

# ASIAN LEGAL BUSINESS

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## Double down on Asia

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There has never been a better time to be a betting man, what with the breakneck pace of casino construction emerging as one of the year's strongest trends to date. Spiraling out from Macau, developers are now hungrily looking at new markets in the region to capitalise on an industry that has brought in profits of \$33.5 billion to Macau in 2011 alone. Seher Hussain investigates what is next for the gaming market...

We are currently witnessing the expansion of the gaming industry's most promising global market. From Vietnam to Cambodia to Japan and the Philippines, Asia's voracious appetite for gambling is luring in regional and international investors at a phenomenal rate.

However, it will not be easy to replicate Macau's success, as each of these next generation gaming destinations faces its own set of challenges - whether regulatory, political, or simply outsized market expectations.

### Where it all began

Macau, a tiny territory in the South China Sea is the birthplace of the Asian mega casino. Reuters reports that last year, bettors spent \$33.5 billion in Macau's casinos, compared to \$6 billion in Las Vegas. It shows no sign of a slowdown, considering that Las Vegas Sands, the world's largest gambling company opened its newest \$4.4 billion venture, Sands Cotai Central, on the coveted Ko Tai strip in April this year.

"Gaming continues to grow," affirms Bruno Nunes, partner at BN Lawyers Macau, "All the analysts keep saying it will slow down, it will not be sustainable. But we continue to see growth at 30 percent or 40 percent, so you have more and more revenue coming in."

Luís Mesquita de Melo, partner at MdME agrees: "That means not only the gaming revenue, but also the number of visitors has increased. Given that the Sands major new property opened last month and we are only in May, we are still looking at around 20 percent plus monthly growth year on year."

Buoyed by the steady rate of success, developers are now looking at constructing casinos in a diverse range of Asian regions, all looking to mimic Macau's magic.

Ben Lee, managing partner at gaming consultancy IGamiX, says: "We are living in exciting times here in Asia. I have scoped numerous projects from Saipan to Cambodia to Myanmar, and the underlying thread through all these

developments is the seemingly insatiable appetite for gaming from the Chinese, particularly those from the PRC. In Western parlance, they are the 500 pound gorilla in the corner."

### **Indochina cashes in**

Not one to be left behind, Cambodia is experiencing dynamic changes this year; following the enthusiastic response to the launch of the nation's first bourse in April, the government is also encouraging casino development in order to boost its economic profile.

Lee details that: "Cambodia has been growing at a phenomenal rate since 2009. They now have approximately 49 casinos, mostly along the borders with neighbouring Thailand and Vietnam. The two newest, a \$100 million development in Mt Bokor will be opening and at the other end of the spectrum, a smaller one in Pailin by Nasdaq-listed Entertainment Gaming also this coming month."

Reuters reported that NagaWorld, a massive casino complex in Phnom Penh, showed a profit of more than \$90 million last year. Its convenient location ensures a steady stream of gamblers from neighbouring Vietnam, where gaming facilities are less accessible.

Adjacent Vietnam has also seen a surge in casino development, albeit at a reduced rate. Tight-roping between a nominally communist government that frowns on gambling, Vietnam is also trying to cash in on the capitalist rewards that the industry brings. As such, casinos technically do not exist, but are rather licensed as "entertainment centres."

Lee reports that: "Whilst there are no clear numbers, the rumours are that there are approximately 70 'casino' clubs all around the country, which are allowed to operate with slots and electronic table games and accessible only to foreigners. There are also about eight casinos of varying sizes with gaming tables and slots in Danang and around Hanoi and on the border with China."

Sources report that several major international investors have shown interest in developing casinos in Vietnam, but plans are still in the nascent stages.

It is clear that alongside investors, Asian governments are also desperately trying to get in on the act; a trend that will only magnify in years to come.

### **Philippines makes its play**

The gaming industry has shifted its attention to the Philippines this year. Four massive casinos are under construction in Manila, which combined, will form one mega project. Planned to start opening in 2013, the casinos will be the foundation of the Bagong Nayong Pilipino Entertainment City, the projected investment of which is already running at \$5 billion. Investors include Resorts World Bayshore, Bloomberry Resorts, and Universal Entertainment.

Speaking in this regard, de Melo says: "The Philippines are really betting very strong on gaming; in the near future, it is the region's best positioned jurisdiction to develop the gaming industry in a competitive way."

Sources indicate that the Philippines' gaming industry has been slowly coming to a boil over the decade. The Philippine Gaming Corporation (PAGCOR), which operates and regulates the gaming industry, reported revenues of \$862 million in 2011, which is more than twice the level of \$364 million in 2001.

Rodrigo Quimbo, partner at Baker & McKenzie in Manila, says: "The crucial amendment in PAGCOR's Charter, (enacted in 2007) which allows the state-run gaming entity to enter into agreements such as joint ventures with

private investors (domestic or foreign), gave the impetus for the very aggressive expansion mode in gaming, particularly casinos, in the country. PAGCOR is targeting a 10 percent share of the global gaming market by 2016."

