AVCJ
ASIAN VENTURE CAPITAL JOURNAL

Asia's Private Equity News Source

avcj.com July 24 2012 Volume 25 Number 28

A legal free-for-all

US law firms shake up the competitive scene in Asian private equity Page 7

FOCUS

India's missing link

PE firms support ATM network build-out Page 13

DEAL OF THE WEEK

Television anchors

Creador, Saban back MNC Skyvision's IPO Page 14

EDITOR'S VIEWPOINT

tim.burroughs@incisivemedia.com

Why Australian take-privates are taking off

A RENEWAL OF INTEREST IN BILLABONG International from TPG Capital always seemed likely. When the PE firm first came calling in February with a A$3 per share buyout offer, Billabong's management refused to budge from its valuation of $4 per share. The Australian surfwear company closed stores and offloaded half of one of its leading brands – anything to reduce debt levels and stave off private equity.

In the ensuing weeks, the reality of Billabong's muted business prospects hit home and the stock plummeted. The PE firm has now returned to the table with an offer that is lower but not unreasonable. Several shareholders have already signed up to the deal and there is a general expectation that it will go through this time.

The TPG-Billabong situation is instructive in two respects: it is further confirmation that take-private deals are a trend worth watching in Australia; and it is an example of how some founders and management teams are struggling to come to terms with the fact that the market has turned against them, and are losing the confidence of shareholders in the process.

Pacific Equity Partners (PEP) kicked off the take-private spree, securing the A$720 million ($740 million) buyout of cleaning and catering services contractor Spotless at the end of April. Since then we have seen Crescent Capital offer A$220 million for Clearview Wealth and CHAMP Private Equity agree to buy Gerard Lighting Group for A$186 million.

In each case, at the time the offer was made, the stock was trading down on a one-year basis. Individual performance varies, but there are various broader reasons – ranging from overseas institutions pulling out of Australian equities to retail investors shifting their capital into bank deposits – why public valuations might not reflect the full value of a business.

CHAMP Private Equity's bid for Gerard stands out because it received full backing from the board and the family owners. This is often a rarity in Australia when PE investors are involved.

Gordon Merchant, Billabong's founder, irked shareholders by refusing to give much ground to TPG. Peter Smedley, chairman of Spotless, wouldn't allow PEP to conduct due diligence until shareholder criticism made him change his mind. Clearview's board rejected Crescent's offer and advised shareholders to take no action.

Company founders and board members have a duty to obtain the best possible price, but there have been situations in which bluster has been counterproductive. One explanation for these attitudes is that founders are now operating in a market where the tide has turned against them and it is difficult to adjust.

A few years ago, buyout bids were rebuffed by a sense that the market was inexorably rising: shareholders could reject private equity suitors and expect to be rewarded by a higher stock price three months later.

But the withdrawal of overseas institutions left companies with debt to roll over and no certainty as to whether banks would have the appetite to replenish it. They responded with a frenzy of discounted rights issues – about A$180 billion in equity fresh equity in the space of two years. Investors were sold on the fact that the challenges of 2009 would be short-lived, but that hasn't proved to be the case. It has led to a breakdown in trust between shareholders and management and this makes it very difficult to place a value on future performance.

With the exception of certain market niches, the growth story now carries little weight and this translates into muted public valuations. PE firms, buoyed by still relatively low financing costs for leveraged buyouts, will continue to try and take advantage. Owners and management should be prepared.

Tim Burroughs
Managing Editor
Asian Venture Capital Journal

ASIAN VENTURE CAPITAL JOURNAL

Managing Editor
Tim Burroughs (852) 3411 4909
Senior Editor
Brian McLeod (1) 604 215 1416
Associate Editor
Susannah Birkwood (852) 3411 4908
Staff Writer
Alvina Yuen (852) 3411 4907

Creative Director
Dicky Tang
Designers
Catherine Chau, Edith Leung, Mansfield Hor, Tony Chow

Senior Research Manager
Helen Lee
Research Manager
Alfred Lam
Research Associates
Tweety Lau, Kaho Mak, Jason Chong

Circulation Manager
Sally Yip
Circulation Administrator
Prudence Lau

Senior Manager, Delegate Sales
Anil Nathani

Senior Marketing Manager
Stacey Cross

Director, Business Development
Darryl Mag

Manager, Business Development
Samuel Lau

Sales Coordinator
Debbie Koo

Conference Managers
Jonathon Cohen, Zachary Reff, Sarah Doyle
Conference Administrator
Amelie Poon
Conference Coordinator
Fiona Keung, Jovial Chung

Publisher & General Manager
Allen Lee

Managing Director
Jonathon Whiteley

Chairman Emeritus
Dan Schwartz

Incisive Media
20th Floor,
Tower 2, Admiralty Centre
18 Harcourt Road,
Admiralty, Hong Kong
T. (852) 3411-4900
F. (852) 3411-4999
E. info@avcj.com
URL. avcj.com

Beijing Representative Office
Room 1805, Building 10,
Jianwai SOHO, 39 East 3rd-Ring Road,
Chaoyang District,
Beijing 100 022, China
T. (86) 10-5869-6205
F. (86) 10-5869-7461
E. beijing@avcj.com

ISSN 1817-1648

NEWS

GLOBAL

Coller closes new secondaries fund at $5.5b

Coller Capital has reached a final close of $5.5 billion on its latest global secondaries fund. The new vehicle is larger than its predecessor, which closed in 2007 at $4.8 billion, and above the initial fundraising target of $5 billion. The fund has already committed $800 million of its capital.

Blackstone names Baratta head of global PE

The Blackstone Group has promoted Joe Baratta to head of global private equity. He currently leads the firm's European private equity operations. Baratta, who is relocating to New York in September, will also join Blackstone's management committee.

AUSTRALASIA

TPG resumes Billabong pursuit with $712m offer

TPG Capital has renewed its interest in Billabong International, tabling a A$694 million ($712 million) takeover bid for the Australian surfwear manufacturer. The offer is A$147 million lower than the private equity firm's previous bid for Billabong, which came in February. Since then, the company's stock has plummeted in response to concerns about the business.

CHAMP PE seeks exit from New Zealand's Blue Star

CHAMP Private Equity-owned Blue Star has suspended trading on the New Zealand Stock Exchange in anticipation of an announcement that the business is up for sale. It comes after the struggling communications company said in June that it had won the support of senior lenders to review a whole or partial sale.

