TIMOTHY LOH LLP

www.timothyloh.com

# hong kong corporate & DISPUTE RESOLUTION LAW FIRM

**"The Choice for Sophisticated Clients"**

Legal500, Asia Pacific

# our CLIENTS

**Client Geography**

We advise on Hong Kong matters across all practice areas

United States

United Kingdom

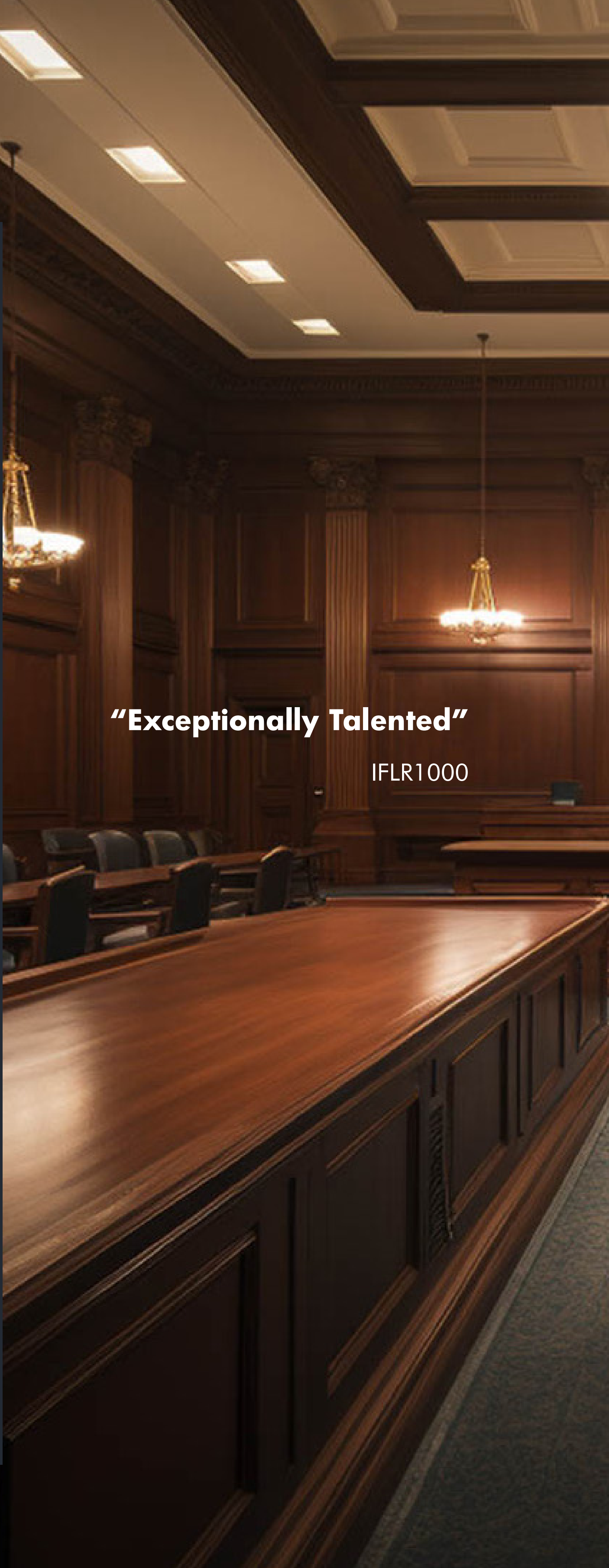
Western Europe

Eastern Europe

Middle East

Asia Pacific

Canada



**"Exceptionally Talented"**

IFLR1000

# introduction

## TIMOTHY LOH LLP


Timothy Loh LLP is a leading independent Hong Kong law firm. Our lawyers practice corporate law and dispute resolution, with a focus on M&A, financial markets and private wealth.

Founded in 2004 with a single client in the aftermath of the Hong Kong SARS epidemic, we have gone on to represent some of the world's most sophisticated consumers of legal services, including Fortune Global 500 companies, private equity firms, hedge fund managers, banks, insurance companies, listed companies and family offices. We have a strong track record of successfully handling highly complex assignments. We are internationally recognized by several independent editorial publications for our work.

