex securities offerings.

Michelle chaired the Firm's Public Company Advisory Group and advises domestic and foreign companies on stock exchange, securities law compliance and disclosure matters and corporate governance issues. Clients also seek Michelle's advice in connection with M&A of public and private companies, spin-offs, leveraged buyouts and other acquisition transactions, as well as debt and equity securities and liability management transactions.

Michelle has represented companies in numerous acquisitions and acquisition financings in the healthcare industry, including Omnicare, Inc. in financing its acquisition of NCS HealthCare, Inc., which included the first ever issuance of a contingent interest, contingent convertible trust preferred security.

Michelle has extensive experience in the retail industry, having represented the underwriters in numerous financings for CVS Health Corporation, Reebok International Ltd., Phillips-Van Heusen Corporation and JC Penney Company. Michelle has also represented The Walt Disney Company in multiple financings, including Disney's first ever Canadian dollar-denominated security and first ever Luxembourg-listed security.

Michelle is listed among IFLR1000's Women Leaders for M&A in the United States (2022). She is also listed as a Leading Individual for Corporate Governance in the US, *Euromoney's* Banking Finance and Transactional Expert Guide (2021) and for Corporate/M&A in the US, *Euromoney's* Women in Business Law (2022).

Michelle received her BA from City University of New York, Queens College (summa cum laude) and her JD from New York University School of Law (Editor, Moot Court Board).

Recent matters include the representation of:

- Macquarie Infrastructure Corp. (NYSE: MIC) and its related entities in the sale of three businesses, including (i) the US\$4.475 billion sale of its Atlantic Aviation business to KKR..
- Zimmer Biomet Holdings, Inc. (NYSE: and SIX: ZBH), a global medical technology leader, in the approximately US\$820 million spinoff of ZimVie (Nasdaq: ZIMV), Zimmer Biomet's former Dental and Spine businesses.
- Macquarie Infrastructure Partners II in the US\$1.212 billion sale of Gadus Holdings Corporation, the parent company of WCA Waste Corporation, to GFL Holdco (US), LLC, a subsidiary of GFL Environmental Inc.

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Tali Sealman is a partner in White & Case's global Mergers & Acquisitions and Corporate Practice, based in Silicon Valley.

Tali's practice focuses on private and public M&A and general corporate representation of emerging technology and life science companies and venture capital investors. Tali represents strategic and financial buyers and sellers in public and private acquisitions. Tali also represents companies at all stages of their lifecycle and across a broad range of industries, including software, enterprise, security, digital health, fintech, gaming, autotech and blockchain.

Tali was named "M&A Legal Advisor of the Year" by the M&A Advisor in 2020. She is also listed among IFLR1000's Women Leaders for M&A in the United States (2021) and named a Leading Individual for M&A in the United States by Euromoney (2021) and Euromoney's Women in Business Law Guide for Corporate/M&A (2021).

Tali received her LLB at Tel Aviv University and her LLM at Columbia University School of Law, where she was a Harlan Fiske Stone Scholar.

Recent matters include the representation of:

- REE Automotive Ltd., an electric-vehicle technology startup based in Israel, in its US\$3.6 billion go-public acquisition by 10X Capital Venture Acquisition Corp. (NASDAQ: VCVU), a SPAC.
- dMY Technology Group, Inc. II (NYSE: DMYD), a SPAC, in its US\$1.68 billion business combination with UK-based Genius Sports Group.
- Graf Industrial Corp. (NYSE: GRAF), a special purpose acquisition company (SPAC) founded by James Graf and Michael Dee, in entering into a definitive agreement for a US\$1.8 billion business combination with Velodyne Lidar, Inc., as well as in obtaining US\$150 million in PIPE commitments to support the transaction.
- NICE Actimize, a leader in Autonomous Financial Crime Management and a unit of NICE Ltd. (NASDAQ: NICE), in a definitive agreement to acquire Guardian Analytics, a leading AI, cloud-based financial crime risk management solution provider.
- OpenText Corporation (NASDAQ: OTEX, TSE: OTEX), a Canadian seller and developer of enterprise information management software and one of Canada's largest software companies, on a number of acquisitions including its US\$163 million acquisition of Recomind and its US\$75 million acquisition of XMedius, a provider of secure information exchange and unified communication solutions with locations in the United States, Canada and Europe.
- Abu Dhabi Catalyst Partners on its US\$50 million Series F investment into Lookout Inc., a fast-growing Silicon Valley-based cybersecurity company with a pre-money valuation of approximately US\$1.5 billion.

**WHITE & CASE****UNITED STATES****Ipek Candan Snyder****White & Case LLP**

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Ipek focuses on the representation of corporate clients in connection with domestic and global mergers and acquisitions, private equity transactions, divestitures, restructurings, reorganizations, and joint ventures in a broad range of industries, including power (renewables and conventional), infrastructure, telecommunications, oil & gas and industrials.

Ipek has also advised clients on general corporate and corporate governance matters, and offerings of debt and equity securities, both public and private placements.

Ipek is listed as a "Leading Individual" for M&A in the United States by Euromoney (2021).

Ipek received her BA from New York University, and his JD from Brooklyn Law School.

**Recent matters include the representation of:**

- Korea Hydro & Nuclear Power Co., Ltd., Alpha Asset Management, Sprott Korea Investment, Hana Financial Investment and Korea Investment & Securities, as a consortium, in its US\$1.5 billion acquisition of a 49.9% stake in a wind farm portfolio from Brookfield Renewable and Invenergy LLC.
- Metso Corporation, a world-leading industrial company offering equipment and services for the sustainable processing and flow of natural resources in the mining, aggregates, recycling and process industries, in its acquisition of Canadian mobile crushing and screening equipment manufacturer McCloskey International.
- Abu Dhabi Future Energy Company (Masdar), one of the world's leading clean energy developers and a subsidiary of Mubadala Investment Company, in its landmark acquisition of a 50 percent stake from EDF Renewables North America in a 1.6 GW clean-energy portfolio, consisting of three utility-scale wind farms in Nebraska and Texas, totaling 815 MWs, and five photovoltaic solar projects in California (including two battery energy storage units), totaling 689 MW of solar and 75 MW of lithium-ion battery energy storage.
- Abu Dhabi Future Energy Company (Masdar) in its acquisition of John Laing Group's stakes in two wind farms in the US. The transaction marked Masdar's first North American renewable energy investment.
- Cogentrix Energy Power Management, LLC, a portfolio company of The Carlyle Group, in its sale of Red Oak Power, LLC, the US-based owner and operator of combined cycle electricity generating facility, to Morgan Stanley Infrastructure Inc.

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Fitriana Mahiddin is the managing partner of SSEK Legal Consultants and a supervising partner of the firm's oil and gas and mining practices. Fitriana has extensive experience advising multinationals and large Indonesian companies doing business in Indonesia. She is heavily involved in mergers and acquisitions, general corporate and commercial matters, foreign investment, insurance and project finance, with a focus on the energy and natural resources sector.

In the oil and gas sector, Fitriana has represented numerous leading offshore and local upstream oil and gas companies. Her experience includes assisting investors in acquiring oil and gas blocks, preparing and negotiating farm-in/farmout agreements, joint operating agreements and gas sales contracts, and setting up branch offices and project companies for clients.

She is recognised by legal directories as a leading practitioner in Indonesia for energy and natural resources.

Fitriana's recent work includes:

- Assisting Air Products in connection with their development of coal gasification projects in Indonesia.
- Acting as Indonesian counsel to Medco in its potential acquisition of participating interests in two Production Sharing Contracts (PSCs) in Indonesia.
- Assisting Mubadala Petroleum on a retainer basis on several matters related to their operations as well as the preparation of an Indonesian Regulatory Database for Mubadala's upstream operations.
- Acting as Indonesian counsel to INPEX in connection with the Masela PSC and the constructions of facilities to develop the Abadi field.
- Advising production sharing contractors in a number of upstream projects involving SKK Migas, including Chevron, Total E&P Indonesia, ConocoPhillips and ExxonMobil.
- Advising an Austria-based multinational petrochemical company on the contemplated acquisition of a stake in an Indonesian petrochemical company involved in the development of a petrochemical complex.
- Assisting PT Prudential Life Assurance on several corporate matters, including assisting on its marketing arrangements and replication of several hospital and procurement agreements.
- Advising Allianz X, the digital investment unit of Allianz Group, on its investment in Gojek, the leading Indonesian ride-hailing platform that also offers various consumer on-demand and payment services.

Fitriana writes regularly on oil and gas, mining and energy regulation in Indonesia. She co-authored the Indonesia chapters of the International Comparative Legal Guide (ICLG) to: Renewable Energy 2023, ICLG: Oil & Gas Regulation 2022, and Lexology Getting the Deal Through Mining 2021.

Fitriana graduated in 1999 from the University of Indonesia Faculty of Law. She earned her Master of Laws (LL.M.) in international business law from Vrije Universiteit, the Netherlands. She is a member of the Indonesian Advocates Association (Peradi), the Association of Indonesian Legal Consultants, and the International Bar Association.



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## INVESTMENT FUNDS

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Caroline Clemetson is a member of the management committee, head of Schellenberg Wittmer's investment management group, and a partner in the banking and finance group in Zurich and Geneva.

Some examples of Caroline's expertise include counsel to major Swiss fund management companies for the set-up of very complex and innovative funds; advising fund managers on obtaining their FINMA licence as fund manager in Switzerland and implementing their new organization; and counsel to entrepreneurs and pension funds for the set-up of complex Swiss products, open or closed ended in different asset classes (including private equity, real estate, private debt). Caroline was the first to be able to transform successfully contractual funds into SICAVs in Switzerland.

Caroline is an authorised representative at the SIX Swiss Exchange, member of the legal and compliance specialist committee of the Asset Management Association of Switzerland and secretary of the executive board of the Swiss Trading and Shipping Association.

Caroline graduated from the Universities of Lausanne and Zurich in 2001 and was admitted to the Swiss Bar in 2003. In 2006, she earned an LLM from Columbia University.

Before joining Schellenberg Wittmer as a partner in 2014, Caroline worked for the Swiss Financial Markets Supervisory Authority.

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Stephanie R Breslow is co-head of the Investment Management Group and a member of the firm's Executive Committee. She maintains a diverse practice that includes liquid funds, private equity funds and the structuring of investment management businesses. She focuses her practice on the formation of private equity funds (including LBO, mezzanine, distressed, real estate and venture) and liquid-securities funds (including hedge funds, hybrid funds, credit funds and activist funds) as well as providing regulatory advice to investment managers. She also represents fund sponsors and institutional investors in connection with seed-capital investments in fund managers and acquisitions of interests in investment management businesses and funds of funds and other institutional investors in connection with their investment activities, including blockchain technology and virtual currency offerings and transactions.

Recently serving as chair of the Private Investment Funds Subcommittee of the International Bar Association, Stephanie is a founding member and former chair of the Private Investment Fund Forum, a former member of the Advisory Board of former Third Way Capital Markets Initiative, a former member of the Board of Directors and current member of 100 Women in Finance, a member of the Board of Visitors of Columbia Law School and a member of the Board of Directors of the Girl Scouts of Greater New York. Stephanie has received the highest industry honors. She was named to the inaugural *Legal 500 US* Hall of Fame in the category of "Investment Fund Formation and Management: Alternative/Hedge Funds." Stephanie is also listed in *Chambers USA: America's Leading Lawyers*, *Chambers Global: The World's Leading Lawyers*, *Crain's Notable Women in Law*, *IFLR1000 Women Leaders*, *Best Lawyers in America*, *Who's Who Legal: The International Who's Who of Business Lawyers* (which ranked her one of the world's "Top Ten Private Equity Lawyers"), *Who's Who Legal: The International Who's Who of Private Funds Lawyers* (which ranked her at the top of the world's "Most Highly Regarded Individuals" list), *Who's Who Legal: Thought Leaders: Global Elite*, *Who's Who Legal: Thought Leaders: Private Funds*, *Expert Guide to the Best of the Best USA*, *Expert Guide to the World's Leading Banking, Finance and Transactional Law Lawyers*, *Expert Guide to the World's Leading Women in Business Law* and *PLC Cross-border Private Equity Handbook*, among other leading directories. Stephanie was named the "Private Funds Lawyer of the Year" for 2020 by *Who's Who Legal* and the *Euromoney Legal Media Group's* "Best in Investment Funds" and "Outstanding Practitioner," both at the Americas Women in Business Law Awards. She is also recognized as one of *The Hedge Fund Journal's* 50 Leading Women in Hedge Funds and was named one of the 2012 Women of Distinction by the Girl Scouts of Greater New York. Stephanie's representation of leading private investment funds has won numerous awards, including *Law360's* Asset Management Practice Group of the Year. She is a much sought-after speaker on fund formation and operation and compliance issues, and she regularly publishes articles on the latest trends in these areas.

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Jennifer M Dunn focuses her practice on advising hedge funds, private equity funds (including mezzanine and distressed funds), hybrid funds, funds of funds and investment advisers in connection with their structuring, formation and ongoing operational needs, general securities laws matters, and regulatory and compliance issues. Her experience includes structuring and negotiating seed and strategic investments, advising investment managers regarding the structure and sale of their investment management businesses and the structure of their compensation arrangements, and representing investment managers in connection with managed accounts and single investor funds.

Jennifer was named among the world's "50 Leading Women in Hedge Funds" by *The Hedge Fund Journal*. A member of the board of directors of 100 Women in Finance, Jennifer is recognized by *The Legal 500 US*, *Expert Guide to the World's Leading Banking, Finance and Transactional Law Lawyers* (Investment Funds), *Expert Guide to the World's Leading Women in Business Law* (Investment Funds) and has been named an *IFLR1000* "Rising Star" (Investment Funds). She co-authored *Hedge Funds: Formation, Operation and Regulation* (ALM Law Journal Press) and presented at conferences on topics, including ESG investing, attracting and retaining capital, operational due diligence, compliance issues, co-investments, fund structures and terms, management company issues and considerations for emerging managers.

Jennifer earned her J.D. from Columbia Law School, where she was a Harlan Fiske Stone Scholar, and her B.A., *cum laude*, from the University of Pennsylvania.

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Dorothy Mehta advises clients on the structuring, formation, and domestic and cross-border operation of alternative investment products in a variety of asset classes, including commodities, credit, crypto, fixed income and real estate.

Clients turn to Dorothy in connection with U.S. and non-U.S. hedge funds, private equity funds, hybrid funds, funds of funds, collective investment trusts, and both privately and publicly offered commodity pools. Dorothy also advises on the establishment of separately managed account arrangements.

Dorothy is also part of Fried Frank's Digital Assets and Blockchain Practice, which advises financial institutions, investors, technology companies, decentralized autonomous organizations (DAOs) and other market participants navigating at this intersection of finance, operations, technology and culture.

Dorothy's clients include U.S. and non-U.S. investment advisers, wealth management platforms, and family offices. She offers them counsel on registration and related compliance requirements of the SEC and CFTC, as well as on matters pertaining to the Investment Advisers Act, the Investment Company Act, the Commodity Exchange Act, and federal and state securities laws generally.

A frequent speaker and writer on investment management issues, Dorothy co-authored the chapter "U.S. Tax and Regulatory Considerations" in *Private Trust Companies: A Handbook for Advisers* (Globe Law and Business, 2020).

*Chambers USA* and *Chambers Global* has recognized Dorothy as a leading hedge fund lawyer, *The Legal 500* named her a "Next Generation Partner" in alternative and hedge fund formation, *IFLR 1000* ranked her as a "Highly Regarded" hedge fund and investment fund lawyer, and *Super Lawyers* listed her as a top-rated securities and corporate finance attorney in New York.

