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The Journal of the American Chamber of Commerce in Shanghai - Insight September/October 2019

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Email: simon-wan@cornerstone-group.com
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Story ideas, questions or comments on Insight: Please contact Kate Magill
kate.magill@amcham-shanghai.org

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AMCHAM SHANGHAI

Shanghai Centre, Suite 568
1376 Nanjing West Road
Shanghai, 200040 China
tel: (86-21) 6279-7119
fax: (86-21) 6279-7643
www.amcham-shanghai.org

FEATURES

TECHNOLOGY

POLICY PERSPECTIVES

MEMBER NEWS

CHAIRMAN'S NOTE

ERIC ZHENG
Chairman of The American Chamber of Commerce in Shanghai

With the escalating trade tensions between the U.S. and China, American companies in China are confronted with unprecedented challenges not seen since the first American company began operating in China four decades ago. A series of tariffs and retaliatory tariffs imposed by both countries since 2018 are hurting American companies.

Based on the latest survey of AmCham Shanghai member companies, over half have suffered from a decrease in revenue as a result of the new tariffs. The survey was conducted before the latest round of new tariffs announced by the U.S. on $350 billion worth of Chinese imports and subsequently by China on $75 billion worth of US imports. The serious impact on revenues was expected, since many U.S. companies in China both import inputs from the U.S. and export products to the U.S.

Faced with increasing tariffs, American companies are forced to look for alternative supply chains outside China. Our latest survey shows that nearly 39% of our companies have redirected their planned investments in China to other countries; 57% of our companies have either delayed, reduced or canceled their investments in China and their 5-year outlook for China has worsened. The tit-for-tat escalation of the trade tensions is posing a serious threat to the operations of U.S. companies in China.

According to our surveys year after year, most American companies view China as a strategic market for their growth and consider China as a top investment destination. To date, American companies are doing well in China; over three-quarters are profitable.

More and more American companies are pursuing a strategy of "In China, for China," i.e., making products in China for the China market. While those companies may not be directly impacted by the new tariffs, they are concerned that the worsening bilateral relations might affect consumer sentiment in China towards American brands. An overwhelming majority of our companies do not believe that tariffs are an effective tool to resolve bilateral trade issues.

We support the U.S. administration's goals of rebalancing U.S.-China trade relations in order to address the trade deficit, market access concerns and other structural issues in China. However, China is too strategic a market for American companies to withdraw from. Decoupling from China would not strengthen the U.S. economy; on the contrary, it would weaken American companies' global competitiveness and force them out of one of the most significant markets in the world.

American operations in China supply businesses and consumers in the U.S. with affordable, high quality products. Their operations in China also support jobs and tax revenues in the U.S. in R&D, marketing, distribution and other headquarters functions. Our latest survey indicates that about 23% of our companies in China are a significant sources of profits for their U.S. head offices and nearly 17% contribute to their production and employment in the U.S. Withdrawing American companies from China would hurt the U.S. economy; it would also be very challenging to find alternative countries that can match China's capacity and scale in both supply and demand.

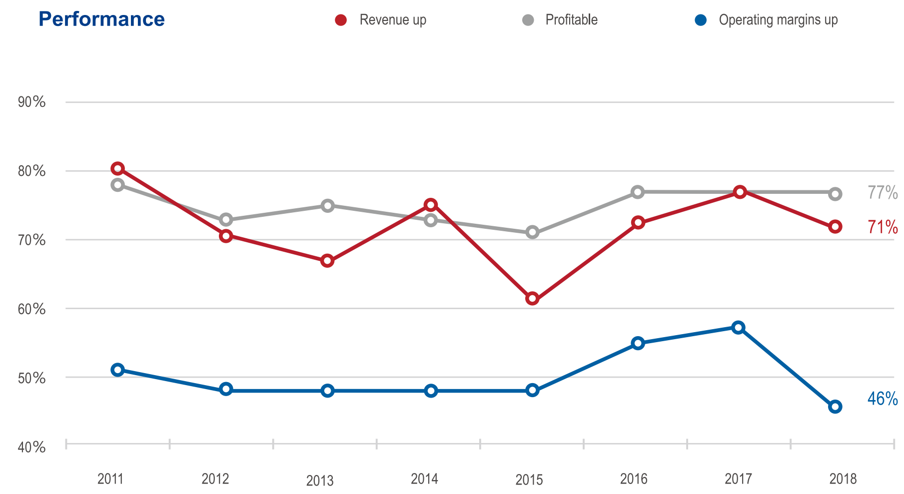
Trade wars have no winners. The economic costs to date are already significant, and further tension escalations would do more harm to both countries. We urge the two governments to work out their differences through negotiation, so as to achieve a win-win outcome. I

2019

CHINA BUSINESS REPORT HIGHLIGHTS

THE AMERICAN CHAMBER OF COMMERCE IN SHANGHAI

The annual China Business Climate Survey, taken this year between June 27 and July 25, is one of the longest running surveys of U.S. business in China. The 2019 report reflects the views and insights of 333 members and measured trends in company performance, challenges and investment, and members' views about trade policy, the impact of tariffs on revenues, as well as the competitive advantages of Chinese companies.



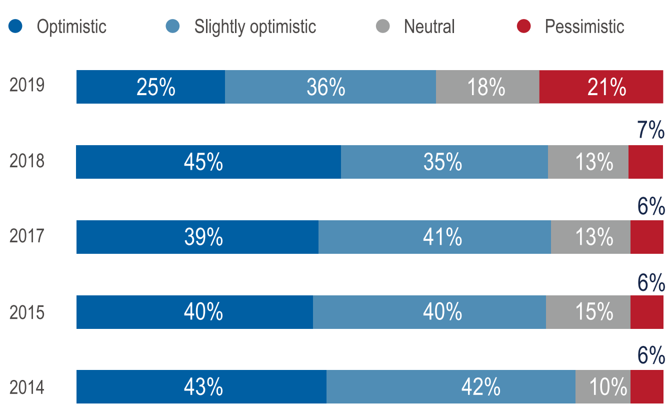
Profitability in 2018 remained consistent with previous years, with 76.8% of companies reporting profits. However, revenue growth estimates for 2019 are weak. Only 50.5% of companies expect revenues to beat their 2018 numbers, while 27.1% of companies anticipate lower revenues, markedly up from the 6.1% that projected lower revenues for 2018. 47.6% of automotive companies anticipate lower revenues.

Five-year optimism dropped by one fifth to 61.4%, against historical rates of 80-90%, while pessimism about the future rose by 14.0 percentage points. The most downbeat industries included non-consumer electronics and chemicals. Over the next 3-5 years, 57.8% of our members rated an economic slowdown as their biggest challenge, with U.S.-China tensions a close second (52.7%).

Operational challenges have decreased, with inefficient government bureaucracy (down 22.0 percentage points) and corruption and fraud (down 20.4 percentage points) seeing the most progress. But these are still viewed as hindrances by 56.5% and 48.6% of respondents, respectively. Rising costs (90.3% viewed as a hindrance) and domestic competition (80.9%) remained the top two challenges for the third year in a row.

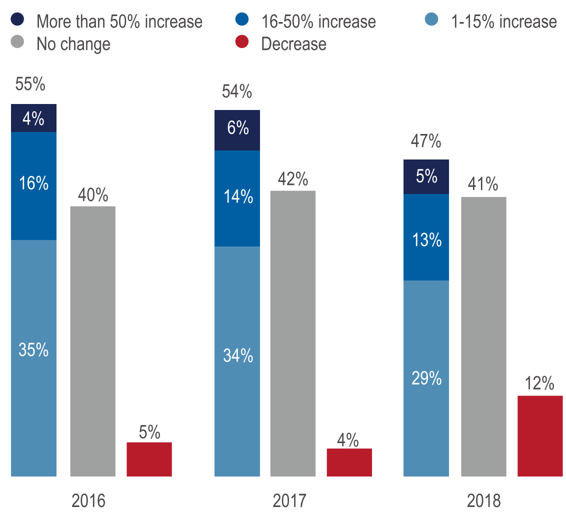
As for opportunities, 59.2% of respondents said increasing consumption will be the top factor to benefit their industry in the next 3-5 years, a slight increase from last year (58.0%) and the year before (56.5%). Similarly, 40% of those increasing investment in China in 2019 report doing so due to the growth potential of the Chinese market.

Five-year business outlook in China*

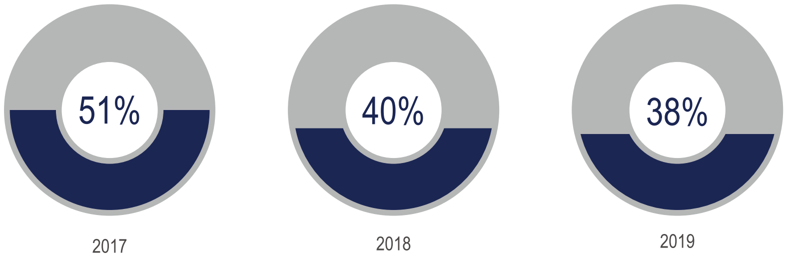


** Because of a seasonal shift in our data collection, comparisons for 2016 are not always applicable.*

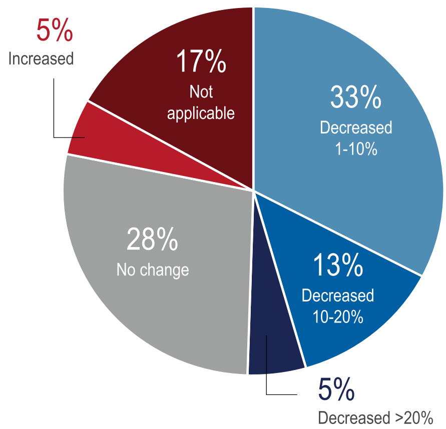
Investment change in China



Our investment in innovation and R&D in China is limited by inadequate IPR protection



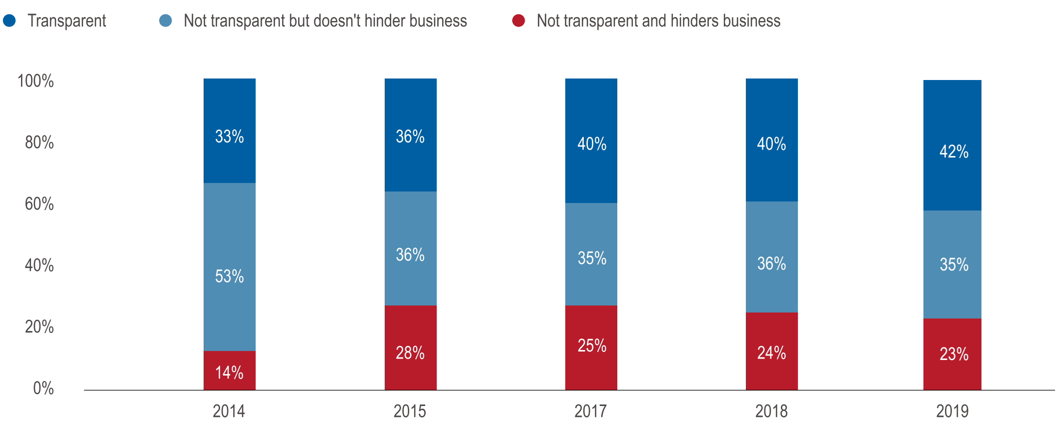
Has your revenue decreased or increased as a result of the tariffs?