As a Hong Kong corporate law firm, we have advised on deals the aggregate value of which exceeds US$43.6 billion. As a Hong Kong dispute resolution law firm, clients have trusted us with their most sensitive matters. We have represented clients at all levels of the Hong Kong courts and have set market precedents in Hong Kong's highest court, the Court of Final Appeal. Clients routinely turn to us as pre-eminent Hong Kong regulatory counsel for their most challenging securities, banking and insurance regulation matters, for advice on contentious and non-contentious tax matters and guidance on private client trust and wealth management issues.

*"This year we celebrate 20 years of legal excellence since our firm was founded in Hong Kong"*

Timothy Loh
Managing Partner

# commercial LITIGATION & ARBITRATION

Commercial Disputes (2021-25)

| | |
|---|---|
| No. of Cases Handled | 38 |
| Value of Commercial Disputes (USD) | 1.3bn |

## COMMERCIAL DISPUTE RESOLUTION

As a leading business litigation firm in Hong Kong, Timothy Loh LLP excels at commercial and corporation litigation and the resolution of business disputes through ADR (alternative dispute resolution) including arbitration and mediation.

In commercial and corporation litigation, litigators at Timothy Loh LLP have represented clients, including major shareholders of companies valued in excess of US$6 billion, in shareholder disputes, advising on breaches of shareholder agreements, unfair prejudice remedies, breaches of director duties, non-compliance with the Companies Ordinance, the Securities and Futures Ordinance and the HKEX Listing Rules, and winding-up on just and equitable grounds, as well as in disputed insolvency proceedings.

Our litigators have experience in contract disputes and contract enforcement, advising on commercial disputes where there may be allegations of misrepresentations, misappropriation of assets, breaches of contract, breaches of fiduciary duties or breaches of tortious duties.

Our team includes Hong Kong qualified mediators and lawyers to represent clients in mediations as well as Hong Kong lawyers experienced in arbitrations administered by the Hong Kong International Arbitration Centre ("HKIAC") and the China International Economic and Trade Arbitration Centre ("CIETAC").


## OUR EXPERIENCE

- A private equity portfolio company valued at US$2 billion in connection with a contractual dispute with a PRC counterparty, the provisional liquidation of that counterparty and the enforcement of judgment
- A research analyst at a US global investment bank in connection with the termination of her employment as a result of allegations of breaches of internal compliance requirements relating to the distribution of research
- A stock brokerage firm listed in Japan and regulated by the SFC in connection with claims by a client for restitution based on allegations of fraudulent and unauthorized loss of client assets
- An SFC licensed investment management firm in Hong Kong with approx. US$450 million in assets under management on defending against legal proceedings commenced by its former fund client alleging losses as a result of mismanagement of investment portfolio after the investment management firm had suspended certain portfolio managers for misconduct
- A former business associate of a Russian billionaire in successfully discharging ex parte Mareva and proprietary injunction orders, unfreezing assets of over HK$35 million, and obtaining a stay of proceedings
- A national oil company in Central Africa to recover US$12.8 million from a fraud committed against the client in connection with the marketing of the client's crude oil and its products
- One of the leading Middle Eastern banks in the world with assets of over US$23 billion in connection with the recovery of US$4 million worth of assets lost as a result of a fraud
- A Hong Kong SFC licensed investment management firm with close to US$1 billion in AUM in arbitration proceedings in the China International Economic and Trade Arbitration Commission (CIETAC) to defend against claims for breaches of investment agreements in connection with this role in a primary market issuance by a PRC based company of notes listed under Chapter 37 on the SEHK

# corporate TRANSACTIONS

With over US$79 billion in transaction deal volume since our establishment in 2004, Timothy Loh LLP is a powerhouse in Hong Kong M&A. As a leading Hong Kong M&A law firm, our work has been recognized around the world by independent industry publications such as the International Financial Law Review 1000 (IFLR1000) and asialaw.

