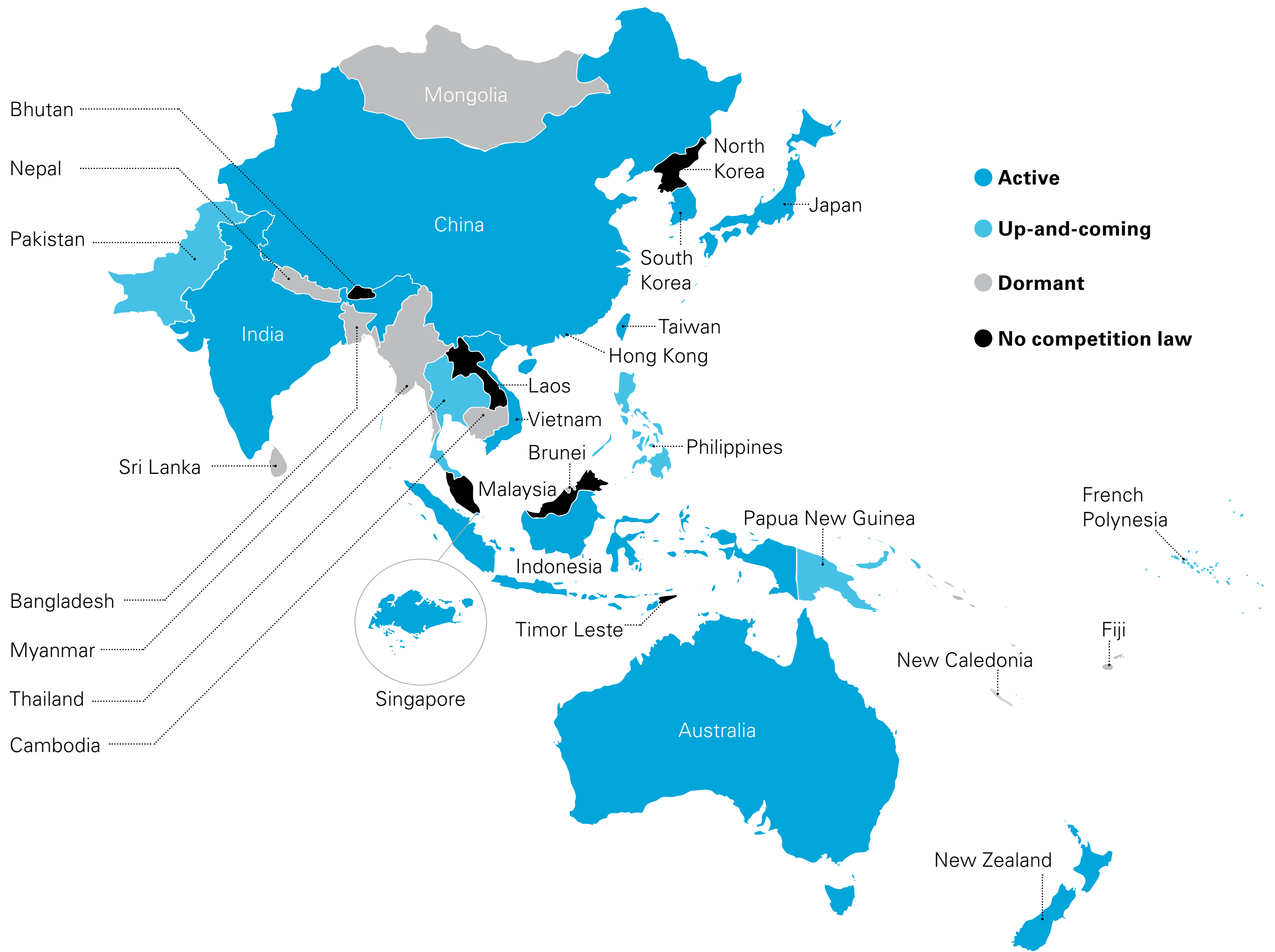
Asia-Pacific: Overview of merger regimes



An interactive guide to merger control activity in the Southeast Asia and Pacific region

Merger control in Asia-Pacific is on the rise, and many new jurisdictions have adopted and started to enforce merger control laws in the past decade. This interactive map provides a general overview of merger control activity in the region and highlights the most important recent developments in each jurisdiction.

