
INTERNATIONAL BUSINESS



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Dorsey & Whitney LLP



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Marcum



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Union Bank



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More than ever, U.S. economic growth is linked with the global marketplace. According to a new study by Business Roundtable, international trade supports an estimated 38 million American jobs – more than one in five jobs. Some of Orange County's top bankers, lawyers and accountants have shared their insights with the Business Journal, highlighting the benefits and difficulties of conducting business internationally.

Citi Commercial Bank

Citi® Commercial Bank is part of Citi, a leading global financial services company, which has approximately 200 million customer accounts and does business in over 160 countries and jurisdictions. Citi Commercial Bank provides banking solutions for medium-sized businesses at every stage of growth through a talented team of relationship managers, product specialists and client service professionals. Citi Commercial Bank supports a range of financial solutions: term and working capital financing, treasury solutions, foreign exchange and trade services. It also provides specialty lending: Loan Syndications, Energy, Asset-Based Lending, Technology, Healthcare, Government Contracting and Small Business Administration lending. Citi Commercial Bank also has a robust International Banking program that promotes opportunities for U.S. clients to expand overseas and international businesses to expand into the U.S. It has operations in the U.S and over 30 countries with local expertise contributed by in-country commercial bankers. The dedicated Commercial Bank FX desk trades in over 100 currencies.

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Commercial Bank



Dorsey & Whitney LLP

Since 1912, clients have relied on Dorsey as a valued business partner. With locations in the United States, Canada, Europe and the Asia-Pacific region, Dorsey represents a number of the world's most successful companies in resolving international business disputes through negotiation, mediation, arbitration and litigation. With extensive experience with the special legal issues that arise in disputes involving cross-border transactions, we are ready to help clients navigate foreign waters. To learn more, please visit www.dorsey.com/international_arbitration_litigation.



Marcum

Marcum LLP is one of the largest independent public accounting and advisory services firms in the nation. Ranked among the top 15 firms in the nation and eighth in number of public companies who file with the US Securities and Exchange Commission, Marcum offers the resources of more than 1,300 professionals, including more than 160 partners, in 23 offices throughout California, Connecticut, Florida, Massachusetts, New York, New Jersey, Pennsylvania and Grand Cayman. In addition, Marcum has four offices in China. As Marcum's national practice has grown, so too have Marcum's international capabilities. We now offer a full range of Assurance, Tax and Advisory services to clients operating businesses abroad as well as those headquartered abroad who seek financing in the US capital markets. Marcum has recently executed major engagements in the following countries: Brazil, Canada, China, Columbia, Japan, Israel, Mexico, Portugal, Singapore, Vietnam and the United Kingdom.



Snell & Wilmer LLP

Founded in 1938, Snell & Wilmer is a full-service business law firm with more than 400 attorneys practicing in nine locations throughout the western United States and in Mexico, including Los Angeles and Orange County, California; Phoenix and Tucson, Arizona; Denver, Colorado; Las Vegas and Reno, Nevada; Salt Lake City, Utah; and Los Cabos, Mexico. The firm represents clients ranging from large, publicly traded corporations to small businesses, individuals and entrepreneurs. For more information, visit www.swlaw.com.



Union Bank

Headquartered in San Francisco, UnionBanCal Corporation is a financial holding company with assets of \$105.9 billion at December 31, 2013. Its primary subsidiary, Union Bank, N.A., is a full-service commercial bank providing an array of financial services to individuals, small businesses, middle-market companies, and major corporations. The bank operates 415 retail branches in California, Washington and Oregon. The bank also operates commercial branches in Dallas, Houston, Atlanta, New York and Chicago, as well as two international offices. UnionBanCal Corporation is a wholly-owned subsidiary of The Bank of Tokyo-Mitsubishi UFJ, Ltd., which is a subsidiary of Mitsubishi UFJ Financial Group, Inc. (MUFG, NYSE:MTU), one of the world's largest financial organizations. In July 2013, *American Banker Magazine* and the Reputation Institute ranked Union Bank #1 for reputation among its customers. Visit unionbank.com for more information.



A member of MUFG, a global financial group

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Having a thorough understanding of the applicable international regulatory issues is critical to new investments...

—Juan Basombrio
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How have changes in the international economy affected your international clients and what advice have you given to help them?

