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BAKER BOTTS ADDS PRIVATE EQUITY PARTNER IN MOSCOW

MOSCOW, February 28, 2012 -- Melinda Rishkofski, who has represented private equity fund managers, international financial institutions and portfolio companies in Russia, Eastern Europe, the UK and the US, has joined Baker Botts L.L.P. as a partner in the firm's Moscow office.

Rishkofski's experience includes working with Russian and Eastern European privatization policies, policy advice and drafting laws for the new Russian economy, development of Russian corporate securities and regulatory structures. She also worked on regulatory and legislative matters with representatives for the U.S. and Russian governments.

"Melinda adds depth to our international transactional resources," said Baker Botts Managing Partner Walt Smith. "Her focus on the Russian market and her extensive private equity experience are significant additions to our client offerings."

Prior to joining Baker Botts, Rishkofski was general counsel for Russian-based Baring Vostok Capital Partners. As principal advisor, negotiator and transaction counsel, she provided legal support to financial institutions, multilateral development banks, private equity fund managers and Russian companies with respect to debt and equity financing transactions, mergers and acquisitions, restructurings, employee incentive programs, dispute resolution and general corporate matters.

In this role, Rishkofski has worked with and served more than 35 investee companies and the legal needs of private equity investment funds with more than $2 billion in capital and assets. She has also worked extensively with the International Finance Corporation (IFC), the European Bank for Reconstruction and Development (EBRD) and the Overseas Private Investment Corporation (OPIC) on secured credit and debt and equity financing transactions.

"Melinda's extensive knowledge of the private equity and funds sector in Russia and the CIS, a market sector where we expect to see significant increased activity in 2012, will provide our clients working in or entering into this sector an expertise not currently available from legal consultants in the region," said Steven Wardlaw, Partner in Charge of Baker Botts' Moscow office.

Rishkofski obtained a BS from the Pennsylvania State University in the U.S., a J.D. from the Dickinson School of Law (now part of the Pennsylvania State University), and an LL.M in International Business and Finance from the University of London, Kings College in the UK.

For more information visit www.bakerbotts.com

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Public International Law "Bilateral and Multilateral Investment Treaties"

Law Firm Management—"Key Drivers in Today's Challenging Times"

DAVIS WRIGHT TREMAINE APPOINTS SEATTLE MANAGING PARTNER

MARCH 12, 2012 – Robert Blackstone, who has counseled some of the Northwest's leading businesses on employment and labor matters, has been named partner-in-charge (PIC) of Davis Wright Tremaine's Seattle office, the firm's largest.

Blackstone succeeds Susan Duffy, who, after six years as PIC, is returning to her health care-focused corporate governance, business planning, and regulatory practice.

"Thanks to Susan's leadership, our Seattle office is well positioned for continued growth," said Blackstone. "We plan to continue to play a key role in the Seattle area's dynamic, entrepreneurial economy, and to keep this firm a destination of choice for the best lawyers and clients in the region. I will also be maintaining our commitment—in collaboration with our clients—to innovation in the delivery of legal services."

"Bob is the ideal person to build on Susan Duffy's achievements," said DWT's managing partner, Dave Baca. "He commands enormous respect among our attorneys for his judgment and integrity, and for his determination to provide first-rate service to clients."

Blackstone will continue his employment and labor practice. He has been consistently recognized as a leading attorney in the field by Chambers USA, Best Lawyers, and Super Lawyers.

Among the important firm successes under Duffy's leadership were the recruitment of nearly two dozen attorneys from the firm of Heller Ehrman, the acquisition of several other important lateral partners, the firm being named a Microsoft Premier Preferred Provider, and the office's move of about 300 people from Century Square in downtown Seattle to the 1201 Third Avenue building.

Blackstone graduated with honors from Amherst College and received his J.D. from the Columbia University School of Law. He has been flying planes since he was a teenager and currently serves on the executive committee of the board of trustees at the Museum of Flight in Seattle.

For more information, visit www.dwt.com

FRASER MILNER CASGRAIN ADDS MARITIME STRATEGIC ADVISOR

Fraser Milner Casgrain LLP (FMC) is pleased to welcome Jean Mongeau, a prominent Canadian maritime law expert who was most recently the Vice-President, Legal Affairs, and Secretary for the Montreal Port Authority. Jean joins the Corporate & Commercial Group as strategic advisor in the firm's Montreal office.

"We are thrilled to have Jean join our team," says Claude Morency, Managing Partner of FMC's Montreal office. "He is a well-known jurist with extensive experience in matters of national and international importance and his knowledge will greatly benefit our clients. Jean has an excellent reputation in the business community and will expand the service offering of our Corporate & Commercial Group thanks to his expertise in the field of freight transport and maritime law."

Jean has more than 33 years of experience, of which 27 were with the Montreal Port Authority, where he successively held the positions of Assistant Secretary, Corporate Secretary and Vice-President, Legal Affairs, and Secretary. Over the years, he has been involved in many major files. He is most notably a key architect of the Canada Marine Act, which was enacted in 1998 under the principle of making the system of Canadian ports competitive, efficient and commercially oriented.

In May 2003, Jean was elected as senior legal adviser for the International Association of Ports and Harbors (IAPH) and as such, he initiated a full revision of the IAPH's regulations. The IAPH is an international organization whose principle objective is to develop and foster good relations and cooperation among all ports and harbors in the world.

Jean has long been active in his community. He is a member of the board of directors of the Fondation Yvon Lamarre and
outgoing-president of the Horse Trials Canada – Quebec.

For additional information visit www.fmc-law.com

HOGAN LOVELLS RECRUITS BRI TEAM IN ROME

Rome, 9 March 2012 - Hogan Lovells has recruited business restructuring partner, Ernesto Apuzzo, and a team of three lawyers. The team joined Hogan Lovells in March 2012. They join from DLA Piper in Rome, where Ernesto headed the firm's Italian restructuring practice.

Ernesto is an experienced restructuring lawyer with a focus on finance driven restructurings for banks. In recent deals Ernesto has advised Unicredit, Intesa San Paolo and Monte dei Paschi di Siena in a number of debt restructurings, as well as notable Italian companies in corporate and financial turnarounds. Prior to DLA Piper, Ernesto was a partner at Simmons & Simmons. He joins Hogan Lovells with associates Alessandra Dima and Francesco Gallo as well as trainee, Michela Palombi.

Stephen Foster, global head of Hogan Lovells' BRI practice said:

"We are delighted that Ernesto and his team have decided to join us. The Eurozone crisis requires more bank balance sheet deleveraging for those financial institutions with exposure in Italy. As such, there is great demand for lawyers with Ernesto's track record and market reputation."

Ernesto Apuzzo said:

"Hogan Lovells' global platform and the support of the cross border restructuring practice will give me enormous opportunities to spread and fortify my client base. These are incredibly interesting times in the restructuring market, particularly for banks and financial institutions, so I am pleased to be joining such a successful team at this time."

For additional information visit www.hoganlovells.com

KING & WOOD ADDS IP SPECIALIST IN BEIJING

Dr. Ren Yunling, a highly experienced attorney in the field of intellectual property joined King & Wood as a partner of the IP Litigation group in Beijing. Dr. Ren is uniquely skilled in handling cross-boarder patents, trademarks, copyrights, trade secrets, unfair competition, patent litigation, and technology transfer, with a focus in the area of biotechnology, chemical and pharmaceuticals. She advises domestic and international clients on IP litigation, patent and trademark prosecution, IP strategic planning, licensing and other IP transactional matters.

Dr. Ren graduated from New York Law School with a J.D. degree in 1996, and from City University of New York (CUNY) with a Ph.D. in Biochemistry in 1991. She also has a masters degree in Biochemistry from China Agricultural University and a bachelors degree in Biology from the Capital Teacher's University. Prior to joining King & Wood, Dr. Ren was a senior patent counsel to Johnson & Johnson, a multinational pharmaceutical company. Additionally, she practiced IP law for more than a decade in New York City.

King & Wood Managing Partner Wang Ling commented: "In recent years King & Wood has successfully developed and enhanced its IP litigation practice, earning the highest recognition from the market and from clients. King & Wood will spare no effort to develop the IP litigation practice. Dr. Ren Yunling has a wealth of experience in IP litigation, and her addition will further enhance the strength of King & Wood in this field, and promote the development and professional direction of the business."

For additional information visit www.kingandwood.com

MCKENNA LONG & ALDRIDGE LLP COMPLETES MERGER WITH LUCE FORWARD HAMILTON & SCRIPPS LLP

SAN DIEGO, CA (March 6, 2012) — McKenna Long & Aldridge LLP announced today that it has completed its merger with California-based Luce Forward, Hamilton & Scripps LLP (Luce Forward). The combined firm will continue to be known as McKenna Long & Aldridge LLP (MLA), and building on the Luce Forward legacy, will have more than 575 attorneys and public policy advisors in 13 offices and 11 markets.

"Our merger is about creating more value for our clients through an expanded network of attorneys and public policy advisers whose experience and expertise are exponentially more powerful when working together," said MLA Chairman Jeff Haidet. "Our complementary cultures and commitment to public service strengthen our ties to each other and to our communities. Furthermore, our thought leadership and ability to leverage economies of scale enable us to deliver innovative opportunities and solutions for our clients."