He points out that for over 30 years before 2007, the local casino market was dormant, owing to the government's position of just offering stand-alone state-run casinos. "The integrated resorts approach, fueled by private investment, is a major boost to the local gaming industry," says Quimbo. "This approach de-focuses on gambling and emphasises total entertainment through the availability of other attractions such as malls, museums, cultural arts, sports arenas, and theme parks around the casinos. The integrated approach also extends to the idea of mixing domestic private ownership of the casinos with foreign expertise in casino management."

However, several challenges do remain. Despite the influx of investment and heavy international interest, the political and legal structures remain murky.

Lee says: "They have challenges ahead of them; the ever changing political and regulatory regime probably being the main challenge. The Philippines is not a place for the faint hearted and even now, whilst the local political and business leaders acknowledge that they need to reform the landscape to attract foreign investment, they are just as sanguine about their real ability to affect them."

De Melo continues: "I think the problem is that their regulatory framework is not completely transparent, since one of the gaming operators is at the same time the gaming regulator. So there are some obvious concerns, especially from foreign gaming operators and investors (especially from the U.S.) that are interested in investing, (and) it poses some compliance and suitability hurdles for them."

Quimbo adds: "In the Philippines, corruption, immorality, and security risks have been, and will continue to be linked to casinos and debated upon in the country. The Catholic Church (which is a dominant force in the Philippines, given its approximately 90 percent Catholic population) has been vocal against gambling and casinos."

As the race heats up in Asia, the Philippines now faces massive competition from other emerging gaming hotspots that may not have to overcome the same range of regulatory and political obstacles. It remains to be seen whether they can jump past these hurdles in time to capture the market.

### **Tokyo throws the dice**

A spotlight has also been thrown on Japan recently, as reports in the media suggest that the country is considering legalising gambling. Spurred on by the success of other regional gambling centers as well as a need to drive economic growth, it appears that the Diet may push through legislation permitting casinos to operate in the country.

Lawyers are generally positive about this development, as de Melo says: "Should Japan choose to compete, it would definitely be the next major destination in terms of generating interest for gaming operators; much more than other Southeast Asian jurisdictions."

Japan has several advantages: it caters to high net worth individuals with a taste for gaming, and is geographically positioned to attract steady traffic from Korea. A sophisticated legal system would also ensure a high rate of investment by foreign investors, who would find the efficiency and streamlined process less daunting than getting tangled up in the regulatory morass that other countries may pose.

Sources indicate that if and when gaming licenses are granted, Japan could suddenly become a major player within the next five years. "Everyone is already lining up to get licenses," says Nunes.

### **Financing**

Looking beyond the headlines, the financing aspect of these new projects shows some clear trends as well. Although investment into these mega casinos seems to be evenly split between Western and Asian players, a few marked differences are evident.

Speaking on this, Lee details that: "The level of interest from both regional as well as Western investors is nothing short of phenomenal. The potential investors from Asia tend to be mid-sized in terms of appetite and personal (i.e. entrepreneurs), whereas the ones from the Western hemisphere are established gaming operators with visions of doing palatial resorts, but hamstrung by the regulatory regime back home."

Sources reveal that looking at the number of casinos in Asia, the majority of them are developed by local players. But in terms of overall investment, the Western operators with their ability to organise and raise huge sums of capital are the clear leaders. "Emerging with some strength, however, are a group of local gaming operators who are slowly beginning to play at the international level; for example Malaysia's Genting Group which is a global gaming player covering Asia, Europe, U.S. and even the high seas," says Lee.

### **Obstacles**

Despite the flurry of positive reports, the reality of the situation is more nuanced. "You read about Vietnam and Cambodia becoming gaming centres," says Nunes, "but we have been reading about it for five years now. I know it is something they want to do, because they have seen Macau growing so big and also seen Singapore becoming the second-largest gaming destination. So they want to tap into these resources. But I don't think they will be able to replicate it."

Drawing a parallel with Korea, a world economy that has not managed to set up a consistent and creditable gaming destination, Nunes says that "it all comes down to regulation and the market being good or not."

Lee believes that: "The Western operators will tell you the regulatory regime is the biggest obstacle. To some that is just cultural baggage. They have a set of requirements that grew out of their own environment. As others will tell you, the Asian ways of doing business are different, where relationships are more important than qualifications and suitability. The ability to work together, i.e. the chemistry, is a higher priority than the ability to manage efficiently."

Another hurdle to cross is simply that of expectations. Sources affirm that with the success of Macau and Singapore, many of these next-generation gaming centers are looking to replicate that extraordinary growth by just pouring in billions of dollars. In this context, Lee says: "The expectations have been raised to a level where they sometimes no longer bear any connection to market reality." It remains to be seen how these pipe dreams will pan out in reality.

### **The wave of the future**

What does the future hold for Asia? It is likely that the gaming model will continue to be the integrated resort model that has seen such success in Macau and Singapore, and is under construction in the Philippines at the moment.

Marketplace sources continue to emphasise the rapid sinification of the gaming market globally. No matter whether these casinos are being built in Vietnam, Japan, Philippines or Macau; they will aim to attract the lucrative Chinese demographic.

As gaming profits grow at a phenomenal rate from year to year, all eyes are now on Asia, waiting to see who comes barreling down the home stretch to be crowned as the "next Macau."

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