

Assange attacks press _{p3}



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Africa on the rise

Law firms in Africa must do everything possible to compete with international mega-firms if they are to achieve big law status. That includes practice area specialism, adopting strategic expansion plans, and encouraging regulators to have more confidence in domestic firms.

This was the message in yesterday's session, 'Specialised legal services and mega law firms: is Africa behind the rest of the world? If so, what is to blame?'

However, Oromena Ajakpovi of Abraham & Co in Lagos, said that the fundamental problem affecting the ex-

pansion of African law and its legal offering is the continent's pre-existing economic handicap. The more sophisticated the economy, he said, the more sophisticated the level of services available, and Africa does not have the economy in place.

"To say that Africa is lagging behind is a presumption based on parameters. To say that we are lagging behind there must be an objective basis for judging and making that decision."

The first law firm in Nigeria only formed in 1963, while the UK has had established firms since the sixteenth

century. "Our economy, our standards, our situation is the reason why we are where we are today. It is our responsibility to take us from where we are to the next stop, we must improve our own situation," he said.

One of the biggest problems affecting the African economy is that a lot of the wealth generated there leaves the continent, said Koos Pretorius of ENSafrica. As a business proposition, you have got to get the market to drive expansion, he said.

"It would be unwise to establish mega law firms which are disproportionate

Continued top of page 2

A question of morality

A failed breathalyser test. An ill-judged comment. A less-than-appropriate photo sent to a friend and later circulated on social media. Athletes are only human, but for star sportsmen and women, a moral breach could mean a huge loss in their earnings if image rights are tied to a brand and their compensation decreases in proportion with the severity of a scandal.

This is a risk rights holders have to consider when hedging against the risk of lost revenue. "This is definitely a risk here in Australia, with Australians

being accomplished drinkers!" said Patrick Evers, legal counsel at Australian Rugby Union, Australia. "Protection against risk of misbehaviour is essential and there is a growing prominence of disrepute clauses in the partnership context where sponsors are hedging against the risk of misbehaviour such as doping."

At yesterday's session 'Branding strategies and use of image licensing/sponsorship in the sports and entertainment industries', panelists discussed creative uses of contracts following the rapid transition

from team-oriented sponsorship deals to star ambassadorships, especially with the growth of individual created content on social media.

"There's a move away from the traditional billboard to more casual player appearances in sport endorsement," said Evers. "Sponsors are looking for ubiquity, variety and authenticity of content with the increased diffusion of attention span of millennials. Sponsors want to touch and feel players."

Many athletes are also moving

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Continued from top of page 1
tionately bigger than the markets that they serve. The problem with Africa is that a lot of the value and the benefit of activity on the continent does not stay with the continent.”

Out of Africa

Pretorius cited Inga Falls hydro power project – an enormous infrastructure project with large international involvement. The people profiting from that project are not African, with between 70% and



Mfon Usoro,
Paul Usoro & Co

80% of the revenue leaving the continent. Similarly, with a lot of large scale work in Africa the bulk goes to mega firms in Paris, London, Madrid, Lisbon and New York.

Mfon Usoro, of Paul Usoro & Co, was in stark opposition to Ajakpovi’s golden thread. Usoro said that she wouldn’t take an apologetic view or blame economics. “We should look at mega law firms in Africa as the firm that responds to the demands of the legal market, and re-

sponds to the domestic markets,” she said. “You can be a medium sized firm if you have a niche like litigation, oil and gas, shipping. Specialisation is key.”

Expansion needs to be backed up by regulators on the continent, which play a crucial role in the future development of mega law firms. “We must encourage our regulators not to be afraid that a legal services provider is prepared,” said Usoro.

Deepa Vallabh of Cliffe Dekker Hofmeyr argued that international players approach the market as one, which was incorrect: every region has its own subtle differences – and the

same mega law firm model can’t be used across the whole continent. “You cannot substitute on-the-ground-knowledge and practical requirements, with ‘we’ve done it better so we know better’, each region comes with its own nuances and capabilities.”

In response to this, Pretorius, quoted Rob Millard a Director at the Cambridge Strategy Group.

“Trying to compel international investors to instruct local rather than international law firms simply has the effect of chasing away all of those investors who will not invest unless advised by their own trusted legal advisors.”

Continued from bottom of page 1
away from being the stars of media to media owners themselves, providing multimedia experiences for fans through use of podcasts and documentaries. But creating more organic experiences and bespoke digital content also means more creative structuring of contracts for athletes and sponsors.