Our Hong Kong M&A lawyers act for a wide range of purchasers, sellers, lenders, secured creditors, shareholders and counterparties, including private equity, hedge funds and listed companies. We are fortunate to have been entrusted with some of our clients highest-value and most complex M&A transactions.

Our practice has a particular expertise in M&A transactions involving financial institutions, including SFC licensed corporations and insurers and insurance brokers regulated by the Insurance Authority ("IA").

Leveraging more than twenty years of experience, we have a track record as the M&A law firm of choice for complex and challenging deals requiring sophistication, pragmatism and commercial sensitivity.

## M&A (2021-25)

Aggregate Deals Size (USD) **$43.6bn**

**“Market Leading Lawyer”**

asialaw Profiles

## MERGERS & ACQUISITIONS

- Co-counsel to a private investment firm in relation to its US$500 million acquisition of a global asset management operation
- Co-counsel to a Fortune Global 200 financial institution in a US$80 million spin-off of its global private wealth management operations
- Lead counsel to a US$1 billion hedge fund on its acquisition of a Hong Kong brokerage
- Lead counsel to a Fortune Global 200 bank on its acquisition of a Hong Kong private client financial advisory business
- Co-counsel to a Fortune Global 200 financial institution in respect of the US$430 million sale of its commodities trading business 200 financial institution in respect of the US$430 million sale of its commodities trading business

## DEBT & EQUITY FINANCE

- Advising a Fortune Global 100 financial institution in respect of placing and underwriting arrangements in connection with a US$4.3 billion global offering and listing on the SEHK
- Representing minority holders of convertible bonds in a pre-IPO company in connection with the restructuring of bond terms
- Advising a Fortune Global 200 financial institution in respect of placing and underwriting arrangements in connection with a US$215 million initial public offering on the SEHK
- Advising a global investment bank in respect of a pre-IPO investment in a PRC company

# asset MANAGEMENT

**Private Equity Highlights**

$78.41bn
Aggregate Clients AUM (USD)

$4.8bn
Largest client AUM (USD)

**Hedge Fund Highlights**

$16.4bn
Aggregate Clients AUM (USD)


## PRIVATE EQUITY

We represent private equity managers across the full range of private equity activities.

Strategic Activities
We have substantial experience in the establishment of operations and the structuring private equity funds onshore and offshore, including the negotiation of terms with investors.

Our experience includes:

- Counsel to US based private funds manager with over US$2.6 billion of assets under management in respect of the acquisition of a 50%. Joint Venture interest in an Asian real estate private equity firm
- Counsel to US based US$10 billion private equity manager spin-off in the formation of investment management operations in Hong Kong
- Counsel to US based private funds manager with over US$65 billion of assets under management in respect of its regulatory structure in Hong Kong

Portfolio Activities

We advise on transaction structures and represent our clients in negotiating and preparing transaction documentation and conducting due diligence. We have particular expertise addressing regulatory issues in private equity transactions involving companies listed or to be listed imminently on the SEHK and financial services companies which are regulated in Hong Kong.

Our lawyers' experience includes:

- Counsel in US$30 million private equity acquisition of assets of a NASDAQ listed company
- Advising in respect of a US$80 million takeover of a company listed on the SEHK
- Counsel to a private equity manager in relation to restructuring of debt and equity co-investments in the PRC
- Advising an Australian US listed bank on its pre-IPO private equity investment in a Chinese mining company

## HEDGE FUNDS

We have substantial experience representing hedge fund managers across the full spectrum of their activities. We have particular experience with complex trading strategies, special situations trading, futures and commodities and derivatives trading.

Strategic Activities

We represent hedge fund managers in the establishment of operations in Hong Kong and the formation of funds. In fund formation, we act as both local and lead counsel and are experienced in developing appropriate strategies to minimize tax, to facilitate capital raising and to comply with applicable laws and regulations.

