

MARKET OUTLOOK

ANNUAL REVIEW 2016



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Market Outlook

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Market Outlook

MARCH 2016 • ANNUAL REVIEW

Financier Worldwide canvasses the opinions of leading professionals on the outlook in markets around the world.

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A background image of yellow daffodils in bloom against a clear blue sky. The flowers are in various stages of opening, with some fully bloomed and others as buds. The lighting is bright, suggesting a sunny day.

INTRODUCTION

Descriptions of business activity throughout global markets in 2015 have been, by and large, a decidedly mixed bag, ranging from a belief that markets were in recession to being broadly steady.

However practitioners may view last year's activity, it would seem that a more accurate estimation lies somewhere between the two characterisations. Words such as uncertain, modest, slowed and unpredictable being have been used to indicate how the market performed over the past 12 months.

But curiously, this rather subdued assessment of 2015 coincided with a high number of mega deals, which have been a consistent source of headlines in recent times.

Yet, despite the mixed nature of last year's activity, many market practitioners are confident that 2016 could be a stronger year, full of intriguing investment opportunities.

Instilling this confidence across some, though not all, jurisdictions is the access to all-time high levels of dry powder (including for secondary market deals), plenty of financing options and the cash sitting on the books of strategic buyers. In addition to this, there is the continued availability of 'affordable' financing which could facilitate middle market M&A activity. Indeed, many practitioners have stated that they have already seen strong indications early this year.

Clearly difficulties remain, and although for some market outlook sentiment may be fragile, for others it is overwhelmingly positive.



UNITED STATES

DAVID YATES
HUNTON & WILLIAMS LLP

**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN THE US OVER
THE LAST 12 MONTHS?**

YATES: In general, the middle market M&A sector, which is our natural play yard, was not as busy in 2015 as one might be led to think from reading the megadeal headlines. This is perhaps due to the perceived overvaluation of assets in the low interest rate environment that has pervaded for years. We think that with private equity dry powder continuing to be at an all-time high, plenty of available financing options, and the continuing drop of commodities prices, 2016 could be a strong year for mid-market M&A – and we have already seen some of that in the beginning of this year.

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**Q WHICH SECTORS SEEM TO
BE ENJOYING GROWTH AND
WHICH SEEM TO BE UNDER
PRESSURE?**

YATES: The oil & gas sector is struggling with high debt burdens, rising interest rates and low prices, so we expect a wave of bankruptcies and consolidation in the industry. We also expect to see strong M&A activity in the technology, media and communication sectors. As strong as sectors have been, healthcare – particularly healthcare IT – will likely lead the way.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN THE US TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

YATES: We saw three very important trends in 2015, which will likely continue to be relevant in 2016. First, with the passage of the FAST Act, Congress has further liberalised securities offerings, mostly to facilitate access to capital markets by emerging companies and capital-raising by start-ups. This will likely have a positive effect on transaction flow. Second, during the presidential race, we have seen important initiatives from both ends of the political spectrum to close perceived tax loopholes. As these initiatives gain momentum and start to take shape, tax-driven restructurings will be likely. Finally, there have been important initiatives, as well as competition, at state and local levels to foster infrastructure investment and attract businesses in different target industries, in exchange for significant incentives and benefits. This will likely foster further development, investment and business activity in different geographic and metropolitan areas.

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Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN THE US, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

YATES: There is no substitute for proper and extensive due diligence on any opportunity. In fact, we have seen a longer diligence period in a number of transactions to better assess and address diligence issues. In addition to the normal scope of diligence criteria, data privacy and security consideration has garnered greater attention and scrutiny in M&A transactions in recent years, given the increased retention by companies of sensitive information and data, such as personally identifiable information or protected health information. These issues can arise in any given M&A transaction, and the repercussions of a failure of a seller or buyer to comply with the numerous laws – and agencies – governing sensitive information and data can be onerous and expensive.

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“We expect that middle market M&A will increase given the amount of dry powder available to funds.”

Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN THE US?

YATES: There has been an increase in US merger control this year via greater enforcement actions and the narrowing of certain exemptions under the Hart-Scott-Rodino Antitrust Improvements Act. This rise in enforcement actions has created a greater focus for the parties with regard to regulatory approvals and the implications to the obligations of both sides in order to address any regulatory hurdles that may arise in a transaction. Also of note, with this being the last year of the Obama administration, we expect that they will continue to set a tone of challenging businesses along competitions lines.

Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN THE US? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

YATES: Market volatility weighed heavily on capital markets activity in 2015, particularly in the second half of the year, as concerns over the perceived end of central bank stimulus in the US, corporate earnings growth, commodities and various geopolitical events unsettled the markets. While total proceeds raised in the capital markets in 2015 exceeded 2014 levels, the number of completed transactions in both the debt and equity markets declined by more than 10 percent. On the debt side, we saw greater activity and offering sizes in 2015 for investment grade debt, as many investment grade issuers looked to lock in longer term debt in advance of a move by the US Federal Reserve to increase interest rates, while the high-yield debt market experienced a slowdown as investors increasingly took 'risk-off' positions. The equity capital markets started 2015 strongly. However, unsurprisingly, both the volume and value of IPOs declined from a record year in 2014, while follow-on activity, at least in the first half of the year, remained fairly robust. As volatility has shown no signs of abating in 2016, the capital markets have started 2016 the way they finished 2015, with fairly muted activity.



**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

YATES: We expect that middle market M&A will increase given the amount of dry powder available to funds – including for secondary market deals – and the cash sitting of the books of strategic buyers. Also, the continued availability of ‘affordable’ financing will drive M&A activity. We do not believe that the Federal Reserve’s recent decision to raise interest rates will materially increase corporate borrowing costs or negatively impact M&A in a significant way as interest rates still remain at historically low levels. Further, we do believe that the mega deals will slow somewhat based on the volatility of the public markets as they serve to temper the attractiveness of those deals and consolidation has already occurred in many of the implicated industries. Following these mega deals, we expect to see some of the ancillary business lines of the integrated ‘mega’ companies shake out and ultimately seek to sell or spin off assets that no longer fit. This could further drive M&A activity this year.

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BRAZIL

THIAGO SANDIM
DEMAREST ADVOGADOS

**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN BRAZIL OVER
THE LAST 12 MONTHS?**

SANDIM: Due to a series of both political and economic circumstances, the Brazilian economy has slowed down over the past year. This has directly affected certain sectors, most notably industry and commerce. Also, combined with the deepening economic woes in China, the downturn of commodity prices, and as result of several domestic corruption scandals, some of the main corporations in Brazil have taken a big hit, making the whole economy suffer. However, the services sector continues to grow. Also, with the Brazilian government paying high interest rates and with a devalued currency, there are great opportunities for foreign investors, who have been using both the institutional crisis engulfing the country, as well as the crisis of confidence hitting the nation, to raise their portfolios in Brazil and make great deals. All in all, Brazil is still a politically and economically stable country, with strong institutions and good fundamentals in the long term.

