

Pacific Rim Advisory Council April 2021 e-Bulletin

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CONFERENCES & EVENTS

PRAC - Let's Talk!

upcoming virtual meetings

April 19/20, 2021 | May 17/18, 2021

- International Conference - New Delhi Hosted by KOCHHAR & Co. TBA
- International Conference - New Zealand Hosted by Simpson Grierson TBA
- International Conference - Mexico City Hosted by Santamarina y Steta TBA
- International Conference - Paris Hosted by GIDE TBA

www.prac.org

Coronavirus COVID-19

The coronavirus (COVID-19) health pandemic continues to impact countries around the globe, presenting a large scale public health crisis.

Visit us online for the latest up-to-date, country specific information on potentially relevant legal questions and issues relating to the coronavirus pandemic.

http://www.prac.org/member_publications.php

MEMBER DEALS MAKING NEWS

- ▶ BENNETT JONES | Acting for CP Railway in US\$29-billion Combination with Kansas City Southern
- ▶ CAREY | Assists Japan's Mitsubishi minority interest sale to Invercap for US\$108 million
- ▶ DENTONS RODYK External counsel to Singapore Philatelic Museum in its restructuring and repositioning
- ▶ GIDE | Assists Renault on the sale of its entire stake in Daimler
- ▶ HAN KUN | Advises Connect Biopharma on its U.S. IPO and listing on the Nasdaq Global Market
- ▶ HOGAN LOVELLS | Leads LG Energy Solution to US\$1.8 billion settlement with SK Innovation over electric vehicle batteries
- ▶ KOCHHAR | Assists GAIL India in INR 2 Billion Financing Project
- ▶ NAUTADUTILH | Advises Frank's International on its merger with Expro
- ▶ SIMPSON GRIERSON | Advises Christchurch City Council on landmark Canterbury Multi-Use Arena project
- ▶ SKRINE | Federal Court examines the latest position in UK and in Malaysia in relation to whether a person can hide behind a corporate body utilised for fraudulent or unlawful purpose

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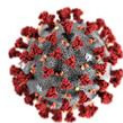
BAKER BOTTS NAMES CHERYL CAULEY PARTNER-IN-CHARGE OF PALO ALTO OFFICE

PALO ALTO, 12 April, 2021 – Baker Botts L.L.P., a leading international law firm, has announced that Cheryl Cauley has been named Partner-in-Charge of the firm's Palo Alto office, succeeding Brian Lee, who has held the role for two years.

Cauley is a seasoned lawyer with deep roots in the Bay Area and has received three degrees, including her J.D., from Stanford. She has proven leadership skills at the firm, serving as chair of the Litigation Department's Tech Litigation practice group, in which she represents technology clients in fields such as internet search, sales and advertising, wireless medical chipset solutions and autonomous vehicles.

"I am pleased that Cheryl will assume this important leadership role and help us maintain the strong momentum we have achieved in Palo Alto, which Brian has been so instrumental in helping us create," said John Martin, Managing Partner of Baker Botts. "Cheryl has proven herself to be a strong leader at the firm and in the broader Bay Area community. Her background, experience and reputation will help build upon our success even further in Palo Alto."

For additional information visit www.bakerbotts.com

**Coronavirus**
COVID-19

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Visit us online for full coverage
http://www.prac.org/member_publications.php

CAREY APPOINTS FORMER HEAD OF TAX POLICY FOR THE MINISTRY OF FINANCE AS NEW TAX PARTNER

SANTIAGO, 01 April 2021: On April 1st, Manuel Alcalde became a partner at Carey after serving as the Head of Tax Policy for the Chilean Ministry of Finance for the past three years. Manuel worked as an associate in Carey's tax department for over 12 years, until 2018, when he left the firm to serve in the government. With the addition of Manuel Alcalde, the firm now has 35 partners and more than 270 legal professionals.

Manuel studied law at the Universidad Católica and he has an LL.M. in International Taxation from the NYU School of Law as well as an Advanced Professional Certificate in Law and Business from New York University - Stern School of Business. He also earned an LL.M. in Tax Administration and Management from Universidad Adolfo Ibáñez. In addition, he is a professor of Tax Law at the Universidad de Los Andes.

As the Head of Tax Policy for the Ministry of Finance, he oversaw the analysis, design and execution of Chile's Tax Modernization Law, which was enacted in 2020, and provided the country a more modern and simplified tax system, with a special focus on promoting investment, entrepreneurship, tax certainty and supporting digital transformation.

Additionally, he led the development of more than 25 tax, administrative and legal measures, to support families and companies affected by Covid-19. He also spearheaded the design of the tax measures law for the reactivation of the economy that, among other things, allowed the reduction of the first category tax rate of SMEs to 10% and the incorporation of a 100% instantaneous depreciation / amortization for investments made until the end of 2022.

In international matters, he directed the negotiation and signing of the double taxation avoidance agreements with the Netherlands, India and the United Arab Emirates, Chile's ratification of the Multilateral BEPS Convention before the OECD (2020), and the Punta del Este Declaration to strengthen the fight against tax evasion and corruption (2018).

Manuel Alcalde also oversaw the Technical Secretariat of the Tax Commission for Growth and Equity, made up of 18 renowned economists selected by the Ministry of Finance, who last January, delivered a report on exemptions and special regimes.

At Carey, he will lead, together with partners Jaime Carey, Jessica Power and Manuel Garcés, the largest legal tax team in Chile. Carey's tax team also includes a group of accountants, led by two directors of Tax and Audit, and an economist, which allows them to provide comprehensive tax advice, which includes consulting, planning, due diligence, litigation and audit assistance before the Chilean Tax Authority.

For additional information visit www.carey.cl

DAVIS WRIGHT TREMAINE ELECTS SCOTT MACCORMACK FIRM-WIDE MANAGING PARTNER AND A SLATE OF NEW MEMBER TO EXEC COMMITTEE

Davis Wright Tremaine Elects Scott MacCormack Firmwide Managing Partner; Slate of New Members to its Exec Committee

SEATTLE, April 2021: Coming off the firm's sixth consecutive record-setting year, the partnership of Davis Wright Tremaine voted to confirm **Scott MacCormack** as the firm's new managing partner and elected a slate of new members to its Executive Committee, which will continue to be chaired by **Sarah Tune**.



Scott MacCormack



Sarah Tune



Jaime Drozd Allen



Camilo Echavarria



Wendy Kearns



Jean Tom

Congrats to Scott, who will assume the Managing Partner position this summer.

Congrats as well to new Executive Committee members **Jaime Drozd Allen**, **Camilo Echavarria**, **Wendy Kearns**, and **Jean Tom** who begin their terms immediately.

For additional information visit www.dwt.com

CITY-YUWA WELCOMES COUNSELS AND ASSOCIATES

TOKYO, 01 April, 2021: Ryo Suzuki, admitted in 2005, and Naosuke Fujita, admitted in 2009, joined the Firm as a Counsel. Katsuya Fujita, admitted in 2015, and Kenta Fujieda, admitted in 2017, joined the Firm Associates.

For additional information visit www.city-yuwa.com

GIDE WELCOMES INFRASTRUCTURE SPECIALIST IN WARSAW

Gide Warsaw is delighted to announce that Michał Głowacki, a lawyer specialising in infrastructure projects, energy and public procurement law, joined the firm this month

WARSAW, 08 April 2021: Michał Głowacki is an advocate with many years of experience gained in leading Polish and international law firms. He specialises in issues relating to energy projects, in particular renewable energy, as well as administrative law. He graduated from the Faculty of Law and Administration of the University of Warsaw and is currently pursuing doctoral studies in law at the University of Białystok.

"Michał Głowacki combines theoretical knowledge with years of practical professional experience. His joining Gide Warsaw is a significant strengthening of the departments I have the pleasure of leading," said Piotr Sadownik, partner in charge of the Infrastructure Projects, Public Procurement and Energy Departments at Gide Warsaw.

The Infrastructure Projects, Public Procurement and Energy Departments, led by Piotr Sadownik are among the leading specialisations at Gide Warsaw. The lawyers advise major Polish and foreign companies in the mining, metallurgy, oil and gas, energy, telecommunications and media sectors, as well as in the banking and finance, automotive, real estate, food and luxury goods sectors. They also represent clients in proceedings before arbitration courts, common courts and the Supreme Court, as well as before administrative bodies, administrative courts and the Supreme Administrative Court.

For additional information visit www.gide.com

SKRINE WELCOMES BACK PARTNER TO RESTRUCTURING / INSOLVENCY GROUP

KUALA LUMPUR 01 April 2021: Skrine is delighted to welcome back Ms. Wong Chee Lin to the Firm following her tenure as a High Court Judge at the Kuala Lumpur Commercial Division and Civil Division of the High Court of Malaya. Prior to Chee Lin joining the judiciary, she spent over 30 years with SKRINE as a commercial litigator, with an emphasis on corporate restructuring and insolvency. Her experience ranges from banking and recovery work to shareholders' disputes and directors' duties.

In 2018, Chee Lin bade farewell to SKRINE to serve on the Bench. During Chee Lin's tenure on the Bench, she presided over a variety of commercial and civil cases and lived up to her reputation as one of the key players in the insolvency practice area by delivering amongst other distinctive judgements, a landmark decision on the judicial management mechanism - one which has been oft cited by her contemporaries and practitioners alike.

As one of the senior insolvency practitioners in the country, and now with the accumulated wisdom of having been on the Bench, we are very pleased indeed that Chee Lin has today re-joined the Firm and will be a Partner in SKRINE's Restructuring and Insolvency Practice Group.

Chee Lin can be contacted at wcl@skrine.com.

For additional information visit www.skrine.com

HAN KUN EXPANDS CROSS-BORDER M&A CAPABILITIES

BEIJING, 12 April, 2021: Han Kun Law Offices is pleased to announce that **Angus Xie** has joined the firm as a partner, further strengthening the firm's antitrust practice. He will mainly be based in the firm's Beijing office.