Top three redirected investment destinations

	Southeast Asia	India	U.S.A.
2019	13.1%	7.6%	5.5%
2018	9.2%	4.1%	6.5%

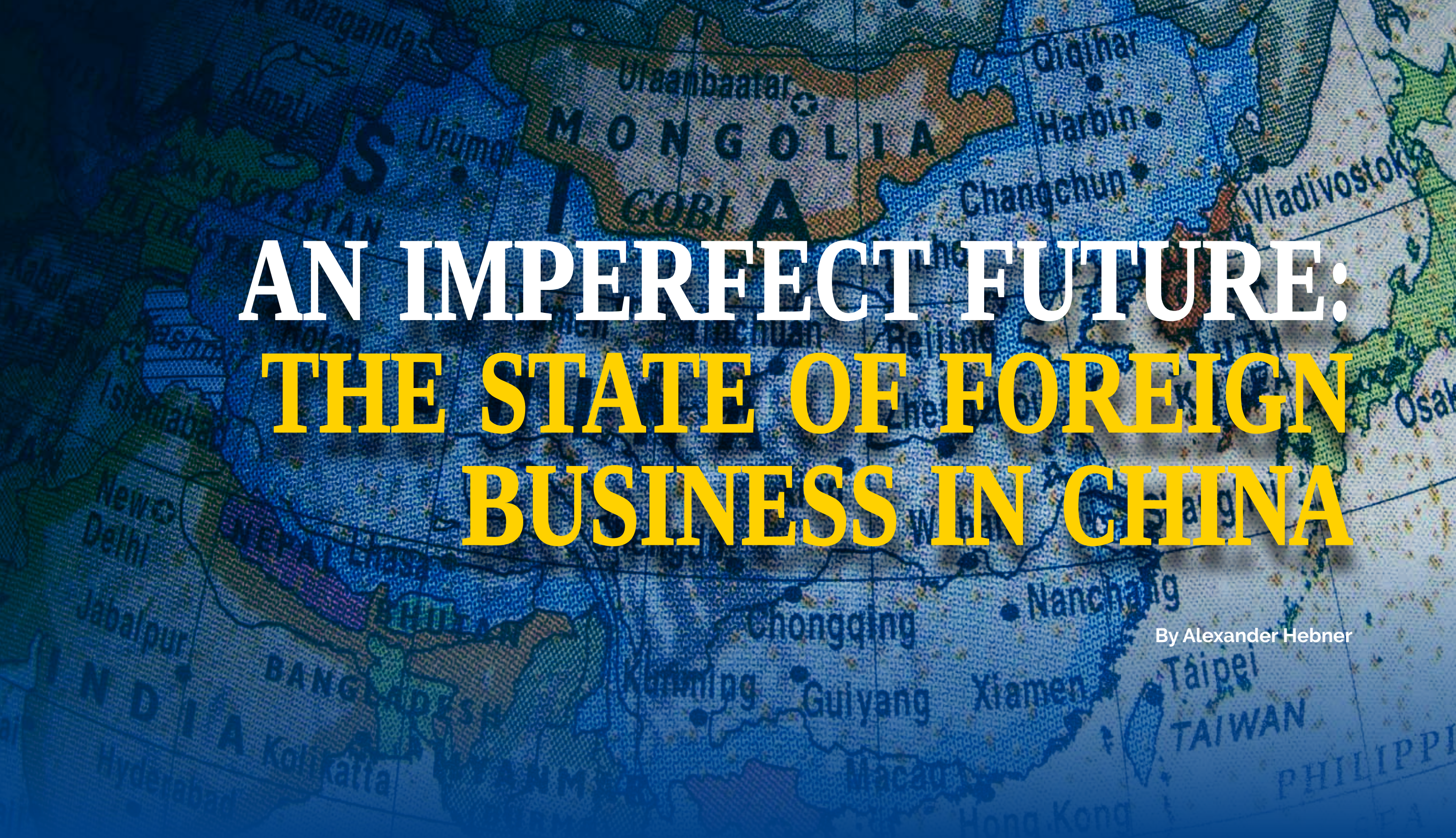
How would you characterize your industry's regulatory transparency?*



** Because of a seasonal shift in our data collection, comparisons for 2016 are not always applicable.*

Compared to your company, how do you rate your Chinese competitors in these business areas?

	More advanced	Same	Less advanced
Speed to market	69.4%	21.2%	9.4%
Sales and marketing	37.9%	33.3%	28.8%
Use of digital strategies	36.7%	36.7%	26.7%
Product development	17.5%	25.3%	57.2%
Product quality	8.8%	20.0%	71.2%



AN IMPERFECT FUTURE: THE STATE OF FOREIGN BUSINESS IN CHINA

By Alexander Hebner

JEAN-MARC F. BLANCHARD Ph.D., is executive director of the Mr. & Mrs. S.H. Wong Center for the Study of Multinational Corporations, an independent California (USA)-based think tank, and editor of the "Palgrave Studies in Asia-Pacific Political Economy" series.

How have foreign multinational corporations (MNCs) faired in China historically, and what is their trajectory looking toward the future? How does this experience compare to that of domestic MNCs?

It depends on the time period and sector. I would say overall for the 15 years I have been tracking MNCs in China that they have done amazingly well. They have enjoyed tremendous sales and more importantly their profits have been consistently impressive. They've shown substantial growth far beyond other regions of the world like Europe or Latin America or SE Asia.

But the position of foreign MNCs is not as good as in the past for a number of reasons. One is that their competition has increased. There are Chinese competitors in almost every sector that can compete with them across the spectrum, whether it's R&D or sales or branding or marketing. Even though foreign investment is still welcome, it is not given the same kind of special position that it was 10-15 years ago. I do not think foreign MNCs are facing substantial competition from state-owned enterprises in many areas. But that said, Chinese firms are privileged nowadays in ways that they weren't in the past, whether it's in financing or access to a favorable regulatory environment, and I think that's presenting a more challenging environment for foreign companies.

Would you say that the playing field has been leveled, or is there bias toward domestic companies?

There is definitely a bias toward Chinese firms. One form this takes is the subsidy programs that the Chinese government has implemented, whether it's the Made in China 2025 initiative or specific programs like incentives for manufacturing electric car batteries. If you look at some of the negative reports about companies such as recalls or antitrust action, I would say you're more likely to see something about foreign companies than domestic companies.

What degree of leverage do MNCs currently have in China? Are there any assets that China cannot otherwise access at this time without these multinationals?

Absolutely. This is fluid and depends on the Chinese government, but for example if you look at a Tesla, they fit into the government's desire to bulk up higher value added activities, deal with pollution problems, and keep higher quality FDI coming in. An entity like that has a degree of leverage. If you think about the software sector, the situation is evolving because of cyber security concerns and the ability of Chinese companies to provide cloud computing and AI – which makes foreign software companies not as critical as in the past. Jobs used to be an important thing that foreign MNCs could bring to the table, but I would say that in the past five years that is not as important of an issue. Mostly it's about if a company can help China move up the value-added chain or fulfill specific needs. If you are in healthcare or elderly care then I think you matter because of the increasing elderly population. They want to bring down the cost and improve quality of service. But if you come in and say I'm going to open another fast food company, that's not going to have any degree of leverage as it's not fulfilling any priorities.

Is there still disconnect at times between national and local treatment, or has it become a one size fits all policy?

There is definitely variation. If you're a governor or mayor you have certain goals that are different from those of the national government. A billion-dollar investment doesn't mean much from a national perspective, but if you were to go to Hunan province or Shanxi province that could be very impressive. They won't do anything the central government opposes, but they will incentivize with things such as tax benefits and land. So yes, on the provincial and local level there are differences in how they treat companies.

We touched on it already, but what does the increasing competition for employees that has taken place in the last five years or so say about foreign MNCs. Have they done anything wrong or is this a product of a more attractive job market provided by domestic competitors?

I would say they have not done anything wrong. In the post-financial crisis period there has been an interest in stability. Chinese workers decided that maybe state-owned enterprises or Chinese private firms were a better place because they didn't have to worry about getting laid off or being at a struggling firm. If you think about some of the more advanced areas such as tech, I think the Chinese worker is thinking "I have a chance to move up the ranks that I wouldn't have at a foreign company. I have the chance to get the same bonus package, and the domestic firm works in a way that I am familiar with." It's a combination of the Chinese company being able to provide an environment that works for Chinese employees, as well as local workers' concerns about the prospects of the foreign multinational.

What would you say is the greatest threat to MNCs in China?

I would say the greatest threat is that China returns to very high growth rates and we see that it can develop its own technologies and global brands on its own. China becoming self sufficient would be the greatest threat to multinationals. In certain areas this has happened, but generally the success stories are China's success stories, they aren't global success stories. In the U.S. I can't use WeChat to pay for things, but I can use Apple Pay all around the world.

How do you see the Belt and Road Initiative affecting the landscape of multinationals in China? Is it an opportunity for foreign companies to integrate themselves into Chinese projects or do you see it as an opportunity for China to grow their domestic firms?

Definitely the latter. It's mainly about China helping China. However, there are opportunities for foreign companies to be in the service of Chinese companies, such as providing legal services, political risk analysis or market analysis. Overall China does not work extensively with foreign companies, but I think China is considering, partially for risk diversification and partially to counter some of the backlash against the Belt and Road, using more foreign suppliers. I don't really see that happening in a substantial way unless something dramatically changes though.

HOW INVESTORS ARE CAPITALIZING ON A RARE INVESTMENT WINDOW

By James Macdonald

James Macdonald was appointed as head of Savills Research, China in 2007. He has the overall responsibility to ensure the successful delivery and expansion of Savills research capabilities as well as to consolidate and integrate all research activities across mainland China. The research team covers a wide range of cities and assets classes.

International buyers have been active in the Chinese investment market for a long time. Some of the first deals were concluded in the mid-2000s by investment houses such as ING (now CBRE Global Investors), Morgan Stanley, Gaw Capital and Goldman Sachs, and developers such as CapitaLand, Macquarie and Ascendas. At that time, prices were low with properties like Cross Tower near East Nanjing Road selling for just above RMB20,000 per sq m (currently RMB60-70,000 per sq m).

Back then China's economy and property market were different. The economy was purring along at 11.4% per annum (2018: 6.6%), the Shanghai office market was just 3 million sq m (2018: 13 million sq m), with rents at RMB6.8 per sq m per day (2018: RMB9.0). NOI yields were close to 6.0% (2018: 3.5%), but rents were also rising rapidly, at more than 10% per annum (2018: 0.3%). China had joined the WTO just four years before; there was no trade war and no debt bubble, with a debt-to-GDP ratio of just 144% (2018: 254%) and, therefore, no financial de-risking campaign.

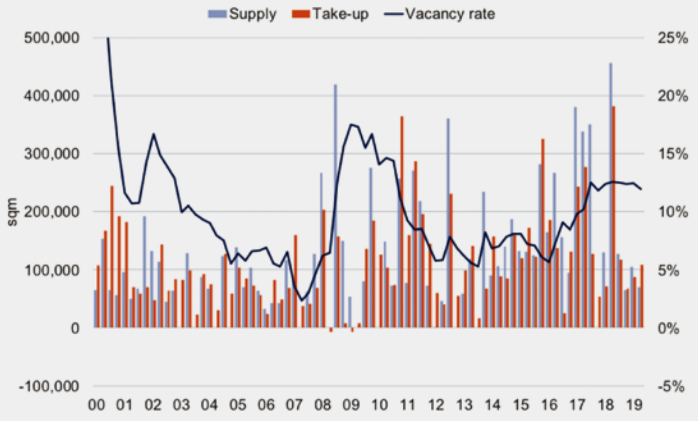
> The question for many international investors is not should I buy in China, but what should I buy that generates a reasonable return, has limited downside and a degree of security.

Today's Market

The current market faces many challenges, but Shanghai's market size and prominence make it difficult for investors to ignore the city. Any diversified, well-balanced global fund must turn towards China, one of the largest property markets in the world, with phenomenal growth over the last two decades that has defied market watchers. The question for many international investors is not should I buy in China, but what should I buy that generates a reasonable return, has limited downside and a degree of security or, failing that, has transparency and liquidity.

