# The Mergers & Acquisitions Review

Thirteenth Edition

**Editor**
Mark Zerdin

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# THE MERGERS & ACQUISITIONS REVIEW

THIRTEENTH EDITION

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For further information please contact Nick.Barette@thelawreviews.co.uk

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# PREFACE

2018 was the year of the mega-deal, with an unprecedented number of big-ticket mergers taking place across a range of jurisdictions and sectors. In the first six months of 2018, global deal value rose by 59 per cent compared to 2017, despite volumes falling by 12 per cent. Although there was a considerable drop off in activity in the second half of the year, 2018 nonetheless saw robust overall performance by market participants, with global activity in 2018 exceeding US$3 trillion for the fifth consecutive year.

The United States remained the most targeted and acquisitive region globally in 2018; however, the deal-making landscape in the US for the remainder of 2019 presents a mixed picture. On the one hand, tax reform, a more relaxed US regulatory climate and growing cash reserves present a favourable environment for investors. On the other, dealmakers are likely to be concerned by the trade dispute between the US and China – which is already threatening economic growth and, at the time of writing, shows no sign of abating – and the ongoing uncertainty regarding antitrust policies, which may lead to increased scrutiny of M&A deals.

In Europe, after a record-breaking start to the year, the prolonged uncertainty caused by stuttering Brexit negotiations and wider political tensions across the continent finally caught up with dealmakers in the second half of 2018. In line with a softening of the global economy, the value of European deals in H2 plummeted to its lowest level since 2013, and the volume of transatlantic deals between North America and Europe also fell by 29 per cent year-on-year.

One of the main disruptors to M&A activity over the past 12 months has been the rise in political intervention in cross-border deals. In particular, concerns over national security have led to the tightening of foreign investment regimes and antitrust regulations, coupled with more active enforcement by regulators. This growth in protectionism is likely to remain one of the main obstacles facing dealmakers in the near future.

Nevertheless, looking forwards into the remainder of 2019, there is certainly cause for optimism: private equity continues to enjoy record-breaking levels of dry powder, and developments in technology are driving both the sector itself and the facilitation of deals more broadly. Finally, and perhaps most importantly, the past 12 months have highlighted the resilience of companies and private equity firms in their navigation of global political uncertainty and economic shifts.



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I would like to thank the contributors for their support in producing the 13th edition of *The Mergers & Acquisitions Review*. I hope the commentary in the following 47 chapters will provide a richer understanding of the shape of the global markets, and the challenges and opportunities facing market participants.

**Mark Zerdin**
Slaughter and May
London
July 2019



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**Chapter 10**

# CAYMAN ISLANDS

*Suzanne Correy and Daniel Lee*[1]

## I OVERVIEW OF M&A ACTIVITY

The Cayman Islands is recognised as one of the world's leading global financial services centres. M&A activity is therefore largely driven by global rather than regional or national trends. The aggregate value of global M&A increased in 2018, reaching the highest level since 2015. The Bureau van Dijk M&A Review Global, Full Year 2018 Report (2018 Bureau van Dijk M&A Review Global Report) records deals worth US$5.3 trillion announced during the course of 2018.[2] Cayman Islands M&A-related activity also increased by value. According to the 2018 Bureau van Dijk M&A Review Global Report, announced M&A deals in the Cayman Islands in 2018 had an aggregate value of US$89.7 billion, some way from the high of US$143 billion in 2016, but ahead of the US$84.5 billion announced in 2017.

The three main types of entity used in the Cayman Islands are the exempted company, the exempted limited partnership and the limited liability company (LLC). During 2018, formation activity increased significantly: 13,893 exempted companies (2017: 11,138), 4,917 exempted limited partnerships (2017: 3,774) and 928 LLCs (2017: 711) were incorporated or registered in the Cayman Islands, with 90,268 exempted companies (2017: 83,675), 26,011 exempted limited partnerships (2017: 22,346) and 1,710 LLCs (2017: 889) being active as at 31 December 2018.[3]

## II GENERAL INTRODUCTION TO THE LEGAL FRAMEWORK FOR M&A

The key sources of regulation of M&A in the Cayman Islands are the Companies Law (2018 Revision) (Companies Law) and common law.