Mr. Xie focuses his practice on antitrust and competition law. In his over ten years of practice, Mr. Xie has assisted a number of leading Chinese and international companies in merger filings, national security reviews, antitrust investigations, and compliance matters. Mr. Xie has extensive experience in handling merger filings for global and domestic M&A deals, including both Chinese antitrust filings for global transactions and antitrust and foreign investment review filings for Chinese outbound investments in other major jurisdictions around the world, including the European Union, the United States, Australia, Germany, Israel, Argentina, and Brazil. Mr. Xie has also represented many clients in high-profile antitrust investigations and compliance matters in China. Mr. Xie graduated from Peking University with a Bachelor of Law degree and a Bachelor's degree in Economics, and from the University of Chicago with a LL.M. degree. He is admitted to both the PRC Bar and the New York State Bar. He also serves as a guest lecturer at the Advanced Program on International Legal Services at Peking University Law School. Mr. Xie is currently in the process of transferring his lawyer relationships and handling other relevant formalities.

Han Kun Law Offices is pleased to welcome to the firm **Michelle Gon, Sophie Shi, and Jolie Yan and their team**, who each possesses expertise and extensive experience in the practice areas of corporate compliance and governance, anti-corruption, anti-monopoly and anti-unfair competition, white-collar crime, and internal and external compliance investigations. In welcoming these three legal elites and their team, Han Kun further enhances its ability to provide comprehensive compliance services and to better meet the compliance needs of clients. They will work closely with the firm's other practice teams to consistently provide clients with high-quality and professional legal services. They are based in Han Kun's Shanghai office.

For additional information visit www.hankunlaw.com

HOGAN LOVELLS ADDS FORMER FAA CHIEF COUNSEL

WASHINGTON, 08 April 2021: – Global law firm Hogan Lovells announced today that Arjun Garg, the former Chief Counsel and Acting Deputy Administrator of the Federal Aviation Administration, has joined the firm's Transportation regulatory practice as a partner based in Washington D.C.

Prior to his leadership roles at FAA, Garg also served as Chief Counsel of the Federal Transit Administration and as a U.S. Department of Justice trial attorney in the Federal Programs Branch of the Civil Division. Drawing on his deep government leadership experience, Garg will advise transportation clients on a broad spectrum of regulatory, litigation and corporate matters and help lead Hogan Lovells' top-rated aviation practice.

"I am thrilled to join the seasoned and highly respected transportation regulatory practice here at Hogan Lovells," Garg said. "Innovation is reshaping transportation, and aviation in particular is poised to make tremendous advances. This is an exciting time to help guide our clients as they make that future a reality, and Hogan Lovells provides an outstanding platform to accomplish that work."

"Arjun is a top-tier lawyer whose leadership experience at two key Department of Transportation agencies will be extremely valuable to our clients," said Latane Montague, leader of Hogan Lovells' Transportation regulatory practice. "He joins us at a critical inflection point for the transportation industry, and we are excited that our clients will have him in their corner alongside the rest of our first-class team."

Hogan Lovells' Transportation regulatory practice works with leading transportation companies and government agencies to solve the industry's most complex regulatory, transactional and business issues. The team combines top-tier aviation, automotive, railroad, UAS, mobility, logistics and supply chain transportation regulatory practices in each of the world's major markets.

For additional information visit www.hoganlovells.com

SIMPSON GRIERSON WELCOMES PROJECT SPECIALIST

Project specialist joins Simpson Grierson's Wellington team

AUCKLAND/WELLINGTON, 24 March, 2021: We are pleased to announce the appointment of Edward Norman as a senior associate!



Edward joins our Wellington office after spending almost eight years at Magic Circle firm Clifford Chance in London, where he worked across the asset finance and project finance groups.

An experienced transactional lawyer, Edward has deep expertise advising a broad range of market participants on the financing and commercial aspects of projects in the transportation, infrastructure and defence sectors, including PPP transactions.

He also has broad experience advising clients on a variety of commercial matters, including asset and loan receivable sales, procurement, leasing, services agreements and manufacture and supply arrangements.

For additional information visit www.simpsongrierson.com

PRAC-Let's Talk!

Join us in 2021 for our monthly live one-hour virtual meetings

April 19/20, 2021

PRAC @ India "Micro-conference"

hosted by Kochhar & Co.

Opening Remarks and Country Update: Kochhar & Co. Founding Managing Partner, Rohit Kochhar

Visual Experience – Essence of India!

Regulation of Social Media Content in Various Jurisdictions (PRAC panel discussion)

PRACTice Updates (i) M&A; (ii) Infrastructure & Banking

PRAC - Let's Talk! events are open to PRAC Member Firms only

Registration required

Visit www.prac.org for details

BENNETT JONES

ACTS FOR CP RAILWAY IN US \$29 BILLION COMBINATION WITH KANSAS CITY SOUTHERN

CALGARY / TORONTO, 22 March, 2021: Bennett Jones is acting as Canadian counsel for Canadian Pacific Railway (CP) in its combination with Kansas City Southern (KCS) to create the first rail network connecting the United States, Mexico, and Canada. Under the merger agreement, CP has agreed to acquire KCS in a stock and cash transaction representing an enterprise value of approximately US\$29 billion. The transformative transaction has the unanimous support of both boards of directors.

The combined network's new single-line offerings will deliver dramatically expanded market reach for customers served by CP and KCS, provide new competitive transportation service options, and support North American economic growth.

Following final regulatory approval, a single integrated rail system will connect premier ports on the U.S. Gulf, Atlantic and Pacific coasts with key overseas markets. The new single-line routes made possible by the transaction are expected to shift trucks off crowded U.S. highways, yielding reduced highway traffic and lower emissions.

There is a two-step process to complete the transaction and merger, and CP's ultimate acquisition of control of KCS' U.S. railways is subject to the approval of the U.S. Surface Transportation Board. The combined entity will be named Canadian Pacific Kansas City (CPKC) and its global headquarters will be in Calgary.

The Bennett Jones team on the deal was led by Jeff Kerbel (Corporate/Securities) and included Harinder Basra, Brent Kraus, Eric Chernin and Annie Tonken (Corporate/Securities), Scott Bodie, Anu Nijhawan and Jared Mackey (Tax), Karen Dawson and Mark Powell (Finance), Carl Cunningham (Employment) and Melanie Aitken, Robert Staley and Adam Kalbfleisch (Competition/Antitrust).

For additional information visit www.bennettjones.com

CAREY RODYK

ASSISTS JAPAN'S MITSUBISHI MINORITY INTEREST SALE TO INVERCAP FOR US\$108MILLION

SANTIAGO, 01 April 2021: Mitsubishi enlisted Carey to help reduce its minority stake in the mining group to Chilean asset management company Invercap for US\$108 million.. The deal closed on 19 February, 2021.

Invercap acquired 10,124,928 shares in CAP from Mitsubishi's Chilean mining subsidiary MC Inversiones. The shares gave the buyer an additional 6.8% stake in CAP, increasing its stake to 42%.

Mitsubishi retains a 12.5% interest in the company following the divestment, while a further 5.5% is split between several asset management funds. The remaining 40% of the shares are floating on Santiago's stock exchange.

Local counsel to Mitsubishi - Carey - led by Partner Francisco Ugarte and associates Alejandra Daroch and Natalia Reinicke in Santiago.

For additional information visit www.carey.cl

PRAC EVENTS
UPCOMING EVENTS

Like millions around the globe, the COVID-19 pandemic has impacted our members and how we work.

We pivot. We adapt.

We continue to meet and talk virtually face to face

Across the miles, oceans and regions

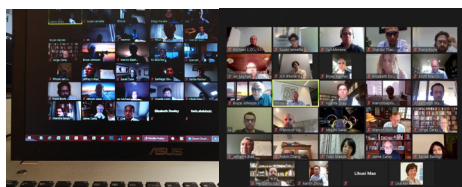
In varying places and hours of the day and night.

It isn't the same . We can all admit to that.

What remains the same is our commitment to continue forming new bonds
and strengthening our long-standing ties with our friends and colleagues around the world.

Together, we will see it through.

PRAC-Let's Talk!



Join us in 2021 for our monthly live one-hour virtual meetings

April 19/20 - PRAC @ India "micro-conference" hosted by Kochhar & Co.

May 17/18, 2021

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Registration required

Visit www.prac.org for details

DENTONS RODYK

EXTERNAL COUNSEL TO SINGAPORE PHILATELIC MUSEUM IN ITS RESTRUCTURING AND REPOSITIONING

SINGAPORE, 15 March 2021: Dentons Rodyk is acting as external counsel to Singapore Philatelic Museum in its restructuring and repositioning as a children's museum, which is expected to be re-opened to the public in 2022.

Our scope of work includes inter alia, advising Singapore Philatelic Museum on the legal requirements applicable to the repositioning (including without limitation, the Charities Act and regulations), drafting the new constitution, and submitting the requisite applications to the relevant regulatory bodies.

Singapore Philatelic Museum was officially opened on 19 August 1995 as a project of the Telecommunication Authority of Singapore (TAS). On 1 April 2000, the museum was transferred to the National Heritage Board (NHB) as a fully-owned subsidiary. Singapore Philatelic Museum is the first philatelic museum in Southeast Asia, and is the custodian and curator of Singapore's treasure of philatelic materials. The museum collections range from stamps and archival philatelic material of Singapore from the 1830s to present day, and stamps from member countries of the Universal Postal Union.

Senior Partner Marian Ho leads, supported by Practice Trainee Isaac Tang.

For additional information visit www.dentons.rodyk.com

GIDE

ASSISTS RENAULT ON SALE OF ITS ENTIRE STAKE IN DAIMLER FOR TOTAL AMOUNT OF 1.143 BILLION EUROS

PARIS, 29 March 2021: Gide advised Renault on the sale of its entire stake in Daimler through a placement to qualified investors of 16.4 million shares by way of an accelerated bookbuilding offering.

Gide's team comprised ICM partner Arnaud Duhamel, assisted by associates Louis Ravaud and Shanna Kim, Corporate partner Olivier Diaz, U.S law partner Melinda Arsouze, assisted by senior associate Scott Logan, and Tax counsel Alexandre Bochu.

The bank syndicate was led by BNP Paribas and HSBC Continental Europe and assisted by White & Case's teams.

