

Surge in M&A work boosts the big firms

The Commonwealth Bank-Beaton

LEGAL CONFIDENCE SURVEY

CHRIS MERRITT
LEGAL AFFAIRS EDITOR

THE nation's biggest law firms are riding a surge in corporate mergers and acquisitions that has made Australia the second-biggest market for these deals in the Asia-Pacific region.

The recovery in M&A work — which has more than doubled in value compared to last year — has contributed to a big improvement in business confidence at the most senior levels of the nation's leading law firms.

For the big national firms, which shed hundreds of legal jobs after the global financial crisis, this practice area makes a major contribution to their profitability.

The quarterly legal confidence survey compiled by the Commonwealth Bank and Beaton Research + Consulting shows that business confidence among law firm leaders, while still in negative territory, is now at its highest point since July last year and has been improving for four consecutive quarters.

A net 17 per cent of surveyed firms believe business conditions are negative, compared to 23 per cent in July, 28 per cent in April, 43 per cent in November and 70 per cent in July last year.

The number of firms that believe business conditions will be positive a year from now has more than doubled — a net 23 per cent of firms, compared with a net 10 per cent in July.

"It's really good news. There is a general feeling that things are getting better," said Marc Totaro, national manager of professional services at the Commonwealth Bank. "It's a slow recovery ... I don't think there are boom times in the short term. It's more of a steady improvement."

The survey, also known as Market Pulse, is based on the views of leaders of 30 law firms — eight top-tier practices and 22 mid-tier practices.

A net 56 per cent expect more revenue in the next six months from their M&A and corporate advisory practices — up from 52 per cent in July. This is also one of the two main practice areas — along with insurance — that the firms either plan to enter or grow significantly over the next 12 to 18 months.

This is in line with Thomson Reuters' latest law firm rankings (see accompanying report), which show the value of completed mergers and acquisitions within Australia in the nine months to October more than doubled com-

HSF tops rankings with \$48bn book

THE latest rankings for mergers and acquisition work show that Herbert Smith Freehills has a clear lead when judged by the value of the firm's completed deals as well as the value of deals that are still in the pipeline.

Thomson Reuters' figures for completed deals with any Australian or New Zealand involvement show that HSF completed deals in the first nine months of the year that were worth \$US42.2 billion (\$48bn).

Ashurst secured second place with completed deals worth \$US26.4bn, followed by King & Wood Mallesons (\$US24bn), Allens (\$US22.8bn) and Minter Ellison (\$US17.1bn).

When judged by the value of Australian or New Zealand deals announced but not yet completed, HSF again topped the rankings with transactions worth \$US25.1bn, followed by King & Wood Mallesons (\$US19.1bn), Allens (\$US18.2bn), Gilbert + Tobin (\$US13.9bn) and Linklaters (\$US12.1bn). "It's been a really strong start to the calendar

year," said HSF partner Rebecca Maslen-Stannage.

"We have had very significantly increased M&A activity compared to the last few years — I think it is the strongest start pretty much since records began for the Asia-Pacific," she said.

She was pleased to be involved in the return of what she described as "that bold, strategic type M&A" rather than deals that were triggered by corporate distress.

"It's really fun and exciting to be an M&A lawyer in this environment — you're doing a lot of positive deals that are part of people's forward-looking strategic planning."

Many of the recent transactions had a cross-border element and another notable aspect was the return of private equity. "We are seeing — for the first time in a long time — activity across a range of sectors and from different buyers," she said. Those doing M&A work at HSF were working "pretty full days" and "you would not want to look too idle in the corridor because you will find yourself roped on to a deal", she said.

CHRIS MERRITT

pared to the same period last year.

Australia's completed deals were worth \$US72.5 billion, compared to \$US35.4bn in the same period last year, which makes this country the second most active market for M&A work in the Asia-Pacific region after China.

The Australian market accounted for almost a quarter of the \$US302.3bn in M&A deals completed in the Asia-Pacific.

Australia's \$US72.5bn in completed deals was greater than the tally of completed deals in Germany (\$US42.3bn), France (\$US46.9bn) and only just behind the tally of completed deals in Britain (\$US75bn).

In the Asia-Pacific region, China had \$US110.3bn worth of completed deals. But the value of deals in Japan declined from \$US52.2bn to \$US47bn, pushing it into third place within the region.

Despite the boom in M&A work the legal confidence survey shows that revenue is expected to improve over the next six months in just six of the 15 surveyed practice areas.