Most recently, the 2020-2022 editions of *The Best Lawyers in America* recognized Dorothy's work in Private Funds/Hedge Funds Law and *IFLR 1000* included Dorothy on its list of Women Leaders of 2022. Dorothy was also recognized in Euromoney Legal Media Group's *Guide to the World's Leading Women in Business Law* and was shortlisted for the 2019 Euromoney Legal Media Group Americas Women in Business Law Awards for "Best in Investment Funds."

Dorothy received her JD from Fordham University School of Law and a BA from Cornell University. Prior to joining Fried Frank, Dorothy served as a partner at a large international law firm.



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Amanda N Persaud is a Partner in Ropes & Gray's Asset Management Group in New York. Her practice focuses on advising sponsors on the formation, and operation of private investment funds, including private equity, credit, venture, real estate, hybrid structures and other strategies. Amanda regularly leads numerous global fund raises for prominent sponsors and serves as their primary advisor on a wide range of governance, operational and regulatory matters. She also has significant experience advising on recapitalizations of private investment funds, succession planning, and management company arrangements.

Amanda's work in asset management M&A includes negotiating and structuring spin-outs of, strategic investments in, and sales of, alternative asset management businesses and regularly providing fund-related advice with respect to portfolio acquisitions and dispositions.

Ms Persaud speaks extensively on a range of topics affecting private equity funds, credit funds, hedge funds and other private funds at conferences sponsored by the International Bar Association, the Association of the Bar of the City of New York, the Practising Law Institute and other industry forums. In 2021, she spoke at Practising Law Institute (June 8, 2021), "Advanced Issues in Private Funds 2021 – Upper Tier: Structures and Considerations". In 2019, she spoke at Practising Law Institute's 20th Annual Private Equity Forum; the Eighth Annual Private Equity US Spring Forum; Out Leadership – Global Insights: Business Innovation Driving Change; and the SEO Alternative Investments Conference.

Ms Persaud's many publications include: "How PE Can Drive Diversity, Equity and Inclusion Internally, at Portfolio Companies and Industrywide," *The Private Equity Law Report* (March 23, 2021); "Survey Examines Trends in Fees, Structures and Governance of Credit Funds PostCoronavirus," *The Private Equity Law Report* (January 12, 2021); Private Equity: Longer Term Investment Structures," *Practising Law Institute* (May 13, 2019), "Cumming's Take: Private Equity and LGBT Inclusion" *The Wall Street Journal*, May 2 2019) and "Private Equity Funds: Legal Analysis of Structural, ERISA, Securities and Other Regulatory Issues" in *Investment Advisor Regulation* (PLI, 2009–2021).

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Phyllis A Schwartz focuses her practice on the structuring, formation and operation of private equity funds, including buyout funds, venture capital funds, mezzanine funds, distressed funds, litigation financing funds and real estate funds. She represents both fund sponsors and investors in her practice. In addition to assisting fund sponsors with their internal management arrangements, succession planning, capital call borrowing facilities and formation of co-investment vehicles, she has extensive experience with institutional investors and regularly advises clients on market terms of investment funds. Phyllis also advises private equity funds in connection with their capital call credit lines and investments in, and dispositions of, portfolio companies.

Phyllis is listed in *The Legal 500 US*, *The Best Lawyers in America*, *New York Super Lawyers*, *Who's Who Legal: The International Who's Who of Private Funds Lawyers*, *Expert Guide to the World's Leading Banking, Finance and Transactional Law Lawyers* (Investment Funds, Private Equity) and the *Expert Guide to the World's Leading Women in Business Law* (Investment Funds). A member of New York's Private Investment Fund Forum, Phyllis frequently shares her insights on effective fund formation strategies at industry conferences and seminars. She recently discussed compliance concerns for co-investments and issues related to fund restructuring and secondary transactions. Interviewed by *Private Funds Management* in the article "Ringing the Changes," Phyllis is also the co-author of *Private Equity Funds: Formation and Operation* (Practising Law Institute), which is considered the leading treatise on the subject. In addition, she contributed to the *Fund Formation and Incentives Report* (Private Equity International in association with SRZ), as well as a chapter on "Advisers to Private Equity Funds – Practical Compliance Considerations" in *Mutual Funds and Exchange Traded Funds Regulation, Volume 2* (Practising Law Institute).

Phyllis received her J.D. from Columbia Law School and her A.B. from Smith College.

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Heather N Wyckoff focuses her practice on advising private investment funds and has provided comprehensive legal services to institutional and emerging asset managers, proprietary trading firms, family offices and financial institutions on a wide range of issues. She forms funds spanning the liquidity spectrum, including hedge funds, real estate funds, credit funds, venture funds, and private equity funds, and advises clients on operational and regulatory matters. Heather has extensive experience representing funds and advisers who employ a wide range of investment strategies across all asset classes. She also represents fund managers and institutional investors in connection with the negotiation of seed deals, co-investment vehicles, “funds of one” and other strategic relationships.

Heather is a frequent speaker on the topics of fund terms and trends, real estate and ESG, speaking at events including the iGlobal Forum Real Estate Private Equity Summit and the With Intelligence Private Markets Operational Leaders’ US Summit. She has also spoken on a range of other subjects, including capital raising, private equity, seed capital arrangements and various regulatory topics. She regularly contributes to various publications including most recently the SRZ’s Private Funds Market Trends Report and the *Chambers* Alternative Funds Guide. Heather is a member of several of the firm’s committees, including its Recruiting Committee, Investment Committee and Diversity, Equity and Inclusion Committee, where she also co-chairs the Parents Affinity Group. She devotes significant time to the firm’s pro bono activities, leading a team of 5 lawyers in its representation of The Go Project (which benefits under-resourced New York City public school children); leading a team of 11 lawyers in its representation of the National Advocates for Pregnant Women (which defends the human and civil rights of pregnant and parenting women); and participating in Election Protection (a national, non-partisan voting rights organization). She is also a member of the Garden City Real Estate Professionals Foundation, which supports various philanthropic causes.

Heather earned her J.D. from Fordham University School of Law and her A.B. from Dartmouth College.

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Pascale Lagesse is a Partner and head of Bredin Prat's Employment Law practice. She has over 25 years of experience advising international corporate clients.

Her practice focuses on the employment issues arising out of mergers & acquisitions and corporate downsizings and restructurings. She has extensive experience advising employers on how to effectively plan for and implement these types of operations, including how to best manage information and consultation procedures, employee transfers, harmonization of employee benefits, etc.

Pascale is a seasoned litigator with significant experience defending corporate clients in collective disputes with unions, works councils and other employee representative bodies arising out of large-scale reorganizations, strikes, business disposals and similar operations.

She also advises companies on day-to-day employment issues such as executive severance packages and separation agreements, employee share plans, whistleblowing policies, the employment aspects of insolvency procedures, as well as expatriation and outsourcing arrangements.

Pascale is a graduate of the University of Paris II Panthéon-Assas (*Maîtrise Carrières Judiciaires*) and the University of Paris I Panthéon-Sorbonne (*DEA en Droit Privé*). She was admitted to the Paris Bar in 1989 and was elected to the National Bar Council of France in 2005. Prior to joining Bredin Prat, she served as the head of the Employment, Pensions and Benefits practice of a leading Magic Circle firm.

Pascale is active in various legal organizations and in particular the International Bar Association (IBA) with which she has been involved for many years. She is presently the Assistant Treasurer of the IBA and a member of the Management Board. This follows various other officer positions that she has held throughout the years including that of Chair of the Employment and Industrial Relations Law Committee and the Global Employment Institute.

In addition to serving as Course Director for Labor Law Studies at the Paris Bar School, Pascale lectures frequently in France and abroad on a wide range of employment-related topics, and is often asked to comment in the national press on recent legal developments. She contributes to numerous employment-related publications, and is the French author of the *International Labour and Employment Compliance Handbook* (Kluwer Law International, 2010-2022).

Pascale's expertise is recognized by leading legal directories and she is consistently ranked Band 1 by both Chambers Europe and the Legal 500 EMEA as a Hall of Fame Lawyer.

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Jeannemarie O'Brien is a partner in the New York law firm of Wachtell, Lipton, Rosen & Katz, where she is active in the firm's merger and acquisitions practice, focusing on the executive compensation and employee benefits aspects of transactions, with a particular emphasis on transactions involving financial services institutions. She has been involved in over \$500 billion of mergers and acquisitions transactions over the last decade. Ms O'Brien also advises companies and their boards on governance issues and assists companies and senior executives on executive compensation matters in both the public and private sectors, and has particular expertise regarding the compensation structures at financial institutions and the related regulatory considerations.

The transactions in which Ms O'Brien has been involved include many major financial institution transactions, both bank and non-bank, including: City National/Royal Bank of Canada; National Penn Bancshares/BB&T; Chubb/ACE Limited; Hilltop Holdings/Plains Capital; CapitalSource/PacWest Bancorp; Umpqua Holdings Corporation/Sterling Financial Corporation; Huntington Bancshares/Camco Financial; Marshall & Ilsley/Bank of Montreal; Alleghany Corporation/Transatlantic Holdings; Comerica Incorporated/Sterling Bancshares, Inc.; Bank of America Corporation/Merrill Lynch; Wells Fargo/Wachovia; Countrywide/Bank of America Corporation; FleetBoston Financial Corp./Bank of America Corporation; MBNA/Bank of America Corporation; J.P. Morgan/Bank One; J.P. Morgan/Bank of New York; Warburg Pincus/The Mutual Fund Store and TMFS Holdings, LLC; Bank of America Corporation in its sale of Balboa Insurance Group to QBE Holdings, Inc. She also has been involved in transactions outside of the financial sector, including: Pfizer Inc./Allergan plc; United Technologies (Sikorsky Aircraft)/Lockheed Martin; Carefusion/Becton Dickinson; Cox Automotive/Dealertrack Technologies; United Technologies Corporation/Goodrich Corporation; Thermo Fisher Scientific/Life Technologies Corporation; Vantiv/Mercury Payments Systems; Leap Wireless/AT&T; Rayonier Inc.'s spinoff of its performance fibers business; and CBS Outdoor Americas' initial public offering.

Ms O'Brien frequently writes and speaks on executive compensation and corporate governance issues and is recognized as a leading executive compensation lawyer in the *Chambers USA Guide to America's Leading Lawyers for Business* and *The Legal 500*. In addition to memos and articles on recent developments in the executive compensation area, she is an author of the chapter on executive compensation in Wachtell, Lipton, Rosen & Katz's "Financial Institutions M&A," an annual review of leading developments.

Ms O'Brien received a B.A. *cum laude* from Mount Holyoke College in 1989, and a J.D. *cum laude* from Fordham Law School in 1994, where she was an associate editor of the *Fordham Law Review*. She is a member of the New York State and American Bar Associations. Ms O'Brien serves as a member of the Board of Trustees of the Trinity School in New York City and of the non-profit organization Prep for Prep and is on the Advisory Board of St. Bartholomew Community Preschool in New York City.

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Andrea K Wahlquist is a partner in Wachtell Lipton's Executive Compensation and Employee Benefits Practice, specialising in executive compensation and benefits matters, with an emphasis in representing target companies in strategic mergers and a background in representing some of the largest private equity sponsors in the acquisition, management and disposition of their portfolio companies.

Ms Wahlquist regularly counsels private and public companies on the design, implementation and treatment of employee compensation and benefit programs – and routinely negotiates executive employment and separation arrangements – both in connection with corporate transactions and in the ordinary course of ongoing company representations. Ms Wahlquist also has extensive experience with a broad range of executive compensation-related and benefits issues that arise in IPOs, spin-offs and in bankruptcy/restructuring transactions.

Ms Wahlquist is included in The Best Lawyers in America – *Employee Benefits Law*, is recognized as a leading lawyer in both *The Legal 500* and *Chambers USA Guide to America's Leading Lawyers for Business*, and was named in *The American Lawyer's 2007* "Dealmakers of the Year" issue. Ms Wahlquist has spoken as a panelist at a variety of industry conferences addressing executive compensation and governance issues.

Ms Wahlquist served as a law clerk to Judge Stephen J. Swift of the United States Tax Court (1995-97), and after her clerkship began practicing as an executive compensation and employee benefits lawyer in New York City. Ms Wahlquist received her B.A. from the University of Virginia (1992) and her J.D. from the Washington & Lee University School of Law (1995), where she was the Editor-in-Chief of the *Environmental Law Digest*, a publication of the Virginia State Bar Association.

Ms Wahlquist sits on the Executive Committee of the Tax Section of the New York State Bar Association, and is a member of the American Bar Association and its Joint Committee on Employee Benefits. She also serves on the Board of Trustees of Washington & Lee University and of The Children's Aid Society in New York City.

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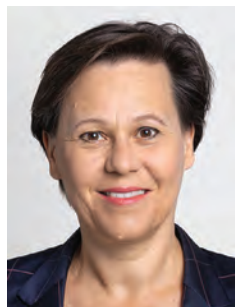


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Lorenza Ferrari Hofer (dual-qualified in both Switzerland and in England and Wales), is a partner in Schellenberg Wittmer's Intellectual Property and Life Sciences teams. She specialises in intellectual property, data law, unfair competition and contract law and has profound knowledge in complex, cross-border matters relating to product development, licensing, trade and distribution of technology, therapeutic, health and food products. Lorenza is very active in disputes, covering patent infringement and injunction proceedings, as well as trade secrets cases. Lorenza has also broad experience in media (including social media), advertising, marketing and sponsoring matters.

Lorenza has a strong expertise in structuring and negotiating intellectual property rights-related agreements, including R&D, transfer and licensing, and distribution agreements across a multitude of sectors. Her life sciences practice includes matters relating to patent licensing and litigation, regulatory and compliance, as well as product liability defence.

Lorenza regularly lectures and publishes in the fields of international licensing and technology transfer, and in several areas of unfair competition and intellectual property law. She is a president-elect of the International Association for the Protection of Intellectual Property (AIPPI). She practices in German, English, French and Italian.

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Anita Varma is chair of White & Case's Global IP practice group. She is based in the Firm's Boston office, with a dual practice in London. She is qualified to practice before the US Patent and Trademark Office (USPTO) and the European Patent Office (EPO).

Anita provides strategic patent counselling to life sciences industry companies, guiding them through every stage of a product's lifecycle. She works with clients in obtaining enforceable claims and supporting them in post-grant proceedings, as well as in developing and executing both offensive and defensive patent strategies. She also conducts strategic review of patent portfolios to identify strengths and weaknesses, and opportunities to minimize threats and maximize revenue.

As part of this strategic counselling, Anita regularly advises on patentability, validity and freedom-to-operate issues, provides pre-litigation assessments and opinions regarding patentability, conducts IP due diligence for strategic transactions, and advises on listing and delisting matters in the US Food and Drug Administration's Orange Book.

Clients also benefit from Anita's experience in navigating biosimilar litigation strategies. She has skilled expertise among diverse life sciences subjects, including immunology, antibody therapeutics, RNA interference therapeutics, small molecules, gene therapy, biotechnology, pharmaceuticals, clustered regularly interspaced short palindromic repeats (DNA sequences), ocular products, biophotonics, messenger RNA therapeutics, protein therapeutics and protein traps.