For additional information visit www.gide.com

HAN KUN

ADVISES CONNECT BIOPHARMA ON ITS U.S. IPO AND LISTING ON NADAQ GLOBAL MARKET

20 March 2021: Han Kun has advised Connect Biopharma Holdings Limited as its PRC legal advisor in connection with the company's U.S. initial public offering and listing on the Nasdaq Global Market under the symbol "CNTB."

Founded in 2012, Connect Biopharma is dedicated to clinical stage research and development of novel immunomodulators for the treatment of severe autoimmune diseases and inflammation. Connect Biopharma has built a high-throughput drug screening platform based on T cell immune regulation function, based on its T cell immune regulation technology platform and the strength of expertise and experience in the field of immunology. Compared with traditional methods, Connect Biopharma's platform is able to quickly and efficiently identify and screen molecules against target diseases.

For additional information visit www.hankunlaw.com

HOGAN LOVELLS

LEADS LG ENERGY SOLUTION TO US \$1.8 BILLION SETTLEMENT WITH SK INNOVATION OVER ELECTRIC VEHICLE BATTERIES

WASHINGTON, D.C., 12 April 2021: A cross-practice team from global law firm Hogan Lovells led the effort representing LG Energy Solution (LGES) through its multi-year trade secret dispute over electric vehicle batteries with SK Innovation (SKI), which has resulted in a US\$1.8 billion settlement between the two companies.

The settlement includes payment by SKI to LGES, apportioned into lump-sum payments and a running royalty. Both companies also agreed to withdraw all pending legal disputes in U.S. and South Korea with a ten-year non-assertion agreement.

Hogan Lovells played a multi-faceted role in this global matter, including representing LGES to a successful default judgment at the U.S. International Trade Commission, as well as orchestrating and leading the lobbying efforts through the subsequent Presidential Review process by the U.S. Trade Representative and White House.

In a statement on Sunday, the Biden Administration called the settlement “a win for American workers and the American auto industry.”

“This was a significant team effort that required the full extent of our regulatory, IP, and lobbying resources to accomplish,” said Ivan Zapien, head of Hogan Lovells Government Relations and Public Affairs Practice.

“We would like to thank our client, USTR Katherine Tai, and the White House for their significant efforts to bring this matter to a successful resolution,” added International Trade & Investment partner Kelly Ann Shaw.

“Hogan Lovells played a critical role to bring this dispute to a successful conclusion,” said JP Kang, an attorney for LGES. “We are grateful we found a partner in Hogan Lovells with the technical IP litigation know-how combined with global regulatory and lobbying capabilities to help us achieve our goals and push our message through the highest levels of government.”

The IPMT team was led by senior counsel Judge Ted Essex and partner Joe Raffetto, and included counsel Scott Hughes and attorney Soyoun Yasuda (all Washington D.C.), as well as senior associate Wonnice Lee (Northern Virginia).

Shaw led the Presidential Review efforts by the International Trade and Investment team, which included partners Warren Maruyama and Jared Wessel, and associate Stephanie Lopez (all Washington D.C.), as well as counsel Ben Kostrzewa (Hong Kong).

Zapien led the lobbying efforts by the Government Relations and Public Affairs team, which included partner Aaron Cutler and senior counsel Sen. Norm Coleman. Head of Strategic Communications Mark Irion, Director of Strategic Communications Chase Kroll, and specialist Katelyn Petroka also advised on this matter (all based in Washington D.C.).

Hogan Lovells also worked closely with government relations firm Peck Madigan Jones to secure this result.

For additional information visit www.hoganlovells.com

KOCH HAR & CO.

ASSISTS GAIL INDIA IN INR 2 BILLION FINANCING PROJECT

NEW DELHI, March, 2021: Kochhar & Co. recently represented GAIL India (a preeminent public sector undertaking owned by the Government of India) on a INR 2 billion financing for part funding the capital expenditure of the company including on-going & new gas pipeline projects. The transaction also included refinancing of an existing facility provided by SBI to GAIL.

GAIL is the largest state-owned natural gas processing and distribution company in India with revenues of USD 8 billion (approx.). Its key business segments include natural gas, LPG, liquid hydrocarbon, petrochemical, city gas distribution and GAILTEL.

The matter was led by Parul Verma, Partner and supported by Swapnil Sant, Associate with the firm.

NAUTADUTILH

ADVISES FRANK'S INTERNATIONAL ON ITS MERGER WITH EXPRO

AMSTERDAM, 01 April, 2021: NautaDutilh assisted Frank's International N.V., a global oil services company with global headquarters in Den Helder and a stock exchange listing in New York, with its merger with Expro Group, a privately-held international energy services company from the UK. Under the merger agreement Frank's International will issue new shares to the Expro shareholders in exchange for their contribution of their Expro shares. After closing of the transaction the Expro shareholders will own approximately 65% of the shares in Frank's International. The new combination will have operations in more than 50 countries and across six continents.

NautaDutilh's team consisted of Jaap Stoop, Joost Kloosterman, Dirk Panis (Corporate M&A), Paul van der Bijl, Niek de Kort (Corporate), Nico Blom, Thijs Poelert (Tax), Albert van der Kolk (Employment), Greet Wilkenhuysen, Jean-Marc Groelly, Yacine Ouldali and Frederic Boidin (Luxembourg)

For additional information visit www.nautadutilh.com

SIMPSON GRIERSON

ADVISING CHRISTCHURCH CITY COUNCIL ON LANDMARK CANTERBURY MULTI-USE ARENA PROJECT

March 31, 2021: We have been advising Christchurch City Council on the landmark \$473 million Canterbury Multi-Use Arena (CMUA) project, a state-of-the-art arena that will replace the old Lancaster Park, which was destroyed in the earthquakes.

The project reached a major milestone this week with the announcement of a successful consortium to design and construct the arena. The consortium, called Kōtui, is led by Australian-based stadium construction experts, BESIX Watpac, and includes construction companies Southbase Construction and Fulton Hogan, seismic engineering specialists Lewis Bradford, architects Warren and Mahoney, and global stadium design experts Populous and Mott MacDonald.

Our involvement in this project is led by partner Michael Weatherall, special counsel Lisa Curran and senior solicitor Charlotte Kuhn. They were instrumental in developing an innovative early contractor involvement procurement methodology and associated contracts, tailored specifically for the project.

Kōtui will begin working on detailed designs of the CMUA over the coming weeks, ahead of early construction works beginning on-site in early 2022.

For more information visit us at www.simpsongrierson.com

SKRINE

FEDERAL COURT EXAMINES THE LATEST POSITION IN UK AND IN MALAYSIA IN RELATION TO WHETHER A PERSON CAN HIDE BEHIND A CORPORATE BODY UTILISED FOR FRAUDULENT OR UNLAWFUL PURPOSES

KUALA LUMPUR, 30 March, 2021: In the recent Federal Court decision in Ong Leong Chiou & Anor v Keller (M) Sdn Bhd & 2 Ors, YA Datuk Nallini Pathmanathan FCJ affirmed that the position in Malaysia has been correctly set out by the Federal Court in Gurbachan Singh s/o Bagawan Singh & Ors v Vellasamy s/o Pennusamy & Ors [2015] 1 MLJ 773. This is the first decision by the apex court which examines Lord Sumption's concealment and evasion principles in the seminal decision of the UK Supreme Court in Prest v Prest and others [2013] 4 All ER 673 and its application in Malaysia. Partner, Wai Hong Leong, and associate, Karen Tan, successfully represented the first respondent in this appeal.

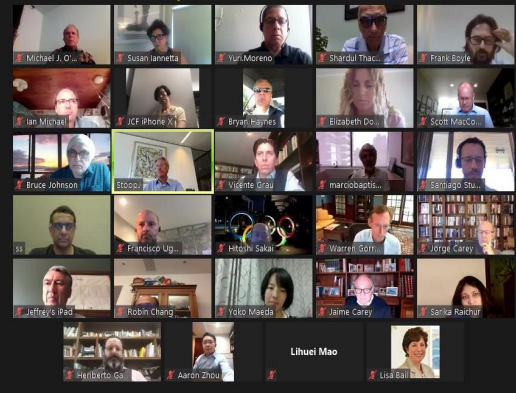
Read more here: <https://www.skrine.com/insights/alerts/march-2021/federal-court-examines-the-latest-position-in-uk-a>

For additional information visit www.skrine.com

PRAC EVENTS



2020-21 monthly PRAC Let's Talk! online event



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A D V O G A D O S

Argentina initiates antidumping investigations on imports of Ball Bearings from India and Glass Platelets from Turkey and Thailand.

On February 26, 2021, the Ministry of Productive Development of Argentina initiated, by means of Resolution No. 47/2021^[1], an anti-dumping investigation in relation to exports from Thailand and Turkey to Argentina of glass platelets, with or without support, for mosaics or similar decoration, which are classified under Mercosur's Common Nomenclature (MCN) tariff position 7016.10.00.

The initiation of the investigation was requested by local manufacturer MURVI S.A. The alleged dumping margin for the opening of the investigation was estimated at 271.56% in relation to exports from Turkey, and 981.69% in relation to exports from Thailand.

Likewise, on the same date, the Ministry of Productive Development by means of Resolution No. 46/2021^[2] initiated an anti-dumping investigation in relation to exports from India to Argentina of ball bearings, radial, single row ball bearings, of an external diameter of 30 mm or more but not exceeding 120 mm, and in excess of 0.025 kg/unit, (with the exception of ball bearings such as RST and extended inner rings of local production), which are classified under MCN's tariff position 8482.10.10. The initiation of the investigation was requested by local manufacturer SKF ARGENTINA S.A. The alleged dumping margin to open the investigation was estimated at 154.78%.

Companies located in Thailand, Turkey or India exporting the abovementioned products to Argentina, as well as local companies importing them, can appear before the Ministry of Productive Development and request the respective questionnaires to participate in these antidumping investigations.