For most investors, this will mean commercial asset classes in the country's leading cities. The markets are large, relatively transparent and liquid. Unfortunately, many of these markets are at or near cyclical highs, due to a slowing economy and constrained financing. Many corporate occupiers are looking to limit costs by controlling headcount growth and fixed overheads, and are unlikely to upgrade premises unless there are significant savings or pressing business needs. Many key cities are also seeing the release of a phenomenal amount of new supply, as seen in Shenzhen's Qiantan, Beijing's CBD

Figure 1: Shanghai Grade A office supply, take-up and vacancy rate, Q1/2000-Q2/2019



Source: Savills Research, China

core, Lize Financial District and Tongzhou and many of Shanghai's core and decentralized business districts.

While the financial de-risking campaign has weakened occupier demand, it has also pressured developers' balance sheets as the shadow banking sector, a favorite source of credit for developers, has been curtailed and banks have been warned to be more cautious in lending to developers. This all comes at a time when the residential market for most of the country is recording multiyear low transaction volumes. Developers are caught in a bind and are selectively, and in some cases less selectively, selling off key assets. While many of these may be picked up by better-financed domestic developers or end-users, some international investors are taking the opportunity to acquire assets that might otherwise never have found their way onto the sales market. A drop in domestic fund activity from highs in 2015 to 2017 has helped their ability to secure these deals. These domestic funds, many of which relied on falling cap rates to make returns, now find it more difficult to raise onshore capital.

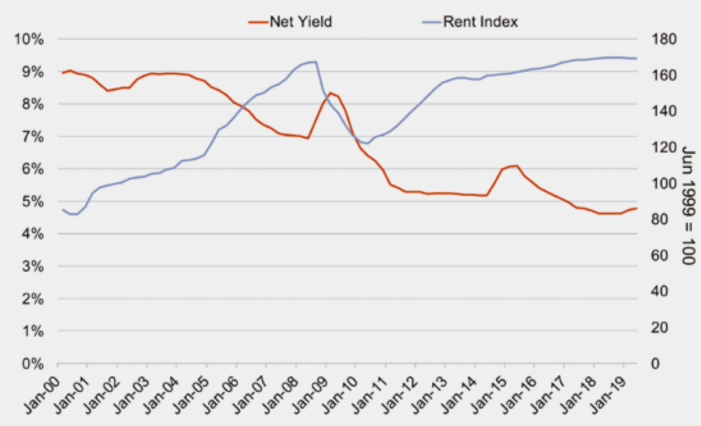
Turnover in Shanghai

Shanghai has seen several large scale acquisitions in the last 12 months by international investors, namely: Brookfield (Greenland Huangpu RMB10.6 bn), Blackstone (Vivo City RMB8.3 bn), CapitaLand (Star Harbour RMB20.5 bn), Keppel Land (Yifang RMB4.6 bn) and Gaw Capital (MixC RMB2.9 bn). These all represent significant investments, with typical deal sizes often in the range of RMB500 mn to RMB2 bn. Most of these acquisitions are recently completed and vacant and, hence, the investor is taking the risk of leasing up the asset. While this should mean that they are given a discount to market, some deals are being viewed as being at-market or even above-market given the unique buying opportunity. Investors are reasonably satisfied, as they are able to allocate funds raised for the Chinese market that needed deployment, while also accessing high-quality assets in decent (but not prime) locations. They also still have some freedom in setting the tone for the projects, through their prowess in selectively leasing to higher-calibre tenants and leveraging their expertise in asset management.

Smaller funds have turned more of their attention to decentralised locations and assets located in one of the city's business parks. The prices here will tend to be below RMB1 bn while prices per sq m are closer to RMB20-30,000. These locations offer relatively easy management, capitalize on decentralisation as district governments develop their own business hubs, and may have a range of potential buyers when it comes to selling the asset—either another fund, family offices, end-users or stratifying the asset. At the same time, the price point is low enough that the scope for price increases is still there. Recent purchasers include funds such as Phoenix Property Investors (Pujiang Hi-tech Park RMB720 mn) and Starcrest Capital (Zhangjiang Pharmaceutical Valley RMB750 mn).

Some of the most interesting investments are by the private equity firms that have bought into real estate companies and organically built these vehicles and their real estate holdings. One of the most prolific and successful investors is Warburg Pincus, which invested in business park developer D&J China in 2014, logistics developers ESR (formerly e-Shang) in 2011

Figure 2: Shanghai Grade A office rental index and net yield, Q1/2000-Q2/2019



Source: Savills Research, China

and NewEase in 2018, refit and conversion company Nova in 2015 and rental apartment operators Mofang apartment in 2012 and Ziroom in 2018.

Numerous opportunities remain in China's real estate market for savvy long-term investors, but higher returns for more traditional asset classes are increasingly challenging to come by.

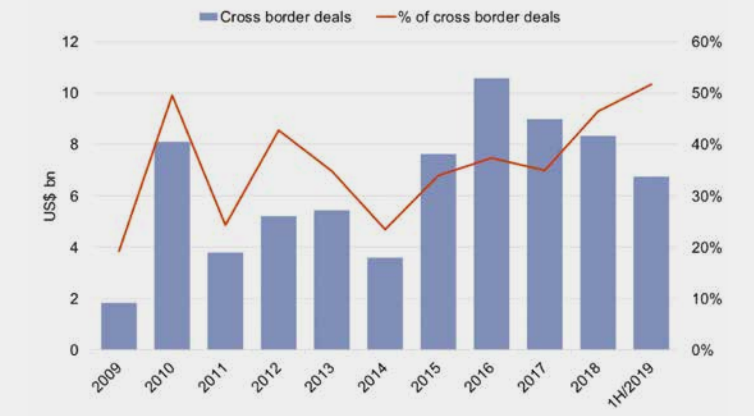
Investments are made in sectors that have strong long-term fundamentals but limited investable stock, with the potential for an IPO in the future or a trade sale. Other examples include KKR's investment in outlet mall operator Capital Juda or Temasek's investment in Columbia Pacific Capital Management.

Opportunity awaits in the debt market

The debt market has gained traction in recent years and is expected to be a significant growth sector. Developers and investors unable to access credit elsewhere will sometimes turn to investors for short-term, costly loans to tide them over or to increase their leverage on an asset where traditional banking facilities have typically topped out their quota (typically 50%). The additional loan—a mezzanine loan—often comes at a high cost given that they are usually unsecured. While investors must be careful, these types of investment can be lucrative if well researched and structured.

Another class of investors are looking at opportunities created when real estate owners are unable to roll over debt or continue to finance existing loans, i.e. non-performing loans (NPLs), and, in China's case, this often also means special mention loans. Banks have been encouraged to recognize and process bad loans to clean balance sheets and move onto stronger financial footing. Most loans in China are secured against real estate, so when loans go sour, the banks, asset management companies or NPL investors will seize the underlying real estate assets at a discount to the valuation cost and then sell the property on the open market. While they may not turn a profit on every asset, the idea is to come out ahead once a portfolio of properties has been processed. This is good for the market, as it helps to reallocate real estate to those that have use for it and increases liquidity in the market.

Figure 3: China wide cross border transaction volumes, 2009-1H/2019



Source: Savills Research, China

Taking a risk on niche sectors

One of the biggest untapped opportunities—but again in relatively risky segments—is niche or growth sectors. These encompass a whole range of asset classes, such as senior housing (Lendlease has invested US$400 mn in a development in Shanghai), data centers, healthcare, education, micro warehouses, sporting facilities or E-gaming arenas. Some of these sectors are relatively immature in China, which has focused in the past on building up scale in industry, infrastructure and more traditional asset classes, but less in terms of purpose-built facilities, creating opportunities for international investors to partner with local entities to develop these new markets in China.

Numerous opportunities remain in China's real estate market for savvy long-term investors, but higher returns for more traditional asset classes are increasingly challenging to come by, market fundamentals are weaker, and the economic outlook is less certain with multiple risks. While risks are not uncommon for real estate investors, the nature and ability to predict and mitigate them has increased. International investors will be aware of the potential for a sizeable currency devaluation, and there could be several changes to regulations that may impact investments in unforeseen ways. These could include changes to tax codes and repatriation of money, as well as the enforcement of previously overlooked contractual obligations and regulations.

Opportunities still exist, but so do the challenges. I

CHALLENGES AND RISKS:

HIRING, INTEGRATING AND TERMINATING SENIOR STAFF IN CHINA

By Jay Hoenig

Jay Hoenig is responsible for strategic planning, project implementation and business development at East West Associates, with a focus on the risk management and engineering/construction industries. Mr. Hoenig was formerly the chief operating officer Asia Pacific for Hill and Associates Group and chairman of Hill & Associates (PRC). Before joining H&A, Mr. Hoenig was Asia Pacific VP and general manager with Bechtel, managing director with Parson Brinckerhoff and senior director at Fluor Corporation.

The HR challenges of hiring and retaining staff are not a new issue in China. For the last 20 years finding the right talent has been one of the major challenges for MNCs operating in China. Not only is the issue highlighted in annual AmCham surveys, in which HR challenges are one of the top five issues, but when attending the annual HR Conference, the HR discussion takes on a much broader and complex context. Today, with the proliferation of better managed SOEs and domestic private companies, coupled with the growing number of college graduates, the challenges of finding and retaining talent remain immense.

Over the years, HR search firms have flooded into China to capitalize on the market. Companies such as Ajinga have developed unique methodologies such as technical and cultural testing to attract and qualify potential candidates. However, in today's environment the risk associated with attracting, hiring, and retaining is focused on "the search" and not on the overall life cycle of the talent acquisition process.

Summary of risks mitigation actions

There are a full range of actions that HR professionals should take in selecting and managing senior talent. However, in our experience the key risks to the company are often not understood or poorly implemented. These risk mitigation actions include:

- Determine whether to select a local or foreign national and what the benefits and risks are of both options.
- Assess whether a candidate should come from a competitor, supplier, regulatory bureau or government. What are the risks and benefits under changing business or political environments?
- Conduct a thorough investigative reputational due diligence to assess and validate the candidate's business acumen and behavior.
- Immediately assign a mentor or coach to assist in the overall integration process.
- Ensure that the candidate understands and accepts non-disclosure agreements and non-compete agreements and actively participates in integrity awareness training.
- If things are not going well, document over a period of time the reasons for termination – for cause, convenience, or resignation. Secure all evidence for termination for cause, whether performance or ethics issues.
- When terminating for cause, immediately secure company vehicle, chops, laptops, phones, keys, access cards, IP/TS, etc.

The HR life cycle

We have segmented the risk occurring during the recruiting, hiring, integration, and termination life cycle into three major components:

- Attracting, recruiting, Assessing, and hiring
- Operational integration
- Termination or resignation

Making a senior hire is an investment in time and money, and may have both short and long term operational / brand risks. This is highly dependent not only on the experience and leadership skills of the candidate, but also on the roles and responsibilities of the position and how the candidate is accepted and engaged in the organization. Many companies fail to address the soft skills needed such as cultural awareness, leadership, internal communications, dispute handling behavior, etc. This is why the initial integration period, coupled with a structured orientation process, is as important as the search itself and is vital for the long term retention of the individual. There are major risks that need to be addressed during all phases of the HR life cycle, from the search to the integration and termination component.

Attracting, recruiting, assessing, and hiring risks

There are both hard and soft risks in hiring, recruiting, and attracting talent. These are some of the questions companies should ask themselves when seeking a senior manager or executive in China.

"Do we have a clearly defined job description and compelling value proposition for candidates to join the company? How will the candidate's roles and responsibilities interface with his peers and C-suite members? Is this a new position with new roles and responsibilities within the organization?

"Have we assessed the importance of management localization versus promoting a seasoned manager from within China or from the home country? How will the company culture be maintained, eliminated or diluted depending on the candidate and the current organizational structure?

"Can this person complement the organization's mission, culture, leadership, teamwork, work environment, CSR, and technical experience? Can they effectively communicate with home office HQ staff?

"Have we established the internal interview process and decision making protocol? Who (managers, peers, subordinates) will interview candidates and who will make the final decision?"

Based on outside input, determine and articulate the appropriate compensation package and performance incentive concepts for the position.