The combination of legal and public policy capabilities creates a firm that ranks among the top 70 largest law firms in the U.S. The firm has expanded legal capabilities in California and nationally, in real estate, litigation, corporate, family wealth, environmental, and employment practices. In addition, the integrated firm solidified its foothold as the top insurance practice in the U.S., representing some of the largest insurance carriers on the West and East coasts.

In California, MLA is now expected to rank among the 20 largest law firms, and the firm's real estate practice, which is one of the oldest and most recognized in the state, will rank among the top three largest practices on the West Coast.

"Our focus for the past 138 years has always been to provide our clients with the highest level of service and legal experience," said Luce Forward Managing Partner Kurt Kicklighter, now Executive Partner at MLA for California. "In combining with McKenna Long & Aldridge, we are able to build on the Luce Forward legacy and provide our clients with legal and business solutions across multiple legal specialties and on a national platform."

The combined firm has extraordinary depth and breadth of legal and public policy talent, along with a significant focus on community service. Through pro bono legal services, community service efforts, and the MLA Foundation, the combined firm supports over 230 charitable organizations each year.

About McKenna Long & Aldridge LLP

McKenna Long & Aldridge LLP (MLA) is an international law firm with more than 575 attorneys and public policy advisors in 13 offices and 11 markets. The firm is uniquely positioned at the intersection of law, business and government, representing clients in the areas of complex litigation, corporate, energy, environment, family wealth, finance, government contracts, health care, infrastructure, insurance, intellectual property, public policy, real estate, and technology.

For more information on MLA and to view the firm's new website, go to www.mckennalong.com.

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SIMPSON GRIERSON ADDS BANKING & FINANCE PARTNER

Simpson Grierson is pleased to welcome back senior associate Josh Cairns to its transactional banking and finance group in Wellington. Josh returns after five years in London where he was an associate in the banking team at Norton Rose LLP.

He advises banks, borrowers, arrangers and trustees on a broad range of banking and finance transactions and has particular expertise in leveraged finance, property finance and secured transactions.

For additional information visit www.simpsongrierson.com

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TOZZINI FREIRE APPOINTS THREE TO PARTNERSHIP

TozziniFreire Advogados has the pleasure to announce that **Jun Makuta, Bianca Bilton Signorini Antacli** and **Elysangela de Oliveira Rabelo Zorzo** have become partners of the firm.

Jun Makuta is one of the coordinators of the Japan Practice group and a member of the Corporate/M&A and Project Finance practice groups. He graduated from the Law School of Universidade de São Paulo and specialized in Contracts from Centro de Extensão Universitária, in Economy and Corporate Law from Fundação Getulio Vargas and in Business Management from Business School São Paulo.

Bianca Bilton Signorini Antacli is a member of the Environment practice group. She graduated from the Law School of Pontifícia Universidade Católica de São Paulo and has a LL.M. in Environmental Law from the same institution. She is also specialized in Business Management from Business School São Paulo and has university extension in Environmental Law from Faculdades Metropolitanas Unidas.

Elysangela de Oliveira Rabelo Zorzo is a member of the Corporate/M&A practice group and one of the coordinators of the Life Sciences practice group. She graduated from the Law School of Universidade São Judas Tadeu and is specialized in Corporate Law from Fundação Getulio Vargas. She also has university extension in Law of Business Enterprises from Harvard University, and specialization in Biotechnology in the fields of Food, Environment and Medicine from Faculdades Oswaldo Cruz.

For additional information visit www.tozzinifreire.com.br

BAKER BOTTS

ADVISES ACORN MEDIA ON ACQUISITION OF MAJORITY STAKE IN AGATHA CHRISTIE'S LITERARY ESTATE

LONDON, March 8, 2012 -- Acorn Media Group, a leading independent media company, has acquired a 64 percent stake in UK company Agatha Christie Limited from Chorion.

Baker Botts' London office advised Acorn Media Group on the acquisition following the arrival of Neil Foster and Tim Davison in November as part of the firm's growth plans in London. Foster and Davison had previously advised Acorn on its acquisition of Foyle's War at their previous firm, where Foster was head of private equity.

This milestone acquisition gives Acorn Media majority ownership of Christie's extensive works including more than 80 novels and short story collections, 19 plays, a film library of nearly 40 TV films, and iconic characters Hercule Poirot and Miss Marple, among many others. The Agatha Christie family retains its 36 percent holding and Mathew Prichard, Agatha Christie's grandson, remains Chairman of Agatha Christie Limited.

Miguel Penella, CEO of Acorn Media said, "This development, along with our purchase of Foyle's War in 2010 and last year's launch of Acorn TV, the first British TV-focused streaming service, signal the new prominence of Acorn Media Group as the most forward looking distributor of British television in North America. We see this acquisition as a key step in the company's continued evolution into content ownership and television production, and look forward to working with Mathew and James Pritchard and the Agatha Christie family for years to come."

Mathew Pritchard, Chairman of Agatha Christie Limited, added, "My family and I are delighted to be forming a new partnership with Acorn Media, which I am sure will continue the successful history of the company, and produce much more Agatha Christie material for fans everywhere, particularly in the U.S. I remain grateful to my colleagues at Chorion for nearly 13 years of fruitful partnership."

Acorn Media Group Chairman Peter Edwards added, "This is a momentous occasion for Acorn Media and a gratifying one for me personally. While we are keenly aware of the financial and strategic worth of this transaction for Acorn Media, we are also grateful to partner with the Agatha Christie family."

Agatha Christie wrote the biggest selling mystery novel of all time, And Then There Were None, as well as Murder on the Orient Express and Death on the Nile. With HarperCollins and other international publishing partners, Christie sells more than 3 million books per year worldwide. Her most famous characters include Hercule Poirot and Miss Marple, as well as Tommy and Tuppence, Parker Pyne, and Ariadne Oliver. Chorion originally purchased its majority stake in Agatha Christie's literary estate in June 1998.

For additional information visit www.bakerbotts.com

CLAYTON UTZ

ADVISES EXTRACT RESOURCES LIMITED ON $2.8B TAKEOVER

Perth, 2 March 2012: Clayton Utz is advising ASX/TSX/NSX listed Extract Resources Limited (Extract) in connection with the $2.2 billion recommended unconditional cash offer by Taurus Mineral Limited, an entity owned by Chinese state-owned CGNPC Uranium Resources Co. and the China-Africa Development Fund.

The offer, which opened yesterday, follows Taurus' successful £632 million takeover bid for AIM-listed Kalahari Minerals plc, a 42.74% shareholder in Extract.

The offer, which is scheduled to close at 7pm (AEDST) on 2 April 2012, has been unanimously recommended by Extract's independent directors, in the absence of a superior proposal.

Clayton Utz Perth Corporate partner Mark Paganin led the Clayton Utz team, which included Perth Corporate partner Matthew Johnson, senior associates James Clyne and Andrew Hart, and lawyer Elizabeth Maynard.

Extract is an international uranium exploration and development company whose primary focus is in Namibia. The company's principal asset is the Husab Uranium Project, which contains the third-largest uranium-only deposit in the world.

For more information visit us at www.claytonutz.com

FRASER MILNER CASGRAINT

EPCOR UTILITIES COMPLETES SECONDARY OFFERING OF COMMON SHARES OF CAPITAL POWER

On November 10, 2011, EPCOR completed its sale of 9,200,000 common shares of Capital Power at an offering price of $24.40 per common share for aggregate gross proceeds to EPCOR of $224,480,000. The aggregate offering was comprised of an offering of 8,200,000 common shares at $24.40 per share together with the underwriters' exercise of an over-allotment option for the sale of an additional 1,000,000 common shares at $24.40 per share. The underwriting syndicate for the offering was co-led by CIBC World Markets Inc. and RBC Capital Markets.

EPCOR's wholly owned subsidiaries build, own and operate electrical transmission and distribution networks, water and wastewater treatment facilities and infrastructure in Canada and the US. EPCOR is headquartered in Edmonton, Alberta.

Capital Power is a growth-oriented North American power producer, also headquartered in Edmonton, Alberta. The company develops, acquires, operates and optimizes power generation from a variety of energy sources. Capital Power owns more than 3,300 megawatts of power generation capacity at 16 facilities across North America. An additional 487 megawatts of owned wind generation capacity is under construction or in advanced development in British Columbia, Alberta and Ontario.

Capital Power was represented by its in-house legal team of Patricia Leeson and Bruce McPherson, and by Fraser Milner Casgrain LLP, with a team that included Bill Gilliland, Toby Allan and Keith Inman (securities) and Anne Calverley, Q.C. (tax).