CVC wants investor for Nine Entertainment

CVC is seeking an investor to purchase a significant equity stake in Nine Entertainment. The transaction would allow the private equity player to reduce its $2.9 billion in senior loans due for repayment in February 2013. TPG is reportedly considering forming a partnership with Harry Sloan, former chairman of Metro-Goldwyn-Mayer, and his US-listed vehicle Global

CVC, Standard Chartered in $850m Infastech exit

CVC Capital Partners and Standard Chartered Private Equity have exited Hong Kong-based fastener manufacturer Infastech to Stanley Black & Decker for $850 million in cash. The strategic investor emerged the victor in a two-round auction process. It was previously reported that Ontario Teachers' Pension Plan (OTPP) and Unitas Capital had teamed up to bid for the company.

CVC and SCPE acquired Infastech for $350-400 million in 2010. The company produces mechanical fastening technologies for industrial, electronics and automotive customers. It has more than 2,000 employees and generated revenues of around $500 million in 2011, more than half of which came from the Asia-Pacific region.

Eagle Acquisitions, to purchase all or part of Nine's assets.

CHAMP Private Equity's oOh!media to buy Eye Corp

CHAMP Private Equity's oOh!media has agreed to buy Eye Corp, Ten Network Holdings' outdoor advertising business. The deal values Eye at up to A$145 million, of which A$120 million will be paid in cash on completion, with the remainder due in three years time.

Australia's PEP sells Hoyts Distribution to Studiocanal

Pacific Equity Partners (PEP) has exited Hoyts Distribution, the largest independent film distributor in Australia and New Zealand, to European film giant Studiocanal. The private equity retains other Hoyts Group assets, including cinema operator Hoyts Exhibition, cinema advertising provider Val Morgan, and DVD rental machine network Oovie.

CHAMP offers take-private bid for Gerard Lighting

CHAMP Private Equity has launched a A$186 million ($192 million) takeover bid for Australian light fittings distributor Gerard Lighting Group. The bid has won unanimous approval from Gerard's board and the Gerard family, which has a 52% stake, has said it will vote in favor of the deal in the absence of a better offer. It puts the company on course to go private just over two years after it listed.

GREATER CHINA

US-China incubator rolls out accelerator program

InnoSpring, Silicon Valley's first US-China technology start-up incubator, has launched a six-month accelerator program targeting companies in mobile internet, cleantech and healthcare IT industries. The program is open to applications and will select up to 10 start-ups, each of which will receive $100,000 in funding.

CBC backs US-based power solutions provider

China Broadband Capital has participated in a $22 million funding round for IntelliBatt, a US-based power solutions provider of power supply and battery monitoring systems. The round was led by Columbia Capital. The capital will be used to fund the company's growth initiatives as well as the expansion of management capabilities.

China's PiYi Investment to fund US companies

PiYi Investment Management has teamed up with Wisconsin Economic Development Corporation (WEDC) in the US to invest $100 million in Wisconsin companies. It will target companies that are able to expand into the Chinese market. Investments will be range from $2-$15 million.

Carlyle raises $738m in latest CPIC sell-down

The Carlyle Group has sold $723 million of shares in China Pacific Insurance (CPIC) through a block trade, marking the private equity firm's fifth partial exit from the company since December 2010. Total returns are in excess of $4 billion, putting Carlyle on course for its biggest ever cash exit globally.

Hony bets on China convertibility experiment

Hony Capital is set to become the first private equity player to enter the Shenzhen-Qianhai new business zone, a pilot project for greater renminbi convertibility. The company may raise its next renminbi-denominated fund in Hong Kong, and invest it in China. As part of the experiment, any private equity firm registered in the zone will be allowed to raise a local currency fund from Hong Kong.

Carlyle shelves plans to exit Taiwan's Ta Chong Bank

The Carlyle Group is no longer looking to sell its stake in Taiwan's Ta Chong Bank, citing tough global market conditions. The news comes after potential buyer Yuanta Financial reportedly walked away from a deal that valued the lender at up to NT$37 billion ($1.25 billion). The private equity firm purchased 35% of Ta Chong for NT$21.5 billion n 2007.

China Mining United to raise second fund

China Mining United Fund (CMUF), a Beijing-based private investment company focuses on mining-related investments, is planning to raise a second fund to target offshore iron-ore and metal companies. It will purchase significant minority stakes in global companies that are close to starting production, with ticket sizes between $20 million and $100 million.

Insurers to outsource investment management

The China Insurance Regulatory Commission (CIRC) will allow insurance companies to outsource their investment management businesses to brokerages and fund houses as part of efforts to diversify investment channels. Fund houses and brokerages to qualify as managers must have at least RMB10 billion ($1.56 billion) in assets under management, minimum registered capital of RMB100 million and at least 15 investment professionals.

Warburg sues Titan Petrochemicals in HK

Warburg Pincus has sued portfolio company Titan Petrochemicals Group and some of its executives in Hong Kong's High Court, citing misrepresentation and breaches of contract. This comes as the debt-laden shipping and oil storage firm continues talks with a potential investor as it looks for ways to stave off liquidation proceedings initiated by Warburg. Warburg has invested more than $215 million in Titan since 2007 and currently holds a stake of around 10%.

China to buy LP interests from GM pension plan

The Chinese government has agreed to buy stakes in a string of private equity funds, including vehicles managed by The Carlyle Group, The Blackstone Group and CVC Capital Partners, from General Motors' (GM) pension plan.

The State Administration of Foreign Exchange (SAFE), which is responsible for China's more than $3 trillion in foreign currency holdings, will pay $1.5-2 billion for the assets. Performance Equity, an advisory firm that manages pension investments for GM and its affiliates, is said to have told several private equity firms that it plans to exit some of its stakes via secondary transactions.

NORTH ASIA

STIC exits Jeil Hydraulics for 3.1x return

STIC Investments has exited its stake in Jeil Hydraulics, a Korean manufacturer of hydraulic motors and related components, to Eaton Corporation for KRW30.8 billion ($26.8 million). The investment generated a 3.1x money multiple. STIC paid KRW10 billion for a 22% stake in the company in late 2009.

SOUTH ASIA

Yinglan Tan joins Sequoia Capital India

Yinglan Tan, formerly head of projects at Singapore's National Research Foundation, has joined Sequoia Capital India as a venture partner. Tan, who is based in Singapore, is said to have started his new role in July.

Navis sells Nirula's to Indian trade buyer

Navis Capital Partners has sold its 100% stake in Indian restaurant chain Nirula's Corner House to hotel and real estate group A2Z Excursions. Last month, Navis was reported to be in discussions with a Mumbai-based hotelier to sell the company for INR1.5 billion ($27 million), but local media this week put the figure at closer to INR600-800 million.