^[1] The Resolution is available at
<https://www.boletinoficial.gob.ar/detalleAviso/primera/241253/20210226>

^[2] The Resolution is available at:
<https://www.boletinoficial.gob.ar/detalleAviso/primera/241252/20210226>

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Belgium

Discrimination between and within a group of disabled employees

Monday, 29 March 2021

In a [judgment of 26 January 2021](#), the Court of Justice of the European Union ("CJEU") interpreted Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (hereinafter "the Directive"). The Directive is intended to ensure equal treatment in employment and occupation through a prohibition on direct and indirect discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and working conditions, including dismissals and pay.

The case brought before the CJEU concerned the grant of an allowance by a Polish employer to a group of employees who shared a common characteristic, namely they were all disabled, provided they submitted a disability certificate *after* a specific date chosen by the employer. This had the effect of denying the benefit of the allowance to disabled employees who had submitted a certificate before this date. The purpose of the allowance was to encourage disabled employees who had not yet submitted a disability certificate to do so, in order to reduce the employer's contributions to a state fund.

[> Read more](#)

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April 01, 2021

Federal Government issues Provisional Measure aiming to improve the business environment in Brazil

Corporate

On March 30, 2021, the Brazilian Federal Government issued the Provisional Measure (MP) No. 1,040/2021, in order to improve the business environment in Brazil and contribute to elevating the country's position in the World Bank's "Doing Business" ranking.

MP No. 1,040/2021 sets forth legislative changes in eight areas, to wit:

1. Easing of starting a business

- Unification of federal, state, and city tax registrations in the National Register of Legal Entities (CNPJ);
- Elimination of company addresses' analysis;
- Prior checking of business names over the Internet and use of CNPJ number (tax identification for legal entities) as a business name.

2. Protection of minority shareholders

According to the Brazilian Federal Government, the changes brought by MP No. 1,040/2021 in the Brazilian Corporate Law follow the best practices defined by the World Bank, increasing the decision-making power of shareholders, especially minority shareholders, including:

- Increase of the advance notice period for calling general meetings and sending relevant information to the shareholders, from 15 to 30 days. The Securities Commission (CVM) is also authorized to postpone the general meeting for up to 30 days if relevant documents are not disclosed to shareholders;
- Prohibition of accumulation of the positions of Chief Executive Officer and Chairman of the Board of Directors, a situation considered a non-recommended corporate governance practice;

- Obligation of independent directors in the composition of the Board of Directors of publicly-held companies.

3. Facilitation of foreign trade

- Prohibition of import licensing requirements due to the characteristics of the goods when there is no normative act with the provision;
- Availability of a single electronic ticket window for foreign trade operators;
- Form filling digitization;
- End of the requirement that imports and exports of state-owned or tax-favored goods be made by ships with the Brazilian flag;
- End of prior import licenses related to investigations of non-preferential origin.

4. Integrated Asset Recovery System (SIRA)

- Establishment of the SIRA system, which will gather registration data, relationships and equity bases of individuals and companies, aiming to reduce the transaction costs of granting credit by increasing the effectiveness of lawsuits involving the recovery of public or private credits.

5. Charges made by professional councils

- Professional councils may take administrative collection measures, such as extrajudicial notification, inclusion in delinquent registries and protest of active debt certificates. The amendment would serve to contribute to the reduction of the Brazilian judicial overcharge.

6. Profession of translator and public interpreter

- New regulations for the profession of public translator and public interpreter, revoking Decree No. 13,609, of 1943, aiming to reduce the bureaucracy of the profession by allowing translators to operate throughout the country and to carry out their work electronically.

7. Obtaining Electricity

- Solutions for the supply of electricity, such as the establishment of a deadline for the Government to authorize the execution of works to extend electricity distribution networks. The changes seek to increase the speed of some processes of access to electricity.

8. Intercurrent limitation period

The intercurrent limitation period is the extinction of a right in the course of a certain judicial procedure due to the inaction of its holder. Although doctrine and jurisprudence already recognized the existence of the institute in Brazilian Law, the MP brought the following innovation:

- Amendment of the Civil Code to ratify the institute of intercurrent limitation period, determining that it will follow the same term of the procedure's main claim limitation period.

It is worth clarifying that the provisional measures are rules with legal force issued by the President in situations of relevance and urgency. Despite producing immediate legal effects, the provisional measures need a later approval by the National Congress to be definitively converted into an ordinary law.

The Brazilian Federal Government expects that the National Congress will approve MP No. 1,040/2021 proposal later this year.

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BLOG

Important Changes to the Alberta Business Corporations Act Now in Effect

April 13, 2021

Written by Bryan Haynes and Adrienne Roy

Removal of Residency Requirements for Directors

On March 29, 2021, Alberta removed the Canadian residency requirements of directors for Alberta corporations governed by the Alberta *Business Corporations Act* (ABCA). Previously, the ABCA required at least 25 percent of an Alberta corporation's directors to be resident Canadians. The ABCA also imposed a residency requirement for quorum: in order to transact business at a meeting of directors, 25 percent of the directors present had to be resident Canadian (subject to limited exceptions). In addition, if the corporation wished to appoint a committee of directors or a managing director, 25 percent of the members of the committee or the managing director had to be resident Canadian. The Canadian residency requirements of directors for companies governed by the Alberta *Companies Act* have similarly been removed. The end of the residency requirement is made pursuant to Bill 22, *Red Tape Reduction Implementation Act, 2020* (RTRI Act). The RTRI Act is an omnibus bill that amends 12 pieces of legislation and repeals 2 others across 6 government departments. The Government of Alberta has categorized the objectives of the amendments into four categories: speeding up government approvals; easing administrative burdens on municipalities; improving government transparency and removing outdated requirements; and promoting economic growth and job creation by eliminating unnecessary burdens. The recent changes to the ABCA fall into the last category and are expected to be a welcome change for foreign investors.

New Agent for Service Requirement

Another change introduced by the RTRI Act is that ABCA corporations are now required to appoint an agent for service who must be an individual resident Albertan and have an office that is accessible to the public during normal business hours. Existing ABCA corporations will have until March 29, 2022, to appoint an agent for service by sending a notice of appointment to the Registrar of Corporations. If an ABCA corporation does not make the requisite appointment within the one-year time frame, the Registrar of Corporations can dissolve the corporation.

Next Steps

If an ABCA corporation no longer wishes to have resident Canadians on its board, a review of the corporation's by-laws is necessary to determine whether any by-law amendments are required to reflect the removal of the residency requirements from the ABCA before making any changes to board composition. Bennett Jones can advise and assist corporations with the above changes, including reviewing and amending by-laws, if an ABCA corporation wishes to take advantage of the removal of the director residency requirements. For further information, please reach out to one of the authors, your contact at Bennett Jones or a member of the Bennett Jones Commercial Transactions team.

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Posted on: March 31, 2021

BUYING OR SELLING A BUSINESS IN BRITISH COLUMBIA? MAKE YOUR MOVE.

By: Doug Cottier

The Canadian Federation of Independent Business suggested in late 2018 that “[d]uring the next decade, 72% of business owners are expected to exit their business,”^[1] meaning that there will be an abundance of upcoming opportunities for entrepreneurs to engage in the purchase or sale of a company. The business lawyers at Richards Buell Sutton LLP have authored the third edition of the firm’s “Make Your Move” publication, created to provide guidance to companies or individuals who are interested in buying or selling a business throughout the province of British Columbia. This guide contains chapters that focus on key aspects of a business transaction, and issues that may arise along the way.

Make Your Move sets out matters for parties to turn their minds to when the prospect of a purchase or sale first arises. The seller should consider tabling a non-disclosure agreement to ensure that the discussions and materials relating to the potential transaction are treated confidentially by the potential purchaser. Before the binding purchase agreement is prepared, negotiating a letter of intent allows the parties to contemplate, discuss, and settle key terms towards the beginning of the process. The letter of intent then serves as a blueprint to inform the subsequent drafting of definitive documents, and helps to reduce time and expense during the negotiation phase of the purchase agreement.

Conducting due diligence on the target company’s business, financial, and legal records is an essential aspect of a business transaction to apprise the purchaser of (actual or potential) risks and liabilities associated with the transaction. Make Your Move outlines important factors to be aware of when carrying out due diligence.

Make Your Move includes a number of chapters dedicated to different types of terms and provisions that are common in purchase agreements, such as representations and warranties, purchase price adjustments, pre-closing conditions, disclosure schedules, indemnities, and holdback or escrow arrangements. These terms will of course vary from one transaction to another, but prospective parties should be familiar with the general function of each type of provision and consider whether any industry-specific terms should be integrated into the agreement.

Many business transactions feature aspects that extend into other areas of law, prominent examples being



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intellectual property and employment law. Make Your Move provides an overview of matters to consider in these areas in the context of the purchase or sale of a company. The guide also includes tips on how to capitalize on the important advice of non-legal advisors, such as accountants and M&A brokers.

Once the purchase agreement has been negotiated, finalized, and signed, parties must satisfy pre-closing conditions (which may include obtaining consents from third-parties), close the transaction to effect the purchase and sale, and perform post-closing obligations. Make Your Move provides a roadmap of all of these steps to assist with navigating a business transaction.

Make Your Move is straightforward and user-friendly, not an exhaustive discussion of the subject matter. The publication should not be viewed as a substitute for proper legal advice, but rather as an informative and helpful tool to better understand merger and acquisition transactions in British Columbia.

The mergers and acquisitions team at Richards Buell Sutton LLP acts for both buyers and sellers in all regions of British Columbia, providing practical legal advice and solutions in diverse industries from offices in both Vancouver and Surrey. If you are interested in obtaining a copy of the third edition of Make Your Move, please contact author of this article, Doug Cottier, or any of the lawyers at the firm with whom you regularly communicate.

^[1] *Getting the Transition Right: Survey results on small business success planning*, Canadian Federation of Independent Business, November, 2018, 3.
<https://www.cfib-fcei.ca/en/research-economic-analysis/getting-transition-right>



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➤ INAPI ISSUES NEW FILING AND PAYMENT INSTRUCTIONS FOR RENEWAL OF TRADEMARKS

On March 17th, 2021, through the publication of General Ruling No. 96/2021 in the Official Gazette, the National Institute of Industrial Property ("INAPI") provided new instructions in relation to the filing and payment of renewal applications of trademark registrations in Chile, applying the regulations set forth in the Trademark Law Treaty ("TLT"), which was ratified by Chile and is in force since 2012.