For additional information visit www.fmc-law.com

GIDE LOYRETTE CASABLANCA

INTERNATIONAL FINANCE CORPORATION AND ALAC FUND ON €90 MILLION EQUITY INVESTMENT IN SAHAM FINANCES

6 February 2012 - Gide Loyrette Nouel Casablanca advises the International Finance Corporation and the ALAC Fund on a EUR 90 million equity investment in Saham Finances

The Casablanca office of international law firm Gide Loyrette Nouel advised the International Finance Corporation ("IFC", World Bank Group) and the IFC African, Latin American and Caribbean Fund, LP ("ALAC") on their EUR 90 million equity investment (the "Investment") in Saham Finances, an insurance holding company of the Saham Group, with operations in Morocco (through its majority owned subsidiaries CNIA SAADA and Isaaf), and Sub-Saharan Africa (through its wholly-owned subsidiary Colina).

CNIA SAADA (listed on the Casablanca stock exchange) is the third largest insurance company in Morocco in terms of premiums, offering life and non-life insurance products, and Isaaf Mondial Assistance is one of the largest "assistance" company (vehicle, medical and travel assistance) in Morocco. Colina, acquired by the Saham Group in 2010, is one of the largest insurance groups in the West and Central African region in terms of premiums, offering life and non-life insurance products in Cote d'Ivoire, Senegal, Cameroon, Togo, Benin, Gabon, Mali, Burkina Faso, Ghana and Madagascar.

The Investment, which was carried out by way of a subscription by IFC and ALAC to approximately 23% of the share capital of Saham Finances (by way of a share capital increase), is intended to support Saham Finances in its expansion strategy for Colina in Sub-Saharan Africa.

IFC and ALAC were advised by Gide Loyrette Nouel Casablanca, with Julien David (partner), Simon Auquier and Romain Berthon (senior associates).

For additional information visit www.gide.com

HOGAN LOVELLS ADVISES SBERBANK OF RUSSIA ON US$2 BILLION TERM LOAN FACILITY TO ENRC

Moscow, 05 March 2012 - Hogan Lovells advised Sberbank of Russia, the largest credit institution in Russia and the CIS, as arranger of a US$2 billion term loan facility to Eurasian Natural Resources Corporation PLC (ENRC), a FTSE 100 company headquartered in London, United Kingdom.

The loan proceeds will provide additional liquidity to ENRC and will allow for the financing of its recent acquisitions and CAPEX programme. The facility has a five-year term with amortisation commencing after 24 months.

ENRC is a leading global diversified natural resources group, with integrated mining, processing, energy, logistics and marketing operations and is also one of the world's largest ferrochrome producers. The production assets of ENRC are largely located in Kazakhstan, its other assets are mainly located in Africa and it also has iron ore assets in Brazil. ENRC currently sells the majority of its products to Russia, China, Japan, Europe and the United States.

The Hogan Lovells team advising Sberbank was led by Alexander Rymko (partner, banking, Moscow) and Andrew Gamble (partner, banking, London), assisted by Salam Bassili (of counsel, banking, London), Ioli Tassopoulou (associate, banking, London) and Artyom Vazhenin (associate, banking, Moscow).

Commenting on the transaction Alexander Rymko said:

"We are pleased to have had the opportunity to represent Sberbank on this important transaction, which so far tops the list of major corporate loan financings in 2012 and illustrates Sberbank's expertise in arranging major international financings. The transaction further strengthens our relationship with Sberbank and is a great result of the Hogan Lovells international banking team's efforts."

For more information, visit www.hoganlovells.com

KING & WOOD

NEW CHINA LIFE INSURANCE COMPLETES DUAL IPO

On December 15 and December 16, 2011, New China Life Insurance Co. completed a dual IPO in Hong Kong and Shanghai. In Hong Kong the company issued 361 million H-shares (after exercise of over-allotment option) raising HKD 10.3 billion, and in Shanghai the company issued 158.54 million A shares, raising RMB 3.69 billion.

New China Life Insurance is one of the largest life insurance companies in China, its main business lines include RMB and foreign currency denominated life insurance, insurance agencies, and fund management, with total assets exceeding RMB 300 billion.

This IPO was one of the most closely watched and well received IPOs of 2011. China Life Insurance is the first Chinese domestic life insurance company to complete a dual A+H share listing, and also China's fourth largest life insurer based on premiums.

King & Wood served as PRC legal adviser to the sponsors. Yang Xiaolei and Su Zheng were lead partners on this project.

For additional information visit www.kingandwood.com

NAUTADUTILH

ASSISTS NATIXIS WITH INNOVATIVE SECURITISATION TRANSACTION OF NON-CONFORMING MORTGAGE PORTFOLIO

12 March 2012 - NautaDutilh's Amsterdam and Luxembourg offices have assisted Natixis with the restructuring of a euro 178.6 million RMBS transaction of Principal Residential Investment Mortgages 1 S.A.(PRIM 1).

The senior notes have been placed with external investors and are rated AAA by S&P and Fitch. The transaction is backed by a Dutch portfolio non-conforming residential mortgage receivables originated by Sparck and KU88 (previously named Quion 88). Sparck and KU88 were non-conforming mortgage lenders in the Netherlands and ceased originating end 2008.

Natixis was assisted by a NautaDutilh team led by Arjan Scheltema and Liza Gerritsen, which were assisted by Josée Weydert, Arianne Mehrshahi, Nico Blom, Helene Piet and Andreas Oomen.

For additional information visit www.nautadutilh.com

TOZZINI FREIRE

ACTS FOR PRINCIPAL FINANCIAL GROUP ACQUISITION OF 60% INDIRECT OWNERSHIP OF CLARITAS

Acquisition of 60 percent indirect ownership of Claritas Administração de Recursos Ltda. / Claritas Investments, Ltd. (Claritas) by Principal Financial Group. Price is not being disclosed. The transaction is still pending (closing of transaction is expected to take place in one month).

This announcement is part of The Principal's overall plan to deploy $800 to $900 million of capital in 2012 and is in addition to the $154 million planned for the share repurchase and quarterly common stock dividend previously announced.

Partner Marcio Mello Silva Baptista and associate Daniel José de Oliveira Garrone acted for Principal Financial Group in the transaction.

About Principal Financial Group The Principal Financial Group is a global investment management leader including retirement services, insurance solutions and asset management.

About Claritas Claritas is a leading Brazilian mutual fund and asset management company.

For more information visit www.tozzinifreire.com.br

RODYK

ACTS FOR CCT IN S$430 MILLION ACQUISITION OF FIRSTOFFICE

Rodyk acts for CCT in its S$430 million acquisition of FirstOffice, an SPV which holds Twenty Anson. Corporate partner Valerie Ong led the transaction with real estate partner Leong Pat Lynn, supported by real estate partner Tan Shijie, senior associate Claire Wu, corporate associates Alex Tan and Glenda Lee, and finance associate Wong Cui Lian.

For additional information visit www.rodyk.com

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"Key Drivers in Today's Challenging Times"

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WILSON SONSINI

ORACLE TO ACQUIRE TALEO CORPORATION FOR FOR $1.9 BILLION

On February 9, 2012, Oracle announced that it has entered into an agreement to acquire Taleo Corporation, a leading provider of cloud-based talent management, for $46.00 per share, or approximately $1.9 billion. Wilson Sonsini Goodrich & Rosati advised Taleo in connection with the transaction.

Together, Oracle and Taleo expect to create a comprehensive cloud offering for organizations to manage their human resource operations and employee careers. Taleo's board of directors has unanimously approved the transaction, which is expected to close in mid-2012, subject to Taleo stockholder approval, certain regulatory approvals, and other customary closing conditions.

For more information, please visit us at www.wsgr.com

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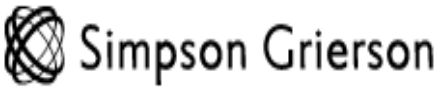
Gide Loyrette Nouel



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Send to editor@prac.org.
Deadline is 10th of each month.

CLAYTON UTZ

Clayton Utz Insights

01 March 2012

Carbon pricing - what does it mean for the property sector?

By Crystal Eggleton and Peter McMahon.

Key Points:

The property sector will be particularly affected by the flow-on effects of the carbon price.

From 1 July 2012, around 500 of Australia's largest emitters will need to pay for their greenhouse gas emissions under the Clean Energy Act 2011. The property sector is unlikely to see any significant direct liability under the Clean Energy Act 2011 because very few, if any, businesses in the property sector are likely to be classified as large emitters. However, the property sector will be particularly affected by the flow-on effects of the carbon price, largely because the property sector accounts for a large amount of the final energy use in Australia.

The property sector will be impacted in two key ways – increased construction costs and a potential impact on profit for building owners.

It is generally recognised that construction costs will rise following the introduction of the carbon price mechanism next year, although there is uncertainty in the market as to how much construction costs will actually rise. However, the property sector consumes a lot of electricity, steel, aluminium, concrete and glass – items that are expected to see sharp price rises as the big emitters liable to pay the "carbon tax" increase their prices to recoup their costs.

I'm not emissions-intensive, so why should I care?

Although operating a commercial building is not sufficiently emissions-intensive to trigger an obligation for building owners to purchase carbon permits under the Clean Energy Act, the carbon price mechanism can still have a significant impact on building owners, particularly for owners of buildings with gross leases where the ability to pass through the costs increases under the lease arrangements is restricted.

For buildings with "gross leases" in place (ie. a lease where the rent is inclusive of outgoings), the building owner will be responsible for costs increases whereas if the rent is not inclusive of outgoings (a "net lease"), the building owners will be able to pass through the increased costs and the tenants will have to bear these costs.

