

THE MERGERS &
ACQUISITIONS
REVIEW

TWELFTH EDITION

Editor
Mark Zerdin

THE LAWREVIEWS

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ACQUISITIONS
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PREFACE

Despite a slight decrease in overall activity compared with 2016, 2017 was a strong year for global M&A activity as, for the fourth consecutive year, global deal-making activity exceeded US\$3 trillion with announced transaction volumes reaching US\$3.7 trillion. Even though 2017 did not replicate the record-breaking number of mega-deals in 2015 nor the high volume seen in 2016, market participants in a number of sectors took advantage of continued access to cheap capital globally to engage in M&A activity.

The United States remained the most active region, although aggregate deal value decreased by 16 per cent year on year. However, deal volume surged with a record 12,400 individual deals, largely due to an increase in transactions with a value of less than US\$1 billion. The relative decline in mega-deals in 2017 is largely attributable to continued regulatory uncertainty, particularly in the United States, where President Donald Trump's electoral rhetoric on antitrust has led to an increase in scrutiny for M&A deals. In Europe, however, continuing uncertainty arising out of the stuttering progress in the Brexit negotiations and a number of significant elections within the European Union did little to halt the momentum of the M&A market as aggregate deal value in Europe increased by 12.1 per cent in 2017 to reach a post-financial crisis high of more than €830 billion. Notably, the industrials and chemicals M&A sector flourished, with record high aggregate deal value and deal volume. Chinese outbound M&A was limited during 2017 by both a new capital-controls regime and increased scrutiny from the US and European governments.

On the back of tax reform in the United States and encouraging economic growth in Europe, the first quarter of 2018 has displayed record-breaking deal-making activity. However, global political uncertainty presents a threat to global M&A in 2018. Although there were positive signs from the European M&A market in 2017 and Europe registered the largest year-on-year increase in deal volume in the first quarter of 2018, the rise of anti-EU populist parties threatens to derail the buoyant global M&A market. Notably, the election of an anti-EU populist government in Italy, formed from a coalition of the Five Star Movement and the League, threatens to unnerve foreign investors and increase uncertainty about the integrity of the eurozone.

In addition, President Trump's imposition of tariffs and protectionist instincts have raised concerns about the possibility of a global trade war. It is hoped that a resolution to Brexit-related uncertainty and a settling of trade worries will foster an environment in which markets can thrive. All that being said, markets have shown during the past two years that despite an ever-evolving geopolitical landscape, there are numerous opportunities for those market participants who are keen to pursue them.

I would like to thank the contributors for their support in producing the 12th edition of *The Mergers & Acquisitions Review*. I hope the commentary in the following 50 chapters will provide a richer understanding of the shape of the global markets, and the challenges and opportunities facing market participants.

Mark Zerdin

Slaughter and May, London

July 2018

BRITISH VIRGIN ISLANDS

*Richard May and Richard Spooner*¹

I OVERVIEW OF M&A ACTIVITY

The British Virgin Islands (BVI) has for many years been at the forefront of international corporate structuring for cross-border transactions. The BVI is the world's largest offshore domicile for companies. There are just under 400,000 currently active BVI business companies, of which approximately two-fifths originate from Asia (whereas clients in G7 countries account for less than one-fifth) and the assets held by these companies have an estimated worldwide value of US\$1.5 trillion.² Approximately 32,500 new BVI companies were incorporated during 2017.³ This represented an increase over the number for 2016 (approximately 31,800), a result that was especially heartening considering the widespread destruction caused by record Category 5 Hurricane Irma, which struck the BVI on 6 September 2017 and was followed by Hurricane Maria just over a week later. The hurricanes knocked out 80 per cent of homes and businesses and caused losses of £3.6 billion to the Islands' gross domestic product. The fact that new company incorporations continued apace in the months immediately after the hurricanes (indeed, company incorporations in Q4 2017 increased by 12 per cent quarter-on-quarter during Q3 (8,538 compared with 7,639) and were up nearly 10 per cent on Q4 2016 (8,538 compared with 7,780)) demonstrated the jurisdiction's ability to overcome adversity and return to business as usual.