In the past decade, new laws and important amendments in some jurisdictions (e.g. China and India) have already propelled new regulators onto the world stage. Other authorities, such as Singapore, Indonesia and Taiwan, are increasing their experience in reviewing increasingly complex deals, whilst others still are rapidly introducing and strengthening merger control regimes (e.g. Thailand, Cambodia and Vietnam).

This map is based on knowledge built up through White & Case's long-standing presence in the region, its close relationships with local counsel in the area, and on publicly available sources. Should you require more detailed information on a jurisdiction (or others not included in the map), please contact **Jacquelyn MacLennan**, **Dr. Tilman Kuhn** or your usual White & Case contact. This page was created in September 2020 and was last updated in December 2021.

Asia-Pacific: Overview of merger regimes

Description of categories:

Active: Relatively sophisticated competition regimes with increasingly experienced competition authorities ensuring strong enforcement

Up-and-coming: Increasing appetite for competition enforcement, thanks to newly introduced or recently amended competition law regimes

Dormant: Competition law has often been on the books for several years, but its enforcement faces serious challenges, such as the lack of implementing rules or of skilled personnel in the authorities

No competition law: Competition law has not yet been effectively introduced

Overview of jurisdictions

Jurisdiction	Tier	Summary
Australia	Active	Notification is voluntary, but the Australian Competition and Consumer Commission (the "**ACCC**") has wide discretion to review any acquisition of shares or assets that may have the likely effect of substantially lessening competition in a market in Australia. The ACCC usually reviews between 250 – 350 merger cases each year. For the 2020-21 period ending in June 2021, this number increased to 424 merger cases, reflecting surging M&A activity globally. The ACCC dealt with around 80 – 90 per cent of those matters by way of its simplified and confidential "pre-assessment" process. The majority of pre-assessments are completed within 2 – 6 weeks. Over the last five calendar years, on average, around 25 – 30 public reviews (incorporating market inquiries) were initiated each year where the ACCC was unable to grant a pre-assessed clearance. Of those public reviews, second-phase investigations were launched in around a third of cases and remedies were accepted in around ten per cent of cases. In the same period, the ACCC opposed only four transactions. This tends to understate the effect of in-depth ACCC scrutiny, as in that period around three times that number were abandoned due to ACCC concerns. The ACCC actively monitors transaction announcements and the press and will take action against suspected "gun-jumping" conduct. If the ACCC detects a transaction that it would have expected to be notified about, it will send information requests to the transaction parties and it has the power to open ex officio merger reviews. The ACCC investigated 13 completed acquisitions in the 2020-21 period ending in June 2021. The ACCC is advocating for major reform in respect of how Australian merger clearances are sought and obtained. In particular, the reforms may introduce (i) a new, formal merger control review process, (ii) changes to the merger test, and (iii) certain reforms relating to assessing acquisitions by large digital platforms. The proposals have not yet been adopted and no clear timeframe is available.
Bangladesh	Dormant	Bangladesh introduced a merger control regime in 2012, but it is not currently enforced. In particular, the rules necessary to fully implement the regime have not yet been framed.
Bhutan	No competition law	No merger control regime is currently in place in Bhutan. The Government of Bhutan is discussing the introduction of a national competition policy.
Brunei	Dormant	Brunei has introduced a merger control regime and is currently implementing the necessary subordinate legislation. To the best of our knowledge, Brunei has not yet commenced reviewing transactions in relation to anticompetitive mergers.

Asia-Pacific: Overview of merger regimes (continued)