"Have we determined a level of access to sensitive IP and/or trade secrets? How can we identify a potential mole from a competitor or state actor? How important is this and what are the risks?

"Should candidates come from a competitor or government regulatory agencies? What are the risks?

"How do we conduct a "reputational" investigative due diligence to ensure compatibility with the company requirements, governance, and ethics programs?"

- Validate experience, technical, cultural, network, and language compatibility with company needs. Focus on terminations and/or resignations.
- Conduct industry integrity quotient and validation of education, work history, and current salary.
- Identify significant ownership of immediate family members in other companies, suppliers, distributors, competitors and the potential for conflicts of interest and/or unethical behavior.
- Determine the extent of government connections and the pros and cons of these connections. What are the risks?
- Conduct a wealth search and assessment; is the candidate living within the family means?
- Review past and current litigation records.
- Conduct discreet inquiries with past employers, competitors, suppliers, clients/customers on professionalism, business competence, integrity, temperament, dispute resolution behavior in conducting business with suppliers and customers.
- Identify and resolve "red flags."

Case Study #1:

East West Associates conducted a reputational due diligence on a potential China managing director. The company was seeking a local Chinese MD with significant experience working for a U.S. MNC. The MD would be responsible for all functional country operations including sales and marketing, HR, finance and accounting, manufacturing, and public and government relations. After an exhaustive investigation initiated by some earlier contradictions and "red flags" in his CV, it was found that both the candidate and his spouse had significant financial interest in a key supplier to the company's main competitors. In addition, several inquiries noted his dispute resolution behavior was extremely contentious. The client did not proceed with the candidate.

Integration and operations risks

Retention has always been a high risk element when hiring senior management in China. As the country has expanded, more opportunities are available for the talented manager. Once the candidate has accepted the position, how do you structure and implement an HR retention program to enhance engagement, maintain motivation and continuous improvement, and promote a "pay for performance" environment to the new hire?

Large MNCs have proven institutionalized procedures and policies to address retention that include a cultural component. However, even SMEs can and should implement a program to nurture their senior management investment. That said, the retention risks exposure is more significant for an SME.

There are strict China labor and employment law requirements for new hires and if you're a small company without locally experienced internal HR resources, we recommend consulting outside labor law counsel advice. A poorly structured labor contract can have major risks after a termination.

From a risk perspective, some questions that should be asked and programs to be implemented include:

1. Determine the appropriate type of labor contract, compensation terms, bonus criteria, and mandatory probation period.
2. Articulate and sign NDA and non-compete agreements in accordance with labor laws.
3. Communicate how the company will evaluate performance, communication, engagement, drive, and teamwork in China or from overseas.
4. Assign a mentor and coach immediately.
5. Articulate the company culture, team work, collective thinking, risk aversion, "need to know," and creating a performance culture.
6. Develop and implement a career development program.
7. Develop an initial orientation program–visits to the home office, factories, regional offices, and familiarization with individual business units, functions, and managers.
8. Who will provide initial training on company policies and procedures?
9. Emphasize and implement meaningful integrity training, ethics, IP/TS theft, conflicts of interest, bribery, kickbacks, FCPA, etc.
10. Determine the level of authorization for IP/TS access and a countrywide intrusion reporting system.
11. Conduct a performance review at the end of the probation period.

Termination / resignation challenges

As China's economy expands there are many opportunities for experienced senior managers and with that come resignations. In our view, a retention period of over five years should be considered reasonable. Additionally, there will always be reasons for termination, whether based on performance, management style, or ethical issues. Regardless of the reasons, there are major risks associated with terminations, particularly for termination for cause.

The new China Labor Law has specific criteria for termination and prior to any action, the company needs to thoroughly review their legal position and grounds for termination.

- Anticipate terminations or resignations and potential risk to IP/TS.
- Document over a period of time the reasons for termination – for cause, convenience, or resignation.
- Gather and secure all evidence for termination for cause, whether performance or ethical issues. Consider engaging outside consultants.
- For termination for cause, determine civil, administrative, or criminal prosecution. DO NOT just terminate without severance, as it sets a very poor example for employees.
- Immediately secure company vehicle, chops, laptops, phones, keys, access cards, IP/TS, etc.
- Immediately monitor unauthorized intrusion on the company network.
- Review and explain how NDA/Non-compete will be monitored and enforced.
- Conduct exit interviews and feedback to management.

Case Study #2

A MNC client engaged us to conduct an investigation into a a plant manager who was accused of demanding kickbacks from several suppliers. The allegations were sent to the company's audit committee in the U.S. The investigation validated the allegations as clear evidence of unethical behavior and the company decided to terminate the plant manager without severance. Several weeks of planning with us and outside counsel resulted in a termination plan that would not only address labor law issues but also ensure there was no business disruption to the organization. The day before and the day of the termination, the manager's personal company assets were secured. These included laptop, phone, office keys and access cards, company car, all chops, etc. The termination was conveyed by the regional VP at a public venue, i.e. a hotel. Outside, security was engaged and standing by in case the situation became unruly. As the evidence was undeniable, the plant manager accepted the termination without repercussions.

▶ Hopefully the package was good

Foreign companies in China have long been aware of the challenges and risks involved in recruiting, hiring, and retaining senior management staff. Today, there are proven actions that companies can implement to mitigate the risks of hiring unsuitable candidates or failing to retain qualified professionals. While these risks can be significant and could have a lasting negative impact on a company's operations, staff, financial performance, or brand, the rewards for running a good management process can be immense and can drive the long term performance of your Chinese business. I

SPREADING A LOVE OF THE GAME

A Q&A WITH RICHARD YOUNG ABOUT HOW THE NFL IS BUILDING A FOOTBALL FANBASE IN CHINA

By Leane Quinn

Richard H. Young is the managing director of NFL China. Richard joined the NFL as managing director of NFL China in December 2010. Previously, he helped launch China's first nationwide HD sports channel and founded The Young Company, which provided consulting services in production, distribution and media rights in China for leading sports leagues, broadcasters and commercial sponsors. Prior to living in China, Richard worked at ESPN STAR Sports as vice president of the Event Management Group and Programming Development, where he managed over 100 events in 13 different countries over 8 years across Asia.

Could you summarize the NFL's presence in China?

Our key focus is growing our fanbase. We believe we have a very good sports and entertainment product. All sports have great moments, but to watch a sport regularly, week in and week out, it needs a mixture of depth, complexity, speed, physicality, and we believe football has that. You get a solid return on investment of your free time, so to speak. To achieve growth, we go "through the line." You have above the line, which is media: social media, online media, free-to-air broadcasts. We also do below the line, which includes flag football, youth football, clinics, on-ground events - all those tangible elements. As you grow your fanbase, you can then begin to drive the elements that are the core of any sporting business. Those include media revenue, sponsorship revenue, ticketing revenue, and consumer products and merchandising.

Why China?

We have been very successful in the U.S., and many times when you are successful and continue to grow in your home market, you can neglect or be slow to emphasize international expansion. But the most valuable NFL asset is its fans and we believe there is a big opportunity here in China to increase that asset. Many people assume that football is uniquely American, but there is nothing uniquely American about it. It goes the opposite way as well: even just ten years ago, many Americans thought that for soccer to become popular in the States, the goals would need to be wider on the premise that Americans don't like watching low scoring games.

I remember as a student in Beijing in 1990, I took a friend for coffee. Admittedly, the coffee wasn't very good. At that time in Beijing there were no Starbucks, you could only get coffee in hotels. My friend was polite and drank it down, but I could tell it was clearly not his taste. He said, "Thank you Richard, that was an interesting experience. But I'll tell you, Chinese people will never drink coffee."

I don't think that coffee is going to overtake tea anytime soon. And I don't necessarily think on a volume basis, as far as participation, that football will approach basketball or soccer anytime soon. But Starbucks understands the consumer journey and why you go to their stores as opposed to elsewhere. I think that we understand the consumer journey very well.

Last year in my hometown in Massachusetts the soccer fields at the end of my street were turned into cricket fields. Is this the sort of long-term transformation you're hoping for?

That's a great example. How would you promote cricket in the U.S.? People here say, "Oh, you've

▲ Not the Eton wall game

got to get football on CCTV." Free-to-air television is a part of our strategy, but you wouldn't put cricket on ABC and run it for hours and expect people in Massachusetts to start playing it. You have to seed it and build the foundations of the fan base first.

You start with a marketing philosophy of the "adopters" - people who utilize the sport for their direct and immediate benefits. They identify with it. In terms of cricket, generally this would start with people from the Commonwealth. Whether you are British, Indian, Australian, etc., cricket allows you to connect to home when you are living overseas. As this builds, you create "adapters" – people who are interested because others are interested. The NFL is now well into the adapter phase. We started with people who lived or worked in the U.S. They helped plant the seed by starting local leagues. Now, people who have never been to the United States are watching NFL content.

The "adopter-adapter" model is very influential. A lot of people don't get that and think the key to success is just getting the product on TV. If Facebook hadn't used the "adopter-adapter" model and instead first asked the general public, "Hey, how would you like to put all of your personal information on a computer system for everyone to see?" the website would not have had the success it has today. But they started off with college students, and college students are interested in meeting other college students. That was an adopter moment. Why is everyone else on it now? It's because other people you know are on Facebook. It's a network effect. That's what we've done.

> "We started with people who lived or worked in the U.S. They helped plant the seed by starting local leagues. Now, people who have never been to the United States are watching NFL content."

Is the foreignness of football an asset or a weakness?

In the adopter phase I think it was an asset, but our goal now is certainly to decrease the foreignness of the sport. The NFL has not done a very good job of this in the past, but football is a quality product, and everyone, regardless of where they are from, can enjoy the depth and complexity of this sport. In the beginning, if there is some foreign aspect to it that makes it look unique and defines it, it sets you apart. But now we want to focus on the quality of the sport. We've seen huge growth in kids playing the game. It's not about the foreignness, it is about the quality and enjoyment of watching or playing the sport. Most of the interest comes from parents finally seeing the benefits of playing team sports. Football teaches both interdependence and the importance of doing your job.

Is the main goal to build a fanbase centered around digital content of U.S. teams?

The primary media focus is streaming, which is done through our partnership with Tencent. In China, free-to-air television is state controlled and linear, meaning they can only put one game down the line at one time. Because of the time zone difference, live coverage of games occurs when people are either getting ready for work, going to work, or at work, so they are not in front of a television set. As a result, we have to deliver the product when and where the consumer wants to view it. The only way to do that is with a mobile device. About 96% of our fans watch on a mobile device, so if that wasn't available, we would have a much harder time fixing an adopter, or even adapter, of a white-collar, higher education, correspondingly higher income demographic to a television set on a workday morning.

We aren't changing the game itself, but the way we package it for China is different. While the live view numbers are growing well, the major growth is in the view numbers of our videos-on-demand. When you get over 140 million people watching Super Bowl clips alone, you know that is how you must deliver the product - not just translate highlights, but also localize them. A video highlight on how the nickel defense protects the over middle passes is less interesting than something that is localized for China, like a direct highlight of an amazing athletic achievement during the game. We are the only league in the world, except for the Indian Premier League, where every team makes money every year. To export that business model into China is something that helps the entire sports landscape, especially the domestic leagues that are developing here.

NFL has tried to hold a game, what's the outlook on this happening? Why has it been delayed?

We took a long look at holding a game in China in 2007 in advance of the 2008 Olympics but decided not to because of facilities and other considerations. Sometimes news media will report that we are considering having a game on a specific date or year. This isn't technically wrong, because we're always looking. But this process is challenging. Our game is best played at 100% and is not best represented by a pre-season game or exhibition game. We want to hold a full regular season game because we think our fans deserve the real product. Each team only has sixteen games, so moving a game to China would mean taking one eighth of the home games away from a team, which is not easy. That said, I think we will eventually hold a game over here, but because it is so valuable, we want to make sure that it is a part of a larger strategy. We are not going to do it just to say, "we staged a game in China," as it will be almost impossible to do a game annually and one game won't have as big an impact on the fan base as people think. In the meantime, I am far more excited about our growth in media and our growth in fan base.