**Q WHICH SECTORS SEEM TO
BE ENJOYING GROWTH AND
WHICH SEEM TO BE UNDER
PRESSURE?**

SANDIM: The sectors suffering the most are the ones directly affected by commodities prices, such as oil & gas and iron ore producers. Unfortunately, the Brazilian economy is still quite exposed to the international prices of commodities and, therefore, to China. That, however, is set to change, as we have been experiencing good and solid growth in the services sector, with major Brazilian banks announcing the biggest profits in their history, even during a time of economic and political disorder. Also, recent corruption scandals linked to major infrastructure, construction and oil & gas companies, have hit different sectors spread across the economy. Regardless, we believe in the fundamentals of the Brazilian economy and the solidity of its institutions to sail through this crisis. On the other hand, due to the recent termination of the restrictions on foreign investment in the Brazilian healthcare industry, the country is seeing massive transactions with foreign investors accessing its healthcare industry. From a technical



perspective, the new law shifted the original rules that were applicable to foreign investments in the healthcare system, and granted them free access to the industry – which, under the old rules, with very few and economically irrelevant exceptions, was prohibited in terms of equity.

Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN BRAZIL TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

SANDIM: The government has been trying to take a series of measures to promote different sectors, giving incentives to foreign investors and trying to strengthen economic fundamentals. Unfortunately, the political crisis and the huge distrust from part of the population with regard to corrupt practices by the country's current government have been affecting its ability to work with Congress to quickly revert the economic turmoil that has been affecting our economy. We can quote, nonetheless, valuable efforts such as the opening of the Brazilian healthcare sector to foreign investment, the series of proposals to ease restrictions to foreign individuals and companies owning rural lands, as well as the adhesion of the country to the Hague Conference on Private International Law, which will simplify and promote business and foreign investments in Brazil. Though these are admittedly small steps, enacted at a less than ideal pace, they show that the government is willing to make many structural changes and adjustments, and enact many of the regulations that the country needs.

Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN BRAZIL, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

SANDIM: This is not the time to come looking for short-term results; having said that, we believe that Brazil is currently a buyer's market, especially for foreign investors. The national currency has been losing value. The country fell into recession in 2014 and shows no signs of emerging out of it in 2016. There is hope that the economy will pick up again in 2017. The depreciated currency, along with relatively low prices in the market, which do not at all reflect the strong fundamentals



of our economy but rather the crisis of confidence that the country as a whole has been going through, are an attractive mix to a lot of institutional investors, such as big-ticket PE funds, which have been enjoying a good pipeline of deals. The risks to be considered at this point in an investment decision are mostly related to macroeconomic indicators. There can be no greater advice, however, than to get good and experienced advisers to help you cruise through the local legal and business environment. Also, firms should appoint a Brazilian partner who is aligned with the company's long term ambitions.

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**Q WHAT LEGAL AND
REGULATORY ISSUES SEEM
TO HAVE THE GREATEST
IMPACT ON BUSINESS
ACTIVITY IN BRAZIL?**

SANDIM: The Brazilian taxation system is still a major problem, for both Brazilian and foreign investors. The system is old and complicated, and for many years now has been in desperate need of comprehensive reform, which will bring simplicity to the process and drastically cut costs for businesses in the country. However, currently the political climate is not, at this point, conducive to approving such deep and structural measures. Accordingly, investors are set suffer for a few while to come. Furthermore, Brazil is known to be one of the most bureaucratic countries in the world. New investors in Brazil will definitely need to be well assisted in order to manage expectations in terms of timing and bureaucracies.

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**Q HOW WOULD YOU
DESCRIBE CAPITAL MARKETS
ACTIVITY IN BRAZIL? ARE
YOU SEEING AN APPETITE
FROM FOREIGN INVESTORS
LOOKING TO ACCESS THESE
MARKETS?**

SANDIM: Capital markets activity is currently hitting historical lows in Brazil, due to the enormity of one of the largest political and confidence crises the country has ever experienced. With high levels of volatility and political instability, it is evident that foreign investors have been running away to safer and more stable options. Most Brazilian companies have experienced plummeting share prices over the past year, which is likely to continue throughout 2016. The market is not presenting good opportunities for short-term investors at this point; however, more risk inclined and medium-to-long term investors may get great opportunities to build strong portfolios at low prices, which will be of value once the economy starts to pick up once again.

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“Investors will be able to cherry pick in this market and choose the best investment opportunities adjusted to their risk profile.”

Q WHAT OVERARCHING TRENDS DO YOU EXPECT TO SEE OVER THE NEXT 12 MONTHS OR SO?

SANDIM: We are set to see a continued flow of distressed assets deals, as many metrics have shown that the country's economic turmoil will deepen throughout 2016. This, however, is mostly attributed to the inability of the current government to approve reforms in the required timeframe. This will also be a great year for buying for foreign investors, with a highly appreciated currency when compared to the reais, opportunities will be plentiful. Investors will be able to cherry pick in this market and choose the best investment opportunities adjusted to their risk profile.



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Thiago Sandim graduated in 1997 from the Catholic University. He is currently a senior partner at Demarest, whose practice focuses primarily on M&A and private equity. He regularly advises domestic and international clients, including large sovereign wealth funds from Asia.



UNITED KINGDOM

CHRIS HALE
TRAVERS SMITH LLP

**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN THE UK OVER
THE LAST 12 MONTHS?**

HALE: 2015 was a year of slowing growth in the UK. Recently revised numbers published by the Office for National Statistics came out at 2.2 percent for the year, down from 2.9 percent in 2014. Despite this less robust picture, 2015 was a good year for private equity related M&A. According to the Centre for Management Buyout Research, private equity-backed buyouts had a value in 2015 of £19.5bn, the best year since 2010. It was a spectacular year for buyout exit values, reaching a record £47.6bn. Some of the largest exits, such as that of Worldpay, were by way of IPO.

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**Q WHICH SECTORS SEEM TO
BE ENJOYING GROWTH AND
WHICH SEEM TO BE UNDER
PRESSURE?**

HALE: In 2015, the dominant UK services sector accounted for 79 percent of GDP and experienced growth of 2.5 percent, while manufacturing accounted for only 10 percent of GDP. The sector shrank over the year and ended it in technical recession. The one bright spot in manufacturing was the motor industry, which had a good 2015. In the buyout world, the sectors which had a particularly good year in 2015, judging by the value of the deals, were leisure, business and support services, retail and TMT, each of which showed a marked increase on the previous year.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN THE UK TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

HALE: The government has not taken steps to promote the private equity industry or those parts of the business world associated with it.

Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN THE UK, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

HALE: 2016 is an unusually uncertain year for those seeking to grow or invest in the UK. Not only are the consequences of the current market volatility and slowdown in China unclear, but the UK is faced with a likely referendum on its continued membership of the European Union at some point during the year. There is now, it seems, a material risk of a no vote which, if it happens, could bring with it a possible second referendum on Scottish independence if Scotland votes to stay in the EU but the rest of the country does not. Difficult short term effects would include a likely immediate decline in UK asset values, a sharp decline of sterling against major currencies and a rise in UK borrowing costs. The long term consequences are impossible to predict. Given all this, unless investment is essential or the opportunity is unlikely to be affected by 'Brexit', now might be the time to wait out events.



“In private equity, the recent fundraising successes of many managers will mean a gradual ratcheting up of pressure to deploy capital.”

Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN THE UK?

HALE: The private equity world has been focused and will continue to be focused on financial services regulation in the shape of AIFMD, MIFID II and EMIR and the effects on private equity business. Now the focus is turning to tax as well, and the government’s proposed changes to the carry regime and possible alterations to interest relief on debt. Quite how these changes will impact private equity is too early to say, given that the detail is still being developed.

Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN THE UK? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

HALE: Given London’s position in the financial world, foreign investors are always looking to access its capital markets. Because of the prevailing uncertainties, activity on those markets is likely to be subdued for the time being and possibly for much of 2016. That is not to say it will not happen, but uncertainty is likely to produce less attractive pricing and lower capital markets issuance.



**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

HALE: Most surveys recently have shown a decreasing risk appetite on the part of CFOs and other senior executives. This will probably translate in the M&A world into lower activity, something likely to be compounded in the UK by the additional pricing difficulties linked to the huge uncertainties caused by the EU referendum. It is difficult against this backdrop to see 2016 as a vintage year in the M&A world. In private equity, the recent fundraising successes of many managers will mean a gradual ratcheting up of pressure to deploy capital. This may lead to more imaginative ways of doing so, given the current outlook.

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Chris Hale became Travers Smith's Senior Partner on 1 July 2013, having been Head of Corporate since 2003. He founded the firm's Private Equity Group, one of the constituent parts of Corporate, in 1996. He specialises in UK and international M&A and buyout work. He acts for institutional investors and management teams on investments and divestments, as well as private equity-backed and large private companies on M&A and other corporate matters. Mr Hale is a regular contributor to various legal journals and lectures, notably at Oxford University, on company and private equity related subjects.



SWITZERLAND

DANIEL HAYEK
PRAGER DREIFUSS



**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN SWITZERLAND
OVER THE LAST 12 MONTHS?**

HAYEK: We saw only a modest pace of growth in 2015. In January 2015, the Swiss National Bank (SNB) announced that it would no longer hold the Swiss franc at a fixed exchange rate to the euro. Consequently, the Swiss franc soared and the Swiss stock market fell. The Swiss economy is yet to recover from the unpegging of the Swiss franc, but given the difficult currency environment, the Swiss economy has coped well with the challenges last year.

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**Q WHICH SECTORS SEEM TO
BE ENJOYING GROWTH AND
WHICH SEEM TO BE UNDER
PRESSURE?**

HAYEK: Exports of goods and services are worth approximately 65 percent of Switzerland's GDP. Therefore, the exchange rate sensitive and export oriented sectors were generally worse hit by the strong Swiss franc, while those geared towards the domestic economy, especially healthcare and construction, achieved a certain degree of stability. While service oriented companies do – on average – better than industrial businesses, they are also negatively affected by the current economic situation. In particular, the banking and the insurance sectors, which are traditionally strong in Switzerland, seem to be under pressure as well. Credit Suisse, one of the two major Swiss banks, was dragged down by losses in investment banking and its shares fell significantly after the bank announced its first annual loss since 2008.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN SWITZERLAND TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

HAYEK: Given Switzerland's export oriented economic structure, the Swiss government strongly promotes Free Trade Agreements (FTA). Currently, Switzerland has a network of 28 FTAs with, among others, the EU and China. In 2015, the Swiss government continued to give high priority to concluding new FTAs and amending existing ones. Owing to the exchange rate situation, the geographical diversification of foreign markets has become increasingly important, especially for export-oriented SMEs. Support measures by the national export promotion organisation were adjusted accordingly. In the context of promoting Switzerland as a business location, the availability of basic information on Switzerland's location based advantages has been expanded in a targeted manner. In addition, the Federal Council revised the Ordinance on Swiss Export Risk Insurance (SERV) to take account of the changing needs of exporters.

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Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN SWITZERLAND, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

HAYEK: While the safe haven status of the Swiss franc has had a negative effect on export oriented-businesses, Switzerland's economy usually outperforms its neighbour states and has enjoyed a lower unemployment rate. Investors should definitively take into account the impact that the exchange rate of the Swiss franc will have on their business. But on the upside, Switzerland is more financially stable than the EU states and its very good educational system and its large pool of employees and excellent living conditions makes the region attractive for businesses that rely on high qualified personnel. This is particularly favourable for businesses related to biotechnology, IT and high-tech, which continue to thrive.

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**“We note an increased interest by foreign investors.”**

Q WHAT LEGAL AND
REGULATORY ISSUES SEEM
TO HAVE THE GREATEST
IMPACT ON BUSINESS
ACTIVITY IN SWITZERLAND?

HAYEK: Compared to other European jurisdictions, Switzerland is not burdened by many regulations. On 1 January 2016, the Financial Markets Infrastructure Act supplemented by two ordinances, entered into force in Switzerland. Together with the implementing legislation, it forms the legal and regulatory framework for derivatives trading, regulates the operation and organisation of financial market infrastructure, and consolidates existing rules on market behaviour – similar to the US Dodd-Frank Act. The new Swiss rules for derivatives trading have been adopted with a view to fitting in with international standards – EMIR and MiFID in the EU, and Dodd-Frank in the US – and political decisions taken by the G20 to regulate the OTC derivatives market. However, we do not expect this to have a major impact on business activity. In early 2016, a referendum will be held in connection with the enforcement of the federal popular initiative against mass immigration of 2014. In a nutshell, this referendum might have a significant impact on relations between Switzerland and the European Union.