The rise of hybrids

Hybrid deals, where a brand sponsors both a team and an athlete ambassador, are becoming popular. Collective bargaining agreements are used to protect single players so that sponsors have to approach players individually but also seek authorisation of governing bodies.

Image rights trusts are becoming more common where an athlete sets up a trust and pays a license fee for a private company to use an image. The practical advantage of this in the Australian context is the tax rate being 27% for a trust versus 45% for an individual.

Zoe Braithwaite from Nike in the Netherlands offered an in-house perspective on sports branding. “It’s different for a sports brand,” said Braithwaite. “The brand is already on athletes, so we want more than brand exposure – not just getting the ‘swish’, but building the relationship with the next athlete. Like all sponsors we love the needle movers and the icons.” The

question is how a brand does that when it makes t-shirts and everybody else does too?

Product exclusivity is a top concern for sponsors to make sure that brands share space well and complement each other. Roger Federer’s endorsement for Nike and Rolex is an example. “Brands need to coexist and share space on athletes,” said Braithwaite. “It’s about how to secure a deal and grasp rights without biting too much out of the biscuit so you don’t take the revenue share of others.”



Zoe Braithwaite, Nike

Braithwaite stresses the importance of making contracts clear and carving out exclusivity so sponsors know what they want and expect

athletes to do, what product range a sponsor is happy to cohabitate with.

Building in flexibility for when things go wrong is key. For example, a catch-all for termination rights and capturing the unknown because something that shocks or offends a community in 2017 can be very different compared to 1997.

Don't miss Law Rocks! a series of 'battle of the bands' style rock concerts where you will see lawyers battle it out on stage to raise funds for the IBA's Human Rights Institute and local charities. Tonight from 20:30 until late at the Metro Theatre, 624 George St.

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Assange on the attack

Every state has a point at which its judicial system breaks down, according to Julian Assange in yesterday's lunchtime conversation.

Speaking of Swedish authorities' seven-year pursuit of Assange amid rape allegations – the investigation has now been dropped – IBA executive director Mark Ellis asked if this claim was a fair one, or simply reflective of his fear of extradition to the US.

"It's not fair to say Sweden has a weak judicial system for a country of its size," he said via videolink. "But my experience there made me very concerned about its resilience."

Assange has resided in the Ecuadorian Embassy in London for the past five years to resist extradition to the US, where he faces possible charges of conspiracy, theft of government property and violation of the Espionage Act.

He founded WikiLeaks, a self-proclaimed non-profit media organisation, in 2006 but it made global headlines in 2010 with the publication of around 750,000 leaked documents

from US army intelligence analyst Chelsea Manning.

The DNC defence

Assange also defended his website's publication of hacked emails from the Democratic National Party (DNC) in the run-up to the US election last year as no more than rigorous commitment to its own principles.

"WikiLeaks is committed to being the most aggressive publisher in the world, and has never been accused of censoring one of its sources," said Assange. "It would be a betrayal of our role before the public to suppress information to the benefit of one candidate or another."

Its release of thousands of hacked DNC emails last October is seen by many, including Democrat candidate Hillary Clinton, as central to Donald Trump being elected president. Trump himself has said in the past that he "loves WikiLeaks".

Dismissing the theory that he or the organisation could have been politically or personally motivated, As-



sange continued, "the entire establishment of the US, with the exception of Fox News, was united behind Hillary. Our view is that we were entering into a position of self-sacrifice by infuriating the person who had between a 90 and 98% chance of becoming president".

As for the source of the infamous emails, Assange made clear his confidence that they were not obtained by Russian military intelligence.

"Enormous energy has been put into the US' investigation across the FBI, CIA, DNC and Democrat-aligned press, with extremely little to show for it over the course of a year," he said. "So my conclusion is that maybe there is something there, but it's not of significance."

Elsewhere the controversial figure spoke of his pride in his contribution to the current dynamic in Washington that sees information "leaking like a sieve".

He also spoke of his disdain for much of the mainstream press – 98% of it, in fact. "In western countries, only around two percent of journalists are credible," he said. "There's a fundamental information asymmetry between journalist and reader, and this knowledge gap is exploited all the time."

Assange added: "The gap between the potential achievements of the press and its actual record is so immense that you have to question whether the world would be better off without it."



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A perfect target?

Law firms must realise that they have a duty to protect their clients' data and privacy

The unprecedented leak of over 11 million confidential files from offshore firm Mossack Fonseca left a wake of destruction to countless firms and individuals on a previously unseen scale. Known across the world as the Panama Papers, the breach illustrated how straightforward it can be to use offshore tax havens for financial gain, embarrassing a lot of people in the process.

