CLIFFORD
CHANCE

Clifford Chance LLP Annual review 2011

Opportunities in a changing world

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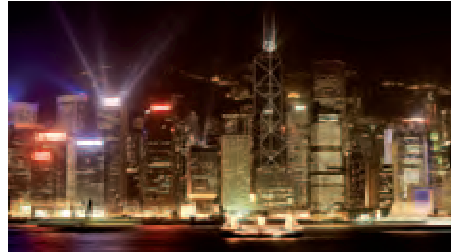

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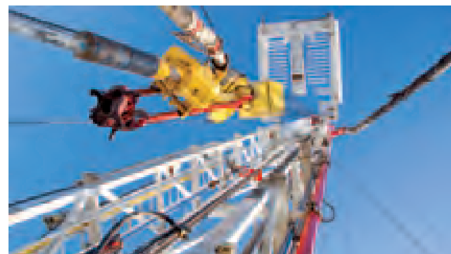

Ambition: p02 – 03

Managing Partner David Childs and **Senior Partner Malcolm Sweeting** give an overview of the firm's performance during 2010/11, and outline our strategy for growth.

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Worldwide offices Inside back cover

Opportunities in a changing world

We are living through a period of momentous change. Organisations the world over are having to revisit fundamental questions about where they do business, how they do business and even what business they are in.

These questions are sharpened by a paradox. Business leaders are again facing constraints all too familiar to anyone whose corporate memory goes back more than 10 years: reduced availability of capital, decreased consumer confidence, embattled economies. Meanwhile, as governments and regulators seek to build a safer, more responsible world for all of us, complex cross-border legislation is proliferating. Yet at the same time, unparalleled change is opening up a world of opportunities unlike anything we have witnessed before.

In this environment, the ability to take a strategic, comprehensive and cross-border view of legal risks and opportunities is of very real value. In this report we highlight some of the ways we have done this for our clients over the past financial year, and offer perspectives from our partners on several of the big questions that we believe will preoccupy our clients in the years to come. **David Childs** Managing Partner, September 2011

About the firm

Clifford Chance is one of the world's leading law firms, with legal resources across the key markets of the Americas, Asia-Pacific, Europe, the Middle East and, soon, in Africa.

Our ambition is to become the leader of the elite group of international law firms that we believe will emerge in the coming years.

This requires unrelenting investment in our strategic goals. We want to be the law firm of choice for all of our clients, working alongside them to achieve their goals and helping them to compete more successfully in their local markets and around the world.

37
clients worked with us across 20 or more offices

58,368
pro bono and volunteering hours by partners or staff

£1,219m
revenues up 2% on 2009/10

£17.8m
time cost value of lawyers' pro bono and community hours

This Annual review and our Corporate responsibility report are also available at **www.cliffordchance.com**

Under the rules of certain US jurisdictions, this document may constitute attorney advertising. Prior results do not guarantee a similar outcome.

World of opportunities, sea of change

Last year was a good year for Clifford Chance. We have **ambitious goals and a solid strategy** that is bringing results. In a period of unprecedented change for our clients, we are open-minded in envisaging the future and flexible in adapting to meet it.

Malcolm Sweeting Senior Partner

David Childs Managing Partner

We have made important investments over the past few years in our global network, our people, and our processes. These have all been designed to ensure that we remain at the forefront of the world's legal elite, working with the best clients on the most interesting, complex and demanding mandates. As a result, despite the continued lower levels of corporate and financial activity in the world's most established legal markets, Clifford Chance found itself in growth mode again, with both revenues and profitability improving.

Beyond our robust finances, last year was a year of considerable strategic progress as we showed our ability as a firm to anticipate and respond to the changed landscape in which we, and our clients, operate:

A world of opportunity: the scale and complexity of opportunities continues to increase – driven by rapid economic growth in some parts of the world, continuing uncertainty in others, and rapid regulatory expansion almost everywhere. Last year we advised on the creation of the €440 billion European Financial Stability Facility: our largest-ever transaction, possibly the largest anywhere. In the equity markets we advised the underwriters on Glencore's groundbreaking Hong Kong/London dual flotation. This was Europe's largest-ever non-privatisation IPO, and a good example of how clients around the world are tapping into the opportunities presented by the growth markets.

A two-speed world, as our revenues demonstrate. Last year they grew 17% in the Middle East and 16% in Asia Pacific, and forged ahead in Latin America and Africa. In the US, UK and Europe our progress was more sedate, reflecting the more uncertain economic environment. We have been rebalancing the firm accordingly, with a target to double our Asia Pacific and Middle East revenues by 2014. In the meantime, we continue to invest in the US and European markets, which remain critically important to our firm and to our clients.

A sea of change. That's how we view the tidal wave of proposed new regulation, especially in the US and Europe. The scale and complexity of the legislation and the increasingly aggressive stance of regulators are creating fundamental shifts in the operating environment for financial institutions and, indeed, for any other commercial entity seeking to access capital. Our leading position in international financial regulatory matters means we are able to mobilise teams to work with clients at the highest level, to unpick the implications and to help them adapt their businesses to meet the new demands they face.

A redrawn map of trading routes. Trade and capital flows are changing fundamentally. Increasingly, growth economies are dealing directly with one another in transactions

> The scale and complexity of opportunities continues to increase – driven by rapid economic growth in some parts of the world.

that bypass traditional financial centres such as London and New York. The world's largest IPO market is now Hong Kong. Shanghai, Beijing, Moscow, Dubai and Qatar have all staked their claims for prominence on the new capital trade routes. South-to-south trade is expanding fast. Our vast cross-border expertise and well-established track-record in Asia have ensured that clients continue to turn to us for advice on these transactions, whether they involve Brazilian and Asian clients moving into Africa or fast growing African clients expanding regionally and beyond.

Investing in evolution

Law firms tend to treat change with caution. But to support our clients in this new world, we have to be both bold and nimble.

We have continued to invest in being in the right places. Last year we opened new offices in Qatar and Turkey, expanded by merger in Australia and strengthened our capabilities in Latin America and Africa.

We are becoming more diverse, less weighted towards our traditional 'home' markets. More than half the 23 people we promoted to partner last year are based in Asia – nine of them in Greater China. Our nine high-profile lateral hires included new partners in China and Singapore.

This matters because 37 of our largest clients worked with 20 or more Clifford Chance offices last year – up from 23 four years earlier. They want to know that every office can deliver strong local knowledge and networks, coupled with international perspectives, and the very best legal advice. We are investing heavily in training to keep all our lawyers up to speed in a time of rapid change.

Diversity is not just about our international make-up. To be successful, we need to draw on the very best talent available; and that means improving the gender balance of our partnership. This year we were very pleased that 30% of our newly promoted partners were female. As our ambition is that women should make up at least 30% of our partnership, this was a good step forward. But we cannot afford to be complacent and we continue to put significant focus on achieving this ambition.

Structuring to deliver quality

To serve clients consistently well, everywhere, we must play as one team. We are proud to be a single profit-pool firm, with partners incentivised on the same basis across all our offices and product groups worldwide. We believe this financial integration is the only way to build an international firm of top-tier quality. The 2011 Chambers Directory rankings bear this out: we dominated the global tables, with one-third more tier one rankings than the second-placed firm.

Innovating to deliver efficiency and value

Quality is not incompatible with efficiency or value. Four years ago we raised eyebrows by opening a service centre outside Delhi. Today it is a proven resource. Clients value its contribution to cost-effective service, and some 13% of our business services staff now work there.

The year's **highlights** include:

Opening new offices
In Qatar (Doha) and Turkey (Istanbul), a double merger in Australia (Perth and Sydney) and announced opening in Morocco (Casablanca), our first office in Africa.

Promotions to the partnership
More than half of the 23 lawyers promoted to partner were in Asia-Pacific; 9 in China.

Market leader advising market leaders
We advise more than 70 per cent of the Fortune 100.

Tier one
For the third year running, we have more leading global practices in Chambers Global 2011 than any other firm.

Outlook

The new world emerging from the financial crisis presents huge opportunities for our clients, and for us. Through promotions, lateral hires and mergers we added 46 new partners last year: clear evidence of our confidence in the future. The firm is stronger than it was before the crisis, with a broader client base and a better balance between advisory and transaction work. We thank everyone who has helped to make this possible: our clients, for whom we remain as ambitious as ever, and our staff and partners.

To read our Governance statement please visit **cliffordchance.com/annualreview2011**

Where next?

Competing for growth in a capital-constrained world.

For most of our clients, the challenge of the past year has been to restore or sustain growth in a world where both capital and confidence are in critically short supply. Many face a particular paradox: regulatory action aimed at rebuilding confidence in the long term is restricting the capital liquidity needed to fund growth in the near term.

World of opportunities

Record-breaking dual-listing in Hong Kong and London

GLENCORE

Clifford Chance advised on the US$10 billion dual listing in London and Hong Kong by Glencore International plc, a world-leading producer and trader of mineral, energy and agricultural commodities.

Shortly after going public in London's largest ever flotation, and the fifth largest in Hong Kong, the global commodities company boasted a market cap of US$59.2 billion.

In addition to its sheer size, this was the first time that simultaneous offerings have been completed on two major stock exchanges – a project few firms could tackle.

A joint London and Hong Kong team advised Citi, Morgan Stanley and Credit Suisse and the underwriting syndicate of 20 banks.

In the following pages, as context for a review of some of our work for clients, Clifford Chance partners offer their thoughts on key aspects of pursuing growth in a capital-constrained world.

The promise of globalisation is that companies of virtually any size can now pursue growth almost anywhere. Indeed, the internet means they can do virtual business everywhere. But the corollary is that they can now face competition from almost any corner of the world.

So when the pursuit of growth takes them into less familiar territory, what are the keys to success? Discussions with our partners around the world **(selected comments on this spread)** find strong consensus on the competitive advantage in being sensitive to local business culture, political and regulatory issues. But there is also a widespread view that outward investors from the younger economies have often been quicker to learn the language of local sensitivity than some of their competitors from the mature economies. This has strengthened their position in target markets.

There can be a tendency to see globalisation as the progressive adoption of Western business models and standards by everyone else. But businesses adopting this approach may find themselves outmanoeuvred by competitors with a more nuanced and longer-term view, who come to learn rather than to impose their own corporate model.

Growth into less familiar territories presents new risks as well as opportunities. On **page 14** we consider what should influence boards' strategic choices about where to go and how to do it.

We also look at how business growth will be funded, as efforts to derisk the banks curtail their capacity to lend. Can investment funds take up some of the slack? On **page 8** we consider the obstacles, and how they might be overcome. For those companies with capital (or credit) to spare, the changing economic environment may present unexpected new opportunities. We look at these – and the potential risks – on **page 20**. In an uncertain world, infrastructure is one market still anticipating strong growth in both developed and emerging economies. But how will the project funding be found? On **page 24** we consider alternatives to bank lending – some of which could provide new growth opportunities for the banks themselves.

And what of corporate advisers such as Clifford Chance? As clients strive to grow their businesses in the midst of immense legal and regulatory change, they are likely to need more advice and support from their lawyers than ever before. On **page 30** we report on how we are collaborating internally and directly with clients to ensure that we work together as productively and cost-effectively as possible. Continued ›

We would welcome your feedback on any of the articles in this review. Please contact us at **arfeedback@cliffordchance.com**

Where next?