Accordingly, owners and managers should review their existing leases to determine their current liability and, if necessary, commence action to improve their ability to pass through costs by revising contractual provisions to the extent possible. Acting early may prevent responsibility for future cost increases. It may be that the lease provisions permit changes to the lease arising from changes in law. Alternatively, special legislative provisions such as retail leases legislation may prohibit such changes.

What should building owners do before entering a new lease?

Before entering into new leases, building owners should consider:

- if a "gross lease" is proposed, whether the margins are sufficient to cover the increased costs;
- the way in which rent reviews will be impacted by the carbon price mechanism, for example, whether fixed increases will be sufficient to offset rising costs or the possibility that market rents are likely to increase more for energy efficient building than non-energy efficient buildings;
- whether the new lease contains obligations on the tenant to adopt energy efficient and waste management measures to control carbon costs by reducing energy use; and
- whether the lease allows for increased costs recovery by:
- deeming carbon permit costs and the costs of any abatement activities undertaken by building owners as recoverable outgoings (it is arguable that theses costs are capital or non-recurring expenses and therefore generally not recoverable); and
- including a properly drafted outgoings recovery clause.

What should tenants do before entering a new lease?

Conversely, tenants should also consider the following matters before entering into new leases:

- in the case of CPI-related rent increases, whether the lease addresses an expected carbon price-related inflation spike in CPI;
- whether the new lease contains obligations on the landlord to adopt energy efficient and waste management measures to control carbon costs by reducing energy use; and
- in the case of a "semi-gross lease", whether it is appropriate to include a cap on the increases in outgoings in line with the rent review.

With careful monitoring of the above issues, the property sector can manage the flow-on effects of the carbon price mechanism.

You might also be interested in ...

- Clean Energy Future's impact on industry: Sector-by-sector
- Carbon not the only price - businesses to pay on wrong price claims
- Building energy efficiency disclosure laws about to ramp up

TOZZINIFREIRE
ADVOGADOS

News

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LATEST ISSUES

Tax

INCREASE IN IOF/FX ON LOANS TO BRAZILIAN COMPANIES

The Decree no. 7,683/2012, published on March 1st, 2012, raises the rate of the Tax on Foreign Exchange ("IOF/FX") from 0% to 6% on any loans with maturity of 3 years or less. For loans with maturity longer than 3 years, IOF/FX is still reduced to zero. Before such a Decree, this 6% rate used to be applicable for loans with maturity of 2 years or less. In addition, such a Decree expressly reduced to zero the IOF/FX applicable to Brazilian Depositary Receipts ("BDR") transactions.

Please note that, this 6% taxation occurs in the inflow of funds, and if the taxpayer declares that a certain particular debt transaction is longer than 3 years, applying the zero rate, and the debt is effectively liquidated before that such 3-year period, the IOF/FX is applied retroactively. In this case, the taxpayer is obliged to pay the IOF/FX due, at a rate of 6%, plus penalty (corresponding to 20%) and interest (corresponding to SELIC rate - official interest rate of the Federal Government, currently at 10.5% per year).

Apart of IOF/FX, when considering a debt transaction in Brazil, it is also important to remind you about our thin capitalization rules, in which the limits are lower than what is found in other places (2:1 - i.e., 2 times the net equity value of the participation held in the Brazilian company), and when the creditor is in a tax haven jurisdiction or subject to a favorable tax regime, this limit is even lower (30% of the Brazilian company´s net equity). The applicable withholding income tax has not changed - it is still 15% or 25% (in case of beneficiary in tax haven jurisdiction).

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FMC LAW

Focus on China

FEBRUARY 2012

Top row (centre): *Sarah Kutulakos, Executive Director of CCBC and to her left Michel Brunet, FMC's Chair.*

Bottom row (centre): *Prime Minister Stephen Harper and to his left, Peter Harder, President of the CCBC and FMC Senior Policy Advisor, Government Relations.*

Bridge to China: PM Harper's Visit to China to Facilitate Canada-China Investment and Trade

By Sandy Walker and Patrick Robert

Beef producers, financial institutions, energy and resource companies, educators, researchers, uranium producers, canola growers, mining investors and pandas…

Question: What do they all have in common?

Answer: Each of them may benefit from Canadian Prime Minister Harper's recent visit to China.

In the view of some seasoned China-watchers, the Prime Minister's trip may be remembered as the most important visit by a Canadian prime minister in a decade for the sheer volume and depth of bilateral commitments and agreements achieved, including 23 agreements between Canadian and Chinese companies generating a reported $3 billion (not to mention China's agreement to loan two giant pandas to Canada).

Though the U.S. continues to be Canada's number one trading partner, China is its second most important by far and is anticipated to become even more so as China is expected to become the world's largest economy by 2020. Canadian investment in China is at a record high, having increased by 38 percent over 2009 levels.

The four day visit by the Prime Minister included meetings with the highest level of Chinese Government officials: President Hu Jintao, Chairman of the Standing Committee of the National People's Congress Wu Bangguo, and Premier Wen Jiabao. The Prime Minister's entourage included business leaders from companies such as Bell, TELUS, Cameco and Bombardier and the Prime Minister attended and addressed the 5th Canada-China Business Forum

put on by the Canada-China Business Council (CCBC). (See photograph of Michel Brunet, FMC's Chair, and Peter Harder, President of the CCBC and FMC Senior Policy Advisor, Government Relations with Prime Minister Harper.)

Probably the signal accomplishment was the conclusion of substantive negotiations on the Canada-China Foreign Investment Promotion and Protection Agreement (FIPA), an accord that has been in the works for the past 18 years and is expected to be among the strongest such agreements China has signed with foreign countries. Although the accord must still undergo internal approval processes in the two countries (including being presented to Parliament in Canada), the safeguards it provides for Canadian investors in China are significant. For example, the agreement provides Canadian investors with recourse against public policy actions by the Chinese government that are detrimental to their investments. As a result, investors would, to some degree, be shielded from unpredictable and arbitrary actions that may impede Canadian investment in China.

A second accomplishment is an agreement permitting Canadian uranium producers to export nuclear fuels and advanced nuclear technologies to China, the world's largest energy consumer. This supplements the Agreement between the Government of Canada and the Government of the People's Republic of China for Co-operation in the Peaceful Uses of Nuclear Energy of 1994. The Canadian Canada's nuclear energy industry is significant, generating approximately $6.6 billion in annual revenue and $1.2 billion in exports each year. This agreement will level the playing field for Canadian uranium producers vis-à-vis other countries such as Australia and Kazakhstan which already benefit from such agreements.

The visit also generated the renewal or establishment of a raft of memoranda of understanding in a number of areas, including energy, fisheries, food inspection, natural resources and education. There will also be increased technical cooperation between Canadian and Chinese experts in research, technology and innovation.

The Canadian Government also regards developing increased trade in energy as crucial as Asian markets are both strategic significant and geographically accessible. In fact, the Prime Minister repeatedly stressed the importance of diversification of energy exports - away from reliance on the United States in view of the continued controversy dogging completion of the Keystone XL Pipeline project - and growth in the Asia Pacific region.

Both Prime Minister Harper and Premier Wen referred to the joint feasibility study underway to examine the potential of a free trade agreement. This study will report to both governments in the spring and could lead to the launching of free trade negotiations – which would undoubtedly be a long and challenging process. Any such negotiations would parallel multilateral talks under the Trans-Pacific Partnership which Canada is seeking to join and in which China has not yet indicated a willingness to participate.

Canada's embrace of an Asian orientation will not occur without some detractors. For example, a free trade agreement would likely threaten Canadian agricultural supply management schemes.

Nevertheless, Harper's achievements in China on this trip may well be viewed in the coming years as building the foundation for a new and wider bridge between Canada and China. Of course only time will tell if the promise of this visit materializes into concrete channels for trade and investment flows.

Update on Foreign Investment Review in Canada

By Sandy Walker

This article highlights significant developments in foreign investment review in Canada over the past year.

Post Potash Anxiety Lifts in 2012?

In the immediate aftermath of the Canadian Government's rejection of BHP Billiton's bid for Potash Corporation of Saskatchewan, foreign investors questioned whether there would be a sea-change in Canada's previous openness to foreign investment. While the failed bid by the LSE for the TMX removed the possibility of another potential rejection, foreign investors, including SOEs, have not been dissuaded from investing in Canada. Despite this, a run at Canadian icons such as Research In Motion could again thrust into the public arena questions of foreign ownership of "national champions" or in "strategic" sectors. As a result, potential acquirors of such targets will need to develop strategies at an early stage to address government and public relations in order to pre-empt, or at least mitigate, any public backlash.

Chinese SOE Investments Approved

The Canadian Government approved a number of state-owned investments in 2011, including Sinopec's proposed acquisition of Daylight Energy, a Canadian oil and gas company, and CNOOC's acquisition of oil sands company, OPTI Canada. CNOOC acquired OPTI's 35 percent working interest in Long Lake and three other project areas located in the Athabasca region of northeastern Alberta. Both investments would have been subject to the Government's guidelines on state-owned investors which consider the SOE's corporate governance and commercial orientation in assessing whether the transaction would be of "net benefit" to Canada.

