

INSIDE THE MINDS™

BANKING AND FINANCE CLIENT STRATEGIES IN ASIA

LEADING LAWYERS ON UNDERSTANDING THE
IMPACT OF GLOBAL BANKING REFORM, NAVIGATING
REGIONAL BANKING LAWS, AND MEETING THE
NEEDS OF TODAY'S CLIENTS

2010 EDITION



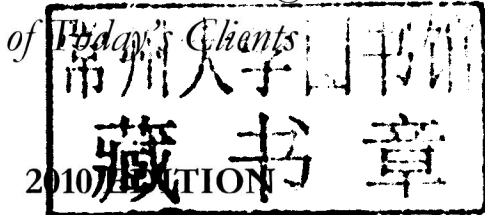
ASPATORE

Susandarini, Soewito Suhardiman Eddymurthy Kardono
Rosna Chung, Hutabarat, Halim & Rekan
Sang Hawn Lee, Kim & Chang
Wilfred Kei-Pang Tsui, Gallant Y.T. Ho & Company
Grace Ya-Hsien Wang, Lee and Li, Attorneys-at-Law

I N S I D E T H E M I N D S

Banking and Finance Client Strategies in Asia

*Leading Lawyers on Understanding the Impact of
Global Banking Reform, Navigating Regional
Banking Laws, and Meeting the Needs*



ASPATORE

©2010 Thomson Reuters/Aspatore

All rights reserved. Printed in the United States of America.

Inside the Minds Project Manager, Caitlin Keiper; edited by Jo Alice Darden; proofread by Melanie Zimmerman

No part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, except as permitted under Sections 107 or 108 of the U.S. Copyright Act, without prior written permission of the publisher. This book is printed on acid-free paper.

Material in this book is for educational purposes only. This book is sold with the understanding that neither any of the authors nor the publisher is engaged in rendering legal, accounting, investment, or any other professional service. Neither the publisher nor the authors assume any liability for any errors or omissions or for how this book or its contents are used or interpreted or for any consequences resulting directly or indirectly from the use of this book. For legal advice or any other, please consult your personal lawyer or the appropriate professional.

The views expressed by the individuals in this book (or the individuals on the cover) do not necessarily reflect the views shared by the companies they are employed by (or the companies mentioned in this book). The employment status and affiliations of authors with the companies referenced are subject to change.

Aspatore books may be purchased for educational, business, or sales promotional use. For information, please e-mail West.customer.service@thomson.com.

ISBN 978-0-314-26821-1

For corrections, updates, comments or any other inquiries please e-mail
TLR.AspatoreEditorial@thomson.com.

First Printing, 2010

10 9 8 7 6 5 4 3 2 1

Praise for *Inside the Minds*

“This series provides a practical and focused discussion of the leading issues in law today.” – John V. Biernacki, Partner, Jones Day

“*Inside the Minds* draws from the collective experience of the best professionals. The books are informative from an academic, and, more importantly, practical perspective. I highly recommend them.” – Keith M. Aurzada, Partner, Bryan Cave LLP

“Aspatore’s *Inside the Minds* series provides practical, cutting edge advice from those with insight into the real world challenges that confront businesses in the global economy.” – Michael Bednarek, Partner, Shearman & Sterling LLP

“What to read when you want to be in the know—topical, current, practical, and useful information on areas of the law that everyone is talking about.” – Erika L. Morabito, Partner, Patton Boggs LLP

“Some of the best insight around from sources in the know” – Donald R. Kirk, Shareholder, Fowler White Boggs PA

“The *Inside the Minds* series provides a unique window into the strategic thinking of key players in business and law.” – John M. Sylvester, Partner, K&L Gates LLP

“Comprehensive analysis and strategies you won’t find anywhere else.” – Stephen C. Stapleton, Of Counsel, Dykema Gossett PLLC

“The *Inside the Minds* series is a real hands-on, practical resource for cutting edge issues.” – Trey Monsour, Partner, Haynes and Boone LLP

“A tremendous resource, amalgamating commentary from leading professionals that is presented in a concise, easy to read format.” – Alan H. Aronson, Shareholder, Akerman Senterfitt