Views from key growth markets

Isabel Carvalho
Partner

A view from São Paulo

A common mistake some of our international clients make is to assume that everywhere in Latin America is the same. But the way one does business in Mexico has nothing to do with the way it's done in Argentina or Colombia or Brazil. Due diligence on labour and tax liabilities is essential. Brazilian labour law, for example, is very employee-friendly, and it's possible to acquire huge potential liabilities. Brazilian tax is complicated: taxes and rates change daily. But our legal system is very slow – it can take 8–10 years to get a claim settled in the courts. This makes due diligence and careful contract drafting even more important.

Terence Foo
Partner

A view from Beijing

The road to success in China is not an easy one. Many large Chinese companies, particularly state-owned ones, lack neither capital nor confidence. International clients seeking to partner with them should be prepared to offer up mutual benefit. Foreign investors are increasingly being subject to the scrutiny of China's expansive antitrust and national security regimes. This should be taken into account at an early stage of deal planning. Careful due diligence will often surface tax, licensing, real estate and employee related irregularities which can be daunting to newcomers. No deal in China is risk-free, but understanding the relative levels of risk and negotiating appropriate protections are key.

Guy Norman
Partner

A view from Dubai

In the Middle East there can be a high degree of legal uncertainty in some areas as relevant laws are not always fully developed to address a particular situation. There may be no definitive answer to many client questions. The regulators, too, may be feeling their way: they may never have done a transaction of the type we are looking at. As a result, we need to be creative in this region, often applying developed market techniques in a locally astute and sensitive manner. Because the Middle East is rich in natural resources, there is sometimes a perception that outsiders are there to dip their hand in the pot, extracting benefits from the region without giving anything back. Building relationships and engendering trust are therefore crucial.

World of opportunities

Global player set for take-off

A Clifford Chance team from São Paulo and New York is advising TAM, Brazil's largest airline, on its combination with Chile-based carrier LAN, to create South America's largest airline group.

The new force in global aviation, LATAM Airlines Group, will have combined revenues of more than US$8 billion and carry 46 million passengers a year.

TAM is a member of the Star Alliance airline cooperation group, while LAN is part of Oneworld.

Rahul Guptan
Partner

A view from our India Unit, Singapore

India's corporate culture is shaped by business houses like Tata that have been in existence for over a century. Coming from a colonial period through a highly regulated era to a liberalised economy, they've evolved into a particular Indian business model. International clients have to figure out how their business will plug into that model and complement the Indian business.

When Indian companies invest into China, Africa, Indonesia, they are very keen to do the opposite of what they see international companies doing in India. They tend to start with a small base, figure out the cultural differences and local requirements and build out on that.

When Indian companies invest into China, Africa, Indonesia, they are very keen to do the opposite of what they see international companies doing in India.

World of opportunities

Elle and Esquire under the same roof

HEARST *corporation*

Clifford Chance advised US publishing group Hearst on its acquisition of Lagardère's international magazine business outside France. The move brings the US and many international editions of *Elle*, *Woman's Day* and *Car & Driver* into the same stable as *Cosmopolitan*, *Esquire*, *Good Housekeeping* and other iconic Hearst titles.

Our Telecommunications, Media and Technology teams in New York and Paris, with US regulatory advice from colleagues in Washington DC, represented Hearst in its exclusive negotiations, with lawyers from Spain, China, Moscow, London, Italy, Hong Kong, Kyiv and Tokyo also supporting the deal.

Regulatory capital constraints will curb bank lending for years to come, but won't stop corporate borrowers from recovering their appetite for credit. Investment funds are logical candidates to help fill the gap – if fund managers and regulators can adapt. Clifford Chance partners Jeff Berman (New York), Nick O'Neill (London) and Mark Shipman (Hong Kong) weigh the opportunities and obstacles.

Investment funds: Lifeboats in a sea of change

Fast read Investment funds: life boats in a sea of change

The process of de-risking the banks is in full swing.

Corporates need to access debt to refinance existing lines of credit.

In a capital-constrained world, funds could play a more expansive role.

But pricing visibility and regulation remain key concerns.

We recommend a light hand on the regulatory tiller.

"Becoming a direct lender is potentially attractive to a wide variety of funds."

Jeff Berman
Partner, New York

Nick O'Neill
Partner, London

Mark Shipman
Partner, Hong Kong

The world economy cannot afford another banking crisis like the one it has just endured. So the process of de-risking the banks has begun, and will continue for some years into the future. We cannot yet know exactly where that will take us; but what is certain is that long-term structural changes in the global banking sector are underway. Regulatory developments such as Basel III mean that bank credit will be significantly harder to obtain – and significantly more expensive for borrowers who can get it.

While corporate demand for credit may – for now – be suppressed, the need for debt financing is not going away.

Today's economic uncertainty is clearly discouraging growth and dampening market activity. Even in a stagnant or recessionary environment, however, there is a need for niche and specialist lending to support business operations and maintain liquidity. And although many corporate treasury departments currently boast full cash coffers, some US$1.2 trillion of corporate debt will mature through to 2015 in the European bond markets alone. If the banking sector cannot meet this demand – and it seems plain that it will be increasingly unable to do so given regulatory capital constraints – borrowers will have to look elsewhere.

Attention has turned to the investment funds sector. In particular, it is suggested that private equity and hedge funds are well suited to act as parallel lending institutions that can channel new lending to corporate borrowers. Collectively, funds represent an attractively large pool of capital: they are sufficiently diverse in their specialist knowledge and strategic objectives to accommodate a wide range of business borrowers and financing propositions, and they have the potential to be more flexible and adaptable in meeting needs across the full spectrum of credit risks.

Of course, funds are already important participants in the credit markets and are likely to perform an increasingly significant role in the future. In the post-crisis world, fund managers may not find it so easy to achieve their historic rates of return: against what can be earned elsewhere, at least on a risk-adjusted basis, the stable returns available from corporate lending may not look too dismal.

What role for funds?

Investment funds can – and do – participate in the restructuring of the banking sector in three ways.

They can invest in bank equity as shareholders, or be a source of liquidity to banks. Funds can also be part of the de-risking process, by purchasing the distressed assets sitting on banks' balance sheets. This is happening to some extent already, as pressure on banks to dispose of toxic assets is enabling funds to make opportunistic acquisitions. By permitting banks to replace risk-weighted loan assets with zero-weighted cash, these transactions effectively release bank capital for new lending.

The third way, offering potentially greater benefit to corporate borrowers, is direct lending by funds.

So far, this last option has been more of a discussion point than a meaningful source of new financing. There has been some activity in the US, rather less in Europe and virtually none in Asia. But from our conversations with leading organisations in this area it is abundantly clear that actually disintermediating the banks and becoming a direct lender is potentially attractive to a wide variety of funds.

Continued ›

Funding growth

€440bn emergency support fund for the Eurozone

The European Financial Stability Facility (EFSF), created by the euro area member states (EAMS) in June 2010, represents a vital lifeline in volatile markets. As part of an overall rescue package of €780 billion, EFSF is able to issue bonds of up to €440 billion backed by guarantees issued by the EAMS to provide financial assistance to any EAMS which gets into financial difficulties.

Following work earlier in 2010 on an €80 billion stability support loan provided by euro area member states to Greece, Clifford Chance Paris partner Jonathan Lewis and his pan-European team worked on the support package. Quick thinking was required on one of the biggest loan and capital markets packages ever put together, and certainly the largest Clifford Chance has ever worked on.

Our advice helped ensure that the Facility was structured in a way that would be welcomed by the markets and would meet the demands of cash-poor sovereign states. "He (Jonathan) and his team," the *Financial Times* said in February 2011, "had the complex task of bridging the gap between the needs of governments and rating agencies using commercial law."

In December 2010, the team advised on the first loan facility agreement entered into by the EFSF and Ireland (and the related bond issues) and has since advised on further EFSF lending (including Portugal).

We have yet to see what role banks will carve out for themselves in an ascendant funds sector.

Funding growth

Innovative fund financing

The joint acquisition by an affiliate of global fund manager Apollo Global Management and Fonds Stratégique d'Investissement – France's state-sponsored investment fund – of Alcan Engineered Products from Rio Tinto sets a vital precedent for future ventures between public and private sector funds.

Lawyers from 10 different Clifford Chance offices worked closely with our client Apollo, creating an innovative financing structure to fund the future working capital requirements of the Alcan unit, a leading global manufacturer of aluminium products.

While we would expect private equity and hedge funds to be the leading players, funds specially set up for corporate lending might attract investments from other pools of capital, such as sovereign wealth funds, insurance and pension funds, and even large corporate treasury departments.

Certainly, funds could be part of the solution for frustrated corporate borrowers. But in a sea of change, roiled by waves of new regulation, nothing is plain sailing. So what would help to turn this potential into reality, and what are the hazards? Could a direct lending strategy be holed below the waterline, sunk by ill-adapted management or regulatory interference?

Adapting to the new reality

If investment funds are to become significant corporate lenders, the funds sector will need to develop the necessary skills base. There are a number of credit funds already in the market, but generally they buy paper in secondary transactions rather than originating loans themselves. As a result, only a few fund managers have experience in dealing directly with borrowers and underwriting new extensions of credit.

But skills can be hired in – and as the banks narrow their focus, they will be shedding the people who made the loans that their balance sheets can no longer support. Commercial bankers might well be persuaded to transfer their knowledge and skills to the funds sector, notwithstanding the necessary transition to a new business model and culture, if there were paying jobs to be had.

And the required expertise would not necessarily have to be brought in-house. If corporate lending looks like an attractive market, a 'traditional' fund manager should be able to establish contractual or joint venture relationships with specialist advisory firms that have a track record in the direct lending space.

Structured for success

Fund structures will also need to be adapted to participate in the credit asset class. Hedge funds are typically structured as open ended, offering redeemable interests to investors, while private equity funds are almost always closed ended, strictly limiting investors' opportunities for liquidity. Each model has its pros and cons for a direct lending strategy: open-end funds could be fitted with longer redemption cycles, greater incentives for investors who agree to lock-ups and perhaps roomier side pockets (notwithstanding their current unpopularity among investors), while closed-end funds could be modified to permit more flexible recycling of investment proceeds. Ultimately, of course, funds need to raise capital from investors, and competition for investor dollars will determine which model carries the day.

Banks, too, can be expected to adapt. They will continue to be a force in the corporate lending market notwithstanding constraints on their lending capacity. We have yet to see what role banks will carve out for themselves in an ascendant funds sector. They are unlikely to forgo their customer relationships without a fight, and can be counted on to develop new ways to stand as intermediaries between customers and, say, hedge funds.

Regulatory developments

As the funds sector deepens its involvement in originating and distributing credit and trading credit products, the regulators are not sitting idly by. There are calls to scrutinise this activity more closely. And the references to 'shadow banking' – rather than something less sinister, like 'parallel lending' – leave no doubt as to where the regulators think closer scrutiny will lead.

Given the funds sector's potential value in meeting a potentially critical shortfall in available credit, we have argued for a restrained regulatory response by national and supranational authorities. Additional regulation should only be imposed if the growth of parallel lending poses a clear risk to investors, particularly retail investors, that is not addressed by current rules.

Continued ›

Direct lending by funds gives rise to neither a true 'shadow banking' system nor any meaningful increase in systemic risk: unlike many banks, none of today's hedge funds is, by itself, big enough, leveraged enough or interconnected enough that its failure could destabilise the financial system.