The BVI remains an attractive jurisdiction for incorporating vehicles to pool capital and to invest in a globally diverse range of markets. According to the United Nations, the BVI was the ninth-largest recipient of foreign direct investment and the seventh-largest source of outward flows in 2015, which emphasises the important role of BVI companies in international investment flows.⁴

Many multinational companies listed on the world's major stock exchanges, including the London, New York and Hong Kong main stock exchanges, use BVI companies in their group structures, whether as subsidiaries or joint ventures or as vehicles for acquisitions, with one study finding that every company listed on Hong Kong's Hang Seng Index that has ties to the BVI has on average 35 BVI companies attached to it.⁵

1 Richard May is the managing partner of the BVI office of Maples and Calder and Richard Spooner is a partner at Maples and Calder (Hong Kong) LLP.

2 'Creating Value: The BVI's Global Contribution', June 2017, a report by Capital Economics for BVI Finance Limited.

3 BVI Financial Services Commission's Quarterly Statistical Bulletin (Q4 2017), Vol. 49/May 2018.

4 See footnote 2.

5 Ibid.

Given the huge number of BVI companies on the international stage, it is perhaps inevitable that they appear in a very diverse range of industries, from mining and natural resources to technology, media and telecommunications, and that they are used in an equally diverse range of jurisdictions.

Because BVI companies are used in a wide variety of industries, across a wide variety of regions around the world, this renders the jurisdiction less susceptible to global M&A trends; furthermore, the sheer volume of active BVI companies ensures that there continues to be a regular flow of M&A transactions involving such companies.

In addition, because of their high level of corporate flexibility, BVI companies are frequently used to structure transactions. For example, a BVI company can merge with one or more BVI companies or foreign companies, and the surviving company to the merger may be the BVI company or the foreign company. This provides great flexibility for structuring M&A and cross-border deals.

The BVI is internationally recognised as having a cooperative regime in relation to the exchange of information for law enforcement, regulatory and tax transparency purposes, and has a highly developed regulatory regime, including with respect to anti-money laundering. The BVI is listed as 'largely compliant', along with the United Kingdom and the United States, by the OECD Global Forum on Tax Transparency and Exchange of Information. The government has implemented the US Foreign Account Tax Compliance Act (FATCA), the UK FATCA and the OECD's Common Reporting Standard, of which it was an early adopter, and has signed numerous bilateral tax, law enforcement and regulatory information exchange agreements, including tax information exchange agreements with the United States, the United Kingdom, France, Germany, China and India, as a result of which the BVI is on the Financial Action Task Force and OECD white lists. It has also adopted measures similar to the European Union Savings Directive. Under its various information exchange obligations, the government and its agencies regularly cooperate with law enforcement, regulatory and tax authorities to supply information to those authorities to assist them with legitimate and lawful enquiries. The BVI is a full member of the International Organization of Securities Commissions, and the BVI regulator, the Financial Services Commission (FSC), adheres to international regulatory standards on matters, including anti-money laundering and regulator-to-regulator cooperation.

The BVI has been at the forefront of global transparency initiatives, and in July 2017 implemented the Beneficial Ownership Secure Search system (BOSSs), which allows for the exchange of certain beneficial ownership information required under the Anti-Money Laundering Regulations and AML Code of Practice with UK law enforcement agencies – the information accessed through the system is verified for accuracy by regulated corporate service providers and available to the British authorities upon request, an approach that is based on effectiveness, adherence to all international standards as defined by the Financial Action Task Force (FATF) and in finding the appropriate balance between privacy and transparency. Adoption of the BOSSs puts the BVI in a very small minority of countries globally, and ahead of a large number of G20 countries and EU Member States.