By virtue of General Ruling No. 96/2021, as from April 1st, 2021, it will be possible to file and pay the renewal of registrations of word marks, figurative trademarks and word and label trademarks within six months prior to the registration's expiration date and until six months after this date. This considerably extends the grace period to request the renewal of a trademark registration, since the term to proceed with its renewal changes from 30 days to 6 months, counted as from the registration's expiration date.

Sound, collective, certification and guarantee trademarks are excluded from this disposition, as the maximum term to proceed with their renewal will remain to be of 30 days counted as from the registration's expiration date.

Regarding the payment of renewal fees, the General Ruling contemplates that, in those cases in which the payment of the renewal fees is made within 6 months following a registration's expiration date, a surcharge of 20% over the amount of those fees will apply for each month or fraction of a month of delay in payment, counted as from the 30 days following the registration's expiration date. This means that if payment is made within 30 days following a registration's expiration date, no surcharge will be applied.



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Legal Commentary

March 12, 2021

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Key Adjustments in the Finalized Anti-Monopoly Guidelines for the Platform Economy

Author: Chen Ma | Da Shi | Xiao Guo | Jiahao Guo

Introduction: On February 7, 2021, the State Council Anti-monopoly Commission (the “**Commission**”) promulgated the *Anti-Monopoly Guidelines for the Platform Economy* (the “**Guidelines**”), following only three months after the State Administration for Market Regulation (“**SAMR**”) issued an exposure draft of the same on November 10, 2020 (the “**Exposure Draft**”), which unveiled a more rigorous approach to anti-monopoly regulation. The brief interval between the Exposure Draft and the finalized Guidelines demonstrates fully the importance the authorities have attached to anti-monopoly work in the platform economy.

In our November 12 article, *The Way Forward: Anti-monopoly Guidelines for the Platform Economy*, we put forward for reference our industry observations regarding the Exposure Draft. Comparatively, the Guidelines resemble the Exposure Draft in style and structure but also differ significantly with respect to certain content, which may impact regulatory policies going forward for platform economy undertakings. In this article, we analyze the key adjustments in the Guidelines in conjunction with our earlier observations.

The Guidelines confirm some of our earlier assumptions: the Guidelines refine provisions found in the Exposure Draft and reduce legal uncertainty, thereby helping platform undertakings to enhance their understanding of relevant policies, promoting the implementation of those policies, and facilitating the development of the platform economy. We therefore see a promising future for platform undertakings - undertakings simply need to properly understand the new policies and cooperate with regulators in implementing them.

In this article, we summarize the key adjustments in the Guidelines compared to the Exposure Draft in five aspects, basic principles, defining the relevant market, monopoly agreements, abuse of dominance, and concentrations of undertakings. In general, we find these adjustments take practical scenarios into sufficient account and are conducive to the innovative development of platform undertakings.

TO CONTINUE READING PLEASE FIND THE FULL ARTICLE ONLINE HERE:

<https://www.hankunlaw.com/newsAndInsights/enLawDetail.html?id=2c91af0876daf9210177bd52432f0894>



ELECTRONIC INVOICE: APPROVED IN FIRST DEBATE AS AN ENFORCEABLE TITLE FOR JUDICIAL COLLECTION PROCEDURES

MONTHLY NEWSLETTER
THE LAW FIRM OF CENTRAL AMERICA

On Wednesday, February 24th, the Legislative Assembly approved on First Debate the bill No. 21364 for the reform of article 460 of the Commercial Code, by means of which a third paragraph is added to said article to allow electronic invoicing to also constitute an enforceable title and can be used as a basis for judicial collection procedures, as long as it has the digital signature of the buyer or his duly authorized agent. In order for it to be valid, the legal tax stamp that corresponds to the invoice must be added to the printed copy of the digital invoice that will be provided to the claim along with the digital backup of the original.

In the context of a consultation carried out by Legislative Assembly on the Bill, the Attorney General's Office issued Legal Opinions number OJ-112-2019 of September 19, 2019 and OJ-041 of February 24, 2020, which stated the need for a law reform so that, expressly, electronic invoices were included as an enforceable title, in contrast to the opinion supported in the Certificates, Digital Signatures and Electronic Documents Law, which provides the same probative force of physical documents to digital ones.

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It is worth mentioning that, as previously indicated, this law reform has been approved on first debate, so it still needs to be approved a second time and ratified by the Executive Power of our country in order to form part of our legal framework.

For any additional consults please reach out to German.Rojas@ariaslaw.com.

Written by:



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Gide publishes its 2020 CSR report

PARIS 08 April 2021: Gide is pleased to announce the publication of its fourth corporate and social responsibility report, structured around three major themes: the environment, human resources, and pro bono.

This report highlights our firm's actions to better control our environmental impact, ensure a responsible management of our human resources, and uphold our pro bono commitment in the service of the general interest.

While 2020 saw an unprecedented global crisis take hold, it did not impact our various commitments. Regarding environmental issues for instance, we set up a Sustainable Development Commission that has worked to raise awareness on the impact of our activities on the environment. Regarding human resources, we focused on health and well-being, and continued our work for the promotion of our women lawyers. And lastly regarding society as a whole, our pro bono actions continued in favour of access to law and justice, education, and supporting those most in need.

Please find out more by reading our latest CSR report [here](https://www.gide.com/communications/CSR/2020/UK/Book/index.html)
<https://www.gide.com/communications/CSR/2020/UK/Book/index.html>



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GUATEMALA

NEW CENTRAL AMERICAN TECHNICAL REGULATION FOR SANITARY REGISTRATION OF VETERINARY MEDICINAL PRODUCTS

Apr/2021

Ministerial Agreement 094-2021 of the Ministry of Economy, published in the Official Journal on March 18 of this year, released the resolution number 436-2020 (COMIECO-XCIII) dated December 10, 2020, through which it was agreed to amend by total replacement the Central American Technical Regulation RTCA 65.05.51:08 "Veterinary Medicinal Products and Related Products. Sanitary Registration and Control Requirements" approved by the resolution number 257-2010 (COMIECO-LIX) on December 13, 2010, by the Central American Technical Regulations RTCA 65.05.51:18 "Veterinary Medicines, Related Products and their Establishments, Sanitary Registration and Control Requirements". The new Regulation will enter into force on 10 August 2021.

States that are parties shall implement the Code of Good Manufacturing Practices (GMP) of Veterinary Medicinal Products of the Committee for the Americas of Veterinary Medicinal Products of the World Organization for Animal Health, as well as its Verification Guide, within 5 years from the date of entry into force of RTCA 65.05.51:18, during this period when a manufacturer of one State Party requests the Sanitary Registration or renewal of its registration in another State Party, it shall submit the official document, issued by the authority, to support the implementation of the operational plan for compliance with the GMP.

In Guatemala, the holder of the sanitary registration must comply with the codification set in Annex H of the RTCA 65.05.51:18, within 24 months, that run from the entry into force date. During this period, the holder of the sanitary registration may market the products under the current regulation and once expired, he must market them in accordance with Annex H of the RTCA 65.05.51:18.

If you require more information on this matter, do not hesitate to contact us.

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Unlicensed Investment Gurus Beware!

14 April 2021

For much of last year, the United States witnessed a decoupling of Wall Street from Main Street. Defying the sluggish activity in the real sector, the stock market indices hit one record high after another in the second half of 2020 as investors and speculators poured their money into the stock market, in the hope of making easy money.

Spurred on by Wall Street, bourses in many parts of the world witnessed unprecedented bull runs, and in other cases, such as on Bursa Malaysia, extreme volatility which offered opportunities for quick profits ... **provided** one picks the right stocks ... at the right time.

Concerned by the proliferation of self-proclaimed stock picking gurus who ply their expertise, or purported expertise, through various media, the Securities Commission Malaysia ('SC') issued the **Guidance Note on Provision of Investment Advice** ('**Guidance Note**') on 30 December 2020.

The SC explained in a **media release accompanying the issuance of the Guidance Note** that "[the] guidance note ...is issued in response to the increasing number of queries and complaints received regarding various social media, chat rooms and messaging applications that appear to be providing specific stock recommendations and/or investment advice to members of the public, who are given access to these recommendations and/or advice upon payment of a fee." According to the SC, the Guidance Note seeks to provide clarity to the industry and members of the public on conduct which the SC would consider as falling within the regulated activity of providing investment advice under the Capital Markets and Services Act 2007 ('**CMSA**').

Requirement for licence to provide investment advice

The SC reiterated that under paragraph 5 of Schedule 2 of the CMSA, a person is required to hold a licence issued by the SC for providing investment advice if the person:

- a. carries on a business of advising others concerning securities or derivatives; **or**
- b. as part of a business, issues or promulgates analyses or reports concerning securities or derivatives.

Considerations in determining “carrying on business of advising others concerning securities or derivatives”

The Guidance Note stipulates that in making the assessment as to whether a person is “carrying on business of advising others concerning securities or derivatives”, the SC will take into account the overall circumstances of the person undertaking the activity. In the Guidance Note, the SC addresses this issue in two parts, namely “**advising others concerning securities or derivatives**” and “**carrying on business.**”

The SC is likely to consider a person as “**advising others concerning securities or derivatives**” where “*any communication involving providing recommendations or opinions [is] likely to induce a person to take any action or position (e.g. buy, sell or hold) regarding a particular class, sector, or instrument in relation to securities or derivatives.*”

The SC is more likely to consider that a person is “**carrying on a business**” if the activity is undertaken in a structured manner with regularity, or where any of the following is in place:

- a. pay-for-advice arrangements;
- b. offering a fee-based subscription to a channel or group, including on social media, which offers investment advice; or
- c. expectation of benefits or gratification, direct or indirectly, from the provision of investment advice.

The SC cautioned in the Guidance Note that the factors mentioned above are not intended to be exhaustive.

Item (c) above is particularly interesting. It can conceivably include a situation when a person receives a benefit from a third party (and not his target audience) for providing investment advice in relation to a particular security or derivative.

Illustrations

The Guidance Note provides illustrations as guidance. The pertinent ones are as summarised below.

