

A conference presented by the IBA Closely Held and Growing Business Enterprises Committee and the IBA Corporate and M&A Law Committee, supported by the IBA European Regional Forum, the IBA Securities Law Committee, the IBA Healthcare and Life Sciences Committee and the IBA Technology Committee



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17–19 October 2021

Maison du Barreau, Paris, France

Working programme and list of participants

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Conference Co-Chairs

André Dufour *Borden Ladner Gervais, Montréal QC; Co-Chair, IBA Corporate and M&A Law Committee*

Christian Hoedl *Uria Menendez Abogados SLP, Madrid; Co-Chair, IBA Corporate and M&A Law Committee*

Alejandro Paya *Cuatrecasas, Barcelona; Senior Vice Chair, IBA Closely Held and Growing Business Enterprises Committee*

Marco Rizzi *Bratschi Ltd, Zürich; Chair, IBA Closely Held and Growing Business Enterprises Committee*

Sunday 17 October

1900 – 2300 **Reception offered by the Local Host Committee**

Cercle de l'Union Interalliée

33 rue du Faubourg Saint-Honoré, Paris 75008

A harbour of peace in the heart of Paris, with its magnificent salons, its splendid gardens, its contemporary sports complex, its quality cuisine and its rich century-old history, it helps maintain the art of fine living French-style. What a better place to meet your IBA friends in person after such a long time?

The reception is open to all registered delegates.

Dress code: Jacket and tie or equivalent wear is compulsory. Jeans are not permitted and the use of mobile phones is not allowed in the common areas.

Monday 18 October

Delegates are requested to observe the one-way system (entry and exit) at the Maison du Barreau.

Masks must be worn at all times in public areas.

0800 – 1730 **Registration**

Foyer – Maison du Barreau

0815 – 0845 **Welcome coffee/tea**

Salons de la Garanderie & Horloge – 3rd floor

0845 – 0900 **Welcome address from the Conference Co-Chairs**

MOBILE TELEPHONES

Delegates are requested to ensure that mobile telephones and any other portable devices are switched to silent in working sessions.

Host committee reception sponsors



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Monday continued

0900 – 1000

Ten top provisions an entrepreneur should consider when planning early-stage rounds

Many founders believe that as their business grows, they will lose control of their board and the main strategies of their company. This is not unfounded: in a study of approximately 5,000 companies, founders generally retained only about 45 per cent of total ownership and had to give up significant control over the board after an early stage investment. Fortunately, there are various ways that founders can protect and control the destiny of their business even as it scales to new heights and entrepreneurs need to bring on new stakeholders. These include certain provisions on types of issued stock and board protection clauses, among others. In this panel we will explore the tried and tested methods that funders can employ to ensure they maintain some semblance of power over their business.

Moderators

Andreas Kloyer *Luther, Frankfurt; European Regional Forum Liaison Officer, IBA Closely Held and Growing Business Enterprises Committee*

Luciana Tornovsky *Demarest, São Paulo; Secretary and Latin American Regional Forum Liaison Officer, IBA Closely Held and Growing Business Enterprises Committee*

Speakers

Ivan Delgado *Perez-Llorca, Madrid; Conference Quality Officer, IBA Closely Held and Growing Business Enterprises Committee*

Lise Lotte Hjerrild *Horten, Copenhagen; LPD Council Member, Senior Vice Chair, IBA's Women Lawyer's Interest Group*

Elke Napokoj *bpv Hügel Rechtsanwälte GmbH, Vienna*

Louis Oudot de Dainville *Gide, Paris*

Ilona Zekely *Egorov Puginsky Afanasiev & Partners, Moscow; Human Rights Officer, IBA European Regional Forum*

1000 – 1100

Beyond Venture Capital: the fundraising alternatives for start-ups

Start-ups at all stages of the growth company lifecycle are in a 'seller's market', with growing competition for the best deals. Venture capital deals may be exploding across the globe, but there is increasing competition from other sources of capital. This panel will examine recent trends and the state of play in the growth company finance ecosystem, from start-up through to the later stages.

Moderators

Giuseppe Coco *Ughi e Nunziante, Milan; Young Lawyers' Committee Liaison Officer Closely Held and Growing Business Enterprises Committee*

Noreen Weiss *MacDonald Weiss PLLC, New York; Membership Officer, Closely Held and Growing Business Enterprises Committee*

Speakers

Christian Becker *GÖRG Partnerschaft von Rechtsanwälten mbB, Munich*

Frédéric Cohen *Foley Hoag, Paris*

Sharon Gazit *Goldfarb Seligman & Co, Tel Aviv; Co-Chair, IBA Healthcare and Life Sciences Law Committee*

Miguel Tornovsky *Pinheiro Neto Advogados, São Paulo; Special Projects Officer, IBA Latin American Regional Forum*

1100 – 1130

Coffee/tea break

Salons de la Garanderie & Horloge – 3rd floor and Foyer

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Monday continued

1130 – 1230

Keynote debate by leading entrepreneurs, managers and investors

This session will address the fact that there is no one-size-fits all format for growth and will ask important questions, such as:

- Should an IPO be the end goal?
- Are strategic acquisitions a more suitable exit strategy?
- What does it take to become a unicorn?
- Why do start-ups fail?
- Is the Big Tech market overheating?