Enforcement of Investment Canada Undertakings

In 2010 the Canadian Government sued US Steel for alleged non-compliance with its employment and production undertakings. This represented the first time an investor has been taken to court over a failure to comply with undertakings. In December 2011 US Steel settled the dispute with the Canadian Government, committing to make additional capital investments in its Canadian facilities and to operate certain Canadian plants until 2015.

The US Steel case underscores both that the Canadian Government will enforce undertakings in appropriate circumstances (although variations are still possible) and that when formulating 3 or 5 year commitments in relation to an acquisition, foreign investors must carefully consider their ability to meet such undertakings in light of the vagaries of economic conditions. Investors should also proactively manage public and government relations when compliance with undertakings proves difficult.

Review of *Investment Canada Act*

After its rejection of BHP Billiton's bid for Potash Corporation of Saskatchewan, the Canadian Government indicated its openness to review the *Investment Canada Act.* In the winter of 2011, the Parliamentary Standing Committee on Industry, Science and Technology invited foreign investment experts to speak about their views on the statute and the review process. However, there has been no public indication since the Government majority win in the May 2011 federal election that the Government intends to resume scrutiny of the foreign investment review process.

Review Threshold Increases

It is expected that the threshold for review for WTO investors will be $330 million for the year 2012. The official threshold will be published in the *Canada Gazette* in early 2012. However, what may be of greater interest to foreign investors is whether the Canadian Government finally

implements regulations bringing into force amendments made to the *Investment Canada Act* three years ago. These amendments would raise the review threshold to $600 million in the target's "enterprise value" for the two years following implementation, to $800 million in the subsequent two years and to $1 billion thereafter (indexed to inflation), thereby reducing the number of investments that are subject to review.

FMC's David Hunter Lectures at University in Shanghai

David Hunter, Senior Counsel at FMC, will be reprising his role as lecturer in environmental law at Shanghai's East China University of Politics and Law in May 2012. This course is part of the law and economics program at the Graduate School and will be co-taught with Professor Jinhau Cheng. David also lectured at the university in September 2011.

Contact Us

For further information, please contact a member of our China Group.

/Carey
ABOGADOS

LAW 20,575: ESTABLISHES THE USE LIMITATION PRINCIPLE IN THE TREATMENT OF PERSONAL DATA

Among other matters, this law establishes the use limitation principle in the treatment of personal data. This law will supplement our legislation on this matter, in particular Law 19,628 on Data Protection.

This law specifically focuses on the collection and treatment of personal data of an economic, financial, banking or commercial nature by data banks, distributors of personal records or personal data banks. It first specifies the disclosure and uses of personal data being handled and, second, it indicates certain requirements or obligations that must be adopted under the new law.

I. It specifies the disclosure of and uses to which personal data of an economic, financial, banking or commercial nature may be used.

In this sense, the use limitation principle must be adhered to in the treatment of personal data, which shall be exclusively for:

a) assessment of commercial risk; and

b) for credit bureau processes.

It also provides that this kind of data may only be disclosed to established merchants, for credit bureau processes and to entities that participate in the rating of commercial risk, and for that purpose only. Under no circumstances may this information be required in personnel selection, pre-school, school or higher education admission processes, emergency medical care or candidacies for public office.

II. Requirements and obligations to be complied with by the person in charge of data banks, distributors or personal records or data banks.

Article 3 of the law states that the persons in charge of data banks and distributors of personal records or data banks shall, when conducting their activity, implement the principles of:

- Legitimacy;
- Access and opposition;
- Information;

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Carey y Cía. contact.

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- Data quality;
- Use limitation;
- Proportionality;
- Transparency;
- Nondiscrimination;
- Limited use; and
- Secure handling of personal data.

The law requires the judge to take these principles into consideration in determining if due diligence was exercised in the treatment of personal data. It adds that the distributor or person in charge of the records or data banks will shoulder the burden of proof in showing the judge that he complied with the applicable obligations and that he acted with due diligence in handling the respective data. This means shifting the burden of proof to the data banks. We likewise note that it provides the following obligations, which must be adhered to in order to comply with the new law:

a) Having a system to record access and delivery of those data, indicating the name of the person who requested the same, the reason, date and time of the request, as well as the person responsible for delivering the information. This obligation will be effective six months after its publication in the Official Gazette.

b) The holders of commercial information may request, every four months (free of charge) the information included in that system over the previous 12 months.

c) Designate an individual in charge of data treatment, so that the data holders may contact the same to enforce their rights under the Data Protection Law.

d) Issue a certificate on demand by the holder of the information, for purposes other than risk evaluation in the credit bureau process. This certificate must only consider unpaid past-due obligations on the person's record.

金杜律师事务所
KING&WOOD
PRC LAWYERS

The Green Credit Guideline | March 2012

On the 24th day of February 2012, China Banking Regulatory Commission (the "**CBRC**") issued the *Green Credit Guidelines* (the "**Guidelines**"), which require banking financial institutions ("**Banks**") to encourage energy saving, emission reduction and environment protection by managing environmental and social risk(1) of its client. The Guidelines apply to domestic policy banks, commercial banks, rural cooperation banks and rural credit cooperatives. In addition, village banks, loan companies, rural funding cooperatives and non-banking financial institutions shall also adopt the Guidelines to the extent applicable.

The Guidelines introduced some specific requirements in relation to the following aspects:

1 Organization and Management

The Guidelines require the board of directors or council of the Banks to assume the responsibilities of fixing its green credit development strategy, approving the green credit goal and green credit report, supervising and assessing the relevant performance. Its senior management shall annually report to the board of directors or council the progress of green credit, as well as to the regulators.

2 Internal Policy

Banks are required to customize its credit guidelines for those industries restricted by the government and those with substantial environmental and social risk according to laws and industry policies. It shall maintain a list of clients with substantial risk, and urge such clients to take mitigating measures.

3 Lending Procedures

Banks shall:

(a) Pre-lending Investigation

arrange due diligence investigations on environmental and social risk according to the characters of clients; it shall not grant credit to the clients that are unqualified in environmental and social performance.

3.2 Loan Documentation

require in the loan agreement that clients with substantial environmental and social risk shall submit environmental and social risk evaluation report. The loan agreement shall also include representations and warranties clauses regarding environmental and social risk management, undertakings of the client to accept supervision of the lender, and remedies for breach of such representations, warranties and undertakings.

3.3 Loan Disbursement

take the adequacy of the client's environmental and social risk management as an important factor for loan disbursement. Even if credit has been granted, disbursement of the loan proceeds may be suspended or terminated upon the occurrence of substantial environmental or social risk in the project.

3.4 Post-lending Management

implement tailor-made post-lending management measures for clients with potential substantial risk, and shall take measures in a timely manner and report to regulators when substantial risk occurs to its client.

3.5 Oversea Projects

ensure in oversea projects financed by them that the sponsor of the project comply with the environmental and social laws and regulations of the host country.

4 Internal Management and Information Disclosure

Banks are required to conduct internal audit on green credit regularly and fully disclose its green credit development progress.

5 Supervision

Banks shall, at least once in two years, conduct full scope evaluation on green credit, and submit its self-evaluation report to the CBRC. The CBRC will conduct off-site and on-site inspection, and take the result as an important factor of rating, granting institution and business licenses and evaluating the performance of senior officers of Banks.

Notes:

1、The "environmental and social risk" is defined in the Guidelines as any hazard and relevant risk brought to the environment and society by any activity in respect of construction, production, operation of the bank's client and its material related parties, including those environmental and social problems relating to energy consumption, pollution, earth, health, safety, migration arrangement, environment protection, change of climate.

Natural Resources and Environmental Law

News Flash Number: 144

Delimitation of Mining Strategic Areas in Colombia

On February 24th, 2012, the Ministry of Mines and Energy issued Resolution No.180241, whereby it established a strategic area comprising 2,900,947.78 ha, for the exploration and exploitation of minerals. The strategic area is divided in 313 blocks.

Likewise, it sets forth that the mining authority will conduct tender processes in order to grant the areas. For such purpose, the mining authority will prepare the corresponding terms of reference in which it will set out the criteria to evaluate and select the best tenders, which will the ones that offer the best conditions for the National Government, which will include economic counter-benefits different from royalties.

Furthermore, in accordance with the Resolution if any of the areas of strategic interest are not granted by the mining authority within the following five (5) years as of the issuance of the Resolution they will immediately become areas free to contract and any interested party may file a request pursuant to the terms of the Mining Code.