As for investor protection, fund managers are already subject to strict regulation, either currently existing or soon to be in effect in all major jurisdictions, such as the new Alternative Investment Fund Managers Directive (AIFMD) in the EU and the Dodd-Frank Act in the US. For example, under the AIFMD, regulators will be able to access information on the leverage incurred by all private funds, and to limit the leverage they take on, and under Dodd-Frank the SEC will have expanded supervisory authority over fund managers' marketing, disclosure and conflict of interest practices.

Whatever else happens, the prospects for direct lending by funds will ultimately hinge on a single factor: pricing – not only as an asset class, but also in terms of regulatory compliance.

At present it is hard for banks to price their lending activities until they know how they will be affected by Basel III. And until the banks know how to price the market, it is impossible for funds and other alternative pools of capital to gauge how attractive that market is.

If fund managers have to bring in new expertise, and develop new fund structures, the pricing will have to make it worth their while, permitting them to offer competitive returns to alpha-seeking investors. It is easy enough to see how funds can do well with a credit strategy when they are buying balance sheet assets from banks at a few cents on the dollar and making a handsome return. It's not so easy to do it by lending directly to corporates at 5% per annum.

Yet if the need is great enough the price will follow. Corporate borrowing costs will be rising in any case; Basel III makes that a certainty. This is where regulators, political leaders and governments will have a part to play: if funds face lower compliance costs than banks, they will have more room for manoeuvre.

The lighter the better

In our view, the prospects for direct lending by credit funds boil down to two questions:

Can fund managers afford to do it? The risk-return profile of direct lending will have to be favourable enough to attract and reward investment professionals with the right skills. It will also have to be competitive with the alternative strategy of simply taking distressed assets off the balance sheets of banks in the process of de-risking.

Can governments afford not to encourage it? Regulators have the power, and the opportunity, to stifle this new source of corporate credit at its inception. In our view there is no reason for them to do so, and every reason for them to forbear. At a time when any global economic recovery remains elusive and fragile, no potential source of funding for business growth should be needlessly constrained.

In practice, the second question will be decisive. As the extent of regulation has a direct bearing on costs, it may well determine whether fund managers can afford to become direct lenders. It seems clear to us that in this case the interests of cash-strapped companies – and economies – are best served by a very light hand on the regulatory tiller.

If regulators follow this course, then once the upturn comes, we may well find ourselves with a strikingly changed market for credit intermediation. Banks may continue to rule the waves, but the appearance of funds on the horizon will have turned into a lasting strategic challenge.

Funding growth

Transforming the hedge fund landscape

Clifford Chance advised on the US$1.6 billion acquisition by Man Group plc of rival NYSE-listed alternative investment manager GLG Partners Inc. With US$71 billion of funds under management as at 30 June 2011, the enlarged group is a world-leading alternative investment management business and a key player as the sector enters a period of significant opportunity.

Longstanding client Man Group drew on a cross-practice area team of Clifford Chance lawyers to provide M&A, Capital Markets, Regulatory/Antitrust and Employment/Employee Benefits advice on this transformational deal.

Funding growth

PPP potential in Poland

The European PPP (Public-Private Partnerships) Expertise Centre, acting on behalf of the European Commission, instructed Clifford Chance Warsaw to prepare a comprehensive report investigating legal obstacles on combining EU Structural Funds and Cohesion Fund grants with public and private financing in PPP projects in Poland. Poland was the first EU member state where such detailed assessment of the legal feasibility of the 'blended' PPPs was undertaken.

This instruction reflects the position of Clifford Chance Warsaw, which provides unrivalled comprehensive legal services in relation to PPP projects in Poland. The Polish PPP market is perceived by investors as highly attractive given the unprecedented scale of planned infrastructure investments and the absolute necessity of private sector involvement.

Clifford Chance has been playing an active role in advising globally on infrastructure projects and related initiatives implemented under the PPP scheme for many years.

The prospects for direct lending by funds will ultimately hinge on a single factor: pricing.

Managing growth

The search for growth is taking companies onto less familiar ground where the risks are harder to recognise and manage. Clifford Chance partners Robert Crothers (London), Peter Dieners (Düsseldorf), Steve Nickelsburg (Washington, DC) and James Wadham (Hong Kong) consider the strategic implications.

Facing the risks of chasing growth

Robert Crothers
Partner, London

Peter Dieners
Partner, Düsseldorf

Steve Nickelsburg
Partner, Washington, DC

James Wadham
Partner, Hong Kong

Fast read Facing the risks of chasing growth

Businesses entering new markets need to understand and address the associated risks.

Can they be fully confident in the legal system and the protection it will afford them?

Do they have sufficient understanding of third party risks?

Has a sufficiently strategic view been taken of compliance requirements?

Is the compliance structure fit for the task?

Putting all these risks into perspective: Old risks are disappearing and the new ones are the price of opportunity.

Companies focused on the developed economies face a dilemma. Their heartland markets are stagnating, but their shareholders still demand growth. Growing their business in low-growth markets means taking market share – which is generally very hard. Better, for many organisations, perhaps, to reach out into new and faster-growing markets. This strategic logic is driving companies into unfamiliar corners of the world in search of new customers and revenues, whether by acquisition, organic growth, joint ventures or distribution agreements.

It's a reasonable response to the imperatives of the market. But it's a solution that introduces new risks, which need to be properly recognised and addressed. This has important implications for the governance of the business. Does the board have the right people to appreciate fully the new risks? What advice are they seeking and getting? Is the risk management function structured to handle these new demands and is it sufficiently involved?

The range of risks is broad, and will vary according to a company's chosen growth route. Here we suggest a few key risk questions that are likely to influence companies' strategic choices about *where* to go and *how* to go…

Is the law on your side?

Underdeveloped or corrupt legal systems pose obvious concerns. How can you be certain your business will be protected if you can't have full confidence in the legal system? There may be concerns about nationalisation of resources, or the quality of enforcement or arbitration.

It may be a more prudent strategy to do your deals in other jurisdictions that offer greater protection. We have helped clients to structure their holding structures to take advantage of bilateral investment treaties that provide some external protection for their investments.

Political interference and corruption are not the only issues: many developing countries have had relatively little time to put sophisticated legal systems into place. Judges may be inexperienced or simply not terribly reliable.

As in the courts, so too in the wider administrative system. If you need approvals for certain business activities, you may find that lead times can be very long or that (potentially illegal) 'facilitation payments' may be expected to expedite matters. At the strategic level, you need to be realistic about what's achievable and in what timeframe. You may have to adjust your growth expectations to the pace the system will support. Continued ›

> Is the risk management function structured to handle these new demands?

Will regulatory compliance be a challenge?

Most boards now recognise compliance as a key concern – not least because of new laws with extraterritorial force that define new responsibilities and liabilities for officers and directors.

It's not just that you have to take a strategic view on how you approach compliance; you also have to consider it at an earlier stage. The head of M&A in a global company recently told us that his largest cost item with his legal advisers is pre-deal antitrust analysis. For every deal his team negotiates, five get no further than the initial antitrust work.

But careful analysis can create opportunities, too. In the Middle East, limited competition law enables companies to use business models that are not possible in Europe, for example in respect of bundling products.

As well as influencing your strategic choices about where to go – or not to go – regulatory considerations can also affect how you structure your investments. In some markets, for example, joint ventures with local firms have become the default model; because it's only by knowing the system and being part of the local network that you can navigate the necessary administrative hurdles.

Regulation is no longer confined to traditional 'regulated' sectors such as financial services and pharmaceuticals. It is the 'new normal', subsuming almost all other businesses. And while there may be a degree of convergence in regulatory thinking around the world in financial services and pharmaceuticals, there's real divergence for everyone else. Compared with your home regulatory regime, the regimes in the countries you're expanding into may be widely different or even contradictory.

In developing a geographic strategy, you may be able to learn from the pharma industry's long experience of regulatory evolution. When global pharma players enter an emerging market, they often quickly join or establish industry trade associations to promote their view of how regulations ought to be developed.

Managing growth

Historic Brussels defence

When Dexia Bank needed advice in relation to the largest criminal trial Belgium has ever seen, it turned to Clifford Chance to put together a formidable cross-border team. We were defending our client against accusations of complicity with the securities fraud committed by Lernout & Hauspie Speech Products.

The case involved a court file of 350,000 pages, 15,000 claimants (with claims totalling more than €1 billion), extraordinary media attention, and a final judgment that ran to more than 2,100 pages. Despite this enormous scale and the inherent complexities, the Clifford Chance team steered Dexia Bank to a resounding victory. Our client was acquitted of all charges by the Court of Appeals in Ghent, in a verdict that sets an important precedent in Belgian law.

Managing growth

Into India for UK foods group

Clifford Chance's India Group has represented Booker Group plc on non-Indian law aspects of entering into a joint venture in India to conduct the business of wholesale trading with Satnam Arora (an Indian national and promoter of Kohinoor Foods), giving Booker a unique opportunity for expansion in a key growth market.

It could well be in the strategic interests of companies in other industries to follow suit – creating new, or joining existing, trade associations as a source of know how as well as a platform to exchange their views with the regulators.

The global accountancy firms see opportunity in auditing regulatory compliance, and are lobbying for broader adoption of compliance standards such as SAS117 in the US and EP980 in Germany. Of course, it is in boards' interests to be able to certify the effectiveness of the compliance arrangements of the companies – particularly as they engage with growing numbers of regulatory regimes around the world. But there is a need to strike the right balance between sensible precaution and compliance overkill and any kind of 'checklist mentality' should be avoided. However, this topic is rising up board agendas, and companies will need major investment to meet the standards now being established.

Continued ›

"...the regulatory regimes in the countries you're expanding into may be widely different or even contradictory."

Managing growth

Leadership and remuneration

The introduction of the FSA Remuneration Code in late 2009, coupled with EU wide bonus rules introduced as a result of the Capital Requirements Directive (CRD III) in 2010, has caused a seismic shift in the way the financial services sector approaches remuneration for its employees within the EU.

The new legislation affected thousands of financial institutions across the EU including many of our clients. One of the main underlying aims is to provide stakeholders with greater clarity on whether a firm's remuneration practices support effective risk management.

Clifford Chance has developed an unrivalled level of expertise and experience in this new area of law, helping clients anticipate the implications of the sweeping reforms and mitigate their risks by adapting policies and processes accordingly.

"The faster a company is growing the more closely it needs to look at its activities."

Are our compliance structures keeping pace with your growth?

The growth strategies that drive companies into new markets can, in themselves, pose regulatory challenges. When companies are growing fast it can be hard for them to maintain and grow an effective and reliable compliance framework. Yet acquisitions, joint ventures and even rapid organic growth all import new people and businesses. In these circumstances, a company risks outgrowing its existing compliance organisation or absorbing a culture that is less compliant with regulatory requirements. This can have a huge business impact if the requirements are breached – or even alleged to have been breached.

Governments and enforcement agencies recognise these dangers. For example, the UK Ministry of Justice in its guidance on the Bribery Act (which is relevent to all companies carrying out any part of their business in the UK) states that as a company's business evolves, so will the bribery risks it faces and therefore so should its risk assessment. So the faster a company is growing, the more closely it needs to look at its activities; and in our experience, the closer one looks, the more concerns emerge. Every CEO who is pursuing huge growth, particularly in critical jurisdictions, should recognise the importance of matching that growth with a credible compliance organisation – and accepting the costs that go with it.