Reliance Mediaworks to raise $110m from PE

Reliance Mediaworks (RMW), a Indian film and entertainment services company controlled by billionaire Anil Ambani, has raised INR6.05 billion ($109.7 million) from a foreign private equity fund. The capital will be used to cut debt and for business expansion.

PE-backed Manipal Global considers stake sale

Several PE firms and UK media conglomerate Pearson are reportedly considering a stake purchase in Manipal Global. The transaction would facilitate the exits of IDFC Private Equity and Capital International, which together hold more than 12% of the company.

Red Fort to raise $500m for third fund

Red Fort Capital Advisors is reportedly planning to raise $500 million next year for its third Indian real estate fund. Managing Director Subhash Bedi said that that the real estate private equity firm has already deployed around half of its second fund, which closed on $500 million in January.

SOUTHEAST ASIA

TLG Capital bets on Myanmar cruise company

TLG Capital is reportedly planning to establish a company that will operate cruises in Myanmar, investing via its holding in Compagnie Fluviale du Mekong, one of Cambodia's oldest river cruise businesses. It is currently conducting due diligence with a view to starting running cruises on the upper Irrawaddy River in 2013.

Indonesia caps foreign share of local banks at 40%

Foreign ownership of Indonesian banks will be capped at 40%, although exceptions will be made for listed banks with strong financial health and high levels of tier-one capital. On this basis, it appears that DBS Group's $7.2 billion bid for Bank Danamon could still go through.

tim.burroughs@incisivemedia.com

The US invasion

A host of US law firms are boosting their Asian operations with a view to offering private equity clients a full suite of services, from fund formation to capital markets. Is there enough business to go around?

CADWALADER IS KNOWN FOR ITS LONG history, impeccable "white shoe" credentials and a US securitization business that hit unprecedented highs in 2006 only to come tumbling down in the wake of the global financial crisis. Private equity doesn't come into it. And, until about two years ago, neither did Asia.

Nevertheless, Cadwalader wants to have 100 people in the region by 2015 and occupy a top three position across its private equity, M&A and financial institutions practices. Although the firm has been present in Beijing for more than six years, concerted expansion efforts only began in 2010 with the opening of a Hong Kong office. Regional headcount has grown from about six to above 40, the most recent addition being a capital markets team from Jones Day.

"We are not seen as a massive PE law firm but I think we can become a top three firm in Asia fairly quickly," says Rocky Lee, Cadwalader's Asia managing partner, who joined from DLA Piper two years ago, where he was head of the private equity and venture capital practice. "A lot of the established PE-focused law firms don't have a China capability, so funds often come to us for a second guess. Guys like Kirkland & Ellis, Ropes & Gray and Simpson Thacher are very good in the US and they are going to get the first call. I expect that. But we are the ones getting the second call."

It is a remarkably ambitious target for an industry outlier. It also represents a gamble on two fronts: that Asia – and China in particular – will contribute an ever larger portion of global dealflow; and that local expertise can outmuscle the power of global legal brands, even as these brands move to strengthen their own capabilities in the region.

All together now

Cadwalader is not alone. As Hong Kong has established itself as one of the leading IPO centers globally, US law firms have rushed to set up local capital markets practices, posing a challenge to traditional UK dominance of the territory. A more recent lull in activity may have stemmed the tide of poaching individuals, carving out teams and opening new offices, but the long-term objectives remain unchanged.

"A lot of Chinese companies still need capital to grow and one of the first places they go to when capital markets are closed is private equity," says David Eich, founding partner of Kirkland & Ellis' Hong Kong office and the architect of a recruitment coup that last year saw eight high-profile partners join the firm from three rivals. "We look at private M&A, public M&A, US capital markets and Hong Kong capital markets as highly interrelated and we aspire to be market leaders in all of them."

Kirkland & Ellis arrived in Hong Kong in 2005 with a handful of lawyers focusing on M&A and fund formation. It now claims to be the biggest regional player in both areas. Other US players, ranging from generalists such as Akin Gump and Davis Polk to private equity specialists like Ropes & Gray and Simpson Thacher are less gung-ho but still expanding their regional footprints.

Asia ex-Japan announced M&A legal advisory 1H 2012

		2011 rank	Value (US$m)	No. of deals
1	Freshfields	11	16,747	14
2	Skadden	15	13,836	14
3	Baker & McKenzie	2	13,098	22
4	Weil	56	12,450	9
5	Fangda Partners	29	9,747	4
6	Shook, Lin & Bok	27	9,033	14
7	WongPartnership	30	8,738	22
8	Linklaters	7	7,934	17
9	Allen & Overy	1	7,867	16
10	White & Case	36	7,860	6

Source: Thomson Reuters

The fact that Cadwalader and Kirkland & Ellis' ambitions can co-exist in Asia is testament to the region's growth prospects and range of opportunities, but it is also an acknowledgement that relationships between law firms and their private equity clients are far less solid than in Europe or the US. Business follows individuals over institutions – Lee claims to have taken 60% of his book from DLA Piper to Cadwalader, while Eich says that David Zhang and his corporate team have had strong client support since their move to Kirkland & Ellis – so there is a sense that Asia is still very much up for grabs.

"Firms that do private equity work in other parts of the world have realized that they need to have teams and capabilities on the ground in Asia," says Brian Schwarzwalder, a partner at Ropes & Gray. "If you are doing work for a PE firm in one geography but not another you are losing out on potential business and allowing another firm to develop a relationship with the client."

Incumbent's advantage?

Ropes & Gray arrived in Asia knowing that Bain Capital and TPG Capital were among its core clients in the US and decided to start by serving them. Rather than go on a hiring spree and pitch for large volumes of new business, it has brought in people with skill sets thought to meet the needs of Bain and TPG. Simpson Thacher can claim a longer tenure in the region, but its expansion strategy has been similar. Its cornerstone clients in the US are KKR and The Blackstone Group and, to a certain extent, the firm has managed to retain its business in Asia.

However, there are no guarantees. Firms entering the market to serve existing clients are relying on global stickiness – a private equity firm is going to use you in Asia because it knows you from elsewhere – but the same forces apply on a regional level. Some Asia deal teams have a high degree of autonomy when it comes to picking legal counsel. Although teams may be implicitly encouraged by headquarters to use certain counsel, and this could give comfort to the investment committee in New York that has to sign off on deals, it isn't uniformly observed.