The biggest decline in revenue is expected in insolvency and restructuring, which Mr Totaro said was consistent with the more robust nature of the general economy. However, just over half of the firms missed their revenue projections last financial year.

The survey shows revenue at 52 per cent of firms came in under budget, 31 per cent hit their revenue targets and another 17 per cent exceeded those targets.

Most firms expect partner and

senior associate numbers to grow at a slower rate over the next six months. But this was primarily due to a more cautious approach to hiring at top-tier practices.

Top-tier firms expect no change in equity partner numbers in the next six months and believe they will continue to reduce the number of salaried partners and senior associates.

However, there has been a strong improvement in the employment outlook for junior lawyers. A net 50 per cent of firms expect to increase the number of lawyers with up to three years experience — up from a net 39 per cent in July.

The employment outlook for junior lawyers is particularly strong at mid-tier firms, where a net 55 per cent expect to be hiring, but a net 38 per cent of top-tier practices also expect to be hiring juniors.

George Beaton of Beaton Research + Consulting said the improved outlook for law firms was in line with what was happening in Canada and the US.

"Corporates are cashed up and there are opportunities to gain market share and rationalise industries at this phase in the cycle," Dr Beaton said.

He believed the top-tier firms would be the main beneficiaries from the increase in mergers and acquisitions.

"There is an 'IBM factor' in this," he said. "In these kind of deals the legal dollars are a small part and therefore it is relatively price insensitive."

'Legal luminary' Hatzistergos joins bench



RENEE NOWYTARGER

Judge John Hatzistergos, a former NSW attorney-general, with current NSW Attorney-General Brad Hazzard

CHRIS MERRITT

JOHN Hatzistergos, a former Labor attorney-general of NSW, yesterday joined the bench of the District Court after being nominated by Coalition Attorney-General Brad Hazzard.

The judge, whose late father, Theofilis, briefly cut sugarcane after migrating from the Greek island of Kos, was welcomed to the

bench at a ceremony attended by former NSW governor Marie Bashir, Bishop Seraphim of the Greek Orthodox Church and former NSW attorneys-general Bob Debus and Terry Sheahan.

When announcing the appointment last week, Mr Hazzard praised Judge Hatzistergos as a "legal luminary" and listed his achievements as attorney-general, which included "major reforms" to freedom of information and privacy and the estab-

lishment in Sydney of the Australian International Disputes Centre. The judge, who left politics soon after NSW Labor's defeat at the 2011 election, was also part of a revolt inside the party that led to the abandonment in 2010 of proposals for a national charter of rights.

He is joining the District Court soon after Premier Mike Baird accepted all recommendations from his review of changes to bail laws. The recommendations,

which have been enacted by parliament and are waiting to be implemented, include a new onus on those accused of the most serious offences to show why their detention in custody is not justified.

The common law presumption of innocence is acknowledged in the preamble to the new Bail Act instead of being a "purpose" of the legislation. The act has also been supplemented with considerations that include protecting the community.

In August, the government asked him to continue to monitor the operations of the Bail Act and provide another report next year, which he will do.

The judge, who grew up in Sydney's Redfern, had been a solicitor and barrister before entering politics in 1999.

After leaving parliament, he joined law firm Sparke Helmore before returning to the bar and becoming an adjunct professor at the UTS law school.

Sixth seat makes sense to comfort smaller states



PREJUDICE

CHRIS MERRITT

THE quality of the people who have just accepted appointment to the profession's new regulator should eliminate remaining fears among those states to yet join the new system.

The original proposal — which no longer exists — had been widely rejected because of fears it would burden the profession with an expensive and remote bureaucracy.

The slimmed-down organisation now taking shape bears little resemblance to the original scheme. It relies on existing

state-based organisations that will apply the new, uniform rules across those parts of the nation that sign up to its jurisdiction.

After today's appointments, it is also clear that the council that sits at the top of the new organisation consists of people who already have the trust of the nation's lawyers. There are no strangers here.

These appointments should provide West Australian Attorney-General Michael Mischin with all the reasons he needs to make his state the third jurisdiction whose lawyers are covered by the new system.

In order to help Mischin make the right decision, why not give WA and the other less populous states the comfort of a sixth dedicated position on the Legal Services Council?

This suggestion, from WA Law Society president Konrad de Kerloy, would provide a structural safeguard for the smaller states.