1. *Discussions on blogs, forums and other social media*

The SC is more likely to consider a discussion on specific stocks on blogs, forums or other social media as investment advice if the discussion involves the provision of recommendation or opinion which may induce the reader or audience to take an action (e.g. buy, sell or hold) regarding the specific stock.

Such activity of giving investment advice is likely to require a licence under the CMSA, if the person undertaking that activity is considered to be carrying on a business.

2. Trainings and seminars on stock trading

Conducting trainings or seminars on stock trading is not likely to require a licence from the SC. However, a licence will be required if the training or seminar includes any material, content or if any of the trainers or speakers makes a statement that amounts to a recommendation or inducement to take action or a position (e.g. buy, sell or hold) regarding a particular class, sector, or instrument in relation to securities or derivatives.

3. Restrictions on licensed representatives

The holder of a Capital Markets and Services Representative Licence ('**CMSRL**') for dealing in securities or derivatives may only conduct stock or derivatives trading seminars if he is representing his principal (i.e. a holder of a Capital Markets and Services Licence) ('**CMSL**') and it is incidental to his role as a CMSRL holder. The term "*incidental*" in this regard refers to circumstances where the CMSRL holder is providing advice in his capacity as the commissioned or salaried representative of the CMSL and only to his clients. A CMSRL holder is not allowed to provide recommendations on specific stocks or derivatives outside such scope, for example to the general public or non-clients.

4. Radio and television appearances

A person making any comment concerning securities or derivatives, whether on radio, television or through any other medium of communication, is encouraged to disclose to his audience (including readers) in his communication:

- whether or not he is licensed by the SC to provide investment advice; and
- whether he has any interest in the securities or derivatives that is the subject of his discussion.

However, the making of such disclosure does not absolve the person from the responsibility to assess whether he is required to hold a licence under the CMSA, or if he is so licensed, whether or not such activity is within the scope of his licence.

5. Standard of conduct for licensed investment advisors

The SC also reminded licensed investment advisors to adhere to standards of conduct that do not cast doubt on their competency, soundness of judgment and integrity, for example, by refraining from making any false or misleading representation that is likely to induce a person to invest in securities or derivatives.

Comments

The Guidance Note is a useful reminder to unlicensed self-proclaimed investment gurus seeking celebrity status as stock pickers extraordinaire and to licensed investment advisers as to the limits beyond which some of their activities could run afoul of securities law.

Since the issuance of the Guidance Note, the SC has directed seven entities and their related individuals to cease and desist from undertaking all activities in relation to the conduct of a business of providing investment advice without a licence under the CMSA. According to the SC, these operators had been carrying on the business of advising others concerning securities or derivatives, including providing stock recommendations upon payment of a fee through subscription-based private chat groups on Telegram, WhatsApp and Facebook. More details are set out in the SC's media release which is available [here](#).

Alert prepared by [Phua Pao Yii](#) (Partner) and [Kok Chee Kheong](#) (Partner) of the Corporate Division of Skrine.

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April 2021

COFECE's opinion on the Initiative to Amend the Hydrocarbons Law

On April 8, 2021, the Federal Economic Competition Commission ("**COFECE**") issued an opinion, addressed to the Mexican Congress, in connection with the *"Draft Decree Initiative by which several provisions of the Hydrocarbons Law are amended"* (the "**Initiative**") proposed by the head of the Federal Executive branch.

In said opinion, COFECE recommends not to approve the Initiative as it stands now, since it would create legal uncertainty for the participants of the hydrocarbons, petroleum and petrochemicals chain and would also facilitate artificial and unjustified restriction to the supply of the relevant products and services in detriment of Mexican consumers.

COFECE's opinion specifically states that the Initiative proposed by the Executive:

- (i) Will discourage the entry of new competitors and reduce the supply along the value chain by distorting the permit regime, since the proposed amendments empower and give broad discretion to the Ministry of Energy ("**SENER**") and the Energy Regulation Commission ("**CRE**") to temporarily suspend existing permits when *"a danger to national security, energy security or for the national economy is foreseen"*, without establishing any certainty as to the temporality of the suspension, nor defining such concepts or establishing clear and certain criteria for the application of such concepts;
- (ii) Will generate uncertainty by substituting the automatic approval for automatic rejection applicable for the process of resolution of permit transfer requests, which reduces the authority's incentives to resolve the requests in an expeditious manner and prevents economic agents from knowing the reasons for rejections, and
- (iii) Will reduce the amount of competitors and supply by establishing a prior verification of certain storage capacity required by SENER for the granting of permits. Although having sufficient storage capacity is necessary for competition to exist in the fuel production chain, requiring its verification prior to granting the permit generates a vicious cycle between the lack of such capacity due to the lack of permits and the lack of permits due to the scarcity of infrastructure, discouraging investments in this sector. In addition, the Initiative allows for the revocation of existing permits that, upon the entry into force of the proposed amendment, fail to comply with the aforementioned requirement. This in turn would be a violation of previously acquired rights and an unjustified restriction on supply.

Cartel criminalisation takes effect on 8 April - what you need to know



April 07, 2021 | 3 min read

[Competition law \(inc cartels\) \(/resources/competition-law-inc-cartels\)](/resources/competition-law-inc-cartels)

Recent changes to the Commerce Act 1986 mean that from 8 April 2021 cartel conduct will be a criminal offence and could be punished with up to 7 years' imprisonment. This is significant for all businesses operating in New Zealand, particularly as the definition of cartel conduct in the Commerce Act is broad, and could capture a wide range of commercial conduct.



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Key takeaways

- Changes to the Commerce Act 1986 mean that from 8 April 2021 cartel conduct will be a criminal offence and could be punished with up to 7 years' imprisonment.
- Businesses should assess their commercial arrangements to ensure they have not inadvertently breached the cartel prohibition.

New criminal offence

From 8 April 2021, it will be a criminal offence if a person:

- Enters into a contract, arrangement or understanding that contains a “cartel provision” or otherwise gives effect to a “cartel provision”; and
- *Intends*, at that time, to engage in “price fixing”, “restricting output” or “market allocating.”

A “cartel provision” is a provision of a contract, arrangement or understanding which has the purpose or (likely) effect of “price fixing”, “restricting output” or “market allocating.” These three terms are defined broadly and could capture a wide range of

commercial conduct. For example:

- “Price fixing” will capture any agreements between competitors that fix, control or maintain *any element* of the price of goods or services (including discounts, rebates, or credit) that the parties supply or acquire in competition with each other. In the past, “price fixing” has captured all manner of conduct including agreements with competitors to remove free gifts/services with purchases, or agreements to pass on certain costs to end customers.
- “Restricting output” will capture any agreements preventing, limiting or restricting the production, capacity or supply of goods or services which the parties to the agreement compete in relation to. This is a relatively new addition to New Zealand’s competition law regime so there is limited guidance from the Courts. An agreement between competitors to reduce capacity in their factories in order to increase consumer demand would likely constitute “restricting output.”
- “Market allocating” means allocating customers, classes of customers or specific geographic areas between the parties so that they do not compete with each other for those customers or within the same geographic areas.

There are three “exceptions” to the cartel prohibition for “collaborative activities”, “vertical supply contracts” and “joint buying and promotion.” Whether one or more of these exceptions will apply usually requires careful analysis, preferably at the outset of any proposed conduct.

It is unclear at present how the Courts will interpret the “intent” element of the offence. However, there is a defence to the offence if the individual in question believed on reasonable grounds that one of the exceptions described above applied (although this won’t apply if the person’s belief was based on ignorance, or mistake, of any matter of law).

New penalties

Under the new criminal offence individuals may face up to seven years’ imprisonment and/or a maximum \$500,000 fine. Companies may face penalties of up to the greater of a \$10 million fine, three times the value of any commercial gain resulting from the breach of the cartel provision, or 10% of the turnover of the company and all its interconnected bodies corporate in each accounting period that the cartel provision operated.

The Commerce Commission has indicated that it will only bring proceedings under the new criminal offence for the more egregious kinds of cartel conduct. Exactly

what this means in practice is yet to be tested.

How should businesses be preparing for these changes?

If you are concerned about getting your affairs in order prior to the introduction of the new criminal offence, you should consider the following:

- Now is a good time to do a “health check” of commercial arrangements. Review all joint ventures or other arrangements with actual or potential competitors, and consider seeking advice on whether these could breach the Commerce Act.
- It would also be wise to implement a compliance regime, including regular training for all staff, if you do not have this in place already.
- We have prepared some high-level “Do’s and Don’ts” for businesses to mitigate risk of breaching the cartel prohibition, including for discussions with competitors, which may provide some useful guidance - please get in touch if you would like a copy.
- If you believe that you may have inadvertently engaged in cartel conduct, you should take advice about potentially applying for cartel leniency. The Commerce Commission’s Cartel Leniency Policy and Guidelines can be found **here** (<https://comcom.govt.nz/about-us/our-policies-and-guidelines/leniency-and-cooperation/cartel-lenieny-policy-and-guidelines>).

Get in touch

Please get in touch with any of our contacts (pictured right) to discuss the new changes and how they will affect your business.

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The FIST Act (Republic Act No. 11523): A Relief Measure for the Philippine Banking Industry

March 22, 2021

Republic Act No. 11523, also known as “An Act Ensuring Philippine Financial Industry Resiliency Against the COVID-19 Pandemic” (FIST Act)¹, which seeks to assist banks and financial institutions (FIs) in dealing with the adverse effects of the COVID-19 pandemic, took effect on February 18, 2021 upon its publication in the Official Gazette and in a newspaper of general circulation. This law provides a legal framework for the full transfer of the bad loans and assets of banks by allowing them to clean their books and re-channel their resources to improve liquidity in the financial system.

The Securities and Exchange Commission (SEC), jointly with the Bangko Sentral ng Pilipinas, Department of Finance, Bureau of Internal Revenue, and the Land Registration Authority, are tasked to issue implementing rules and regulations within 30 days from the effective date of the law.

Repeal of the Special Purpose Vehicle Act of 2002

The main mechanism under the FIST Act is to allow for the establishment of special purpose corporations, known as Financial Institutions Strategic Transfer Corporations (FISTC). The law then provides tax and other incentives for the FISTCs, as well as for the transfer of non-performing assets (NPAs) to and from these FISTCs.