The most high-profile example is KKR. Simpson Thacher figures in the private equity firm's deals in most Asian markets apart from those in China. This is because KKR's core China team, including country head David Liu, joined from Morgan Stanley Private Equity Asia where they spent more than a decade working with Paul Weiss. That relationship has prevailed.

"In some respects the global firms are obliged to use certain legal counsel, but is it an expectation more than a rule," says Kathryn King Sudol, a partner with Simpson Thacher in Hong Kong. "Individual deal teams need to be comfortable with the counsel and usually have a lot of influence over the selection. We need to be mindful of providing superior service, rather than simply relying upon a global relationship."

Securing an exclusive relationship with a private equity firm in Asia is difficult if not impossible. In two more cases, there are signs that local deal teams are resisting pressure to use legal counsel that have strong ties to their global parent firms. Cleary Gottlieb relies on a steady stream of work from TPG in the US and Latham & Watkins often represents The Carlyle Group. According to market sources, the local deal teams are keen to broaden their scope.

These desires are not necessarily born of dissatisfaction with a law firm's overall performance, but rather whether its pockets of expertise are a good fit with the private equity investor's current focus. Hong Kong is the base for teams deploying capital across the region and they inevitably require advice on regulatory and other issues in different markets. Local counsel is often retained in each location and this may see the regional-level advisors relegated to supporting roles or squeezed out entirely, depending on the client's needs.

"We are horses for courses: we'll use one firm in Australia, another in Hong Kong because they are competent in China, and then another for Southeast Asia," one pan-Asia fund manager tells *AVCJ*. "I leave it up to the partner in the local office to decide who they are most comfortable using and will only step in if it's a lawyer who has really screwed us in the past. Global firms don't work like this. Some of these law firms are almost like in-house departments of the PE firms."

Know your market

This geographical expertise is not limited to Asia. While various firms have boosted their Hong Kong capital markets capabilities, the growing number of take-private transactions involving Chinese companies listed in the US requires different skill sets. In many cases, company management and their private equity backers want to exit the US bourse with a view to re-listing in Hong Kong, and this may involve a shift in incorporation jurisdiction from Nevada to the Cayman Islands.

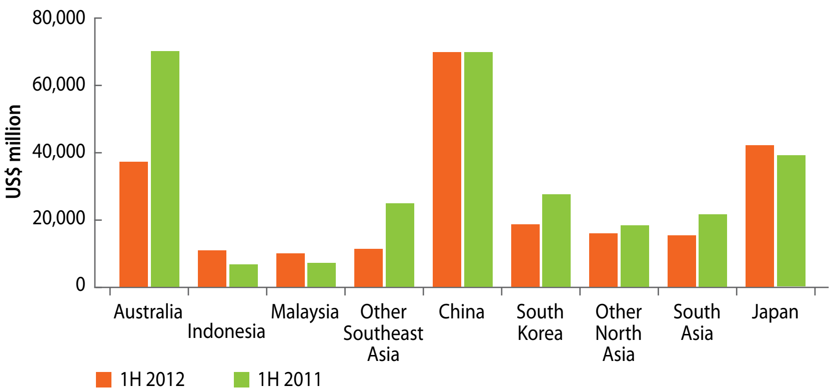
It promises more work for law firms – provided they are familiar with US securities laws and public markets M&A. "US take-private deals are a relatively new product in this part of the world and only a handful of firms have the resources to work on such transactions," says Kirkland & Ellis' Zhang. "These are Chinese companies listed in the US and incorporated in the Cayman Islands."

Industry specialization is also a consideration, but arguably more in growth deals than big buyouts. Thomas Chou, co-chair of Morrison Foerster's Asia private equity practice, notes that while his firm operates in many industries, its particular experience in TMT and healthcare is a competitive advantage. In contrast, five years ago the industry focus of lawyers in China was much broader, with the same partners handling everything from online retail to natural resources.

Indeed, serving existing US clients with specific needs was a large part of the rationale behind Cooley setting up an office in Shanghai this year. The VC-focused firm has a strong life sciences practice and found that there was a demand for its expertise in terms of handling issues particular to deals in this industry, such as intellectual property and the likely involvement of global pharmaceuticals firms.

"If you know someone is very life sciences-focused then you better be experienced. It's easy to do the six documents that are finance-related but you need to understand the business and where it's going to go over time," says Patrick Loofbourrow, a partner at Cooley. "For a lot of our fund clients, we do fund formation and transaction work and then they want us to represent the companies once they have invested in them. They are comfortable with us."

Asia Pacific announced M&A



Source: Thomson Reuters

Head to toe

A number of law firms aspire to recreate this head-to-toe service in Asia, which goes some way towards explaining the level of competition among fund formation teams. It's important to note that the bulk of the fund work for global private equity firms takes place in the US. While the M&A lawyers at Simpson Thacher or Weil are dealing with Blackstone or Silver Lake, their funds teams are pitching regional and local players for business. This is often done with the ultimate objective of securing more downstream work.

"We are quite targeted in terms of who we try to work with because we want to build long-term relationships with fund clients and hopefully this leads to more deal business," says Peter Feist, a partner at Weil. "We don't view our funds practice as a tool for doing as many funds as we can."

The battle for market share is forcing compromise in some quarters. All the law firms with active fund formation practices that spoke to *AVCJ* say they tend to target the high end of the market, creating bespoke structures for private equity clients willing to pay a premium for quality service. This is distinct from the mass market participants who work with all manner of private equity, mutual and hedge funds, producing more commoditized structures.

But they admit that the market has been disrupted by heavy discounting, with some law firms cutting fund formation fees by 50-60% in the name of goodwill. There is one report of a firm offering services for free in return for access to transaction work.

Even among the top tier players, there is a sense of kill or be killed. "I am fighting to starve the other practices," says one fund formation lawyer. "Some of the funds I am working on right now, I only took on to keep them from Kirkland & Ellis and the rest. Before all the new competition came in, I was never giving discounts.."

The irony is that fundraising in general is becoming more expensive in Asia. A lot of GPs, including a fair number of first-time funds, are chasing capital at a time when LPs are becoming more wary about their allocations to the asset class. This results in more negotiation over terms, which means more billable hours for the fund formation lawyers.

The logic for inculcating relationships at the formation stage is inscrutable, economically and practically, and it is based on a model that has proven highly successful in the US.