Can you trust the people you do business with?

In the past, companies operating outside their home markets sometimes found it convenient to have a local partner who knew how to handle corruption discreetly. Today's anti-corruption regimes have turned that convention on its head. Corrupt partners and counterparties now represent a potentially substantial liability.

It is essential to know exactly who you are doing business with. Where companies are forming substantial joint ventures in new markets, we have recently seen several forming new compliance organisations specifically to monitor the joint venture.

How safe is your IP?

Protection of intellectual property (IP) rights, particularly patents and technology, can be a critical factor in determining which new markets to enter – and whether to manufacture there. If your product embodies a high level of knowledge, do you want to move your factory to a market that is known for largely disregarding IP rights? Do you want to teach local workers to make your high-value product when they can just as easily make it for someone else?

Managing growth

First-class defence

Faced with accusations of market-rigging in the notorious Parmalat case, Citibank turned to Clifford Chance for a first-class defence. Milan prosecutors had claimed that Citibank knew Parmalat's true financial situation when they sold bonds and carried out transactions on behalf of the dairy products group.

Our Milan litigation team, headed by Fabio Guastadisegni, worked tirelessly to get the bank and its executives fully acquitted before the Court of Milan.

"This is a fundamental victory that upholds our position: Citibank and its executives were victims of fraud committed by Parmalat and its employees," said Fabio. "After years of careful analysis of the evidence, we were convinced that Citibank and its executive had no connection whatsoever to the alleged wrongdoing. The rigorous and careful decision by the Court of Milan upholds our position in full."

This may not be a go/no go decision, but it could influence the business models you adopt. To protect IP, you might import critical components into the market for local assembly – or syrup for local dilution and bottling, a low-tech solution drinks manufacturers have long used in many markets.

These days, of course, the flow of IP is more complex than it once was. Companies based in developed economies now look to growth economies like China and India for valuable IP as well as capital and customers. It is important to recognise where there is mutuality of risk, and to recognise that risk management provisions may need to be mutual.

How hard can it be?

A final point: is it possible to be over-concerned with risk? Definitely. Risks – such as described above, are all-pervasive. But risks are the corollary of opportunity. And, in many respects, many global businesses' risks are disappearing with globalisation. Today business people can go to the ends of the earth and be banked by the same company they bank with at home. They can use the same law firm, and be advised by local lawyers who went to university in the US or UK. There will be people who speak their language, literally and metaphorically, to smooth the way and bridge the gaps. Old risks are being stripped away by better communication, by new routes to market (with the internet, do you need a physical presence in your new markets at all?) – and, of course, by tougher regulation.

In many ways, growing in new markets has never been easier. And the risks? Business will always involve risk: that's what makes our job so interesting. But the better you understand risks, the better you can manage them – wherever you venture.

Growth strategies

The sea of new financial regulation will ripple out further than you might imagine, argues Clifford Chance partner Alex Erasmus (London). In the process, it could generate unexpected opportunities for non-financial businesses.

Adapting to change, anticipating advantage

Alex Erasmus
Partner, London

Fast read Adapting to change, anticipating advantage

Increased regulation of the financial services sector will have wide-ranging consequences for all corporates.

Corporate activities with a financial dimension will be subject to the new financial regulations coming into play.

Corporates will increasingly need to look beyond traditional sources of lending, including the bond markets.

Corporates may find themselves becoming lenders to support their own supply chain...

...or pursuing new strategic directions as opportunities arise in the market to pursue attractive assets.

For the corporate sector, it is difficult to know what precisely to make of the explosion in financial regulation that is currently taking place.

Clearly, it is designed to make the world a safer place for businesses, as well as for governments and taxpayers. But it also comes at a cost, as financial institutions will have to adopt new models and practices in a more risk-averse and regulated world – and the effects of this are likely to ripple throughout the economy.

Many of our corporate clients are already alive to the fact that there will be an impact on liquidity and the cost of capital. Many are also starting to think about the next stage and the opportunities that may present themselves, as the squeeze on financial institutions and their customers starts to tighten.

Nimble corporates will not only have opportunities to grow through acquisition, but also to move into new fields deserted by financial institutions as they retreat into their core business operations. New opportunities are not the only development those outside the financial sector may need to take into account…

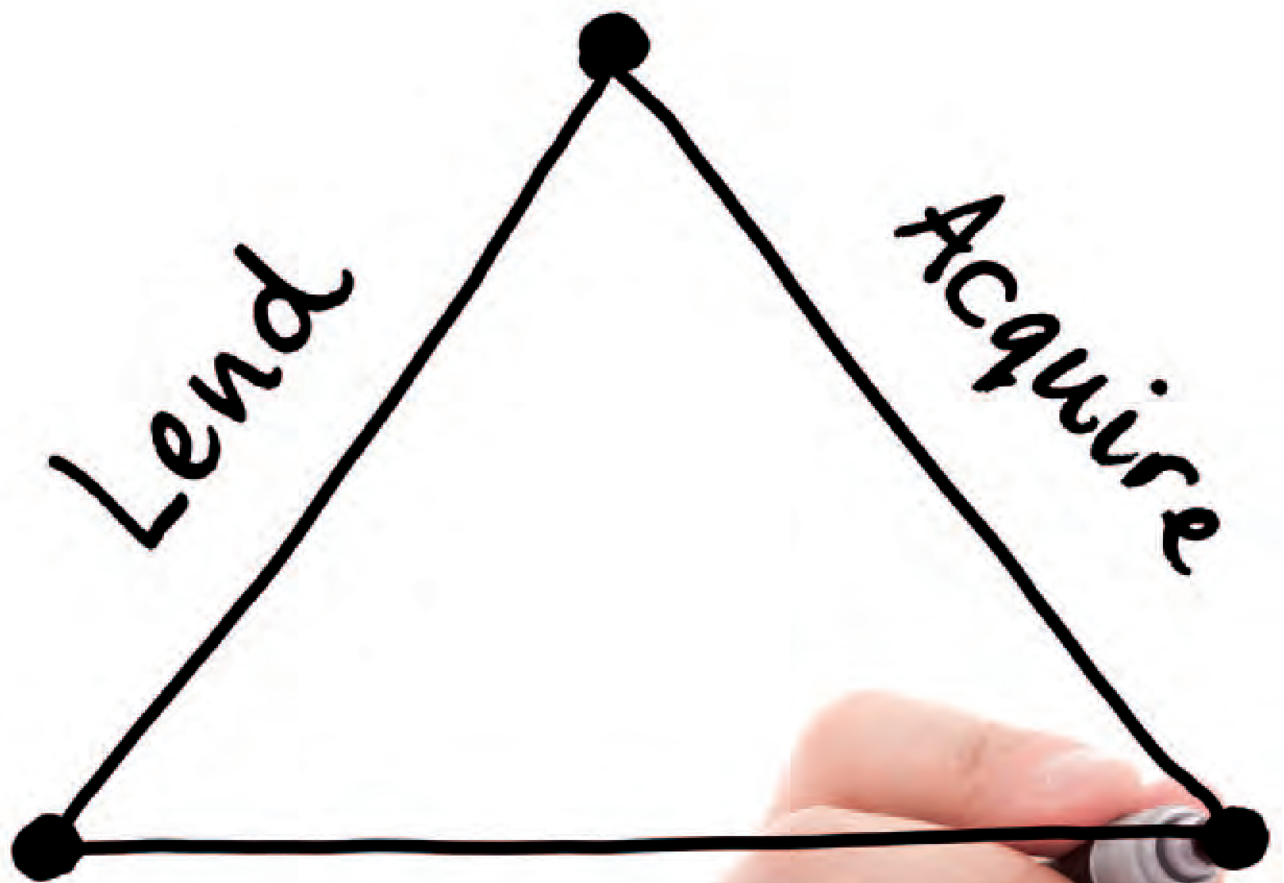
Suddenly, you're regulated

The new regulatory zeitgeist may have more than an indirect impact on a non-financial business.

Many corporates, while not necessarily expecting to face more regulation, may find elements of their business caught in the financial regulatory net because they have a financial dimension. International oil companies and other commodity traders, for example, have extensive trading and hedging activity to protect themselves against fluctuations in both currency exchange rates and product prices. They have trading teams that deal in derivatives; and, unless these can be exempted, they may be subject to a raft of new OTC derivative trading regulations.

Equally, the introduction of the Payment Services Directive means online retailers will need to make sure that they do not inadvertently stray into conducting regulated activities.

And in Europe, the Test-Achats ruling is likely to have an impact on an organisation like RAC which, although generally seen as a breakdown services provider, has a large insurance brokerage business.


Lend
Acquire
Review
strategy?

Growth strategies

Forming a new IT champion

SIEMENS

The global strategic partnership between the IT Solutions and Services division of Siemens AG and French IT services giant Atos Origin resulted in the emergence of a 'European IT champion', with a pro forma total turnover of €8.7 billion and 78,500 employees worldwide.

Clifford Chance Germany worked alongside longstanding client Siemens AG on the transaction from start to finish. The Munich office advised on the worldwide carve-out of Siemens' IT business in more than 40 countries supported by other Clifford Chance offices. Also, the team in Munich, together with the team in Paris, advised on the heart of the partnership, including a complex framework agreement and the issuance of new shares and bonds of Atos to Siemens.

There are many other organisations, seemingly well removed from the financial world, that may be surprised to find they are directly affected.

The squeeze on traditional capital

The indirect impact on businesses is likely to be even wider, with the most obvious area being funding and access to funding. It is going to become more expensive for banks to make risky loans, as they will be forced to hold greater capital to offset the perceived risk, which will in turn soak up liquidity. Consequently, they may avoid borrowers with a high risk profile or make the cost of debt advanced to them too costly.

As traditional lending becomes scarcer and more expensive, corporate borrowers will need to look for alternatives.

One option that is already open is to go into the bond markets. But as more businesses seek to raise capital there, these markets will become increasingly competitive, particularly as existing corporate debt matures. In addition, traditional lenders may themselves be actively raising funds in the bond markets. As a result, it may not be possible for many companies to raise the funds they had hoped from this source.

Competition will not be the only problem. Issuing a bond makes life more complicated from a governance perspective. Not every corporate will be well positioned to meet the additional regulatory and disclosure requirements, or to manage themselves in a way to make bond investors comfortable.

Other sources of cash will have to be found.

New sources of lending

As the banks may no longer be available as the primary source of capital, there will be increasing opportunity for new entrants to come into the market.

We are likely to see some less traditional bodies taking up the opportunity: organisations that have the capital without the regulatory constraints faced by banks. These are likely to include private equity houses and hedge funds (*see page 8 for more on this*) – but we may also see large corporates, who can raise funding reasonably easily, starting to act as lenders.

Why would corporates choose to do this? While they may well have a profit incentive, they will not necessarily have the systems or controls to become lenders as a business in itself. Rather they may have other imperatives – for example, cash-strapped SME suppliers could pose a threat to business continuity. To protect its supply chain, a large corporate may have to lend to the SME that makes its widgets. But when keeping a supplier afloat, what kind of security would a corporate lender take for the debt? Invariably it will be over a stake in the company with the consequence that the corporate lender may well come to own or control non-core businesses.

If a corporate becomes its supplier's lender of first and last resort it may be drawn into embracing risks that previously it had avoided – ending up more vertically integrated than it had intended.