The Companies Law includes provisions permitting mergers and consolidations between one or more companies, provided that at least one constituent company is incorporated under the Companies Law. The Limited Liability Companies Law (LLC Law), discussed further below, also provides for a similar framework for Cayman Islands LLCs.

Mergers, amalgamations and reconstructions by way of a scheme of arrangement approved by the requisite majorities of shareholders and creditors, and by an order of the Cayman Islands court under Section 86 or 87 of the Companies Law, are still available for complex mergers (and are mirrored in the LLC Law). The Companies Law provides a limited minority squeeze-out procedure (which, again, is mirrored in the LLC Law).

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1 Suzanne Correy and Daniel Lee are partners at the Maples Group.

2 Total announced deal value, The Bureau van Dijk M&A Review Global, Full Year 2018.

3 Cayman Islands Registrar of Companies and Registrar of Exempted Limited Partnerships annual statistics.



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The Cayman Islands does not have a prescriptive set of legal principles specifically relevant to going private and other acquisition transactions (unlike other jurisdictions such as, for example, Delaware). Instead, broad common law and fiduciary principles will apply.

While there are no specific statutes or government regulations concerning the conduct of M&A transactions, where a target company's securities are listed on the Cayman Islands Stock Exchange (CSX), the CSX Code on Takeovers and Mergers and Rules Governing Substantial Acquisitions of Shares (which exists principally to ensure fair and equal treatment of all shareholders) may apply.

## III DEVELOPMENTS IN CORPORATE AND TAKEOVER LAW AND THEIR IMPACT

### i Economic substance requirements

The Cayman Islands has recently introduced the International Tax Co-operation (Economic Substance) Law, 2018 (Economic Substance Law) and related regulations and guidance notes. The Economic Substance Law is responsive to the global Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting standards regarding geographically mobile activities.

The Economic Substance Law introduces certain reporting and economic substance requirements for relevant entities conducting relevant activities. Such entities will be required to report certain information on their relevant activities on an annual basis to the Cayman Islands Tax Information Authority, the first such annual report being due no later than 12 months after the last day of the relevant entity's financial year commencing on or after 1 January 2019.

Relevant entities that do not conduct a relevant activity will have to make a simple notification to confirm whether or not they conduct a relevant activity (this straightforward notification is expected to be made online, via a dedicated portal, the first notification being made around September 2020).

For a relevant entity formed on or after 1 January 2019 that will conduct a relevant activity, the economic substance requirements will apply from the date that the relevant entity commences the relevant activity. For relevant entities conducting relevant activities that were in existence before 1 January 2019, the economic substance requirements will apply from 1 July 2019.

A relevant entity is an entity that is not an entity that is an investment fund, an entity that is a domestic company and an entity that is tax-resident outside of the Cayman Islands.

The terms investment fund and domestic company are defined in the Schedule to the Economic Substance Law, and guidance notes provide some practical guidance as to the meaning of tax resident.

Entities without separate legal personality (such as certain forms of partnership or trust) are not within the classification of a relevant entity.

The Economic Substance Law applies economic substance requirements to the following categories of geographically mobile relevant activities previously identified by the OECD (and adopted by the European Union):

*a* banking;
*b* insurance;
*c* shipping;
*d* fund management;



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*e* financing and leasing;
*f* headquarters;
*g* distribution and service centres;
*h* holding companies; and
*i* intellectual property.

Where a relevant entity conducts a relevant activity, the economic substance test will apply. Where a relevant entity conducts more than one relevant activity, the economic substance test will need to be satisfied in respect of each relevant activity conducted.

### ii Merger regime and dissenting rights

The statutory merger regime contained in Part XVI of the Companies Law remains a popular tool for facilitating mergers involving Cayman Islands companies. Under this regime, two or more companies may merge, with their property and liabilities vesting in one of them as the surviving company.