Anita is named one of the top lawyers in the United States for patent prosecution matters (*Legal 500*), and is viewed by competitors as "an extremely skilled attorney with both legal and business smarts" (*LMG Life Sciences*). Clients recognize her "talent...for her representation of biotechnology sector clients" and appreciate her "business savvy" approach and her familiarity with the biotechnology and pharmaceutical industries" and note that "the experience [of working with Anita] has been very positive" (independent survey by *Chambers & Partners*).

Anita is a Trustee on the Board of the Foundation for Advancement of Diversity in IP Law.

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Lia is a talented lawyer, litigator, a leading advisor to many top businesses worldwide, and also one of the country's foremost legal practitioners, having been involved in some of the most high-profile matters over the years.

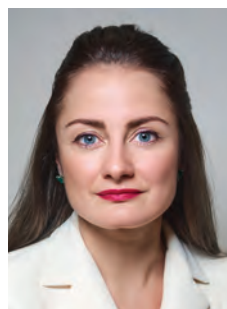
She is the Managing Partner and leads the Corporate, Commercial and Litigation and Dispute Resolutions departments of M&T. She provides expert advice and oversight in large, complex corporate negotiations, and brings over 20 years of experience in managing legal aspects of commercial, transactional and corporate governance matters.

Lia adheres to strict ethical principles when representing clients before Indonesian courts and arbitration panels. Her practice does not only focus on litigation but also aims to provide advice to clients on how to minimize potential risks related to employment (including employment litigation and occupational health and safety), anti-bribery, anti-corruption, and litigation issues (including IP enforcement).

She is a sworn translator, author of a number of significant publications, and often speaks at local and overseas seminars and training programs on employment, litigation and corporate matters. She is also an Instructor Faculty at TRACE Anti-Bribery Specialist Accreditation, an Intellectual Property Rights Consultant, and a Chairman of the Board of Inter-Agency Cooperation of Indonesia Labour Law Consultant Association.

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Anna Ogrenchuk is a co-founder and managing partner of LCF Law Group, a prominent Ukrainian law firm with extensive expertise, track-record and leadership positions in litigation, corporate, finance law. Anna has gained a praised recognition among clients and peers for her in-depth knowledge of court procedures and her ability to apply a client-tailored and problem-solving approach combined with innovative and creative solutions in dispute resolution.

Anna is a highly experienced solicitor and litigator, specialising in commercial law. For almost 20 years Anna has successfully represented clients in the most complex and high-profile business litigations in Ukraine. She advises domestic and international businesses, banks and financial companies, corporations and individuals. Anna has been instrumental in facilitating and strengthening international cooperation between Ukrainian and foreign dispute resolution experts (judges, legislators, academics and media).

In July 2021 Anna was elected President of the Ukrainian Bar Association. Being the member of the Judicial Reform Council under the President of Ukraine (2019-2020) and the Chairman of the Committee on procedural law of the Ukrainian Bar Association (till 2021), Mrs. Ogrenchuk actively participated in the promotion and implementation of the procedural legislation and judicial reform.

For several years in a row Anna has acted as the program coordinator of the Annual Judicial Forum of the Ukrainian Bar Association.

Among Anna's clients are market leaders in various sectors, including Bunge Ukraine, VR Global Partners, Allianz Ukraine, First Ukrainian International Bank, Fozzy Group, Lauffer Group, Cargill, Ristone Holdings, Ovostar Union, Scatec Solar and others.

She is constantly highly recognized in top tiers of international and local ratings, such as Chambers Global, Chambers Europe, the Legal 500 EMEA, Best Lawyers, Benchmark Litigation Europe, Who's Who Legal, Legal Awards, The Clients' Choice: 100 best lawyers of Ukraine and others. For several years in a row she is recognized among women, who influenced the development of the legal market of Ukraine (according to the Ukrainian Women in Law rating).

Since the beginning of the full-scale invasion by the Russian Federation of Ukraine in February 2022, the Ukrainian Bar Association under Anna's presidency has been urging the development of accountability mechanisms to ensure justice is served to those guilty of war crimes, crimes against humanity, genocide, and the crime of aggression. In particular, the UBA advocates the establishment of the Special Tribunal for the Crime of Aggression and the design of a compensation framework to address damages caused by the Russian Federation. The UBA provides pro bono legal assistance to Ukrainian citizens affected by the war and supports lawyers in their search for accommodation, educational, professional, and other opportunities.



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Claudine Columbres is a partner in the Firm's Commercial Litigation Practice, who has extensive experience handling high-stakes matters, often involving multi-billion dollar claims, concerning complex contracts, merger and shareholder disputes, business torts, securities, class actions, and alternative dispute resolution. Claudine's work has spanned a broad range of industries including healthcare, financial services, foodservice distribution, energy, and oil & gas. She has worked with clients including Anthem, Inc., JPMorgan Chase & Co., Hess Corporation, the Votorantim Group and Major League Baseball.

Dedicated to helping her clients achieve the best possible outcomes, Claudine has also successfully represented defendants in numerous pro bono cases involving family and matrimonial law.

Claudine received her BA from Georgetown University and her JD from Columbia University School of Law.

Recent representations include:

- Representation of Anthem, Inc., in a high-profile action resulting from the failed US\$54 billion acquisition of Cigna Corporation. The case involved competing claims for tens of billions of dollars, and was closely followed by major media outlets as one of the most watched business cases.
- Representation of Anthem, Inc., in a US\$12 billion dollar lawsuit against one of the largest pharmacy benefits managers in the US, Express Scripts, Inc. (ESI), arising from ESI's breach of its contractual duties to negotiate in good faith to ensure that Anthem receives market pricing for pharmaceutical drugs and for certain operational breaches.
- Representation of Advance Auto Parts, Inc., a national auto parts retailer, in a securities class action in the United States District Court for the District of Delaware.
- Represented JPMorgan Chase & Co. in a lawsuit alleging contract, restitution and reformation claims challenging amounts allegedly owed by JPMorgan Chase under a chapter 11 plan of reorganization. The case raised complex tax issues and involved multiple discovery disputes before it was successfully resolved via settlement.
- Represented Fibria Celulose, a Brazilian pulp and paper company, in a federal securities class action alleging violations arising from foreign exchange derivative pricing practices.
- Represented the Office of the Commissioner of Baseball, doing business as Major League Baseball, in the unique bankruptcy of the Los Angeles Dodgers and in connection with the sale of the team.
- Defended Hess Corporation against numerous putative shareholder class action lawsuits filed in state and federal courts in Nevada and Colorado, challenging Hess' acquisition of American Oil & Gas. We consolidated the cases in the District of Colorado and then negotiated a disclosures-only settlement that resolved all the cases, and Hess' acquisition of American Oil & Gas closed without any changes to the merger's terms or price.

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Elaine P Golin is a partner in the Litigation Department at Wachtell, Lipton, Rosen & Katz. Her practice includes contracts, corporate governance, RMBS and securities litigation, as well as other types of complex commercial litigation. Ms Golin also focuses on the negotiated resolution of complex matters.

Recently, Ms Golin has represented Bank of America, PNC and other financial institutions in numerous disputes concerning mortgage-related matters. Representations include Bank of America's groundbreaking settlement of claims relating to Countrywide mortgage-backed securities and related litigation, Bank of America's multi-faceted resolutions with FHFA, MBIA, FGIC and AIG, Bank of America's global RMBS agreement with the Department of Justice, and PNC in mortgage litigation with RFC.

Other significant representations include: J.C. Flowers, Bank of America and JPMorgan Chase in material adverse change litigation with Sallie Mae; IAC in litigation with Liberty Media; Rohm and Haas in its suit to enforce its merger agreement with Dow Chemical; and senior secured lenders in the Spectrum Brands bankruptcy litigation. Ms Golin also participated in the pro bono representation of artist Christoph Büchel in a successful First Circuit appeal involving the Visual Artists Rights Act of 1990.

As a litigation associate, Ms Golin worked on several of the firm's high-profile matters, including its representation of IBP in *IBP v. Tyson* and of Larry Silverstein in insurance litigation arising out of the destruction of the World Trade Center.

Ms Golin received a B.A. from Yale College, a diploma in Literature from the University of Edinburgh, and a J.D. from Columbia Law School, where she was an articles editor of *The Columbia Law Review* and a James Kent Scholar. She clerked for the Honorable Judge Sandra Lynch of United States Court of Appeals for the First Circuit. Among other professional recognitions, Ms Golin has been named by *Lawdragon* as one of the 500 leading lawyers in the United States and by *Benchmark Litigation* as one of the top 250 women in litigation.

Ms Golin serves on the board of the Sadie Nash Leadership Project, a non-profit organisation providing leadership education to high school and college women.

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Carrie M Reilly is a partner in the Litigation Department at Wachtell, Lipton, Rosen & Katz.

Carrie joined the firm's Litigation Department in 2005. During her time at Wachtell Lipton, Carrie has worked on several of the firm's high-profile matters, including successfully defending Goldman Sachs in *Baker v. Goldman Sachs*, a five-week jury trial in federal court; representing Bank of America in its comprehensive multi-billion dollar settlement with the Department of Justice, federal agencies, and state attorneys general, as well as its groundbreaking \$8.5 billion settlement of claims relating to 530 mortgage-backed securitization trusts issued by Countrywide and its multidimensional settlements with MBIA and AIG; representing respondents in *Morrison v. National Australia Bank*, in which the Supreme Court held for the respondents and found that Section 10(b) of the Securities Exchange Act does not apply extraterritorially to so-called "foreign-cubed" securities claims; and representing the National Football League in a contract dispute over the simulcast of the Patriots-Giants game in 2007.

Carrie has also worked on many other significant matters at the firm, including representing Goldman Sachs in litigation arising from the acquisition of TIBCO by Vista Equity Partners, defending Allergan in response to a hostile bid from Pershing Square and Valeant, expedited deal litigation over JPMorgan's acquisition of Bear Stearns, the material adverse change litigation between J.C. Flowers, Bank of America, JPMorgan and Sallie Mae, litigation brought by monoline insurers against Bank of America, commercial real-estate arbitrations, and the firm's representation of a major international corporation in investigations by federal and state authorities in the United States.

Carrie received her B.S. from the Wharton School at the University of Pennsylvania, where she graduated *summa cum laude*, and her J.D. from Harvard Law School, where she graduated *cum laude*. She serves on the Steering Committee of the Kate Stoneman Project, is a Fellow of the American Bar Foundation, and is a member of the American Bar Association and the New York City Bar Association. In 2016, Carrie was recognized as a "Rising Star" by the *New York Law Journal*.

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Feature for:

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Christine Kanz has worked as an attorney since 1998. Although she has primarily focused on international patent litigation in the areas of pharmaceuticals, biotechnology and chemistry, she has also handled numerous cases in the areas of medical devices, mechanics and consumer products.

Much of her work involves cross-border litigation with the result that she is highly experienced in planning and coordinating such cases.

After attending the Max Planck Institute for Intellectual Property, Competition and Tax Law in Munich as an auditing student, she obtained her PhD in trademark law in 2002 at the University of Düsseldorf.

Christine regularly publishes on patent law matters and speaks at conferences on patent law issues. She is also a visiting lecturer at the Hagen Law School.



## INDIA

# Proposed Amendment to Intermediary Rules, 2021

## Does policing third party-content by an intermediary really deny safe harbour?

Vaishali Mittal  
Anand and Anand  
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A few months ago, the Ministry of Electronics and Information Technology (MeitY) notified a draft version of the amendments it proposes to make to Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

Since their publication, the proposed amendment rules have faced opposition from a few corners. At the centre of the storm is the amendment that is proposed to Rule 3 (1) of the Intermediary Guidelines, 2021.

Responsibility of intermediaries in the current regime is limited (*in the context of this post*) to publishing a policy on its platform, listing out a series of unlawful content which users should refrain from posting. This list specifies content which is misappropriated; defamatory; obscene; infringing of IP; deceptive; impersonating another person; false and misleading; threatens to destabilize public order etc. For ease, this category is called “prohibited content”.

The proposed amendment, requires intermediaries to not just publish its policies, but also ensure their compliance by users.

The mandate of “ensuring compliance” has two facets to it. The first, is a policy issue, and the other one of practicality (or implementation).

What steps must an intermediary take to “ensure” that its users respect its policy and not host prohibited content, is really something that will be revealed as time unfolds.

However, the policy aspect can be tested a bit further through an interplay between the proposed amendment to rule 3 (1) and section 79 of the IT Act, 2000, i.e., the section which enables safe harbour to intermediaries.

The context of this thought experiment – if one can call it that- is the strong objections to the proposed amendment, which at face value, do make sense. However, if one scratches beneath the skin, do these objections still have the same weight and make perfect sense?

The objection, in short, is that intermediaries, by nature, must have a hands-off model. To qualify for safe harbour, they cannot select or modify content that is transmitted on their platforms. The underlying argument is that by ensuring that its users do not host prohibited content, the intermediary is selecting the kind of content that can be transmitted. If it does this, then it fails the test of section 79 (2) (b) (iii) and is disqualified from safe harbour.

The objection further sources its foundation in the decision of the Supreme Court of India



in *Shreya Singhal v Union of India* [2015 5 SCC 1] where it was held that an intermediary is responsible for taking down prohibited content, only when it receives actual knowledge of the illegality of the content either through an order of the court, or of the government. Implicit in this decision is recognition of the idea that an intermediary should not (and in some contexts, can possibly not) be responsible for checking the legality of content posted by third party users. Thus, the proposed amendment of requiring an intermediary to ensure compliance of its policies, boils down to policing of content posted by users.

Keeping these objections in mind, let's analyse whether the proposed amendment is contrary to law, and will deny intermediaries' safe harbour.

"WHAT FUELS THE VIEW THAT SAFE HARBOUR WILL BE DENIED IF AN INTERMEDIARY IS REQUIRED, BY LAW, TO ENSURE THAT IT BLOCKS OR REMOVES CONTENT WHICH VIOLATES ITS POLICY?"

**Section 79 (3) stipulates that an intermediary will be denied safe harbour if:**

- The intermediary has aided or abetted the commission of the unlawful act.
- Upon receiving actual knowledge, or being notified by the government regarding prohibited content, the intermediary fails to remove or disable access to the content.

As the focus of this piece is the intermediary ensuring that its policies against prohibited content are implemented, the situations stipulated above do not come into play. Thus, safe harbour is not denied.

## INDIA

**Section 79 (2) stipulates that an intermediary will be granted safe harbour if:****a) Its function is limited to providing access to and transmitting or temporarily storing content uploaded by third parties**

Ensuring compliance of users with its policies does not affect this function, the intermediary's function, insofar as only providing access to its service is concerned, remains unchanged.

Thus, safe harbour will be granted

**b) (i) The intermediary does not initiate transmission**

Two situations can be contemplated here:

- Let's assume that the intermediary employs a mechanism where it prevents uploading of content before it is published. For instance, a number of social media platforms can detect when a user attempts to upload pornographic or obscene content, or even content in infringement of copyright and blocks it from being published. In this case, the content is not transmitted to begin with. Thus, safe harbour still applies.

- If the intermediary detects prohibited content, after it is uploaded, then it is clear that it did not "transmit" the content to begin with.

Thus, safe harbour is granted.

**(ii) The intermediary does not select the receiver of the transmission**

Insofar as only ensuring that prohibited content is not uploaded on its platform, the intermediary is not selecting who and who doesn't receive the content.

Thus, the intermediary does not fall foul of this provision. Safe harbour applies.

**(iii) The intermediary does not select or modify the information contained in the transmission**

This is the provision, which is thought to be violated, if the intermediary ensures compliance with its policies.