NFL and Youku entered a partnership for short form content. How successful has this been, and how do you measure success?

It's been very successful. Youku is continuing to get stronger in the sports sector. Our live games are exclusively on Tencent, and that has been an excellent and very productive partnership. Having highlights on Youku allows us to deliver our content to an even broader audience.

We measure highlights' success on a scale of video-on-demand watching and average minute watched. We worked with Youku previously, three seasons ago, and it was successful. We decided to go exclusively with Tencent for our live games and then concluded a deal last season for a highlight package on Youku. I know they are excited about this season as well and the opportunities that will bring. I

How to Build and Manage Digital Initiatives

Q&A with Lewis Choi, Thermo Fisher's VP for Digital Solutions

By Juliusz G. Mosoni

Lewis Choi has over 19 years of experience in various capacities that have been focused on Enterprise Solutions and Transformational Initiatives. He graduated the University of California, Berkeley in 1999 with a major in ISF – Organizational Behavior. Lewis leads Thermo Fisher Scientific China's Digital Solutions Organization, which covers IT, Cloud Applications, Digital Marketing, Data Science, along with the commercial operations for LIMS Solutions. The Digital Solutions China Organization is structured to understand the customer, build insights, and help deliver solutions that will help accelerate science for customers and enhance productivity internally.

Is the term "digital transformation" thrown around too freely these days?

With all of the attention given to "digital transformation" initiatives, I do think the term is used quite often and that has created a sense of numbness to what it can actually mean and influence. In some cases, it is used when only referring to discussions with your IT or digital teams, but my understanding of it is more comprehensive than that.

When I think about digital transformation, I think about business transformation. I think about organizations that have to transform the way they engage their customers, how they do business and how customers expect business to be done. Knowing that customers are changing, mindsets are changing and technology is making a shift, the question is how we transform as an organization, leveraging what a lot of people are calling the next industrial revolution. There is a sense that whatever got you here may not get you where you want to be tomorrow. It is not purely about the latest technologies, it's more about how we as a business evolve.

DT is a major undertaking from an organizational point of view. How do you bring the different teams together?

You must start with your go-to-market strategy. Even though it's called digital transformation or digital initiatives, the discussion cannot start with technology. It must start with answering what your business objective is, what your strategy is to approach the customer, who your customer is, and so on. Once you are able to identify what problem you are trying to solve, then it's a matter of building a team, the right organizational structure and operating mechanism to make sure all the aspects are covered. You also have to think about all the different layers beneath the surface, such as the quality of your data and how optimized your processes are. These are areas that often get missed.

The best way to execute some of these major projects is having different workstreams underneath the program with different leaders that have a high level of coordination and communication between them. This has to happen in order to ensure that you're all going down the same path. Leadership has to be highly engaged as these projects are never easy and there should be an expectation that there will be challenges. Program management is critical; you have to put the right mechanisms in place in order to clear hurdles and align the appropriate expectations. At Thermo Fisher, we have executed a lot of complex digital initiatives that have required strong leadership and strong alignment, from the business goals to the technical execution. It builds on the organizational commitment and alignment from start to finish.

Is there need for a central figure who is responsible for all aspects of digital in order to accomplish anything meaningful?

If you want to be innovative, especially in the digital space, you have to hire good people and get out of their way. One person's not going to have all the details; they are not going to be able to make the best judgement calls all the time, because they are not spending enough time in each area. So you get the right people who are spending enough time in the right areas, you trust them and you empower them. If people are waiting for one person to tell them what to do, they are going to lose track and lose motivation. You empower people to make the decisions and hold them accountable, as well as ensure people communicate with each other well. That is when great ideas come together and the power of an organization comes together, rather than one person trying to figure it all out. If you have a culture where the best idea wins through collaborative discussion, that is ultimately the direction you want to go.

What are some of the typical roadblocks and how do you overcome them?

There is a balance between short-term outcomes and longer-term results. If you are an organization that's thinking about the month and the quarter and how to get immediate benefits, compared to an organization that is building something sustainable and scalable for the future, that polarity can be a factor.

Almost every initiative that comes forward talks about the digital nature of what it needs to achieve. What you'll have is an influx of many ideas and many people that want to do things, but you have limited capacity, budget, and people. One such roadblock could be that there are just too many good ideas and things to work on. So how do you prioritize and know something is ready? A lot of times it's not what you choose to work on, it is what you choose not to work on.

Another hurdle is to avoid letting the buzzwords push you into something your customers may not want or need yet. Many people ask about blockchain, machine learning, AR and VR. But ultimately, that can turn into a hurdle because it just gives you a new area that you have to focus on and invest in.

What we do in our organization is we make sure that everything that we work on is outcome-driven, and we start by employing the right people. The key skillset to look for in your organization is a high level of learning agility. Those that are constantly keeping up with the latest trends and news as well as expanding their toolset are those that can be instrumental to your organization's ability to support digital transformation. Then you have a "toolbox" with a hammer, a wrench, a screwdriver and a saw. The question then changes from what technology we could use, to what problems we can solve, and what tools can be used to solve it. Instead of saying that we need to leverage blockchain, the conversation should be more about the problem we are trying to solve and what technology we have that we can be leveraged today and what we are exploring for the future.

How do you break down departmental silos?

The silos are very difficult and are an ongoing challenge. It starts with your goals and how you are measured. If you are able to align your goals and metrics, then it is easier to bring people together to work outside of their silos. The more you have independent goals and KPIs, logically the more you will have silos. At the end of the day, everybody wants to be collaborative and work together, but if their paycheck doesn't reflect that mindset, they are going to do what's best for how they're getting incentivized.

What is the best way to deal with internal resistance when working on new initiatives?

You have to put people in a room and then make sure that the best idea wins. A lot of times, you can get to a point where you've been doing the same thing for so long that you are not necessarily open to new ideas. Therefore, I'm a big proponent of running iterative, agile initiatives. I really like the phrase "think big, start small." In a sense, you can start something small that builds the foundations while you demonstrate the value on an iterative basis and keep the big picture in mind. At some point, the people who've been doing things the same way will soon see the benefits.

People must develop an open mind; they have to understand learning never stops and that you must keep evolving if you want to keep up. Whatever worked before may not work in the future. If you don't take the right foundational steps, you're going to fall behind and it will take a long time and a lot of investment to catch up.

If you want to pitch, implement and keep a new initiative rolling, you need to be able to evaluate its impact. How do you measure success/failure with digital projects?

You want to be a data-driven organization. Either your initiative is going to generate growth, whether it's revenue growth, lead generation, online traffic or conversion rates, etc., or it can impact productivity. You can look at savings, for example. Create a baseline of what it takes to service the customer before and after so that you can calculate what soft or even hard savings are going to result from the activity.

We also track customer scoring to measure initiatives that impact customer engagement. While the first two examples, growth and productivity, are more straightforward, this one is much more difficult to interpret because when you have different teams engage with the customer, everyone can say that they impact that score and it's really hard to differentiate. This one takes more work, you have to get much more specific with the customer journey and where the gaps are. It's a classic game of measurement. There is always data you can use as long as you agree upon what to measure and what equals "success."

> "Business transformation is not going to happen just because you say you need to do it; you must show value."

This is a never-ending journey; you have to re-evaluate your transformation constantly. There are also stages: you have to get some quick wins at first to show the value of what you are doing, but then you want to go back to the business transformation aspect. At this point, you use the results you have achieved to influence change— true change. That cycle of providing value and influencing business transformation is what you need to keep reevaluating and balancing. Business transformation is not going to happen just because you say you need to do it; you must show value.

So what can you do when your organization is unable to absorb these data insights?

You can't convince everybody that these data insights are going to help them. It's going to require learning new things and a lot of work. So what you have to try to do is influence some leaders, pilot something with a few people. But the data, the results have to show. It really has to be where the data becomes accepted and the value is clear. Trust in the data and that it can be used to support the organization in reaching its overall goals will be critical. You have to prove the benefits and let the value speak to the people who need to use it. The role of a digital leader depends on their ability to influence more than ever before.

Digital in China in 2019 is different from other markets. What can foreign businesses do to make sure they remain competitive?

For an MNC in China, you must build capabilities in China and your local team has to understand the China market. Your market priorities might not be the same as in your home headquarters, but if you want to be successful here, you have to operate within China's market dynamics and regulatory environment, and you have to engage with the customer and learn from them, as change occurs more frequently than in more traditional markets.

The ability to adapt is key. One popular example for this is Didi. Another global competitor opened shop in China before Didi, but Didi ended up taking over the market. Didi was able to really get close to the customer and know what their needs are, to iterate and make changes quickly. That's the biggest struggle between local and global companies: the global company has to provide the value of scale but also understand that they have to be nimble and adjust to market demands; this can really help success. I

A Conversation on Clobotics

How George Yan left one of the world's biggest tech companies to launch an AI startup

By Chloe Chan

George Yan is a founder and the CEO of Clobotics, a computer vision startup that uses robotics and artificial intelligence to capture and analyze images for energy and retail companies. Founded in 2016, it is headquartered in Shanghai and Seattle. Yan spent 16 years at Microsoft in the U.S. and China.

What inspired you to leave a high-level job at Microsoft and found your own startup?

At a large company, you take all the resources you have at hand for granted, especially after you've been there for a long time. You know all the people and how they work, and you know the intricacies between the different departments, so it becomes second nature to utilize these resources. It's very interesting and fulfilling the first or second time, but eventually it becomes mind numbing.

I was at a stage where, as the head of operations and marketing in Greater China, any further growth would be incremental, and such challenges aren't all that fascinating. Every two years or so, I like to take on a challenge that I've never done before. At Microsoft, I started as a developer before becoming a product manager, and then eventually coming to China to run engineering. I even had a chance to work hands-on with the market and operations on the business side. At that stage, I felt like I'd gone through the entire process ... from development, to product management, to building a product, to selling a product, to business operations. I had this entire skillset, and I wanted to see if I could put all that experience together to do something worthwhile on my own. It was a leap of faith, but it has been extremely rewarding.

What were the biggest challenges you faced in this initial transition?

The biggest challenge for me was getting adjusted to the startup world. Even today, it's a constant learning experience for me and my team. Many of us jumped from multinational corporations into the startup world, and we quickly realized how addictive it was to have the brand, the coverage, the exposure of a multinational platform. You feel great about yourself as if you can do anything, but in reality, 80% of it is because of the platform that you're on. Being on your own without that support, you have to really focus on that 20%. The journey is super fulfilling—building your own platform in a very fast paced environment and transforming it from an unknown entity into something well respected in the industry—but it's super challenging as well. The big self-realization you have that at 40 years old, that you are nothing without your platform, is a rude awakening. But once you hit that bottom you can pick yourself up, and eventually look back from a higher level.

In your experience, what makes a startup successful and stand out from the crowd?

I can't say I have the secret formula for a successful startup. What I can say though is that every step of the way, we felt that this was a learning experience. As long as what you're doing today is better than what you did yesterday, you're on the right track.

As a startup leader, it's important to be humble and willing to admit that you don't know everything, and you're not always right the first time. Everything is changing around you so fast that if you're fixated on one idea or one path, the wave that's coming at you is going to knock you out. There's very little chance of success if you're unwilling to adapt.

Of course, there are stories of some person that sticks to one idea and becomes a billionaire, but the likelihood of that is incredibly slim. In a startup, you're basically playing an opportunity game of chance and statistics. So instead of betting on one thing that has a low chance of success, it's critical to have a prudent look on reality and give yourself the right to change your mind as you get more information.

What aspects of Clobotics' current work make you most proud?

Clobotics is a computer vision company, but we pride ourselves on our ability to do both hardware and software from day one, which is a unique way of building up a company. Doing one of the two is already hard enough, doing both at a high level is extraordinarily difficult. But we fundamentally believe that if you want to fully leverage AI or computer vision, you must have capabilities on both the hardware and software side.