Similar to other jurisdictions with equivalent regimes, the Companies Law provides for a right of dissenting shareholders to object to a merger and be paid a payment of the fair value of their shares upon their dissenting to the merger if they follow a statutory procedure. If the dissenting shareholders and the relevant company are unable to agree in accordance with the statutory procedure, the Grand Court of the Cayman Islands is required to determine the fair value of the shares, and a fair rate of interest, if any, to be paid by the company upon the amount determined to be the fair value.

These rights of a dissenting shareholder are not available in certain circumstances, such as:

*a* to dissenters holding shares of any class in respect of which an open market exists on a recognised stock exchange or recognised inter-dealer quotation system at the relevant date; and
*b* where the consideration for such shares to be contributed are shares of the surviving or consolidated company (or depositary receipts in respect thereof), are shares of any other company (or depositary receipts in respect thereof) that is listed on a national securities exchange or designated as a national market system security on a recognised inter-dealer quotation system, or are held of record by more than 2,000 holders.

Although the period between 2015 and 2017 saw a significant increase in the volume of dissent actions in the Cayman Islands, with 16 separate petitions having been filed between the beginning of 2016 and the beginning of 2018, recently the number of such filings has reduced. The increase in actions appeared to be driven, at least in part, by arbitrage investors, purchasing positions in companies particularly with a view to exercising dissent rights. Such actions now appear less common, however, in light of recent rulings both in the Cayman Islands (including those described below) and elsewhere (particularly in Delaware). It remains to be seen whether this level of dissenter activity leads to a re-emergence of schemes of arrangement, being the way in which most takeovers and take-privates were structured in the Cayman Islands prior to the introduction of the merger regime. Although schemes of arrangement involve court supervision, higher requisite majorities and generally higher deal costs, they do not involve dissenter rights or any other cash out or fair value option.

In 2019, the Grand Court ruled on only the third merger fair value appraisal that has gone to trial in the Cayman Islands. The decision in *Re Qunar Cayman Islands Limited*



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advances the case law on the Cayman Islands merger regime following the 2017 decision in *Re Shanda Games Limited* and the 2015 decision in *Re Integra Group*.[4] These decisions of the Court set out important guidance as to how, if a shareholder has dissented to a statutory merger, the fair value of the dissenter's shares will be determined. The following guidance can be taken from the Court's decisions:

*a* Fair value is the value to the shareholder of his or her proportionate share of the business as a going concern: it is a value that is just and equitable, and provides adequate compensation consistent with the requirements of justice and equity. Fair value does not include any premium for the forcible taking of shares. In determining fair value, neither the upside nor downside of the transaction being dissented from should be taken into account (e.g., any costs savings obtained by a company going private).

*b* Assessing fair value is a fact-based exercise that requires an important element of judgment by the court.

*c* If a company's shares are listed on a major stock exchange, this does not mean that a valuation methodology based upon its publicly traded prices is necessarily the most reliable. Whether this valuation methodology is appropriate will depend on whether there is a well-informed and liquid market with a large, widely held free float (as there was in *Qunar*, but notably not in *Shanda* or *Integra*).

*d* The date for determining fair value was the date on which the shareholders approved the transaction: this was the date on which the offer could be accepted. Importantly, the Court concluded that dissenting shareholders could not take advantage of the cost savings going forward as a result of the merger. The Court's view was that dissenting shareholders should not benefit from any enhancement in the value of their shareholding attributable directly to the transaction from which they have dissented.

Interestingly, in reaching its decisions in *Integra* and *Shanda*, the Court took into account guidance concerning similar statutory merger processes that exist in the state of Delaware and in Canada. In view of the litigious nature of United States M&A, there is a significant volume of case law on this topic in Delaware. We believe this may be the first time the Grand Court has specifically considered Delaware precedent. Both *Integra* and *Shanda* had followed Delaware and Canadian authority on this point, holding that in a fair value appraisal the dissenters' shares were to be valued as a proportion of the value of the whole company, not as a block of shares offered for sale, such that there was no applicable 'minority discount'.