Cambodia		On 5 October 2021, Cambodia promulgated its long-awaited competition law. The implementation of the new law will be accompanied by the issuance of sub-decrees that will, inter alia, establish a competition commission and outline the details of the merger control regime. It remains to be seen whether Cambodia's competition regulators will start actively reviewing transactions once all necessary decrees are in place.
China		The Anti-Monopoly Bureau under the State Administration for Market Regulation (the "**SAMR**") is amongst the most active global competition authorities when it comes to merger control. In November 2021, there was one milestone institutional reform that happened to the Anti-Monopoly Bureau of SAMR. Specifically, its administrative ranking was lifted from the department/bureau level to vice-ministerial level, and it was renamed as the State Anti-Monopoly Bureau. The State Anti-Monopoly Bureau embodies three departments, one for antitrust investigations, one for merger review and another for competition policy and international exchange work. Since its establishment, the SAMR has issued more than 400 decisions annually, with around five conditional clearance decisions per year, illustrating its approach to remedies, including divestiture, hold-separate obligations, commitments to supply products and services on fair, reasonable and non-discriminatory terms, and the implementation of antitrust compliance mechanisms. In 2020, it was clarified that variable interest entity ("**VIE**")-related deals are not exempted from merger filing in the PRC, and it was observed that SAMR further strengthened its enforcement against gun-jumping cases. Accordingly, a number of companies were encouraged to voluntarily file with SAMR. Therefore, it is expected that the number of filings SAMR reviewed in 2021, and SAMR will review annually going forward, will greatly increase. In terms of enforcement, the SAMR is scrutinising gun-jumping conduct by domestic and foreign companies with more severity than in the past. In 2019, the SAMR issued nearly 20 fining decisions. In 2021 (up to 6 December), the SAMR issued 93 fining decisions. Penalties for gun-jumping are currently limited to around €60,000 (the highest fine imposed so far was around €50,000). The SAMR publishes the gun-jumping decisions on its official website to achieve a deterrent effect. The SAMR is also actively working on legislative initiatives. In January 2020, it released for public consultation suggested draft changes to the maximum fines for certain conduct, including failure to notify transactions, gun-jumping and breaches of imposed remedies (collectively referred to as "illegal implementation of concentrations"). The draft amendment also proposes a more precise definition of the concept of "control". Following the State's Council legislative work plan published in June 2021, a revised draft was released for comment in October 2021. There are two aspects to the main changes in the revised draft related to merger control. First, a stop-the-clock system is included. Second, the penalties for illegal implementation of concentration with anticompetitive effects are set to be "below 10% of annual turnover in the preceding year", and the penalties for illegal implementation of concentration without anticompetitive effects are set to be "below RMB 5 million", roughly €600,000. It is reported that SAMR will pay more attention to killer acquisitions and merger filings in the technology, media and financial sectors and sectors related to people's livelihoods.
Fiji		The application of the Fijian merger control rules appears to be minimal, especially with regard to foreign-to-foreign transactions.

Asia-Pacific: Overview of merger regimes (continued)

French Polynesia		The Polynesian Competition Authority (the "**PCA**") was established in February 2015 in accordance with the statute of autonomy of French Polynesia within France. The PCA investigates and sanctions anticompetitive practices and reviews mergers. To our knowledge, the PCA has reviewed 16 transactions and cleared all of them, including three with commitments. Rather uniquely, the PCA also oversees operations of retail areas when they exceed a certain size. It has the power to authorise, amongst other transactions, new shop openings, changes to the shops' trade names, and takeovers of such stores. To our knowledge, the PCA has cleared 12 transactions under its special powers over the retail business.
Hong Kong		The Competition Commission of Hong Kong (the "**Commission**") is an independent body responsible for enforcing the Competition Ordinance through enforcement proceedings before the Competition Tribunal and other enforcement tools. The Competition Ordinance (Cap. 619) was enacted in 2012 and came into full effect in late 2015. The current merger control regime is voluntary and limited to transactions in which the undertakings directly or indirectly hold "carrier licenses" issued under the Telecommunications Ordinance (Cap. 106). However, the framework of the Competition Ordinance could be extended to apply more widely to all sectors of the economy. The Commission, in consultation with the government, has reportedly started reviewing the scope of the Competition Ordinance with a view to possibly broadening the merger control regime beyond telecommunications. The status of this review currently is unclear.

Asia-Pacific: Overview of merger regimes (continued)