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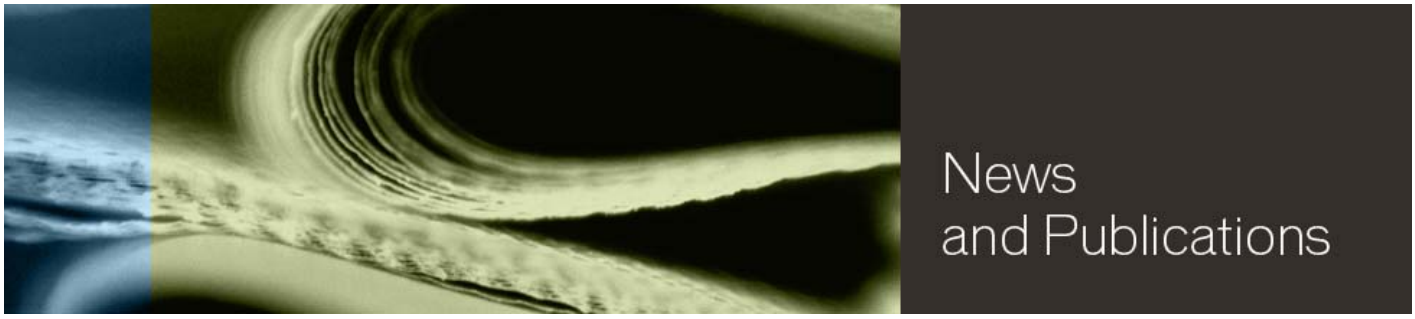

NEWS DETAIL

08/02/2012

NEW TAX AUDIT PROCEDURES

On 15 November 2011, the Director General of Taxes ("DGT") issued two new regulations pertaining to tax audit procedures, as follows:

1.Regulation No. PER-34/PJ/2011 concerning Tax Audit Procedures to Test Compliance with Tax Obligations ("PER-34");
2.Regulation No. PER-35/PJ/2011 concerning Tax Audit Procedures for Other Purposes ("PER-35").

The above regulations are the implementation regulations for Regulation of the Minister of Finance ("MoF") No. 82/PMK.03/2011, which amended the earlier MoF's Regulation No. 199/PMK.03/2007 concerning Tax Audit Procedures.

We are highlighting the following provisions:

Field audits

Extension of the Audit Period

The stipulated audit period of 4 months may be extended for certain reasons, among others: 1) the field audit concerned is expanded to another tax period/tax year; 2) the scope of the audit covers all taxes; 3) there is new third party information; 4) there is an indication of unusual transfer pricing practice or other manipulation of financial transactions; 5) there is an audit request from the Domicile Audit Execution Unit to the Location Audit Execution Unit; and 6) by the certain consideration of the Head of the Audit Execution Unit.
For an extension of the audit period, an application should be submitted to the Head of the Audit Execution Unit before the expiry of the 4 months audit period.

Discussions with Quality Assurance Team

A taxpayer may who is dissatisfied with the tax audit result and with the discussions with the tax auditors may request a discussion with the Quality Assurance Team at the latest by the next working day after the signing of the minutes of discussion with the tax auditors.
The discussion with the Quality Assurance Team is to be held among by the taxpayer, the tax auditors and the Quality Assurance Team, and must commence at the latest three working days after the discussion request is received and must be completed at the latest by the end of the following three working days.
If the taxpayer does not attend the discussion, the discussion will be conducted by the tax auditors and the Quality Assurance Team. The absence of the taxpayer will be recorded in a note regarding the absence of the taxpayer as well as in the memorandum prepared by the Quality Assurance Team that signed by the Quality

Assurance Team and the tax auditors.

Office audits

Office audits are conducted by tax auditors in the Audit Execution Unit, namely the Tax Services Office or the Directorate of Tax Audits and Collections.
An office audit for the purpose of examining the tax compliance of the taxpayer must be conducted on the basis of a Tax Audit Instruction Letter. At the latest five working days prior to the date of the Tax Audit Instruction Letter, a Summons for Tax Compliance Examination must have been delivered to the taxpayer concerned.

Tax Audit Questionnaire

Under PER-34, the tax auditors are obliged to provide the examined taxpayer with a Tax Audit Questionaire.
The tax auditors must deliver the Tax Audit Questionnaire to the taxpayer at the beginning of the tax audit.
The submission of the questionnaire will be closely monitored by the Director of Tax Audits and Collections or the Head of the Regional Tax Office. The questionnaire results will be used as input for the DGT in the implementation of the tax audits.

In addition to the issuance of PER-34, the DGT also issued (i) Circular Letter No. SE-85/PJ/2011 ("SE-85") on 15 November 2011 which provides detailed guidance for the ITO in conducting tax audits to the compliance test; and (ii) , Regulation of Director General of Taxation No. PER-41/PJ/2011 regarding the Tax Audit Guidelines in light of an Exchange of Infomation under the Tax Treaty on 28 December 2011. This Regulation indicates Indonesia's commitment to prevent cross border tax evasion and abuse of tax treaty by introducingthe audit process in order to make the Exchange of Information ("EoI") can be conducted by the Directorate General of Tax as the competent authority. The Regulation also explains on how the competent authority of the other contracting state requests a tax audit in Indonesia. (by: Danny Tanuwijaya)

Corporate
Energy & Utilities
Newsflash
NautaDutilh

Changes in gas quality and introduction of feed-in conditions **27 February 2012**

This newsletter is sent by NautaDutilh

The Government of the Netherlands aims at becoming the Western-European Gas Roundabout. As a consequence of that intention, a variety of gas(quality) shall enter into the Dutch national grid. Parallel to that development is the assignment by the Netherlands Energy Regulator (*de Energiekamer*) to the joint Dutch grid managers to draft conditions for (i) the feeding-in of gas at the national grid and (ii) quality standards for gas at entry-points.

With respect to the feeding-in of gas, the joint grid managers introduced in February 2010 the *Invoedwaarden Gas-LNB* or "Feed-In Conditions".

With respect to gas quality, the national legislator recently came up with a legislative proposal on gas quality and the role of the national grid manager, GTS, in that respect (the "*Proposal*").

Feed-In Conditions

The draft Feed-In Conditions shall form part of the "Technical Codes" and are still subject to further deliberation between the market parties and the regulator. The current draft Feed-In Conditions rule the following topics:

- The introduction of the "feed-in installation manager" (*invoedingsinstallatiebeheerder*), i.e.: (i) the manager of a gas production network, (ii) the manager of a biogas production network, (iii) a gas storage company or (iv) an LNG-company feeding gas into the national gas grid;
- the terms and conditions for making the feed-in installation and the national gas grid compatible and operational with each other;
- GTS allows gas fed into the national gas grid only if (i) there is a transportation agreement arranging the feed-in, and (ii) a programme responsibility party bears the programme responsibility. GTS and the feed-in installation manager shall document supplemental arrangements on the feeding-in of gas and the feed-in installation in separate agreements;
- the feed-in installation manager shall procure - and has to prove every time before the connection (between the feed-in installation and the national grid) will be become operational - that the feed-in installation complies with safety laws and regulations to ensure that it poses no danger to the functioning of the national gas grid. GTS may disconnect the connection if the feed-in installation manager does not comply with this obligation;
- GTS notifies (and thereby sets) the minimum and maximum delivery pressure at the relevant connection point to each feed-in installation manager. Any changes to the minimum and maximum delivery pressure will be notified two years in advance. It will be the responsibility of the feed-in installation manager to set the delivery pressure at the prevailing pressure in the national gas grid;
- as long as the gas fed in the national grid complies with set conditions, GTS may not refuse the gas. If gas does not meet these conditions, GTS may still accept such gas however at the risk and account for the feed-in installation manager. In addition, the gas will not contain any components or impurities which prevents such gas from transportation, storage or marketing in or via the Netherlands without making costs for quality adaption. A breach of this latter condition entitles GTS to refuse such gas, or to impose (financial) conditions on the acceptance of such gas.

The draft Feed-In Conditions and other relevant information can be found at the website of the Energiekamer. The finalisation of the Feed-In Conditions is put on hold pending adoption of the Proposal.

Proposal on Gas Quality

Although the government expects that the Netherlands remains to be a gas-exporting country for the next 15 years, the gas production in the Netherlands decreases and gas demand will be more and more secured by feeding-in foreign gas (GATE, indirectly via Nord Stream) and local biogas.

The specifications of gas to be fed-in (according to the explanatory notes at the connection with production facilities, an interconnector, a storage facility, an LNG-terminal or at a feed-in connection for biogas) as well as the specifications of gas to be delivered to end-users. GTS may refuse gas not compliant with the set specifications.

In addition, GTS will be responsible for the treatment of gas to comply with the delivery specifications, unless it is not reasonable for GTS to perform such treatment (for example: disproportionate costs). The costs involved for the performances by GTS in relation to the gas quality(treatment) will be socialised. The regional grid manager shall not be responsible for any gas treatment and therefore gas not compliant with the feed-in specifications will be refused by it.

The (expected) changes in gas qualities in the Netherlands made the Ministry of ELI order Arcadis, KEMA and Kiwa to perform a study on the impact of these changes; a copy can be found (in Dutch) on the internet. The conclusion is - in short - that changing (broadening as you may say) the acceptable specifications of gas in the Dutch gas grid causes huge investments to existing gas installations: central-heating boilers, but also the gas turbines for power, heat and steam production) are not fit to handle such gas of different quality, The Minster acknowledges that a transition period shall be required.

