Capital Markets 2010-11

IPO-QIP Report

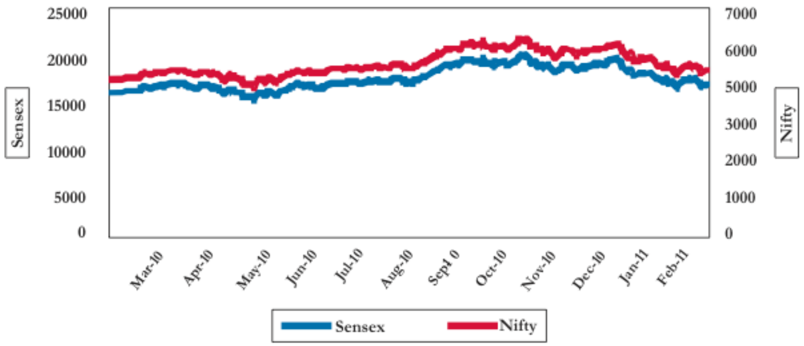
Financial Year 2010-11

Bombay Stock Exchange's (BSE) Sensitive Index (Sensex) has been range bound this year hovering around 17,000 - 20,000. However, 2010-11 has been another record year for the Indian capital markets with 124 IPOs (Initial Public Offerings) and FPOs (Follow on Public Offerings) and 41 QIPs (Qualified Institutional Placements).

According to Bloomberg data, proceeds from fresh issues (IPOs) by Indian companies in 2010 surpassed even the levels reached in 2007. The Government made a strong mark on the markets, raising significant capital with string of IPOs and FPOs. Till March 2011, 124 IPOs had accounted for Rs. 51,000 crore (US$11.3 billion) in capital raised, averaging close to a billion dollar every month. This along with 41 QIPs that raised nearly Rs. 19,722 crore (US$4.3 billion) meant that Indian companies raised more than Rs. 70,000 crore (US$15.5 billion) in the 2010-2011 financial year.

Khaitan & Co., Managing Partner, Rabindra Jhunjhunwala speaking on the markets said, "The Indian markets have shown shades of recovery post the global recession. Indian companies have taken advantage of the pockets of recovery in the domestic markets".

Apart from the Government companies and the engineering and real estate sectors, this year saw the emergence of other sectors in fund raising. Gold and fashion are the new sectors to watch out in 2011 with companies like Joyalukkas, TBZ, Ratanchand, Tara Jewels and fashion salon company promoted by Jawed Habib planning to raise capital. Gold loan company Muthoot Finance also joined the capital-raising spree with its Rs. 1,400 crore IPO (US$311 million).



Rankings: *Indian Law Firms*

The Indian equities market remained quite active through the last financial year despite going through turbulent times caused by corruption scandals and inflation worries. Law Firms, both large and mid tier concluded some innovative transactions. As compared to last year, there were no significant surprises in the capital markets league table of Indian law firms.

Once again, Amarchand recorded the highest number of capital market mandates amongst Indian law firms, acting as legal advisor in 43 IPO / QIP transactions as compared to 67 transactions last year.

The primary driver of decline in mandates handled by Amarchand was the QIP market, as the number of QIP mandates decreased from 31 to 15. Overall, Amarchand continued to be the "go to" Indian firm for the issuers and the investment banks.

Top 10 Rankings

		IPO		QIP		
		CM	BM	CM	BM	**Total**
1	Amarchand	20	8	11	4	**43**
2	Luthra	7	6	2	5	**20**
3	Crawford Bayley	10	1	7	-	**18**
4	AZB	8	4	2	2	**16**
5	Khaitan	6	4	3	2	**15**
6	J. Sagar & Associates	3	2	3	-	**8**
7	S & R	2	3	0	2	**7**
7	Kanga & Co.	6	-	1	-	**7**
8	Link Legal*	6	-	-	-	**6**
9	ALMT Legal	4	-	-	-	**4**
9	Mindspright Legal	4	-	-	-	**4**
10	Corporate Law Chambers India	3	-	-	-	**3**
10	Rajani Associates	3	-	-	-	**3**
10	Vaish Associates Advocates	3	-	-	-	**3**
10	Trilegal	1	2	-	-	**3**

CM = Company Mandates
BM = Banker Mandates

* Link Legal merged with Zenith india in 2011

Bar & Bench spoke to the Capital Markets team at Amarchand's Mumbai & Delhi offices

"We are the market leaders in capital markets and in addition to two Managing Partners, we have three full time equity capital markets partners working out of Mumbai, Delhi and Bangalore offices."

Cyril Shroff

Indian capital markets in the post-recessionary period

Cyril Shroff: From about April 2009, we have seen substantial activity in the capital markets. We have benefited from having the largest capital markets team across the country. We have large capital markets teams in our Mumbai, Delhi and Bangalore offices and a small team in Hyderabad. In fiscal year 2010 the focus was on companies which needed capital in the form of real estate companies and infrastructure companies and mainly in the form of QIP offerings. In fiscal year 2011 we have seen very large offerings from Government companies where mostly the Government has reduced its stake. This has had some impact on private sector offerings. Despite that we have acted on some of the largest and most interesting capital raising in India and involving India. These include acting for the company on IDR issuance by Standard Chartered PLC, advising Essar Energy PLC in the listing of its oil and power assets on the London Stock Exchange (we were the only Indian advisors on one of the largest listings on the London Stock Exchange), advising the underwriters on India's largest public offering ever of Coal India, advising the underwriters on the ADR of MakeMyTrip Ltd. In addition, we also advised the Government and the issuer on large issues such as NTPC and Power Grid. On the private sector side, we advised on several transactions including the follow on public offering of Tata Steel Ltd. and QIPs by Tata Motors and Adani Enterprises Ltd.

