

The Acquisition and Leveraged Loan Market in Southeast Asia and India: Trends in 2019 and Market Outlook for 2020



Introduction

2019 was a busy year for the acquisition and leveraged loan market in Southeast Asia and India. In this article we look back at some of the key market and documentation trends last year and consider whether these trends will continue in 2020.

We welcome any feedback you may have on any of the trends set out in this article, as well as any other market or documentation trends across the region.

This article is intended to set out a high level overview of the market based on our own deal flow and from speaking to market participants. We are happy to provide further information and more detailed analysis on any of the points raised on request. Please contact the authors of this article or your usual Mayer Brown contact for further information.

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Jurisdictional Overview



Vietnam was one of the standout jurisdictions in 2019. We witnessed an increased market appetite and interest in acquisition and leveraged loans and other structured lending solutions relating to Vietnam and acted on significant acquisition and structured lending mandates.

While transaction structures and terms for both on-shore and offshore financings relating to assets in Vietnam continue to be relatively complex and require significant legal and structuring input, market participants are becoming familiar with the structures used and the legal risks associated with them. One of the trends we noticed is that offshore lenders appear to be increasingly comfortable with structures designed to take security over Vietnamese borrowers' immovable property rights. Under Vietnamese law offshore lenders are not able to directly take a mortgage over immovable property of Vietnamese companies, subject to certain exceptions such as financing BOT projects. In the past, most offshore lenders would take share mortgages to indirectly capture the residual proceeds of real estate and immovable property assets. We are now seeing a prevalence of more creative structures which include letters of credit issued by local banks that are collateralised by a local company's real estate assets, and involving local banks as co-lenders on transactions. While these structures remain untested before the Vietnamese courts, the willingness to employ more novel structures speaks to the strong position of the Vietnamese market and increased risk appetite.

In addition to significant activity in Vietnam, markets such as India, Indonesia, Singapore and Malaysia

continued to provide opportunities and deal flow for the regional acquisition and leveraged loan market in 2019.

The Indian offshore acquisition and leveraged loan market continued to see offshore holdco acquisition and margin loans relating to private equity backed transactions and recapitalisations in 2019. On the corporate borrower side, the relative slowdown in the number of large outbound M&A transactions by Indian corporates over the last few years appears to have continued to limit the number of jumbo acquisition financings arranged by international banks to back outbound corporate M&A activity. While the Indian loan market in 2019 appears to have been impacted to some extent by the national elections in India held last year, as well as some of the issues faced in certain segments of the NBFC sector, interest in the market remained significant and market sentiment for 2020 looks positive.

The Singapore acquisition and leveraged loan market continued to provide stable deal flow, particularly from domestic and cross border private equity backed transactions. Singapore continued to be one of the key jurisdictions in the region for executing cross border acquisition and leveraged loan transactions, with Singapore incorporated borrowers used as borrowing vehicles and for providing key credit support.

Activity in Indonesia in 2019 was split into two halves: initial activity at the start of the year, particularly from corporate borrowers, followed by a slowdown prior to and after the national elections. Other markets in the region, including Malaysia, continued to provide opportunities, particularly for strategic corporate acquisitions or acquisitions in sectors of interest to private equity sponsors.



Key Documentation Trends

While the movement towards more flexible documentation terms for borrowers and the convergence of European, US and Asia market terms continued, particularly for large cap private equity backed acquisitions and recapitalisations, we did not witness a wholesale shift to covenant lite loan structures during 2019.

APLMA or LMA documentation, with maintenance style covenants, therefore continued to be the starting point for documenting transactions in the region, although market and previous transaction precedents remained very relevant, particularly for private equity backed transactions or recapitalisations where sponsors look for a degree of uniformity across the financings for their portfolio investments. Capital structures continued, as a general rule, to consist of senior loan and, in some instances, mezzanine loan structures. Market interest in loans which replicate all or part of the unitranche structures seen in the European and Australian markets increased, although again, we did not see a wholesale shift to these structures in Southeast Asia or India.