Again, let's see the various situations that can unfold here:

- (i) If the intermediary detects prohibited content wanting to be uploaded on its platform and requires the user to not publish it (*as it violates the platform's policies*), then the content is blocked before it is transmitted.

It is important to note that the bar on the intermediary here, is that it should not select the content which is transmitted (broadcasted) by it. Unlike section 79 (2) (a), the bar does not extend to content which is temporarily stored on its server. One

can imagine that the content, uploaded by a user, but blocked by the intermediary, is temporarily stored, or hosted on the intermediary's server, before it is delisted.

- (ii) Once again if the intermediary requires a user to comply with its policies and take down content after it is already uploaded (either through *suo motu cognizance* or *through a complaint on its platform, or through a court or government order*), then again, the content was already transmitted. It was not the intermediary who selected the content to be transmitted. Instead, the content passed through because of the intermediary's hands-off business model.

Thus, in this situation too, it is not the intermediary who selected the information in the content which was transmitted.

Thus, safe harbour still applies.

**Conclusion**

The purpose of this piece was to put the objections to the proposed amendment to the test of section 79 of the IT Act, 2000 and see whether the first-blush impression continues to hold on deeper scrutiny.

It is only reasonable for one to conclude (on first impression), that the involvement of an intermediary in pre or post screening of content, takes away its neutral status, and makes it violate its hands-off model.

However, whether an intermediary is denied safe harbour from liability of unlawful content posted by third parties, is dependent on the tests laid down in section 79 (2) and section 79 (3) of the IT Act, 2000. So long as an intermediary satisfies these tests, it is granted safe harbour.

A quick analysis (above) shows that it is possible that the objection against the proposed amendment, may not hold as firm as it appeared on first blush. However, one needs to now put this though experiment to another test. That of the intent of the legislature and the treatment of the subject by the judiciary. This requires a deeper dive and will be done in the next post (or two).

For now, we leave you with this thought : *When an intermediary decides by itself that content ought to be blocked or removed as it violates the intermediary's bylaws or policy, it does not get disqualified from safe harbour. So, what fuels the view that safe harbour will be denied if an intermediary is required, by law, to ensure that it blocks or removes content which violates its policy? If the difference is free will in the former and a legal obligation in the latter case, is this difference alone sound enough to assert that the proposed amendment to Rule 3 (1) is contrary to the spirit of intermediary jurisprudence?*

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In her over 20 years of practice, Vaishali has earned her standing as the most trusted name for complex SEP battles, but her work goes far into other complex patent cases and trademark disputes for big-ticket companies.

Recognised as a leading lawyer by Legal 500, world's leading strategist by IAM 300 and one of the top 15 IP lawyers in Asia by Thomson Reuters, Vaishali has enabled the firm to secure India's first Anti-Anti-Suit Injunction in *InterDigital Corp & Ors v Xiaomi Corp & Ors*; nation's first final judgment on the issue of Standard Essential Patents in *Philips v. KK Bansal*; *Philips v. Rakesh Bansal*; landmark judgment on highest ever quantum of damages in a copyright, trademark and design infringement case in *Philips v. Amazestore & Ors*; first judgement recognising a colour combination (green and yellow) a well-known trademark in *Deere & Co. & Anr. v. Mr. Malkit Singh & Ors*.

She also led from the front in the high-stake face-off between Nokia and Lenovo resulting in a multi-year, multi-technology Patent Cross-license Agreement between the two tech giants, and settlement of all pending patent litigation worldwide.

Besides her regular practice before the Supreme Court of India and the High Court of Delhi, Vaishali writes for leading national and international publications like Managing IP, Kluwer Patent Blog, Asia IP, Vantage Asia, Chambers and Partners, Expert Guides, Thomson Reuters, Lexology etc. She has also co-authored 'IPONOMICS', a picturesque coffee table book compiling celebrated IP matters, and 'Origami', an in-house knowledge manual on Best Practices and Procedures of IP practice in India, for law firms and companies.

Vaishali makes time for giving back to the community via pro bono engagement – the latest being a petition that fetched free medical aid to children with rare disorders.

Some of the recent honours earned by her are:

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She is a regular speaker/panelist at national and international forums including LES, GIPC and many other prestigious forums; and is a contributor to India chapter of leading publications such as Halsbury's Laws of India, Getting the Deal Through; Patents and Lifesciences, Law Business Research-Life sciences Law Review, BNA'S- Finnegan- Global Patent Litigation Guide and more.

Archana also features on the editorial panel of LSIPR and her articles are regularly published in various leading journals such as Managing Intellectual Property, World Intellectual Property Review, Asia IP Magazine, IAM Magazine and others. She is also the editor in chief for our in-house compilation 'Patents Rewind'.

Domestic and International clients trust her understanding of the key drivers of the industry and the science behind them. Business-minded, cost-conscious and a thought leader, Archana is ever-ready to take challenges head-on and shift paradigms.

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Anita provides strategic patent counselling to life sciences industry companies, guiding them through every stage of a product's lifecycle. She works with clients in obtaining enforceable claims and supporting them in post-grant proceedings, as well as in developing and executing both offensive and defensive patent strategies. She also conducts strategic review of patent portfolios to identify strengths and weaknesses, and opportunities to minimize threats and maximize revenue.

As part of this strategic counselling, Anita regularly advises on patentability, validity and freedom-to-operate issues, provides pre-litigation assessments and opinions regarding patentability, conducts IP due diligence for strategic transactions, and advises on listing and delisting matters in the US Food and Drug Administration's Orange Book.

Clients also benefit from Anita's experience in navigating biosimilar litigation strategies. She has skilled expertise among diverse life sciences subjects, including immunology, antibody therapeutics, RNA interference therapeutics, small molecules, gene therapy, biotechnology, pharmaceuticals, clustered regularly interspaced short palindromic repeats (DNA sequences), ocular products, biophotonics, messenger RNA therapeutics, protein therapeutics and protein traps.

Anita is named one of the top lawyers in the United States for patent prosecution matters (*Legal 500*), and is viewed by competitors as "an extremely skilled attorney with both legal and business smarts" (*LMG Life Sciences*). Clients appreciate her "business savvy" approach and her familiarity with the biotechnology and pharmaceutical industries" and note that "the experience [of working with Anita] has been very positive" (independent survey by *Chambers and Partners*).

Anita is named to *Managing Intellectual Property's* guide to the "Top 250 Women in IP," *Intellectual Asset Management* ("IAM"), the world's leading IP business media platform, has named Anita to their Global Leader's Guide as well as IAM Patent 1000 and IAM Strategy 300, which feature the elite private practice patent professionals.

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## PRIVACY AND DATA PROTECTION

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Kari Gimmingsrud is a partner in the Technology, Media and IPR department at Haavind. She is head of the privacy and data protection practice. Kari Gimmingsrud is also a member of the Norwegian Bar Association's law committee for ICT and privacy, and actively participates in commenting draft resolutions and bills for the association.

Ms Gimmingsrud has extensive experience in assisting private and public entities in navigating through regulatory matters related to technology, GDPR and information security matters. With her extensive experience in privacy and data protection matters, Kari heads Haavind's privacy team working for one of the largest employers/group of companies in Norway (approximately 81,000 employees).

Her team of skilled and experience lawyers assist the customers on privacy and data protection compliance and the strategic and commercial use of data in a complex legal landscape. This includes assessment of data protection and privacy matters in M&A, ICT procurement, cloud services, data processing agreements, advising on binding corporate rules and EU model clauses, data sharing agreements between companies, privacy policies, use of data for commercial and marketing purposes and assistance in complaints to the Data Protection Authority.

She further has extensive experience with management support and counselling on employment law in both the private and public sector. She is a skilled negotiator and acts as a legal representative in several legal processes.

Kari Gimmingsrud brings value to customers through extensive cross disciplinary competence and as a trusted advisor. She has several years of experience in advising large Norwegian and international businesses.

Ms Gimmingsrud has previously worked as legal adviser and local Compliance Manager for Telenor, a leading telecommunications company across the Nordics and Asia.

In addition to handling Haavind's large portfolio on privacy and data protection matters, Ms Gimmingsrud is frequently used expert in committees and writes articles and publications. She is also a lecturer at the Center for Continuing Legal Education (in Norwegian Juristenes Utdanningscenter). Together with another attorney she has developed the center's education for data protection officers.

Kari Gimmingsrud is recognized as a leading individual by Legal500 (TMT, Norway).



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Stephanie Tang is a partner and Head of Private Equity in Greater China at Hogan Lovells.

Stephanie is a well-regarded M&A (both public and private), private equity, and capital markets partner with a strong track record of successfully advising Chinese companies on their outbound investments and global private equity sponsors on their investments in Asia.

In the M&A arena, Stephanie represents private equity firms and public and private companies in a variety of public and private cross-border transactions. Stephanie's transactional practice spans the range of M&A activity, including LBOs, take-private transactions, de-SPACs, equity investments, PIPEs, and other complex cross-border transactions.

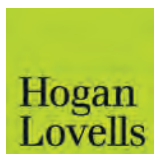
In recent years, Stephanie led 28 take-private transactions of US-listed Chinese companies, many of these companies have achieved listing in Chinese A-share market subsequent to the privatization.

In addition, she has represented both issuers and underwriters on New York Stock Exchange and NASDAQ IPOs, private placements of equity and equity-linked securities, and Rule 144A and Regulation S offerings by China-based companies.

Stephanie has been listed as a Leading lawyer for M&A and Private Equity by *IFLR1000*; a Leading practitioner for Private Equity by Euromoney Legal Media Group's *Women in Business Law Expert Guide*, 2020-2022. Stephanie was named "Female Dealmaker, North Asia" 2021 by Asian Legal Business (ALB). Stephanie was among China's Elite 50 Lawyers (Foreign Firm) – China Business Law Journal 2018. She also gained the Best M&A Legal Service Award 2017 – China Mergers & Acquisitions Association.

Stephanie is a frequent writer and speaker on a range of topics affecting cross-border capital raising and M&A activities and co-authored the chapter, "Investing: China", *The Private Equity Review* (Kirk August Radke, editor), 2013, 2014. Stephanie is regularly quoted in news articles by Reuters, Bloomberg, CNBC and Nikkei Asia on regulatory reform initiatives and market developments.

Stephanie is a graduate of New York University School of Law. She is a founding member of the NYU Alumni Executive Mentor Program.



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## PRODUCT LIABILITY

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**Feature for:**

**France, by Sylvie Gallage-Alwis and Lorène Massé of Signature litigation 135**



## FRANCE

# France moving towards stricter anti-waste rules

Sylvie Gallage-Alwis (pictured) and Lorène Massé  
Signature litigation  
Paris

The French anti-waste law for a circular economy of 10 February 2020 (2020-105), which focuses on five main topics and whose main goal is to transform our linear economy into a circular economy by fighting against waste, has already produced significant effects in 2021.

New measures are expected and have already been implemented since 1 January 2022, which will put companies at risk, including of criminal sanctions.

## Better inform the consumers

The law imposes a single sorting logo on waste sorting and explanations will also have to be specified on all products. Also, bins will all be of the same colour throughout the country. This measure, which is difficult to implement immediately, will occur progressively with the support of the eco-organisations of the “polluter pays” industries concerned.

The issue of greenhouse gas is also at the centre of many concerns. Since 1 January 2022, all Internet and mobile phone operators must inform their customers of the carbon cost of their individual digital consumptions.

Furthermore, the legal conformity warranty is becoming a priority in the information given to consumers. Indeed, since 1 January 2022, this legal warranty, which allows consumers to obtain, free of charge, the replacement or repair of a product during the two-year period following their purchase of a new product, or 6 months for a second-hand product, must be mentioned on the invoice or receipt.

## Fight against waste and for collective reuse

In terms of waste, one automatically thinks about food wastage. The anti-waste law has turned this topic into a priority, in particular by compelling the sectors producing or transforming foodstuffs as well as commercial catering to reduce by 50% their wastage by 2030.

Since 1 January 2022, the law is also seeking to reach better management of stocks by authorising the integration of the use-by date, the date of minimum durability and the batch number in the product's codifications.

As for non-food products, the law is putting an end to unsold items. This measure, the first of its kind in the world, aims at encouraging donations to associations fighting against precarity and social and solidarity economy institutions. It will apply to all products at the latest on 31 December 2023.



## Planned obsolescence

Since 1 January 2021, the sellers of electric and electronic devices (in physical stores or online) must indicate a reparability index on several categories of products, allowing consumers to know whether or not the product can be repaired.

By 2024, a new index will appear – the durability index – that will take new criteria into account, including the reliability and resistance of the product.

As for the hot topic of software compatibility of mobile phones and tablet computers, manufacturers and sellers will now have to inform consumers of the period during which the devices will tolerate the suggested updates. Manufacturers will also be banned from compelling consumers to repair or refurbish the devices, including with a software update that would slow or deteriorate the use of the products.

## Enhanced production

The anti-waste law has created, since it first came into force, eleven new “polluter pays” industries, the purpose being to have producers, importers and distributors finance the end of life of their products.

Tobacco products are concerned since 1 January 2021, and since 1 January 2022, are also

“THE ANTI-WASTE LAW  
HAS CREATED ...  
ELEVEN NEW “POLLUTER  
PAYS” INDUSTRIES TO ...  
FINANCE ... END OF  
LIFE OF ... PRODUCTS”

## PRODUCT LIABILITY

concerned toys, sports and leisure goods, DIY and gardening goods, construction products or materials, cars, vans, motor vehicles with 2 or 3 wheels and motor quadricycles and mineral or synthetic oils, lubricating or industrial oils.

All producers concerned by the “polluter pays” industries will have to determine an action plan every five years for the prevention and eco-design of their products that will have to contain more recycled materials and be more recyclable.

Lastly, with regards to the management of construction waste, a new “polluter pays” industry was created on 1 January 2022 that will apply to all construction products or materials. Construction or demolition waste will be picked up for free when collected separately.

### Emblematic measure: the end to single-use plastic

The stated goal of the law is to eliminate all single-use plastics by 2040, with short-term deadlines every five years. For the first period from 2021 to 2025, a first Decree was enacted on 29 April 2021 on the objectives of reduction, reuse and reemployment, and recycling of single-use plastic packaging for the period from 2021 to 2025, called the 3R Decree (2021-517).

Since 1 January 2022, the law has imposed new measures that are even more concrete: indeed, plastic overwraps for fresh fruit and

vegetables of less than 1.5 kg are prohibited, media publications and advertising materials in a plastic wrapping are prohibited, plastic nonbiodegradable teabags are prohibited and it is no longer possible to offer plastic toys for children, for instance in food menus.

By 2025, new measures can also be expected such as the end of disposable tableware in fast-food restaurants, the prohibition from selling medical devices and rinsed cosmetics containing microplastics or the obligation for all new washing machines to be equipped with devices to trap plastic microfibres.

### To conclude

2022 increases regulatory complexity on companies from all industry sectors which can lead to fines and criminal sanctions. Such criminal sanctions can be significant, especially if misleading commercial practices are characterized through improper, incomplete or ambiguous information provided to consumers. Indeed, fines can reach 1.5 million Euros or even 4% of the turnover of the company for instance. Significant sanctions can also be applied in case of planned obsolescence with wider measures to be taken such as recalls, withdrawals or corrective measures. Knowing the regulation is therefore key as a simple mistake can lead to an in-depth investigation with significant consequences and even a potential change in business model.

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After 10 years practicing in a major international law firm, Sylvie Gallage-Alwis became one of the founding partners of the Paris office of Signature Litigation in January 2019. Since then, Signature Litigation has been the first cross-channel dispute resolution only firm, providing assistance in handling major and complex litigation, arbitration and regulatory investigations.