> "We may also see large corporates, who can raise funding reasonably easily, start to act as lenders."

We are also increasingly seeing debt being used as an element of more traditional M&A, where a large corporate is willing to lend money with an option to convert the debt into equity on favourable terms once the business has been secured.

Becoming a financial institution

The fact that financial institutions will increasingly focus on their core businesses means that many interesting assets will come onto the market – assets which don't only appeal to other financial institutions. More and more, we are seeing investors acquiring unregulated financial institution assets and corporates, who see opportunity and value in this quasi-banking arena, may be able to acquire suitable assets at attractive prices.

This could lead some companies and investment houses in wholly new strategic directions. For example, one of our clients recently sold much of its existing investment portfolio, which included a car-parts manufacturer in Asia, to focus on financial services acquisitions in Europe. Regulatory change can have unexpected consequences.

Sea of opportunities

Over the next few years we're expecting a sea of change in financial regulation. And it seems to us that its transformative effect will run far wider than is probably envisaged today. For some, that will undoubtedly bring unexpected frustrations. For others, there may be unplanned new risks. But for those with open minds and a watchful eye, we anticipate some very exciting opportunities to navigate this sea of change profitably, picking up new types of asset and addressing entirely new groups of customers.

Growth strategies

Joint exploration in China

Beijing and London teams advised Aluminum Corporation of China (Chinalco) on a joint venture agreement with the Rio Tinto Group for mineral exploration in China. Chinalco will hold a 51% interest in the joint venture with Rio Tinto holding the other 49%.

The Clifford Chance team has advised Chinalco on two previous occasions.

In 2008, the Firm advised on Chinalco's acquisition of around 12% shareholding in Rio Tinto plc through subsidiary Shining Prospect Pte Ltd, and in 2009 we advised on the proposed US$19.5 billion strategic partnership with Rio Tinto – which, if it had proceeded, would have been the largest outbound investment undertaken by a Chinese company.

Growth strategies

Health care and life sciences tie-up taps global market opportunities

Clifford Chance advised Royal DSM N.V., a global life and material sciences company in the Netherlands, on the formation of a 50/50 joint venture with Sinochem Group in relation to DSM's global Anti-Infectives business.

The groundbreaking tie-up, allows the two companies to grasp new opportunities in China but has a global reach. It presents a unique example of successful global cooperation between Chinese and European multinationals. The global joint venture company is headquartered in Hong Kong.

Growth on the ground

The financial crisis put a brake on many things – but the demand for infrastructure wasn't one of them. In both developed and emerging economies, the demand for transport, energy, water and communications networks keeps rising inexorably. So, inevitably, does the need for financing. But if bank lending is curtailed, how can that demand be met? Clifford Chance partners consider where the necessary finance might be raised.

Underwriting infrastructure

In developing economies, infrastructure investment is growing faster than GDP[1] – driven by rising population, rapid urbanisation and sharply-increasing productivity. People's expectations are higher, particularly in growth economies where 'middle classes' are expanding. The pace of investment is accelerating to meet this demand – growing by 14% annually in the Middle East and Africa, 12.5% in Latin America and 9.5% in Asia and Australasia[2].

In Europe and North America, governments and utilities are having to replace ageing assets in some instances dating back to the post-war infrastructure boom. Sustainability concerns and the reaction to events such as Fukushima are also driving demand for renewable energy and greener waste disposal. The European

1 Source: World Bank figures 1960-2008
2 Source: Global Insight
3 Source: Global Insight

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Partner, Frankfurt

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Kate McCarthy
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Tim Steadman
Partner, London

Fast read Underwriting infrastructure

The burgeoning pace of growth in infrastructure development will demand new capital.

Banks' capacity to meet this need is likely to be constrained.

Scope for a greater role for funds and the return of project bonds.

Alternative financing routes and new structures.

Investment Bank estimates that infrastructure demand in Europe over the next decade will be between €1.5 trillion and €3 trillion. Furthermore, infrastructure M&A before the credit crisis means that there is US$250 billion of infrastructure debt which must be refinanced by 2015.

Altogether, it's been estimated that between 2010 and 2020 the world will need some £22 trillion of investment to meet demand for new infrastructure[3].

But where will all that capital come from?

Financing infrastructure projects can be daunting. They take a long time to plan, fund and execute. Financiers are required to have a great risk appetite in the pre-operation period – for example they are invariably required to take some form of construction risk (i.e. risk that the project will not be completed or completed within budget,) in some circumstances for relatively long periods of time. Debt tenors generally tend to be longer as they are linked to the useful life of the asset and as a consequence amortisation profiles tend to be less aggressive when compared to other areas of finance. In addition, infrastructure projects tend to be enormously complex legally, financially and physically.

Evolving role for banks?

In an environment where banks will be subject to more stringent regulations, resulting in higher funding costs, it seems unlikely that they will continue to play as large a role as they have done in the past. With lending capacity limited by capital constraints, projects that typically involve long tenors and tight pricing may not feature at the top of the 'to do' list.

The bank market has diminished sharply over the past few years. Before the financial crisis there were thought to be around 50–60 significant lenders in the infrastructure market; commentators are now putting the figure at 10–12.

Finally, the increased cost of capital for the lending banks is ultimately likely to be passed on to the project company through increased costs clauses. The true costs of these loans is not yet known, as the regulatory implications of legislation such as Basel III have not yet been factored into a project company's cost of funds. For a limited or non-recourse financed project which may have contractually limited revenues, these costs may not be absorbed easily without affecting the returns of one or more stakeholders.

Continued ›

> Infrastructure assets: these make an attractive investment class for funds that want to match long-term liabilities with long-term assets.

But of course none of the above is to suggest that the lending banks (both international and local) won't continue to have a very significant role to play in infrastructure and project finance. In particular banks (whether international or local) with a physical presence in the emerging markets who have a good understanding of infrastructure and the relevant country risk will be well placed to pursue infrastructure opportunities. But overall the relative proportion of funding from lending banks may decrease and may be deployed in a broader variety of funding structures as we explain below.

Expanding role for private funds?

Like corporate borrowers in general *(see page 8)*, project sponsors are looking for alternatives to bank debt. Inevitably, their attention has turned to that great pool of capital represented by funds – in particular, specialised infrastructure funds. Other potential sources of liquidity could be private equity funds.

How appealing is infrastructure finance to infrastructure funds or private equity? On the face of it, the likely returns are well below the private equity industry's normal expectations. However there is a case for raising dedicated private funds offering returns that reflect their relatively benign risk profile post-commencement of operations. These would not necessarily be existing funds turned lenders; they would be a new kind of fund – 'private debt', if you will – that infrastructure fund managers and/or private equity firms might be well placed to promote. Major players are already discussing this concept, with pension funds and insurance companies as potential investors.

A private debt fund would not be subject to the regulations and capital requirements that constrain banks. Such a fund can raise money more readily and, importantly, more cheaply. With lower capital and compliance costs, a fund can make a higher return on an 8% project finance loan than a bank can. This gives funds the opportunity to capture new investors, on the basis of sharing the upside with them.

Growth on the ground

World-scale refinery in Saudi Arabia

Clifford Chance acted for French oil major Total S.A. on all aspects of its joint venture with Saudi Aramco to construct, own and operate a 400,000 barrels per day, world-scale refinery in Jubail, Saudi Arabia.

This landmark partnership between Total and the Saudi national oil company was one of the largest deals in the sector in 2010. The deal also marked the formation of Total's biggest refinery so far. The venture was recognised as the Project Finance Deal of the Year 2010 at the IFLR Middle East Awards 2010.

Nevertheless, the prospective returns are unspectacular by normal infrastructure fund standards and much lower than target returns for private equity funds – even in the present economic climate. An alternative suggestion is that private debt funds could provide some sort of mezzanine funding that better suits their needs and expectations.

What would appear to be clear is that asking a private fund to fully finance a project at normal market interest rates will not be an interesting proposition. But in the US there is a healthy B-loan market that fills gaps in funding. B-loans are structurally subordinated to senior debt and priced at a higher level to reflect higher risk. This might be a space that private debt funds could focus on.

Further, products which combine elements of both senior and mezzanine debt, and/or debt and equity, might be developed.

Of course, private funds are not the only available pools of capital. Pension funds and sovereign wealth funds also provide potential sources of capital – investing either directly or, for example, through new infrastructure private debt funds promoted by private equity and infrastructure fund managers.

There is a good synergy between pension funds and insurance funds, with their long-term liabilities, and the fairly predictable revenue profiles of typical infrastructure projects post-commencement of commercial operation. They should therefore be suitable sources of senior funding.

Indeed, before the financial crisis they were significant buyers of infrastructure assets: these make an attractive investment class for funds that want to match long-term liabilities with long-term assets, and there has been a resurgence of interest in this kind of M&A recently. In the UK, pension funds were the dominant ultimate sources of senior debt for public-private partnership (PPP) infrastructure projects when the PPP procurement model was in vogue.

Today, pension funds are active investors in new projects in North America – in Texas the police pension fund has put up 20% of the debt financing new toll roads in the state, for example. In Latin America pension funds are often obliged to invest a large proportion of their holdings in local assets, so infrastructure projects funded through the capital markets are of great interest to them.

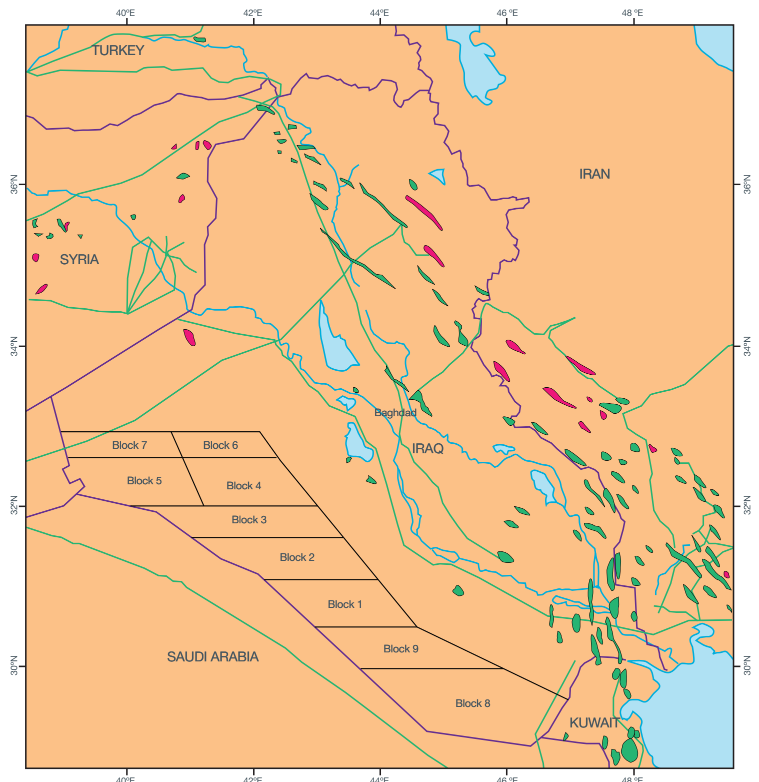
Some sovereign wealth funds support infrastructure projects. China, for example, has been aggressively building its share of the world infrastructure market by offering complete packages with contractors, equity, senior and mezzanine debt all in place. These go far beyond China's original interest in trading infrastructure for natural resources rights in Africa – they now extend from roads in Poland, for example, to hydropower projects in South America. Continued ›

Growth on the ground

Tapping new reserves

West Qurna-2 in Iraq is one of the world's largest unexplored oil fields and will ultimately generate more oil than currently produced across the entire North Sea – 1.8 million barrels of oil a day. The project brings together Lukoil of Russia and Norwegian partner, Statoil-Hydro to develop the field, which has total known reserves of 12.9 billion barrels.