The documentation for most acquisition and leveraged loans in Southeast Asia and India, particularly for multi-jurisdictional or holdco transactions, tends to be more bespoke than is the case in other parts of the world. This is due to the need to carefully consider complex local legal and regulatory issues across fast developing and mature economies and the fact the acquisition and leveraged loan market in the region operates across a number of diverse jurisdictions. As a result it is often difficult to identify trends arising from documentation negotiations. That said, one of the trends we have seen over recent years is an increase in the level of negotiation of both documentation and transaction terms. This trend continued in 2019, with areas of negotiation including: flexibility to incur additional debt through incremental facilities subject to negotiated conditions being fulfilled; mandatory prepayments and related re-investment rights; financial covenants and add backs; equity cure provisions, including the number of cures and the application of cure amounts; carve outs from restrictive covenants; and flexibility around amendments and waivers. In addition, transferability and, in some instances, syndication terms were also discussed.



Outlook for 2020

We expect the current interest in the leveraged loan and structured lending market relating to Vietnam to continue in 2020, particularly in light of the growing appetite from private equity sponsors and from corporates to acquire assets in the country. With national elections out of the way in India and Indonesia and generally positive market sentiment in both jurisdictions, it seems fair to expect an increase in activity in India and Indonesia, while other markets in the region, such as Singapore and Malaysia seem likely to continue to provide stable deal flow.

The increased focus on documentation and transaction terms witnessed during 2019 looks set to continue in 2020. While the terms negotiated and extent of negotiations tend to vary considerably from transaction to transaction, negotiations are likely continue to focus on the same areas that were in focus in 2019 (some of which are set out in the Key Documentation Trends section above), absent a shift in the market towards covenant lite or unitranche structures, a significant increase in leverage multiples or the occurrence of a significant adverse regional or global macroeconomic event.

One of the key unknowns for 2020 is whether lenders will increasingly take an end of cycle view, in light of market sentiment around, for example, a slowdown in global growth and the regional impact of the US/China trade negotiations. If this does

occur, the market may see an increase in refinancing transactions this year as borrowers look to refinance loans well in advance of maturity so that they have certainty around terms and pricing.

Aside from terms specific to the acquisition and leveraged loan market, we expect market participants to also be focused on issues that are relevant to the wider loan market. Two areas of focus in the wider loan market are likely to be LIBOR replacement and ESG and sustainability considerations. Mayer Brown's website (www.mayerbrown.com) contains updates and thought leadership articles relating to LIBOR replacement. As for ESG and sustainability considerations, there are signs that more emphasis is being placed on ESG analysis and disclosure requirements in leveraged loan markets in other parts of the world (for example, the European Leveraged Finance Association (ELFA) has recently sought views from leveraged loan investors on their approach to ESG analysis) and we expect these market developments to be an area of debate in Southeast Asia and India this year.

While it is not possible to predict how 2020 will develop with any certainty, we expect another interesting year for the acquisition and leveraged loan market in Southeast Asia and India and look forward to continuing to support our clients in these fast developing markets. If you have any questions about any of the trends set out in this article or would like any further information on Mayer Brown's Global Acquisition and Leveraged Finance practice, please do not hesitate to contact the authors of this article or your usual Mayer Brown contacts.

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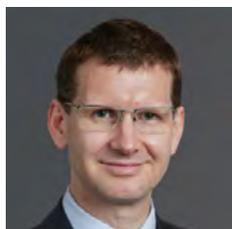


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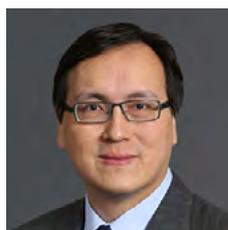
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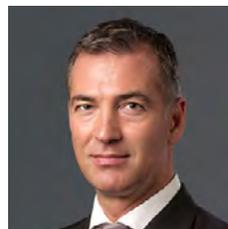


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