On 1 May 2018, the UK's House of Commons adopted an Amendment to the UK's proposed Sanctions and Anti-Money Laundering Bill which, if implemented as drafted, would permit the UK government by 31 December 2020 to prepare a draft order in Council that will force all British Overseas Territories, including the BVI, to adopt public beneficial ownership registers. Understandably, this has been met with consternation by the BVI financial services industry and the BVI government, which are united in the view that verifiable

private registers searchable by appropriate tax authorities and law enforcement agencies, as recognised by the FATE, remains the more effective approach in this area. Between now and the end of 2020, the government and the governments of the BVI and other British Overseas Territories are expected to continue discussing these issues with the United Kingdom while assessing their options in relation to the Amendment.

II GENERAL INTRODUCTION TO THE LEGAL FRAMEWORK FOR M&A

M&A in the BVI are governed primarily by the BVI Business Companies Act, as amended (Companies Act), which is the primary company law statute in the BVI, or by common law. BVI companies are incorporated or registered under the Companies Act.

The predominant type of corporate entity involved in private acquisitions as a target, buyer, seller or guarantor is a company limited by shares, whether privately held (e.g., a group company or an investment holding company) or a listed company.

Many M&A transactions are structured as straightforward sales and purchases of shares in BVI companies, in respect of which no mandatory requirements are imposed by the Companies Act, and there are no other specific statutes or government regulations concerning the conduct of such transactions, so buyers and sellers are generally free to contract as they wish as regards the terms for sale and purchase. BVI law does not impose any restrictions on transfers of shares in a BVI company, and indeed the Companies Act expressly provides that, subject to any limitations or restrictions on the transfer of shares in the BVI company's memorandum or articles of association, a share in a BVI company is transferable.⁶ Accordingly, transfers of shares will be subject to any restrictions or other provisions (e.g., rights of first refusal, drag-along and tag-along rights) in the BVI company's memorandum and articles of association.

In addition, the memorandum and articles of association may give the directors of a BVI company a right to refuse transfers of shares. In the absence of any provision in the memorandum and articles of association that permits them to do so, the directors may not pass a resolution refusing or delaying the registration of a transfer of shares, and the company is obliged on receipt of an instrument of transfer to enter the name of the transferee of the share on the register of members.⁷ Needless to say, these provisions are almost always overridden by the provisions of the memorandum and articles of association. The usual requirement under the Companies Act for shares to be transferred by way of a written instrument is disappplied (subject to the company's memorandum and articles of association) for any shares of a BVI company that are listed on a recognised stock exchange.

The transfer of a registered share is effective when the name of the transferee is entered in the register of members⁸ and the entry of the name of a person in the register of members as the holder of the share is *prima facie* evidence that legal title in the share vests in that person.⁹ Registered shares may not be transferred by delivery of the share certificate relating to that share. The use of bearer shares is theoretically possible but is highly restricted, and bearer shares are now very rarely encountered in international corporate transactions.

6 Section 52 of the Companies Act.

7 Sections 54(4) and (5) of the Companies Act.

8 Section 54(8) of the Companies Act.

9 Section 42 of the Companies Act.

In addition to straightforward sales and purchases of shares in BVI companies, acquisitions may be structured as statutory mergers or consolidations. Statutory mergers are a long-standing feature of BVI company law and are one of the most common methods of structuring a complex acquisition or business combination, including, for example, 'going-private' transactions to acquire the shares of BVI companies listed on the US stock exchanges.

The Companies Act permits a BVI company to merge or consolidate with one or more other constituent companies. Each constituent company may be a BVI company or a foreign company incorporated in a jurisdiction outside the BVI, provided that this is permitted by the laws of that jurisdiction. To be effected, the merger or consolidation must be authorised both by the board of directors and by a resolution of the shareholders of each constituent BVI company, and the threshold for shareholder authorisation (subject to any contrary provision in the BVI company's memorandum and articles of association) is a simple majority of those shareholders who attend and vote at a general meeting of the shareholders, or by way of a written resolution passed by shareholders with a majority of the voting rights. (Unlike the law of some other jurisdictions, BVI law does not impose a requirement for a merger or consolidation to be approved by a super-majority of shareholders.) Provided that the requisite board and shareholder authorisations are obtained, and all other procedures set out in the Companies Law are complied with, no court order or approval is required for the statutory merger or consolidation to become effective, and the terms and conditions of the merger or consolidation will be binding and effective upon all shareholders regardless of whether or not they voted in favour of the resolution to authorise the merger or consolidation.