According to market sources, fund formation in Asia costs anywhere between $500,000 and $1.5 million and a stable of repeat clients may come to market every 4-5 years. If a law firm is able to leverage its relationship with a GP to secure transactions arising from the fund, the potential pay-off is even more significant. A large buyout deal can generate work beyond the initial investment through debt refinancing, an IPO, high-yield bond issues and dividend re-caps.

Relationships built primarily on less complex minority deals can also deliver fringe benefits. "Having represented Warburg Pincus on other PE investments, we were awarded the buy-side advisory mandate when Warburg's portfolio company, Harbin Pharmaceutical, acquired Pfizer's swine vaccine business in China," says Morrison Foerster's Chou.

Institutional relationships

In practical terms, there are compelling arguments for a PE firm to use the same counsel for formation and transaction work. First, structural issues presented by the fund agreements have an impact on deals, particularly where different fund structures have been set up to accommodate different types of investors.

"The fund formation practice gives us an understanding of the structural issues and tax implications for the fund investors during the M&A process," says Simpson Thacher's Sudol. "These affect every deal in the sense that whenever the PE fund invests in a target company work has to be done with tax advisors, fund counsel and ERISA advisors."

Considerations include choosing vehicles with the appropriate tax treaty protection and ensuring that deal documents contain certain representations, warranties and covenants to cover fund-related issues.

Global announced M&A legal advisory, 1H 2012

		2011 rank	Value (US$m)	No. of deals
1	Freshfields	8	162,214	98
2	Skadden	3	116,754	103
3	Clifford Chance	20	111,959	105
4	Linklaters	9	111,325	121
5	Wachtell Lipton	7	93,824	32
6	Sullivan & Cromwell	1	87,271	71
7	Simpson Thacher	6	85,761	60
8	King & Wood Mallesons	22	80,682	54
9	Allen & Overy	4	75,512	93
10	McCarthy Tetrault	53	75,410	36

Source: Thomson Reuters

Second, there is basic comfort and familiarity. If a legal service provider is working with a PE client in one area, it builds an awareness of what issues and processes are preferred, potentially making it easier to operate more widely. For a lot of firms, the onus is on establishing multiple relationships between different divisions – fund formation, M&A, financing, competition issues, restructuring – and the client.

"PE guys are generally sticky because of past history," says Andrew Ostrognai, a partner at Debevoise & Plimpton. "You might have done multiple sets of formation documents over the years or you've worked on deals and know what the hot points are. There is a wealth of institutional knowledge."

The problem is that PE players in Asia aren't nearly as institutionalized as the service providers would like. Just as an established relationship with private equity firm in the US will secure an initial meeting but not guaranteed dealflow, fund formation doesn't necessarily lead to downstream business.

Perhaps these conditions are to be expected of still immature markets. Asian private equity is barely two decades old and its development has been patchy, reflecting movements in individual markets. There are none of the 20-year relationships between law firms and their private equity clients that are characteristic of US and European markets.

Market outlook

It is possible that Asia may eventually follow a similar development path. Leading law firms say that all their practices are becoming incrementally more sophisticated. There is an expectation that as private equity investors reach their second and third funds, they will start to distinguish between top- and mid-tier practices and pay a premium for quality services. At the same time, the transactions these investors are involved in are likely to become more complex, creating a demand for more specialized advice.

Brad Peck, a partner with Cooley, describes the choice facing PE firms in blunt terms: "If you want to waste a lot of money, get a lawyer without domain experience who wants to take an academic rather than a practical view. Every transaction is ultimately a compromise and you have to find the best sort of compromise for your clients."

> **"If you want to waste a lot of money, get a lawyer without domain experience who wants to take an academic rather than a practical view. Every transaction is a compromise and you have to find the best sort of compromise for your clients"** – Brad Peck

A more immediate question is whether the US law firms' expansion plans can be sustained in such a competitive environment, particularly if the current trough in capital markets activity continues into 2013. The appetite for Asian exposure is unabated – several lawyers say they regularly get calls from headhunters – and there are certainly a lot more funds in the region looking for business. However, it is unclear whether there is enough of the more lucrative work to go around.

Everyone wants to be doing later-stage, change-of-control deals but the reality is that these transactions will continue to be concentrated among a few leading practitioners as would-be rivals consume whatever they can in the hope of building momentum. Law firms that end up competing on price for generic Chinese growth deals against local players may find life difficult. "Many of the non-Wall Street firms that are trying to open up don't necessarily have credible PE practices," says one industry participant. "You may be doing 80 deals a year but if you're only getting $35,000 a time, that doesn't add up to much."

One suggestion is that the bigger firms will consolidate over time and the number of lawyers currently serving the Hong Kong and China markets will remain the same or increase, but spread across 20 firms rather than 50. Others are more circumspect, warning that the US firms who brought in lawyers on big money won't underwrite their investments indefinitely if they aren't performing.

Kirkland & Ellis' Eich is unsurprisingly more bullish, noting that his firm's existing business from US and European clients entering Asia is increasingly complemented by work going in the other direction. "Just this morning our fund guys were working with some GPs who wanted to set up a fund to do real estate in the US, and we are building a team based on a group in New York and Hong Kong," says Eich. "We will see more of this – it is a function of the flattening world."

tim.burroughs@incisivemedia.com

Australia's lower mid-market retains its appeal

Successful fundraises by CHAMP Ventures and Archer Capital Growth Funds suggest that foreign LPs are willing to fill the gap left by Australian institutions. Performance and consistency remain the key factors

MORE THAN HALF OF THE A$475 MILLION that CHAMP Ventures raised for its seventh fund, which closed at the end of last month, came from overseas investors. The foreign share of the private equity firm's previous vehicles was less than 1%. The impact such a turnaround has on the investment professionals tasked with pitching LPs shouldn't be understated.

"I collected a significant amount of frequent flier points – we had to go to the US and Europe 5-10 times during the fundraising process and then to Asia and the Middle East quite a bit as well," says Gareth Banks, a director at CHAMP Ventures. "There are extra travel costs but it's more about the amount of time you spend on the road."

There are extra travel costs but the investment is more about the amount of time you spend on the road.

Foreign investors are an established presence in larger funds: Pacific Equity Partners (PEP), founded by a group of ex-Bain & Company executives, had ties to US LPs from the outset and the foreign share of its most recent fund was about 80%; Archer Capital, whose origins are entirely indigenous, has gradually seen the overseas portion of its funds come into the majority.

For small- to mid-market players like CHAMP Ventures and Archer Capital Growth Funds the transition is more recent. The latter firm, which recently closed its second vehicle at A$300 million, still has 60% domestic investors but the foreign share is up significantly from the preceding fund.