Our experience includes:

- Counsel to a Hong Kong based hedge fund with over US$100 million in assets under management in relation to specialized tax issues arising from credit derivatives trading
- Counsel to a Hong Kong managed hedge fund in the restructuring of the fund through the creation of a side-pocket to hold illiquid claims as a result of the insolvency of one of their prime brokers
- Counsel to a US$4.8 billion U.S. based hedge fund in respect of a review of its compliance with applicable regulatory requirements

Portfolio Activities

Leveraging our core regulatory strength, we have advised hedge funds on privatizations and other special situations involving companies listed on the SEHK and in respect of trades involving complex regulatory issues.

Our experience includes:

- Counsel to a PRC based asset manager in respect of its ISDA agreements
- Counsel to a US based family office with over US$4 billion of assets under management in relation to insider dealing issues arising from its investment research activities

## MUTUAL FUNDS

We represent asset managers in the formation and marketing of unit trusts and mutual funds. We have experience in making applications for regulatory authorization and with funds listed on the SEHK.

Fund Formation & Marketing

- Counsel to a Fortune Global 100 financial institution in relation to the public launch of its UCITS III equities and fixed income fund in Hong Kong
- Counsel to a Fortune Global 100 financial institution in relation to the transition of its 11 billion UCITS I equities fund to UCITS III

Operational Activities

We have experience in the establishment of operations in Hong Kong and in managing ongoing regulatory relationships in contentious and non-contentious settings.

- Counsel to a Fortune Global 100 financial institution in relation to the launch of a unit trust, mutual fund dealing and custody platform in Hong Kong
- Counsel to a European based financial services company with a market capitalization of over US$10 billion on the establishment of fund marketing operations in Greater China

## INSURANCE

Our lawyers have extensive experience advising insurance companies regulated by the Insurance Authority ("IA"). Our experience covers the corporate and the regulatory side. We routinely act for insurers in respect of insurance products, including investment linked assurance schemes ("ILAS") and funds regulated by the Mandatory Provident Funds Authority ("MPFA"), and have advised on legal terms and conditions to govern insurance agency and brokerage arrangements.

- Counsel advising on complex tax, securities and insurance regulatory issues in connection with a global re-organization in connection with US Government TARP funding to a Fortune Global 200 financial institution.
- Counsel in a US$430 Million spin off of a global commodities brokerage and derivatives business on behalf of a Fortune Global 200 financial institution.

# REGULATORY

## BANKING

Overview

We have acted for Corporate Finance Advisers and Private Wealth Managers across a range of activities.

Investment & Corporate Banking

We have acted for Corporate Finance Advisers and Private Wealth Managers across a range of activities.

Our lawyers have extensive experience in underwriting and securities placements and have represented clients before the SEHK and the Takeovers Panel. We have substantial knowledge of the Listing Rules and the Takeovers Code.

Our Experience

- Advising a Fortune Global 100 financial institution in respect of placement and underwriting arrangements in connection with a US$4.3 billion initial public offer
- Advising a Fortune Global 100 financial institution in respect of placement and underwriting arrangements in connection with a US$210 million initial public offer

REGULATORY (2021-25)

| 41 | $2.4tr |
|---|---|
| No. of cases handled | Aggregate Client AUM & Market Capitalization (USD) |

Private Banking

We have assisted clients with the development and marketing of new private wealth management products and in strategic mergers and acquisitions of private banking operations.

We have worked extensively with clients in relation to compliance with conduct of business requirements in the banking sector and managing regulatory relationships with the SFC and the Hong Kong Monetary Authority.

Our Experience

- Co-counsel to a Fortune Global 200 financial institution in a US$80 million spin-off of its global private wealth management operations
- Lead counsel to a Fortune Global 200 bank on its acquisition of a Hong Kong private client financial advisory business
- Counsel to a Swiss based private bank in relation to its establishment of operations in Hong Kong
- Counsel to a UK based investment bank with revenues exceeding US$500 million in connection with a full scale compliance review of its private wealth operations

# white collar &

# CRIME DEFENCE

**"Leading Practice"**

Chamber and Partners

## WHITE COLLAR CRIME & SECURITIES LITIGATION

We have substantial experience in the resolution of government and regulatory investigations and commercial disputes. Our lawyers have represented clients in enforcement action by the Securities and Futures Commission ("SFC"), the SEHK, the Takeovers Panel and the Market Misconduct Tribunal ("MMT"), Hong Kong Monetary Authority ("HKMA") and Insurance Authority ("IA"). We have appeared for clients at all levels of the courts, from the High Court of Hong Kong to the Hong Kong Court of Final Appeal and in arbitral proceedings administered by the Hong Kong International Arbitration Centre.