The decision in *Shanda* was the subject of an appeal. Although the Court of Appeal affirmed most of the conclusions below, significantly it reversed the Grand Court's position on minority discount. The Court of Appeal took a different view, and followed what it considered to be the public policy reflected in English case law, to the effect that 'it was not unfair to offer a minority shareholder the value of what he possesses, i.e., a minority shareholding. The element of control is not one which ought to have been taken into account as an additional item of value in the offer of these shares'. The Court of Appeal held that Section 238 of the Companies Law requires fair value to be attributed to what the dissenters actually possess: if it is a minority shareholding, it is to be valued as such, and if the shares are subject to particular rights or liabilities or restrictions, the shares are to be valued as subject to those rights or liabilities. This question of minority discount is the subject of a further appeal to the Privy Council. Interestingly, in *Qunar*, the Court, while following the approach

4 Maples and Calder acted for the successful dissenting shareholders in both *Shanda* and *Integra*.



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of the Court of Appeal in *Shanda*, considered that the applicable majority discount was nil, given Qunar's securities were highly liquid, and there was no risk on minority disadvantage regarding management control or payment of dividends.

As a separate point, a series of decisions culminating in a Court of Appeal ruling in *Qunar* affirmed that the Court has jurisdiction to make an interim payment order after a dissent petition is filed but before the trial, meaning that a dissenting shareholder may be entitled to receive an interim payment effectively at the outset of the proceedings. In many cases this has equalled the merger consideration, on the basis that the company has admitted that this reflects fair value (albeit this does not necessarily follow). However, the question of what the Court should and should not take into account when being asked to exercise this discretion has not been fully tested, and remains the subject of debate.

In a separate decision in *Re Qunar*, reversing earlier Grand Court decisions, the Court of Appeal affirmed the availability of documentary discovery from dissenters, both as to their own valuation analysis and as to their trading history in the company's shares.

### iii LLCs

In June 2016, the LLC Law came into force creating a new Cayman Islands vehicle: the LLC. This vehicle takes its inspiration, in part, from the Delaware LLC. Its flexible nature means that it is well-suited to a broad range of general corporate and commercial applications. The introduction of the LLC has further strengthened the Cayman Islands' position as the domicile of choice for offshore investment funds and corporate structuring vehicles.

An LLC is essentially a hybrid vehicle, combining certain characteristics of a Cayman Islands exempted company with those of a Cayman Islands exempted limited partnership. In developing the vehicle, certain Delaware concepts were taken into consideration and adapted, where appropriate, to mesh with Cayman Islands law and concepts. An LLC is a body corporate with separate legal personality, like a Cayman Islands exempted company, but without the constraint of having share capital.

Equivalent to the Delaware statute, the LLC Law provides a set of default rules as to how an LLC operates. However, the members of an LLC are free to legislate their own arrangements in the vehicle's LLC agreement (the constitutional document of the LLC), which is not publicly filed.

Generally, the liability of a member of an LLC is limited to the amount a member has contractually agreed to contribute to the LLC. There is a limited statutory clawback, which applies only if a member receives a distribution when the LLC is insolvent and the member has actual knowledge of the insolvency at the time the distribution is made.

There is great flexibility in how LLCs are managed. They may be governed by the members themselves or appointed managers who need not be members (such as a board of managers). Unless otherwise expressly specified in an LLC agreement, the default duty of care in managing an LLC is to act in good faith. This duty may be expanded or restricted, but not eliminated, by the express provisions of the LLC agreement. In an M&A context, we consider this feature may be of particular interest for management buyout investors who may wish to have the right to appoint a representative as a director or manager of that vehicle. In a traditional exempted company, any investor representative (in a company context, as a director) has a duty to act at all times in the best interests of the company when participating in company decisions: the representative cannot solely consider the interests of the investor



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that has appointed him or her (to do so would expose him or her to potential personal liability). Contrast this with an LLC, where the members have the freedom to contractually agree in the LLC agreement the duty of care that the managers of the LLC owe.