Q HOW WOULD YOU
DESCRIBE CAPITAL MARKETS
ACTIVITY IN SWITZERLAND?
ARE YOU SEEING AN APPETITE
FROM FOREIGN INVESTORS
LOOKING TO ACCESS THESE
MARKETS?

HAYEK: We note an increased interest by foreign investors. Just recently, ChemChina took over Syngenta, a Swiss based producer of pesticides and seeds. The US\$43bn deal will become the biggest Chinese foreign takeover ever. In addition, a Chinese investor plans to take over Sigg, a Swiss based manufacturing company. What we also have seen last year were hedge funds acquiring relatively small portions of equity in Swiss firms, in order to improve management and performance.



**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

HAYEK: Given that the international economy should improve gradually, we anticipate a moderate acceleration in economic growth in Switzerland over the next year. In view of this rather slow economic upturn, this year the unemployment rate may slightly rise from the 3.3 percent recorded in 2015, but should start falling again in 2017. Turmoil on the global financial markets has led to excess capital inflow in Switzerland and pushed sovereign bond yields into negative territory. It is to be expected that until the end of 2016 or early 2017, Swiss bond yields will be positive again. With respect to the currency situation, we do not expect significant changes and the CHF/EUR rate should continue to move sideways.

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Daniel Hayek is a member of the management committee of Prager Dreifuss Ltd., an integrated law firm in Switzerland with a strong international focus. As the head of Prager Dreifuss' Corporate and M&A team, he specialises in M&A (mainly strategic buyers), corporate finance, banking, restructuring and bankruptcy proceedings, as well as general corporate matters. Together with his team, he advises business clients in all types of domestic and cross-border transactions and represents creditors, some of which are banks, hedge funds or other financial institutions, in insolvency and restructuring proceedings.



ROMANIA

FLORIAN NITU

POPOVICI NITU STOICA & ASOCIATII

**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN ROMANIA OVER
THE LAST 12 MONTHS?**

NITU: The last 12 months offered great opportunities, but also a good number of failures, so I would say the outcome was mixed. We have seen new investments and equity funds and major industrialists showing an increasing interest in Romanian businesses and opportunities, with PE funds and banks raising significant amounts and committing to big tickets. At the same time, there were many infrastructure and concession projects suspended or even cancelled for various reasons, many foreign to business rationale. Also, changes to the regulatory framework across many sectors have occurred concomitantly, leading in the short term to a sort of administrative deadlock, but the prospects that this situation will improve soon are good.

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**Q WHICH SECTORS SEEM TO
BE ENJOYING GROWTH AND
WHICH SEEM TO BE UNDER
PRESSURE?**

NITU: Growth areas in Romania include IT & telecoms and energy & natural resources, along with agribusinesses and farming. Out of former leading sectors which now face significant pressure, I would mention the consumer-related businesses, including finance, mainly retail finance, logistics and transportation, real estate, residential mainly, and DIYs.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN ROMANIA TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

NITU: The Romanian government is taking strong measures to attract foreign investment. A full array of regulatory decisions entered in force as of 2016. A new fiscal code was enacted to strengthen Romania's position as a low-tax jurisdiction and a place for establishment in view of investments, mergers and acquisitions in Eastern Europe. The New Fiscal Code restates the 16 percent flat tax quasi-universal and establishes a 5 percent dividend tax. It furthers the already extensive network of conventions for the avoidance of double taxation and also makes effective the EU tax legislation in key investment areas, such as parent subsidiary, interest and royalty and merger directives. Romania is also making massive progress in improving public services in general and in fighting corruption and other illegal practices in particular, to such an extent that it is frequently cited as a role model in the region.

Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN ROMANIA, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

NITU: I have always maintained that Romania is a platform for investments in Eastern Europe. In so doing, investors should manage risks by properly substantiating their investment scheme designed to take advantage of Romania's low corporate and dividend tax and its extensive network of conventions for the avoidance of double taxation. I would further suggest that proper safeguards be taken in relation to employment and labour issues, particularly in terms of collective rights and labour unions, but also in relation to transfers of undertakings for all or part of a business. Anti-money laundering, anti-fraud and anti-corruption, as well as Know Your Customer rules and processes, should also constitute a key concern. Finally, I would advise investors to be mindful of the investment protection regimes available under Romania's international treaties, prior to and during virtually any investment process.



Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN ROMANIA?

NITU: The greatest impact on business activity in Romania would definitely be the new fiscal compact, a whole package of primary and secondary tax regulations in force since 1 January 2016.

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Q WHAT OVERARCHING TRENDS DO YOU EXPECT TO SEE OVER THE NEXT 12 MONTHS OR SO?

NITU: There are four main trends discernible at this stage. First, there will be new fresh capital invested in sectors offering organic growth potential, including IT & telecoms, agribusiness and energy & natural resources, for example. Second, banks and financial institutions will continue to clear their non-performing loans, with high-profile deals being planned for 2016. Third, restructuring and workout processes in the real estate market will continue with the arrival of big portfolio deals. Finally, Romania will relaunch privatisation projects after many years of relative inaction in this area.

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“Banks and financial institutions will continue to clear their non-performing loans, with high-profile deals being planned for 2016.”

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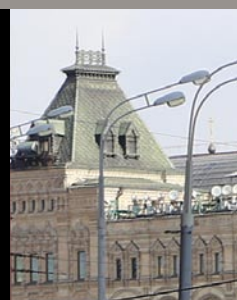
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RUSSIA

NATALYA MOROZOVA
VINSON & ELKINS LLP



**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN RUSSIA OVER
THE LAST 12 MONTHS?**

MOROZOVA: During the last 12 months the Russian economy has been in recession, experiencing a GDP reduction of 3.7 percent in 2015. Russia is the world's second-largest producer of oil & gas, according to the BP Statistical Review of World Energy 2015, and the country's economy is heavily reliant on revenues derived from its oil & gas exports. Naturally, it has been negatively affected by the dramatic drop in the price of oil in 2015 and the further decline in oil prices seen in the beginning of 2016. According to the Bank of Russia, hard currency export revenues reduced by one third in 2015. According to the report of the Federal Customs Service, in 2015, receipts from exports of crude oil and oil products dropped by approximately 42 percent, although the volume of exports of crude oil increased by 9.4 percent and of oil products by 4 percent. The total trading balance in 2015 decreased by 33.2 percent, though still a positive balance. Receipts from exported goods were US\$345.9bn. Of this amount, approximately US\$200bn was attributed to the exports of hydrocarbons and products. Sanctions that are specifically targeted at the ability of Russian banks and oil & gas companies to access external financing and technology will likely have an additional negative impact on Russia's ability to develop its energy and other high-technology sectors as a driving force of its economy. Significant devaluation and volatility of Russia's currency and a high level of inflation – 12.9 percent in 2015 – have resulted in reduced consumption. As a result, the retail trade has dropped by approximately 10 percent. On the other hand, Russia's sovereign debt is among the lowest in the world. Its foreign trade balance is positive. The flow of capital outside Russia significantly decreased in 2015. Russia possesses enormous natural resources and a well-educated workforce.