Amarchand's team - Has the capital market team increased in size and your recruitment plans for the year ahead.

Cyril Shroff: We are the market leaders in capital markets and in addition to two Managing Partners, we have three full time equity capital markets partners working out of Mumbai, Delhi and Bangalore offices. Our team includes nearly 60 lawyers who work on only equity capital markets. In addition, we have also added Niloufer Lam as a debt capital market partner and her team comprises of six lawyers. We see capital markets as a very focused area and will continue to recruit for this practice in the next few years.

Bar & Bench spoke to the Capital Markets team at Amarchand's Mumbai & Delhi offices

Amarchand's strategy for 2011 - Targets set in terms of the number of transactions.

Cyril Shroff: Our strategy remains to do India's largest and the most challenging capital markets transactions. This has been evidenced by our involvement in Standard Chartered PLC IDR, the Coal India IPO, the IPO of Essar Energy PLC, etc. We hope to retain our market share on large transactions and even on smaller ones where our role is to draft the entire document. We believe this approach allows us to keep our team excited. We are quite focused on this. We think that new sectors such as consumer industry and interesting players in the financial services space will be approaching the market for funds in the coming years.

Shardul Shroff: We have acted on all the important transactions where we would have liked to see our name. Given our relationships and our profile in this practice, we hope to continue this trend.

Yash J. Ashar: We hope to be part of the most interesting and challenging transactions in this space. The Standard Chartered IDR was a fantastic experience where the regulations were changing and we were working on new structures and documentation. Our efforts will be to continue to pitch for such transactions in the next few years.

Other Trends

Luthra moved up the league table and was placed second with mandates for 20 IPO/QIP transactions. Interestingly, last year also saw Luthra break Amarchand's hold on acting as the legal advisors to the public sector undertakings. Luthra was mandated to act for Coal India, the largest Indian capital markets transaction of last year. Luthra also strengthened their capital markets practice and promoted Managing Associate Indraneel Basu Majumdar to partnership.

Crawford Bayley too moved up the league table and was placed third with mandates for 18 IPO/QIP transactions as compared to 15 IPO/QIP transactions last year. The Crawford team continued to be the "go to" firm for the mid-cap and small-cap companies proposing to raise capital.

Other notable players in the Indian capital markets were **AZB**, **Khaitan**, **JSA** and **S&R**.

Despite the breakaway of M&C Partners and Anup Shah and termination of its best friend relationship with Clifford Chance, AZB ranked fourth with 16 IPO/QIP transactions. Khaitan brought in former AZB Partner, Vaishali Sharma and former Clifford Chance Partner, Devidas Banerji to boost its capital markets practice. Khaitan stood at number five with 15 IPO/QIP transactions. Managing Partner Rabindra Jhunjhunwala said, "while we have added members to our team, we have made efforts to increase our scope of work and role on transactions. The addition to the team has brought in rich experience and capacity. Our capital markets team strength across our four offices is 26 lawyers. We hope to continue attracting diverse talent in the years ahead."
S&R continued to be the favored advisor to investment banks. Sandip Bhagat, Co-Founding Partner of S&R said, "the firm acted as the Indian legal advisor on a range of capital markets transactions, including the SEC-registered IPO on the Nasdaq Global Market by MakeMyTrip and the listing on the AIM market of the London Stock Exchange by Jubilant Energy." S&R also opened an office in Mumbai to better service Mumbai based clients. On this development, Sandip commented "since we work on transactions across India, it was an obvious and natural next step to be present in India's financial capital."

An interesting trend this year was the emergence of new law firms like **Link Legal** and **Mindspright Legal** and the spread of work amongst firms. While 48 law firms advised on less than 10 transactions each, only 5 law firms made it to double digits.

Rankings based on transaction value of more than US$ 100 Million

The average IPO size this year has been at US$91 million (Rs. 411 crore). Since Coal India raised nearly 30 percent of the total funds raised this year, the average funds raised through the IPO would have fallen to US$64 million (Rs. 288 crore) per IPO, if not for the Coal India transaction. This table depicts rankings of Law firms that have concluded IPO-QIP's in excess of $100 million.**

Rank	Law Firm	Total Mandates*
1	AMSS	19
2	AZB	8
3	Luthra	6
4	S & R	5
5	JSA	3
6	Khaitan	2
6	Dua	2
6	Trilegal	2
7	Fox	1
7	Indus Law	1
7	Kanga	1
7	NDA	1
7	Ramani	1
7	Vaish	1

*Includes company mandates and banker mandates

**Capital raised or proposed to be raised has been sourced from publically available information and company reports.

Transaction Note: Largest Indian IPO ever: Coal India – Rs. 15,500 crore raised!

"Our team views their careers as 'life before Coal India' and 'life after Coal India'. We have all grown manifold with this transaction."

The Coal India IPO, which was oversubscribed by 15 times at the upper band of Rs. 245 per share, ended with a 43 percent gain at Rs. 349 a share on the BSE when listed. The IPO that opened on October 18, 2010 mobilized Rs. 236,000 crore (US$52.4 billion), although the target was to raise only Rs. 15,500 crore (US$3.4 billion). Certain media reports indicate that the amount of money that was mobilized in this IPO in a span of four days was more than last year's GDP of about 140 countries.

Coal India's IPO is the largest offering in Indian capital markets history, surpassing Reliance Power's Rs. 13,500 crore (US$3 billion) listing in 2008.