Although dependent on the required structuring for particular deals, the vehicle is commonly used in a broad range of corporate and commercial applications, including acquisition and joint venture structures, acting as corporate blockers and holding vehicles, as preference share issuing vehicles (in a venture capital financing arrangements), employee incentive vehicles and in structured finance transactions.

### iv Global transparency

Already recognised by the OECD, the International Monetary Fund (IMF) and other international bodies for its transparency and standards being consistent with those of other major developed countries, the Cayman Islands is acknowledged as a first-class jurisdiction for conducting international business. The government has also now implemented or confirmed a number of further transparency steps it is willing to take, including:

*a* the introduction in July 2017 of a beneficial ownership register regime, discussed further below;

*b* a willingness to commence discussions with those jurisdictions that are participating in the G5 initiative (for the exchange of beneficial ownership information with law enforcement agencies) on entering into bilateral agreements with the Cayman Islands, similar to the beneficial ownership regime now in place with the United Kingdom;

*c* the repeal of the Confidential Relationships (Preservation) Law and its replacement by the Confidential Information Disclosure Law, which offers more understanding of and definition with regard to the mechanisms in place for sharing confidential information with the appropriate authorities;

*d* acknowledging privacy as a basic human right, and introducing new data protection legislation (currently expected to come into force at the end of September 2019);

*e* abolishing bearer shares (completed in May 2016); and

*f* implementation in the Cayman Islands of the model legislation published pursuant to the OECD's Base Erosion and Profit Shifting Action 13 Report (Transfer Pricing Documentation and Country-by-Country Reporting), and as discussed above, the introduction of the Economic Substance Law.

These measures demonstrate the Cayman Islands' continued efforts to comply with and promote transparency through close collaboration and compliance with the relevant global regulatory bodies, tax authorities and law enforcement agencies in line with international standards, while simultaneously respecting the legitimate right to privacy of law-abiding clients.

The Cayman Islands has agreements to share tax information with authorities in more than 90 other countries, including the United States under the Foreign Account Tax Compliance Act, and is in the early adopter group for the Common Reporting Standard, the OECD's global tax information exchange standard.

In July 2017, the Cayman Islands introduced a new beneficial ownership register regime (BOR Regime). Exemptions mean that certain Cayman Islands companies and LLCs are not in scope of the regime. If a company or LLC is in scope, it must take reasonable steps



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to identify its beneficial owners and certain intermediate holding companies, and to maintain a beneficial ownership register at its registered office in the Cayman Islands with a licensed and regulated corporate service provider.

This register must generally record details of the individuals who ultimately own or control more than 25 per cent of the equity interests, voting rights or rights to appoint or remove a majority of the company directors, or LLC managers, together with details of certain intermediate holding companies through which such interests are held.

Corporate service providers must facilitate access to information extracted from the register through a centralised IT platform operated by a competent authority designated by the government. The information will not be held on a central register by either the government or the competent authority; nor will it be publicly accessible or searchable. Only Cayman Islands and UK authorities will have rights to request information, and then only as individual (and not automatic) requests. The information on the beneficial ownership register can already be requested by UK authorities under existing information exchange gateways, so in essence the new regime merely seeks to streamline the process to provide for quicker and more discrete search accessibility.

Legislation introduced at the end of 2017 now requires that Cayman Islands companies and LLCs that are exempt from the BOR Regime make a filing to that effect with their corporate services provider in the Cayman Islands.

## IV FOREIGN INVOLVEMENT IN M&A TRANSACTIONS

The vast majority of M&A activity involving Cayman Islands entities concerns foreign businesses and investors as a result of the offshore nature of the jurisdiction. These businesses and investors are based in a broad range of international jurisdictions.

A large number of M&A deals are still originating from the United States, while European deals continue to feature and Asian-related transactions continue to grow.

As at the end of 2016, according to statistics published by the United States Securities Exchange Commissions, there were 700 foreign companies (i.e., non-United States issuers) listed on the New York Stock Exchange and NASDAQ, of which 103 were Cayman Islands issuers, far ahead of any other traditional offshore jurisdiction. Only Canada had more companies traded on the main US public markets than the Cayman Islands.