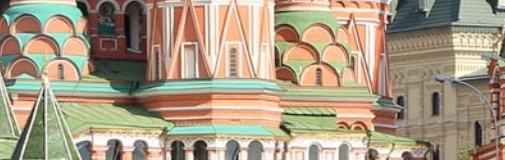
Q WHICH SECTORS SEEM TO BE ENJOYING GROWTH AND WHICH SEEM TO BE UNDER PRESSURE?

MOROZOVA: Russian oil & gas companies are obviously under pressure. According to recent reports, the netback price of a barrel of Urals is close to US\$10. Russian majors are able to survive and continue production but they need to explore for, discover and develop significant new oil & gas deposits in order to maintain or grow current high production levels. However, companies are cutting costs wherever possible. It has been recently reported that some major Russian companies have requested the postponement of the launch of several new oil & gas deposits, which have a total potential annual peak production of approximately 26 million tonnes. Consumption industries have been hit hard by the rouble devaluation and high level inflation. However, counter sanctions and the government's measures aimed at stimulation of import substitution have had a positive impact on Russia's agriculture industry. Agriculture, chemicals, pharmaceuticals and the housing construction industries were priorities to the government and have shown moderate growth. Production of natural resources has shown a 1 percent growth, apparently, of the compensatory nature.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN RUSSIA TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

MOROZOVA: The Russian government has been very enthusiastic in recent years in its welcoming of direct foreign investments and in its attempts to improve the country's investment ratings. Since 2009, Russia has moved from 120 to 51 in the 'ease of doing business' rating in the World Bank Group Report on Doing Business. According to the report released in 2016, Russian was among 12 economies which implemented four or more reforms intended to encourage new business entry and help existing business growth. Russia introduced new laws improving state registration of property transfer and creating a unified collateral registry for movable property, and reduced taxes, other than profit and labour taxes. The government has established the Direct Foreign Investment



“Capital markets in Russia have been hit hard by the US and EU sectoral sanctions.”

Fund, which acts as a co-investor for foreign investment funds and large companies launching investment projects that are important for Russia's economy. Russia has refused to introduce a hard currency control regime.

Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN RUSSIA, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

MOROZOVA: The legal risks for new foreign entrants into the Russian market are well documented. The lack of rule of law or system of court precedent, the inconsistency of court decisions and interpretation of legislation and regulations, and a level of corruption throughout the administrative and judicial systems are features of which most foreign investors in the country are all aware. In recent times, however, foreign investors have had to give greater consideration to more 'macro' risks, including the impact of lower oil prices on the Russian currency and on government spending, the sanctions and other risks associated with geopolitical uncertainties.

Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN RUSSIA?

MOROZOVA: It is difficult to highlight any particular changes in the legal or regulatory environment in Russia over 2015 that have had significant impact on business activity here. It appears that the Russian government has prudently kept any such changes at the lowest possible level in view of other shocks that had an impact on the economy and businesses.

Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN RUSSIA? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

MOROZOVA: Capital markets in Russia have been hit hard by the US and EU sectoral sanctions that are targeted at the ability of major Russian banks and companies to borrow long-term debt on external markets. For certain limited projects, this lack of external financing has been replaced with resources of sovereign funds, loans from state-controlled Russian banks and certain Chinese sovereign funds and strategic investors. The Russian stock market has been at such a low level that some global investors have, from time to time, pointed to the market as being potentially very attractive.



**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

MOROZOVA: The Russian government will continue cutting costs and has announced that it is considering the privatisation of a number of major state-owned companies, including Rostelecom, Aeroflot, Rosneft, Transneft, Alrosa and VTB. The latest programme of privatisation was adopted in 2013, but the government was reluctant to sell its large shareholdings. The rationale was that the prices of Russian shares have been decreasing. It appears now that the government cannot afford to wait for a better market. The trend of gradual growth of the state shareholding in the oil & gas industry may change, moving toward a trend of reduced state ownership in such companies. This will likely provide significant opportunities for foreign portfolio and strategic investors. The government has announced its goal to make such privatisations absolutely transparent. Although the government is looking for all possible sources to the budget, the tax burden is unlikely to increase because of the political situation and the state дума election campaign.

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Natalya Morozova is the managing partner of Vinson & Elkins' Moscow office. She joined the firm in 1991, when the Moscow office first opened, and became a partner in 2000. She has extensive experience in, and has worked on, a significant number of complex international mergers and acquisitions, private equity investments, regulation of foreign investment, general corporate practice and project development transactions with the principal focus on the energy & natural resources sector. Ms Morozova's practice has involved many of the high-profile issues shaping Russia's corporate environment of late, including creating joint ventures, and structuring corporate relationships between Russian and non-Russian shareholders.



JAPAN

ADRIAN JOYCE
NORTON ROSE FULBRIGHT



Q HOW WOULD YOU CHARACTERISE BUSINESS ACTIVITY IN JAPAN OVER THE LAST 12 MONTHS?

JOYCE: Perhaps unsurprisingly, in the offshore oil & gas, shipping and commodities sectors, the last 12 months have been characterised by increasing uncertainty over the direction of those markets. However, such uncertainty has brought countercyclical opportunities for buyers of oil & gas, maritime and project assets and we've seen a steady growth of opportunistic acquisitions, litigation and restructuring work for Japanese and non-Japanese clients.

Q Q WHICH SECTORS SEEM TO BE ENJOYING GROWTH AND WHICH SEEM TO BE UNDER PRESSURE?

JOYCE: Japan has been no stranger to the dramatic fall in oil & gas prices this year and this has had an adverse effect on a number of Japanese lenders, trading companies and contractors in the energy, offshore and shipping sectors. The Japanese maritime industry is also suffering the effects of a very poor market which currently appears to be at as low an ebb as it has been for around 30 years. Within the wider economy, sectors such as life insurance, publishing, newspapers, home electronics, restaurants and education all performed badly in 2015, which is in contrast to sectors such as nursing care services, convenience stores, software development, advertising, temp staff agencies and tourism. In fact tourism, particularly from China, has been a major focus here, and it is common to see many of the larger Japanese retailers employ Chinese-speaking staff to boost sales from visiting shoppers. From 2014 to 2015 we also saw considerable growth in a number of areas, including machine tool production, car manufacturing, general trading companies, blast furnaces, semiconductors, department stores and hotels. There was some improvement in major banks, leasing, construction, real estate, processed food, fibre, copper, lead and zinc smelting, industrial machinery, construction machinery and shipping. Local banks, nonlife insurance, housing, alcohol, petrochemicals, pharmaceuticals, supermarkets, broadcasting, and toys and games remained stable.



Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN JAPAN TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

JOYCE: The Bank of Japan (BOJ) is expected to continue monetary easing measures and the recent move to negative interest rates has attracted a lot of media attention across the country. The export credit agencies (ECAs) JBIC and NEXI continue to support Japanese industry through export credit initiatives, including the long-awaited Mitsubishi Regional Jet. ECA support of other sectors, including energy, oil & gas infrastructure and shipping, appear to be under increased scrutiny given the uncertainties regarding when those markets will bottom and some deals are taking longer to come to market. At the macro level, the government appears to be strongly encouraging businesses to increase wages, although the actual level of any increase this year appears somewhat uncertain. Finally, Japanese consumption tax is scheduled to be raised again in April 2017, this time from 8 to 10 percent; and which if realised is expected to produce, at least in the short term, a boost to consumer spending into the latter half of 2016 and prior to any consumption tax rise. Japan loses to regional centres such as Singapore and Hong Kong in regard to attracting foreign investment, with Japan often being seen as a difficult place to do business by foreign companies. For example, one does not hear of many non-Japanese companies basing their Asia headquarters here, which is a pity given the presence of a highly educated domestic labour force. Similarly, many international businesses still view Japan as a hardship posting due to linguistic challenges and a less favourable tax regime when compared to other jurisdictions. Executive postings here generally appear to be for the short to medium term only.



Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN JAPAN, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

JOYCE: A key ingredient of being a successful player in the legal and financial markets here is the ability to show a long-term commitment to doing business in Japan. Japan is not unique in that it can take time to establish a successful business, but with an emphasis placed on long-term relationships and trust, the results in the short term can be disappointing. The Japanese yen has, in recent years, shown a tendency to appreciate against other currencies and, despite the best efforts of the BOJ to keep the yen low, it appears we may again be entering another period of yen appreciation. A key consideration for businesses here, therefore, is hedging – particularly when start up costs and revenues are in US dollars, sterling or another currency.

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Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN JAPAN?

JOYCE: Although not new, a challenge for non-Japanese lawyers operating in Japan is the requirement for foreign lawyers, or '*gaiben*', to satisfy the dual requirements of being registered as a lawyer in another country and having practiced law for at least three years – including for two years in a jurisdiction outside of Japan – and which acts as a brake on growing legal practices here and on promoting new talent to partner level. Coupled with a sometimes lengthy and administrative admission process to become a *gaiben*, this is one of the key impacts on the growth of the foreign legal services market here.

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Q WHAT OVERARCHING TRENDS DO YOU EXPECT TO SEE OVER THE NEXT 12 MONTHS OR SO?

JOYCE: On the macro level, it appears we may see a move away from the weak yen that has been with us since late 2013, and which has been attributed to the aggressive stimulus adopted by the BOJ during Abe's premiership. Any significant appreciation of the yen would of course bring with it challenges for Japanese businesses seeking to export goods and services abroad. Further, an end to the weak yen may also see more unprofitable domestic businesses being allowed to fail, noting however



“Despite the best efforts of the BOJ to keep the yen low, it appears we may again be entering another period of yen appreciation.”

that a number of domestic businesses have taken advantage of low yen rates to reform and restructure. The BOJ has adopted negative interest rates in an attempt to increase inflation, stimulating corporates to invest more in capital expenditure and acquisitions and stimulating consumers to save less and spend more, with the current indications showing we can expect the BOJ to continue such measures through 2016. Finally, whether the scheduled rise in consumption tax will occur will depend and reflect upon the success of prime minister Abe's economic policies to date. We anticipate the continuation of changes to the traditional drivers of investment in oil and gas projects and shipping finance, as both sectors continue to be adversely affected by low pricing and excess supply. However, this is bringing countercyclical opportunities including energy- and maritime-related acquisitions, dispute resolution and restructuring.

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Adrian Joyce is a banking and finance lawyer based in Tokyo. Prior to joining Norton Rose Fulbright he was a senior lawyer at a major Japanese bank. He has considerable experience advising lenders and sponsors on energy, offshore, and ship finance transactions in Europe, Japan, the Middle East, India, Brazil, the CIS and West Africa. Mr Joyce was awarded Japanese Ministry of Education (*Monbukagakusho*) scholarships to study at the University of Tokyo and the University of Waseda where he took his MBA. He regularly gives seminars on project, offshore and ship finance and writes and co-authors articles in English and Japanese for publications.



THAILAND

SURASAK VAJASIT
RAJAH & TANN (THAILAND) LIMITED



Q HOW WOULD YOU CHARACTERISE BUSINESS ACTIVITY IN THAILAND OVER THE LAST 12 MONTHS?

VAJASIT: Much of the activity has been driven by businesses looking at opportunities within ASEAN, particularly given the establishment of the ASEAN Economic Community at the end of 2015. One area that has been particularly interesting is the appetite for e-commerce and technology driven businesses, with multinational players looking for successful home-grown businesses to acquire. Another interesting area has been the level of outbound Thai and also other South East Asian investment in the region. Apart from acquisition activity, businesses are also seeking to better understand their compliance requirements across the ASEAN region.

Q Q WHICH SECTORS SEEM TO BE ENJOYING GROWTH AND WHICH SEEM TO BE UNDER PRESSURE?

VAJASIT: We have seen a rise in dispute resolution. This is partly driven by economic factors placing a strain on joint venture parties with disputes more likely to arise, but it is also being driven by increased regulatory actions by Thai government agencies. For example, there is an increasing focus on revenue collection activities, which is resulting in more cases, such as post-audits by the Customs Department. Any disagreement over valuation or tariff classification could be viewed as duty evasion under Section 27 of the Customs Act, and the maximum exposure in such cases can be as much as four times the duty paid value of goods. The result is that many companies which rely upon imports are facing greater scrutiny than ever. Another interesting observation is the Thai government's increasing willingness to use trade remedy measures, such as anti-dumping and safeguard proceedings, to protect local players, in particular the domestic steel industry.



Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN THAILAND TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

VAJASIT: The government is placing a greater emphasis on infrastructure activities to create a stimulus to the economy. With an expedited parliamentary process possible through the National Legislative Assembly (NLA), the government has fast-tracked a number of laws which improve the regulatory landscape in Thailand. Much needed amendments to the law on business collateral were introduced in 2015, as well as initiatives to restructure the law on customs and excise tax, which are two key tax-related pieces of legislation.