We spoke to **Madhurima Mukherjee**, lead lawyer on this transaction handling the Government IPO

Your firm acted as the advisor on the Coal India IPO and the IPO remains one of the biggest and most talked about transactions of the financial year. Talk us through the process on advising on this landmark IPO.

Madhurima: Yes, that is right, the Coal India IPO was the largest IPO ever in the Indian market till date. It was also the second largest public offering in the world in 2010.

We were very clear that we wanted to advise the Government on this transaction. There are few transactions in your career which (I believe) alters your perspective to transactional work forever. Coal India was one such transaction. We had mentally prepared ourselves for the task at hand. What we did not realise is that whatever we had imagined had to be multiplied by fifty and we would still fall short by about another hundred percent on what we ended up doing. It built character!

Coal India has a thirty year old history and many legacy issues. It is one of India's largest public sector undertakings. It had eight subsidiaries with huge operations. It has complex issues ranging from mining, to employment, to multiple litigations in an environmentally sensitive sector. Estimating adequate staffing was the first step. We had a fifteen member team between our Mumbai and Delhi offices led by Manan and me. We divided our work location wise and entity wise. There was no question of going back to these locations some of which were in remote parts of the country. Manan and I had to work very closely together. The hardest task was to make people at every level in the company understand the enormity of the task at hand. But once we had the top management convinced, they and the Department of Disinvestment were extremely supportive.

We had to monitor work on a daily basis, coordinating with the banks, reporting to the Department of Disinvestment, just spending the physical time to wade through the information to find what is relevant. It needed machine-like precision to achieve the near-impossible timeline set for us.

What according to you are the nuances of a Government IPO?

Madhurima: You cannot categorise all PSU public offers in the same slot. I have mostly worked with public sector companies which are very large. Therefore, my personal experience is limited to such extent. I would split the nuances into issues of law and that of handling the transaction. Large public sector companies usually have legacy issues due to nationalisation, the assets they hold and purpose of their incorporation. They are often in sensitive sectors. Sometimes they are in a monopoly position due to Government protection in pricing, etc. All this needs to be examined and explained in disclosure documents. These companies are behemoths and have long operational histories. This throws up challenges in due diligence and document management and sensitive issues which require attention. In disinvestments, we cannot only think commercially. We need to take the policy of the Government and the macro agenda into consideration when we offer legal solutions to issues. The Department of Disinvestment is extremely supportive because they have certain internal targets and policy milestones to achieve; however the timelines given are aggressive. We sometimes work on a war footing to achieve the timelines.

Your thoughts on the ever-changing capital markets trends in India.

Madhurima: As far as the capital markets trends are concerned, it's hard to tell. The word on the street is that things are going to slow down in the short run, but we are at our busiest. People want to be ready to launch when the markets look better. This is good news for the lawyers, I guess. We take a slowdown as a welcome break to train our people and regroup. If India is growing at 8-9 percent, how can the capital markets be left behind. People with robust businesses need money. So, we may see a surge of more innovative structures and instruments. Banks are innovating and as I said, hopefully, we will be there to help them.

What is Luthra's strategy with respect to its capital markets team? Any specific targets for the coming year?

Madhurima: The strategy is to continue concentrating on quality rather than quantity. We do not want to do every deal on the street. We want to work on the best deals if we can, with the best banks. In order to meet this aspiration, we want to produce quality documentation and give adequate attention to detail. Indian firms often compromise on the quality of documentation because either they do not concentrate on developing their human resources or they just take on more than they can service. That is not our model. While no one can get away from pricing pressures, we do not want our practice to be driven by that. We believe that compromises quality of legal work at some level. Banks are slowly realising that with the volume of SEBI investigations and follow ups, cutting corners on legal costs will not help. We want to work with the banks to help them better understand liability issues and improve on the general level of due diligence and documentation. Our target is to do every kind of work, from private transactions to disinvestments. Hopefully, we will get asked on the more innovative and exciting deals.

Government IPOs

The UPA Government targeted a collection of Rs. 40,000 crore (US$8.9 billion) from the divestment program. In order to shortlist the investment banks, the Government departed from the tradition of choosing the lowest bidder and adopted a "cost plus quality scheme" to select the bankers for the disinvestment. The Chairman of Coal India explained this process saying that "technical capability gets 70 percent weightage and 30 percent weightage is kept for the financial bids." There was a cut-off score for technical competence and the financial bids of only those bidders who were above this cut-off were considered for evaluation.

Similar criteria were also adopted for selection of law firms. Madhurima Mukherjee, head of the capital markets practice at Luthra & Luthra, said, "after being selected to represent Engineers India, the Government had put in detailed processes to shortlist law firms and did a great job. The law firms were first shortlisted on technical parameters such as past record and capital markets experience, profile of partners leading the transaction and their individual experience. Once you clear the technical bids then financial bids were considered."

With Government companies planning to raise nearly $9 billion, both mid tier firms (which usually bid for Government IPOs) and even large law firms put in their bids. Amarchand, Luthra, AZB and S&R have been aggressively bidding for these IPOs too. Prashant Gupta, Partner at the Amarchand office in Delhi, who has advised on several disinvestments said, "Under the disinvestment program of the Government of India, the pressure to complete in a timely manner is immense, but given our team size and experience we were able to deliver quality on all these transactions. We hope to continue to be actively involved in these transactions."

Law Firm Fees

Domestic law firms and the International Legal Counsels (ILCs) had to bid jointly for all Government company disinvestments. Luthra emerged as one of the favourites for large Government IPOs this year. This joint exercise also meant that the Government did not incur inflated legal bills for these IPOs.