The FIST Act repeals Republic Act No. 9182, as amended, or the Special Purpose Vehicle Act of 2002 (SPV Act). The SPV Act was passed to help banks dispose of their NPAs in the aftermath of the Asian financial crisis by providing a legal framework for this purpose and granting fiscal incentives. However, banks have stopped setting up SPVs under the SPV Act because transactions are no longer entitled to incentives. The law provided limited periods for transfers to or by SPVs to qualify for incentives and these periods have now expired.

The FIST Act is essentially the same as the SPV Act in terms of the creation and powers of the special purpose company, the conditions for the disposition of NPAs, and the incentives given at the various stages of the contemplated transactions.

SPVs created under the SPV Act may avail of the privileges and incentives granted under the FIST Act.

¹ <https://www.officialgazette.gov.ph/downloads/2021/02feb/20210216-RA-11523-RRD.pdf>

How to Set Up a FISTC

A FISTC must be a stock corporation with the power to invest in, or acquire NPAs of FIs and to engage third parties to manage, operate, collect and dispose of NPAs acquired from FIs, among other powers.

A FISTC must be established within 36 months from the effectiveness of the FIST Act (or by February 2024).

A FISTC must also submit a FISTC Plan to the SEC within the period to be prescribed by the SEC. Once the FISTC Plan is approved by the SEC, the FISTC would be authorized to sell and distribute investment unit instruments pursuant to the FIST Act.

Tax Incentives

The transfer of NPAs from an FI to an FISTC, and from an FISTC to a third party, or a dation in payment by the borrower or by a third party in favor of an FI or an FISTC, is exempt from the following taxes, when applicable: (a) documentary stamp tax; (b) capital gains tax on the sale of certain capital assets, or creditable withholding tax on the income from the sale of ordinary assets; and (c) value-added tax.

These transfers are also subject to reduced fees on the following: (a) registration and transfer fees on the transfer of real estate mortgage and security interest to and from the FISTC; (b) filing fees for any foreclosure initiated by the FISTC in relation to any NPA acquired from an FI; and (c) land registration fees.

The incentives are time bound. For example, transfers of NPAs from FIs to an FISTC must be done with two (2) years from effectiveness of the FIST Act, while transfers from a FISTC to third parties are given a five (5)-year window from the acquisition of NPAs to dispose of the same with incentives.

The FIST Act also gives tax exemptions and privileges to FISTCs, including exemption from income tax, documentary stamp tax, and mortgage registration fees on certain new loans. FISTCs are also exempt from documentary stamp tax in case of capital infusion to a borrower with non-performing loans.

FIST Act v. SPV Act

As the FIST Act mirrors the provisions of the SPV Act, it remains to be seen if this measure will be more effective than its predecessor in addressing the problems of the financial sector with non-performing assets.

One provision of the FIST Act that may provide relief to FIs and FISTCs is the prohibition on the issuance of injunctive reliefs by courts, other than the Supreme Court and the Court of Appeals, against certain transfers of assets involving FISTCs and participating FIs. This provision was not in the SPV Act.

The FIST Act

Another factor that favors this new measure is that it will operate under a different insolvency regime, the Financial Rehabilitation and Insolvency Act, which allows more options for, and expedites, the rehabilitation of distressed companies. The SPV Act operated under the Insolvency Act, an archaic legal framework that was passed in 1909.

Similar to the SPV Act, the period to establish a FISTC and the incentives provided under the FIST Act remain time-bound. FIs may see this as a negative feature of the law, given the slow judicial processes in the country and the various approval and regulatory requirements to set up and operate a FISTC and to transfer assets.

SyCipLaw's Banking, Finance and Securities Department

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The Banking, Finance and Securities Department of SyCip Salazar Hernandez & Gatmaitan advises a host of Philippine and international banks and financial institutions on different types of financing transactions and on regulatory matters. In the regulatory sphere, our services include reviewing bank forms and templates for compliance with legal requirements, advising on new financial products and services, responding to jurisdictional queries and providing periodic updates on new laws and regulations, and assisting with regulatory compliance and investigations.

Other briefings

The links to our earlier bulletins and briefings can be found at the SyCipLaw information hub, <https://syciplawresources.com/>.

For more information about other regulations covered by our other briefings, please contact your account partner or sshg@syciplaw.com or info@syciplaw.com.

The FIST Act

This briefing contains a summary of the legal issuances discussed above. It was prepared by SyCip Salazar Hernandez & Gatmaitan (SyCipLaw) to update its clients about recent legal developments.

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March 8, 2021

In a move to align the requirements with other foreigners working in Singapore, Dependant's Pass (DP) holders working in Singapore will soon have to secure a work pass if they want to work in Singapore. The change was announced by Minister for Manpower Mrs Josephine Teo on 3 March 2021 during the debate on the Ministry of Manpower's budget. It is set to become effective from 1 May 2021.

This is a step taken by the Government towards harmonising the employment of foreigners in Singapore.

Impact on Individuals

Currently, DP holders who are dependent on holders of an Employment Pass (EP), EntrePass or Personalised Employment Pass can work in Singapore without obtaining a separate work pass – they are permitted to work if they obtain a Letter of Consent (LOC).

With effect from 1 May 2021, DP holders relying on a LOC will need to hold a valid work pass such as an EP, S Pass or work permit instead of a LOC to be able to work in Singapore. If the DP holder is already working under the LOC, the DP holder will be allowed to continue working until the expiry of the LOC, with the application for the relevant work pass to be made once the LOC expires.

Impact on Employers

Employers currently hiring a DP holder working under a LOC will have to apply for a work pass applicable to the DP holder in order to keep employing such DP holder.

Employers should take note of the impact that this will have on the hiring process after the change takes effect. Companies hiring DP holders holding a LOC will have to comply with the conditions which are applicable when hiring foreigners under work passes, including the relevant qualifying salary, quotas and levies.

Impact on DP holders who are business owners

When the change is implemented, DP holders who are business owners can continue to work using a LOC, but with restrictions:

- i. The DP holder should either be a sole partner, or company director, with at least a 30% shareholding in the business; and
- ii. The DP holder's business should also hire at least one Singaporean or Singapore permanent resident who earns at least the "Local Qualifying Salary", which is currently set at S\$1,400 per month, and receives contributions to the

Central Provident Fund for at least 3 months.

If the DP holder does not meet the required criteria, the DP holder can either run the business on the existing LOC until it expires or make an application for an extension of the LOC. However, the extension of the LOC will only be valid until April 2022 and such extension application can only be made once.

If the DP holder does not meet the abovementioned criteria, the DP holder will need to obtain a work pass.

Conclusion

The move aligns the requirements for foreigners working in Singapore with DP holders currently working under a LOC by requiring DP holders to meet the work pass requirements which are applicable to all other foreigners working in Singapore. From a business perspective, the changes mean that all employers will need to comply with the relevant qualifying salary, dependency ratio ceiling and levies payable for the employment of a foreigner as may be applicable to the corresponding work pass.

Further details on this change are expected to be released on 1 May 2021. Given the ongoing structural changes in the employment market, DP holders, employers and business owners should be aware of the updated restrictions when hiring foreigners to work in Singapore. Dentons has leveraged our global footprint to provide clients with an overview of their obligations as employers across multiple markets. We answer the typical questions you might have, and provide guidance around key employment concerns. If you have any questions about these new requirements and how they may apply to you, please call or e-mail us.

Dentons Rodyk thanks and acknowledges Associate Sarah Chan for her contributions to this article.

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Newsletter

Summary of Rulings Regarding Imported Pork Containing Ractopamine

02/26/2021

David Tien/ Helen Hai-ning Huang

1. Background

Being a long-standing practice, use of Ractopamine has been prohibited in Taiwan since 2006; the Taiwanese government has adopted the "zero tolerance" policy on the use of Ractopamine in imported pork. However, in order to strengthen international trade relationships with trading partners, the Taiwanese government decided to relax the import ban on Ractopamine pork by following the international standards adopted by the Codex Alimentarius Commission. The Ministry of Health and Welfare therefore amended administrative rulings regarding permissible residue level of Ractopamine and the labeling of the country of origin of pork, and the Ministry of Agriculture allowed the usage of Ractopamine in imported pork. The Legislative Yuan, on December 24, 2020,

resolved to permit the above administrative rulings for recordation and to pass relevant associated resolutions, all of which would take effect starting from January 1, 2021.

2. Administrative Rulings regarding Imported Pork Containing Ractopamine

The new administrative rulings regarding the import of pork containing Ractopamine are summarized as follows:

(1) Standards for veterinary drug residue limits in foods (“the Standards”)

The Standards stipulates that the Ractopamine residue limits are 0.04 ppm in the pigs’ liver or kidney, and 0.01 ppm in pigs’ muscle, fat (including skin) and other edible offal.

(2) Promulgation rulings of Nung-Fan-Tzu No. 1091472241 (“the Rulings”)

The Rulings lifts the ban on the usage of Ractopamine for pigs outside Taiwan, but still prohibits the usage of such drug in local pigs.

(3) Labeling regulations of bulk food (“the Labeling Regulations 1”)

The Labeling Regulations 1 requires all vendors, in spite of having corporation or business registration, selling bulk food containing pork or edible offal of pigs as raw materials to have a clear label in Chinese showing the country of origin (i.e., the place of slaughtering and cutting) of pigs.

(4) Labeling regulations of the country of origin of pork and edible offal as raw materials used in the contained or packaged food (“the Labeling Regulations 2”)

The Labeling Regulations 2 requires all vendors selling contained or packaged food containing pork and edible offal as raw materials to have a clear label in Chinese on the container or package showing the country of origin (i.e., the place of slaughtering and cutting) of pigs.

(5) Labeling regulations of the country of origin of pork and edible offal as raw materials supplied at food vending locations (“the Labeling Regulations 3”)

The Labeling Regulations 3 requires all vendors supplying pork and edible offal at food vending locations to have a clear label in Chinese showing the country of origin (i.e., the place of slaughtering and cutting) of pigs.