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Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN THAILAND, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

VAJASIT: Many investors enter the market in partnership with joint venture parties, particularly local parties, due to foreign ownership laws. The advice I would give to businesses doing so is to fully examine and prepare for the worst case scenario with respect to such joint ventures. What happens in the event of a deadlock? How can one party buy out or exit the joint venture, or the intellectual property and know-how contributed by the party to the joint venture? And does the dispute resolution mechanism provide a practical and cost effective option? We have seen an increase in very protracted joint venture disputes, where parties are commencing multiple proceedings – in some cases arbitrating using ICC rules in a European venue while at the same time filing proceedings in the civil and criminal courts of Thailand. An important factor to remember is that, if arbitration is governed by Thai law, the parties will be flying Thai law experts and counsel to Europe for such proceedings. Practically speaking, choosing a neutral venue closer to the place of business would be a more time and cost-effective option.

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“Pressure to more actively enforce Thai competition law has come from the example set by other ASEAN countries.”

Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN THAILAND?

VAJASIT: One issue that was greeted positively was the government's announcement in early 2015 that it would drop controversial plans to amend the Foreign Business Act (FBA). The FBA is an overriding concern for all foreign business operators in Thailand. If your business activity is on certain restricted lists, you need regulatory approval. The existing wording in the FBA has also created certain types of structures which would have been challenged by proposed amendments. Whether you agree with the current FBA and its interpretation by regulators and foreign businesses or not, the key point is that it provides businesses with certainty. When a Japanese ministerial official came out and said that 99 percent of Japanese businesses in the service sector in Thailand would be negatively impacted by the proposed amendments to the FBA, it was a relief that the government paid attention and decided not to pursue the proposed amendments. This is a positive development.

Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN THAILAND? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

VAJASIT: I can say that the Thai capital markets have shown some improvement in the last quarter. While there is some IPO activity, we have seen an increasing interest in takeover deals. It is difficult to predict growth – with analysts having quite different views on the prospects.



**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

VAJASIT: The impact of the ASEAN Economic Community (AEC) will be to create a form of harmonisation or convergence of regulation. For example, Thailand has had a competition law since 1999; however, there are many aspects which cannot be implemented due to the absence of implementing regulations. I believe pressure to more actively enforce Thai competition law has come from the example set by other ASEAN countries. Singapore, Indonesia and Malaysia very actively enforce competition laws, while newcomers have acted to meet an AEC commitment to introduce a competition policy by 2015, with Myanmar enacting a new law in February 2015 and the Philippines in July 2015. I believe we will see a lot more activity in areas such as competition law enforcement in ASEAN and, for businesses generally, a focus on these types of issues will be more important than ever.

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Surasak Vajakit is consistently recognised as one of the leading lawyers in Thailand. In addition, a large part of Mr Vajakit's practice also focuses on representation in litigation and dispute resolution proceedings, including arbitrations, mediations and other alternative dispute resolutions. With more than 30 years of work in the private and public sectors, he has extensive experience in corporate and financing transactions, including privatisations, securities transactions (public issues of debt and equity), loan facilities, project finance, restructuring and bankruptcy-related work. Mr Vajakit also served for eight years as a judge of the Courts of Thailand.



AUSTRALIA

BRENT GOLDMAN
NEXIA AUSTRALIA



**Q HOW WOULD YOU
CHARACTERISE BUSINESS
ACTIVITY IN AUSTRALIA
OVER THE LAST 12 MONTHS?**

GOLDMAN: Business activity has been mixed. There has been an increase in activity but a good description of sentiment is 'still fragile'. In the mid-market, for deals under \$200m, the number of M&A transactions fell 20 percent in 2015 but IPOs were up 8 percent based on funds raised. In particular, the end of the mining boom and the need for Australia to refocus its economy away from the mining sector is still working its way through business activity. This had led to some positive changes, with more activity in service sectors.

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**Q Q WHICH SECTORS SEEM
TO BE ENJOYING GROWTH
AND WHICH SEEM TO BE
UNDER PRESSURE?**

GOLDMAN: The mining sector is under pressure, with commodity prices falling and continuing concerns over China affecting the industry. This is evident in the capital markets, where funding for small mining companies dropped significantly in 2015 to just \$13m. Sectors where there has been significant activity are infrastructure, with the increased investment in roads and rail in particular, information technology and healthcare. The financial sector and in particular FinTech has been a notable area of opportunity within Australia.

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Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN AUSTRALIA TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

GOLDMAN: The political climate in Australia has been difficult in recent years, and as such there has been a lot of business uncertainty. There have been recent new initiatives launched that are focused on innovation and early stage companies. These will particularly benefit the growing information technology community in Australia.

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Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN AUSTRALIA, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

GOLDMAN: Despite issues around the recent political climate, Australia has a stable political system and strong legal framework. As a result, it is a strong base to launch operations into Asia, benefitting from the same time zone. As with any entry into a foreign country, the tax position of operations needs to be considered and, as with other countries around the world, there are concerns around taxable profits being shifted outside of the country. Therefore, setting up arrangements to fund and appropriately price activity between an Australian entity and its overseas parent, will always need to be carefully documented.

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“Over the next 12 months there will be continued turmoil in the mining industry.”

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Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN AUSTRALIA?

GOLDMAN: Australia has a fairly stable regulatory environment, so there are no significant issues for businesses to consider. Areas to be aware of mainly relate to taxation and transfer pricing issues. There has been a particular focus on the level of tax that multinationals pay in Australia, as there has been in a number of jurisdictions around the world.

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Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN AUSTRALIA? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

GOLDMAN: Capital markets activity has improved over the last 12 months. In the mid-market there has been a 60 percent increase in the number of IPOs and an 8 percent increase in funds raised through IPO on the capital market. Acquisitions of mid-market Australian companies fell 15 percent in 2015. Companies from the US and UK continued to be the most active acquirers of Australian companies.

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**Q WHAT OVERARCHING
TRENDS DO YOU EXPECT
TO SEE OVER THE NEXT 12
MONTHS OR SO?**

GOLDMAN: Over the next 12 months there will be continued turmoil in the mining industry, with some of the smaller exploration companies either merging or ceasing to trade. Information technology as a sector is likely to be active over the next 12 months, particularly in the capital markets with a number of IPOs on the Australian Securities Exchange in this space in progress. Additionally, the available government focus on infrastructure projects will continue to attract private investment in these sectors, as will the ongoing investment in the health industry to support a wealthy and ageing population.