The scandal also begged another question. What duties of confidentiality do lawyers have in respect to their clients and clients' affairs?

This afternoon's session puts together a fascinating panel of lawyers from across the globe with a wealth of knowledge on the topic, including Danish corporate lawyer Stig Biggaard, vice-chair of the Closely Held and Growing Business Enterprises Committee of the IBA, as well as Netherlands based Pieter Tubbergen, partner at Schaap Advocaten Notarissen, and Ricardo León, who co-chairs the tax practice at Sánchez DeVanny Eserverri, Mexico.

"As lawyers we need to recognise our duty of confidentiality, and more importantly the concept of

keeping our data secure," says Meg Strickler from Atlanta-based firm Conaway & Strickler, a specialist in internet crime and technology law and current chair of the IBA's cyber-crime subcommittee.

"It is no longer a question of if a law firm is going to be breached, it is now at the point of when."

Jeffrey Merk of Aird & Berlis, Toronto, and secretary-treasurer of the IBA's Professional Ethics Committee, and Steven Richman, partner at Clark Hill, will co-chair the session.

Presented as a series of interactive questions, the session will focus on how law firms and lawyers can maintain confidentiality following the Panama Papers, and the responsibility that they hold to implement additional security measures to restrain or limit hacking going forward.

"Law firms do not seem to get that they are a perfect target – they have permission clients, buy-in clients, operations, these are all

SESSION: Duties of confidentiality and the Panama Papers

COMMITTEES: Bar Issues Commission, Alternative and New Law Business Structures Committee, Anti-Corruption Committee, Closely Held and Growing Business Enterprises Committee, Professional Ethics Committee – (Lead)

TIME: Today, 14.30 – 1730

VENUE: Room C3.5, Convention Centre, Level 3

clearly things that a hacker would want to know," said Strickler.

"These firms don't seem to think that they can be hacked, and don't think that they could be victims of an embarrassing mega leak. They are wrong," he added.

It is no longer a question of whether or not a law firm is going to be breached, it is now at the point of when

Business as usual

Despite proposals by President Trump's administration to abandon involvement in a number of key trade agreements, the show goes on for the rest of the world

In the short time since becoming the 45th President of the US, Donald Trump and his administration have vocally shown their aversion to a number of the trade agreements championed by their predecessors. On the chopping block are agreements closer to home, such as Nafta, some a little further away (South Korea), and some that affect large parts of the global economy, see the Trans-Pacific Partnership (TPP).

Trump does not like free trade agreements. He considers them unfair to the best interests of Americans and American companies, and thinks that they are a detriment to the US economy. A sudden change of tack has the potential to affect global trade considerably around the world.

This afternoon's extensive three

hour session looks at the current status of free trade agreements, and associations around the world, in the wake of Trump, and of course Brexit which could also potentially ruffle many feathers. Speakers range from firms and universities from Guangzhou, São Paulo, Sydney, Milan, DC, Toronto and Mexico City.



Russell Miller

From TPP to the RCEP

Jennifer Hillman of the Georgetown Law Center will guide the session, which will take the form of a roundtable discussion, focusing on the future of multilateralism in a bilateral free trade agreement era. The session will cover the TPP, Brexit, Mercosur in Latin America, the Regional Comprehensive Economic Partnership (RCEP) and Association of

We hope that the US administration will move back to engaging more globally

Southeast Asian Nations (ASEAN), as well as the WTO.

Russell Miller, partner at MinterEllison here in Sydney, outlined the importance of this discussion, stressing that just because the US is rolling back its trade policies doesn't mean that world trade has to go on hold while it makes up its mind.

"We hope that the US administration will move back to engaging more globally," he says. "But my impression is that we all must get on with negotiating multilateral and bilateral agree-

SESSION: The future of trade agreements: have they been 'Trumped'?

COMMITTEES: Asia Pacific Regional Forum, International Sales Committee, International Trade and Customs Law Committee, North American Regional Forum

TIME: Today, 14.30 – 17.30

VENUE: Room C4.7, Convention Centre, Level 4

ments, because they are good for business and good for the world economy."

A former chair of the IBA's International Trade in Legal Services Committee, and a speaker at today's session, Miller firmly believes that it is business as usual, at least in Australia.

The title of the session suggests that free trade has been 'trumped', and is threatened. Miller clarified that as lawyers his peers must respect the US position – but don't feel like this pause shall stop other countries proceeding.