A panel of entrepreneurs, managers and investors will share their thoughts about their experiences and their view on the current market.

Moderators

Jean-Philippe Jacob *Moisand, Boutin & Associés, Paris*

Renaud ThomINETTE *Renault ThomINETTE Vignaud & Reeve, Paris*

Nicole Van Ranst *Newton Law, Diegem, Belgium; Corporate Counsel Forum Liaison Officer, IBA Closely Held and Growing Business Enterprises Committee*

Speakers

Frédéric Altenbourger *General Counsel, BlaBlaCar, Paris*

Jean-David Chamboredon *CEO ISAI, Paris*

Guilhem de Vregille *Partner, XAnge, Paris*

Olivier Hua *former CEO Visiomed, Paris*

Vincent Huguet *Founder & CEO Malt, Munich*

1230 – 1400

Buffet lunch

Salons de la Garanderie & Horloge – 3rd floor

1400 – 1500

How to efficiently advise our clients. Pan-European lean investment documents.

The rationale and economics of venture investments in start-ups are substantially the same all over the globe, with similar deal terms and mechanics. The implementation into legal documents remains very heterogeneous throughout different jurisdictions, although introducing standardised terms would contribute to make such investments more efficient. As a result, a working group of some 40 specialised lawyers from numerous European jurisdictions have identified the seven most important areas and have drafted model Pan-European standard clauses, which will be presented during this session. This is part of an international discussion and review, the goal of which is to produce – to the extent possible – lean standard clauses that are generally acceptable throughout Europe.

Moderators

Marco Rizzi *Bratschi Ltd, Zurich; Chair, IBA Closely Held and Growing Business Enterprises Committee*

Antonia Verna *Portolano Cavallo, Rome; Vice Chair, Diversity and Inclusion Group, IBA European Regional Forum*

Jens Wenzel *Hengeler Mueller, Berlin*

Speakers

Emma Dansbo *Cirio Advokatbyrå AB, Stockholm*

Grzegorz Pobożniak *Kubas Kos Galkowski, Warsaw*

Luís Roquette Geraldés *Morais Leitão, Lisbon*

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1500 – 1600

M&A and Politics: two compatible worlds? How to steer M&A in an increased political environment.

In the current environment, it is almost impossible to carry out an M&A transaction without having to deal, in one way or the other, with political aspects that may interfere or facilitate such transactions. This session will aim at addressing these two most common illustrations of government interaction with M&A execution:

Political interference:

- Foreign Direct Investment (FDI) regime: while activism from government authorities has increased substantially during the past few years, their ability to handle submissions expeditiously has not developed in synch. This has resulted in prolonged periods between signing and closing and increased unpredictability as to ultimate outcomes. In particular, this is true to new processes around FDI approvals. We will focus in this section on how to handle this uncertainty in practice and contractually, for example, through case studies.
- Other types of intervention: in certain situations where either FDI regime does not exist or is not applicable, governments have used other tools to control, and sometimes repel, foreign investments in their country

Political facilitation:

- Governments acting as investors: we will address how States endorse the role of investor to make a venture capital type of investment or acquire minority investments to support certain sectors of the economy for a wide variety of motives.
- Government acting as actors: in certain situations, States will go as far as to nationalise certain companies. This has been a constant feature of governmental intervention in the economy, and this part of the session will focus on how nationalisations has evolved in recent years on a global scale and will identify general trends.

Moderators

Isabella Ramsay *Mannheimer Swartling, Stockholm; Secretary, Corporate Governance Subcommittee, IBA Corporate and M&A Law Committee*

Jean-Claude Rivalland *Allen & Overy, Paris; Publications Officer, IBA Corporate and M&A law Committee*

Speakers

Ezra Davids *Bowmans, Johannesburg*

Nanette Heide *Duane Morris, New York*

Malcolm Walton *Macfarlanes, London*

Angela Wang *Legal Counsel, DP World, Dubai*

1600 – 1630

Coffee/tea break

Foyer – Maison du Barreau

1630 – 1730

Strategic alliances and mergers in consolidating sectors

This session will outline the industry sectors and players in Covid-19 times: what has changed, which sectors have been adversely, or positively, impacted from the pandemic and what strategic alliances and mergers have been made. It will also focus on new trends in JV, such as: vertical integrations; the growth of the private equity market; the increased amount of distressed M&A funds; and the subsequent impact on corporate governance during Joint Ventures term and exit strategy.