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RESOURCES

Special Considerations For Remission of ABSD for Developers

March 2012 | Real Estate | Property Notes

LEE Liat Yeang
Colleen LIN

The introduction of the Additional Buyer's Stamp Duty ("ABSD") on 7 December 2011 affects all buyers of residential properties in Singapore, including real estate developers who buy land for redevelopment. Developers are entitled to remission of the ABSD on specific conditions. In response to queries and feedback, the Inland Revenue Authority of Singapore ("IRAS") published its Second and Third Edition of the ABSD E-Tax Guide on 12 January 2012 and 19 January 2012 respectively[1].

Scope of the ABSD

Since ABSD applies only to the purchase of residential property, it is important to know what constitutes "residential property". In the Third Edition of the ABSD E-Tax Guide, "residential property" refers to "property which, under the Master Plan, may be used for solely residential purposes or for mixed purposes, one of which is residential". While most approved uses of lands will be consistent with their respective zoning, there are some lands in Singapore which have zoning that are different from their current approved use.

As such, a developer who purchases an existing industrial property in a specific location may be caught by the ABSD measures if the current Master Plan zoning of the land is wholly or partly residential. In other words, other than the approved use, the developer will have to look at the Master Plan zoning of the property to see if there is a residential component. The ABSD may apply regardless of whether the developer intends to apply for a change of use to redevelop the existing building into a residential development. This position seems harsh since the developer will in any event need to pay development charge for the proposed change of use.

Another anomaly in the application of this wide definition of "residential property" can be seen in buyers of office or retail units in a mixed use development zoned "Commercial and Residential". It cannot be correct to suggest that ABSD should apply to the purchase of such office or retail unit on the basis of the zoning of the land, following the wide definition of "residential property".

Remission of ABSD for development projects with four or less residential units

In the first edition of the ABSD E-Tax Guide, remission of ABSD was not allowed for development projects with four or less residential units. This position seems less favourable to such developers who are companies lawfully carrying on the business of property development and therefore not caught within the ambit of the sellers' stamp duty. The Second Edition has addressed this and remission of ABSD may now be allowed to such developers in such situations, on a case by case basis, subject to specific conditions imposed by IRAS including but not limited to the developer completing and selling all the units in the residential development within three years from the date of contract to purchase the land.

While IRAS seems to have acknowledged that smaller developments will require less time to complete and sell, IRAS may wish to consider allowing more time for all units in larger developments to be sold. A flat 5-year time period to complete and sell off all units in the development does not seem to be fair to a developer of a large development.

Development of projects comprising of two or more plots of lands

A developer may buy a second or more plots of lands ("second transaction") for amalgamation with its first purchase of land for development ("first transaction").

In cases where the first transaction is not subject to ABSD, remission on the second transaction may be considered on a case-by-case basis depending on the merits of each case, such as if the acquisition of the subsequent plot is contingent upon planning approval or if the subsequent plot acquired is incapable of independent development. This clarification should be welcomed by developers who might have entered into the first transaction before 7 December 2011 and who will need to purchase additional smaller plots of land post 7 December 2011 in order to enjoy the additional allowable GFA (gross floor area) in respect of the smaller plots of land which are often incapable of independent development, or if such acquisition is required in the planning permission.

Interest payable if developer breaches the undertaking provided for remission

Developers who qualify for remission have to give an undertaking to, amongst others, complete the development and sell all of the units in the development within five years from date of purchase (for development of more than four residential units). If the conditions are breached, ABSD (together with interest) becomes payable.

IRAS has now clarified that interest on the "claw-backed stamp duty" in case of breach of undertaking by a developer, is calculated at rate of 5% per annum commencing from 14 days after the date of acquisition of the site. However, this rate is subject to review and change by IRAS.

Development by related entity of the purchaser

It is common for developer companies to tender or purchase land using their holding or parent company ("first transaction") and subsequently appoint a related entity ("approved developer") to complete the purchase of the land and to undertake development of the project on the land. More specifically, this is referred to as a "Conveyance Direction" to the vendor of the land to transfer the land to the subsidiary. Upon such Conveyance Direction, the land is transferred to the related entity ("second transaction") and buyer's stamp duty is allowed to be remitted upon satisfaction of certain conditions.

It is now made clear that such first and second transactions will also qualify for remission of the ABSD, subject to the following conditions:

(1) The approved developer shall meet the 2-year and 5-year conditions for ABSD remission purpose from date of first transaction.

(2) There is intention at the onset for the Conveyance Direction to be made and that the Conveyance Direction is made within two months of the first transaction.

(3) The holding company maintains a majority stake (more than 50% share/voting rights) in the approved developer from the date of the first transaction to the date of issuance of Temporary Occupation Permit or Certificate of Statutory Completion (whichever is earlier) of the development.

(4) No consideration is paid for the second transaction by the approved developer to the holding company

(5) Buyer's stamp duty has been paid on the first transaction.

It seems that the approved developer nominated by the holding company will have to sign the undertaking so as to enable the two companies to enjoy the remission of the ABSD.

Conclusion

Real estate developers should pay close attention to the conditions for the remission of the ABSD. If developers breach the conditions of undertaking including failing to complete and sell off all units within the undertaken time frame, they will have to pay the ABSD amount (based on land cost) plus interests. If any such developer is left with a few units, it should consider selling the said units to a related company at a lower ABSD cost based on the value or price of such remaining units.

The revised ABSD E-Tax Guide has provided important clarifications to the application of ABSD. However, it is expected that more clarifications will be needed upon further application of the ABSD measures in the months ahead.

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[1] A copy of the Third Edition of the E-Tax Guide can be downloaded at IRAS website: http://www.iras.gov.sg/irasHome/page.aspx?id=910

ABOLISHMENT OF PAR VALUE REQUIREMENT ON FOREIGN COMPANIES' PRIMARY LISTING IN TAIWAN

◎Ching-Hua Lu/Charlotte Liu

Under previous legislation, for a foreign company to apply for primary listing on the Taiwan Stock Exchange (TWSE) or GreTai Securities Market (GTSM), the par value of its shares should be NT$10 per share ("Par Value Requirement"). To comply with the Par Value Requirement, a foreign company in practice would usually set up a holding company in a third area (e.g., the Cayman Islands) for the purpose of ownership restructuring. This implied an increase in business costs, prolonged listing process, and contingent tax risks, and would significantly raise a foreign company's funding costs. The Par Value Requirement therefore had adverse impact on foreign companies' willingness to apply for initial public offering in Taiwan.

After consultation with all relevant authorities, the Financial Supervisory Commission agreed to abolish the Par Value Requirement. From 2012, a foreign company wishing to apply for primary listing on TWSE or GSTM is no longer required to have its shares carry a par value of NT$10 per share and may issue no-par value shares.

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TAX UPDATE - MARCH 7, 2012

Texas Tax Amnesty Program Announced

The Texas Comptroller announced an upcoming tax amnesty program, "Project Fresh Start," available from June 12 to August 17 of this year. HB 1, passed during the regular 2011 legislative session, charged the Comptroller with establishing this program. Although program details are forthcoming, HB 1 stated that the program should provide for the waiver of penalty and/or interest in exchange for taxpayers voluntarily reporting their tax liabilities. HB 1 also stated that the program shall not apply to established tax liabilities or to taxpayers currently under audit review. A link to the Comptroller's website announcing "Project Fresh Start" can be found here.

The outline provided by HB 1 is very similar to the amnesty program offered by Texas in 2007. The 2007 program encouraged taxpayers that did not file tax reports, made an error on a previous report, did not have a permit for collecting and remitting Texas taxes, or otherwise did not pay the full amount of taxes owed to voluntarily come forward and take advantage of a penalty and interest waiver. This program applied to all tax types, excluding Public Utilities Commission gross receipts assessments and unclaimed property. We anticipate this year's program will be similar.

IRS Circular 230 Disclaimer: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

Davis Wright Tremaine LLP

Rapid Response to Data Breach Pays Off

02.29.12

By Douglas C. Ross and Gregory A. Chaimov

The Oregon Supreme Court last week affirmed the dismissal of a class action lawsuit against Providence Health & Services-Oregon arising out of the theft of patient data on backup media that were stolen from an employee's car in late 2005.

The case underscores the importance of taking prompt and effective action to protect patients after a data breach. The Supreme Court noted approvingly the substantial—and costly—steps Providence took to protect its patients in the wake of the theft.

Background

The ruling ends a six-year-old legal battle that followed the theft of electronic media containing information on about 365,000 patients of Providence Home Health Services in Oregon. The thief broke into a car of a Providence employee on New Year's Eve 2005, and stole a laptop bag with computer disks and tapes inside. Information on the stolen media included patients' names, addresses, some Social Security numbers and, in a very few cases, patient care information. The data were not encrypted, but required special equipment to read.

Providence notified affected patients of the theft and suggested ways to protect against identity theft. Providence also offered to provide patients two years of credit monitoring and restoration services and to pay for any financial loss that might result from later credit or identity theft. Providence established a web site and toll-free call center to answer patients' questions and to help patients obtain desired services.

Nonetheless, soon after the theft was announced, several individuals filed a class action lawsuit seeking in excess of $73 million. The plaintiffs sought damages for the distress they claimed was suffered when patients learned of the theft. Despite Providence's prompt actions in providing protection and credit monitoring services, plaintiffs also sought recovery of the cost of credit monitoring services they said had been separately incurred, and for the time and trouble of notifying creditors and government officials.