With 15 years' experience, Sylvie heads the firm's product liability and compliance practice. She specialises in all cutting-edge complex disputes linked to products, namely product liability, product safety, toxic tort, mass litigation/class actions, regulatory compliance, and the environment.

She is involved in the most innovative pending legal topics for her clients, such as defending them against claims filed on the ground of planned obsolescence or deceit towards consumers. She is notably involved in the well-known Covid-19 vaccine and *dieselgate* litigation as well as in brand new climate change litigation, and the first claim filed against a manufacturer on the ground of the anxiety of developing a disease linked to the substances included in the product. In this scope, she is used to handle claims filed by NGOs, consumers' associations and to negotiate with the market surveillance authorities.

Sylvie is both an *Avocat à la Cour* in France and a Solicitor in England & Wales. She has been described by Who's Who Legal over the years as a "*dynamic and determined litigator*", who is "*a firm favourite among clients*" as "*she always goes the extra mile to support her clients, and is proactive in seeking commercial solutions to disputes*". She is listed as a Thought Leader and Global Elite in Product Liability by Who's Who Legal, being described as a "*star in the international world*" and a "*well-connected expert*". She is one of the three Leading Individuals for Product Liability listed by The Legal 500 for France. She was praised for her expertise in Product Liability by being awarded the Women in Business Law Award 2019 and the Lexology Client Choice Award 2021.

Sylvie also focuses her practice on general commercial litigation for her clients which are mainly international or non-French manufacturers facing litigation in France. She is also well-known for her expertise in Toxic Tort/Mass Litigation. As such, she has been involved in most pro-company case law rendered in recent years, notably in asbestos-related cases, with some cases mentioned in the French Civil and Social Security Codes because of the significant reversal in case law they represent.

Sylvie is an active member of the International Association of Defense Counsel (IADC), the Association of Defense Trial Attorneys (ADTA) and the International Consumer Product Health and Safety Organization (ICPHSO).

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## PROJECT FINANCE

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Elena is a partner in the Project Development and Finance Group in White & Case's New York office. She has significant experience in a variety of project financings in the Americas, primarily in the power, oil & gas and infrastructure sectors.

Elena's cutting-edge approach to deal structure enables her to develop innovative solutions to help clients achieve their business objectives. She combines a keen understanding of the commercial arrangements that underpin energy and infrastructure projects with a sophisticated knowledge of term loan B, mezzanine and hybrid finance structures. She also has extensive experience on acquisition financings, project bonds/private placements and other debt-structured products as well as equity financings.

Elena has worked on multiple award-winning, first-of-their-kind transactions. *The Legal 500* describes Elena as "a leader in hybrid project finance" and clients add, she has "finely tuned commercial sense," and provides "strong support and advice through complicated transactions," according to *Chambers USA*.

Her elite standing in the US market has earned Elena acknowledgement in numerous industry publications. Recent market recognition includes being named to the Roll Call of Elite: Project Finance in *Euromoney's Best of the Best USA Expert Guide 2022*; her selection as an *IFLR100 Women Leader 2022* for Project Finance and Asset Finance in the United States; and being awarded Global Leader: Project Finance status in *Who's Who Legal 2022*. She is also ranked as a leading lawyer in two categories in *Chambers USA*, Energy Transactions: Conventional Power, and Project Finance.

Elena received her BA from University of California, Los Angeles and JD from University of California, Berkeley, Boalt Hall School of Law.

Recent matters include the representation of:

- Lenders to ArcLight in connection with the US\$1.14 billion term loan and US\$300 million revolving facilities for the financing of the acquisition of a portfolio of merchant power plants located in New York, New Jersey and Connecticut.
- Antin Infrastructure Partners, a leading independent private equity fund focused on infrastructure investments, in a US\$625 million term loan A to finance its acquisition of Veolia's district energy assets. The portfolio comprises steam, hot and chilled water and electricity production plants, including cogeneration and 13 networks in ten US cities.

**WHITE & CASE****UNITED STATES****Dolly Mirchandani****White & Case LLP**

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One of *Euromoney's* "Best of the Best" in the USA as well as a leading "Woman in Business Law" for Project Finance, Dolly has over 25 years of experience advising infrastructure and pension funds, sponsors and developers, commercial banks, institutional lenders, contractors, government agencies and secondary market investors in the development, acquisition, divestiture and financing of greenfield and brownfield energy and infrastructure assets, including innovative public private partnerships. She has played a leading role in the introduction and ongoing deployment of private investment and finance in the infrastructure sector in North America, having advised on multiple, award-winning transactions, many of which were first of a kind.

Due to her elite standing in the US market and strong leadership in advising clients, Dolly is one of only seven lawyers with a "Band One" ranking in both *Chambers Global* and *Chambers USA* for PPP projects. Dolly's numerous acknowledgements by additional industry publications include her recognition as one of *IFLR1000's* 2022 Women Leaders for US Project Finance and Project Development, as well as her achievement of "Global Leader" status in *Who's Who Legal* for Project Finance (2021) and Government Contracts (2021). Additionally, Dolly recently advised on the "Americas P3 Deal of the Year" in back-to-back years – the LAX Automated People Mover P3 Project (PFI 2018) and the Newark Consolidated Rent-a-Car Facility P3 Project (PFI 2019).

Dolly received her LLM from Harvard Law School and her BA Jurisprudence from New College, Oxford.

Recent matters include the representation of:

- Ridgewood Private Equity Partners on its acquisition of a majority equity interest in Vista Ridge LLC, the concessionaire for a 142-mile water pipeline in Texas, the offtaker of which is the San Antonio Water System; and ongoing representation of Vista Ridge LLC, most recently advising on a US\$1.05 billion refinancing of the project's construction financing at the end of 2020, implemented as a US private placement. The refinancing was recently awarded "Americas Water Deal of the Year" by *IJ Global* 2020. The original project was awarded "North America Water Deal of the Year" by *IJ Global* 2017 and *PFI* 2017, "Water Deal of the Year" by *Global Water Intelligence* 2017, and "Best Utilities Project, Gold Award" by *P3 Bulletin* 2017.
- DIF Capital Partners, a leading global investment fund manager with €9.0 billion in AUM, in their acquisition of Bernhard, LLC, the largest privately-owned energy-as-a-service (EaaS) provider in the U.S. Bernhard enters into long-term turnkey EaaS P3 concession contracts predominantly with higher education and healthcare institution customers to upgrade, retrofit and service their large existing building energy facilities in order to achieve substantial energy savings.

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## RESTRUCTURING AND INSOLVENCY

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Pernille is one of Denmark's most experienced insolvency attorneys in Denmark. She has assisted in a number of financial restructurings and insolvency proceedings against a wide range of large Danish companies, including Sterling Airways A/S, Sterling Airlines A/S, Centerplan A/S, Sandgården A/S, O. W. Bunker A/S, Fona A/S, Arnold Busck A/S, ACT Global A/S and REFA Maribo-Sakskøbing Kraftvarmeværk A/S (earlier under reconstruction). In addition, a large group is currently undergoing reconstruction, as well as a large company is undergoing reconstruction.

Pernille is widely recognised by the large international rating agencies as leading in Denmark in Insolvency and Restructuring. Her extensive experience and expertise mean that she is often asked to handle the most complex cases in Denmark; for instance, as trustee of the estate in bankruptcy of O.W. Bunker, which is the largest bankruptcy in Denmark in recent times.

Since 1988, Pernille has been entitled to appear before the Danish Supreme Court, and she has conducted several significant cases in relation to bankrupt and insolvent businesses.

As the then chairman of the Danish Association of Trustees participated establishing the Association of Danish Insolvency Lawyers in 2004, and she was chairman until 2018. For a number of years, Pernille also chaired the Danish Bar and Law Society's Insolvency Law Committee and the Association of Danish Law Firms' Insolvency Law Committee. Pernille is also a member of The Danish Debt Collection Agency's select group of attorneys whom the Agency may appoint as trustees.

Pernille is appointed as a permanent trustee at the Maritime and Commercial Court, The Insolvency Court in Copenhagen. She represents Denmark ICC's FraudNet, a global organization specializing in Fraud and Asset Recovery.

Pernille has worked as an attorney since 1980, specializing in restructuring and insolvency her entire career and has been a partner with one of the biggest and most well known law firms in Denmark, Plesner, for 31 years.

She has held several positions of trust, including Chairman of the Association of Danish Insolvency Lawyers, Chairman of the Danish Association of Trustees (Kuratorforeningen), Chairman of the Insolvency Law Committee of the General Council of the Danish Bar and Law Society, Member of the General Council of the Danish Bar and Law Society, Member of the Code of Conduct Committee and many more.

Pernille has received numerous international rankings: To mention a few more recent:

*Pernille Bigaard [...]draws extensive praise for her considerable experience handling the most high-profile cases across Denmark, including both in-court bankruptcy proceedings and out-of-court restructurings. – Chambers Europe (2021)*

*Pernille Bigaard is listed in Women Leaders Guide – IFLR1000 (2020) and as Market Leader within Restructuring and Insolvency 2021. Pernille is also listed as leading individual as regards to insolvency in The Legal 500 Series 2019.*

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## SHIPPING AND MARITIME

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Ms Reiko Yoshida is an attorney admitted in Japan and the Republic of the Marshall Islands and a partner at City-Yuwa Partners. She has been providing comprehensive legal support on ship financings for more than twenty years, representing shipping owners, shipping operators, governmental and private financial institutions, advising on scheme construction, negotiation, and leading complicated multi-jurisdictional shipping finance transactions for the financing of high value vessels such as LNG carriers for world-famous LNG projects. She also advises on corporate and maritime matters under the laws of the Republic of the Marshall Islands and financial products such as private equity funds using expertise on the offshore entities and regulations, domestic and international M&A, reorganizations of groups of companies, and successions of business of companies engaging in the shipping business.

Her recent transactions include:

- advising on M&A and succession of the businesses of major Japanese shipowners with a value of USD150,000,000;
- advising a major Japanese shipping operator leading a consortium of major Japanese shipping operators and a local government-related shipping operator on the financing and/or transfer of shares in respect of three LNG ships, with values of USD120,000,000-190,000,000;
- advising a senior lender in a project finance transaction consisting of ECA facilities, senior bank facilities, senior bonds, subordinated bank facilities, and subordinated bonds, to a wholly-owned subsidiary of a Middle Eastern government-related gas transportation operator through 25 separate and cross-collateralized SPCs incorporated in the Marshall Islands, with values of over USD5,700,000,000;
- advising a major Japanese shipping operator on the acquisition of a company engaged in an LNG project with a value of USD500,000,000;
- advising Japanese financial institutions on the financing of numerous LNG ships with values of USD160,000,000-200,000,000;
- advising Japanese governmental and financial institutions on the financing of a number of 14,000-24,000 TEU container vessels with values of USD70,000,000-170,000,000;
- advising a ship owner in the structuring of a group of companies using Marshall Islands corporations, limited partnership, and limited liability companies with values of USD 300,000,000; and
- advising Japanese and non-Japanese financial institutions, shipping operators, and shipowners on the financing of some 50 vessels of various types per year with values of USD30,000,000-180,000,000.

Ms Yoshida is a visiting researcher at the Waseda University Institute of Maritime Law and a member of the Subcommittee, Commercial Code (relating to bills of lading, etc.) of the Legislative Council of the Ministry of Justice.



**MALTA**

# On the cusp of a new Convention on the International Effects of Judicial Sales of Ships

Ann Fenech  
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## Introduction

On the 30th of June 2022, the 55th session of the United Nations Commission on International Trade Law adopted by consensus a decision to submit to the General Assembly the draft convention on the international effects of judicial sales of ships recommending its adoption at the General Assembly's 77th session in September of 2022, the authorizing of a signing ceremony in Beijing as soon as practicable in 2023, and that the convention be known as the Beijing Convention on Judicial Sales of Ships.

It was a very special day for those at the Comité Maritime International who since 2008 have been working very hard indeed to formulate, draft and bring to the international arena a regulatory regime which ensures that when a buyer of a ship in a judicial sale purchases a vessel free and unencumbered, no pre existing claimant can interfere with the use of that ship which would cause great uncertainty and weaken one of the most important links in the chain of international trade – merchant shipping.

## History of the convention.

The convention owes its beginnings to a draft prepared by the CMI. In 2008 Prof. Henry Li from China, suggested that the CMI should undertake a study on the subject matter. This study showed that there were situations where vessels sold free and unencumbered were re-arrested by old creditors and cases where shipping registries were unable to delete old mortgages or issue deletion certificates for vessels sold clean and unencumbered in judicial sales.

These instances lead to challenging situations presenting serious interruptions to the orderly conduct of international trade. These can range from *mala fide* claimants exerting illegitimate pressure on bona fide purchasers who would have spent good money in purchasing vessels in judicial sales to uncertainty for the new financiers of such vessels who assume they are financing vessels leading to a clean title only to find old creditors making a claim against the ship purchased clean.

In the meantime, which purchaser is going to risk paying top dollar for a ship in a judicial sale which is supposed to give him a clean title if after the sale, an old creditor can come along and arrest that vessel? This in turn leads



to loss of confidence in judicial sales, leading to lower prices for ships in judicial sales which in turn leaves less money for the vessel's old creditors.

So between 2008 and 2014 the CMI worked on a draft convention aimed at ensuring that when a vessel is purchased in a properly held judicial sale free and clear of all previous debts, such a title will be given full effect by other state parties. The draft convention was called the *Beijing Draft*. Following its finalisation, the CMI needed to find an international legislative body for its draft, which would work on the project and turn it into an international treaty.

In July 2017 the CMI approached UNCITRAL and UNCITRAL recommended that the CMI should first hold an international colloquium with the maritime industry in order that the industry may express its view on whether there was a real need for such a convention. This international colloquium was organised in Malta by the CMI in conjunction with the Malta Maritime Law Association and the support of Transport Malta in February 2018 and it was attended by over 150 international maritime protagonists ranging from BIMCO, to IACS to ITF, ship owners, flag registries, financial institutions, ship owners, service providers and maritime

"WE NOW AWAIT THE  
GENERAL ASSEMBLY IN  
ITS 77TH SESSION ...TO  
ADOPT THE  
CONVENTION."

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judges. There was an overwhelming agreement on the need for certainty in international trade and on the need for such a convention.

Switzerland presented the conclusions of the Malta Colloquium and the *Beijing Draft* to the fifty first session of the Commission in June 2018 and notwithstanding some very stiff competition the proposal garnered support from a number of very important state delegations leading the Commission to decide that this was a topic which would be added to the work programme of the Commission. Subsequently the project was given to Working Group VI and from May 2019 it held 5 working sessions until the Working Group presented the finalised text to the Commission in June of this year.

The 55th session of the Commission deliberated the draft for 4 days and approved the text of the Convention on June 30th and also approved the decision and recommendations to the General Assembly of the United Nations.

### Why is there a need for this convention

As above stated, regrettably there have been and there will continue to be claimants in bad faith who will re-arrest a vessel knowing that it has been sold free and unencumbered in a judicial sale in the hope that they can exercise sufficient illegitimate pressure on the new owner to pay off an old debt. When this occurs voyages are interrupted, cargo owners are left without their cargoes and frequently the financial dynamic involving the mortgagees of the newly acquired vessel becomes very shaky. Typically the new owner would have obtained finance for the purchase after the latter would have sought legal advice confirming that the vessel would be transferred free and unencumbered. This would enable the financier to extend the loan facility to the new owner in the knowledge that any old debts and old mortgages would cease to attach to the vessel and upon the sale those interests would be transferred to the proceeds of the sale, thus ensuring their privileged position on the registration of the new mortgage. When suddenly a previous alleged creditor comes forward and arrests the vessel claiming rights over the vessel which do not exist, that causes tremendous upheaval not only to the owner but also to the financier.