This rebalancing wasn't unexpected. Australia's domestic fundraising landscape has been in a state of flux for a couple of years now. Some superannuation funds have retreated from private equity for due to concerns about fees; others have merged and are in the process of reviewing their asset allocations; still more are diversifying private equity commitments and putting more capital with international managers at the expense of domestic players.

"If you look at our Fund I investors, we had a very good level of re-ups in Fund II but clearly some investors were under pressure to scale back support to the asset class," says Craig Cartner, managing partner at Archer.

Diversification drive

In this context, it is impressive that both CHAMP and Archer managed to finish above target, each having spent about 12 months in the market. CHAMP's corpus is split between pension funds (40%), fund-of-funds (28%) and sovereign wealth funds (15%). Asia accounts for the largest geographical contribution, with 25%, while the US and Europe and the Middle East are on 20% and 11%, respectively. Archer also saw the most interest among Asian and US investors.

Leading Australian lower mid-market funds

Fund	Vintage	Size (US$m)
Crescent Capital Partners IV	2011	500
CHAMP Ventures Investments Trust No.7	2010	483
Crescent Capital Partners III	2006	407
Allegro Private Equity Fund I	2004	305
CHAMP Ventures Investments Trust No.6	2006	305
Advent V Fund	2006	305
Archer Capital Growth Fund 2	2011	305
Next Capital II	2007	299
Next Capital I	2005	270
Wolseley Partners Fund II	2007	239

Source: AVCJ Research

Identifying suitable LPs is not easy. As one Asia-based placement agent notes, a North American institutional investor might have a $50 million minimum ticket size and a 10% cap on its total commitment to a single fund; clearly not appropriate for a GP seeking to raise less than $500 million. CHAMP hired MVision to place the fund while Archer – which has traditionally steered clear of agents – operated alone, although the LP relationships established by its buyout affiliate came in handy.

"The process takes longer because you are competing for capital with all other PE firms globally and the investor base doesn't know you as well," says CHAMP's Banks. "You have to explain about the merits of the Australian economy compared to other jurisdictions and the benefits of the segment in which you are investing."

Cartner adds that foreign investors were generally receptive to opportunities in Australia's small to mid-market buyout space, partly because it is a very clear investment thesis – privately-owned businesses with an enterprise value of A$20-150 million that need growth capital or assistance with succession planning – that has worked before. CHAMP typically pursues expansion and replacement and buyout opportunities in firms with enterprise valuations of up to A$200 million.

Neither claims to have favorite sectors, instead focusing on good management teams. While Archer invested in Fuelfix, which serves mining companies and related infrastructure providers, its portfolio is by no means dominated by commodities boom conduits. As for CHAMP, there is a willingness to invest in growing retail niches – women's fitness and leisure apparel brand Lorna Jane is a portfolio company – despite general wariness of the struggling sector.

Big picture

Fundraising in Asia Pacific as a whole is challenging. According to AVCJ Research, fewer than 100 funds achieved a close in the first half of 2012, raising a collective $22.3 billion, the lowest level since 2009. In what is widely described as a flight-to-quality scenario, GPs with track records and stable teams are managing to prevail, regardless of the national market.

For Australia specifically, it could be argued that private equity firms benefit from LPs' desire to have exposure to the Asia growth story but with a different risk-return profile than that normally associated with emerging markets.

"It comes back to being very clear about the market in which you are investing and your place in it," says Archer's Cartner. "We were able to articulate that during the fundraising process."

alvina.yuen@incisivemedia.com

Banking on convenience

Recognizing the need for more ATMs, a consortium of Indian banks has opened up the business to independent contractors. Numerous private equity-backed enterprises are waiting to swoop

IN 1987, HSBC SET UP INDIA'S FIRST automated teller machine (ATM) in Mumbai. Almost all other banks followed suit. Twenty-five years later, the country now has close to 90,000 ATMs, but is still one of the least penetrated markets in the world.

There are 59 ATMs per million people, three times less than China, but each machine handles an average 53,595 transactions each year, 40% higher than China and three times the US level. The mismatch is largely explained by an inadequate banking infrastructure and growing demand for cash-free services: There are 260 million debit cards in circulation in India and the total is expected to reach 400 million by 2015.

Hoping to improve service levels, a consortium of Indian state-run lenders has in recent months launched an ambitious tender: to outsource 63,000 ATMs across various service providers. Suddenly the market has opened up for independent ATM services companies and manufacturers who preparing to bid for these contracts. Many are supported by private equity and venture capital players.

"The ATM market in India is expected to grow three-fold over the next three years and banks are increasingly looking to reduce costs by setting up ATMs instead of full-service branches," Thomas Davenport, regional director at International Financial Corporation (IFC), tells *AVCJ*. "Given this market context, the ATM market is bound to attract long-term investors."

Just one month ago, IFC, the investment arm of World Bank, committed $2.7 million to Vortex Engineering, an Indian ATM manufacturer already backed by Tata Capital and Bamboo Finance. In March, The Blackstone Group and Bain Capital were also reportedly negotiating to buy the ATM business of Euronet Worldwide India. Other private equity names in the sector include TPG Capital, Sequoia Capital and New Enterprise Associates (NEA).

Cost efficient

The average set-up cost for an ATM in India is $16,000-20,000. In order to offset the expense of setting up and maintaining entire networks of machines, lenders traditionally levy a fee of INR20-INR35 per transaction on users that aren't part of their networks. Whether or not this covers underlying costs, there is another burden – time. From identifying sites and negotiating with landlords, to arranging power supplies and installing the machines themselves, setting up an ATM network is a protracted process.

This explains the emergence of a "brown label" concept, whereby ATM management is outsourced to vendors, with banks retaining responsibility for settlement and banking processes only. It enables ATM networks to be established rapidly without banks having to lock up capital in a fast-depreciating asset. The venders are paid on a per transaction basis so they are suitably incentivized to identify the best locations.

"The core business of a bank is to deal with customers, not manage ATM logistics, so it's better using a third party can boost operational efficiency," says Srinivas Chidambaram, managing director of Jacob Ballas, which in 2010 committed $20 million to Financial Software and Systems (FSS), an Indian payment company that provides ATM procurement and installation services. "This model works both for small and mid-sized and for public sector banks, which don't have the scale to run their own ATM networks as well as for larger banks in managing their existing network and new rollouts."