“Unique and invaluable opportunity to gain insight into the minds of experienced professionals.” – Jura C. Zibas, Partner, Lewis Brisbois Bisgaard & Smith LLP

“A refreshing collection of strategic insights, not dreary commonplaces, from some of the best of the profession.” – Roger J. Magnuson, Partner, Dorsey & Whitney LLP

“Provides valuable insights by experienced practitioners into practical and theoretical developments in today’s ever-changing legal world.” – Elizabeth Gray, Partner, Willkie, Farr & Gallagher LLP

“This series provides invaluable insight into the practical experiences of lawyers in the trenches.” – Thomas H. Christopher, Partner, Kilpatrick Stockton LLP



ASPATORE

www.Aspatore.com

Aspatore Books, a Thomson Reuters business, exclusively publishes C-Level executives (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. C-Level Business Intelligence™, as conceptualized and developed by Aspatore Books, provides professionals of all levels with proven business intelligence from industry insiders—direct and unfiltered insight from those who know it best—as opposed to third-party accounts offered by unknown authors and analysts. Aspatore Books is committed to publishing an innovative line of business and legal books, those which lay forth principles and offer insights that when employed, can have a direct financial impact on the reader's business objectives. In essence, Aspatore publishes critical tools for all business professionals.

Inside the Minds

The *Inside the Minds* series provides readers of all levels with proven legal and business intelligence from C-Level executives and lawyers (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. Each chapter is comparable to a white paper or essay and is a future-oriented look at where an industry, profession, or topic is heading and the most important issues for future success. Each author has been selected based upon their experience and C-Level standing within the professional community. *Inside the Minds* was conceived in order to give readers actual insights into the leading minds of top lawyers and business executives worldwide, presenting an unprecedented look at various industries and professions.

CONTENTS

Susandarini	7
<i>Partner, Soewito Suhardiman Eddymurthy Kardono</i>	
<i>CREATING NEW STRATEGIES FOR</i>	
<i>FINANCE CLIENTS IN INDONESIA</i>	
Rosna Chung	43
<i>Partner, Hutabarat, Halim & Rekan</i>	
<i>INDONESIAN BANKING INDUSTRIES:</i>	
<i>MEETING THE GLOBAL STANDARDS</i>	
Sang Hwan Lee	59
<i>Partner, Kim & Chang</i>	
<i>COPING WITH COMPLIANCE CHALLENGES</i>	
<i>POSED BY KOREA'S CHANGING BANKING</i>	
<i>AND FINANCE REGULATIONS</i>	
Wilfred Kei-Pang Tsui	79
<i>Partner, Gallant Y.T. Ho & Company</i>	
<i>NEW CHALLENGES AND OPPORTUNITIES FOR</i>	
<i>HONG KONG BANKING AND FINANCE CLIENTS</i>	
Grace Ya-Hsien Wang	93
<i>Partner, Lee and Li, Attorneys-at-Law</i>	
<i>BANKING REFORMS IN TAIWAN AND THEIR</i>	
<i>IMPACT ON FINANCIAL INDUSTRY CLIENTS</i>	
Appendices	105

CONTENTS

Susandarini	7
<i>Partner, Soewito Suhardiman Eddymurthy Kardono</i>	
<i>CREATING NEW STRATEGIES FOR</i>	
<i>FINANCE CLIENTS IN INDONESIA</i>	
 Rosna Chung	 43
<i>Partner, Hutabarat, Halim & Rekan</i>	
<i>INDONESIAN BANKING INDUSTRIES:</i>	
<i>MEETING THE GLOBAL STANDARDS</i>	
 Sang Hwan Lee	 59
<i>Partner, Kim & Chang</i>	
<i>COPING WITH COMPLIANCE CHALLENGES</i>	
<i>POSED BY KOREA'S CHANGING BANKING</i>	
<i>AND FINANCE REGULATIONS</i>	
 Wilfred Kei-Pang Tsui	 79
<i>Partner, Gallant Y.T. Ho & Company</i>	
<i>NEW CHALLENGES AND OPPORTUNITIES FOR</i>	
<i>HONG KONG BANKING AND FINANCE CLIENTS</i>	
 Grace Ya-Hsien Wang	 93
<i>Partner, Lee and Li, Attorneys-at-Law</i>	
<i>BANKING REFORMS IN TAIWAN AND THEIR</i>	
<i>IMPACT ON FINANCIAL INDUSTRY CLIENTS</i>	
 Appendices	 105