- Representing a hedge fund manager in respect of an appeal to the Court of Final Appeal defining the scope of the professional investor exemption as a result of a criminal prosecution by the SFC alleging a breach of statutory restrictions on the issue of fund marketing materials
- Representing a director of a company listed on the SEHK in the first action ever by the SFC alleging breach of the statutory obligation to disclose inside information

We represent companies listed or formerly listed on the SEHK and firms licensed or registered with the SFC in Hong Kong as well as their directors and employees. Our experience extends to insider dealing, market manipulation, the carrying on of unlicensed regulated activities, the issue of investment offers without regulatory authorization, short-selling, theft, fraud and money laundering. Much of the work that we have done for our clients is unknown to the public. The best outcome is achieved when enforcement action ends without trial or publicity.

Our work is often pioneering, involving novel issues of law and setting precedents for the market for years to come:

- Representing an activist short seller in the first case anywhere in the world by a regulator against an activist short seller alleging market manipulation as a result of a negative commentary on a listed company
- Representing the directors and substantial shareholders of a company listed on the SEHK before the Takeovers Panel to defend allegations of a breach of the Takeovers Code in connection with a failed general offer to acquire the shares of the company
- Representing a company listed on the SEHK in connection with an allegation by the SEHK of a breach of the Listing Rules as a result of dealings by directors of the company ahead of the release of financial results
- Representing a ultra high net worth individual in respect of an investigation by the SFC alleging a breach of insider dealing laws

# regulatory DLT & FINTECH

## ATS & CRYPTOCURRENCY (2021-25)

| | |
|---|---|
| Cryptocurrency Case Value | $4.1bn |
| No. of cases handled | 11 |
| Aggregate Client's Trading & Clearing Data (USD) | $19.5bn |

## DLT & FINTECH

Our lawyers advise a wide range of clients, from start-ups to Fortune Global 1000 companies, including banks, insurance companies, asset managers, brokers and dealers, securities and derivatives trading platforms and clearing systems, cryptocurrency exchanges, crypto wallet operators, electronic payment system operators, DLT platforms, FinTech operations and technology business incubators.

Our clients have included 2 of the world's top 5 biggest cryptocurrency exchanges, one of the world's largest electronic payment services operators and the operator of one of the world's largest electronic trading and clearing platforms.

The nature of DLT and Fintech themselves raise a wide range of novel legal and regulatory uncertainties. Currently, there are few or no judicial or market precedents to guide the application of existing laws and regulations to the new methods of doing business.

By leveraging our broad and deep understanding of financial legal and regulatory issues and technology and our extensive experience working with financial market infrastructure players, we provide sophisticated and pragmatic advice to clients navigating the increasingly complicated landscape at the intersection of technology, law and regulation.


## BROKING & DEALING

We have deep experience in all aspects of securities and futures broking, leveraged foreign exchange and gold dealing, margin finance and securities borrowing and lending.

### Securities & Futures

We have acted for introducing brokers, executing brokers and clearing and carrying brokers. We have substantial knowledge of the conduct of business requirements for these businesses, including the trading and clearing rules of the SEHK and the Hong Kong Futures Exchange.

- Counsel to a U.S. based agency broker in relation to its acquisition of a seat on the SEHK
- Counsel to a Fortune Global 500 financial institution in respect of the restructuring of its commodities trading operations in Hong Kong
- Counsel to a European based hedge fund with US$1 billion of assets under management on the acquisition of a Hong Kong stock broker
- Counsel to a Tokyo listed brokerage firm with a market capitalization of over US$1 billion in respect of its customer account documentation for its online broking platform

### OTC Derivatives

Our work is often pioneering, involving novel issues of law and setting precedents for the market for years to come.

We have substantial experience with OTC derivatives products including in respect of the management of credit risks and legal risks.