India	The Competition Commission of India (the "**CCI**") is an active authority that reviews both domestic and international transactions. Over the past years, the CCI has typically received around 100 notifications per year, with only one or two notifications moving to an in-depth Phase II review every year. To date, the CCI has not blocked any deal, and has cleared even the most complex cases with appropriate remedies (the CCI is more inclined to accept structural remedies, but recently also became more receptive towards behavioural remedies). Nevertheless, procedures in India can be lengthy for complex cases, and involve many questions. The CCI used to be sensitive to late notifications and has issued fines of up to €0.6 million in the past (fines can theoretically go up to one per cent of the parties' combined global turnover or assets). As of 29 June 2017, whilst the parties still need to notify the transaction before closing, the requirement to notify the transaction within the set deadline of 30 days no longer exists. Foreign-to-foreign transactions are captured by the Indian merger control regime, with an exemption for transactions involving targets with assets and turnover below the prescribed threshold (*de minimis* target-based exemption). This exemption is available until March 2022. In June 2020, the CCI initiated a market study covering mergers and acquisitions in the digital markets. In August 2019, the CCI introduced a "Green Channel", which allows parties to file a simplified version of Form I in case of a non-problematic transaction (i.e. where the parties have no horizontal overlaps, no actual or potential vertical relationships and no complementary business). In 2019, the CCI invited public comments on a proposed amendment to the Combination Regulations pertaining to the acquisition of shares purchased through a public bid or on a stock exchange. The proposed amendment provides for exemptions to standstill obligations when certain conditions are met. Previously, a detailed assessment of the competition law implications of non-compete clauses had to be undertaken by the notifying parties to anticipate and allay any concerns that might be raised by the CCI during the merger review process. In December 2020, the CCI removed the requirement to justify any non-compete restrictions from the notification form. The CCI is also actively working on legislative initiatives. In 2018, a Competition Law Review Committee (the "*CLRC*") was set up to review legislation in India and to propose necessary changes. The CLRC released its report in July 2019, suggesting reforms to certain sections of the Competition Act. In February 2020, the Ministry of Corporate Affairs notified a draft bill with several proposed changes to legislation in India, reflecting the recommendations made by the CLRC. Proposals in relation to merger control, *inter alia*, include introduction of new notification criteria (e.g. based on transaction value or market shares), codification of the concept of control, the introduction of criteria for exempting transactions in the public interest and a reduction of the review period. However, the bill is yet to be tabled before the Indian parliament for becoming effective law.

Asia-Pacific: Overview of merger regimes (continued)

Country		Overview
Indonesia		Indonesian merger control law provides for a mandatory post-merger notification system. The Indonesia Competition Commission (the "**KPPU**") has so far not only reviewed domestic transactions but also foreign-to-foreign transactions. Over the past years, the KPPU has been receiving an increasing number of notifications, with the biggest number of transactions being notified in 2020 (195). The KPPU is also becoming increasingly sensitive to late notifications. In October 2019, it issued its highest fine for failure to notify (almost €1 million). Notifications of foreign-to-foreign transactions have increased and now regularly represent around a third of all notifications. In 2020, the KPPU reported that there were at least 23 countries of origin of the companies notifying their transactions in Indonesia. This could be partially due to the requirement that an asset acquisition is subject to Indonesian merger control review. In October 2020, the KPPU published Guidelines on the *Assessment of Mergers, Consolidations and Acquisitions*, which (i) suggest that foreign-to-foreign transactions may possibly avoid filing by relying on exemption if only one company has business activities in Indonesia, and (ii) streamline the notification process for non-problematic transactions.
Japan		The Japanese Fair Trade Commission (the "**JFTC**") is a mature and leading enforcer, active in assessing both domestic and foreign-to-foreign transactions. Over the past years, the JFTC has reviewed around 300 filings per year, the vast majority of which were resolved in Phase 1. On average, around 30 cases per year involve foreign-to-foreign transactions. A failure to notify is subject to criminal fines of up to JPY 2 million (around €15,000). The JFTC also has the authority to investigate transactions for which it suspects there are potential substantive issues, regardless of whether the notification thresholds are met. In December 2019, the JFTC amended the Guidelines to Application of the Anti-Monopoly Act concerning Review of Business Combination (the "**Guidelines**") and the "Policies concerning Procedures of Review of Business Combination" (the "**Policies**") in accordance with developments in the digital market. The JFTC clarified that it would review non-reportable transactions in specific circumstances, such as the types of transactions known as "killer acquisitions". The JFTC will likely review non-reportable transactions when the transaction value would exceed JPY 40 billion (around €310 million) and the JFTC expects it would have an impact on domestic Japanese consumers.
Laos		The Competition Authority has not implemented its merger control legislation yet.
Malaysia		The Malaysian Competition Commission (the "**MyCC**") is not yet enforcing a general merger control regime. However, sector-specific laws and guidelines regulate transactions in the communications and multimedia sectors (Malaysian Communications and Multimedia Commission) and in the aviation segment (Malaysian Aviation Commission). The MyCC has been signalling a heightened interest in enforcing merger control and has started a process of legislative amendments to introduce a generalised merger control regime. The proposed amendments are to be presented to the Parliament by the end of 2021. It remains to be seen if, and to what extent, the proposed amendments will enter into force.
Mongolia		Mongolian competition law provides for a merger control regime, but we are not aware of any enforcement cases.
Myanmar		The Myanmar Competition Commission does not appear to have started enforcing the country's merger control regime. Based on the available sources, at the end of 2019, the Myanmar Government was in the process of drafting the rules to implement the merger control regime. For the moment, the status of such drafting is unclear.