I N S I D E T H E M I N D S

Banking and Finance Client Strategies in Asia

*Leading Lawyers on Understanding the Impact of
Global Banking Reform, Navigating Regional
Banking Laws, and Meeting the Needs
of Today's Clients*

2010 EDITION



ASPATORE

Praise for *Inside the Minds*

“This series provides a practical and focused discussion of the leading issues in law today.” – John V. Biernacki, Partner, Jones Day

“*Inside the Minds* draws from the collective experience of the best professionals. The books are informative from an academic, and, more importantly, practical perspective. I highly recommend them.” – Keith M. Aurzada, Partner, Bryan Cave LLP

“Aspatore’s *Inside the Minds* series provides practical, cutting edge advice from those with insight into the real world challenges that confront businesses in the global economy.” – Michael Bednarek, Partner, Shearman & Sterling LLP

“What to read when you want to be in the know—topical, current, practical, and useful information on areas of the law that everyone is talking about.” – Erika L. Morabito, Partner, Patton Boggs LLP

“Some of the best insight around from sources in the know” – Donald R. Kirk, Shareholder, Fowler White Boggs PA

“The *Inside the Minds* series provides a unique window into the strategic thinking of key players in business and law.” – John M. Sylvester, Partner, K&L Gates LLP

“Comprehensive analysis and strategies you won’t find anywhere else.” – Stephen C. Stapleton, Of Counsel, Dykema Gossett PLLC

“The *Inside the Minds* series is a real hands-on, practical resource for cutting edge issues.” – Trey Monsour, Partner, Haynes and Boone LLP

“A tremendous resource, amalgamating commentary from leading professionals that is presented in a concise, easy to read format.” – Alan H. Aronson, Shareholder, Akerman Senterfitt

“Unique and invaluable opportunity to gain insight into the minds of experienced professionals.” – Jura C. Zibas, Partner, Lewis Brisbois Bisgaard & Smith LLP

“A refreshing collection of strategic insights, not dreary commonplaces, from some of the best of the profession.” – Roger J. Magnuson, Partner, Dorsey & Whitney LLP

“Provides valuable insights by experienced practitioners into practical and theoretical developments in today’s ever-changing legal world.” – Elizabeth Gray, Partner, Willkie, Farr & Gallagher LLP

“This series provides invaluable insight into the practical experiences of lawyers in the trenches.” – Thomas H. Christopher, Partner, Kilpatrick Stockton LLP



ASPATORE

www.Aspatore.com

Aspatore Books, a Thomson Reuters business, exclusively publishes C-Level executives (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. C-Level Business Intelligence™, as conceptualized and developed by Aspatore Books, provides professionals of all levels with proven business intelligence from industry insiders—direct and unfiltered insight from those who know it best—as opposed to third-party accounts offered by unknown authors and analysts. Aspatore Books is committed to publishing an innovative line of business and legal books, those which lay forth principles and offer insights that when employed, can have a direct financial impact on the reader's business objectives. In essence, Aspatore publishes critical tools for all business professionals.

Inside the Minds

The *Inside the Minds* series provides readers of all levels with proven legal and business intelligence from C-Level executives and lawyers (CEO, CFO, CTO, CMO, Partner) from the world's most respected companies and law firms. Each chapter is comparable to a white paper or essay and is a future-oriented look at where an industry, profession, or topic is heading and the most important issues for future success. Each author has been selected based upon their experience and C-Level standing within the professional community. *Inside the Minds* was conceived in order to give readers actual insights into the leading minds of top lawyers and business executives worldwide, presenting an unprecedented look at various industries and professions.

©2010 Thomson Reuters/Aspatore

All rights reserved. Printed in the United States of America.

Inside the Minds Project Manager, Caitlin Keiper; edited by Jo Alice Darden; proofread by Melanie Zimmerman

No part of this publication may be reproduced or distributed in any form or by any means, or stored in a database or retrieval system, except as permitted under Sections 107 or 108 of the U.S. Copyright Act, without prior written permission of the publisher. This book is printed on acid-free paper.