This goes back to the notion of "garbage in, garbage out": the better the information that your hardware captures, the easier it is for your engine to process it at the backend. Thus, having the ability to optimize hardware to alleviate some software challenges at the backend is critical. Many AI companies claim to have created great algorithms, but while they may work well in a research environment, they never work well in practice. The different lighting, different shading, different blur, different location of the product . . . if you add up all these outliers, it becomes the norm, and it drastically reduces the algorithm's capabilities and accuracy. We are engineers at heart, not researchers. We want to make things work in practice, which is why we must have hardware capabilities to complement our algorithms.

> "We are engineers at heart, not researchers. We want to make things work in practice, which is why we must have hardware capabilities to complement our algorithms."

What do you see as the future impact of AI on business?

There are two parts to this. First, I think AI is going to be as pervasive as the internet is today, but the way we approach AI will change. There won't be certain companies that define themselves as "AI companies"; instead, AI will be a pervasive tool, and there will be many more companies like us that are very deep in certain verticals, using technology to help traditional enterprises to expand their capabilities.

Think back to the year 2000, for instance. There was the internet wave, and a lot of companies claimed themselves to be "internet companies". But today, there are no purely internet companies that use internet for the sake of internet. Instead, there are internet providers which service other industries, like entertainment companies, or e-commerce companies, or social media companies, which leverage a lot of internet.

I think AI is going to have the same sort of influence. Instead of developing AI for AI's sake, we will move towards leveraging it as a tool. Second, I think there are going to be stricter rules and regulations on how protocols of AI are applied to different industries. Since AI relies on machine learning, its capabilities depend on what data you feed it, and it could potentially be pushed to do things that are unnatural or unintended. I think there will be an increasing amount of scrutiny on what data you can collect, what data you can feed into a machine, what tasks you can teach a machine to do, etc. Therefore, we were keen from the beginning to avoid any sensitive data. By being a purely commercial company, we avoid any such security issues, which will hopefully fuel our growth.

What is your perspective on the growing fear that AI will take away human jobs and exacerbate wealth inequality?

I'm going to use an example from when we first began investigating wind power. To visit a wind farm west of China, I took a plane to Xi'an, then took a three-and-a-half-hour bus ride, then rode two hours on a tuk-tuk, then walked ten kilometers to get to the wind farm. And when I finally arrived, it was a no man's land. There were maybe three workers, and they're stuck there for months at a time. Not many people want to be in these places. They're isolating, they're hard to get to, they're mentally exhausting to work at. Worse still was watching the worker do the inspection. Picture him. The guy's in his early 60s, hair all white, and he's putting on a couple of these safety belts, and he's climbing up the tower 100 meters to examine these giant turbines before climbing back down and moving hundreds of meters to get to the next turbine. It's a crazy job.

That is why I think it's not actually a matter of replacing people's jobs; rather, there are simply jobs that no one wants to do, jobs that are inefficient or repetitive or overly strenuous, and I think people's time and energy should be spent on things that are more worthwhile. Another thing is, the same arguments get repeated every time there's new breakthrough technology; for example, people were afraid the internet would take away jobs too. But it never really happened, because we have a way of evolving and taking advantage of opportunities that emerge from technology transformations. In the same way, jobs will still be here, even if AI eventually becomes applicable to many environments. After all, who will do annotations of data? Who will conduct the collection of data? Who will filter useful data from junk? There will always be work that needs to be done.

I've always had this notion that today, although many people talk about artificial intelligence, 90% of so-called AI companies are in fact mostly manual because technology just can't do everything. I think you will always find a balance, where more educated people work at advancing technology while lower-end workers make existing technologies work. In the end, you can't look at society as a fixed notion. The elements are changing, and there will constantly be old roles changing and new roles to fill.

Having worked in both U.S. and China, what differences stand out most to you in terms of the business environment, and what was the strategic decision in having dual headquarters in Shanghai and Seattle?

By having dual headquarters, we get the best of both worlds. We found that the environment in China is very fast paced, as customers are more receptive to new technologies and new startups, and they have a tolerance for imperfect solutions, which is very fitting for a startup like us. So, having an engineering team here to be close to the market is great. But we're not just an engineering sweatshop, we need to develop our own core technologies.

Looking at fundamental research from different fields, we found that it's much better to do research where people can work consistently for long periods of time without being distracted by noise. The market here is very noisy and people jump from idea to idea very quickly. Research can't be done like that. That's why we have a R&D headquarters in the US, so talented researchers can focus on what they're doing without all the noise. That's also why we chose Seattle instead of Silicon Valley, for example.

Another thing is, from a business perspective, the principles are very different. In China, it is about the product, but there's also a human factor. You must build relationships and think about how to work with an enterprise from a holistic point of view. In the U.S., it's much more clean-cut and straightforward. It's important to adapt to each market while also holding a line of where your principles are.

Therefore, working with multinational companies is very helpful to us as we speak very similar languages, and they're incentivized to focus on the product and the technology and market. The final part is, because China is so fast paced, we can use China as a testing ground or a sandbox. We can make technology in China and hone the skills, and once we are able to fulfill the complexity of this environment, then we can take the product and go global so we have the opportunity to land in Europe, the U.S., Latin America, etc.

Take wind energy as an example. China has a third of turbines worldwide, so this is a great market for us to tackle and work out all the kinks of the product. Then once we are ready, we go global, and our global customers know that because we have technology that works in China, it's much easier to apply it to the rest of the world.

Last year, you indicated interest in markets in Southeast Asia, Europe, and North America. What impact do current political affairs have on Clobotics' aim to target global markets?

The current global affairs is really a U.S.-China dispute, and it is going to be resolved sooner rather than later. But this is a world market, and we like to diversify our investments into different areas. What we do isn't limited to U.S. and China; we are also involved in markets in Southeast Asia and Latin America, places that are less likely to be affected by the U.S.-China trade relations, and we started early.

We have an office in Singapore, and we invested resources there to cover the Southeast Asia region two years ago. Now it's starting to pay off. We also have customers in Vietnam and in Thailand, and we're exploring other countries as well. This way, we hedge our bets, and we think it will pay off in the long-term. We also closely watch world tensions between countries, and we strategically place resources in places with less political turmoil.

Do you ever miss the security of a monthly wage packet?

Honestly, I don't think I'll ever be able to go back. Once you experience the excitement of building your own company, of hiring the right folks and assembling a team and fundraising and gaining customers and operating a business and problem solving, you feel like you've seen the whole world. Going back and working with small bits and pieces is no longer going to fill my appetite.

My goal now is to make sure this place will have the longevity to continue even after I'm no longer the CEO. I want this environment to have the right culture so all the different people who come in can be brought to the next level… rather than simply executing small parts of something that's already been built, I want to shape the growth of the entire company. I

Compliance in China: To Be or Not To Be?

An easy question to answer during uncertain times

By Dr. Tim Klatte

Dr. Tim Klatte is a partner and head of the Shanghai Forensic Advisory Services practice of Grant Thornton China. With more than 25 years of China-related experience, and over 13 years working in Shanghai, Tim has conducted approximately 500 investigations across multiple industries and in all regions of China. He holds both an MBA and DBA, with concentrations in international business. His doctoral dissertation is titled *"U.S. Manufacturing Sector Strategies for Effective Offshoring to China."*

In today's complicated business environment, the interpretation between right and wrong is often a difficult ethical dilemma. There is a need for whistleblower-like regulations to be in place that are objective, consistent and complete. Additionally, when reflecting on today's code-of-conduct practices, it is common to observe outdated, irrelevant and often ignored criteria. As such, a unified and enforceable approach is the best guideline for sustainability.

The Foreign Corrupt Practices Act (FCPA), enacted in 1977, is a United States federal law that prohibits bribing foreign officials for their assistance in obtaining or retaining business. This act can apply to such related behavior anywhere in the world and extends to publicly-traded companies and their officers, directors, employees, stockholders, and agents. These agents can include third-party agents, consultants, distributors, joint-venture partners, and others. The FCPA requires issuers to maintain accurate books and records, as well as a system of internal controls to provide assurances that transactions are executed and assets are accessed and accounted for per management's authorization.

In the last few years, the number of enforcement actions by both the Department of Justice (DOJ) and the Securities & Exchange Commission (SEC) has increased significantly, including two high-profile announcements, Walmart & Microsoft, in June & July, respectively. It's important to remember that FCPA enforcement is not limited to U.S. companies; all organizations with business activities in the U.S. are liable for review and enforcement.

I will share a refresher and relevant updates to the FCPA, as well as introduce the DOJ's China Initiative, launched in late 2018, and tie this strategic program to lessons learned so far to mitigate future occurrences. Knowing how to create a culture of compliance in your organization is a challenge, but being able to apply it beyond theory against the backdrop of competing priorities and reduced budgets – not to mention while in the crossfires of a trade war – is an entirely different mission.

Two brief updates

While the FCPA principles remain unchallenged, the act continues to mature into a streamlined and world-leading fight against corruption. In May 2018, U.S. officials amended the FCPA to avoid piling on enforcement, seeking to "discourage disproportionate and inefficient enforcement that can result if multiple authorities repeatedly pursue the same violator for the same misconduct." Officials have also decided to limit the depth of specific investigations. Previously, to qualify for cooperation credit an admission of every employee's civil liability was necessary. This expectation was however acknowledged as inefficient and pointless in practice. Companies are now expected to focus on identifying individuals who were substantially involved in or responsible for the misconduct. These two FCPA amendments have been implemented to not only facilitate the process overall, but to also help resource-constrained agents do their work more effectively. The DOJ's introduction of the highly-anticipated "China Initiative" in 2018 has also significantly changed U.S. enforcement priorities moving forward.

Introducing the China Initiative

The DOJ announced an unprecedented strategy on November 1, 2018 called the "China Initiative." Since the FCPA's inception in 1977, Mainland China has remained the location with the most enforcements, with 57 as of June 30, 2019. This data indicates that while China has been on the U.S. enforcement radar for decades, the DOJ did not single out China with a targeted initiative until late 2018. It marks the first time in DOJ history that a foreign country has been targeted for such a high-profile program. The focus of the China Initiative is to counter Chinese national security threats against the U.S. and safeguard U.S. economic interests, at a time when U.S. lawmakers remain on alert for intellectual property infringements. Led by DOJ National Security Division Head John Demers, the mandate of the China Initiative is to identify priority Chinese trade theft cases, ensure they have enough dedicated resources, and guarantee these cases are concluded quickly and effectively.

> "[The China Initiative] should serve as a cautionary sign to Chinese companies competing with U.S. companies in their international operations that they face a higher prospect of investigation or prosecution by U.S. regulators."

Only time will tell the effectiveness of the China Initiative, due to the current climate of uncertainty in U.S.-China relations. Still, this new priority should serve as a cautionary sign to Chinese companies competing with U.S. companies in their international operations that they face a higher prospect of investigation or prosecution by U.S. regulators. The China Initiative essentially makes it clear that the U.S. Government remains focused on Chinese companies competing with American businesses and now has grounds to refer all allegations to the DOJ for enforcement.

The China Initiative comes during a tense moment in Sino-U.S. relations, and it may also have implications for American businesses with operations in China. As U.S. enforcement agencies prioritize their actions against Chinese companies, this could also increase the Chinese government's focus on enacting similar retaliatory measures against U.S. companies in China. Recent amendments to the Criminal Procedure Law suggest that the Chinese authorities are ramping up anti-bribery enforcement efforts. One fundamental change encourages corporations and individuals to cooperate in corruption and bribery investigations by codifying leniency rules for cooperating individuals and entities. Additionally, the recently-amended Anti-Unfair Competition Law and the newly-enacted National Supervision Law give the Chinese authorities more power to investigate official and commercial corruption cases.