Asia-Pacific: Overview of merger regimes (continued)

Nepal		Nepalese competition law includes a general prohibition on the creation of monopolies. It is unclear whether the Competition Promotion and Market Protection Board and the Department of Commerce, Supplies and Consumer Protection have applied these provisions to date. Recently, a bill to amend the Competition Act has been registered with the House of Representatives. According to the bill, the punishment for merging or amalgamating with an intent to control competition will be enhanced to imprisonment for up to five years or a fine of up to NPR 500,000 or both from the present punishment of a fine of up to NPR 500,000. The bill also added a new provision whereby the provincial governments of Nepal are provided with the power to make, or cause to make, an inspection of activities in relation to competition, promotion and market protection.
New Caledonia		The New Caledonian Competition Authority (the "**NCCA**") is a newly established independent authority that has already been active in reviewing mergers. To our knowledge, the NCCA has already examined close to 60 transactions and cleared eight with commitments. The NCCA also has specific powers regarding operations in the retail market sector. In 2021, the NCCA cleared three merger operations (including two with commitments) and ten operations of retail areas. The NCCA has made recommendations to a draft amendment of Book IV of the Commercial Code. With respect to the merger control process, the NCCA proposes strengthening the procedural guarantees offered to undertakings prosecuted for not complying with merger control rules. The draft amendment also specifies the conditions under which certain concentrations are not subject to the obligation of prior notification and shortens the period within which the NCCA must render its decision from 110 to 70 days.
New Zealand		New Zealand has a sophisticated merger control regime contained in the Commerce Act 1986 (the "**Commerce Act**") and enforced by the New Zealand Commerce Commission (the "**NZCC**"). Whilst merger filings are "voluntary", transactions are subject to a prohibition on mergers/acquisitions that substantially lessen competition in a market in New Zealand (so failure to file for a transaction that could be considered to substantially lessen competition in a market creates legal exposure). There are two types of formal merger filings – "clearance" (the more common type) and "authorisation" (the less common type). The NZCC must grant "clearance" for mergers/acquisitions if it is satisfied that the merger/acquisition will not have, or would not be likely to have, the effect of substantially lessening competition in a market. The NZCC must give "authorisation" to a merger/acquisition even if it considers a substantial lessening of competition may arise, where it is satisfied the merger/acquisition would result in public benefits that outweigh the competitive detriments. As a screening instrument, the NZCC has published market share "concentration indicators" to identify mergers/acquisitions that are likely to warrant close scrutiny (combined market shares of more than 40 per cent in non-concentrated markets, or 20 per cent in concentrated markets). The NZCC stresses that these indicators are only initial guides, and ultimately, whether a merger/acquisition gives rise to competition concerns will depend on the specific market dynamics. The New Zealand Parliament is currently considering proposed legislation, which would increase the maximum penalties for breaches of the merger control prohibitions to align with breaches of the restrictive trade practice prohibitions in the Commerce Act. This change is currently expected to come into force by early 2022.
North Korea		To the best of our knowledge, no merger control regime is currently in place in North Korea.

Asia-Pacific: Overview of merger regimes (continued)

Country		Overview
Pakistan		Pakistan amended its merger control regime in late 2016. The changes provided clarifications on the cases in which transactions, including foreign-to-foreign transactions, are notifiable. Over the last years, the Commission has reviewed more than 50 transactions per year.
Papua New Guinea		On 24 November 2018, the Independent Consumer and Competition Commission (Amended) Act 2018 (the "**ICCC Act**") introduced a mandatory pre-merger notification regime. In 2019, the Independent Consumer and Competition Commission (the "**ICCC**") published its 'Business Acquisition Review Guidelines' and 'Confidentiality Guidelines', which respectively provide basic guidance on ICCC procedures, decision-making and the treatment of confidential information. The introduction of the mandatory pre-merger notification regime and guidance documentation has increased the ICCC's transactions investigations. For example, the ICCC has recently declined authorisation for the proposed acquisition of shares in the Papua New Guinea branch of a major Australian bank.