Mark Ziemba from Snell & Wilmer LLP: As the economies in other countries mature, our international clients are being forced to develop country-specific tax plans to deal with the increasing sophistication and reach of each country's tax rules and regulations. In short, the international tax world is getting as complicated and oppressive as the U.S. tax system for international businesses. Our advice has necessarily evolved to include as much proactive worldwide tax coordination as U.S.-specific issues. Due to the complexity of the U.S. tax system and the advent of ever-increasing tax rates in foreign locations, our international clients also have trended toward one worldwide pass-through current taxation rate in one jurisdiction, with a focus on preserving foreign tax credits.

Alan Griffith from Marcum: The motives of multinational companies investing overseas are varied. Some identify the market opportunities presented by the per capita income, size and growth of the host country's market as the primary motive for investing. Other motives for investing include gaining access to natural resources and minimizing costs of production, and access global supply chains for generating sales and capitalizing on changes in the global economy.

Substantial changes in the patterns of international trade flows are an important element of the changing global economic landscape. These changes are associated with the liberalization of trade policies around the world, export-led growth strategies of developing countries, the rapid declines in the costs of transportation and communication, and the impact of supply chain production and growing prominence of multinational corporations (MNCs) in world trade. Trade liberalization or reductions of trade barriers implemented either unilaterally or as a result of multilateral negotiations have increased exposure to trade.

The bottom-line is — If you are not thinking about “going international” — start thinking about it. If your business already has an international component — expand it.

Juan Basombrio from Dorsey & Whitney LLP: The challenges in the international economy require that clients have a deeper understanding of the risks and benefits of doing business in any particular region. Since these challenges also have been felt in our local economy, foreign investments have to be more targeted and there is lesser room for error and later adjustments. From a legal perspective, this requires having a thorough understanding of the foreign legal and regulatory scheme, which may impose requirements that translate into financial considerations. Changes in economic circumstances may require foreign states to make changes in their laws and regulations and that, in turn, can significantly affect the investment from a financial

perspective. Thus, protection of the investment is a key concern, and there are different ways to minimize risk.

For example, the United States has executed investor protection treaties with many countries, which protect American investors' investments overseas. These treaties protect the investor against certain changes in local laws, arbitrary actions taken against them by foreign states, and in the extreme case of a nationalization, etc., and also provide a neutral venue for resolution of disputes, etc. It is important to structure the foreign investment in such a manner as to take full advantage of the protection afforded by such treaties. Undertaking these kinds of analyses before and during the course of the foreign investment is a necessity in today's international economic environment.

Gaurang Hattangdi from Citi® Commercial Bank: Managing increased uncertainty and volatility in the global economy — whether it is the geopolitical environment, slowing growth rates in global economies, volatility of exchange rates and commodity prices or potential regulatory change — are the most common concerns of our U.S. and global Commercial Bank clients. Uncertainty and volatility create risks, but also offer opportunities. *Our advice to clients is to clearly define what they are trying to achieve internationally*, to evaluate how changes in markets could create risks or opportunities. They must remain focused on execution but be flexible enough to weather downsides or take advantage of opportunities. We speak from experience. Citi opened its first overseas branch in 1902 and today, we are not only an important corporate bank around the world; we are a *global commercial bank* that specializes in addressing the specific needs of mid-sized firms as they enter or expand their presence in markets around the world.

How have your client's business growth been impacted by international regulation issues?

Juan Basombrio from Dorsey & Whitney LLP: The legal regulatory environment overseas is becoming more and more complex. Having a thorough understanding of the applicable international regulatory issues is critical to new investments, as well as to the continued health of ongoing overseas business investments. This includes not only understanding the current laws and regulations, but also being able to anticipate what laws and regulations may be promulgated in the near future, and how they may affect your business, as well as how your business may benefit from them. Indeed, some of the recent legal and regulatory changes have been beneficial to business. For example, many foreign states have either enacted or modernized their international arbitration laws. Some foreign states also have become strong venues for international arbitration, and courts around the world are becoming more and more supportive of international arbitration. Of course, arbitration provides a more neutral forum for the resolution of disputes. Thus, this is one example of a welcomed change in the laws of various foreign states.

Alan Griffith from Marcum: Changes in the global regulatory framework will arguably be more difficult now because of the 2008-2009 financial crisis. The crisis not only led to the demise of Wall Street icons such as Lehman Brothers and Merrill Lynch, but it also undermined the influence of some of the regulatory bodies in the United States and Europe. Institutions such as the U.S. Federal Reserve and Securities Exchange Commission and the UK Financial Services Authority all acknowledged errors in judgment. By contrast, Chinese, Indian or Brazilian supervisors, long derided as underdeveloped, successfully prevented domestic financial turbulence and even applied “macro-prudential” instruments, such as loan-to-value ratios, that were ignored in the West.