Why euro clearing should leave London

This week's conference has focussed on the impact of Brexit. Here, Markus Ferber, MEP discusses why he believes that clearing belongs in the eurozone

The UK's decision to leave the EU has raised quite a few questions about the future of the City of London as one of Europe's and the world's major hubs for financial services. One issue is the question of whether or not the clearing of euro-denominated derivatives that largely takes place in London can remain there or should be moved into the eurozone.

Ultimately, the question boils down to the issue of liability and setting the right incentives. One of the EU's guid-

ing principles in strengthening its post-crisis financial markets architecture has been to establish the principle of liability.

With regards to clearing that means that as long as the European Central Bank stands ready to step in with emergency liquidity assistance in the event of a crisis occurring, substantial oversight powers must remain with the European Union. Otherwise, there would be a severe mismatch between supervision and liability. Therefore, the enforcement of its regulatory

regime, oversight by European supervisors and solid intervention powers in times of the key goals for the European Union in the debate about the future of euro clearing.

Arguably the cleanest and most straightforward approach would be to establish a location policy that requires at the very least all systemically important clearing houses that clear euro-denominated derivatives to be located within the eurozone. This would ensure full EU oversight powers, full compliance with its regulatory regime and sufficient intervention powers.

There are also economic arguments to be considered: most importantly, there is the question of the costs of moving euro clearing away from

London. While there might be marginal one-off costs occurring when shifting clearing operations, those should be more than offset by achieving a higher degree of financial stability and better supervision from an EU perspective.

Some market participants, as well as the UK government, argue that a forced relocation of euro clearing would result in disruption, uncertainty and fragmentation of the market. We should make no mistake though, and must not confuse cause and effect. What really is causing

disruption, uncertainty and fragmentation and big question marks over the future of the City of London is the UK's misguided decision to leave the EU and thus the single market. The debate about the future of euro clearing, that was bound to emerge after the Brexit vote, is merely a result of that decision.

A version of this article first appeared in IFLR in September 2017



Markus Ferber

One of the EU's guiding principles in strengthening its post-crisis financial markets architecture has been to establish the principle of liability

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A dream of Africa

With an abundance of valuable natural resources, the African continent should be a major global player. Today's session looks at the road to wealth

Continental Africa faces a very unique, and very real, problem that must be tackled head on if it is to reach its true potential as a global force. As a continent, Africa is very generously endowed with a wealth of resources, but, is in the unusual situation of being a rich continent inhabited by a deprived people. It is one of the most pressing challenges facing our generation to end this contradiction, and get the golden continent moving forward along the road to prosperity.

This afternoon's session addresses this problem, and an exceptional line up will discuss how to approach the challenges that Africa faces today, and how they can be overcome.

Session chair Linda Kasonde, partner at Mulenga Mundashi Kasonde in Zambia as well as President of The Law Association of Zambia and an officer of the IBA's African Regional Forum, said that in particular it is the economic disparities seen across the continent that must be addressed.

"We will be looking at how this can be approached through business, through the rule of law, and certainly what role lawyers can play in advancing the poor economic development on the continent."

Kasonde is of the view that the rule of law is part and parcel of economic development. "They are correlated and as a result if one suffers, the other will suffer," she said. "There is more that lawyers can do to advance this course, particularity on the continent, we see so much corruption, lack of accountability, mismanagement of resources."

Making up the list of speakers are a number of influential figures from across Africa, including Frances Adu-Mante of Rofam Consultancy Services in Ghana, as well as Jacob Saah of Saah Partners, also from Ghana. From Falcon & Hume in South Africa joins Heather Irvine, and adding a multinational element is Emmanuel Laryea from the Faculty of Law in Melbourne.

At the heart of this session will be a discussion on the abundance of resources that Africa has at its disposal.

Without tax abuses and illicit financial flows, the developing world will actually not need aid at all



As one of the major elements behind the growth experienced by its economies over the last two decades, there are a number of much needed changes that could be made to the laws, to enable African countries to take advantage of this endowment, for growth, development and poverty elimination.

Today's second chair is Sternford Moyo, chairman of Scanlen & Holderness in Harare, Zimbabwe, ex officio council member of the IBA's Human Rights Institute, and former President of Law Society of Zimbabwe. The road map for Africa, he said, lies in pursuing the correct policies and ensuring that there is good governance and rule of law.

Moyo agrees that the current generation of lawyers has an important role to play, and advised that the IBA is the perfect environment to host the conversation, with more than 7000 influential lawyers from around the world in attendance.