There could also be situations of potential refusals by creditors to let go of their registered liens, hypothecs or mortgages following judicial sales of vessels sold free and unencumbered. This causes registrars of shipping registries to find themselves in the cross fire between new owners insisting on obtaining deletion certificates and old creditors refusing to let go of their mortgages.

The end result of all this is instability and uncertainty which leads to lower prices for ships sold in judicial sales. Of course the lower the price the less chance there is of all the creditors getting paid.

### The case of the *Bright Star* showcases the problem

The recent case of the *Bright Star* (Dr. Ann Fenech for and on behalf of Bluefin Marine Ltd and the MV *Bright Star* v. Jebmed Srl Action number 846/2018/MCH) underlines that the problem needs to be addressed.

In June 2018, quite ironically just a few weeks prior to the 51st session of the Commission in New York which accepted to take on this project, the vessel *Bright Star* was enroute from Kavkaz to Venezuela fully laden with wheat. She stopped off Malta to take on bunkers and was arrested by the old mortgagee, six months after having been sold free and unencumbered in Jamaica following the arrest of the ship in Jamaica by the same arresting party. The Maltese Merchant Shipping Act clearly provides that where a ship has been sold in a judicial sale, the interest of the mortgagees as well as of any other creditor in the ship pass on to the proceeds of the sale of the ship and for decades the

position in Malta has been that when a vessel is sold in a judicial sale it is sold free and unencumbered so that a purchaser purchases the vessel without any of the vessel's previous debts. After no less than 73 various court proceedings and three years later, on the 27th May 2021, Mr. Justice Mark Chetcuti held that once a vessel is sold in a properly held judicial sale free and unencumbered then old creditors had to look towards the proceeds and had no right to rearrest the vessel.

The case is now before the Court of Appeal.

This case clearly shows that even in jurisdictions like Malta where the law is crystal clear, unscrupulous claimants will try to put illegitimate pressure on *buona fede* purchasers who purchase vessels in judicial sales.

### The Convention

The convention on the international effects of judicial sales of ships seeks to resolve this. It has 23 Articles with its entire *raison d'être* contained in article 6 which states: “**A Judicial sale for which a certificate of judicial sale referred to in article 5 has been issued shall have the effect in every other State Party of conferring clean title to the ship on the purchaser.**”

There are a number of criteria which need to be satisfied for the convention to apply and important amongst which are the notification criteria contained in article 4 and the issuance of a certificate of judicial sale by the court where the judicial sale takes place provided for in article 5.

Article 4 provides that whilst the judicial sale needs to take place in accordance with the law of the state of judicial sale, a notice of judicial sale must be given to the registry of ships or bareboat registry where the vessel is registered or bare boat charter registered, mortgagees, holders of a registered hypothec or other registered charge, holders of maritime liens which would have presented a claim before the same court and the owners of the ship and any bare boat charterers.

Article 5 provides that upon completion of a judicial sale which confers clean title to the ship, which was conducted in accordance with the law of state of judicial sale and in accordance with the convention, the court or other public authority conducting the sale will then issue a certificate of judicial sale to the purchaser. This certificate will state that the vessel was sold free and unencumbered in accordance with the law of the state of judicial sale and the criteria provided in the convention.

The convention also provides that both the notice of judicial sale and the certificate of judicial sale are to be transmitted to the *repository* mentioned in article 10. The *repository* is the IMO which will provide a module in its already existing GISIS platform to host the *repository*. This enables any person to access the digital IMO GISIS platform to see whether any vessel is about to be sold in a judicial sale and / or whether such a ship has in fact been sold and a certificate issued. This is of great benefit to creditors of ships who have an interest in pursuing the proceeds of a sale and who may wish to partake in any ranking of creditors procedures which may take place following the sale of such ships.

Article 7 provides that at the request of a purchaser who produces a certificate of judicial sale, a registrar of ships is obliged to delete the vessel, or effect a transfer of ownership, and is obliged to delete any pre-existing mortgages, hypothecs or registered charges. Article 8 provides that an application for an arrest of a ship for a claim pre-existing the sale free and unencumbered shall be refused on the production of the certificate of judicial sale by the new owner of the vessel and that if the vessel is arrested in *ex parte* proceedings that vessel is to be immediately released on the production of a certificate of judicial sale.

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In order to have further certainty, the Convention provides in article 9 that it is the court of the state of judicial sale which has exclusive jurisdiction to hear a claim or application to avoid the judicial sale and no other court of any other state. The only exceptions to these are two. The court of the state of registration may decide that giving effect to the Convention is against its public policy, and similarly the court of the state where the vessel is subsequently arrested may also decide

that not arresting such a vessel or releasing from arrest such a vessel would be in breach of its public policy.

We now await the General Assembly in its 77th session in September to adopt the Convention. It will be a very special and historic moment for all those at CMI, Working Group V1 of UNCITRAL and the Commission who have worked tirelessly on the Beijing Draft and to see the Beijing Draft turn into the Beijing Convention on Judicial Sale of Ships.

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Ann Fenech is the head of the marine litigation department at Fenech & Fenech Advocates and was Managing Partner of the firm from 2008 to 2020. She qualified in 1986 and joined Holman Fenwick and Willan in London. From there she moved to Chaffe McCall Phillips Toler and Sarpy in New Orleans. On joining Fenech & Fenech in 1992, she created the marine litigation department. She has dealt exclusively with maritime issues for the past 34 years ranging from salvage to charterparty disputes and from towage to enforcement of mortgages. She lectures at the University of Malta and the International Maritime Law Institute. She is the President of the Malta Maritime Law Association, Board Member of the European Maritime Law Organisation and founding Board Member of the Malta Maritime Forum. Between 1998 and 2008 she was the Chairman of the Pilotage Board. She has been on the Executive Council of the Comité Maritime International since 2014 and in 2018 elected Vice President. She is currently the co-Chair of the CMI IWG on International Recognition of Judicial Sales and CMI Co-Ordinator of the project at UNCITRAL.

Throughout her career she has been involved in the majority of high profile marine litigation cases taking place around Malta or involving Maltese registered vessels. These include the explosion on board the *Um El Faroud*, the series of *Poker* cases leading to the introduction of article 742 (B) on jurisdiction in Rem in the Code of Organisation and Civil Procedure, the tragedy surrounding the fishing vessel *Simshar*, the very first court approved private sale held in Malta of the vessel *Thor Spirit*, the highest award in damages ever awarded by a Maltese court at the time in the case of *Finaval v Scorpio*, the privatisation of *Malta Shipyards Ltd*, the successful defence of an action commenced by the *European Commission v Malta* before the European court of justice on an alleged breach of Cabotage Regulations; representing *Enemalta* in *Enemalta v Di Matteo* related to the severing of the underwater interconnector cable between Malta and Gozo, the successful challenging of a public service concession contract for a fast ferry service for and on behalf of *Virtu Ferries*, represented Tug Malta in an arbitration against the *British Ministry of Defence* and in the successful salvage claim against the *Jill Jacob*, acting for *Bank of America* in the judicial sales of the vessels *Andino*, *Andes* and *Algarrobo*, acting for the owners of the *Bright Star* in challenging an illegal arrest of the ship following the judicial sale of the vessel.

She has drafted several maritime statutes including the Pilotage Regulations, and the sections on jurisdiction in rem in the Code of Organisation and Civil Procedure as well as various other sections in the Merchant Shipping Act.

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Vasanti Selvaratnam KC is a senior Silk practising as both Counsel and Arbitrator across a wide range of industry sectors, regularly handling multimillion dollar commercial disputes in shipping, trade and commodity disputes, banking and finance, insurance, jurisdiction disputes, conflict of law issues and civil fraud. She also specialises in all forms of interim relief, including freezing orders and anti-suit injunctions. Vasanti is particularly noted for her user friendly “hands on” approach to cases and for her ability quickly to get to grips with disputes raising complex factual and technical issues which require a sound grasp of expert evidence and mastery of detail. Vasanti was shortlisted as Chambers and Partners Shipping Silk of the Year in 2019 and again in 2022 and has been consistently highly rated in the legal guides throughout her many years in practice at the English Bar. Vasanti also speaks and publishes on a variety of legal topics, including most recently an article on English law and good faith published in the May 2020 edition of the LMCLQ.

Reported leading cases include *The Alexandra 1* [2021] UKSC 6, (decision of the Supreme Court concerning the inter-relationship between the narrow channel rule and the crossing rule under the international Collision Regulations); the well-known House of Lords decisions in *The Starsin* [2004] 1 AC 715 and *The Nagasaki Spirit* [1997] AC 455, the Court of Appeal decision in *The Wadi Sudr* [2010] 1 Lloyd’s Rep 193 (leading case on the arbitration exception, the Judgments Regulation and issue estoppel), *Joint Stock Asset Management Co Ingosstrakh-Investments v BNP Paribas* [2012] EWCA Civ 644 (leading case on non-contractual antisuit injunctions), *The Stolt Kestrel* [2015] EWCA Civ 1035 (leading case on extensions of time under section 190 Merchant Shipping Act 1995); and a number of important first instance decisions including *The Rubicon Vantage* [2020] 1 Lloyd’s Rep 383 (first reported case to consider a hybrid parent company guarantee and the principles applicable to its interpretation), *Deutsche Bank AG London Branch v CIMB Bank Berhad* [2017] EWHC 3380 (Comm) (compliance of a documentary credit presentation with UCP 600 in relation to signatures and other issues) and *Emirates Trading Agency v PMEPL* (ground breaking decision on multitiered friendly discussion clause as a condition precedent to right to commence arbitration which has generated much legal and academic discussion). Vasanti is due to appear in the Court of Appeal later this year in what will become the leading case on sanctions and force majeure in the context of payment obligations (*RTI v MUR*, 2022).

Vasanti was called to the Bar in 1983 and received her LLM in 1984. She has been a practising barrister at the Commercial Bar since 1985, a Recorder from 2000 – 2018, Queen’s Counsel since 2001 and a Bencher of Middle Temple since 2011. Vasanti is a Panel arbitrator of SIAC, HKIAC and SCMA, a member of the LCIA, ICC and ICCA, a member of the LOF Panel of arbitrators and a supporting member of the LMAA. She has conducted a very large number of arbitrations to date, including as Chair, under all major international arbitral rules (including UNCITRAL) as well as ad hoc. She is chair of the education sub-committee of the London Shipping Law Centre and a Consultation Board member of Practical Law Arbitration. Vasanti is also joint head of Chambers of The 36 Group, one of the largest multi-disciplinary sets of barristers chambers in London. For a full CV please contact her clerks on +44 (0) 20 7440 6900 or clerks@36stone.co.uk.



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Helena Robertsson is a Senior Partner with 29 years of experience in serving as a trusted Tax advisor for companies and individuals across the Nordics and around the world. Helena is a member of Global EY Private team where she successfully combines the roles of the Global Family Enterprise Services Leader and the Private Services Leader in the Nordics. Between 2017 and 2019 Helena was responsible for EY Private Tax practice in Europe, Middle East, India and Africa. She also led the Family Enterprise team in the Nordics and the Tax practice in Stockholm. Her passion is helping entrepreneurial families design long-term strategies and implement the right tools, skills and training to succeed from generation to generation.

Helena uses her broad expertise in national and international taxation to help her clients resolve complex issues related to capital gains taxation, global mobility, compensation and benefit planning, tax return compliance, transfer pricing, international corporate tax, and other matters. She served as Lead Partner in various engagements with some of the largest family offices, private equity companies, private equity partners, high-net-worth individuals, and private companies in the Nordics.

Helena holds an MSc in Business Administration and Tax Law from Stockholm University. She is a certified tax adviser and the Chair of the Stockholm University Center for Commercial Law. She also serves as a board member of the Swedish-American Chamber of Commerce in New York.

Helena is a frequent speaker at tax conferences and tax education seminars in Sweden, and regularly comments on tax matters in the media.



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With over 35 years of experience, Kim Marie Boylan heads White & Case's tax controversy practice and, until recently, was the Head of White & Case's Global Tax Practice – a position she held for nearly seven years. Kim also is Chair of the Firm's Global MDR Committee, which advises the Firm and clients on mandatory disclosure regime requirements such as DAC6 in the EU and UK and Mexico's mandatory disclosure regime. She is a recognized expert in tax controversy and transfer pricing, having won many awards in both areas and long being recognized in Expert Guides.

Kim is a trusted advisor to a broad spectrum of clients including major corporations, partnerships and other pass-through entities, and high net worth individuals. Clients turn to her for representation on sophisticated domestic and international tax disputes. The vast majority of Kim's cases are never made public because of her success in resolving matters at the administrative level. On civil matters, she works closely with clients throughout the audit process and then through the IRS Appeals, fast track, mediation, and other alternative dispute resolution processes. Kim's practice also encompasses transfer pricing, as well as the Advance Pricing Agreement and competent authority processes, an area of practice that is greatly enhanced by her credentials as a Certified Public Accountant. If a case cannot be resolved administratively, clients rely on her significant tax litigation experience. Unlike many tax litigators, Kim is skilled at handling cases in all three potential tax litigation forums – the United States Tax Court, the United States Court of Federal Claims, and the various United States district courts. Clients know that her development of a case at the administrative level always takes into account possible litigation and her cases are managed with that possibility in mind. She has also testified on clients' behalf before the United States Treasury Department, Internal Revenue Service, and the Financial Accounting Standards Board.

While her practice focuses mainly on civil tax matters, Kim has also successfully represented numerous corporate and individual clients in connection with criminal tax matters. Kim has extensive experience resolving issues through the Internal Revenue Service's various voluntary disclosure programs and the Department of Justice's Program for Swiss Banks. She continues to advise banks and individuals in follow-up investigations that have stemmed from the Swiss Bank Program in the United States as well as in various other countries.

Kim was awarded the *International Tax Review North America Tax Litigation and Dispute Practice Leader of the Year* (2020), as well as being named in *Best Lawyers in America for Tax Law*. She has also been listed in the *International Tax Review Women in Tax Leaders Guide*.

Kim also is an expert in the area of privilege and work product protection, particularly in the context of global tax matters. She often advise companies on these important issues both in the context of transactions as well as in disputes. She is a frequent speaker on these topics and has written the leading treatise on these issues.

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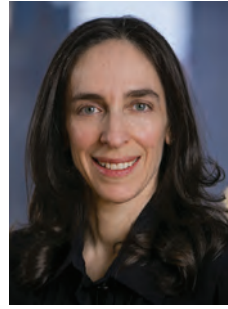
Ms Dvornic focuses on tax aspects of US and cross-border mergers and acquisitions, spin-offs and other dispositions, leveraged buy-outs, joint ventures and financing transactions. *Law360* has recognized Tijana as one of the country's five top tax lawyers under 40.

Ms Dvornic received a B.B.A. with highest distinction from the University of Michigan. Ms Dvornic completed a J.D. *magna cum laude* from Harvard Law School, where she was the articles editor for the *Harvard Civil Rights-Civil Liberties Law Review*. Following law school, she was a law clerk to the Honorable Judge Priscilla R. Owen in the United States Court of Appeals for the Fifth Circuit. Ms Dvornic received an LL.M. in taxation from New York University School of Law in 2016 and was awarded the David H. Moses Memorial Prize.