NSW and Victoria already have the numbers inside the profession, so why not allow the smaller jurisdictions to rotate a sixth council seat between them?

Black to chair regulatory council

CHRIS MERRITT

FORMER Federal Court chief justice Michael Black has been appointed the first chair of the key institution that will run the new uniform regulatory system for the legal profession.

Mr Black will chair the Legal Services Council that will oversee the regulation of lawyers in NSW and Victoria — which account for about 70 per cent of the profession — as well as those in other states that endorse the new system.

His appointment comes soon after Dale Boucher, a former head of the Australian Government Solicitor, became the full-time Commissioner for Uniform Legal Services Regulation.

Mr Black will be part of a five-member council whose members have been nominated by the Law Council, the Australian Bar Association and the attorneys-general of the two participating states.

Nominees of the Law Council

and the Bar Association are Steven Stevens, a former president of the Law Institute of Victoria, and Bret Walker SC, a former president of the Law Council and the NSW Bar Association who recently completed a term as Independent National Security Legislation Monitor.

The two remaining council members are Fiona Bennett, who is

'The council will play a key role in the new uniform legal services scheme'

BRAD HAZZARD
NSW ATTORNEY-GENERAL

chair of the Victorian Legal Services Board, and Kim Boettcher, a lawyer with experience in corporate governance, consumer advocacy and practice in Britain and Australia.

The legislation establishing the

new system, the Legal Profession Uniform Law, gives attorneys-general from participating jurisdictions the right to nominate the chair with the concurrence of the presidents of the Law Council and the Bar Association.

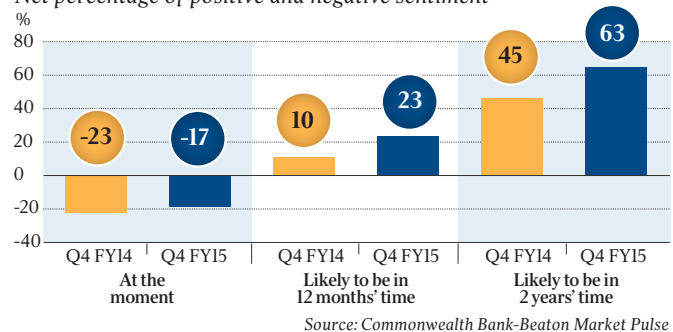
The legislation means the other nominees of the attorneys-general, Ms Bennett and Ms Boettcher are to be selected on the basis of their expertise in either the practice of law, consumer protection, regulation of the legal profession, or financial management.

The attorneys-general of NSW and Victoria, Brad Hazzard and Robert Clark, will announce the appointments to the council today and say in prepared comments that Mr Black's experience at the Bar and on the Federal Court bench would be invaluable.

"The council will play a key role in the new uniform legal services scheme, which aims to reduce the complexity of legal services regulation by applying uniform laws and rules," Mr Hazzard says.

Perception of business conditions

Net percentage of positive and negative sentiment



There is renewed optimism that the outlook ahead is a lot better



MARC TOTARO, NATIONAL MANAGER, PROFESSIONAL SERVICES, CBA

ONLINE VIDEO

www.theaustralian.com.au/business/legal-affairs

Milne backs calls for 'green' court

CHRIS MERRITT

MOVES by the International Bar Association to establish an international court for the environment have been welcomed by Greens leader Christine Milne.

"If you consider that we have the International Criminal Court to bring the powerful to justice when they commit mass atrocities against innocent people, it makes perfect sense to have an international court of the environment," Senator Milne said.

The proposal is part of a plan drawn up by an International Bar Association taskforce that aims to

"green" international law in order to achieve what the taskforce refers to as "climate change justice".

The taskforce, which includes Chief Justice Brian Preston of the NSW Land and Environment Court, will seek endorsement of its scheme at next week's IBA conference in Tokyo.

The report also proposed drawing up a model statute that would clear the way for individuals and community groups to seek injunctions in climate change litigation against governments.

It calls for the creation of a new human right to a safe environment and for international trade agreements to be "greened" so

they give precedence to environmental laws over any conflicting trade measures.

The plan has been criticised by leading business groups and West Australian Attorney-General Michael Mischin, who described it as a "political manifesto" masquerading as a legal opinion.

But Senator Milne said global warming "raises the ultimate questions of justice within and between nation states". "The fate of displaced people and flooded nation states forced to relocate are a matter of global law and currently there is no provision to address their legal status or grievances," Senator Milne said.

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