Asia-Pacific: Overview of merger regimes (continued)

Philippines	The Philippine Competition Commission (the "**PCC**") is an independent authority that has shown increased ability to review domestic and foreign-to-foreign transactions. From 2016 to 2020, the PCC received in total 221 merger notifications, and has approved 208 of these transactions and prohibited one transaction. However, in 2020 the number of reviewed transactions decreased to 26, at least partially due to the (i) increase of notification thresholds to PHP 50 billion (approximately USD 1 billion) under the Bayanihan II Act, which took effect in September 2020, and (ii) suspension of the PCC's power to exercise motu proprio review of transactions (i.e. investigation of any merger which the PCC believes is likely to substantially lessen competition in the market), which suspension was in effect until September 2021. The increased merger notification thresholds will be in effect until 15 September 2022; after this date, the merger notification thresholds may revert to the previously applicable thresholds (i.e. PHP 6 billion for the Size of Party threshold and PHP 2.4 billion for the Size of Transaction threshold), as the same may be adjusted based on official estimates by the Philippine Statistics Authority (the "**PSA**") of the nominal Gross Domestic Product ("**GDP**") growth for the previous calendar year rounded up to the nearest hundred million. This ensures that the thresholds maintain their real value over time and relative to the size of the economy. In 2018, the PCC issued its first failure-to-notify decision, voiding the transaction and fining the companies involved one per cent of the value of the transaction, and in 2019, the PCC issued its first prohibition case involving a merger to monopoly. The PCC has gained experience in a variety of industries, and based on the number of transactions in 2020, it has a recent focus on, respectively, gas and electricity, transportation and storage, financial and insurance activities, real estate activities and manufacturing. The PCC has issued a number of guidelines that are aimed to strengthen and streamline the merger review process. For example, in July 2019, the PCC issued guidelines for expedited merger review processes for transactions that are deemed to not have any significant impact on competition conditions (i.e. no overlaps, global transactions either with Philippine entities as mere assemblers or export manufacturers or with limited presence in the Philippines, or joint ventures ("**JVs**") for real estate projects). In 2020, the PCC also issued guidelines for exemptions from compulsory merger notification for certain Public-Private Partnership ("**PPP**") projects and certain JV projects between government agencies and private entities. In addition, in February 2021, the PCC increased fines for entering into anticompetitive mergers or violating compulsory merger notification by ten per cent. The PCC has articulated plans to formally propose to Congress amendments to the PCA to address salient issues that have emerged during its first three years of operations. The proposed amendments would include (i) raising the value of pecuniary penalties, (ii) giving the PCC the power to conduct dawn raids without court orders, and (iii) reinforcing its primary, original and exclusive jurisdiction over all competition cases. Doing away with the necessity of a court order to conduct dawn raids would facilitate investigations conducted by the PCC. There are bills pending before Congress that would replace the current mandatory notification regime with a hybrid system (i.e. compulsory-voluntary notification) by retaining the current PHP 50 billion mandatory notification threshold. The bill is still at the early stage of the lawmaking process, and the PCC has expressed objections towards the very high threshold for compulsory notification.

Asia-Pacific: Overview of merger regimes (continued)