Ms Dvornic is a member of the Executive Committee of the Tax Section of the New York State Bar Association and a member of the Tax Section of the American Bar Association.

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Deborah L Paul is a partner in the Tax Department at Wachtell, Lipton, Rosen & Katz where she focuses on the tax aspects of corporate transactions, including mergers and acquisitions, joint ventures, spinoffs and financial instruments. Ms Paul has been the principal tax lawyer on numerous domestic and cross-border transactions, including strategic acquisitions and private equity buyouts, in a wide array of industries, including telecommunications, oil and gas, food, defense and energy. Ms Paul is a frequent speaker at Practising Law Institute, American Bar Association, New York State Bar Association and New York City Bar Association conferences on tax aspects of mergers and acquisitions and related topics. She is rated a leading tax lawyer by *Chambers USA*, *Super Lawyers*, the *Legal 500* and *Who's Who Legal*. She was elected partner in 2000.

Ms Paul is an active member of the Executive Committee of the Tax Section of the New York State Bar Association. Prior to joining Wachtell Lipton in 1997, Ms Paul was an assistant professor at the Benjamin N. Cardozo School of Law (1995-1997) and an acting assistant professor at New York University School of Law (1994-1995).

Ms Paul received an A.B. from Harvard University in 1986, a J.D. from Harvard Law School in 1989 and an LL.M. in taxation from New York University School of Law in 1994.

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Jodi J Schwartz focuses on the tax aspects of corporate transactions, including mergers and acquisitions, joint ventures, spin-offs and financial instruments. Ms Schwartz has been the principal tax lawyer on numerous domestic and cross-border transactions in a wide range of industries. She was elected partner in 1990.

Ms Schwartz received her B.S. in Economics *magna cum laude* from the University of Pennsylvania in 1981, her M.B.A. from the University of Pennsylvania (Wharton School) in 1984, her J.D. *magna cum laude* from the University of Pennsylvania Law School in 1984 and her LL.M. in taxation from the New York University Law School in 1987.

Ms Schwartz is recognized as one of the world's leading lawyers in the field of taxation, including being selected by *Chambers Global Guide to the World's Leading Lawyers*, *Chambers USA Guide to America's Leading Lawyers for Business*, *International Who's Who of Business Lawyers* and as a tax expert by *Euromoney Institutional Investor Expert Guides*. In addition, she is a member of the Executive Committee and past chair of the Tax Section of the New York State Bar Association and also is a member of the American College of Tax Counsel.

Ms Schwartz serves as an officer of both the UJA-Federation of NY and the Jewish Federations of North America, serves as a member of the board of Steep Rock Association and serves on the Board of Overseers of the University of Pennsylvania Law School. Ms Schwartz lives in Manhattan with her husband, son and daughter.

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Arlene Arin Hahn is a partner in the Technology Transactions Practice, within White & Case's Global M&A Group and Global Intellectual Property (IP) Group. Arlene also serves as the Chair of the White & Case's Global Diversity Committee, Co-Chair of the New York Women's Initiative, and a member of the Firm's Global Women's Initiative.

Arlene represents clients in a variety of IP and technology matters ranging from technology licensing and other standalone technology transactions to the IP aspects of private equity, M&A and corporate transactions as well as restructurings and workouts.

Arlene has advised on hundreds of consummated transactions, ranging from formative license agreements and joint development agreements to initial start-up investments and whole business securitizations to some of the largest M&A deals in their respective industries. She represents strategic and financial clients in a broad range of industries, including software, cloud/SAAS, AI/ML, semiconductors, consumer products, industrial products, retail, media, digital healthcare, and telecommunications.

Arlene has extensive experience with stand-alone IP matters, including patent licensing, technology transfer, joint ventures and strategic alliances, joint development, software licensing, outsourcing, content licensing, trademark coexistence, and merchandising and brand licensing, as well as settlement of IP disputes. Arlene also regularly oversees significant IP and commercial due diligence investigations in the context of analyzing complex commercial or technical aspects of corporate transactions.

Prior to focusing on transactional work, Arlene also litigated a variety of intellectual property disputes, including patent infringement, trademark and copyright infringement, counterfeiting, unfair competition and trade secret misappropriation.

From January 2006 to April 2007, Arlene lived in Osaka, Japan where she was seconded to work as in-house counsel to major international conglomerate.

Arlene has appeared as a featured guest on Bloomberg TV and is a member of Law360's 2019 Advisory Board for Intellectual Property. Arlene has been recognized by numerous publications, including Intellectual Asset Management (IAM) Patent 1000, Legal 500, and Euromoney. She is an Advisory Board Member to NYU School of Law's Grunin Center for Law and Social Entrepreneurship and Co-contributing editor of author for "Technology M&A", Lexology/Getting the Deal Through, 2018-2020.

Arlene received her B.S. in Biology from MIT and her J.D. from NYU School of Law (*Associate Editor, NYU Law Review*).

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Chérie R Kiser chairs Cahill Gordon & Reindel LLP's communications practice group and is the managing partner of Cahill's Washington, D.C. office. For more than 30 years, Chérie has been at the legal forefront of the dramatic growth and technological innovation that has taken place in the voice, video, Internet, and data communications markets. Commended in *Chambers USA* for her "depth of knowledge in the telecom regulatory space," which sources speaking with the publication describe as "encyclopedic in nature." Chérie is also recognized as a recommended communications lawyer by *The Legal 500*, with sources praising her "exceptional communication and negotiation skills." Chérie advises her clients, which range from tech start-ups to leading global communications and Internet companies, on all aspects of their telecommunications, broadband, and wireless market entry and growth strategies. Her practice has been devoted to guiding companies through the regulatory and legal shoals surrounding traditional telephone, media, wireless, and cable service issues, as well as cutting-edge technologies such as VoIP, Telepresence, Internet of Things, Cloud-based services, and broadband deployment.

Chérie is counsel to clients on a broad spectrum of issues before the Federal Communications Commission, Congress, state legislatures, state Attorneys General offices, and state regulatory agencies. She represents clients in complex litigation involving regulatory, contract, and tax issues in state and federal courts across the country. She also acts as corporate regulatory counsel in connection with initial public offerings, mergers and acquisitions, debt issuances and financings, and other corporate transactions.

Earlier in her career, Chérie was a Senior Regulatory Attorney for Sprint Communications Company.

**Recognitions:**

- *Chambers USA*
- *The Legal 500*
- Named among *Women We Admire's Top 100 Women Leaders in Law, 2021*
- Named in *Euromoney's Women in Business Law Expert Guide, 2021*
- Named to *The National Law Journal's* list of Washington D.C. Trailblazers, 2020
- Named One of *The National Law Journal's* "Outstanding Women Lawyers," 2015
- Member, Direct Women Board Institute Class of 2015

**Professional Activities:**

- Board Member and Vice Chair, Lancaster County Broadband Authority, 2021-present
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- Federal Communications Bar Association; International Technology Law Association; National Association of Women Lawyers
- Chair, Technical and Clinical Standards and Guidelines Task Force, *Partnership For Artificial Intelligence, Telemedicine & Robotics In Healthcare (PATH)*, 2018-2019
- Publishes and presents at industry conferences throughout the United States and internationally

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Linda Sim is a partner in the Firm's Technology Transactions practice within its Global Mergers & Acquisitions practice. Linda has deep experience advising on technology transactions involving software and data licensing, systems development and integration, SaaS and cloud-based services, digital media transactions and IT and business outsourcing arrangements. She also advises on data security and privacy related issues, including the General Data Protection Regulation and the California Consumer Privacy Act.

Linda represents clients across a range of industries including automotive, financial services, entertainment, consumer products, telecommunications, healthcare and manufacturing.

Linda also previously served in-house at Accenture, Singtel Optus and Warner Bros. Entertainment.

Representative transactions include the following:

Part of deal team representing Sneaker Con, in the sale of its sneaker authentication business to eBay.(\*)

Lead Counsel to a global automotive company in multi-vendor negotiations to implement a suite of cybersecurity related products.(\*)

Lead Counsel for global cosmetics brand in negotiating and drafting license agreements for chemical formulations used in consumer products.(\*)

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Magda Streuli-Youssef represents parties before courts and state authorities, ADR Panels and supervisory bodies in all kind of intellectual property, media and unfair competition law matters. She has a broad litigation practice including several landmark court cases in the field of copyrights, trademarks and unfair competition law. Her practice areas also include IP strategies, IP audits and licensing, drafting and negotiating all types of IP-related contracts and advising clients in intellectual property, media and unfair competition law matters.

Born in 1953, Magda Streuli-Youssef was educated at the University of Zurich (lic. iur. 1975, Dr. iur. 1978). Her working experience as an attorney stretches back to 1980; she was a lecturer at the University of Zurich and at various institutions such as SAWI in Bienne and the EMBA of the University of St. Gallen.

She was a member of the Federal Commission for the Exploitation of Copyrights and Neighbouring Rights and former Vice-President of the Federal Appeals Commission for Intellectual Property. She has been active in several professional associations, notably the International Association for the Protection of Intellectual Property (AIPPI) and the Swiss Institute for Industrial Property (INGRES). She publishes and lectures regularly on various IP topics. She is the editor of the well-known book series *Schweizerisches Immaterialgüter-und Wettbewerbsrecht* (SIWR) and recently published three volumes.

Magda Streuli-Youssef speaks German, English and French. She is registered with the Zurich Bar Registry and admitted to practice in all Switzerland.

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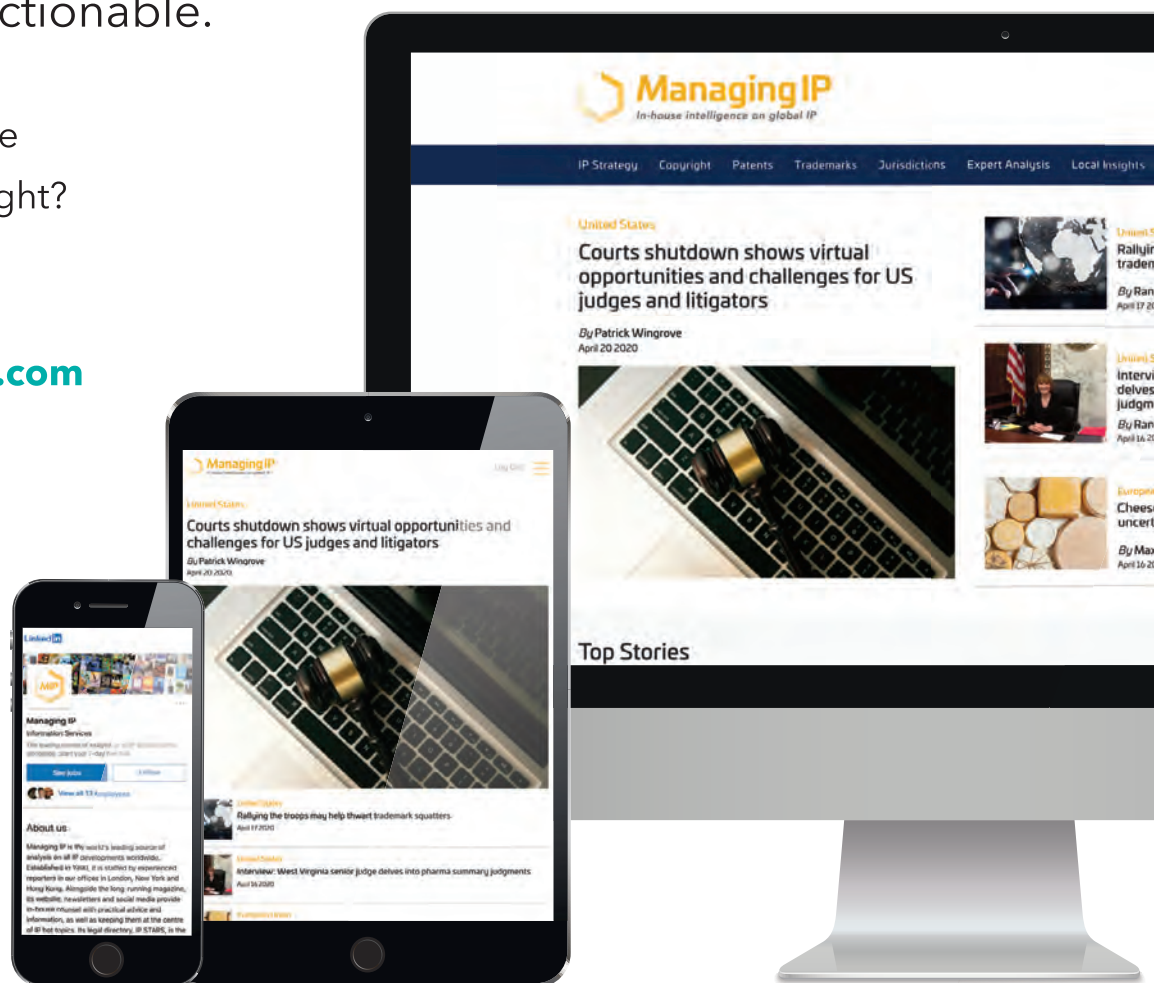
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**Practice focus**

Caroline Silberztein heads the International Tax and Transfer Pricing group of Baker McKenzie in France.

She assists multinational enterprises from a range of industries with transfer pricing risk assessment and management, design and implementation of transfer pricing policies, tax audits, tax litigation, mutual agreement procedures, alternative dispute resolution and advance pricing arrangements, on a local and a global basis. Her primary areas of expertise are business restructuring, supply chain restructuring, post-acquisition integration, intangibles, digitalization of business models.

She also advises multinational enterprises on international tax policy and tax treaties interpretation.

**Tax policy**

She is nominated by France on the list of independent persons of standing authorized to serve as arbitrators for the application of the European Arbitration Directive.

She was the Head of the OECD Transfer Pricing Unit from 2001 to 2011 and in that capacity an Observer at the EU Joint TP Forum. During 10 years she has been an active member of the United Nations Sub-Committee on Transfer Pricing who drafted the U.N. Manual on Transfer Pricing.

**Publications, presentations and articles**

Caroline Silberztein has written dozens of articles and spoken at over 200 conferences around the world on transfer pricing topics for various audiences (private sector, governments, academic).

She is a regular lecturer on transfer pricing topics in several European Universities and in particular is in charge of transfer pricing seminars for M2 students at Paris II University and at HEC.

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Susann accumulated 25 years of experience in consulting multinationals in the field of international tax and transfer pricing. Her expertise encompasses transfer pricing structuring, operational implementation and transfer pricing process design, advise connected to Advance Pricing Agreements/Mutual Agreement Procedures, Joint Audits and tax audit defense.

Susann's clients include several DAX 40 multinationals, as well as other US, European and Asian corporations representing a wide range of industries. During the last years, Susann led a number of projects involving permanent establishments, complex restructurings including transfer of functions and post-merger integrations. Susann is PwC's EMEA Consumer Market Tax Leader and the Leader of PwC's International Consumer Market Transfer Pricing Network. As such Susann has in-depth knowledge of industry-specific transfer pricing aspects.

Susann is a frequent speaker at various international tax conferences including but not limited to tax conferences held by the Vienna University, the International Fiscal Association (IFA), the Federal Chamber of Tax Advisor and by PwC. In addition, Susann frequently publishes articles in German and international tax magazines, is a contributor to leading transfer pricing literature and co-editor of the No. 1 German publication on transfer pricing regulations ("Vögele Handbuch Verrechnungspreise"). Susann is chief of the board of the IFA Germany Rhein-Ruhr and board member of the German Women in IFA Network. In that role she frequently organizes tax and transfer pricing seminars with top ranking representatives of tax administration, tax jurisprudence, scholars, inhouse tax specialists and advisors.