However, shareholders have the right to dissent from the merger or consolidation, in which case the dissenters will have the right to be paid in cash the fair value of their shares, as agreed with the company or, if agreement cannot be reached within the statutory time frame, as appraised by independent appraisers.¹⁰ This can be a factor if the offer involves a share-for-share swap as opposed to a cash buyout, or if the bidder anticipates issues with minority shareholders.

In a tender offer, private contractual acquisition or public takeover, in which control of the majority of the voting equity is required, there is a statutory 'squeeze-out' mechanism available where the relevant statutory thresholds are met. Where a bidder has acquired 90 per cent or more of the votes of the shares in a BVI company (plus, if applicable, 90 per cent of the votes of the shares of each class of shares entitled to vote as a class), it can direct the BVI company to compulsorily redeem the shares of the remaining minority shareholders at a redemption price and in such manner as stipulated by the BVI company, and thereby become the sole shareholder.¹¹ Minority shareholders have the right to dissent from the compulsory redemption, and while this will not prevent their shares from being so redeemed, it will entitle them to payment of the fair value of their shares (determined in the same manner as for statutory mergers discussed above).

¹⁰ Section 179 of the Companies Act.

¹¹ Section 176 of the Companies Act.

Plans of arrangement¹² and schemes of arrangement¹³ may also be appropriate methods of effecting M&A of BVI companies in certain circumstances:

- a* A plan of arrangement includes amendments to the memorandum or articles of association, company reorganisations or reconstructions, domestic mergers or consolidations, separations of two or more businesses carried on by a company, asset or share exchanges, company dissolutions or any combination of the foregoing.
- b* A scheme of arrangement regulates compromises or arrangements proposed between a BVI company and its creditors or members, or any class of either.

Both plans of arrangement and schemes of arrangement require approval by an order of the court.

A scheme of arrangement must be approved by a majority in number representing 75 per cent in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting at a meeting. The principal benefit of a scheme is that if all the necessary majorities are obtained and hurdles cleared, and the court approves the scheme, then the terms of the scheme become binding on all members of the relevant class or classes of shareholders or creditors, whether or not they received notice of the scheme, voted at the meeting, voted for or against the scheme, and changed their minds afterwards.

The consents for approval of a plan of arrangement may be determined by the court, and are therefore less rigid than the prescribed majorities required for a scheme of arrangement. However, it should be noted that the court may order dissenters' rights to apply to a plan of arrangement, but not to a scheme of arrangement. For schemes of arrangement, no dissenters' rights apply, but the key challenge is achieving the high approval majorities required of each class of shareholder.

The BVI does not have a takeovers code that applies to offers or takeover bids in respect of BVI companies, or any other non-statutory rules or codes of conduct relating to M&A transactions involving BVI companies, whether privately held or publicly listed.

Acquisitions of BVI companies that are regulated entities in the BVI may be subject to additional statutory requirements. For example, there are change-of-control rules that apply to entities regulated by the FSC under relevant financial services legislation, including, for example, companies conducting investment business or companies that are regulated funds and that are regulated under the Securities and Investment Business Act 2010, companies conducting banking or trust business that are licensed under the Banks and Trust Companies Act 1990, and companies regulated under the Insurance Act, 2008.