The Courts Rule for Providence

In a unanimous opinion released on Feb. 24, 2012, the Supreme Court upheld lower court rulings that the plaintiffs had failed to state claims on which they could recover damages either for negligence or for violation of Oregon's Unfair Trade Practices Act. The Supreme Court based its decision in large measure on absence of any claim that the information stolen was viewed by the thief or other third parties, let alone misused to cause damage to credit or identity theft.

As noted above, the Court took note as well of Providence's prompt and substantial efforts to reduce the risk of misuse of the stolen data by providing comprehensive protection against the risk the stolen information might be misused. The Court observed the state's attorney general, who has authority to enforce the Unfair Trade Practices Act, had commented that Providence's response was "appropriate for patients affected by the theft."

Providence had moved to dismiss the case soon after it was filed for failure to state facts on which a claim could be based. The trial court granted the motion, relying on an earlier case in which the Oregon Supreme Court held a smoker did not state a claim for negligence when her only claim for damages was the cost of monitoring for possible future health problems.

The Court of Appeals affirmed the trial court's ruling in favor of Providence. In their appeal, plaintiffs argued they did not need to show misuse of their information. They claimed the mere fact of the theft itself caused them injury. Plaintiffs argued as well that Providence had a special relationship to plaintiffs that imposed on it an obligation to protect them from negligently caused economic or emotional injuries.

When the case got to the Supreme Court that court assumed, for the sake of argument, that the plaintiffs and Providence had been in a relationship that imposed an obligation on Providence to protect the plaintiffs from negligently caused economic and emotional distress. But both kinds of damages plaintiffs claimed arose only from a possible future injury. The "risk" of identity theft, wrote the Court, was an insufficient basis on which to impose liability in the absence of "any actual identity theft or present financial harm."

Takeaway Lesson

Although the Oregon courts decided the case on questions of law, Providence's prompt and substantial response to the theft played a vital role in the successful result at each level. When the theft occurred, Oregon had no law governing how a custodian of records should respond to a theft of information. Providence nonetheless responded quickly to contact its patients and arrange for credit protection. In hindsight, Providence was well served by its quick response.

Davis Wright Tremaine LLP represented Providence in Paul v. Providence Health System-Oregon. Greg Chaimov argued the case to the Oregon Supreme Court. John McGrory, Randy Gainer, Fred Burnside and Douglas Ross participated in various phases of the case.

Disclaimer

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Energy Alert

7 March 2012

See note below about Hogan Lovells

DOE announces US$180 million initiative for offshore wind project development

On 1 March 2012, the U.S. Department of Energy (DOE) announced an aggressive, US$180 million initiative under which DOE will financially support the development of up to four wind projects to be located off the U.S. coast or in the Great Lakes. The purpose of the initiative is to accelerate the deployment of breakthrough wind power technologies to help diversify the nation's energy portfolio and promote economic development. Letters of intent to participate in this competitive solicitation are due on 30 March 2012, and applications are due on 31 May 2012. Awards will be issued by 30 September 2012.

Offshore wind Advanced Technology Demonstration Projects

DOE seeks to provide support for regionally-diverse Advanced Technology Demonstration Projects ("Demonstration Projects") through collaborative partnerships. The two primary goals of the Demonstration Projects are (1) to install innovative offshore wind systems in U.S. waters in the most rapid and responsible manner possible, and (2) to expedite the development and deployment of innovative offshore wind energy systems with a credible potential for lowering the levelized cost of energy below 10 ¢/kWh or the so-called local "hurdle" price at which offshore wind is cost competitive with other regional generation sources without subsidies. DOE states that this initiative will develop highly innovative technologies that will achieve large cost reductions when compared with existing offshore wind technologies.

To support the Demonstration Projects, DOE will make available up to US$180 million over six years, subject to congressional appropriations, including an initial commitment of US$20 million in fiscal year 2012. These funds may be used to cover up to 80 percent of a Demonstration Project's design costs and 50 percent of its hardware and installation costs. By providing funding, technical assistance, and government coordination to accelerate the Demonstration Projects, DOE hopes to eliminate uncertainties, mitigate risks, and support the private sector in creating a robust U.S. Offshore Wind Energy Industry.

While the focus of the funding and the amounts of money available make clear that the target here is not developers of utility-scale offshore wind projects, the funding should be of interest to parties seeking to demonstrate new approaches and new technologies that are designed to reduce the cost

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of offshore wind. Projects will be considered from all geographical regions (e.g., Atlantic, Great Lakes, Pacific, and Gulf of Mexico), water depths, and technology areas, including innovative technologies. Examples of potential Demonstration Projects include, but are not limited to, a stand-alone single turbine, multiple turbines from one or more turbine manufacturers, or turbines that are a first phase of a planned larger commercial project.

Soliciting letters of intent for offshore wind projects

DOE is soliciting proposals from offshore wind power developers for the initial Demonstration Projects. All potential applicants are required to submit a letter of intent by 30 March 2012. The submittal of a letter of intent does not commit an applicant to submit an application, but is a prerequisite to submitting an application.

As a critical element of its large renewable energy project development practice, Hogan Lovells has extensive experience advising renewable energy developers before the Department of Energy, FERC, and other federal and state energy regulatory authorities. Please contact the lawyers listed or your regular Hogan Lovells lawyer if you have any questions concerning this *Energy Alert*.

Wilson Sonsini Goodrich & Rosati
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THE LIFE SCIENCES REPORT

New Procedures for Challenging Patent Validity

Spring 2012

By Jim Heslin, Partner, and Doug Portnow, Associate
(Palo Alto)

For many years, U.S. patent attorneys have either craved or dreaded implementation of a U.S. Patent and Trademark Office (USPTO) procedure similar to opposition proceedings in Europe. European oppositions are used by companies to narrow the claims of their competitors' patents when they believe that those claims are either invalid or overly broad. The procedure works very well in Europe, where more than 10 percent of all granted patents historically have been opposed, and where the availability of oppositions is likely one reason (among many) why patent litigation is far less prevalent than in the United States.

Last year, as part of the America Invents Act, Congress leapfrogged the European Patent Office by creating two different post grant procedures: post grant review (PGR) and inter partes review (IPR). While similar in many respects, each of these procedures fits a different niche and will be useful under different circumstances.[1]

PGR is most similar to the European opposition process in that it must be filed within nine months of the patent grant date and allows a wide variety of invalidation arguments, including prior art, lack of support, and claim overbreadth. In fact, PGR may be instituted upon any showing that it is more likely than not that at least one claim challenged is unpatentable. PGR will be performed by the Patent Trial and Appeal Board (PTAB), a new entity within the USPTO that is replacing the Board of Patent Appeals and Interferences (BPAI), and a final decision is supposed to be made within one year. The PGR procedure allows for discovery related to the particular assertions raised in the PGR request and the patentee's response. The decision made by the PTAB raises "estoppel," which prevents the party requesting the review from raising arguments that were relied on or could reasonably have been relied on during the PGR proceeding. Thus, while defendants may still raise invalidity and other defenses in subsequent litigation, those defenses cannot be the same as those that were—or could or should have been—raised in PGR.

IPR complements PGR, as it becomes available nine months after a patent's issue date. IPR also may be requested following the termination of a prior PGR, but would have to raise new grounds that were not and could not have been raised in PGR. The scope of discovery is broader with IPR, particularly as it allows the deposition of witnesses who have submitted affidavits (much like present interference proceedings). Other differences with PGR include a threshold determination by the USPTO that the requesting party demonstrate "a reasonable likelihood of prevailing" and grounds for invalidation that are limited to prior art consisting of patents and printed publications, and therefore do not include scope and enablement.

As with present-day re-examination procedures, PGR and IPR often will be utilized when a party is faced with threatened or actual litigation. Since PGR must be requested within nine months of a patent grant date, the procedure likely will be used preemptively more often than after litigation has started. In contrast, because IPR can be requested at any time after the close of the PGR request period or the termination of a PGR procedure, IPR likely will be used more often by defendants in patent litigation. IPR must, however, be filed within one year of the patent infringement complaint being served and before any declaratory judgment action is filed by the requestor.

Recently, the USPTO has proposed rules to implement both PGR and IPR. Most notable among the rules is the cost. Unlike the European oppositions, where the cost is nominal, the cost of filing both PGR and IPR is significant and based on the number of claims challenged. The basic filing fees for PGR and IPR are $35,800 and $27,200, respectively. These fees, however, can escalate by tens of thousands of dollars in cases where many claims are challenged. While this cost is substantial, it is certainly much less than typical patent litigation costs, so it still may be a bargain in many cases. Nonetheless, cost likely will reduce the number of trivial or pro forma PGRs filed, which has been a shortcoming of European oppositions.

The USPTO continues to collect feedback on the proposed PGR and IPR rules, which should be finalized soon.

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[1] PGR will not be available on patents filed before March 16, 2013, except for some business method patents. As patent applications filed after that date will take some time before they grant, it is likely that few, if any, PGRs will be filed before 2014. IPR, in contrast, will become available on September 16, 2012.