Clifford Chance is advising the operator on a number of key aspects of the development, including the EPC contracts for the $2 billion early works agreement, drilling contracts and the procurement of ancillary works and services.



Growth on the ground

Fuelling China's growth

Clifford Chance's local expertise, aligned with its Energy & Infrastructure focus, came to the fore when our Beijing office advised China Development Bank Corporation (CDB) on a US$4.1 billion financing to State Concern Turkmen-gas, the national gas company of Turkmenistan.

The loan will support the development of the South Yolotan gas fields, one of the largest fields ever found, and gives Turkmenistan the opportunity to diversify its export of natural gas from the current supplies it provides to Russia and Iran. At the same time, it advances China's long-term energy security and diversification requirements.

The financing was signed in connection with the inter-governmental agreement between Chinese Vice Premier Wang Qishan and his Turkmen counterpart, Baymyrat Hojamuhammedov, in Beijing.

Revitalising the project bonds market

Clearly, funds have the potential to be part of the solution. But to tap the broadest possible range of investors, project sponsors will need the kind of access to the capital markets that they enjoyed before the financial crisis.

Project bonds have gone in and out of fashion. Their last boom came to an end in 2007, with the demise of the monoline insurers. These invaluable institutions helped to insulate investors from the two principal disadvantages of project bonds: construction risk and administrative complexity.

The riskiest part of an infrastructure project's life cycle is the construction phase – typically ranging between two to five years when the asset is incomplete and revenues are nil. Once this phase is over, the risk profile reduces dramatically. But in the initial stages, the risk profile is significantly greater than many potential investors (especially potential bondholders) are willing to take.

The monolines widened project sponsors' access to capital by standing between sponsors and investors. They were highly leveraged institutions that guaranteed the scheduled payments on debt obligations, effectively credit enhancing indebtedness for the benefit of the bondholders.

They also took care of administrative complexity. To mitigate construction risks, bondholders have a plethora of entitlements to be consulted over even minor changes as these huge and complex projects proceed. Each of these amendments and waivers could require endorsement from a bondholders' meeting that might take up to 41 days to organise – and we have worked on projects where hundreds of consents and waivers were requested. It can be hopelessly impractical – unless someone is empowered to speak for all the bondholders. As the monolines assumed construction risk, it was logical that they assume this role.

Their specialist expertise – and financial guarantee – meant that bondholders trusted them to take the right commercial decisions. Indeed, bondholders didn't need to know much about project finance at all. During the financial crisis monolines were sharply downgraded, many to well below investment grade. With one exception, they are no longer active or attractive investment propositions. Their product (at least in its traditional form) is not likely to be as readily adopted for future bond issues. The monolines met a perceived need in the market, so the challenge facing stakeholders is to address these concerns in a new funding model.

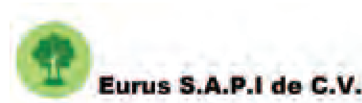
Proposed solutions and replacement financing techniques include:

- Utilising export credit agency credit enhancement, who have shown a willingness to support greenfield projects.
- Bond/bank combination financings, which are particularly prevalent on refinancing established infrastructure.
- Employing products devised by specialist service providers offering credit enhancement and/or surveillance capabilities (who include legacy monolines, specialist mezzanine investors such as Aviva Hadrians Wall and super trustees/ bondholder agents that are able to take more commercial decisions without being constrained by the same fiduciary obligations of a traditional trustee).

> The investor base is in place with funds to deploy, and the demand for financing is unquestionable.

Growth on the ground

Landmark renewable deal for LatAm



Latin American economies are strongly moving to diversify their energy matrix, and the 250MW Eurus wind farm project in Mexico is probably the best example of that trend. The project, which was developed by Acciona Energia, involved the biggest loan ever put together for a renewable energy project in Latin America – a US$375 million package provided by a large number of private and public lenders.

The Washington DC team's sector and technical expertise came to the fore in advising the syndicate, which comprised 13 financial institutions, including multilateral agencies, bilateral agencies, export credit agencies, commercial banks and a consortium of Mexican development banks.

Thanks to our involvement in the Eurus wind project, the same team is currently working on another wind farm in Mexico with a projected cost in excess of US$1 billion.

Read more about **our work in the renewables sector** in our CR report.

- Credit enhancement and project monitoring to be offered by multilateral entities, such as the European Investment Bank which recently launched a project bond initiative to stimulate development in the project bond market.
- Issuing unwrapped bonds (i.e. which do not benefit from credit enhancement), which are particularly appealing to investors who like the asset class and would prefer a higher yield over the lower risk adjusted returns of a credit enhanced product.
- Private placements, which give the investor more opportunity to negotiate an acceptable credit package before investing.
- Issuance into new markets and targeting new investors, for example with the emergence of European infrastructure issuers of Rule 144A debt into the United States and the growth in high yield bond issuance.

The covenant control levels, intercreditor arrangements and voting mechanisms would need to be suitably tailored for each of these financing techniques. For example in an unwrapped bond issue, by comparison to the control rights seen on a monoline deal, it is unrealistic to expect bondholders to vote on minor variations to technical specifications, whereas an export credit agency or the European Investment Bank would probably expect a more enhanced level of control commensurate with it providing credit enhancement.

The capital markets are relatively conservative and precedent driven. It is however clear that the investor base is in place with funds to deploy, and the demand for financing is unquestionable. What remains to be seen is which financing technique will establish itself as the new norm. Alternatively, we may see a diversification in the product offerings which are more specifically adapted to the type of project or infrastructure or indeed the target investor base. Variables will include geographic location, technical complexity, demand versus availability risk, regulated versus unregulated asset base, differences in sectors (oil and gas compared to toll roads for example), and the useful life of the asset. As with any large public bond issuance, the views of the ratings agencies and achieving optimal ratings will remain key.

New structures for infrastructure

The world's need for new infrastructure will not go away. The squeeze on traditional bank lending leads to a mismatch in forecast demand versus their funding capacity. This is an opportunity for other market participants, for those that can seize the initiative. We are confident that as the clamour for capacity increases, the winners will emerge with new and more diversified financing techniques. But expect the banks to stay very much involved: they may be lending less, but there is plenty of work for them still to do, and sponsors will always enjoy the benefits of relationship banking.

New challenges, new opportunities, new skills. Clifford Chance partner Julia Clarke explains how we anticipate and meet changing client demands by continually developing our people's core skills.

Equipping our people for a changing world

The world economy has entered a period in which many old certainties no longer apply. New opportunities are tempered by new and unfamiliar challenges.

However, the trade routes are not uncharted and there is no shortage of would-be advisers. For example, it isn't that difficult to find an English-speaking lawyer in Shanghai or a Mandarin-speaking tax specialist in São Paulo. The real challenge for clients is to know how far they can rely on their counsel in a fast-changing environment, and how confident they can be that their advisers are keeping pace.

So what are our clients looking for, and how are we ensuring that our lawyers are able to provide the advice that's needed?

Raised expectations

As clients find themselves in less familiar situations, facing risks that are harder to assess and mitigate, they inevitably ask more from their lawyers. It's not that they want us to be smarter, exactly: they're looking for something new. Something akin to the ability to see round corners.

We've always aimed to recruit the sharpest legal minds, and to ensure that our training and development programmes equip them with great technical expertise, commercial insight and general business skills. But in preparing our lawyers for this new world, we recognise that we have to go beyond what we've traditionally done.

Consistency still counts. The Clifford Chance Academy celebrated its 10 year anniversary this financial year, and continues to innovate and find new ways to achieve its goal of providing our lawyers with the skills and training they need to offer clients the same high quality advice and service wherever in the world they work with Clifford Chance.

There's also a need for real breadth, combining even wider technical knowledge with deep market understanding, the ability to provide general advice on managing risk and regulation, and insightful handling of client relationships and needs.

Julia Clarke
Global Learning and Development partner

Fast read Equipping our people for a world of change

Keeping ahead of developments and clients' needs is critical.

Our focus on consistency in our global approach to learning and development.

Making training accessible to all, and investing in technology platforms.

Incorporating the voice of the client in development programmes.

Our investment in continuous improvement in service delivery.

Always, everywhere

One consequence is that we are making our training more accessible to everyone in the firm. Much of our training is organised and delivered locally, but we are also making increasing use of distance learning technology – not only to disseminate information and ideas more widely, but also to spread them faster.

If a talk is delivered in London, we aim to make it available for colleagues to watch on their PCs in Hong Kong or Washington, DC within a few hours. A remarkable number of sessions are now delivered remotely: over the past year 3,000 lawyers have watched 9,500 hours of technical skills training and completed 5,000 general business skills courses online.

Inevitably we have stepped-up our technical training programmes to keep people up to speed on legislative and regulatory developments. It's not just that there is more to know in each specialist portfolio; it's also increasingly important to be able to look across traditional boundaries – that ability to see round corners.

Regulatory developments

Financial regulation has moved from an esoteric specialism to being relevant for almost every lawyer. A growing number of corporate, banking and finance lawyers now need capital markets skills. And as corporate clients address a wider range of funding options for each transaction, we are equipping our lawyers to give sound advice whatever the eventual funding route. Nowadays the initial route of choice may well not be the final one – and as a transaction strategy shifts from, say, bank lending to bond finance, clients don't necessarily want to see their lawyers handing over to a succession of specialist colleagues on the other side of the table.

Alongside their need for more compendious technical knowledge, clients are also looking for reassurance that their advisers are commercially savvy, with a thorough understanding of their business and market sector. So we have been increasing our focus on building sector knowledge.

Continued ❯

Voice of the client

In the past year, we have developed a more comprehensive and progressive programme for our senior associates, linked to the partnership selection process. We have an induction course for senior associates in which participants work on case studies in small groups to understand clients' strategic and business objectives and their impact on the work we do. This is not just theoretical: we bring clients in to talk about what matters to them and what they view as good service. This is followed by a programme a year or two later when lawyers can benchmark their client and management skills and formulate a development plan for progressing towards partnership. More of our courses now incorporate elements that encourage our lawyers to put themselves in their clients' shoes, considering the commercial issues that they and their sector peers are facing before deciding how best to meet their needs.

We are providing more systematic ways for people across the firm to exchange their knowledge and views about sectors and the issues that matter to them. For example, we are making sure that partners with relevant experience get around to other offices to share their insights. This is not just confined to sector knowledge: we are working to grow a broader knowledge base among our people – so that they are not just technically expert in their own area of law, but also have a broader knowledge and understanding of areas such as financial regulation.

Equipped for growth

Sector focused in our training

Clifford Chance seminars and workshops reflect, in their international content and practical view points, the global markets we work in, whether we're sharing knowledge internally or with clients.

A client seminar in the Philippines on raising capital overseas, which included information about how to run IPOs in Hong Kong and Singapore as well as International Bond Offerings, was held at a natural venue: the Philippine Stock Exchange (PSE). Hong Kong partner Crawford Brickley and Singapore partner Raymond Tong presented to more than 100 issuers, brokers, analysts and representatives from international and local banks.