Law firms drastically cut their legal fee for Government IPOs this year. Top tier domestic law firms charge anywhere between Rs. 30 lakh (US$65,000) to Rs. 80 lakh (US$170,000) for an IPO, while foreign law firms charge anywhere between US$250,000 (Rs.1.1 crore) to US$500,000 (Rs.2.25 crore). For the EIL IPO, insider sources revealed that Luthra and DLA Piper had jointly quoted about Rs.1.35 crore (US$300,000), Amarchand and O'Melveny had quoted Rs.1.65 crore (US$366,000) and S&R along with Dorsey had put in a bid of about Rs.1.75 crore (US$388,000).

25 percent public shareholding amendment

The Government has amended the Securities Contracts (Regulation) Rules by raising the threshold for public shareholding in the listed companies. Through the Securities Contracts (Regulation) (Amendment) Rules, 2010, the Government mandated listed companies to arrive at a 25 percent public shareholding in the next three years. The Finance Minister, Pranab Mukherjee, had said in his budget speech that in order to increase transparency and reduce manipulation the threshold limit of public shareholding had to be increased to 25 percent. In terms of the specifics:

1. Existing listed companies with less than 25 percent public holding have to reach the minimum 25 percent level by an annual addition of not less than 5 percent to public holding.

2. For new listings, if the post issue capital of the company calculated at offer price is more than Rs. 4,000 crore (US$833 million), the company may be allowed to go public with 10 percent public shareholding and comply with the 25 percent public shareholding requirement by increasing its public shareholding by at least 5 percent per annum.

New SEBI chief: U K Sinha appointed new SEBI Chairman

Upendra Kumar Sinha took charge as the Chairman of the Securities Exchange Board of India (SEBI) on February 18, 2011 from Chandrasekhar Bhaskar Bhave. Prior to this, Sinha was Chairman & Managing Director of UTI Asset Management Company Ltd. and Chairman of Association of Mutual Funds in India. Sinha, a former IAS officer of the Bihar cadre, was also the Joint Secretary in the Finance Ministry between June 2002 and October 2005. He looked after capital markets, external commercial borrowings, pension reforms and foreign exchange management functions in the ministry. He has also played an important role during the drafting of the SEBI (Amendment) Act, 2002, UTI (Repeal) Act, 2002 and the Securities Law Amendment Act, 2004. Sinha was the Chairman of the Working Group on Foreign Investments in India. He was a member of several committees set by Government of India, including the Committee on Liquidity Management, FIIs, Corporate Bond Market and Investor Protection.

Sinha is credited with starting the micro pension movement in the country for mobilising retirement savings from low earning – unorganized sector workers.

Link Legal - Zenith India Merger: Emergence of mid tier firms

Link Legal merged this year with Zenith India Lawyers to focus on its capital markets practice in its Mumbai office. Former SEBI Legal officer and co-founder of Zenith India Lawyers (ZIL) **Raj Rani Bhalla** joined as a partner in Mumbai office of Link Legal. Bar & Bench spoke to **Raj Rani Bhalla** about the merger

You merged Zenith with Link Legal. How has the capital markets practice evolved in the new set up?

Raj Rani Bhalla: We are very happy to have taken the decision to merge. The effect of transition from a boutique firm to a mid size firm has been evident in the first quarter of the present calendar year itself (we merged with effect from 01.01.2011). We have been able to leverage upon the existing capabilities and relationships of Link Legal and utilise our experience in capital markets practice. We have further been able to expand the spectrum of services that we can render and can play a bigger role in our pre-existing assignments. We have also been able to reach out to merchant bankers who are involved in larger transactions.

You have experience working with SEBI. How has your journey been on the other side of the fence (from the perspective of running a law firm)?

Raj Rani Bhalla: My experience with SEBI was quite enriching. I had a long inning of ten years with a lot of learning and responsibility at the same time. However, the journey of last four and a half years has been equally challenging and satisfying. Being the Managing Partner of ZIL, I was running the firm single handedly. Apart from the professional work and ensuring quality of service, there was a lot of work of administrative responsibilities. As an employee with SEBI, I did not have to bother about these matters. But as I said before, it has been a fulfilling experience and to be honest, if I did not have that experience, I could have never evolved as a good lawyer and got the recognition which I have been able to get in whatever small measures.

Any interesting market trends that you have observed in the last year?

Raj Rani Bhalla: The capital markets have been quite volatile. The Financial Year 2010-11 had its share of highs and lows. The BSE Sensex rose more than 17 percent in 2010 to be among the best performing major Asian markets this year. The second quarter of the year was when the market was at its peak, with most of the companies that were contemplating their decision of going public actually gearing up and filing DRHPs with SEBI. However, the last quarter was quite mild as compared to the other quarters. While the outlook is exciting in some ways, current domestic and international developments create a sense of uncertainty and might lead to intermittent impact on the markets. But all in all, the India story could be the driver.

Conversations

S&R Associates, established in 2005 are known for their capital markets expertise. They opened a Mumbai office this year and Sandip Bhagat, one of the co-founders of the firm moved base to the financial capital.

"Our firm seeks to distinguish itself on the basis of the quality of our services. In addition, many of our lawyers have previously practised law in other jurisdictions as well, such as the United States, the United Kingdom and Singapore."

Sandip Bhagat of S&R Associates

What kind of capital markets transactions did S&R advise in the last financial year? Any interesting trends?