Susann studied business economics and tax law at the Dresden Technical University, Germany, and Japanese and International Tax Law at the KEIO University Tokyo, Japan. She later enrolled at Maastricht University for postgraduate studies of international tax law. She is a German certified tax advisor (Steuerberater).



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Margreet Nijhof is a partner in the Amsterdam Transfer Pricing team of Baker McKenzie and a member of the EMEA and North America Tax Group. Margreet has 25 years of experience, during which she developed a transatlantic skillset, having spent 11 years working at Baker McKenzie's San Francisco/Palo Alto office before transitioning to the Amsterdam office. She was individually recognized as "Best in Transfer Pricing" by IFLR at the European Women in Business Law Awards Ceremony three times. The wider Amsterdam Transfer Pricing team was awarded multiple times "Netherlands Transfer Pricing Firm of the Year" during the last decade. Margreet is a strong advocate for diversity and inclusion in the workplace.

**Practice Focus**

Margreet focuses on global tax planning, with an emphasis on transfer pricing from all angles whether policy, planning, implementation and dispute resolution supporting her clients as their global business footprint develops and transforms. Margreet has extensive experience working with a wide variety of industries, including established and emerging hi-tech companies and "traditional" retail and manufacturing companies. In addition, during her 25-year career at Baker McKenzie, Margreet has held multiple international leadership roles.

**Professional Associations and Memberships**

American Bar Association – Section on Taxation  
 State Bar of California

**Admissions**

California~United States (1997)  
 Member of the Dutch Tax Advisors Association (NOB)

**Education**

University of California, Berkeley School of Law (J.D.) (1997)  
 University of California at Berkeley (B.A., summa cum laude) (1993)

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Elvira Barriga Allvin, a tax partner of Deloitte in Sweden, is the leader of the Swedish transfer pricing practice, which was recognized as *Sweden Transfer Pricing Firm of the Year* in 2022 by International Tax Review. She has over 20 years of experience as a transfer pricing adviser in various jurisdictions. Elvira's international experience encompasses four years of work in the US and Germany with transfer pricing teams in New York, Boston, and Duesseldorf, as well as fluency in multiple languages (i.e., English, Swedish, German and Spanish) in which her advisory services may be rendered.

Elvira has extensive experience advising a broad portfolio of many of the largest Swedish multinationals, as well as other global players, on business model optimization, policy implementation, controversy management including APAs, MAPs and litigation, and effective documentation strategies. More recently, Elvira has advised her clients how to holistically align their transfer pricing models with evolving BEPS requirements while achieving sustainability, compliance and efficiency. Given the increasing need for digital transformation, Elvira is also assisting clients with related operational transfer pricing issues, as well as policy alignment needs. Elvira is frequently invited to participate in technical discussions with the Swedish Tax Agency and has offered technical training to judges ruling in transfer pricing matters in the Swedish courts.

Elvira's education includes a BA in International Studies and Economics from Boston College and graduate management courses at Harvard University. Elvira is a certified tax adviser and has been recognized by numerous prestigious guides, such as *Best of the Best*, *World's Leading Transfer Pricing Advisers* and *Women in Tax Leaders*. Elvira has also held various leadership positions within Deloitte, such as Nordic Transfer Pricing Leader and Global Advisory Council member.

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**Biography**

Holly Glenn is an economist with over two decades of experience in transfer pricing and valuation. She has led transfer pricing engagements of all types, including restructuring intercompany arrangements for tax planning, preparing US and foreign documentation, audit defense and litigation, and negotiating bilateral and unilateral advance pricing agreements and MAPS.

**Practice Focus**

Ms Glenn focuses her practice on intercompany transactions and tax strategies of clients. She coordinates and directs resolution of transfer pricing matters inside and outside the United States, and advises on opportunities for tax planning. She also helps identify needs for fresh approaches based on the growth and change in the business and industry, and the development of core documentation to be used globally.

**Professional Associations and Memberships**

American Society of Appraisers

**Education**

University of Maryland (Master of Arts)  
University of Maryland (Ph.D. ABD)  
Brown University (B.A. Political Science)

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In her role as Principal Economist in Baker McKenzie's Transfer Pricing Practice Group, Michelle Martinez provides multinational companies with economic analyses and tax valuations to assist them in analyzing transfer pricing strategies around the world. With over 20 years of experience, Michelle specializes in transfer pricing and focuses on providing her clients with economic analyses and valuations to deliver creative and thoughtful solutions that balance transfer pricing planning and risk management objectives.

Michelle leads transfer pricing engagements of all types, including transfer pricing aspects of business reorganizations, audit defense, alternative dispute resolution, including negotiating advance pricing agreements and competent authority proceedings, and preparation of global documentation.

A particular focus of Michelle's practice has been the structuring and valuation of intercompany transactions of intangible property, assisting clients with licensing, cost-sharing and business reorganizations. Michelle's clients include leading multinational corporations across several industries, including technology & media, consumer brands, healthcare, travel, software and cloud services, fintech, and insurance.

Michelle has been recognized by International Tax Review as a Leading Practitioner in their annual Women in Tax Leaders Guide since 2016. Michelle is a frequent speaker on transfer pricing topics and publishes articles in various tax publications, e.g., International Tax Review and Bloomberg Tax.

**Representative Matters**

- Assisted leading global technology company with valuation and transfer pricing aspects of large IP transfer to the US and transition from cost sharing to licensing structure, including negotiation of advanced pricing agreement.
- Assisted leading travel-related business with IP valuation and business restructuring defense arguments for successful IP transfer out of Switzerland.
- Assisted global fintech company with IP valuation and controlled transfers of interest related to cost sharing arrangement involving multiple jurisdictions.
- Advised Fortune 100 company regarding comprehensive headquarter services analysis, including analysis of stewardship and assistance with US audit support.
- Conducted numerous transfer pricing analyses related to intercompany transactions involving tangible and intangible property and intercompany services for purposes of designing policies, preparation of transfer pricing documentation and audit defense in jurisdictions around the world.

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Chloe's practice is focused on private client and related corporate matters. She regularly advises high net worth clients and family offices on trusts, tax and succession planning, asset protection, probate and estate administration, philanthropy, corporate restructuring and mergers and acquisitions. She also advises clients on structuring and acquiring new investments including hotels, hospitals, boats and breweries.

To supplement her experience, Chloe was seconded to a major Swiss bank where she assisted in their integration of a substantial client base following a merger and provided wealth planning advisory services in their Wealth and Tax Planning Department. She acts for private banks and corporations on setting up their trustee operations in Hong Kong. She also acts for clients and trustees in contentious trusts and estate fights.

Chloe is a Trusts and Estate Practitioner with STEP (The Society of Trusts and Estate Practitioner) and serves as a member of the STEP China Development Sub-Committee and Wills and Estate Sub-Committee in Hong Kong. Chloe was awarded distinction in the Diploma in International Trust Management organized by STEP.

**Practice Area**

Private Client and Tax

**Work Experience**

Zhong Lun Law Firm LLP (Hong Kong)

**Education**

- Tsinghua University (PRC) LL.M. (Chinese Law)
- The University of Hong Kong P.C.LL.
- University of Bristol LL.B.

**Admissions**

Hong Kong Solicitor

**Recognitions**

- Awarded "Wealth Management Rising Star Under 40" in WealthBriefingAsia Greater China Awards 2022
- Recognized as "Rising Star" in 2022 in Private Client (Tax, Trusts, Wealth Management, Contentious Probate) by Legal 500 Asia Pacific Guide (and as "Recommended Lawyer" since 2020)
- Recognized as "Up and Coming" in 2022 in Private Wealth Law (International Firms) in Hong Kong by Chambers and Partners High Net Worth Guide (and as "Associates to Watch" in 2020 and 2021)
- Recognized as a leading practitioner in Citywealth Leaders List in 2021

**Languages**

- English
- Cantonese
- Putonghua

## SWITZERLAND

**Natalie Peter****Blum&Grob Attorneys at Law**

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Natalie Peter joined Blum&Grob Attorneys at Law in Zurich in January 2018 as a partner and head of the private clients team.

She has been advising private clients for over 25 years in a range of national and international tax matters, including estate tax planning, immigration to or emigration from Switzerland, tax litigation, completing tax declarations, obtaining tax rulings from tax authorities and analysing and setting up tax-efficient structures. She has a particularly extensive knowledge in all tax matters relating to the taxation of trusts and foundations as well as the setting up of tax-exempt charitable organisations. She has also gained substantive experience in administrative assistance matters. She has considerable experience in cross-border situations and advises families in complex estate planning matters.

Natalie Peter has published numerous articles on various topics relating to tax matters of individuals. She is a frequent lecturer at national and international conferences and seminars and teaches on postgraduate programmes at the universities of Zurich and Liechtenstein, as well as at the Swiss Institute for Tax Studies (SIST). She is currently in the advisory board to the individual tax and private client committee of the International Bar Association (IBA) and a committee member of the Society of Trust and Estate Practitioners (STEP).

Natalie Peter was educated at the University of Zurich (lic iur 1994, Dr iur 2001) and the University of Boston (LLM 1995). She worked in an accounting firm in Zurich and New York (1995–1997) and in Zurich-based law firms before she joined Blum&Grob Attorneys at Law in 2018. She is admitted to the Swiss Bar since 2001.

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Andrea Dorjee-Good is a Partner in Schellenberg Wittmer's Zurich office, where she heads the Private Wealth Group. She is a certified specialist in inheritance law and advises private clients on all aspects of estate and succession planning, including pre- and post-nuptial agreements, wills, succession pacts, lasting powers of attorney, trusts and foundations. Her practice areas further include contentious estates and she regularly represents clients in complex trust and estate disputes.

Some recent examples of Andrea's expertise in private client matters include advising members of an international family on succession planning and structuring for their jointly owned family business and representing one of several heirs in complex international trust and estate disputes involving a major family owned business.

Andrea is a member of several professional associations, including the Swiss Bar Association, the Zurich Bar Association, the International Association of Young Lawyers (AIJA) and the Society of Trust and Estate Practitioners (STEP). She regularly publishes and speaks in her field of specialisation.

Andrea graduated from the University of St Gallen School of Law (lic. iur. 2004) and was admitted to the Swiss Bar in 2007. She joined Schellenberg Wittmer as a trainee in 2004 and, after gaining court experience as a clerk at the District Court of Winterthur, she rejoined the firm as an associate in 2007. She was promoted to counsel in 2013 and became a partner in 2020. Andrea obtained a diploma with distinction in international trust management from STEP in 2014 and qualified as a Certified Specialist SBA Inheritance Law in 2019.

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Kerry O'Rourke Perri leads the Private Wealth & Family Offices practice at White & Case. Her clients include domestic and cross-border individuals and families, fiduciaries, family offices, financial institutions and tax-exempt organizations.

As part of her comprehensive practice, Kerry advises on estate, succession and pre-liquidity event planning, the creation and administration of private trust companies, family offices and trusts, asset protection, pre-immigration planning, charitable giving, the formation and administration of tax-exempt organizations, trust- and estate-related litigation, issues involving special assets such as art and closely-held businesses, and related transactional matters.

Clients benefit from Kerry's distinctive experience acquired both during her 18-month secondment to the wealth management division of one of the world's largest banks and prior to attending law school. Kerry previously worked as an investment banker at Morgan Stanley, where she advised health care companies on M&A and capital markets transactions, and at Accenture in the Office of the CFO, where she evaluated and executed strategic corporate transactions and financial projects.

Kerry is a frequent writer and speaker. She is listed as a Leading practitioner for Trusts and Estates by Euromoney's Women in Business Law Expert Guide, 2019-2021. In 2021, she was shortlisted for Euromoney Legal Media Group's 2021 Women in Business Law "Best in Wealth Management" Award and previously appeared on the shortlist for the organization's "Rising Star" in Tax award. Kerry has been quoted in The Wall Street Journal and the Financial Times on tax and wealth management issues.

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## WHITE COLLAR CRIME

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Clara Poglia is a partner in Schellenberg Wittmer's Geneva office, where she co-heads the dispute resolution group. Clara's key areas of expertise and practice focus on white-collar crime, international mutual legal assistance both in criminal and tax matters, extradition, asset tracing and recovery, and internal corporate investigations. Clara is also specialised in regulatory and compliance issues. Clara regularly acts as counsel for both individuals and prominent corporate entities in criminal and administrative proceedings before cantonal and federal authorities and courts, including the Swiss Supreme Court.

Some of Clara's expertise includes: representation of a businessman in the frame of domestic criminal and mutual legal assistance proceedings for alleged funds mismanagement and money laundering and assistance in the lifting of a freezing order targeting more than US\$900 million; representation of a high ranked individual of a financial institution in the context of criminal proceedings related to the violation of regulatory duties; and representation of a foreign company in the context of criminal proceedings dealt by the Federal Prosecutor Office for alleged money laundering of VAT carousel fraud's proceeds.

In 2018 Clara was recognised in the Global Investigation Review's (GIR) Women in Investigations List. In 2020, Clara was recognised in the GIR'S 40 under 40 list.

Clara is the chapter leader and co-founder of the Women in White Collar Defense Association's Swiss chapter.

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Antonia Apps is a former federal prosecutor and nationally recognized trial attorney with experience in criminal and civil matters. She represents financial institutions, corporations, and executives in regulatory enforcement proceedings, white-collar criminal investigations, and complex commercial litigation. She has also conducted numerous investigations on behalf of board committees concerning allegations of financial misconduct, cultural, and other governance issues. Antonia handles matters that are at the forefront of the US enforcement agenda, including SPACs, ESG disclosures and practices, and regulatory actions against private funds.

Antonia has tried over 15 criminal and civil cases, argued numerous appeals and evidentiary motions and has a reputation as a formidable litigator. She was inducted as a fellow into The American College of Trial Lawyers in February 2022, and is ranked in Chambers USA (Band 2), where clients have called her an "incredibly bright and detail-oriented lawyer" and praised her "excellent judgment and analytical skills in white-collar litigation." Antonia has also been described as a "terrific trial lawyer" who "understands the difficulties of the world we live in" and gives "advice tailored to a practical approach." *Lawdragon* has named Antonia in its list of 500 Leading Lawyers in America each year since 2014. She also teaches a course on white collar criminal law and procedure at Harvard Law School and is a frequent speaker and commentator on white collar and securities enforcement issues.

Prior to joining Milbank, Antonia served for over seven years as an Assistant United States Attorney for the Southern District of New York, Criminal Division, where she led many of the government's highest-profile securities fraud and insider trading cases, including the prosecution of the hedge fund S.A.C. Capital Advisors, L.P. During her tenure, Antonia prosecuted more than 20 insider trading defendants, and tried numerous securities fraud cases. She received the Executive Office of US Attorneys' Director's Award for Superior Performance.

Prior to joining the United States Attorney's Office, Antonia was a partner at the Washington, DC, firm Kellogg, Hansen, Todd, Figel & Frederick, where she represented telecom companies in administrative proceedings, and advised institutional and individual investors in complex securities and commercial litigation matters. She has law degrees from the University of Sydney, Oxford University, and Harvard. She also served as a law clerk for the Hon. Fred I. Parker in the US Court of Appeals for the Second Circuit, and previously as a law clerk to the Hon. Tom W. Waddell, Chief Judge of the Equity Division in the New South Wales Supreme Court.

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