Country		
Singapore		Singapore's voluntary merger control regime came into force in 2007. Since its establishment, the Competition and Consumer Commission of Singapore (the "**CCCS**") has received around 90 merger notifications. A majority of notifications were cleared in a Phase 1 review, with about 19 transactions proceeding into a more in-depth Phase 2 review, and involved investigations into many industries, ranging from transportation, finance and healthcare to manufacturing. In the years 2017 to date, the CCCS has also proposed blocking three transactions and issued an infringement decision against one completed merger in 2018. Several transactions were abandoned before a final decision. Whilst the merger notification regime is voluntary in Singapore, the CCCS actively monitors non-notified transactions through its horizon-scanning mechanism or third-party complaints. The CCCS has stated that where indicative market share thresholds are crossed, the merger would generally lead to a substantial lessening of competition and should be duly notified to the authority. Recently, the CCCS has fined companies for failure to notify a transaction, stressing that both negligent and intentional failures to notify will be considered as violations. The CCCS also announced that it will remain vigilant when assessing mergers, including in the digital space, in order to catch killer acquisitions. The CCS is expected to implement changes to its guidelines on the Singapore Competition Act in 2021/2022. The proposed changes include, *inter alia*, (i) changes to the review and transaction timetable, (ii) changes to the information required in the notification form, (iii) changes to commitment timelines, as well as (iv) certain clarifications (anti market definition for multi-sided platforms, encouragement of notification prior to completion of the transaction and the CCCS' approach to data protection aspects and countervailing buyer power in merger control).
South Korea		The Korea Fair Trade Commission (the "**KFTC**") is a mature and sophisticated authority that receives more than 700 notifications per year, a substantial number of which are foreign-to-foreign transactions. In February 2019, the KFTC amended merger review guidelines on analysing the innovation market and "data asset mergers", indicating that it is likely to focus on these industries in the future. Failure to notify can be fined up to a maximum of approximately €75,000. In 2020 alone, the KFTC has imposed 12 fines for delayed or not reported notification. The legislative proposal to overhaul the Korean Monopoly Regulation and Fair Trade Act (the "**MRFTA**") introduced a new "size of transaction" threshold aiming at allowing the review of transactions that may otherwise not meet the existing turnover threshold. The reform, at least partially, aims to target transactions having innovative potential (i.e. killer acquisitions). The amended MRFTA will enter into force on 29 December 2021.
Sri Lanka		No merger control regime is currently in place in Sri Lanka.
Taiwan		The Taiwanese Fair Trade Commission (the "**TFTC**") is an active merger control enforcer. From the enactment of the original Fair Trade Act of 1992 until October 2021, the TFTC reviewed thousands of notifications, issuing around a dozen prohibitions. Over the past years, the TFTC has received around 60 notifications per year. The TFTC may impose fines for failure to notify of up to NT$50 million (approx. €1.5million).

Asia-Pacific: Overview of merger regimes (continued)

Thailand		Thailand's new Trade Competition Act B.E. 2560 (2017) (the "**TCA**") entered into force at the end of 2017. Prior to the new TCA and sub-legislations issued to implement the merger regime, Thailand's merger regime remained dormant. The reform provides that merger notifications to the Trade Competition Commission (the "**TCC**") should be made either pre- or post-closing, depending on the parties' revenue and market share. During the 2020 fiscal year (the TCC's fiscal year ended on 30 September 2020), the Office of the TCC reported to have received 21 notifications in total, 18 of which were submitted post-closing. In addition, the TCC has already imposed fines for failure to notify a merger within seven days of closing and published such rulings. Though cases for failure to notify transactions pre-closing have not yet been observed, the TCC has considered and approved some pre-merger cases. As the TCC continues to be active in monitoring mergers, imposition of penalties for failure to seek approval pre-closing could be expected in the future. Late in 2021, the TCC published a new post-merger form, to be used beginning 1 February 2022. Revisions therein are intended to address practical issues which have arisen on submissions of the current form. The reform package also covers foreign-to-foreign transactions, but the extent to which the OTCC treats foreign-to-foreign transactions as notifiable remains unclear.
Timor Leste		Merger control regime is currently in place in Timor Leste. However, it has been announced on the Ministry of Finance's website that "a competition law is being established to ensure an even playing field for businesses" as part of the country's economic and commercial reforms.
Vietnam		The 2004 Vietnamese Law on Competition provided for a merger control regime and the relevant authorities used to receive, on average, three to four notifications per year. The 2004 Law was replaced by the 2018 Law on Competition (the "**2018 Law**") that became effective 1 July 2019. The thresholds for the new merger control regime were established by Decree 35, dated 24 May 2020, and moved away from the pure market share thresholds under the prior merger regime. Decree 35 also set out the definition of control. Further, the new merger regime provides for a two-phase review procedure and a new substantive test to assess the impact on competition. The 2018 Law also more explicitly applies to foreign-to-foreign transactions; provided that they may have a restrictive effect on competition within Vietnam's territory. There are already examples where Vietnam exercised its jurisdiction over transactions taking place outside its territory. The new regulatory authority, the National Competition Committee (the "**NCC**"), still has to be appointed. Currently the draft decree, which will regulate tasks and functions of the NCC, is being formulated. Until then, the government has issued guidelines under which it will review notifications through the Ministry of Industry and Trade.

whitecase.com

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law, and all other affiliated partnerships, companies and entities.This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.

Attorney Advertising. Prior results do not guarantee a similar outcome.

LON0720066_Merger_11