Sandip Bhagat: Since April 1, 2010, S&R has continued to advise on a full range of capital markets transactions, including the SEC-registered IPO on the Nasdaq Global Market by MakeMyTrip, the listing on the AIM market of the London Stock Exchange by Jubilant Energy, several IPOs and QIP issues in India by companies such as SKS Microfinance, A2Z Engineering & Maintenance Services, Eros International Media, IndusInd Bank and IDFC, a significant bulk deal and other transactions such as FCCBs and rights issues.

Some of the interesting trends:

(a) The success of MakeMyTrip's U.S. listing, where we acted as Indian counsel to the issuer, appears to have boosted capital raising plans by companies looking to tap the U.S. markets, particularly involving the listing of the overseas entity (with an Indian presence). These companies are in areas focusing on the India consumption and growth story, including in the Internet, technology and media-related sectors. Also, if the company is well prepared (especially with its financial statements), the offering process can be relatively rapid – for example, the MakeMyTrip listing in the U.S. was completed in approximately six months, which is probably faster than most IPOs in India.

(b) The Government continued to undertake divestment efforts through the capital markets, which helped in meeting its budget targets. Certain large transactions were completed, although some other transactions have been deferred until the next fiscal year.

(c) Banks and financial institutions have looked to arm themselves with sufficient capital to address capital adequacy requirements and increase their funding to meet expected demand. However, changes to the regulations impacting the microfinance sector, including the enactment of stringent laws in one state, have led to uncertainty in investments and exposure to this sector.

(d) Capital markets activity has slowed towards the end of last year, in part due to market volatility and a somewhat flat trend. This has slowed the offering process for some issuers and re-calibrated market expectations.

(e) There have been increased efforts to improve the debt capital markets. Also, some leading corporates have successfully issued instruments such as bonds and non-convertible debentures to retail investors.

(f) The Government and the SEBI have continued to introduce changes that have impacted capital markets offerings – for example, the introduction of the minimum 25 percent public float requirement was a major change last year; others were 100 percent payment by QIBs upfront, ASBA for all investors, etc. Standard Chartered completed the first offering of IDRs last summer.

S&R set up a new office in the financial hub of the country in 2010. What has been the impact and advantage of such a move?

Sandip Bhagat: We opened an office last summer at One Indiabulls Centre in Mumbai's central business district. The firm will continue servicing longstanding Indian and global corporate, investment banking and private equity clients in Mumbai across its practice areas of mergers and acquisitions; capital markets; financing; general corporate; and litigation and arbitration. While we work on transactions across India, it was an obvious and natural next step to be present in India's financial capital where we already carried on a substantial portion of our work earlier. Our new office works closely with our Delhi team as one firm for our clients and provides a full range of services.

I have relocated full-time to Mumbai to lead our new office. Our work in the past year has involved a combination of M&A, general corporate and capital markets matters (as I've mentioned before, capital markets is less than a quarter of our business). We've got a team of senior, mid-level and junior associates together, and are geared to service clients across our practice areas.

Your key clients on capital markets transactions seem to be investment banks. What about S&R do you think attracts bankers?

Sandip Bhagat: Our firm seeks to distinguish itself on the basis of the quality of our services. In addition, many of our lawyers have previously practised law in other jurisdictions as well, such as the United States, the United Kingdom and Singapore. This has given them the experience and depth to deliver quality execution and I think clients, particularly those accustomed to a high-quality environment and complex transactions, respond to these factors. These include Fortune 500 companies and global private equity firms, in addition to investment banks.

Also, we have seen some significant issuer-side representations in the past year, including for MakeMyTrip and A2Z. Typically, even if we are involved as counsel to the investment banks, our role as drafting counsel and our involvement in the transaction tends to be substantial. One point to note – relative to the size of our firm, our involvement in large deals, including in capital markets, has been disproportionately high.

Which capital markets transactions were the most challenging last year, and why?

Sandip Bhagat: MakeMyTrip was an interesting deal that involved three jurisdictions - the United States, Mauritius and India. In the IPO by SKS, our challenge was to present the first microfinance issuer to the market. Offerings by financial institutions, such as our work on QIPs for IndusInd and IDFC, are always interesting given the regulations governing banking in India.

Client's Perspective

Kotak Mahindra has been one of the top three investment banks this year. Kotak led 17 of the 20 largest Indian transactions, including, Coal India, NTPC, SKS Microfinance and a host of large cap transactions.

Ajay Vaidya who heads Kotak's Legal and Compliance division spoke to Bar & Bench on the demands of an in-house counsel and how law firms need to shape up to provide practical deal making advice. One of the most respected in-house counsels, Ajay Vaidya gives some candid advise to law firms.

Ajay Vaidya, Chief Legal and Compliance Officer, Kotak Mahindra

Your thoughts on the role of in-house lawyers /compliance departments at investment banks.

Ajay Vaidya: I feel it is an extremely important function, seeing the way India is developing on the regulatory front. The role is important in terms of risk management and in guiding people internally. It's high time that not only in the financial sector, but across India, companies invest in this important position as they can take care of not just the legal contractual issues but other important issues, for example, such as setting up internal procedures for compliance with the US Foreign Corrupt Practices Act, if applicable and insider trading aspects as these are extremely important functions.

I don't see development in Indian firms across and I think the general counsel/in-house counsel has to be developed. Traditionally, it's been just a coordination role between internal and external lawyers. I don't think that works in India anymore and it's going to be highly risky if continued.

What are the factors considered while appointing external legal advisors (law firms) in IPO/QIP transactions?