The rapid rise of many emerging economies has been driven by interventionist, state-driven, export-led growth strategies. Comprised of a number of measures that escape close WTO scrutiny and disciplines such as subsidies, government procurement, foreign investment and forced technology transfer, these strategies, in turn, have prompted questioning from many in the United States and Europe as to whether all WTO members are playing by the same rules.

Further progress in trade liberalization may thus require alternatives to existing WTO multilateral processes and practices. Unilateral reform is likely to remain a chief driver, particularly as trade barriers in developing countries increasingly hurt other developing countries. Bilateral and regional agreements are also likely to proliferate further, given their greater ability (compared



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with multilateral approaches) to achieve stronger disciplines in non-traditional issues such as services, investment, intellectual property rights, competition, labor and government procurement.

How has the use of technology impacted how your clients run their international businesses – are they willing to make the investment in this economy?

Alan Griffith from Marcum: Spurred by the information technology (IT) revolution, trade liberalization and other economic reforms, the size of the global economy doubled. Technological changes have reduced the costs of communication and transportation, and a reduction of trade barriers. Businesses going international must make the investment in technology or be left behind.

What is the best success story you have seen and what have you learned from it?

Kjell Gronvold from Union Bank: For companies doing business in China, paying Chinese manufacturers in the local Renminbi (RMB) currency has been a win-win for both our clients and their suppliers. Buying RMB for future delivery with a forward contract may result in a more advantageous exchange rate than the current spot rate, enabling them to lock in a meaningful cost



Lower interest rates and an improved economy have influenced lending positively and we are now seeing a borrower's market.

—Kjell Gronvold
Senior Vice President and
Regional Manager of Orange
County Commercial Banking
Union Bank



reduction by hedging future payments.

Our clients are also able to negotiate better pricing from their suppliers because Chinese manufacturers gain faster access to funds when paid in RMB. They don't have to worry about currency movements affecting the value of their receivables or wait up to a few weeks to convert currency from USD to RMB.

For example, one of our clients was able to take significant advantage of the continued RMB appreciation last year. By buying forwards in the spring, they were able to pay goods at a set price, while generating significant year-end gains directly due to RMB appreciation.¹

Mark Ziemba from Snell & Wilmer LLP: The best success story we have seen involves a business that early on grew its business with local personnel that understood the local market and could adapt the products to the local market place. Americans tend to think that American ideas translate worldwide and the reality is that they do not. Just as marketing to Westside Los Angeles is different than Green Bay, Wisconsin, so is selling in Jakarta, Indonesia. Grow with local talent and have international management that emphasizes local knowledge and talent.

Gaurang Hattangdi from Citi® Commercial Bank: iMarketAmerica is one of our success stories that points out how our Commercial Bank's global network can provide solutions many banks cannot. iMarketAmerica is the U.S. subsidiary of a Korean firm that distributes commercial shrink wrap and liner paper for the electronics industry. The subsidiary banked with a Korean bank in the U.S., but that institution could not extend it credit because it was a start-up in the U.S. iMarketAmerica's parent, iMarketKorea, however, has a full relationship with Citibank Korea. iMarketAmerica, based in Southern California, contacted our Korean-speaking Relationship Management team in Fullerton, Calif. The U.S. and Korean relationship management teams at Citi worked together to create a structure where the U.S. team was able to establish a multi-million dollar working capital facility for iMarketAmerica, using the credit strength of the parent company.

Juan Basombrio from Dorsey & Whitney LLP: The best success story that we have seen is being able to react promptly to international political and legal issues when they arise. Business transactions can be interrupted or can be jeopardized by a variety of international political and legal issues. It is important to be able to anticipate such issues beforehand and be ready with a plan to minimize risk and resolve them if they materialize. Many regions of the world are seeing dramatic changes from a political and economic perspective. Recently, there have also been significant changes in legal regimes in various regions of the world. Studying these factors is not only a task that should precede the foreign investment, but continued monitoring during the course of the investment is equally important. It is always best to tackle problems early, and that is also true when it comes to international operations. We have seen more successful resolutions of challenges arising in the international arena when they are addressed early and with an open mind to cooperation.