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Brent Goldman has worked as a specialist in corporate finance for over 15 years. He gained his experience as a corporate finance partner in one of the world's largest accounting firms where he spent 10 years in the London office before returning to their Sydney office. Mr Goldman has also worked on the client side, in the corporate development and strategy team in an ASX 20 company. Mr Goldman works on a range of corporate finance transactions including valuations and expert reports, M&A buy and sell side, IPOs, valuations, private fundraising and due diligence for corporate, private equity and bank pre-lending.



UNITED ARAB EMIRATES

ANDREW GREAVES

ADDLESHAW GODDARD (MIDDLE EAST) LLP

Q HOW WOULD YOU CHARACTERISE BUSINESS ACTIVITY IN THE UAE OVER THE LAST 12 MONTHS?

GREAVES: Business activity in the Gulf region was broadly steady across most sectors over the last 12 months, however market confidence, and by extension the regional economies of the Middle East, were affected towards the back end of the year as the impact of the steep decline in the price of oil and geopolitical issues filtered through.

Q WHICH SECTORS SEEM TO BE ENJOYING GROWTH AND WHICH SEEM TO BE UNDER PRESSURE?

GREAVES: As a direct consequence of regional instability, and specifically the issues created by ISIS and the conflict in the Yemen, business activity in the security and defence sectors has never been higher. Key social infrastructure and development projects, such as housing, healthcare, education and transport continue to be supported by the regional governments and investors alike and the ongoing demand for energy and water ensures that the utilities sector, including renewables, will remain buoyant. In contrast, and because liquidity has become tight due to the drop in the price of oil, the commodities and highly leveraged speculative real estate development sectors have become negatively affected. The petrochemicals sector has also seen a downturn in activity and those operating in the regional oil & gas industry are going to be in for a very tough year indeed.

Q TO WHAT EXTENT, IF AT ALL, HAS THE GOVERNMENT IN THE UAE TAKEN ACTIVE STEPS TO PROMOTE BUSINESS, THROUGH POLICIES, INCENTIVES AND OTHER INITIATIVES?

GREAVES: With tightening liquidity in the market, coupled with a need to create and sustain jobs, the competition for investment has never been greater. Kuwait has accordingly sought to breathe new life into its PPP programme and Saudi Arabia has established a new regulator for the property and construction sectors and introduced new rules for qualified foreign investors. Similarly, Dubai has enacted an updated Companies Commercial Law and PPP Law, seeking, in the process, to improve investor confidence in Dubai.



Q WHAT ADVICE WOULD YOU GIVE TO BUSINESSES CONSIDERING GROWTH AND INVESTMENT OPPORTUNITIES IN THE UAE, IN TERMS OF ASSESSING AND MANAGING THE RISKS INVOLVED?

GREAVES: 2016 is shaping up to be a challenging year. However, the Middle East still remains a very attractive market for doing business, winning market share and improving margins. The key to success and managing risk, however, will ultimately be defined by a number of key factors – knowing your market, doing your due diligence, engaging with the right partner and structuring your arrangements properly, in a legally compliant and tax efficient manner. There are and can be no shortcuts in this regard.

Q WHAT LEGAL AND REGULATORY ISSUES SEEM TO HAVE THE GREATEST IMPACT ON BUSINESS ACTIVITY IN THE UAE?

GREAVES: The so-called tax free environment in which we operate has always been seen as a huge advantage to both doing business in the Middle East and encouraging foreign investment. However, the tax free environment is not going to last – and nor can it – and officials in the GCC have now adopted a draft agreement to implement a value added tax regime in or around 2018. There is also talk of the introduction of corporation tax and a tax on remittances, although no specific details have been provided at this stage. It will be interesting to see if the introduction of a direct tax regime will have a detrimental impact on the regional economy in the future. The desire of regional governments in the Middle East to both protect and enhance the employment of nationalised citizens is a positive initiative which is to be applauded. However, and due to the Arab Spring, a changing and somewhat hardening shift in the application of the policy by some governments in the region is having a detrimental impact on business. By way of example, we are seeing some governments refusing to grant visas to foreign nationals because target quotas are not being achieved and some companies are being forced to replace foreign employees with nationalised citizens who invariably lack the required skills and expertise for the roles to be performed.



Q HOW WOULD YOU DESCRIBE CAPITAL MARKETS ACTIVITY IN THE UAE? ARE YOU SEEING AN APPETITE FROM FOREIGN INVESTORS LOOKING TO ACCESS THESE MARKETS?

GREAVES: Over the last 12 months, liquidity has tightened in both the debt and equity capital markets across the Middle East. With muted activity in the IPO market, the revival in investor sentiment experienced in regional markets in 2014 has slowed significantly. While the trend largely mirrors the global picture, the equity capital markets in the region continue to look demonstrably more volatile than European or other main markets. The appetite of foreign investors to enter these markets has therefore cooled considerably. Lower oil prices have undoubtedly taken their toll on the debt capital and corporate issuance market over recent months as investors become more cautious about how they deploy their money. That said, over the last quarter we have begun to see renewed activity from sovereign issuers as governments come to the market looking to offset budget deficits resulting from falling oil prices. We would anticipate that over time this sovereign activity will drive a revival in the corporate issuance market as confidence is restored and foreign investors regain their appetite for regional debt.

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Q WHAT OVERARCHING TRENDS DO YOU EXPECT TO SEE OVER THE NEXT 12 MONTHS OR SO?

GREAVES: 2016 is shaping up to be an interesting and challenging year. With the price of oil at rock bottom, speculative investment will be reined in and governments will be constantly reviewing their budgets, looking to make savings where they can. The defence sector will remain positive, and we will continue to see investment in social infrastructure. Oil and gas projects, however, will be pared back and payment arrears will characterise the construction industry. Alternative sources of investment will be sought through PPP schemes, and export credit finance will feature heavily. Further, we are likely to see the likes of Saudi Arabia and the UAE borrowing from the market and Egypt, and Iran making a return to prominence, by slowly opening its market to direct foreign investment.

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**“Over the last 12 months,
liquidity has tightened in
both the debt and equity
capital markets across the
Middle East.”**

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Andrew Greaves is a construction specialist and head of Addleshaw Goddard's Dubai office. He has significant experience of advising sponsors, funders, developers, employers, constructors, sub-contractors and professional teams in relation to project procurement techniques (including facilities management) and dispute avoidance and resolution mechanisms across the Middle East. Mr Greaves has drafted, advised on and negotiated traditional contracts and major PPP agreements relating to the procurement, operation and maintenance of major infrastructure projects, including power plants, district cooling facilities, oil and gas installations, mixed use developments, schools, hospitals, airports, housing projects and car parks.



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