The Asian growth can be evidenced by the popularity of the Cayman Islands exempted company as a listing vehicle in Asia: as at the end of 2018, 956 of the 1,926 companies listed on the Main Board of the Hong Kong Stock Exchange were Cayman Islands exempted companies.[5]

The Cayman Islands continues to be an attractive jurisdiction for the structuring of offshore transactions for a number of reasons, including:

*a* the speed with which vehicles can be established (usually within one business day), and without the need for any prior governmental approvals;

*b* the laws of the Cayman Islands are substantially based upon English common law and a number of key English statutes. This gives Cayman Islands law and the legal system a common origin with those of many of the jurisdictions of its users, including the United States;

5 HKEx Fact Book 2018.



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*c* the Cayman Islands has a modern and flexible statutory regime for companies, limited partnerships and LLCs;
*d* as described further below, the Cayman Islands has no direct taxes of any kind;
*e* the lack of exchange control restrictions or regulations; and
*f* there is no requirement that a Cayman Islands entity should have any local directors or officers. Nor is there any requirement for local service providers (except that for funds regulated under the Mutual Funds Law, where there is a requirement for their audited accounts to be signed off by a local firm of auditors). The appointment of local service providers, however, may assist entities with obligations under the Economic Substance Law to discharge those obligations

As discussed above, the Cayman Islands is recognised by the OECD, the IMF and other international bodies for its transparency and standards consistent with those of other major developed countries.

## V SIGNIFICANT TRANSACTIONS, KEY TRENDS AND HOT INDUSTRIES

The merger regime of Part XVI of the Companies Law continues to be a popular tool for facilitating mergers involving Cayman Islands companies, and we continue to see listed companies being the subject of take-private transactions led by private equity and management in addition to traditional strategic corporate acquisitions. The merger regime has also proven to be a popular mechanism for business combinations for special purchase acquisition vehicles.

Deals of note announced or closed during 2018 that involved Cayman Islands vehicles included:

*a* the US$6.7 billion acquisition of majority ownership of insurance claims and technology services firm Sedgwick by funds managed by The Carlyle Group Global;
*b* the US$2.7 billion acquisition of NASDAQ-listed Ocean Rig UDW Inc, an international contractor of offshore deepwater drilling services, by Transocean Ltd;
*c* the US$860 million acquisition of an oil and gas platform from Pampa Energía SA and Pluspetrol Resources Corporation by Vista Oil & Gas, SAB de CV;
*d* the acquisition of SI Group, a leading global developer and manufacturer of performance additives and intermediates, by SK Capital Partners, a private investment firm focused on the specialty materials, chemicals and pharmaceuticals sectors; and
*e* the US$232.5 million tender offer to Paragon Offshore Limited by international drilling contractor, Borr Drilling Limited.

## VI FINANCING OF M&A: MAIN SOURCES AND DEVELOPMENTS

As a leading jurisdiction for the establishment of private equity funds, it is perhaps unsurprising that a significant number of Cayman Islands M&A deals are also financed by private equity. Traditional sources also continue to be a key provider of finance for M&A involving Cayman Island entities, including in respect of a number of the deals listed above.



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## VII EMPLOYMENT LAW

A range of legislation and licensing requirements apply to companies seeking to carry on local business in the Cayman Islands and employ local personnel. In view of the nature of offshore business, the vast majority of Cayman entities do not have employees in the Cayman Islands, and these requirements are therefore often not relevant to Cayman Islands M&A deals.

Employment standards in the Cayman Islands are currently governed by the Labour Law (2011 Revision) (Labour Law), the Health Insurance Law (2018 Revision) and ancillary regulations (Health Law), the National Pensions Law (2012 Revision) (Pensions Law), and the Workmen's Compensation Law (1996 Revision) and ancillary regulations. These laws establish minimum employment standards, but do not preclude an employer from setting conditions that are above the minimum.