Material in this book is for educational purposes only. This book is sold with the understanding that neither any of the authors nor the publisher is engaged in rendering legal, accounting, investment, or any other professional service. Neither the publisher nor the authors assume any liability for any errors or omissions or for how this book or its contents are used or interpreted or for any consequences resulting directly or indirectly from the use of this book. For legal advice or any other, please consult your personal lawyer or the appropriate professional.

The views expressed by the individuals in this book (or the individuals on the cover) do not necessarily reflect the views shared by the companies they are employed by (or the companies mentioned in this book). The employment status and affiliations of authors with the companies referenced are subject to change.

Aspatore books may be purchased for educational, business, or sales promotional use. For information, please e-mail West.customer.service@thomson.com.

ISBN 978-0-314-26821-1

For corrections, updates, comments or any other inquiries please e-mail
TLR.Aspatorecl@thomson.com.

First Printing, 2010

10 9 8 7 6 5 4 3 2 1

Creating New Strategies for Finance Clients in Indonesia

Susandarini

Partner

Soewito Suhardiman Eddymurthy Kardono



ASPATORE

The Impact of Global Banking Reform on Banking and Finance Strategies in Indonesia

The global crisis that first hit the United States in mid-2008 has altered the concentration of the banking business in Indonesia from offshore financing (letter of credit [LC], export, import, treasury placement, inter-banking loans, etc.) to small- to medium-scale enterprise (SME) financing, which involves heavy local capitalization. Because of the global crisis, offshore transactions such as the ones mentioned above are no longer beneficial to commercial banks in Indonesia. SME financing in the Indonesian business market has better returns with respect to repayment and lower costs for the finance and retail markets, and is more beneficial in terms of the diversity of its volume basis.

The goals of the global banking reform agenda are:

1. To force shadow banking entities (those either legally or illegally established, including hedge funds) to comply with global policy
2. To force tax haven countries not to provide too much tax relief to investors and to share reasonable information with the international community
3. To prepare a standardized international accounting system
4. To heavily regulate credit rating agencies

Global banking reform does not have much impact in Indonesia because the monetary crisis was nothing new for Indonesia; it experienced such a crisis in 1998 and survived. Indonesian economic survival is reflected in the consistent turn of the wheel in Indonesia's economy—domestic business is improving, while at the same time, Indonesia's economic condition has become attractive to foreign investors.

The global crisis may affect Indonesia's overall economy, but it did not hit Indonesia as hard as the crisis of 1998, which temporarily crippled Indonesia's economy. The United States government's decision to interfere in its market-driven economy to overcome its liquidity problem (e.g., taking over and injecting fresh capital in major companies such as Ford and Citicorp) was similar to actions taken by the Indonesian government in 1998.

Furthermore, when the 2008 global crisis hit, the commercial banking sector in Indonesia had already been fortified with regulations that make it difficult for illegal commercial banking or shadow banking to penetrate the Indonesian banking market. Bank Indonesia (BI), as the only monetary authority in Indonesia, is known to be conservative and strict in enforcing its issued regulations. For example, financing facilities in Indonesia have been closely supervised and renewed since 2005; with BI regulations regarding legal lending limits, there are strict qualifications as to whom the commercial banks may provide financing facilities to. The legal lending limit is even applicable as far as the capital participation that banks may have in other companies. This is to prevent a repetition of the monetary crisis of 1998, when banks were using public funds (e.g., savings, deposits, and other investments) to finance their group companies, thus disturbing the balance of the overall structure of fund circulation.

Therefore, as previously mentioned, the global financial crisis did not have a significant impact in Indonesia. However, it has affected Indonesia's economy. There were times in 2008 when foreign investors suspended their investments and business expansion in Indonesia. This is largely because their businesses, which mainly involved U.S. currency, had been affected by the global economic crisis in 2008. This crisis also delayed some foreign banking companies in their process of acquiring existing Indonesian commercial banks.