The Chinese government has already demonstrated its willingness to retaliate against the U.S. government for tariff increases and may take a similar approach in responding to the DOJ's China Initiative and any resulting increase in U.S. enforcement actions against Chinese companies. Considering this activity on both sides of the Pacific, what steps should U.S. companies in China take to implement robust compliance programs? Each local strategy should include the following five elements to minimize exposure and mitigate risk.

Fortifying your compliance program

1. Training, training, and more training: In today's operating environment, all employees need a thorough understanding of FCPA and Chinese anti-bribery laws. Relevant case studies and simulations of how an employee might be approached to pay a bribe are useful and interactive training approaches. Educate employees on not only what bribery entails but the penalties, fines, and punishment meted out to the company and its employees that committed the act. Employees must understand that if they observe violations, it is their responsibility to appropriately report. Compliance training should be a continuous strategy conducted in person throughout the year and based on new examples of possible bribery situations. It's important to give training in the local language with industry-specific fraud issues. Finally, training shouldn't cease at the company gate. Consider providing in-person training to your business partners, as they are often viewed as an extension of your organization's reputation in the market.

2. Integrate compliance into other related programs: FCPA compliance activities should be built into an overall anti-fraud and regulatory program, such as international trade compliance and general fraud exposure. Matters related to the FCPA are legally distinct from other regulatory areas, but in practice, they share many parallel issues. Integration of similar compliance activities is logical, less expensive, and more likely to be effective than multiple independent stand-alone activities. Inclusion indicates a systematic program that management values and headquarters can easily support, especially when requesting budgets to execute such strategies.

3. Communication, communication, and more communication: Communication is also vital when solidifying a compliance strategy in China. It is essential to communicate on a local level, in the local language, and often at a facility-by-facility basis, that the company has zero-tolerance for violations of its anti-fraud policy. Focus on what is expected of each employee regarding compliance; specifically, how to report potential wrong-doing and the consequences for failure to live up to those expectations. This could be done via local training and written policies that are regularly provided to employees and distributed amongst company stakeholders, while extending specifically to vendors and suppliers.

> Without a robust local compliance strategy, U.S. organizations become susceptible to fraudulent behavior and often become exposed globally as a result of their actions in China.

4. Conduct integrity due diligence on potential business relationships: Due diligence has become more challenging to complete given recent limitations on obtaining company records in China. Nevertheless, it is still required as a fundamental element of an effective compliance program. Due diligence must be conducted locally using reputable companies that appreciate and follow the local laws. Consider using firms that specialize in due diligence with trained investigators and independent data to validate assertions. All contracts, agreements, policies, and other compliance-related documents must explicitly require adherence to all applicable laws and regulations. Contracts and agreements with third parties should also include wording related to compliance and outline clear language for when these standards are not upheld.

> A key to staying one step ahead of white-collar criminals is to think like the fraudsters.

5. Implement proactive fraud detection testing: A key to staying one step ahead of white-collar criminals is to think like the fraudsters. One approach is to incorporate proactive programs, tools, and tests designed to identify high-risk transactions, instead of waiting for them to be discovered through other means. Developing a data analytics platform and implementing standard fraud testing are two proactive strategies worth considering. The key is to leverage local data in the high-risk areas and tailor the tests to frauds commonly encountered in those areas. Large commission payments, payment records with specific keywords, payments not made in RMB, or payments sent to different locations are a few examples of data companies can use in proactive fraud detection. From an FCPA perspective, below are two examples of enforcements that may have had a different result if proactive fraud detection measures had been more strongly implemented:

- In the Eli Lilly case, sales employees submitted fraudulent expense reimbursements to disguise cash payments to doctors. Companies could analyze trends in expense categories prone to manipulation (miscellaneous, cash advances, entertainment, meals, gift cards) and benchmark them against similar industries to find high-risk transactions.
- The GSK case involved the use of third-party vendors to disguise payments. Companies could analyze accounts payable vendor master files to identify either large or frequently recurring payments in typically high-risk services such as consulting, travel, legal and professional fees. Any suspicious transactions would then be compared to documentary evidence and investigated further.

Closing thoughts

The global enforcement environment now puts compliance professionals at center stage to develop and implement their headquarters' sustainable local strategies. Innovation and proactivity are key themes of this evolution however, in situations that are often hampered by economic and regulatory restrictions. The FCPA pipeline continues to grow and remains highly active for the foreseeable future. During its first full year of the China Initiative's implementation, the DOJ has not been shy about bringing China-related enforcements forward. John Demers indicated in the spring of 2019 that Massachusetts was a primary interest of the DOJ's China Initiative. The state has been labeled a "target-rich environment" for IP theft because of its "research universities, biotech, cybersecurity, and defense firms." Without a robust local compliance strategy, U.S. organizations become susceptible to fraudulent behavior and often become exposed globally as a result of their actions in China. From updated regulations in China to the China Initiative in the United States, now is undoubtedly the time to place compliance at the forefront of your company strategy and empower the professionals who shoulder this responsibility daily. Developing a compliance framework to implement across your organization is, at every level, the best initial step. I

U.S.-China Relations in a Time of Tension

An interview with Fudan University's Wu Xinbo

By Chloe Chen

Dr. WU is professor and dean, Institute of International Studies, and Director at the Center for American Studies, Fudan University, China. He teaches and researches China's foreign and security policy, Sino-U.S. relations, and U.S. Asia-Pacific policy. Prof. Wu is the author of several books, including of *Turbulent Water: US Asia-Pacific Security Strategy in the post-Cold War Era* (Fudan University Press, 2006) and *The New Landscape in Sino-U.S. Relations in the Early 21st Century* (Fudan University Press, 2011), and editor of *Asia-Pacific Regional Order in Transformation* (Current Affairs Press, 2013), *China and the Asia-Pacific Chess Game* (Fudan University Press, 2017).

You've previously talked about different kinds of competition. How would you categorize current U.S.-China relations?

To borrow a phrase from the Trump administration, the current U.S.-China situation is one of strategic, comprehensive competition. The center of gravity of competition is mainly economic, but it has spilt over into technological, political, and diplomatic areas, as well as areas of global influence and national security.

What concerns me is the nature of this competition. In benign competition, the parties try to improve themselves to rise above their competitors. In vicious competition, however, the parties try to drag down the other side and prevent them from improving their capabilities. The latter characterizes the current U.S.-China competition, as the U.S. is trying to retard China's economic and technological progress in order to prevent it from overtaking the U.S. This will inevitably lead to confrontation.

Among other things, the U.S. is pushing for China to reform its approach to IP protection law and end forced technology transfer. Do you think the U.S. complaints are fair, and will the U.S. administration's tactics to bring change work?

There is certainly some truth to the U.S. complaints, and these issues have been raised from European businesses as well. Even Chinese businesses have struggled with their IP being compromised to competitors. However, the Trump administration's distorted understanding of U.S.-China relations has led them to exaggerate and intentionally misrepresent the situation, which is counterproductive.

The first problem with Trump's administration's tactics is that they neglect China's progress. For example, the Clinton administration negotiated IP protection with China in the 90s, and huge improvements have been made since then. By escalating tensions despite these strides in progress, the U.S. causes China to doubt that such an approach will actually help resolve U.S.-China issues.

Second, regarding technology transfer, the Trump administration neglects the market factor. When a company wants to gain market access in a new country, particularly a developing country, it typically needs to bring something to the table, like technology. The Trump administration intentionally neglects this to push the narrative that the Chinese government is unjustly forcing other countries to give them technology, which is inaccurate.

Third, the U.S.' tactics are too ambitious. They want to address everything in one package, including trade imbalance, market access, IP protection, technology transfer, SOEs, everything. That's impossible. There are many economic problems between China and the U.S., and these must be addressed in actionable, realistic approaches.

Finally, the Trump administration overplayed their cards with China, causing China to now be very skeptical of U.S. intentions. Instead of focusing on trade imbalance or market access, China now sees the U.S. as trying to use a trade war to slow down China's economic and technological progress, even undermine China's political system through vocal attacks. This has made the Chinese leadership very cautious in recent months in negotiating with the U.S.

So, I don't think the Trump administration's current tactics will be effective. They need to focus on the economy, and not use political cards. Even regarding economic issues, the U.S. needs to work with China to make a step-by-step deal in a reasonable time frame, rather than insisting that everything be addressed at once.

The U.S. government and media underscore the negative effects that the trade tensions are having on China's economy, while the Chinese government and media maintain that China will prosper despite a prolonged trade conflict. Who's right?

So far, the economic impact on China is limited. The slowdown of China's economic growth occurred well before the trade tensions, and it is inevitable considering the previous period of rapid growth. Instead, the trade tensions' biggest impact on China will be on its technological progress. If the U.S. cracks down on technology transfer to China, and Japan and Europe do the same, China's technological progress will certainly slow down.

In the long term, the trade tensions will have some positive impact on China. It will make China less dependent on the U.S. market, and more self-reliant on domestic consumption and exports to other markets. Already, in the past decade, China's dependence on the U.S. market for exports has decreased significantly. China will also be pushed to quickly improve its domestic technological innovation, as the trade tensions have made Chinese leadership more determined to pursue technological independence.

For the U.S., the trade tensions will slow the U.S. economy and make the stock market more volatile. The trade tensions will also work against direct Chinese investment in the U.S. market, which has already seen a sharp decrease in the past year. If Trump is serious about reinvigorating the U.S. manufacturing industry, he should welcome Chinese investment, especially in the Midwest. Instead, because of the trade war, Chinese investors are reluctant.

More seriously, the trade tensions may cause the American high-tech industry to lose its Chinese market. In the past, China and U.S. high-tech industries were integrated: China invests in Silicon Valley, and they receive a share of the technological innovation. But because of the technological war, China is spurring technological innovation in its own companies like Zhongxin and Huawei.

Overall, I cannot say who will come out on top, but I can say that China will suffer less than the U.S. expects, and the U.S. will suffer more than it expects.

China recently devalued its currency. Was

this retaliatory action? What other actions might China take?

I wouldn't say China devalued its currency, rather, the Chinese government allowed the market to respond without intervening as it did in the past. In the long term, however, currency devaluation does not serve China's interests, so I do not think the Chinese government will use it as a weapon. Remember, when the trade tensions escalated, the exchange rate of USD to RMB was around 1:6.5. Now, it is around 1:7, which shows less than 10% devaluation over the past year.

Instead, China has taken other retaliatory measures, most obviously tariffs on U.S. imports. However, one tactic that is often overlooked is administrative banning on importing U.S. products. If you look at U.S. tariffs on Chinese products versus Chinese tariffs on U.S. products, the U.S. tariffs affect a much higher value. However, because many Chinese imports are executed through SOEs, the government can simply tell SOEs to stop buying American products. Compared to tariffs, this method is much more discreet, and much more effective in reducing imports.

What do you think a trade deal between the U.S. and China would look like? Are you optimistic that it will happen soon?

To have a deal, the U.S. must agree to lift all the tariffs it has imposed since the trade escalation started. The U.S. should also lift the ban on Huawei and improve the conditions for Chinese investment in the U.S. to be less securitized. In exchange, China must agree to buy more products from the U.S., open their own service market, improve the environment for U.S. businesses in China, and adjust policies regarding IP protection and technology transfer. This can be the first package. Other issues can be left to the second package, which might occur in Trump's possible second term, or under a different administration.

For the time period, I hope this kind of reasonable deal can happen in the end of this year. If not, then it will be less likely a deal can be made next year.

You've previously spoken positively of China's actions on a global scale, including its contributions in the UN and its investment in countries in the Belt and Road Initiative. How would you characterize China's role as a global power?

First and foremost, China will remain a major engine for global economic growth, which it has been since the 2008 financial crisis. Second, China will be a major proponent for globalization. The Belt and Road Initiative is a great example of China increasing trade, investment and infrastructure connectivity throughout not only the Eurasian continent, but also Africa and Latin America. Third, China will become a major contributor to global governance. For example, regarding the stability of international financial systems, climate change, UN peacekeeping operations, and poverty alleviation in developing countries (particularly in Asia and Africa), China has already made great contributions.