> **"A new player who doesn't have experience in the ATM industry will find it difficult to meet the banks' requirements"**
> – Srinivas Chidambaram

Leading players such as FSS, Prizm Payment Services and AGS Transact Technologies have moved quickly to secure partnerships with major banks, including State Bank of India (SBI), ICICI Bank and Axis Bank, and each now operates 10,000-15,000 ATMs. However, given the high barriers to entry, it is questionable whether there is still room for new players.

Private equity investors have already made their views clear by backing incumbents. Last August, Sequoia put in another $8 million in Prizm Payment Services, taking its total investment in the company to $15 million since 2008. AGS Transact Technologies, which has tie-ups with Axis Bank and Dhanlaxmi Bank among others, received $32 million from TPG to finance its outsourcing pipeline earlier in the year.

This trend has also manifested itself in secondary transactions. Two years ago, Jacob Ballas and NEA picked up 34% of FSS, facilitating the exit of The Carlyle Group, which first invested $10 million in the company in 2001. "A brand new player who doesn't have experiences in the ATM industry will find it difficult to meet the banks' requirements," says Chidambaram. "I think there will continue to be a fair amount of private equity investments into existing players."

Innovative approach

While several larger companies have been dominating the ATM outsourcing services market, Bamboo Finance and IFC argue that there is still scope to back rising stars on the manufacturing side, particularly companies that offer tailor-made solutions to the underserved rural population.

According to market reports, approximately 40% of India's rural population still lack access to bank accounts, but the small transaction volumes in these areas don't justify the introduction of full branches. ATMs are an efficient means of providing basic financial services.

Vortex, for example, has redesigned its ATMs to feature energy saving systems, solar power panels and fingerprint authentication system, making them viable for use in rural areas where air conditioning is rare and illiteracy is high. The company has already won a contract from the SBI to supply close to 600 ATMs in less developed regions.

"ATMs produced by Vortex do not provide the same functions as the ones you see in Mumbai or New Dehli because they are designed for rural or semi-urban markets, where operating cost must be optimized given the low transaction size ," Eric Berkowitz, CIO of Bamboo Finance, tells AVCJ. "New comers always need to offer differentiated technology at low costs; I'd say the entry barrier is quite high."

susannah.birkwood@incisivemedia.com / alvina.yuen@incisivemedia.com

Creador takes proprietary route to MNC IPO

ONE OF THE BIGGEST CRITICISMS LEVELED at private equity firms that anchor IPOs is that LPs expect them to do proprietary investments. When Saban Capital and Creador Capital performed the anchor role for MNC Skyvision's $228 million offering earlier this month, though, proprietary is precisely what the deal was.

Saban was already a 5% shareholder in PT Media Nusantara Citra, another subsidiary of Sky Vision's parent company Global Mediacom, so was one of the first to hear when the company – the largest pay TV business in Indonesia – was looking to raise capital. Creador CEO Brahmal Vasudevan first met with Hary Tanoesoedibjo, group CEO and president at Global Mediacom, three years ago, meanwhile, under his previous incarnation as managing director for India-focused GP ChrysCapital.

"We met with Hary before we started looking in Indonesia and were very impressed with how they were building Sky Vision," Vasudevan tells AVCJ. "We liked this industry a lot and we liked the dynamics of Indonesia, so when we started our new firm, he was one of our first ports of call."

By chance, it was at the very moment that Creador was created – in September last year – that Skyvision was seeking third-party funding. The company originally planned to go public in the third quarter but weak investor sentiment saw the deal postponed until July. Saban bought 17% of the issued shares for $34 million – equivalent to around 3.5% of the company – while Creador Malaysia took a further 13% (3% of MNC Sky Vision). Creador paid $28 million, with $13 million taking the form of a co-investment by one of its LPs.

MNC: Leading pay TV operator

When considering what attracted the firms to the transaction, the numbers speak for themselves. Jakarta-based Skyvision's revenues grew at 26% per annum over the last two years reaching $187 million this year, while EBITDA swelled by 43% to hit $79 million in 2011. Creador predicts the EBITDA will to grow to $107 million and $137 million in 2012 and 2013 respectively.

"Skyvision has demonstrated an excellent strategy, and that's reflected in its 70% share of the Indonesian pay TV market," adds Vasudevan.

Proceeds from Skyvision's IPO will be used to finance subscriber acquisition plans and its migration of set top boxes from MPEG-2 to MPEG-4 technology. In updating the set top boxes, the company hopes to increase the number of channels offered and in turn boost subscription revenues. Subscriber numbers already total 1.4 million.

In Vasudevan's eyes, the IPO was as successful as Creador could have hoped. The only thing the firm would have liked is a larger slice of the pie. "The company had always targeted to raise $200 million and they got $520 million in demand," says Vasudevan. "We wanted to invest about $40 million and got back to $28 million; there were investors who wanted to invest $20 million that were restricted to $10 million."

A Capital bets on B&O's China growth story

JUST THREE MONTHS AGO, 87-YEAR-OLD Danish electronics manufacturer Bang & Olufsen (B&O) announced worse-than-expected third quarter results: revenue was down 7% year-on-year while pre-tax profit fell by 58%. The company blamed poor sales in Europe and product launch delays.

Like many global retail companies, B&O has been exploring opportunities in China and other emerging markets in order to offset weak demand in the West. In the last 12 months, the company has acquired operations in Hong Kong and south China and opened a sales and marketing office in Shanghai. But the initiative barely makes a dent in B&O's financials: China accounts for less than 5% of total revenue, compared to 15-20% among many of the firm's global luxury peers.


B&O: Exploring China expansion

"Strategic partnership makes a lot of sense in these cases," André Loesekrug-Pietri, chairman of A Capital, tells *AVCJ*. "Many European companies don't really need money. What they need is an answer to a strategic question: how to grow in emerging markets, especially in China?"

This explains why A Capital teamed up with Chinese luxury goods distributor Sparkle Roll to pay $30 million for a 7.71% stake in B&O. The private equity firm approached B&O late last year, arguing that the appropriate local strategic partner could secure the European company's breakthrough. Sparkle Roll has a track record that fits: a 15-year history distributing luxury brands such as the likes of Bentley, Rolls-Royce, Royal Asscher, Richard Mille and Parmigiani in China.

"For our fund, the value-added can only be maximized when we partner with a Chinese strategic investor , and focus on boosting top and bottom line, more than just providing financing," Loesekrug-Pietri adds. "For Sparkle Roll, it signals a rising status because they are now a co-owner of an international brand, moving up from beinga distributor."