Sarbanes-Oxley (SOX) kept accounting firms very busy for several years. What do you anticipate is the next big international compliance driven event?

Mark Ziemba from Snell & Wilmer LLP: The Foreign Account Tax Compliance Act (FATCA) seems to be consuming more and more time with our international clients and the reciprocal rules developing worldwide. FATCA is instigating all kinds of detailed information gathering by our clients for their foreign payees and interfering with their worldwide payments systems and banking relationships. FATCA may not be as big as SOX, but it certainly is a wave just beginning to crest and cause compliance events and costs.

What is the best formula for creating a successful and valuable relationship between you and your clients?

Gaurang Hattangdi from Citi® Commercial Bank: Building trust and having clear mutual expectations are important to developing long-term, effective and mutually beneficial relationships. Our relationship managers work to understand



Despite the uncertainty and volatility in the global markets, strong businesses have been able to access capital.

— Gaurang Hattangdi
Managing Director & Global
Product Development Head
Citi® Commercial Bank



their clients' businesses and are able to engage the breadth of Citi expertise globally to find them the right solutions. Working with one relationship manager, our clients have access to their accounts anywhere in the world via one platform. We offer a network of offices in 32 countries that specialize in commercial business and access to expertise in offices located in over 100 countries. We provide a suite of local currency products, finance products and supply chain products. Citi Commercial Bank specializes in developing banking solutions expressly for clients with revenue of \$5 million to \$1 billion.

Kjell Gronvold from Union Bank: Open communication, providing significant solutions and establishing clear expectations is our formula for being an effective relationship-banking partner. Our experienced relationship managers invest time to understand client needs and determine which services support their goals. We can then deliver solutions to assist in ventures, particularly in Asia, because we are able to leverage services through our parent company, The Bank of Tokyo-Mitsubishi UFJ, Ltd. (BTMU).¹

Mark Ziemba from Snell & Wilmer LLP: Keeping the personal relationships strong; being responsive and proactive in the 24-hour access mobile age; having integrity to know and admit when you and the client need more specialized, expert knowledge on specific issues; taking the time to understand and respond to local customs and methods of communication; and working with the client's international team on a non-competitive basis to achieve the best result for the client.

How have lending relationships or your clients' ability to raise capital been affected over the past 12 months?

Kjell Gronvold from Union Bank: Lower interest rates and an improved economy have influenced lending positively and we are now seeing a borrower's market. Favorable rates are particularly beneficial to those looking for longer term financing for real estate, equipment, and mergers and acquisitions. Union Bank, along with others in the marketplace, is in a good place to lend.

Gaurang Hattangdi from Citi® Commercial Bank: Despite the uncertainty and volatility in the global markets, strong businesses have been able to access capital. The fact is, our U.S. business has grown our loan portfolio quite substantially. We also have several specialized international financing solutions that address the needs of mid-sized clients. Let's say a U.S. client has a subsidiary in India that requires financing. The head office borrows in the U.S. and sends the money to India. A stand-by letter of credit can be used to finance the subsidiary. Or, at Citi, the U.S. parent can give a guarantee directly to Citi Commercial Bank in India against which Citi in India will lend to the subsidiary. It is a somewhat sophisticated solution, and one that can be offered only because we have local offices in country. Citi is also a designated EXIM Fast Track Lender and has Super Delegated Authority

Status, which can facilitate clients' export of goods outside the U.S.

What are the most common recommendations you have made to your clients to help them grow their business overseas?

Gaurang Hattangdi from Citi® Commercial Bank: We advise our clients to take seriously their move into international markets, to develop a realistic strategy and do their homework thoroughly assessing risks and opportunities beforehand. They should select the right overseas partners-buyers, suppliers, banking and business advisors. They should be aware of FX and commodities risks and the strengths and weaknesses of options for hedging them. They should evaluate financing alternatives including local currency for foreign subsidiaries or supply chain financing. Above all, they should maintain liquidity, focusing on working capital and cash flow management. Citi Commercial Bank supports a wide array of clients that conduct international business from import/export firms, clients that manufacture in one or two countries up to clients that maintain sophisticated multi-country operations.