The History of Banking Laws in Indonesia

History of Commercial Bank Business in Indonesia: Pre-Independence Period

Indonesia was part of the Dutch Colonial region for approximately three-and-a-half centuries. Every aspect of Indonesia's development, including its economy, was controlled and exploited for the benefit of the Netherlands. Economic control also resulted in control of Indonesia's commercial banking and financial system. This is also the reason the founding commercial banks in Indonesia were not national banks, but foreign banks, or, to be specific, banks that were established by the Netherlands to support its businesses in Indonesia.

Indonesia was invaded because it was and is still known for its rich and diverse natural resources. The abundance of resources in Indonesia was not

available in Western parts of the world. Some resources, such as certain herbs and spices, can be found only in Indonesia.

Furthermore, Indonesia is known geographically as a famous trade route to the rest of the world. This explains why the core businesses of commercial banks in Indonesia are those involving foreign participation (such as exports and imports), and many support large-scale foreign trading.

The first bank established in Indonesia during the Dutch Colonial era was De Bank Van Leening, established on August 20, 1746. The bank was not successful, and merged with another bank called De Bankcourant (established on September 1, 1752). It operated under a new name, De Bankcourant en Bank van Leening, which was established on September 5, 1752. However, this new bank still had difficulties in its operations, and was eventually shut down. It was replaced by De Javasche Bank, which was established in 1828. This bank had significant growth and was the beginning of the Indonesian Central Bank, which we now know as Bank Indonesia. Other Dutch banks that were also operating in Indonesia at this time were Nederlandsch Indische Escompto Maatschapij, Nederlandsch Indische Handelsbank, and dan Nederlandsche Handel Maatschapij.

In addition to the Dutch banks, there were also other foreign commercial banks operating in Indonesia. Those foreign banks were The Chartered Bank of India, Australia, and China in 1859; Hongkong and Shanghai Banking Corporation in 1884; Bank of China in 1915; Yokohama Specie Bank in 1919; and Mitsui Bank in 1925.

As the Indonesian economy developed, Indonesian commercial banks, both private and state-owned, were also emerging. The Indonesian private commercial banks were Bank Vereeniging Oey Tiong Ham in 1906, Chung Hwa Shangieh Maatschapij in 1913, di Medan Batavia Bank in 1918, and Spaarbank or saving banks in various cities.

The above-mentioned banks were established based on a license issued by the governor general of the Netherlands colonies. In this era, there was a central bank, namely the Javasche Bank, or the Bank of Java. However, this bank was established for reporting and administrative purposes under the governor general. It did not have a regulatory authority or supervision

system over the banks established in the early days of the Netherlands colonies in Indonesia.

History of Commercial Banks Business in Indonesia: Post-Independence Period

After gaining its independence on August 17, 1945, Indonesia had its own sovereign government; from that time onward, there have been state-owned commercial banks in the Indonesian banking business. The well-known ones are Bank Negara Indonesia in 1946 and Bank Rakyat Indonesia in 1946; these two state-owned banks remain in business today.

The turning point for the Indonesian commercial banking business was the nationalization of the foreign commercial banks in Indonesia—in particular, the Netherland commercial banks, pursuant to Law No. 86 of 1958 regarding the Nationalization of Netherlands Owned Banks (Dec. 27, 1958). The background of this nationalization is a form of economic retaliation against the Netherlands. This is because the Netherlands refused to admit that Indonesia is an independent sovereign country. The Netherlands' refusal to accept the independence of Indonesia was proved by its military aggressions in 1948 and 1949.

Netherlands commercial banks such as Nationale Handelsbank N.V. and Escomptobank were banned from doing any currency trading activities, and the Indonesian government eventually acquired them and converted them into Indonesian commercial banks. The conversion of the Netherland commercial banks into Indonesian commercial banks forced foreign businesses to conduct all banking transactions with the Indonesian commercial banks.

Because of the nationalization process that forced the Netherlands-owned banks to become local banks, plus the existing national banks, which have grown significantly, there is a need to supervise every aspect of these banks to ensure that they are supportive of economic development in Indonesia. This supervision of the banks was first implemented in Law No. 11 of 1953 and its implementing regulation, which was Government Regulation No. 1 of 1955. These regulations are the ancestors of today's banking business regulations, including Law No. 7 of 1992 regarding banking as amended by Law No. 10 of 1998 regarding the same.