Ajay Vaidya: They are competence, capabilities and experienced people. The most important thing that I look for in a law firm is the legal team. I look at not only the partners, but the depth of the team and if the transactions are run at an associate or senior associate level. It's the depth of the firm in terms of understanding and knowledge of the products. It's something I would look into very deeply. If it's a firm with a very strong partner, but has a very weak team under him/her, personally I won't go for it. I will only go for a very good team rather than an individual.

Your thoughts on the quality of legal advice on Indian capital markets transactions. Any specific areas of improvement?

Ajay Vaidya: Frankly, it can definitely improve. I find that legal firms are sometimes a little less conscious of the practical deal making. For example, if I need advice on the stock exchange, I don't think there are many lawyers with in-depth understanding of issues such as how settlements happen, margins, etc.

I feel at times their knowledge of practical aspects of a capital markets transaction could improve its theoretical from the way I look at it. I think they could develop a better understanding of the products and be better advisors.

Today, looking for case law is very easy; you can go through Manupatra and easily retrieve information. What is important is that you should understand that law has also moved in India. It has become a liberalized regime from a very rigid regime. It is important to understand this move. Also, the national law colleges create good lawyers and there is fundamental teaching about law today, compared to that of earlier colleges there is a better understanding of the concepts of law.

If you are going to be a capital markets lawyer, you should have extremely good knowledge about the capital markets.

International Law Firms

In 2010-2011 year nearly 42 companies (33 percent), planning to raise capital by way of an IPO and 24 companies (58 percent) planning a QIP sought legal advice from foreign law firms. Foreign law firms continued to actively pursue mandates in India. On display were a wide range of strategies by law firms on issues such as marketing, professional fees and recruitment.

Aggressive pricing strategy led to DLA Piper emerging as the market leader (in terms of number of mandates). DLA also strengthened its team based in Singapore by hiring laterally and also seconding lawyers with experience of the Indian markets to Singapore. Biswajit Chaterjee, Partner at DLA Piper spoke to Bar & Bench and said, "As a firm we have closely followed the Indian market in the last couple of years - there's a definite buoyancy and confidence among Indian corporates expanding globally across various sectors - including natural resources, manufacturing and services." Commenting on their string of mandates Biswajit said, "The India focused capital markets team at DLA Piper was set up last year and we believe we have developed a strong profile within a relatively short period. Stephen Peepels (head of the US Capital Markets - Asia) and I have both worked extensively in India."

The rest of the league table for the international law firms had the usual suspects, including Jones Day, Dorsey, Clifford Chance and Linklaters. Jones Day's Manoj Bhargava based in Singapore leads the India capital markets practice at the US firm. Jones Day has been an active player in the Indian market over the last few years and continues to consistently get mandated on numerous deals. Reflecting on the last year Manoj said, "We advised on many successful offerings in 2010. The first quarter of 2011 has been somewhat choppy but the balance of the year promises to be better." He added, "Our team continues to be busy and is engaged on offerings for issuers in a diverse range of sectors such as infrastructure, energy and power, real estate, finance, F&B and transportation, among others."

Last year also saw Clifford Chance build on the momentum it had generated with the hiring of Rahul Guptan as partner in their Singapore office. Law firms such as Linklaters and Latham were involved in interesting innovative Indian listings and in transactions involving Indian companies raising capital in the US and the UK. Linklaters acted as the international counsel to the underwriters in the first-ever issuance of Indian Depository Receipts, which was undertaken by Standard Chartered. Standard Chartered became the first ever foreign company to list on the Indian stock exchanges. Despite the challenging international markets, there was renewed interest amongst Indian companies in listing securities outside India, with transactions such as Essar Energy's listing on the London Stock Exchange and the NASDAQ listing by leading Indian travel portal, MakeMyTrip.com. Rajiv Gupta, Partner, Latham & Watkins commenting on this development said, "2010 saw the return of Indian companies' interest in US listings after a gap of 3 years. MakeMyTrip became the first Indian company to list in the US in 2010 since Sterlite and Genpact's listing in the US in 2007. 2011 has started on a slow note but should see continued interest in US listings from Indian companies."

International Legal Counsels

Rank	Law Firm	IPO	QIP	Total
1	DLA Piper	11	4	**15**
2	Dorsey & Whitney	8	6	**14**
3	Jones Day	6	7	**13**
4	Clifford Chance	6	3	**9**
5	Linklaters	2	2	**4**
6	Allen & Overy	1	1	**2**
6	Ashurst	2	-	**2**
6	Crowell Moring	-	2	**2**
6	O'Melveny & Myers	2	-	**2**
6	White & Case	2	-	**2**
7	Gide Loyrette Nouel	1	-	**1**
7	Sullivan & Cromwell	-	1	**1**
7	Skadden Arps	-	1	**1**

*Includes company mandates and banker mandates

International Legal Counsels

Linklaters has been one of the first few firms to build a dedicated India practice. Linklaters wooed Rhodes Scholar Arun Balasubramanian to move from Cravath, Swaine & Moore. Arun who worked for nearly 8 years in New York on a variety of capital markets transaction spoke to Bar & Bench about the India strategy for Linklaters and a variety of issues.

Why is India important for Linklaters? Talk us through the firm's strategy to grow in India.

Arun Balasubramanian: For a number of years India has been and continues to be a strategic priority for Linklaters. We were the first international law firm to set up an integrated India focused group and elect partners across practice areas who focused on India related work. We built partner and associate teams with India expertise across offices and practice areas, and have invested in developing deep relationships with a range of leading corporate and banking clients. Our efforts have resulted in a high quality, market leading practice which has been recognized as such by the market. For example, for the last two years, the Chambers legal directory has rated Linklaters as a 'Tier One' firm right across corporate/M&A, capital markets and banking/projects; we are the only international firm to bear this distinction. Our strategy is to build on this foundation, maintain leadership and provide a strong career platform to our India-focused junior lawyers.