12 Section 177 of the Companies Act.

13 Section 179A of the Companies Act.

III DEVELOPMENTS IN CORPORATE AND TAKEOVER LAW AND THEIR IMPACT

The Companies Act was amended by the BVI Business Companies (Amendment) Act 2015, which came into force on 15 January 2016, alongside certain provisions relating to the Register of Directors of BVI Companies, which came into force on 1 April 2016. The amendments were intended to provide greater flexibility and certainty for those operating or doing business with BVI companies, but the amendments do not affect Part IX of the Companies Act (with one exception, as discussed below), which contains the main provisions dealing with M&A transactions (including mergers, consolidations, compulsory redemptions, plans of arrangement and schemes of arrangement, all discussed above).

Nevertheless, there are certain amendments that may be relevant to M&A transactions, particularly those involving a BVI company whose shares are listed on a recognised stock exchange:

- a* a BVI company listed on a recognised stock exchange is no longer obliged to keep a register of members containing the information required under the Companies Act, and instead the register of members may contain such information as may be provided by the BVI company's memorandum and articles of association or by a resolution of its members. The intention is to allow listed companies the flexibility to operate in accordance with the rules and practices of the relevant stock exchange; and
- b* shares of a BVI company that are listed on a recognised stock exchange may now be transferred without the need for a written instrument of transfer, and these shares may instead be transferred in accordance with the relevant stock exchange rules and other applicable laws. In essence, this change allows for the 'paperless' transfer of listed shares in accordance with the procedures of the relevant stock exchange.

The one amendment made to Part IX of the Companies Act was to expand the scope of the 'arrangements' that may be the subject of a plan by moving away from a comprehensive list of transactions that may be effected by way of a plan of arrangement to an open definition. The BVI plan of arrangement regime has not been frequently used to date, but recently publicised plans have demonstrated the potential uses of the regime; for example, the potential to achieve a demerger, which is itself not available as a statutory occurrence in the BVI, although it should be noted that the courts resist the use of plans that would be confiscatory in their effect on shareholders.

Court guidance is evolving on the approach to appraising fair value on the exercise of dissent rights. Recent court guidance suggests that a discount for a minority holding may or may not be appropriate depending on the circumstances.

An important innovation was introduced by the Registry of Corporate Affairs in the BVI on 1 December 2015, when it commenced a 'premium service' under which it will guarantee a four-hour turnaround for certain transactions submitted to the BVI Registry, including (of relevance to M&A transactions) registration of statutory mergers. Any merger submitted to the BVI Registry through the premium service (and upon payment of the relevant fee) by 6pm (BVI time) is now guaranteed a same-day response. This service has been welcomed by the industry, and is particularly valuable in acquisitions involving listed BVI companies.

IV FOREIGN INVOLVEMENT IN M&A TRANSACTIONS

M&A transactions involving BVI companies are almost always cross-border transactions that involve foreign players. Typically, a BVI company is used as an asset holding company and the parties involved in buying or selling shares in the entity or its assets are not located in the BVI. The commercial activities, business and assets of a BVI company are also unlikely to be in the BVI. As a result, it is usual for onshore counsel in the relevant jurisdiction or jurisdictions for the parties involved, or possibly the location of the assets to be acquired, to dictate the governing law of the transaction and to prepare the commercial documents. A share purchase agreement can provide for a foreign governing law, and it is unusual for a share purchase agreement to be governed by BVI law. If a foreign governing law is selected, there are no BVI law provisions that would apply automatically, except that legal title to shares in a BVI target company will pass only when the register of members is updated.

The BVI is the world's largest offshore domicile for companies. Consequently, it is not surprising that BVI companies appear in deals originating from all regions of the world, with deals continuing to emanate from North and South America, Europe, Asia-Pacific and Africa. The BRICS economies (Brazil, Russia, India, China and South Africa) continue to strongly support BVI M&A activity.

