

Asian Companies Continue to Seek Outbound Opportunities

Michael Gagie, the regional managing partner of Maples Group's law firms in Asia, shares his view on how offshore vehicles have grown in popularity with Asian clients and how the region as a whole is more outward looking.

"The days when our practice was largely comprised of clients based overseas, advising people on the other side of the world about how to come into, and to invest in Asia, has long gone," Gagie told Asia Business Law Journal. "There's still an aspect of that, but I think where we differentiate ourselves in the market is that a big part of our client base here are Asian clients who are outward-looking, and not just overseas clients looking into Asia."

Gagie said the firm has been busy assisting Asian corporates in pre-listing, listing (on international equity capital markets) and raising funds overseas, as well as assisting high-net-worth individuals setting up fund management businesses abroad. Historically, the Maples Group has been known among Asian clients for its Cayman Islands and British Virgin Islands (BVI) legal practices, but other jurisdictional offerings including Ireland, Jersey and Luxembourg and the Marshall Islands are starting to be recognised and to gain traction. Additionally, the Group's legal services offering is complemented by a suite of ancillary services that cater to international clients doing business in and from Hong Kong, Singapore, China and the wider Asia Pacific region, including incorporation, fiduciary, fund administration, accounting, tax and agency services, company secretarial and board support and directorship services to British Virgin Islands, Cayman Islands and, Hong Kong entities. The Group also provides trustee and trust administration services to British Virgin Islands, Cayman Islands and Hong Kong trusts.

"What we've been finding over the last couple of years is that there is increasing interest in the jurisdictions where we operate, particularly for businesses from Asia looking for exposure into, or access to investors, in Europe," he said.

Talking about its presence in the region, Gagie said the Maples Group has been present in Hong Kong for over 25 years before opening its Singapore office in 2012 and now has almost 360 lawyers and professional personnel based in the region. Both offices serve as the vanguard to identify the trends across the region and tap into all relevant markets.

For example, in Southeast Asia, Gagie said that there is a lot of investor interest in tech in countries including Indonesia due to the size of the country's population and the way in which people are increasingly utilising online financial and retail-related services. In the last five years, Gagie has also seen an increase in the popularity of Cayman vehicles, fueled by the growth of Chinese businesses establishing pre-IPO structures to list in Hong Kong and the US.

“A lot of tech companies are being funded by investors using Cayman vehicles and Cayman partnerships,” he said. “in turn those tech businesses are then looking for access to public capital markets using offshore vehicles for their listings.”

One of the reasons for this trend is the increased sophistication of offshore jurisdictions. Historically, a number of [Asian] businesses have used BVI companies purely as passive asset holding companies. Over time, there has been increasing use of those vehicles in a transactional context, taking advantage of the flexibility of the corporate legislation.

The trend has persisted throughout the pandemic. The investment vehicle to deploy capital to make investments is often a BVI company. One of its advantages lies in the ease with which the company can be funded (by investors) and the flexibility in making distributions afforded to BVI companies by virtue of the abolition of the concept of share capital and capital maintenance.

In a joint venture/closely held investment company context, the directors of a BVI company may act in the best interest of the shareholders who appoint them, as opposed to in the best interest of the company as a whole. This mechanism in the BVI companies regime allows the vehicle to more accurately reflect the commercial relationship between shareholders.

“Cayman has been the first choice for private equity and hedge fund structures and for public company work,” said Gagie. “I think the more sophisticated clients that we work with have both jurisdictions [Cayman and BVI] in their group structures.”

Gagie admitted that over his 15 years of practising in Asia, he has learned that navigating the market is a long term play with the region continually developing and each country within it posing its own different challenges and opportunities.

“As a business, you need to be able to have time on the ground, talk to people, raise your profile,” he said. “You’ve got to invest in the region, and then, ultimately, the region starts to give back to you.”

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