Alan Griffith from Marcum: Key elements for U.S.-based businesses to succeed with their out-bound business investment include: (a) The right "structure" (the choice of legal entities in the U.S. and offshore); (b) The right "location" (the proper foreign jurisdiction to operate in); (c) Avoiding "double tax" (where the same income is subject to U.S. tax and foreign tax without the benefit of foreign tax credits); (d) Foster a healthy skepticism of the "cocktail party" advisor (i.e., it sounds too good to be true...); and (e) "Size matters" (larger companies possess the resources to take advantage of "tax haven" strategies that are simply "out of reach" for middle-market businesses).

Kjell Gronvold from Union Bank: We advise clients to understand the markets where they do business and plan carefully. Our Orange County clients work with their local Union Bank relationship managers to access advisory services through our parent company, The Bank of Tokyo-Mitsubishi UFJ, Ltd. (BTMU), to establish in-country relationships with local CPAs, attorneys, and real estate agents. These services support planning and execution of capital expenditures including buying companies abroad, purchasing and developing international real estate, and establishing joint ventures with local companies.¹

Mark Ziemba from Snell & Wilmer LLP: The most common recommendations have been to (1) seriously consider the KISS approach to international taxation to achieve one integrated tax rate on worldwide income on a current basis rather than spending inordinate amounts of time and expenses trying to defer taxation, and (2) engage an international accounting firm before you step over the border. The first is because the cost of deferral is becoming increasingly expensive and cumbersome. The second is because many of our clients did not focus on the importance of integrated tax and financial accounting as part of the initial international foray until they met with us. While we provide our international tax advice, the more important professional is the tax accountant doing the actual reporting and making sure our advice, once implemented, is reported by the tax accountant without change or surprise.

What are the benefits of using a professional service firm that specializes in international business? Specifically one that is local in the U.S. vs. foreign counsel?

Juan Basombrio from Dorsey & Whitney LLP: The main benefit of using a professional legal services firm that specializes in international business is its familiarity with the broad range of international legal issues that may impact your business operations. A local firm in the United States is able to review foreign legal issues under the same standards that we would otherwise use in the United States. Such a firm will also have a network of relationships overseas that can be tapped as issues develop. For example, above I mentioned the benefit of international arbitration. The benefits of international arbitration may be only as good as the quality of your contract's arbitration clause. Businesses sometimes believe that taking a U.S. arbitration clause and inserting it into an international agreement is sufficient, but it is not. The international business transaction will have many considerations that are different from a local transaction. Therefore the arbitration clause is your first level of

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— Mark Ziemba
Partner
Snell & Wilmer LLP

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protection should things go wrong. Thus a well-considered and crafted international arbitration clause is critical.

What are the most common difficulties that your international clients ran into during past year and what did you do to help your clients resolve them?

Juan Basombrio from Dorsey & Whitney LLP: Our clients are seeing increased litigation and arbitration related to their business operations overseas. This increase can be attributed to the general

increase in international business during the last decades, but also to the high dollar judgments that have been entered overseas against U.S. companies. Such judgments have encouraged others to pursue U.S. companies. Our law firm has assisted clients mitigate such risks by helping them understand the applicable local laws and regulation, design a plan to deal with such events, and attempt to resolve problems before litigation or arbitration is commenced. We also have assisted clients defending such cases one filed, with an eye to bringing a fast resolution to the dispute. This requires not only an understanding of the local laws and regulations, but also of the local customs and ways in which disputes are resolved amicably.

Kjell Gronvold from Union Bank: Companies doing business in other countries face a complex landscape of cultural differences and varying laws and regulations regarding ownership, investments, labor, and permits. We suggest that our clients not go it alone and work with us and other partners to leverage experience working in these countries. Our foreign exchange specialists can also help them mitigate foreign currency fluctuations that can dramatically affect their bottom line with significant swings of up to 25 percent within a given year.

To help keep our clients current on changes and trends, we provide them and prospects with our Foreign Exchange Outlook monthly update on individual countries, with a particular focus on the Asian country markets where our parent company is a leader in banking services.¹

¹ This and any other information or communication provided by Union Bank, N.A. (“UB”) relating to foreign currency, foreign exchange and related products and services, whether written or oral, is not intended as (and shall not be deemed) investment advice or a recommendation to buy or sell any currency or other investment or instrument, nor shall it be deemed an assurance or guarantee as to the results or expected results of any transaction. Foreign currency and foreign exchange products and arrangements such as forwards are not FDIC insured, and the risks of such products including certain restrictions when transacting in foreign currency such as offshore Chinese Renminbi should be understood prior to entering into any foreign currency transaction.