

Support in volatile times

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Simmons & Simmons has considerable experience supporting its banking and other financial institution clients during times of significant market volatility, such as the ones we are seeing now in response to the recently imposed **US tariffs** and the responses from their trading partners, including Mainland China.

We understand that, at these times, our clients will identify both **challenges** and **risks** but also **opportunities**, as they seek to manage the negative impacts of such volatility while looking take advantage of the benefits that such conditions may also bring, both for themselves and also to their investors and clients.

We have identified, on the following pages, some of the areas that we see our financial institution clients focusing on during these times and how we may be able to provide cost effective and commercial support to your business.

In each case, time is often of the essence and clients need support that they can rely on. We have teams across our Asia offices, including Singapore, Hong Kong, Mainland China and Tokyo, as well as across the rest of its international network, that provide expert support in all of the areas identified below, among others.



Risk Mitigation

Innovative considerations for investment, hedging, and portfolio management

1. Cross-border contractual remedies and security enforcement

Market volatility may trigger counterparty covenant breaches, margin calls, payment defaults or other acceleration rights under a variety of contractual arrangements, including for example credit facilities and derivatives contracts. Similarly, such circumstances can give rise to security for these transactions becoming enforceable.

We have significant experience advising our financial institution clients on their legal rights and strategic options in these circumstances across multiple jurisdictions throughout Asia and beyond which can assist in timely termination and enforcement action helping to limit our client's exposures and maximise their recoveries.

2. Remedies/Protection analysis

In challenging times, the ability to clearly interpret contractual provisions is crucial for protecting institutions from counterparty issues. We help clients in identifying and analysing potential triggers such as 'Tax Event', increased costs, force majeure, material adverse change, and other market-related events. Our expertise helps client pinpoint rights they can rely on and anticipate counterparty actions, thereby mitigating impacts on existing provisions. We also guide clients in incorporating relevant provisions in future deals, ensuring robust protection and strategic advantage in volatile markets. Our tailored approach ensures that clients are equipped to navigate complexities with confidence and precision.

3. Financial transactions dispute resolution

Times of market confusion and shocks often see a rise in the numbers of disputes arising in all manner of financial transactions (from derivatives and market products, to loans and bonds) given the actively fluctuating market values of all manner of indicators and assets. Often we find that clients are facing a need to make quick decisions as to whether a set of circumstances constitutes a default or a breach of contract and, if so, whether to declare a default is the appropriate strategic option (or to restructure outstanding transactions instead). Even where a termination right is exercised, a counterparty may well attempt to reject the termination on various grounds, from mis-selling to lack of capacity or authority to incorrect interpretation.

Our dedicated Asia financial markets and banking/insolvency teams, together with our financial institution litigation and arbitration experts, regularly advise clients on the entire life-span of derivatives disputes, from the legal, commercial and strategic considerations taken into account pre-termination, through to effecting a termination and on to any resulting dispute itself. We know the need our clients have for quick, yet thorough, advice during the process and the support we can provide derived from our long-standing experience in this area.

4. Sanctions compliance and risk management

In today's global landscape, understanding and complying with sanctions laws is crucial. The complexity and volume of sanctions laws, especially in the APAC region, require global financial institutions to establish compliance teams and improve screening technologies and legal support. We offer tailored solutions to ensure compliance while minimising risks. We assist clients in assessing suspected violations, conducting risk assessments, reviewing compliance policies, and engaging with agencies enforcing sanctions laws. Our expertise helps clients navigate sanctions compliance effectively, safeguarding operations and reputation.

Market Opportunities

Harnessing volatility for strategic growth and asset optimisation

1. Investment products

Periods of market instability can often lead to the significant withdrawals of funds from the equities and bond markets and the postponement of long-term investment plans resulting in investors seeking higher yields for their cash holdings, often for short maturities. This can provide opportunities to financial institutions which are able to offer investment products that can generate higher yields, and so can attract this type of investment. Such products may also enable the financial institution to monetise, reduce funding costs associated with, or remove from the balance sheet, a variety of assets (both liquid and illiquid), making the products balance sheet efficient.

We are a pioneer in assisting clients in structuring both on and off-balance sheet investment product solutions for clients targeting investors in Asia, including financial institutions, funds, high net worth individuals and private and wealth management investors. Our structured products team in Asia is familiar with navigating the regulatory and commercial requirements that such products have to comply with and has established a number of product offering platforms that enable clients to take advantage of short market windows to attract investment and close transactions.

2. Hedging requirements

Sudden spikes or potential changes in foreign exchange and interest rates or commodity, equity or other assets can increase demand by corporates and funds for hedging of their exposure. In particular, borrowers and bond issuers may feel the need to put in place additional hedging to cover due to the uncertainty arising due to market conditions. Care will often be needed to ensure that any financial institution providing this hedging protects itself appropriately, in particular where the hedging arrangements are part of a broader loan or bond transaction. Frequently, the time periods for winning a hedging mandate and/or closing the hedging arrangements can be very short and be subject to considerable competition.

We work alongside our financial institution clients in winning and implementing hedging mandates. In particular, our Asia-based derivatives team, in conjunction with our loans and banking experts, can provide fast and comprehensive support in assessing risks associated with the provision of hedging, methods to mitigate that risk and key features to note on a commercial, as well as legal, basis. We are aware that responsiveness is often key in providing this support and we can tailor our service to match our clients' needs.

3. Portfolio acquisitions and disposals

Fluctuating market conditions can be a driver for our clients to develop a particular business area or to reassess involvement in a particular area. This can often lead to opportunities between financial institutions to sell and purchase portfolios of assets, including bond, derivative and loan portfolios, as well as other asset classes, either on a bilateral basis or through a tendering or mandate process.

We have acted for clients on some of the largest sales and purchases of asset portfolios across our international network, including in Asia. Our fundamental understanding of the nature of the underlying asset class, as well as the different methods of effecting the sale and purchase (including staged or delayed consideration, back-to-backing arrangements, tailored conditions precedent and subsequent) enables us to pro-actively advise clients on such sales or purchases, including navigating regulatory and legal issues that may arise, such as the provision of price sensitive or confidential information.

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