Asia continues to have a pre-eminent role. It is estimated that almost two-fifths of all currently active BVI companies are owned and operated from Asia and, in particular, from China, and the BVI has developed a significant market share in the pre-initial public offering (IPO) and private equity space where Asian entrepreneurs have, with both domestic and international investors, used BVI companies as the conduit through which to fund and invest in businesses across the region. In China, the substantial balance sheets of Chinese state-owned banks have been driving M&A activity in China, and Chinese lenders are expected to continue to have a key role in driving M&A financing activity in Asia.

BVI companies are attractive vehicles for raising financing for business purposes. Banks and other financial institutions, when lending monies to BVI company-owned businesses, are familiar with and take comfort from a number of key features of the BVI legal system, not least its public security registration system, its recognition of foreign law remedies for security interests created over the shares of a BVI company and its creditor-friendly insolvency regime. In addition, many listed companies in Asia use BVI companies (as issuers) when seeking to raise debt financing via bond issuances.

Ultimately, many of these pre-IPO structures will result in either a trade sale (and exit for investors) or a listing of the BVI company on an international stock exchange. There are BVI companies listed on all major international stock exchanges, including the Stock Exchange of Hong Kong, NASDAQ, the New York Stock Exchange, the TSX, the London Stock Exchange (LSE) and LSE's AIM Exchange.

V SIGNIFICANT TRANSACTIONS, KEY TRENDS AND HOT INDUSTRIES

In February 2017, MegaFon, a major Russian telecommunications company that is listed on the London Stock Exchange, acquired a controlling stake in Mail.Ru Group (a BVI company also listed on the London Stock Exchange that is one of Russia's largest internet and social media groups) from USM Holdings, MegaFon's controlling shareholder, for US\$740 million.

In February 2017, 76.1 per cent of the issued shares of Road Town Wholesale Trading Ltd, a BVI-based retail and wholesale conglomerate, was acquired by a wholly owned subsidiary of The North West Company Inc, a Canadian multinational grocery and retail company, for a purchase price of approximately US\$32 million, making it one of the largest-ever M&A transactions involving a company operating and trading domestically in the BVI.

In March 2017, Permira, the global private equity firm, acquired Tricor Holdings Limited, a BVI company and a leading provider of integrated business, corporate and investor services in Asia Pacific, from The Bank of East Asia and NWS Holdings for a consideration of US\$800 million.

In May 2017, Unilever NV acquired assets and shares in the personal and home care brands of Quala Inc's eight BVI subsidiaries (Aromatel Brands Inc, Aromatel South Inc, Ego Brands Inc, Ego South Inc, Fortident Brands Inc, Fortident South Inc, Savital Brands Inc and Savital South Inc), strengthening Unilever's footing in Latin America. Quala is a business with a strong presence in 10 countries in Latin America, and its personal care and home care portfolio includes leading local brands Savital/Savilé (haircare and skin cleansing), eGo (male haircare and styling), Bio-Expert (haircare), Fortident (oral care) and Aromatel (fabric conditioners).

In May 2017, Three UK, Britain's fourth largest mobile group, acquired the BVI company Transvision Investments Limited from PCCW for £300 million. Transvision is the parent company of UK Broadband Limited, which delivers broadband services in London through its fixed wireless network, operating under the brand 'Relish'.

In June 2017, BVI-based LabTech Investments, a property and technology company, acquired the remaining stake that it did not already own in MarketTech Holdings (a Guernsey-based company that was listed on the London Stock Exchange but de-listed as part of the transaction), which manages a large portion of London's Camden Market, in a transaction that valued MarketTech at £892.5 million.

In August 2017, Pacific Special Acquisition Corp (a BVI company listed on NASDAQ and a special purpose acquisition company) completed its acquisition of Borqs International Holding Company, a Cayman Islands company headquartered in China and a leading global provider of smart connected devices and cloud service applications for the 'Internet of Things'. Under the terms of the merger, Pacific acquired the entire issued share capital of Borqs by way of a Cayman Islands statutory merger, in consideration for which Pacific issued shares to the shareholders of Borqs. At the closing of the merger, Pacific, as holding company of the new group, changed its name to Borqs Technologies, Inc and has retained its listing on NASDAQ under its new name.