"These are lawyers who represent investment, lawyers who come from countries that have succeeded in leveraging resources to create development in their countries," he said. "I think it is important to start discussing these issues and sharing ideas so that we may assist Africa to get the full benefit of its resources for development."

Moyo, a mining specialist, has a clear outline of what he would like today's panel to discuss, and what measures should be taken to end these problems. The first of these measures is to help African governments respond to macro-economic realities, particularly when it comes to long term global investments.

"The amount of money involved is considerable. In order for us to leverage our resources, we really have to

respond to the macroeconomic realities of global investment, we need to attract money from the global market, in order to leverage growth using our resources."

Simplify regimes

The next step towards ending poverty, is to simplify legal regimes, so that investors have no reason to be fearful of opportunities on the continent. Wealthy individuals must also look to continental Africa as an attractive investment destination, and be prepared to keep their money locally.

"We must find out why it is that our people are prepared to keep money offshore rather than keep it onshore and entrusting it with people they interact with on a daily basis, he said. "Instead of just condemning them, we have to ask them why."

Africa has resources, metals and minerals, all in high demand across the world, but is yet to take full advantage. Another discussion that must be had, said Moyo, is how to reduce the so called rhetoric of 'resource nationalism', where governments, in countries such as South Africa and Zimbabwe, claim all minerals as state possessions. This, he suggested, does little to aid efforts or develop the continent, it simply frightens investors.

Reducing operational cost in Africa is another crucial task that must be addressed. Poor infrastructure, cataclysmic changes in commodities and increasingly unreliable foreign exchange markets have had detrimental effects, and in order to remain competitive costs must be lowered.

The session will focus on an array of other topics, including rule based legal regimes, reducing corruption and the burden of bureaucracy, dispute

SESSION: Africa – a continent with abundant resources and capability for growth: where lies the road map for the promotion of growth, development and poverty elimination?

COMMITTEE(S): African Regional Forum, Anti-Corruption Committee, Antitrust Committee

TIME: Today, 14.30 – 17.30

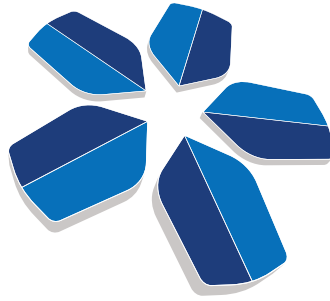
VENUE: Parkside Ballroom 1, Convention Centre, Level 2

resolution, defining the role of the state, sustainability and resource protection, and how to create a balance between the interests of investors and the interests of the communities where the investment happens.

"We should control corruption, tax abuses and financial flows," said Mayo. "Studies that we did in the Human Rights Institute show that without tax abuses and illicit financial flows, the developing world will actually not need aid at all."

For Kasonde the path ahead needs to see governments working together, not only people in businesses. Governments could strive to ensure that the cores of development are advanced at all levels, and with maximum accountability, because without accountability there is no real growth and development.

"Ultimately, I believe in my continent, I believe in the potential that it has and I believe that so much more can be done," she said. "I believe that each and every one of us has a role to play in making the continent a player on the world stage."



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The end of Libor

It was only a matter of time until the benchmark was set to come to an end. But what could possibly replace this much criticised rate?

The summer of 2017 may go down in the memories of bankers and lawyers the world over for many reasons. Brexit got into full swing, implementing the steady stream of seemingly endless EU regulations came to a head – we are thinking about you, revised Markets in Financial Instruments Directive – and it was the 10-year anniversary of what got everyone into this whole mess: the global financial crisis.

But it was also the beginning of the end for the world's most important number. At the end of July, the UK's financial regulator, the Financial Conduct Authority (FCA), announced that it would be scrapping the London Interbank Offered Rate, or as it is more commonly known, Libor.

Libor, which can be used virtually interchangeably with terms like misconduct, corruption and scandal, is to be phased out from 2021 and replaced with a more reliable alternative. The regulator acknowledged that the banks submitting the rate had improved on their governance standards significantly and stressed its decision was not down to a fresh misconduct case, but simply that the current situation is 'unsustainable'.

The problem is that the rate is no longer based on real transaction data; now that swaps are centrally cleared they're fully secured, leaving Libor based on very little substance. Some rates were based on markets that saw fewer than 20 transactions in an entire year. But with some \$350 trillion worth of securities reliant on the rate, thinking about some kind of replacement would make sense.

So this month we are fast-forwarding to the year 2021 to ask readers what might replace the forsaken rate. There was little consensus.