- Counsel to a Fortune Global 500 financial institution in respect of the establishment of a securities options dealing service
- Counsel to a leading Asia region investment firm in relation to the launch of a new securities borrowing and lending service
- Counsel to an Asia based financial services firm in relation to its ISDA agreement
- Counsel to Fortune Global 500 financial institution in relation to regulatory requirements for structured currency products

# tax SERVICES

We are one of a few Hong Kong law firms who advise on Hong Kong tax laws, providing tax planning advice as well as representation in tax audits and disputes with the Inland Revenue Department ("IRD").

## CORPORATE TAX

Our tax mandates have included:

- Advising an Asia listed company with a market capitalization of over US$600 million in respect of Hong Kong tax liabilities arsiing from proposed M&A activities
- Advising a family office with over US$1 billion of assets under management on Hong Kong tax liabilities arising from the establishment of a partnership holding structure
- Providing tax opinions in respect of a restructuring of Euroclear traded notes valued at over US$280 million

## PRIVATE FUND TAX

tax efficient structures for providing advisory and management services to the funds sponsored by them, including advising on corporate structure, and the treatment of carried interest and management fees. We assist with global structuring of sponsor groups, taking into account transfer pricing tax considerations under general anti-avoidance provisions ("GAAR") and base erosion profit shifting ("BEPS") provisions under the Inland Revenue Ordinance ("IRO").

We advise private equity sponsors on the application of tax exemptions for profits tax in respect of the fund vehicle as well as holding vehicles. We advise private equity sponsors on the structure for investing to ensure the tax efficient distribution of gains and losses from investments to limited partners ("LPs"), taking into account tax exemptions and deductions as well as provisions of comprehensive double taxation agreements ("CDTA").

# trusts & ESTATES

Our trust lawyers advise on the setup and administration of trusts. We represent clients in trust litigation arising from trust disputes. Our clients include numerous members of families with assets valued in excess of US$100 million.

In the setup and administration of trusts, our trust lawyers have deep experience with family trusts. In this area, our work extends to both testamentary and inter-vivos trusts with a view to inter-generational wealth transfer and asset protection, including ring-fencing of assets (whether in Hong Kong or abroad) from creditors and the minimization of loss of wealth through potential conflicts or disputes among family members or taxation.

Where appropriate, our trust lawyers work in conjunction with our other practice areas in corporate finance, mergers and acquisitions, private equity, hedge funds and family offices to facilitate the making of investments held through trusts and to provide an overall sound wealth management structure.

Our trust litigation lawyers advise high net worth individuals, family offices and trustees, focusing on high value or multi-jurisdictional trust disputes posing high levels of client sensitivity and complexity.

- Trust creation and structuring - we offer in-depth guidance on the creation and structuring of trusts, both fixed, discretionary, testamentary and inter-vivos. Our knowledge of trust law, as well as general commercial laws enable us to tailor recommendations for the optimal trust structure that is best suited for clients needs

- Trust control - we devise arrangements to enable a settlor to maintain limits on the trustee's control over trust property and assets, whether through private trust companies, letters or memoranda of wishes, the appointment of a protector, investment manager, or directors to the holding companies of the trust, the creation of an investment committee or a reservation of powers to the settlor

- Tax planning - we understand the desire to limit the erosion of wealth through taxes

- Tax administration - providing trustee services through our affiliate and advising on the full range of legal issues which arise in the course of the administration of trusts. We advise on compliance with the terms of trust, duties of care and fiduciary responsibilities, providing advice on dealing fairly between beneficiaries. We can provide guidance on the rights of beneficiaries to entitlements, distributions and information

# our distinctive
# APPROACH

# Timothy Loh System

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Our lawyers are specialists across multiple legal disciplines, but focus on finance related matters. We believe that this approach enables our lawyers to identify the full range of legal issues which may affect our clients and to gain deeper insight into the problems our clients face. This in turn enables our lawyers to craft innovative solutions outside of defined market norms and to understand the litigation risks in transactions and the commercial context in litigious matters.