The Labour Law includes provisions dealing with probation periods, employment termination, public holiday pay, sick leave, compassionate leave, maternity leave, severance pay and unfair dismissal.

The Health Law requires that health insurance cover is provided to employees, and to their uninsured spouses and children. The Pensions Law requires an employer to provide a pension plan or to make a contribution to a pension plan through an approved pension provider for every employee who is between 18 and 60 years old (an employer is not required to provide a pension plan for non-Caymanian employees who have been working for a period of nine months or less).

## VIII TAX LAW

### i Cayman Islands taxation

The Cayman Islands has no direct taxes of any kind: no income, corporation, capital gains or withholding taxes, or death duties. Under the terms of the relevant legislation, it is possible for all types of Cayman vehicle – companies, unit trusts, limited partnerships and LLCs – to register with and apply to the government for a written undertaking that they will not be subject to various descriptions of direct taxation, for a minimum period, which in the case of a company is usually 20 years, and in the case of a unit trust, limited partnership and an LLC, 50 years.

Stamp duty may be payable in connection with the documentation executed in or thereafter brought within the jurisdiction of the Cayman Islands (perhaps for the purposes of enforcement). In most cases, this duty is of a relatively *de minimis* fixed amount except in limited circumstances, such as when security is being granted over property in the Cayman Islands.

### ii Automatic exchange of information legislation

The Cayman Islands has signed an inter-governmental agreement to improve international tax compliance and the exchange of information with the United States (US IGA). The Cayman Islands has also signed, with more than 90 other countries, a multilateral competent authority agreement to implement the OECD Standard for Automatic Exchange of Financial Account Information – Common Reporting Standard (CRS).



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Cayman Islands regulations have been issued to give effect to the US IGA and CRS. Cayman Islands financial institutions are required to comply with the registration, due diligence and reporting requirements of these regulations, except to the extent that they are able to rely on certain limited exemptions.

## IX COMPETITION LAW

There is no specific anticompetition legislation that is relevant to Cayman Islands M&A. Given the offshore nature of Cayman Islands M&A, competition law issues are usually a question of the relevant onshore jurisdictions where the underlying businesses that are the subject of the M&A are based.

## X OUTLOOK

In a recent Deloitte survey,[6] 76 per cent of corporate executives and 87 per cent of private equity investors – a significant source of deals for the Cayman Islands – expected the number of deals to increase in 2019. Based on the year to date, 2019 is shaping up to be another strong year for Cayman Islands M&A.

The existing legal framework of the Cayman Islands, together with the continued focus on being at the forefront of global compliance developments and the ability to deliver new legal initiatives (such as the new Cayman Islands LLC), will continue to ensure that the Cayman Islands remains the offshore jurisdiction of choice for global M&A transactions in future years.

6 Deloitte M&A Trends Report 2018.



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**Appendix 1**

# ABOUT THE AUTHORS

**SUZANNE CORREY**

*Maples Group*

Suzanne Correy is a member of the Maples Group's corporate and Latin American teams. She has extensive experience in all aspects of corporate work, including joint ventures, IPOs and M&A, and also advises on a wide variety of structured finance, capital markets and investment fund transactions. Suzanne maintains a strong focus on public company work, advising clients through all stages of their growth from start-up to IPO and beyond.

Through her Latin American practice, Suzanne advises clients both originating from and investing into the region. She has also advised telecommunications clients and hardware companies on Cayman Islands licensing and regulatory issues.

**DANIEL LEE**

*Maples Group*

Daniel Lee is a member of the Maples Group's corporate team. His experience includes advising on a broad range of corporate and commercial work, including private equity, IPOs, M&A and joint ventures. He also advises on all types of investment funds, and has extensive experience in finance and capital markets.

**MAPLES GROUP**

Ugland House
South Church Street
PO Box 309
Grand Cayman KY1-1104
Cayman Islands
Tel: +1 345 949 8066
Fax: +1 345 949 8080
suzanne.correy@maples.com
daniel.lee@maples.com
www.maples.com



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