In August 2017, Chinese ride-hailing giant DiDi Chuxing made an undisclosed investment in Careem Inc, the BVI-incorporated Dubai-based ride-sharing platform that had achieved a US\$1 billion valuation earlier in the year. The deal includes a strategic collaboration with DiDi Chuxing and is DiDi's first collaboration in the MENA region.

In October 2017, EZCORP, Inc (listed on NASDAQ) acquired GuatePrenda – MaxiEfectivo, a business that owns and operates 112 pawn shops in Guatemala, El Salvador, Honduras and Peru. The acquisition was structured as the purchase by one of EZCORP's subsidiaries of all the shares of Camira Administration Corp, a BVI holding company, from seller Black Icebreaker Corporation (also a BVI company), for a purchase price of US\$53.4 million.

In April 2018, Polymetal International plc (listed on the London Stock Exchange) completed its acquisition of a 50 per cent stake (thereby bringing its ownership to 100 per cent) in the Prognoz Silver Mine in Russia, from Polar Acquisition Limited, a BVI company and the largest investment of Baker Steel Resources Trust Limited (also listed on the London Stock Exchange) for US\$140 million, which was satisfied by the issue of shares in Polymetal.

VI FINANCING OF M&A: MAIN SOURCES AND DEVELOPMENTS

Given that M&A transactions involving BVI companies are almost always cross-border transactions, and that the parties involved in buying or selling shares in an entity or its assets are based in jurisdictions outside the BVI, these transactions will be financed outside the BVI. The BVI banking industry is not particularly well developed and is focused mainly on servicing the requirements of local businesses and retail banking rather than financing cross-border M&A transactions involving BVI companies.

VII EMPLOYMENT LAW

The majority of M&A transactions involving BVI companies relate to businesses located outside the BVI as, ordinarily, the BVI company is a cross-border asset holding company. It is very unlikely that the BVI company will take on any employees in the BVI. To the extent that any BVI company employs people outside the BVI, employment will almost always be governed by the local laws of the jurisdictions in which those employees are situated, and BVI employment laws will not be relevant.

In the unlikely scenario that a BVI company does have employees situated in the BVI, then the provisions of the Labour Code 2010 should be considered.

VIII TAX LAW

Companies incorporated or registered under the Companies Act are currently exempt from income and corporate tax. BVI companies and all dividends, interest, rents, royalties, compensation, other amounts paid by BVI companies to persons who are not resident in the BVI and any capital gains realised with respect to any shares, debt obligations or other securities of BVI companies by persons who are not resident in the BVI, are exempt from all provisions of the Income Tax Ordinance in the BVI.

No estate, inheritance, succession or gift tax, rate, duty, levy or other charge is payable by persons who are not resident in the BVI with respect to any shares, debt obligation or other securities of BVI companies.

All instruments relating to transfers of property to or by BVI companies, and all instruments relating to transactions in respect of the shares, debt obligations or other securities of BVI companies and all instruments relating to other transactions relating to the business of BVI companies, are exempt from payment of stamp duty in the BVI. (This assumes that the BVI company in question does not hold an interest in real estate in the BVI.)

There are currently no withholding taxes or exchange control regulations in the BVI that are applicable to BVI companies or their shareholders.

IX COMPETITION LAW

There is no relevant competition law legislation in the BVI that affects transactions involving BVI companies.

X OUTLOOK

The BVI will continue to play a key role in the structuring of international and cross-border transactions. Sophisticated investors and professional parties are well aware of the many advantages provided by the use of BVI companies: the BVI's progressive corporate laws offer a corporate structure that adds value to cross-border corporate transactions, not only by providing tax neutrality, but also in terms of protecting the interests of investors, mitigating corporate risk and enhancing transaction certainty and success. Consequently, the BVI continues to maintain its reputation as a key jurisdiction of choice for international M&A.

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