By contrast, our Healthcare sector group workshop, led by Düsseldorf partner and group head Peter Dieners, was an in-house event built around an altogether different exchange. Partners and associates from 13 different offices came together, under the umbrella of the Clifford Chance Academy, to share their ideas on developments in the sector.

Equipped for growth

Continuous focus on efficiency and consistency

Clifford Chance has introduced a continuous improvement programme to drive efficiencies through key areas of our business. Projects completed include disclosure document review and preparing post-closing 'bound volumes' of transaction documents, while those underway range from due diligence in IPOs and M&A to better knowledge-sharing and time recording.

This initiative applies process improvement techniques, based on the principles of 'lean' and 'six sigma', to remove waste and achieve consistency, without compromising quality.

While these principles have been used effectively to improve processes in manufacturing and service environments for many years, Clifford Chance is at the forefront of applying them in the legal industry.

Innovative improvement techniques demand equally forward-thinking support. The firm's continuous improvement training course was singled out for an award at the Legal Education & Training Group awards ceremony in June 2011, following a first wave of training for people from our Amsterdam, Frankfurt, Hong Kong, London and New York offices and the Global Shared Services Centre, Delhi earlier in the year.

Topics ranged from licence agreements and compliance, to new concerns cropping up in healthcare M&A.

The benefits of the workshop? More active dialogue across offices, and a renewed focus on client developments. Teams from Düsseldorf and Prague and from Shanghai and Spain are forming in-depth views on specific areas, while a series of client workshops are taking the team's sector focused insights to new client audiences in Europe and beyond.

Joint learning intiatives

As more and more corporate activity is conducted across borders, clients want to ensure that they receive consistent standards of advice and service wherever they operate. Clifford Chance's ownership and reward structures have been designed to support consistent standards globally, and we are working to ensure that our training and development programmes also make a full contribution.

It's increasingly important to get lawyers together from all over the world to share experiences and learn from one another. Our training courses play an important part in this, and we are involving more of our own partners and senior people in our training programmes, so that they can bring their own regional perspectives and share their views and knowledge. International training courses also help our people to build their own global networks inside the firm. Our growing engagement in Asia is reflected in the increasing number of business skills courses available there: 55 last year, compared with 37 the year before.

Within individual practice areas we are also encouraging partners and associates to get together for cross-border retreats, seminars and conferences. We believe these bring real benefits, particularly in enabling individual partners and offices to deliver the firm's full capability to their clients. For this reason we have also been holding events that bring people together from across different practice areas – such as a retreat for corporate and capital markets partners.

Continued investment, continuous improvement

Clients are entitled to expect value for money from their advisers; and for those facing tough economic conditions in key markets, this is more important than ever. As we reported last year, we are pursuing a wide range of initiatives – in some cases working directly with clients – to ensure continuous improvement in the way we manage and deliver our services. In a world where clients may need more advice and support from their lawyers than ever before, it's essential that we deliver the best advice as cost-effectively as possible.

In the past year we have introduced new, externally accredited training courses on process improvement for business services staff, so they can work with our lawyers to manage activity as efficiently as possible. We are also piloting some half a dozen continuous improvement initiatives. These include one on developing operating standards for any given instruction; another aims to generate efficiencies by making greater use of templates and standards developed specifically for syndicated lending.

Looking ahead, we're watching training needs and opportunities more closely than ever. We've done a lot in the past year to keep our training responsive to what's going on in the world around us; but there is still a huge amount of change to come, particularly in the regulatory environment. Whatever happens over the next few years, our clients can rest assured that we're working to ensure our lawyers can deliver informed and insightful advice, coupled with cost-effective service.

Equipped for growth

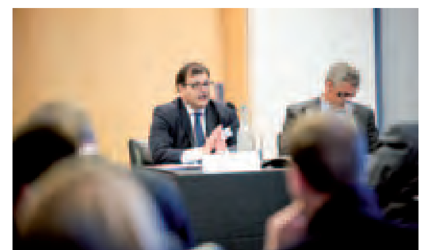
Navigating the sea of change

The 'Sea of Change' initiative is focused on bringing the firm together, globally and across practice areas, to engage with clients around the regulatory changes resulting from the financial crisis.

This vital compendium of presentations, briefings and other forms of knowledge exchange is helping clients to fathom the uncharted legislative territory ahead and take advantage of new opportunities.

In its totality, Sea of Change features briefings, presentations and ideas on 26 related topics, grouped under six thematic headings: financial supervisory framework; regulatory capital; institutional structure & crisis management; corporate governance & remuneration; markets infrastructure, trading & regulation; and funds & investment management.

The initiative was launched in late 2010 with a conference for key clients in London and an internal training day for partners and lawyers. The conference featured Clifford Chance partners from Europe, Asia-Pacific, the US and the Middle East, speaking alongside presenters from the banking and private equity sectors, think tanks and regulators. The previous day we ran the same event with Clifford Chance partners and associates, to help bring the internal team up to speed.



What we achieved in the year

Selection of work:

Aareal Bank AG on a €2bn bond issue guaranteed by the German Financial Market Stabilisation Fund (Frankfurt).

Asian Development Bank and a club of banks (as lenders) on the financing of Natural Energy Development Company Limited's (NED) 79MW power plant located in Lopburi, Thailand. Using state-of-the-art thin film tandem junction panels this is the largest solar power plant in Asia and one of the largest in the world. (Bangkok)

Hong Kong-listed company **China Agri-Industries Holdings Limited** (China Agri) on an international offering of convertible bonds and share placement which comprised the issue of HKD3,875m 1.0 % guaranteed convertible bonds due to mature in 2015 and a placing of 178m shares at the placing price of HKD8.75 per share. The convertible bonds, listed on the Mainboard of the Singapore Exchange, were issued by Glory River Holdings Limited, a wholly-owned subsidiary of China Agri. (Beijing, Hong Kong and Singapore).

Bank of America Merrill Lynch on the pre-litigation settlement of claims by the limited partners in its US$2.65bn Asian Real Estate Opportunity Fund, and the subsequent sale of its control in the Asian fund to Blackstone (New York, London, Hong Kong, Singapore, Tokyo and Frankfurt).

Bank of China (Hong Kong) Limited on its international offering of US$1.6bn 5.55% Subordinated Notes due 2020 and subsequent tap issue in the principal amount of US$900m. A Rule 144A/Reg S offering and Asia's largest non-sovereign tap to date. (Hong Kong).

Canary Wharf Group plc on Royal Dutch Shell's HQ relocation to Canary Wharf (London).

CIMB, Citi, HSBC and Maybank as joint lead managers and joint bookrunners on the US$2bn dual-tranche sukuk-al-wakala transaction for the Government of Malaysia. (Dubai, Hong Kong).

Citi, Morgan Stanley and Credit Suisse: as joint global coordinators and the underwriting syndicate of banks, on global commodities producer and trader Glencore's US$10bn dual listing in London and Hong Kong. (London, Hong Kong).

Defending **Citibank** in the criminal proceedings relating to market rigging in the Parmalat case before the Court of Milan in which the bank and its executives were fully acquitted (Milan).

CL/Crédit Agricole, Goldman Sachs and Unicredit in relation to the US$2bn IPO of Prada in Hong Kong, the first ever listing by an Italian-registered company on the Hong Kong Stock Exchange. (Milan, Hong Kong).

Successfully representing **Dexia Bank** at the largest criminal trial Belgium has ever seen (Brussels).

The creation and incorporation of the **European Financial Stability Facility** (EFSF). The first loan facility agreement entered into by the EFSF and Ireland (and the related bond issues) and on further EFSF lending (including Portugal). (Paris, Frankfurt, London, Luxembourg).

European Investment Bank on €500m financing granted to EDF Energies Nouvelles for the development of 500 MW solar power projects in France and Italy. (Milan, Paris).

French Football Federation on France's successful bid to host the UEFA Euro 2016 European football championship. (Paris).

Global Logistic Properties on its S$3.45bn (US$2.7bn) IPO on the Singapore Exchange. This was the largest IPO on the Singapore Exchange since 1993, and the second-largest in the Exchange's history. (Hong Kong, New York, Singapore).

Hearst on its acquisition of Lagadere international titles outside France. (New York, Paris).

Hertz on the refinance funding for its French and Dutch car rental businesses through a securitisation of its vehicle fleets in France and The Netherlands under a €400m variable funding notes facility. (Amsterdam, Paris).

HSBC Bank Middle East Limited in connection with updating its US$5 billion sukuk issuance programme and a US$500m issuance under the Programme. (London).

International Power (IP) on all aspects of its combination with the energy international division of GDF SUEZ, which was the largest power deal of 2010. The transaction involved assets in Europe, the Middle East, South East Asia, North and South America and Australia and creates the global leader in independent power generation. (London).

Japanese construction conglomerate **JS Group Corporation** in relation to the €620m acquisition of Permasteelisa, the world's leading curtain wall maker, from Investindustrial and Alpha Private Equity. This is one of the biggest Japanese investments in Europe (Milan, London, Tokyo).

Successfully representing **JP Morgan** in the long-running and precedent-setting US$700m mis-selling claim brought by Springwell. (London).

Lloyds TSB Bank plc, Barclays Bank PLC, J.P. Morgan Securities Ltd and Nomura International plc as dealers and joint lead managers in relation to the amendment to Lloyds TSB's £40bn Arkle RMBS master trust securitisation programme and the resulting successful public issuance of £3.166bn of new debt. (London).

Man Group plc on the agreed US$1.6bn acquisition of NYSE-listed rival hedge fund, GLG Partners Inc. (London, New York).

Nielsen Holdings NV, the world's largest audience measurement company, on one of the largest ever private equity-backed IPOs in the US. The offering valued the company at approximately US$8bn. (Amsterdam).

Rabobank on a US$250m cornerstone investment in the Hong Kong IPO of Agricultural Bank of China (ABC). (Hong Kong).

Royal DSM NV, a global life and material sciences company in the Netherlands, on the formation of a 50/50 joint venture between Sinochem Group in relation to DSM's Anti Infectives business group. (Amsterdam, Shanghai).

Sberbank of Russia as depositary in connection with establishment of Rusal Russian depositary receipts (RDR) programme the first-ever RDR programme. (Moscow, London and Hong Kong).

Siemens on a global strategic partnership between its IT Solutions and Services business and Atos Origin. (German offices, Paris).

TAM, Brazil's largest airline, on its merger with Chilean carrier, LAN. (São Paulo).

The **syndicate of financing entities** on the restructuring of Spanish real estate company Metrovacesa's debt. (Madrid, Paris, London)

Total on all aspects of its joint venture with Saudi Aramco to construct, own and operate what will be Total's largest refinery globally (Abu Dhabi, Dubai, London).

U.S. Department of Energy's Loan Programs Office as 80% guarantor for a US$1.3bn loan finalised recently to help finance the construction of what will be the world's largest wind farm. (Washington, DC).

Various export credit agencies and lenders: on the €2.5bn financing of Phase II of the Nord Stream gas pipeline project, Europe's flagship project for energy security in the 21st century and a milestone in European and Russian co-operation. We also advised on the award winning €3.9bn financing of Phase I, making the total project size €7.4bn. (London, Paris, Moscow, Frankfurt, Amsterdam and Brussels).

Volkswagen on its US$1.75bn bond issue. (Frankfurt).