The two investors have purchased roughly 3 million new shares in B&O at DKK60.22 apiece. On a fully diluted basis, A Capital and Sparkle Roll will own 1.59% and 6.12%, respectively, of the company. As part of the deal, Loesekrug-Pietri will join the company's board of directors and also become a member of its China advisory board.

The investment comes via the A Capital China Outbound Fund, which looks to take minority stakes in leading mid-sized European companies with strong potential in China, and brings in Chinese companies as co-investors. The vehicle, with a target size of EUR250 million ($306 million), reached a first close in May. China Investment Corporation and Belgian Federal Holding Company are its anchor investors.

"The fund will have a hard cap target of EUR500 million, depending on market conditions," Loesekrug-Pietri says. "We will resume the second fundraising round in September and have already received significant interest from investors across the US, Asia and Europe."

susannah.birkwood@incisivemedia.com

An angel encounter

Anand Prasanna has gone from learning about business in the backwaters of southern India to working for Squadron Capital, one of Asia's leading indigenous fund-of-funds. He also makes angel investments

ANAND PRASANNA GOT HIS FIRST TASTE for business selling lemons and vegetables in his school playground. Around 17 years later, Prasanna – or Anand RP as he's known in the industry – helps manage approximately $2 billion of private equity assets for fund-of-funds Squadron Capital.

A lesser known fact is that he is also a keen angel investor, and maintains close contact with a number of the business angels he used to source deals from at his previous place of work, Sequoia Capital. In May, for example, he injected INR2.5 million ($45,000) in Indian car rental booking portal Taxiguide.in.

"Since Sequoia times and even before, I used to like supporting people who are starting an enterprise," says Prassana. "Mostly I've supported them by giving them free advice or putting them in touch with investors but sometimes people I know very well have wanted capital, so I've participated in friends-and-family rounds."

He typically mitigates the risk by co-investing alongside experts in particular sectors – and by knowing when to say 'no.' "Whenever it comes to investments, I just put a work hat on," he explains. "In my job, we say no much more than yes, so you know how to say that. It's really tough to do that with friends, but when I see a flaw, either I explain it to the person so they understand, or I put them in touch with someone who knows the space well so that they can tell them what the issues are."

Small beginnings

Prasanna grew up in the sleepy coastal town of Trivandrum, the capital city of Kerala, which is located around 90 kilometers from the southern tip of India. Born into a typical middle-class family (music teacher mother, government health worker father), he resisted his parents' pleas to go into medicine or engineering and applied to study business administration at his state university.

When he graduated in 2000, Prasanna found himself in one of the toughest job-hunting environments India had known, following the onslaught on the Asian financial crisis in 1997. As a result, his only option was to start his own business.

Teaming up with a friend he describes as a "techie," Prasanna spent a year buying computer

"Whenever it comes to investments, I just put a work hat on. In my job, we say no much more than yes. It's tough to do that with friends"

hardware components and selling them to businesses. After the year was up, the enterprise was dissolved – but not before they had raised enough money to fund a third of the cost of their desired postgraduate degrees.

In 2001, Prasanna embarked upon a two-year MBA in marketing at the Fore School of Management, which required him to relocate to Delhi. "Delhi was like a different country for someone who comes from the Deep South," he recalls. "You don't speak the language [Hindi as opposed to Malayalam in Trivandrum] and culturally it's so different. You have to spend some time integrating to the local challenges, such as the road rage."

Prassana completed his MBA and, after a short stint as a marketing consultant at Vertebrand Management Consulting, the opportunity presented itself to work as an energy consultant for McKinsey & Company. He was handed assignments across the whole of Asia Pacific, including Australia, China, Malaysia and the Middle East. Tasks ranged from the mundane – dealing with companies' balance sheet or P&L problems – to the exhilarating, such as national security issues.

"One thing I took away from it is that business is not just about thenumbers," says Prasanna."It's about how to get comfort from people… and involves a lot of softer aspects than harder aspects. If you are in Asia, the ability to work with people in a multicultural sense is so important."

Three years after he joined McKinsey, Sequoia Capital arrived in India and decided that the global consulting firm was an ideal hunting ground for new in-country staff. Prasanna was one of five executives who left McKinsey in favor of a role at Sequoia focused on the sourcing and due diligence of transactions. Back then, business plan-clutching entrepreneurs would walk in to the investment firm's offices in their droves, but few made the cut.

In the short time since Prasanna worked there – four years – this dynamic appears to be changing, however. "No-one who was any good to back walked in without an appointment at that point because the best youngsters did not want to beentrepreneurs. Now, a lot of bright minds out of the country's best business schools are starting their own businesses… so we've seen a significant change in people's mindsets."

Into asset management

Prasanna, meanwhile, made a significant change of his own in 2008, when he realized he could count on both hands the number of LPs that were focusing on India, Southeast Asia and Australia – the three markets in which he had the most experience. Determined to carve out a niche in these regions, Prasanna decided to move into asset management and joined Squadron Capital in Hong Kong.

There he feels he's found an area in which he's one of 10 specialists, rather than being one of 2,000 GPs injecting capital into India. He's also satisfying his interest in angel investing, as Squadron recently became an LP in an angel network and is monitoring venture capital funds run by angels across India.

Fund-level investing will remain the day job, though. "I intend to be a person that continues to manage money for large institutional investors who need an experienced team in Asia," he stresses. "I'm excited to be doing fund investments because it's a people business. The more you know people closely, the easier it is to make the right decisions."

Asian Venture Capital Journal

AVCJ ASIAN VENTURE CAPITAL JOURNAL

avcj.com site licences

Wider reach to everyone in your organisation

avcj.com site licence allows everyone in your organisation to have instant access to in-depth analysis, real-time news and information on private equity in Asia and beyond. **Sign up for an avcj.com site licence now and empower your team with critical information and data to soar above your competitors in Asian private equity:**

- Access up-to-date news on Asia's private equity market
- Track the latest trends in fund raising, investments, exits and capital under management
- Learn of new mergers, acquisitions and business alliances
- Undertake investment and risk assessment
- Assess the effects of global developments on a specific region or country
- Understand changes in the regulatory environment
- Get business intelligence on major deals
- Swiftly and accurately identify potential business opportunities

How does it work?

We will arrange online access for your employees to avcj.com, either with individual passwords or by general access through IP address recognition.

How much does it cost?

That depends on how much access you want, but we can customise cost-effective packages to all firms, regardless of size. For more information, contact Sally Yip at +(852) 3411 4921 or email avcjSubscriptions@incisivemedia.com and we will be happy to discuss with you.