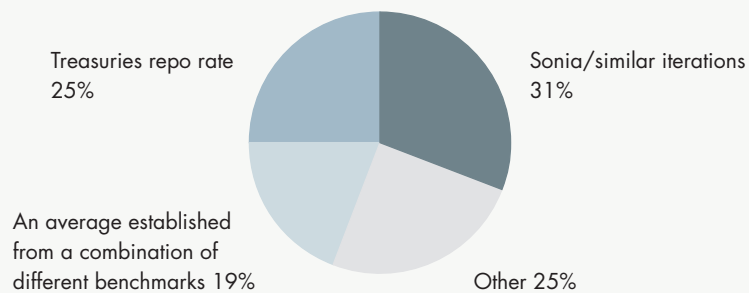
Sonia: the like-for-like option

Around a third of readers (31%) opted for arguably the most obvious choice: the Sterling overnight index average (Sonia), overseen by the Bank of England.

It's won the support of many for its transaction-based nature: Sonia relies



What should replace Libor?



on money markets not opinions, which certainly reduces the risk of manipulation. And similar EU and Japanese benchmarks, Eonia and Tonar respectively, were established when these markets stopped modeling theirs on Libor.

But according to one private practice lawyer, Sonia is never going to be fit for purpose, and the clue is in the name.

"Sonia is good for short-term rates, but it's far too backward-looking," he says. A Sonia futures market, if it could be developed, might help, but it would still depend too heavily on the robustness of futures, he adds. "But then, that would dilute the strength of an almost risk-free rate. It's just not clear that it would work."

Another partner notes the limited options. "What's interesting is that of the three or four different models we have, they're all focused on avoiding manipulation," she says. "That's a big concern, but it means we are left with quite specific measurements that don't have the same flexibility as Libor."

Respondents argue that while the FCA's manipulation avoidance tactics are understandable, there needs to be a way to meet in the middle.

"I question whether, in the interest of stability, some sort of hybrid would be a better approach," one suggests.

A fresh idea

Taking a quarter of the votes is the US interest rate of choice: a Treasury repo rate, based on market transactions and published by the New York Federal Reserve. It will be rolled out in 2018, but lacks one crucial detail: the unsecured rate, the canary in the coalmine.

"The first place you see stress in the financial sector is when short-term unsecured lending rates start to rise – it's like a credit rating of the banking system," says a US-based benchmark specialist. "If I have a bunch of treasuries and know I can get my money back, I'm not going to raise rates, even though other people could be getting a bit nervous. That's such important information that would be lost, and for what?"

So can that critical unsecured rate be gleaned from elsewhere? Maybe, but not many readers are hopeful that an average of different benchmarks could be relied upon, with just a fifth of respondents showing confidence in it.

The least bad

On balance, the closest thing to an agreement among readers is that Libor will be a tough act to follow. According to one: "It's not that Libor is perfect, far from it. It's just that it's the least bad."

Myeriously, another quarter of respondents opted for the 'other' solution. It's possible that there is an-

other option out there that's a true silver bullet. It could also be that faith in Libor is still alive. "I would argue vehemently that if the regulators are able to keep Libor alive, then they should," says the specialist.

It may be too little, too late for that. "But I think the worry is if they make the transition optional, people just won't do it, as has happened in the past," she adds.

It would appear essentially impossible to replace the benchmark with something that performs all the same tasks and walks and talks like Libor, without the downsides. Some market participants have recently suggested Libor's enduring popularity in the market is not just down to its relative susceptibility to manipulation. Its flexibility is also one of its key qualities.

Whatever is chosen, the transition period will be painful. Banks have relied on this market as a reference point for the past 30 years; replacing it with a new market that is both liquid and transparent will be expensive, cumbersome and, as one respondent puts it, "kind of the last thing we need right now".

But the fact is that it will be down to the market, not the regulators, to determine Libor's ultimate fate. Under the EU's incoming Benchmarks Regulation, banks are required to contribute rates for the next two years, but no longer. If it's true that many are less than enthusiastic about their ongoing involvement in something that leaves them so exposed to potential operational risk and bad PR, then it's possible that contributions will cease before 2021 arrives.

Indeed it looks like the days of one number determining all transactions will die when Libor does, with different markets opting for different rates for different deals. While those rates may be more reliable and less susceptible to manipulation, fragmentation is ahead – and that's a whole new problem to be dealing with.

