SHIN&KIM

Q&A: THE OPENING OF THE KOREAN MARKET AND THE ARRIVAL OF INTERNATIONAL FIRMS

IT HAS recently been announced, after many years of debate, that the Korean legal market is to open its doors to international firms. This landmark decision will have an impact on the domestic market as it develops into an international legal hub. The move to open the market follows three steps; firstly EU and US law firms will have the right to open offices to provide foreign and international law advice. The second stage will allow foreign firms to fee share with a domestic firm, and finally Korean and foreign players will be permitted to enter into a formal partnership.

Shin & Kim is a major player in the domestic market, and the firm's managing partner Doo-Sik Kim specialises in cross-border investments and major M&A deals. Doo-Sik Kim has also been involved in significant governmental negotiations on international trade matters as a legal advisor and member of the Korean government delegation. Here he talks to *The Asian Lawyer* about the impact the move will have on the legal market, how he foresees market share developing, and whether the opening up of the Korean market will represent a period of unprecedented consolidation.

HOW WAS THE DECISION TO OPEN THE LEGAL MARKET TO INTERNATIONAL FIRMS GREETED IN SOUTH KOREA?

The decision to open the legal services market to foreign firms pursuant to these free trade agreements means we will see an influx primarily of US and UK firms. There is a sector of the legal community, particularly the larger firms which do a great deal of work for international work, that have concerns the introduction of these large US and UK firms will adversely impact their practice, particularly in the fields of outbound investment, project finance and international arbitration. On the other hand, we believe that the opening of the legal market will provide more opportunities for both Korean and international firms in Korea. Increased competition will raise the bar for all firms, and we also believe there will be opportunities for cooperation in many areas with the international firms.

> **Increased competition will raise the bar for all firms, and we also believe there will be opportunities for cooperation in many areas with the international firms.**

WHAT KIND OF IMPACT HAVE YOU OBSERVED ON THE MARKET SO FAR?

Thus far there has been no real impact on the market. To date about 13 firms have applied for licenses to open offices in Seoul. Some of them have just begun to participate actively in seminars and other marketing opportunities targeting Korean companies. During the initial two year period of legal market opening, these firms will be allowed to advise their clients on the law of their home jurisdiction and international legal issues. After two years, they will be allowed to work together with Korean firms to jointly advise clients on projects requiring counsel from multiple jurisdictions. Finally, after five years, the foreign firms will be permitted to form joint ventures with Korean firms. I believe that is where we will see the most impact.

HOW DO YOU FORESEE THE MARKET SHARE BEING DIVIDED BETWEEN DOMESTIC AND INTERNATIONAL FIRMS?

We believe most international firms will find it profitable to open offices in Seoul only if they need to do so to serve the needs of their current clients. Large Korean conglomerates already use foreign law firms

Doo-Sik Kim at Shin & Kim in Seoul

Benjamin Hughes at Shin & Kim in Seoul

quite frequently, along with the large Korean firms, so the market is already divided between domestic and international law firms in this sense. We do expect that many cross border transactions will involve both Korean and international counsel. The most likely impact in terms of market share shifting to international firms in the immediate future may be advising on outbound investments. At the end of the five year phase-in period, we may see increased competition in virtually all areas of transactional practice. Of course, we believe litigation in the Korean courts and certain regulatory practices will remain the domain of the Korean firms. In addition, it is difficult to predict whether and to what extent foreign firms can really be successful in establishing themselves in the highly competitive Korean legal market.

GIVEN THAT SOUTH KOREA IS ONE OF ASIA'S LARGEST MARKETS, IS THERE ENOUGH WORK TO FEED BOTH KOREAN AND FOREIGN FIRMS, OR DOES INFLUX OF NEW PLAYERS REPRESENT A THREAT TO THE LEGAL MARKET?

The size of the Korean legal market is around USD 3 to 3.5 billion. Excluding litigation, the market size of the transaction market may be about USD 1 billion. Given this, I don't believe there is really enough work to feed both Korean and foreign law firms, and the influx of foreign firms may represent a threat to the legal market. In particular, we see some of the foreign firms coming to open offices in Korea with quite aggressive plans to expand their business in Korea. Some other firms have not been very active in Korea, but have nevertheless submitted applications for opening Korean offices. We think the market may not be able to absorb those firms at least during the initial period of the market opening.

WHICH PRACTICE AREAS STAND TO KEEP FIRMS BUSY GIVEN THE ECONOMIC UNCERTAINTY GLOBALLY?

In difficult economic times, we tend to see more work in our litigation practices including international arbitrations. Litigation, as I mentioned, remains and will continue to remain the exclusive province of the Korean law firms. In addition, white collar crimes and other criminal law matters, anti-trust, and financial regulation and other regulatory practices keep us quite busy. Private equity and M&A transactions are also pretty active, although large scale M&A deals are seldom seen in the market.

In difficult economic times, we tend to see more work in our litigation practices including international arbitrations. Litigation, as I mentioned, remains and will continue to remain the exclusive province of the Korean law firms.

WILL THE MOVE TO OPEN UP THE MARKET REPRESENT A PERIOD OF CONSOLIDATION? IS THIS THE MOST SIGNIFICANT DEVELOPMENT IN THE HISTORY OF THE KOREAN LEGAL MARKET?

There may be some consolidation of smaller firms in order to compete with the large international firms and the large Korean firms. But the opposite may also occur at the same time. We may see the development of more boutique law firms competing in specific areas of law. It is hard to predict all the possible ramifications of the opening market. But this is only one of several developments which are happening now in Korea. Another important development is the large increase in the number of legal professionals being produced by the legal education system in Korea. This will have many implications, and really represents another kind of "opening" of the legal market. We will have more lawyers doing more things in Korea than ever before, both Korean and domestic. It is certainly a period of transformation for Korean lawyers and the legal market here. ■

Shin & Kim

L8th Floor
State Tower Namsan
100 Toegye-ro
Jung-gu
Seoul 100-052
Korea
Tel: (+82 2) 316 4211
Fax: (+82 2) 756 6226

www.shinkim.com

Email: bhughes@shinkim.com
Email: dskim@shinkim.com