3. Associated Resolutions regarding the Imported Pork containing Ractopamine

For the purpose of maintaining the food safety and the competitiveness of local pig

farmers, the Legislative Yuan also passed associated resolutions, including topics covering the implementation of the tracing and tracking management, the reform of the local pig farming industry, the encouragement of the purchase of domestic pork products, etc.

4. The Legal Consequence of Illegal Labelling of Pork Products

According to Paragraph 1, Article 28 and Paragraph 1, Article 45 of the Act Governing Food Safety and Sanitation, if the labeling of foods and food containers or packaging is false, exaggerated or misleading, the violator shall be fined between NT\$40,000 and NT\$4,000,000. Where the offense is repeated, the violator may be ordered to terminate business or suspend business or to revoke company registration or food business registration.

To ensure the fairness of each administrative fine, the Ministry of Health and Welfare enacted the Principles of Calculation of the Administrative Fines for the False, Exaggerated or Misleading Labelling Stipulated in Paragraph 1 of Article 45 of the Act Governing Food Safety and Sanitation ("**the Principles**") on December 29, 2020. According to Article 2 of the Principles, the aforementioned amount of the fine shall be calculated based on the weighted formula stated in the attachment of the Principles.

In addition, according to Article 3 of the Principles, the competent authority shall take into consideration the education and intelligence, the experiences and time of engaging such business, and the attitude and remedial actions of the violators, when deciding the amount of the fine.

5. Conclusions

Due to the impact of food safety resulting from the import of pork containing Ractopamine, the Ministry of Health and Welfare has enacted administrative rulings in relation to the permissible residue level of Ractopamine and the labeling of the country of origin of pork. Therefore, all vendors shall pay particular attention to and comply with the labeling rulings to avoid being subject to the fines, termination or suspension of business or the revocation of company registration or food business registration.

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Incorrect Export Licensing Determinations Result in Wireless Telecommunications Equipment Manufacturer Settling with BIS for Apparent Export Control Violations | Thought Leadership | Baker Botts

29 March 2021

On March 19, the U.S. Department of Commerce's Bureau of Industry and Security ("BIS") announced the entry into a \$122,000 settlement with Comtech XiCom Technology, Inc. ("Comtech XiCom"), a leading supplier of high power amplifiers for satellite communications based in Santa Clara, CA, for three apparent violations of the Export Administration Regulations ("EAR"), caused by Comtech XiCom's mistaken belief that certain exports could be made without BIS authorization.^[1]

According to BIS, from approximately December 3, 2015 to March 30, 2017, Comtech XiCom made a series of exports of traveling wave tubes ("TWTs"), valued in total at around \$153,945, to customers in Brazil, Russia, and the United Arab Emirates. The TWTs were classified under Export Control Classification Number ("ECCN") 3A001.b under the EAR's Commerce Control List ("CCL") and controlled for National Security (NS) reasons, which require a BIS license to each of these destinations. In each instance, Comtech XiCom had correctly identified the appropriate ECCN for the TWTs. However, when Comtech XiCom staff inquired with internal compliance officials as to whether the shipment of the TWTs required a BIS license, the officials incorrectly determined that no such authorization was needed to proceed with the shipments. This error by Comtech XiCom led to the shipments of the TWTs being made without the required export licenses from BIS, which resulted in the apparent violations of the EAR.

Compliance Takeaways

Perhaps the most crucial element to any Export Compliance Program are the policies and procedures that are established to ensure accurate assessments regarding export authorization. As BIS details in its *Export Compliance Guidelines*,^[2] there are four key steps to this element:


1. **Jurisdiction:** Companies should always begin with confirming which U.S. agency has jurisdiction over the intended export.
 - When classifying a product, you should always begin with the Department of State's Order of Review, maintained under the U.S. Munitions List ("USML") of the International Traffic in Arms Regulations ("ITAR").
 - If you determine that the item is (i) not subject to the ITAR because it is not enumerated or otherwise described on the USML; and (ii) not subject to the exclusive jurisdiction of another U.S. agency (e.g., the U.S. Nuclear Regulatory Commission), you should then consult the CCL's Order of Review to conduct further analysis.^[3]
2. **Classification:** Once it has been determined that an item intended for export is subject to the EAR, companies should then assess whether the item is controlled on the CCL.
 - The CCL contains several hundreds of items and consists of a series of ECCNs, each of which describes a controlled product, software, or technology and identifies the reasons for control.
 - If there is no ECCN on the CCL that corresponds to an item, it will be classified under the "catchall" category known as EAR99.
 - Classification of items on the CCL requires technical specifications of the item and comparing those to the technical descriptions included in the CCL.
 - Although BIS permits self-classification of items, you can also request BIS to issue a binding determination on classification.
3. **License Determination:** Once an item has been classified, companies must then determine whether a BIS license is needed based on the "reasons for control" and the country of ultimate destination.
 - This determination is made by comparing the ECCN with the EAR's Commerce Country Chart ("CCC").
 - If the CCC indicates that a correlation exists between the reason or reasons for control of an item and the country of destination, a BIS license is required for export or reexport, unless a License Exception applies.
4. **Screening:** Even if a determination is made that an item may be exported to a destination without a BIS license, it is vitally important that companies screen all parties prior to export.
 - In addition to the CCL-based controls discussed above, the EAR also contain "catch-all" controls that must be considered with every export transaction, including those that do not require a BIS license for classification-based reasons.
 - These controls prohibit exports where the exporter knows or has reason to know that the item is destined for or may be diverted to a restricted end-user (i.e., a person/entity identified on a U.S. Government Restricted Party List) or end-use (e.g., proliferation of weapons of mass destruction).
 - BIS advises that such screening for end-user or end-use concerns should be performed at the initial time an order comes in, as well as subsequently prior to export.

The ultimate compliance goal for companies is to formulate comprehensive procedures, processes, workflows, and decision tables that help guide employees through each of these steps in order to accurately assess export authorization requirements. This can include, among other components, item classification and export authorization templates, license determination matrices, and diversion risk and red flags checklists.

Failure to make correct decisions on export authorizations, such as in the case with Comtech XiCom, can result in not only substantial fines (with the maximum civil penalty of up to the greater of \$311,562 per violation, or twice the value of the transaction that is the basis of the violation), but also denial of export privileges and exclusion of practice before BIS.

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BLOG POST / EMPLOYMENT ADVISOR

Employment Counseling

Gov. Inslee Modifies Employment Protections to "High-Risk" Employees

Permits Medical Verification and Discontinuation of Health Insurance Benefits

By Angela R. Vogel, Katharine Tylee Herz, Christine C. Hawkins, and Gillian Murphy

04.09.21

Nearly a year ago, on April 14, 2020, Washington Governor Jay Inslee issued Proclamation 20-46 "High-Risk Employees-Workers' Rights," which provided protections to certain individuals with conditions that made them susceptible to complications from COVID-19, due to age or underlying conditions. More recently, on April 8, 2021, Governor Inslee [issued updates to the Proclamation](#) (Updated Proclamation) to allow employers additional flexibility to seek medical verification from employees who are high-risk and to discontinue health coverage for high-risk employees who continue to be out on leave.

While certain high-risk employees were previously permitted to self-attest to their high-risk status due to underlying medical conditions, employers are now permitted to request verification of employees' need for accommodations, regardless of the underlying condition. The Updated Proclamation notes the increased vaccination rates in Washington and greater medical provider availability have prompted the updates.

Elements of the Proclamation Still in Effect:

The Updated Proclamation continues to provide job protection and access to alternative work arrangements to high-risk employees. Additionally, when a suitable alternative work arrangement is not available, covered high-risk employees must still be allowed to access any available employer-granted accrued leave or unemployment benefits, in any order, at the discretion of the employee.

See our prior advisories on the ongoing accommodation requirements and job protections [here](#) and

[here](#).

Modifications to the Proclamation (Effective April 23, 2021):

Under the Updated Proclamation, employers can now request verification of the need for the accommodations by following the interactive process required by state and federal disability laws. Based upon information obtained during the interactive process, employers may alter the high-risk employee's accommodations by providing a minimum of 14 days' advanced written notice that itemize the accommodation changes. Under the Updated Proclamation, the earliest an employer may provide notice of changes to accommodations is on Friday, April 9, 2021.

Further, employers are now permitted to terminate employer-provided health coverage for high-risk employees who are on leave and/or unemployment benefits unless the health plan provides otherwise or the employee is eligible to continue their health benefits under applicable state or federal law, such as the Family Medical Leave Act. Employers must provide 14-days' advanced written notice that health benefits will terminate and must continue to provide coverage through the end of the month in which the 14-days' advanced notice is provided.

This notice period is intended to allow employees sufficient time to elect to continue their health insurance coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), or to seek other coverage through the Health Benefit Exchange or private insurers.

Additional guidance about the Updated Proclamation from the Governor's Office can be found [here](#). The guidance provides information on how aggrieved employees can file claims with the Washington Department of Labor and Industries. This may lead to an increase in claims.

DWT will continue to provide further updates on the revisions to the workplace protections to high-risk employees.

The facts, laws, and regulations regarding COVID-19 are developing rapidly. Since the date of publication, there may be new or additional information not referenced in this advisory. Please consult with your legal counsel for guidance.

DWT will continue to provide up-to-date insights and virtual events regarding COVID-19 concerns. Our most recent insights, as well as information about recorded and upcoming virtual events, are available at www.dwt.com/COVID-19.



13 April 2021

Environment, Sustainability, and Governance for consumer companies

Consumer companies around the world are incorporating sustainability, business integrity, and brand purpose into their business operations. This can include procuring ethically sourced or organic products, ensuring fair pay and safe working conditions, using environmentally friendly materials, or implementing diversity and inclusion initiatives. Brands also are investing in local communities and cultures, encouraging consumer recycling or engagement in the circular economy, promoting responsible consumption, creating consumer safety programs, and taking a stand on social, environmental, and political issues.

This [guide](#), updated for 2021, discusses key points consumer companies should consider.

Find the guide here: https://www.hoganlovells.com/~media/hogan-lovells/pdf/2021-pdfs/2021_04_13_hogan-lovells-esg-for-consumer-companies-2021.pdf?la=en

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