What is the strategy for Linklaters' India capital markets practice?

Arun Balasubramanian: Our vision is to build a sustainable and profitable capital markets practice that remains at the forefront of the market. Our focus is not on volume or the league tables, but on bringing our firm's capabilities to bear on our clients' most challenging and complex work. In the medium to long term, a leading capital markets practice needs to have the following attributes: (a) strength across the full breadth of capital markets products, i.e., equity, debt, equity-linked, derivatives and structured products, (b) leading practitioners who are renowned as such across these product areas, (c) equal strength in US and English law, as well as an understanding of Indian law matters and how they apply to the products and structures in question, (d) consistency of quality across offices and expertise that can be delivered to clients locally, if required, and (e) a good balance between issuer and underwriter side representation. I believe that we have strong foundations in each of the foregoing, and our challenge will be to build on them in a holistic manner with a firm eye on long term sustainability.

Furthermore, we consistently try to develop the relationships generated through the capital markets practice to generate work for other practice areas and the firm's global network, and we view the results as a key measure of our performance.

Any interesting market trends over the last year?

Arun Balasubramanian: Last year marked the resurgence of large ticket deals, driven largely by the Government disinvestments of public sector companies. In the private sector, we saw evidence of an increased willingness to move away from the IPO/QIP/FCCB norm and explore new products and markets. For example, we worked on the first-ever issuance of Indian Depository Receipts, which was undertaken by Standard Chartered to become the first ever foreign company to list on the Indian stock exchanges. This was a transaction of enormous significance and was possible only because of the imagination and creativity shown by various market participants, including the regulators. We also saw renewed interest among Indian businesses in overseas listings, such as Essar Energy's listing on the London Stock Exchange, which we advised on, as well as smaller ones like MakeMyTrip.com which listed in the United States. We are also starting to see interest in Singapore and Hong Kong listings. On the debt side, the FCCB market was relatively quiet but Indian issuers did raise a substantial amount of straight debt in the international and domestic bond markets. We also saw a greater willingness to embrace some of the more interesting structures that we work on globally. For example, we were able to structure an enhanced conversion tender offer for convertible bonds of Tata Motors, which is something that was not seen in India before. We then worked on a major QIP of Tata Motors DVRs (low voting shares). All of this means that as the capital structure and financing needs of Indian companies become ever more complex, there is a greater willingness on their part to explore new products and structures. Obviously, the regulatory issues remain but there does appear to be a trend towards regulatory flexibility.

Your predictions for the Indian capital markets.

Arun Balasubramanian: The growth prospects and the related capital requirements of Indian companies will continue to drive strong growth in the Indian capital markets. Over the long term, as enough liquidity builds in the Indian system, these requirements may be substantially met domestically. In the meantime, however, the international capital markets will continue to see active involvement from Indian companies. I expect this involvement to diversify away from vanilla products to embrace some of the more complex structures and instruments that are seen in the international markets. Obviously, there are a number of people who believe that the absence of these complex instruments had a great deal to do with the relative stability of the Indian financial system during the global financial crisis. On the other hand, Indian companies are growing globally and their financing and risk management needs are becoming more complex. This will require them to explore novel products, structures and deal techniques. As a consequence, some trends that we should expect to see are the emergence of a deeper and more liquid debt market for Indian issuers, the relaxation of restrictions that hinder issuances of high yield debt and hybrid capital, and the slow emergence of a derivatives market in India. In the meantime, I believe that the equity, equity linked and vanilla debt markets will continue to be major sources of foreign capital for Indian companies. Challenges remain, for example the much publicized allegations of lapses in governance and integrity by some major companies and their executives. These need urgent regulatory intervention and effective enforcement, in the absence of which investor confidence in the Indian capital markets is bound to suffer.

And what does this mean for law firms' capital markets practices?

Arun Balasubramanian: Over the last few years there have been several new law firm entrants into the international and domestic side of the practice. This has resulted in intense price competition, which is to be expected. It is important, however, not to let pricing pressures affect execution standards. I continue to believe that there is sufficient space in the market for these new entrants and the incumbents, and that quality will be the real differentiator. Firms should focus on delivering service that is of the highest international standards, avoiding the volume game and ensuring that each matter has adequate attention from experienced partners and associates. The firms that are able to do this, ascend the value chain and consistently capture the complex, high-end work that is increasingly available in Indian market, will see this as a rewarding and sustainable long term practice.

International Legal Counsels

O'Melveny & Myers (OMM) hired Pooja Sinha as a Counsel for its Singapore office. Pooja Sinha joined OMM from the Singapore office of Linklaters where she spent two years. David Makarechian, capital markets partner said, "Our focus is to expand the India offerings and Pooja is well respected in the market. Bringing her will help us to expand and provide greater breadth of services to our clients in the long term and Pooja is part of that long term strategy."

In what manner is India important for OMM? Talk us through the firm's strategy to grow in India, especially the capital markets practice.

Pooja Sinha: Historically, OMM has been one of the few far-thinking US firms which has focused on Asia right from the start, having opened our Shanghai office as far back as in the early 1990's. We have an extremely successful China and Indonesia practice - developing an India practice is a natural progression for OMM. In relation to international capital markets work generated out of India, we are looking to be a premium "go to" law firm combining international standards and best practices for deal execution with local expertise cutting across sectors and products.