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Walid Azzam
Partner



Constanze Doering
Partner



Dina Mahdi
Partner

Froman: in defence of multilateralism

Michael Froman, the former US trade representative and the man who negotiated the Trans-Pacific Partnership has offered an impassioned defence of globalisation and multilateralism in response to the Trump Administration's so-called America First policy.

Froman, who was also deputy national security advisor for international economic affairs under former president Barack Obama insisted that if the US was to leave the World Trade Organisation (WTO) it would lose the moral high ground accrued over decades of multilateral cooperation.

In March this year the Trump administration announced a sharp break from US trade policy, vowing it may ignore certain rulings by the WTO if those decisions infringe on US sovereignty.

"You can't just walk away from the WTO," said Froman. While admitting that there was a temptation to argue that the system is outdated and

it works against the US, he argued that it was the US that originally campaigned for the WTO precisely because its government wanted to prevent other countries from acting unilaterally.

The Trump administration's new trade approach, which was sent to Congress earlier this year, could affect businesses and consumers worldwide, with the White House suggesting the US could unilaterally impose tariffs against countries it thinks have unfair trade practices.

"If other countries act unilaterally and we do the same then we lose the moral high ground," said Froman, adding that doing so would create two major risks. "One risk is retaliation as other countries impose tariffs, and the other risk is imitation: if they see the US thumbing its nose at its international obligations then they will be only too happy to do the same."

Hold on to the TPP

Froman, who was speaking at a lunchtime engagement at yesterday's

Our number one export is political entertainment

conference, also defended the TPP. The agreement is a 12-nation trade deal that originally included the US, Japan, Mexico, Canada, Australia, New Zealand, Vietnam, Peru, Chile, Malaysia, Singapore, and Brunei.

On his first day in office, President Trump signed an executive order removing the US from the TPP, and declared an end to the era of multinational trade agreements. But Froman, who was instrumental in negotiating the deal during his time in government, warned against such retraction.

"Leaving the TPP will be seen as one of the biggest strategic blunders in recent years," he said.

According to Froman, this retreat of the US comes at a time when China has become more sophisticated in its use of hard and soft power. Recent initiatives include the One Belt One Road, and the Regional Comprehensive Economic Partnership, a proposed free trade agreement between the ten member states of the Association of Southeast Asian Nations.

"China has a coherent strategy and is executing on it very well," said Froman. "It has sought the high ground when it comes to trade and the environment. The question is whether the US has a regional strategy of its own," he added.

Froman was philosophical about dealing with the new Trump administration. "As a member of the previous administration it is all too tempting to stand up here and be critical of the current one, but it's not in anyone's interest," he said. "However, it's fair to say our number one export is political entertainment at the moment."

Mentoring: the keys to success

Be on time. Be nice - but not overly-familiar. Ask questions of your mentees. But more than anything, treat them with respect. These were some of the tips offered in yesterday morning's 'The partner as a coach and mentor' session.

Partners from the Middle East, Africa, Asia and Europe offered personal experiences gleaned from their roles as both mentors and mentees. Whether managing motivation and performance of young lawyers or building client and commercial skills from an early stage, the key in modern management lies in investing in individual, tailored and on-the-job learning relationships, they said.

Mentors are like parents who want to live their dreams through their mentees

Irina Paliashvili, founder of the Washington-based RULG-Ukrainian Legal Group explained how her formative experiences in what was then a totalitarian former-Soviet state with no private practice law firms shaped her view of mentoring.

"The international legal community helped us," she said. The American Bar Association supported the new wave of graduates at the time and they were distributed to 12 law firms, with Paliashvili locating to Jenner & Block in Chicago. "When I got back to Ukraine I wanted to replicate that. We had none of that mentoring culture here and we were the first generation of founders of law firms."

Keep your distance

Paliashvili offered a personal view of how her role as coach and mentor has changed over the years. "Somewhere in the middle of my career I thought we should all be best friends. That doesn't work; your colleagues and junior lawyers are not your pals. It is still important to mentor and help them but you have to keep a professional environment," she said.



All panellists agreed that mentees simply needed to be treated with respect. "Sometimes it just takes one question: 'how are you doing?'" It opens the door to a longer discussion," said Paliashvili. "But you should also expect your mentees to disagree with you, and go their own way sometimes. Mentors are like parents who want to live their dreams through their mentees, but that doesn't always work," she added.

Hanim Hamzah, a partner at ZICO Law in Singapore outlined her firm's structured mentorship programme, which has enabled the firm to achieve a mix of 52% female

lawyers, with strong representation at senior level.