Moderators

Martin Brodey *DORDA Rechtsanwälte GmbH, Vienna; Conference Coordinator Europe, IBA Corporate and M&A law Committee*

Gabriella Covino *Gianni & Origoni; Chair, Corporate Governance Subcommittee, IBA Corporate and M&A Law Committee*

Speakers

Dovilė Burgienė *Wallace Burgienė Reciuonas and Partners, Vilnius; Vice Treasurer, IBA Corporate and M&A Law Committee*

Rabindra Jhunjunwala *Khaitan & Co, Mumbai; Regional Fora Liaison Officer, IBA Corporate and M&A Law Committee*

Stefan Knobloch *Walder Wyss, Zurich*

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0830 – 1300

Registration

Foyer – Maison du Barreau

0830 – 0900

Welcome coffee/tea

Foyer – Maison du Barreau

0900 – 1000

Environmental, social and governance (ESG) and activism: are shareholder activists championing or hijacking the ESG message?

Shareholder activism and ESG are at the forefront of board agendas, shareholder focus and the headlines of the financial press. This panel will discuss the factors that have brought these two trends to the fore, examine convergences and divergences between them and consider whether they are two sides of the same coin or something else. We will also consider the roles of lawyers, regulators and courts in relation to these matters.

Moderators

Bertrand Cardi *Darros Villey Maillot Brochier, Paris; Vice Chair, Corporate Governance Subcommittee, IBA Corporate and M&A Law Committee*

Damien Zoubek *Freshfields; Secretary, IBA Corporate and M&A law Committee*

Speakers

David Chase Lopes *Proxy Advisor, DF King, Paris*

Caroline Ruellan *Counsel, SONJ and President, Cercle des Administrateurs, Paris*

Willianne van Zandwijk *Nauta Dutilh, Amsterdam*

1000 – 1100

The Perfect Exit – dos and don'ts when selling a business through an M&A process in the current market environment

After a short slowdown caused by the pandemic, M&A is back on track with unprecedented force in many countries and it appears that the markets are even more seller-friendly than before. The panel will focus on how the perfect exit (if there is such a thing) can be achieved under these conditions; compare market trends across different jurisdictions and industries; discuss different transaction set-ups from exclusive negotiations to auction and combinations thereof; and highlight the dos and don'ts when selling a business. Discussions will cover the full scope of a sell-side transaction from preparation of the asset, the marketing and negotiation phase all the way to signing and closing, and will include the early detection of regulatory risks, the approach to the first purchase agreement draft, purchase price concepts and the minimisation of seller's liability; and how to best combine a carve-out with the M&A process.

Moderators

Ralf Morshäuser *Gleiss Lutz, Munich; Education Officer, IBA Corporate and M&A law Committee*

Hans Witteveen *Stibbe, Amsterdam; Treasurer, IBA Corporate and M&A Law Committee*

Speakers

Helen Croke *Ropes & Gray, London*

Elodie Froidure *Crédit Agricole CIB, Paris*

Nadège Nguyen *Gide Loyrette Nouel, Paris*

Johanna Wärnberg *Hannes Snellman, Stockholm*

1100 – 1130

Coffee/tea break

Foyer – Maison du Barreau

1130 – 1230

IPOs, special-purpose acquisition companies (SPACs) and other exit trends

The past year has seen major developments in IPOs, exits in general, and, of course, SPACs. Traditional providers of equity alongside buyers are suddenly faced with competition from SPACs. Is this a real threat for them? What does the SPAC offer to selling shareholders and target companies? IPOs are more abundant than ever, but somewhat contradictory, transactions are structured increasingly with a view to decreasing market risk; for example, by eliminating retail offerings where legally possible and by securing significant cornerstone commitments. In certain markets, founders and selling shareholders are permitted to retain long-term control after IPO. Is this here to stay? Does this differ from what we see in the US? If you decide to exit, which of the various available tracks do you choose - or should you not choose at all? What has recently changed from a purely legal perspective? The panel will discuss these and many more topics in an efficient to-the-point manner, with plenty of room for delegates to join in.

Tuesday continued

Moderators

Jan Willem Hoevers *De Brauw Blackstone Westbroek N.V., Amsterdam; Vice Chair, IBA Securities Law Committee*

Marie-Laurence Tibi *Cleary Gottlieb Steen & Hamilton, Paris*

Speakers

Mariano Colmenar-Gotor *EMEA ECM Managing Director, JP Morgan, London*

Nicholas Dorsey *Cravath, Swaine & Moore LLP, New York*

Pere Kirchner *Cuatrecasas, Barcelona*

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