Any interesting market trends over the last year, and where do you think the Indian capital markets is headed over the next few years?

Pooja Sinha: I think the most interesting market trend is the return to focus on deal execution in light of the increased risk of litigation in a volatile market. In addition, thanks to the GoI deals, we have seen a number of Reg S/144A deals with two international counsels, which is in fact the norm in markets outside India. Hopefully, this trend will also take root in private deals in the next few years. It is ultimately greater protection for the Company, banks and advisers if there are two pairs of eyes involved in the diligence/drafting effort.

Your thoughts on the last financial year.

Pooja Sinha: We have worked on several of the largest government disinvestments in the last year- NTPC, Powergrid, Shipping Corporation and are currently working on the Power Finance Corporation transaction. Each of these transactions involved unique execution challenges given the multiple issues of US securities law that had to be worked through and the need to complete these transactions within an extremely tight timeframe.

Rankings: *Indian Law Firms*

Rankings		IPO CM	IPO BM	QIP CM	QIP BM	Total
1	Amarchand	20	8	11	4	**43**
2	Luthra	7	6	2	5	**20**
3	Crawford Bayley	10	1	7	-	**18**
4	AZB	8	4	2	2	**16**
5	Khaitan	6	4	3	2	**15**
6	J. Sagar & Associates	3	2	3	-	**8**
7	S & R	2	3	-	2	**7**
7	Kanga & Co.	6	-	1	-	**7**
8	Link Legal*	6	-	-	-	**6**
9	ALMT Legal	4	-	-	-	**4**
9	Mindspright Legal	4	-	-	-	**4**
10	Corporate Law Chambers India	3	-	-	-	**3**
10	Rajani Associates	3	-	-	-	**3**
10	Vaish Associates Advocates	3	-	-	-	**3**
10	Trilegal	1	2	-	-	**3**
11	Alliance Corporate Lawyers	1	-	1	-	**2**
11	Axon Partners LLP	1	-	1	-	**2**
11	FoxMandal	1	-	1	-	**2**
11	Krisnamurthy & Co.	1	-	1	-	**2**
11	Lakshmi Subramanian & Associates	1	-	1	-	**2**
11	M.R. Patel & Associates	2	-	-	-	**2**
11	Nishith Desai Associates	1	-	1	-	**2**
11	Krishnamurthy	2	-	-	-	**2**

Rankings		IPO CM	IPO BM	QIP CM	QIP BM	Total
11	Tempus Law Associates	1	-	1	-	**2**
11	Wadia Ghandy	1	-	1	-	**2**
11	Dhir & Dhir	2	-	-	-	**2**
11	DSK Legal	1	-	1	-	**2**
11	Dua Associates	1	1	-	-	**2**
12	Bhardwaj & Associates	1	-	-	-	**1**
12	Bharucha & Partners	-	-	-	1	**1**
12	Hemant Sethi & Co.	1	-	-	-	**1**
12	India Law Alliance	-	-	1	-	**1**
12	Indus Law	1	-	-	-	**1**
12	Joby Mathew	1	-	-	-	**1**
12	Little & Co.	-	-	1	-	**1**
12	Maneksha & Sethna	-	-	1	-	**1**
12	M. Dhruva & Partners	1	-	-	-	**1**
12	Mihir V. Lakhia	1	-	-	-	**1**
12	MSB Legal	1	-	-	-	**1**
12	Navin K. Pahwa	1	-	-	-	**1**
12	New Delhi Law Offices	1	-	-	-	**1**
12	Oasis Counsel Advisory	-	-	1	-	**1**
12	Pawan Kumar Agarwal	1	-	-	-	**1**
12	P. Pal Associates	1	-	-	-	**1**
12	Rajeev Goel & Associatess	1	-	-	-	**1**

CM = Company Mandates
BM = Banker Mandates

Rankings: *Indian Law Firms*

Rankings

Rank	Law Firm	IPO CM	IPO BM	QIP CM	QIP BM	Total
12	Ramani & Shankar Advocates	1	-	-	-	**1**
12	Satish Kumar Aggarwal	1	-	-	-	**1**
12	Sudhir M. Mehta	1	-	-	-	**1**
12	Sunil Shukla	-	-	-	1	**1**
12	Talwar Thakore	-	1	-	-	**1**
12	Victor Moses & Co.	1	-	-	-	**1**
12	Vinodkumar D Gajjar	1	-	-	-	**1**
12	V.S. Raju & Associates	1	-	-	-	**1**

CM = Company Mandates
BM = Banker Mandates

Law Firm Rankings: Methodology

Parameters considered for rankings:

1) We have factored in all transactions where: (a) in case of an IPO, a company has filed the draft red herring prospectus, red herring prospectus or a prospectus with the SEBI; and (b) in case of a QIP, a company has filed a placement document with the stock exchanges between April 1, 2010 to March 31, 2011.

2) We would like to highlight that there are several instances where companies have filed their draft red herring prospectus with SEBI but have not yet raised capital from the market. We have included such transactions for the purposes of determining the rankings.

3) Please note this report is limited to only IPOs (including FPOs) and QIPs and does not cover other forms of capital raising. Please also note that this report does not include RHP filed with ROC for the financial year 2010-2011.

Bar & Bench publishes crisp, accurate and timely news on legal developments in India and around the globe. We offer our readers, latest News, Interviews with industry leaders and Columns by legal experts.

For a detailed table of the IPO / QIP transactions with a list of legal advisors for each transaction in the fiscal year of 2010-11 please write to our Associate Editor Gauri Manga at gauri.manga@barandbench.com