Elsewhere in the session Kimathi Kuenyehia of Kimathi & Partners in Ghana offered the perspective of the mentee and how he has gleaned information from senior figures in lieu of a formal mentor structure.

"I make the most of opportunities to meet people I look up to," he said, adding that he identifies the figures who can help him in the community - often through the IBA - and targets them. "I'll follow up with a present - a signed book, or similar, that I send to everyone, to show them I appreciate their mentoring," he said.

QUESTION Why do you come to the IBA?



Ki Young Kim
Yulchon
South Korea

I've attended other IBA events on M&A, life sciences, insolvency and tech - I couldn't miss the IBA Annual Conference.



Dario Picone
CMP Law
Italy

As a small law firm this event is very useful to identify firms of similar size and quality that we can work with.



Onoriode Emerhana
NDDC
Nigeria

It's been amazing. It's an opportunity to compare notes with other lawyers. It's an essential part of my professional development.



Sakate Khaitan
Khaitan Legal Associates
India

It's always good to generate contacts and learn best practice from people at the top of the game. It's also a lot of fun!



Chizua Whyte
USPF
Nigeria

It's a good way to get updates on global trends. It's important to know the best firms around the world to stay ahead.



Cynthia M Pornavalai
Tilleke & Gibbins
Thailand

Every year, I try to focus on one topic. This year it has been disruptive technology and blockchain. I've learned a great deal.



Frederick Hui
Zhong Lun Law Firm
China

There are nine of us here and it's a great opportunity to get our brand out there. Between us we have met with over 50 firms this week.



Michael P Clancy
Law Society of Scotland
Scotland

Over the years I have seen the event change in terms of size and diversity. It is a great forum for us to learn from each other.



Jyrki Leivonen
Law Office Jyrki Leivonen
Finland

I'm quite old, so it was important to finally make it! I've gained a much deeper knowledge of international issues.

High-profile, high-risk

Careful choice of counsel is essential when managing high-profile clients and cases, according to panellists in yesterday morning's session.

"The approach would be slightly different in every case, but the mere fact of representation is relevant. Generally you would want a leading barrister, but not one who has been on too many big criminal cases," said Arnold Bloch Leibler partner Susanna Ford (pictured).

"I would also want to look at potentially engaging a lobbyist and someone well-versed in the dark arts of search engine optimisation to bump a positive news story up the rankings."

But speakers were more divided on the merits of hiring a PR specialist. While lawyers agreed it's among the first actions they would take, Sydney Morning Herald senior reporter Kate McClymont was less certain.

"I would be immediately sceptical if there is a PR agent involved - it looks like there is something to hide," she said. "We generally find spin doctors very irritating."

Instead, according to McClymont, the first thing lawyers should do is advise high-profile clients to close down all their social media accounts, and put out a holding statement. "Otherwise we will be trawling through their Instagram looking for a story," she said. "But if there's nothing else to go on, that early statement will run - then you can work out your strategy."

If a publicist is to be engaged, be aware that conversations are unlikely to be privileged. Lawyers recommended meeting face-to-face if possible, and definitely not discussing strategy over email.

Celebrities tend to come with their own PR machine, so coordinating with your client's other advisors and agents early on is also essential to ensure nothing is done that could come back to bite them in a court proceeding.

The butt dial

Some clients are more difficult to manage than others, and there are many high-profile public figures who actively want to engage with the media despite advice from counsel.



The White House's former communications director Anthony Scaramucci is a textbook example here. Scaramucci was fired earlier this year after just 10 days in the position after the publication of a call transcript with a journalist in which he called colleague Reince Preibus, among other things, a "paranoid schizophrenic".

He initially implied that the conver-

KEY TAKEAWAYS

- Careful selection of counsel, putting out an early statement and closing down social media accounts are all recommended when advising high-profile clients;
- Although it's often a default reaction, lawyers should consider how best to engage PR specialists as it often looks like there is something to hide;
- Rogue clients that want to engage with the press should be carefully managed, as the journalist often has no legal obligation to keep it confidential.

sation should not have been made public. But The New Yorker said that was not agreed, opening up a debate on what 'off-the-record' really means.

"It can be an ethical issue, for instance if the person has revealed truly intimate personal information," said Robert Balin, partner at Davis Wright Tremaine. "If it's not intimate information, then that can get you into seriously hot water."

DISPUTES. NO CONFLICTS.



SIMON TWIGDEN
SENIOR PARTNER



GEORGE MALING
PARTNER



TIMOTHY ELLISS
PARTNER



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