West Qurna 2, on an agreement between Lukoil and Statoil for US$2bn of early works to bring the second largest unexplored oil field in the world to full production over the next seven years. (Abu Dhabi).

Legal expertise awards include:

LatinFinance Magazine Awards 2010: Deal of the Year award for the firm's representation of AEI as sponsor in connection with the development of a 300 MW coal-fired project in Guatemala, and the corresponding US$350m financing.

PFI Awards 2010: Africa Transport Deal of the Year and Middle East Petrochemicals Deal of the Year at PFI.

Islamic Finance News Awards 2011: Sovereign Deal of the Year; Most Innovative Deal of the Year; Project Finance Deal of the Year (as well as Saudi Arabian Deal of the Year).

Project Finance Magazine Awards 2010: Middle East Metals and Mining Deal of the Year; Europe Hydro Power Deal of the Year; Europe Midstream Oil & Gas Deal of the Year; Latin America Geothermal Deal of the Year; Latin America Oil & Gas Deal of the Year.

Global Competition Review Awards 2011: Global Competition Review Matter of the Year 2011 for work on Oracle's acquisition of Sun Microsystems.

Kraft Foods Free Market Awards 2011: Kraft Foods Free Market Award, in recognition of our collaborative approach to reducing the company's costs.

Private Equity International Awards 2010: Law Firm (Transactions) of the Year at the PEI Awards 2010 (for the tenth consecutive year).

EMEA Finance Awards 2011: Sberbank US$2 billion syndicated loan deal recognised as 'Best Syndicated Loan in CEE'.

Infrastructure Investor Awards 2011: Infrastructure Law Firm of the Year in Europe.

Infrastructure Journal Awards 2010: Deal of the Year.

IFLR Europe Awards 2011: Private Equity Team of the Year; Project Finance Team of the Year, and Belgium Law Firm of the Year. In addition, we advised on the Equity Deal of the Year; Private Equity Deal of the Year, and Restructuring Deal of the Year.

Chambers Europe Awards 2011: UK Law Firm of the Year.

The Lawyer Awards 2011: Banking & Finance Team of the Year.

IFLR India Awards 2011: Equity Deal of the Year; Project Finance Deal of the Year.

IFLR Asia Middle East Awards 2010: Middle East Law Firm of the Year (third time in the awards' five-year history) and Debt & Equity Linked Deal of the Year; Equity Deal of the Year; Project Finance Deal of the Year; Restructuring Deal of the Year; Debt & Equity Linked Team of the Year and Restructuring Team of the Year. Al-Jadaan & Partners Law Firm, with whom we have a co-operation agreement, won the Saudi Arabian Law Firm of the Year award for the fifth year running.

Institute for Turnaround Awards 2010: Legal Adviser Award for 2010 (Dubai World).

Cards & Payments Europe Awards 2011: Acquisition of the Year.

FT Innovative Lawyers Awards 2010: Legal Innovation in Financial Services.

JUVE Awards 2010: Law Firm of the Year for Energy, Healthcare and Regulated Industries practices.

Jane's Transport Awards 2010: Aircraft Capital Markets Deal of the Year; Aircraft Debt Deal of the Year, North America; Aircraft Debt Deal of the Year, Asia; Aircraft Debt Deal of the Year, Africa; Aircraft Leasing Deal of the Year, South America; PPP Finance Law.

Who's Who Legal Awards 2010: Banking Law Firm of the Year and Russia Law Firm of the Year.

Asian Legal Business South East Asia Awards 2010: Singapore named International Deal Firm of the Year. Clifford Chance also advised on: SE Asia Deal of the Year; Singapore Deal of the Year; Project Finance Deal of the Year; SE Asia M&A Deal of the Year; Equity Market Deal of the Year.

Euromoney International Tax Review Awards 2010: M&A Tax Team of the Year.

CEEQA Awards 2009: CEE Real Estate Consulting & Legal Firm of the Year.

People and community awards:

Legal Insight Best Law Firm Awards 2010 (in collaboration with The Global Network for Public Interest Law): Clifford Chance Moscow recognised for 'Contribution to Pro Bono Practice'.

LETG Awards 2011: Legal Education & Training Group award.

British Legal Awards 2010: Best Use of Technology.

Business in the Community Awards 2010: BITC 'Power in Partnership' Big Tick.

The Lawyer Awards 2011: Jointly awarded 'Pro Bono team of the Year' for work with the Asylum Support Appeals Project.

LawWorks Awards 2010: Best Partner Level Engagement in Pro Bono.

Private Equity Foundation (PEF) Awards 2010: Most Dedicated Company Supporter Award, June 2010 – for unstinting work in support of PEF and the charities it supports.

Our global office network

Visit www.cliffordchance.com for all our office contact details

Australia
Perth
Sydney

Belgium
Brussels

Brazil
São Paulo

Czech Republic
Prague

France
Paris

Germany
Düsseldorf
Frankfurt
Munich

Grand-Duché de Luxembourg
Luxembourg

Hong Kong SAR
Hong Kong

Italy
Milan
Rome

Japan
Tokyo

Morocco
Casablanca (to be opened in 2011)

The Netherlands
Amsterdam

People's Republic of China
Beijing
Shanghai

Poland
Warsaw

Qatar
Doha

Romania
Bucharest

Russia
Moscow

Kingdom of Saudi Arabia
Riyadh*

Singapore
Singapore

Spain
Barcelona
Madrid

Thailand
Bangkok

Turkey
Istanbul

Ukraine
Kyiv

United Arab Emirates
Abu Dhabi
Dubai

United Kingdom
London (Upper Bank Street
and Coleman Street)

USA
New York
Washington, D.C.

*Clifford Change has a co-operation agreement
with Al-Jadaan & Partners in Riyadh.

How we performed

Financial information

The summary financial information below is based upon the audited statutory consolidated financial statements of Clifford Chance LLP, which are prepared in accordance with International Financial Reporting Standards (IFRS).

Revenue by region was as follows:

	2011 £m	2010 £m
Americas	**140**	140
Asia Pacific	**145**	125
Continental Europe	**467**	476
Middle East	**37**	32
United Kingdom	**430**	424
	1,219	1,197

Overall revenue was 2% higher than the previous year. Revenue grew by 16% in Asia Pacific, by 17% in the Middle East and by 1% in the United Kingdom. Revenue in the Americas was unchanged and fell by 2% in Continental Europe. The changes in revenue include the effect of movements in average foreign exchange rates relative to Sterling. Compared to the previous year Sterling appreciated by 4% relative to the Euro and depreciated by 2% relative to the US Dollar.

Operating costs reduced by 3% in Sterling. Staff and related costs account for 64% of these costs and remained flat in Sterling. Average headcount fell by 5%.

Profit for the financial year before members' remuneration and profit shares on the basis of IFRS increased by 16% compared to the previous year.

Consolidated income statement

Year ended 30 April	2011 £m	2010 £m
Revenue	**1,219**	1,197
Expenditure		
Staff and related costs	**(537)**	(536)
Other operating costs	**(300)**	(327)
	(837)	(863)
Profit from operations	**382**	334
Investment income	**1**	1
Financing costs	**(13)**	(16)
Profit before tax for the financial year before members' remuneration and profit shares	**370**	319
Members' remuneration charged as an expense	**(17)**	(27)
Profit before tax for the financial year available for profit share among members	**353**	292
Taxation	**(13)**	(14)
Profit for the financial year available for profit share among members	**340**	278

Consolidated balance sheet

As at 30 April	2011 £m	2010 £m
Assets		
Property plant and equipment	**53**	67
Intangible assets	**22**	28
Total non-current assets	**75**	95
Accrued income	**198**	180
Receivables	**393**	372
Amounts due from members	**102**	139
Cash at bank and in hand	**67**	117
Total current assets	**760**	808
Total assets	**835**	903
Liabilities		
Bank overdrafts	**2**	5
Payables	**259**	230
Provisions	**21**	45
Total current liabilities	**282**	280
Long-term payables	**42**	134
Provisions	**229**	229
Total non-current liabilities	**271**	363
Total liabilities excluding members' interests classified as liabilities	**553**	643
Net assets attributable to members	**282**	260
Represented by:		
Loans and other debts due to members:		
Members' capital – current liability	**160**	158
Provisions for annuities due to current members		
Non-current liability	**84**	84
	244	242
Equity:		
Other reserves classified as equity	**5**	(21)
Foreign exchange reserve	**33**	39
Total equity	**38**	18
	282	260

Consolidated cash flow statement

Year ended 30 April	2011 £m	2010 £m
Net cash from operating activities	**320**	345
Investing activities		
Investment income received	**1**	–
Purchase of tangible fixed assets	**(9)**	(7)
Proceeds from sale of plant and equipment	**1**	1
Net cash used in investing activities	**(7)**	(6)
Financing activities		
Borrowings drawn	**(92)**	3
Net cash used in financing activities	**(92)**	3
Transactions with members		
Drawings, distributions and remuneration of members	**(269)**	(360)
Capital net contributions by/(repayments to) members	**2**	(24)
Net cash paid to members	**(267)**	(384)
Net decrease in cash and cash equivalents	**(46)**	(42)
Cash and cash equivalents at beginning of year	**112**	155
Effects of foreign exchange rate changes	**(1)**	(1)
Cash and cash equivalents at end of year	**65**	112
Interest bearing loans and borrowings	**–**	(92)
Net cash at end of year	**65**	20

Profit attributable to equity partners

Year ended 30 April	2011 £m	2010 £m
Profit before tax for the financial year before members' remuneration and profit shares on the basis of IFRS	**370**	319
Adjustments for partnership structure and accounting policies, excluding partnership restructuring costs and annuities	**11**	28
Profit before tax for the financial year attributable to equity partners excluding partnership restructuring costs and annuities	**381**	347
Partnership restructuring costs	**(8)**	(7)
Annuities	**(19)**	(14)
Profit before tax for the financial year attributable to equity partners	**354**	326

The profit on the basis of IFRS is attributable to those partners of the firm who are members of Clifford Chance LLP. However, certain members of Clifford Chance LLP are not equity partners in the firm and certain equity partners of Clifford Chance LLP are not members of it.

In addition, the profit attributable to equity partners is determined in accordance with the accounting policies applicable under the partnership agreement, which differ from IFRS. The principal differences relate to the accounting treatment of annuities, pension schemes, property leases, foreign exchange differences and restructuring costs.

Accordingly, in order to arrive at the profit attributable to equity partners, adjustments are made to the IFRS profit to reflect the equity partnership structure instead of the membership structure and to reflect the differences between the accounting policies applicable under the partnership agreement and IFRS.

The average number of equity partners during the year was 379 (2010: 372). The average profit per equity partner based on the profit before tax for the financial year attributable to equity partners excluding partnership restructuring costs and annuities amounts to £1,005,000 (2010: £933,000).

Statutory accounts

The financial information included in this statement does not constitute the statutory accounts of Clifford Chance LLP within the meaning of the Companies Act 2006. Statutory accounts for the financial years ended 30 April 2010 and 30 April 2011 have been delivered to the Registrar of Companies. The auditors have reported on the accounts for both such financial years; their reports were unqualified, did not draw attention to any matters by way of emphasis without qualifying their reports and did not contain statements under Section 498 (2) or (3) Companies Act 2006, as applicable to limited liability partnerships.

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Designed and produced by Radley Yeldar.
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