## Senior Level Attention

We are small because we afford each client matter senior level attention and we believe there is a natural limit to the number of matters which a senior lawyer can handle while maintaining day-to-day involvement. We believe that the attention given to each client matter by a senior lawyer ensures that each client benefits from the breadth and depth of expertise necessary to offer innovative and customized solutions for our clients with problems that are unique or particularly sensitive.

## Conflict Free Representation

We are a single firm rather than a loose collection of affiliates. As a result, in cross-border matters, we are able to work with those firms in other jurisdictions whom we consider best suited to our clients rather than those firms affiliated with us. At the same time, whilst we work with some of the world's biggest financial institutions, we are not a panel law firm to any major financial institution. Consequently, in both transactional and litigious matters, we are able to advocate fiercely for our clients, even against major financial institutions, without fear of compromising our own economic interests.

## Selectivity

We believe that the skill of individual lawyers rather than the number of lawyers translates into results for clients and that too great an emphasis on a bigger firm can undermine the selectivity required to offer clients the best lawyers. We believe that the law remains a profession whose members distinguish themselves based on technical superiority, creativity and sound judgment in the client's commercial context. We believe that clients get better results from fi rms focused on the recruitment and development of lawyers who distinguish themselves on these bases rather than on size or geographic reach.

# Leadership

Timothy Loh
Managing Partner
Corporate, Dispute Resolution, Tax,
Trusts & Regulatory

Gavin Cumming
Partner
Corporate & Regulatory

Mary Lam
Head of Hong Kong & Managing Associate
Corporate, Dispute Resolution, Tax,
Trusts & Regulatory

Sally Lau
Managing Associate
Corporate, Dispute Resolution & Regulatory

## Senior Management

Our lawyers have been ranked by leading independent editorial publications including the International Financial Law Review 1000 (IFLR1000), The Legal 500, the Lexology Index, asialaw's Leading Lawyers in corporate law, M&A, financial services regulation, private equity and investment funds, among others. The firm's work is often high-profile and has featured in major news publications including Bloomberg, The Wall Street Journal, The Financial Times and the Nikkei Asian Review.ng.

## Our Founder

Timothy Loh is the Managing Partner of TLLP. Since inception in 2004, he has been responsible for the firm's overall management and direction.

He is recognized by independent editorial publications, including Chambers & Partners, the Asia-Pacific Legal 500, Who's Who Legal and Asialaw Leading Lawyers, as a leading lawyer in a number of practice areas, including financial markets regulation, investment funds, hedge funds, private equity, corporate law and mergers and acquisitions.

Timothy Loh has broad experience representing regulated financial institutions, private clients, senior executives and a wide range of businesses in a range of matters.

Since founding this firm, he has advised clients on mergers & acquisitions, the aggregate value that has exceeded US$43.6 billion. He has particular expertise involving regulated financial institutions and has acted on a number of instructions involving the purchase and sale of Securities and Futures Commission ("SFC") licensed asset managers, wealth managers, brokerage firms, insurance companies and insurance brokers regulated by the Insurance Authority ("IA").

He has represented clients in a wide range of white collar and regulatory enforcement matters, as well as commercial litigation and arbitration proceedings. He has particular experience advising on regulatory action undertaken by the SFC including enquiries, investigations, disciplinary action and Market Misconduct Tribunal proceedings. He has served as counsel to clients in respect of commercial disputes involving issues of breach of contract, fraud and asset recovery. He has taken a lead roles in representing clients at all levels of court in Hong Kong, including the Court of First Instance, the Court of Appeal and the Court of Final Appeal, in a number of seminal cases defining the ambit of the law governing financial markets and financial services in Hong Kong.

He has also appeared before the Legislative Council of Hong Kong a number of times to speak on proposed legislative changes to redefine the regulatory framework governing the financial markets in Hong Kong, including in relation to the regulation of over-the-counter ("OTC") derivatives and anti-money laundering ("AML").

He is active assisting high net worth and ultra high net worth individuals as well as senior executives and bankers in employment, trust, tax and immigration matters.

TIMOTHY LOH LLP

Contact us to learn more about how we can help.


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