China is also a reformer of international government systems. We all recognize that there are serious deficiencies in the existing government system, in financial areas and other areas, and reform is needed. The U.S. is often reluctant to introduce these necessary reforms, except to push its own interests, like in the WTO. Thus, in coming years, China will be the driver of reform to international trade and financial institutions.

Conversely, are policies like Made in China 2025 a threat to global trade?

Made in China 2025 is a two-sided issue. On one hand, if China makes significant progress in high-tech manufacturing, it will certainly reduce trade between China and developed countries like the U.S. and Europe, because it will rely less on importing high-tech equipment. On the other hand, if China moves up the value chain, it will stop competing with countries like India or Indonesia in labor-intensive, low-tech sectors, opening opportunities for these countries to export to the U.S. China will also import more from other countries in these sectors. In that regard, trade will be boosted.

The U.S. shouldn't feel threatened by Made in China 2025. After WWII, the U.S. almost monopolized the high-tech market until the 60s, when Japan and Western Germany revived from WWII and began to catch up, leading to competition between these three countries. Today, if China makes progress in this area, it will certainly compete with the U.S., but also with Japan and Europe. Competition is inevitable. The U.S. should invest more in R&D and universities and research institutions to improve its own performance in high-tech industries, instead of trying to stop other countries from advancing.

Do you see the future of U.S.-China relations as one of competition or cooperation, or both? And how will U.S. and Chinese businesses do in either scenario?

U.S.-China relations will always be a combination of both. As China rises, of course there will be more and more competition, and even confrontation in some areas. But on the other hand, I think cooperation is inevitable in economic, diplomatic and security fields. My advice for U.S. businesses is to keep your eyes on the market. Businesses in the two countries should not lose their confidence in the U.S.-China relationship, because politics are always changing, and the current situation is irregular and likely impermanent.

We see this now. Some companies are shifting production of U.S.-bound products out of China, but they are not removing their production base in China, because for many U.S. companies, China is their second-largest market after the U.S. They will not give up on the Chinese market. The trade tensions will cause them to make necessary short-term adjustments and relocate some of their production, but these adjustments are dynamic, and will continue changing as the trade tensions progress.

The traditional U.S. engagement model with China has been overturned, with the countries' ideological differences increasingly laid bare in US political and academic circles. Are we now headed into a new Cold War, or will we arrive at some midpoint between competition and cooperation?

As competition rises between U.S. and China, we can almost smell aspects of the Cold War brewing. The technology war, the visa issue for Chinese scholars, the restriction on cultural exchange, these are all reminiscent of the Cold War between the U.S. and the Soviet Union. Maybe in the future, a technological Cold War will be inevitable, as the U.S. continues to work towards making the high-tech sector unavailable to China. But I don't think we will see an economic Cold War. This would hurt trade, investment, and resources for both countries, restricting almost all interactions. Looking at the Trump administration's negotiation tactics, they want China to buy more from the U.S, not less. If the deal can happen in the future, the U.S. will rely more on the Chinese market for exports than today. The U.S. will also continue to need Chinese investment, particularly in the manufacturing industry. A comprehensive, U.S.-Soviet Union style Cold War that encompasses economics, politics, and security is almost impossible. Both sides know the price will be too high. I

Event Report

2019 FUTURE LEADERS OF THE YEAR AWARDS

AmCham Shanghai hosted its fourth annual Future Leaders of the Year Awards ceremony on August 6, celebrating young innovators and trailblazers in Shanghai. Installation artist Juju Wang won the Future Leader Award category, while Jiakai Yuan, VP and Chief China Representative of United Way Worldwide, received the 2019 Social Impact Award and co-founder and CEO of IT Consultis Yoan Rigart-Lenisa won this year's Entrepreneurship Award. Submissions for this year's awards, which were open to both members and non-members under age 41, reached an all time high, and the number of female candidates for all three awards also increased significantly. At the awards, finalists had the chance to present for two minutes before the audience, after which audience members used Wolfpack Engagement's live-voting system to select the winners. We would like to thank everyone who participated in the process. "We are all excelling in our own fields and together we can shape the future of the world," said Juju Wang after the ceremony.

▲ Trailblazers

2019 AMCHAM SHANGHAI HR CONFERENCE

More than 160 industry experts and business leaders met on August 28 for the 2019 AmCham Shanghai HR Conference, discussing the latest trends in human resources and the need to stay agile in an ever-evolving business world. When it comes to recruiting talent, Harry Wang, keynote speaker and founder and CEO of venture capital firm Linear Capital, told the crowd that for his company, it's about finding the right people for the right roles. "You don't try to be the best in everything, but you want to find the area where you can excel and you want to be the best," he said. Wang outlined the "3P3C" qualities that Linear looks for in its talent: passionate, persistent, professional, cruel (which Wang likened to the ability to make tough decisions), consistent and credible. The day also included three panels to discuss the digitalization of HR, the continued value of HR and the future of talent acquisition. Following the panels, attendees had the chance to participate in a series of practical workshops attended by more than 140 HR professionals, offering strategies on issues ranging from compensation to the use of digital HR tools.

▲ People talking about people

AMCHAM SHANGHAI HOSTS INTERNATIONAL PROPERTY WORKSHOP

AmCham Shanghai hosted an Intellectual Property (IP) workshop on July 11, featuring presentations from the Shanghai IP Bureau and a local Chinese law firm. Shanghai IP Bureau Deputy Director General Zhang Yongzhong provided an overview of the Shanghai government's efforts to improve IP protection. Zhang was accompanied by the section chiefs of the IP Bureau and the group answered questions from participants on issues connected to IP enforcement and evidence requirements for filing complaints. The workshop also included a presentation by Dr. Xu Zhao, senior consultant at Chen & Co. Law Firm, who spoke about common IP court cases and tips for mediating them. She also discussed the differences between patent and trade secret protections, the positives and negatives associated with the two, and the appropriate situations and applications of each. Afterwards, Zhao joined a panel with Colin Chen, Director of Global Security at Johnson and Johnson, and Min Gao, intellectual property manager of Greater China at 3M. During the Q&A, members asked about best practices for IP security, particularly for smaller companies with less resources. I

COVETED LOCATION FOR THE INTERNATIONAL ELITE

Actual Property Photo

Actual Property Photo

Actual Property Photo

STANFORD RESIDENCES JINQIAO

Set in Jinqiao, Pudong, Stanford Residences Jin Qiao offers the best location in the city right next Shanghai 's most prestigious neighbourhood, the Biyun International Community. Here, the city's expat elite and moguls thrive, with exclusive business and educational options at their fingertips. Major transportation routes, such as Inner Middle Ring Road, and Metro lines 6, 9 are also close by, making this a once-in-a-lifetime opportunity to experience a high-end lifestyle with superior facilities, amenities and location.

It offers VIP residents with superb 24-hour butler services, from concierge service, 24-hour room service, caring babysitting service to business center, providing comprehensive and innovative custom management strategy and making every resident to have a safe, private and comfortable high-quality life, with its rich experience in hotel management and operation of premium residences.

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嘉华国际
K. WAH INTERNATIONAL

Jiakai Yuan, Yoan Yoan Rigart-Lenisa, and Juju Wang accept awards at the 4th Annual Future Leaders of the Year Awards ceremony

AmCham Shanghai

Han Lin

Attendees at the 2019 Summer Healthcare Mixer

Enjoying the weather at this year's Shanghai Summer Healthcare Mixer

Since 1915
AMCHAM
SHANGHAI

Members of the Shanghai Intelligence Property Bureau at the Protecting Your IP event


Future Leaders of the Year Awards Ceremony

Jiangsu Provincial Dept. of Commerce Dep. Director General Jin Sun

Month in Pictures


Juju Wang, winner of The Future Leader of the Year Award at 2019 Future Leaders of the Year Awards Ceremony

Coco Xu, Donald Sullivan, Lily Yang, Daisy Yu at 2019 AmCham Shanghai HR Conference

Board of Governors Briefing

Highlights from the August 15 meeting

NEW GOVERNOR

The Chair welcomed Chris Allison to the Board. Chris replaced Nancy Leou as the Political/Economic Section Chief at the U.S. Consulate and will serve as one of the ex-officio governors from the U.S. Consulate.

U.S.-CHINA RELATIONS

The Chair noted recent developments in U.S.-China trade discussions especially the decision to delay some of the tariffs until after December 15. Regarding the tariff exclusion process, AmCham Shanghai is helping companies to apply for an exclusion, reported the President.

2019 CHINA BUSINESS REPORT (CBR) PREVIEW

The Chair provided some highlights of AmCham Shanghai's CBR survey. The data shows that the tariffs are affecting nearly half of members and leading to delays in investment decisions. He added that many CBR respondents support continuing government dialogue and working multilaterally on trade issues.

U.S. AND HANGZHOU INITIATIVES

The President reported that there has been good progress on the establishment of a presence in California. The goal of the office is to develop more ties to the technology world and drive additional members to AmCham Shanghai. The San Francisco Chamber will also provide a free venue for AmCham Shanghai's first conference in California on September 20.

GR/CSR Director Titi Baccam updated the governors on the Hangzhou initiative. AmCham Shanghai is working with leading U.S. and Chinese companies and the Hangzhou government. The office also plans to hold a GA dinner and launch in November.

WASHINGTON DOORKNOCK

Titi Baccam reported that preparations for the 2019 DC Doorknock are in full swing. While in DC, the delegation will meet with members of Congress, academics and representatives from the Trump Administration including leaders in USTR, Treasury, State, Commerce, DOD, and Agriculture.

NEW BOARD ELECTIONS

According to the Chair, the new board election process has begun. He will chair the Nominations and Election Committee (NEC). Other members of the NEC are Paul Lin, Lili Zhou, Li Xin, and Alice Li-Arndt. They are all Committees leaders. The NEC will focus on promoting more diversity on the board.

MEETING ATTENDANCE

Governors: Eric Zheng, Chris Allison, David Basmajian, Christine Lam, Han Lin, Michael Rosenthal (by phone), Grace Xiao, Tom Ward, Simon Yang

Regrets: Tony Acciarito, Eddy Chan, Helen Hu, Walker Wallace

Attendees: Ker Gibbs, Helen Ren, Karen Yuen, and Titi Baccam (notetaker)

The AmCham Shanghai 2019 Board of Governors

Eric Zheng

Chairman of the Board of Governors

Board Vice Chair

Eddy Chan

FedEx Express

Board Vice Chair

Christine Lam

Citigroup

Treasurer

Helen Hu

Duke Kunshan

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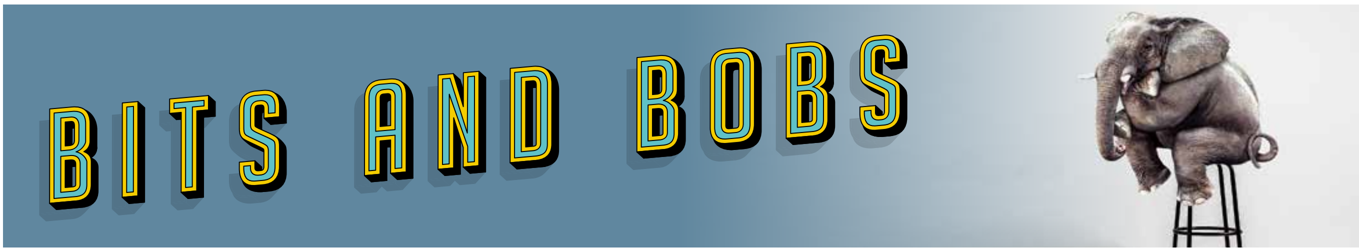

The snippets below are drawn from Weekly Briefing, the Chamber's email newsletter. In addition to business, economic, legal and trade matters, it occasionally touches on the more lighthearted, perplexing or downright crazy aspects of life in the Middle Kingdom.

Autos - NIO, a car to light up your driveway.

For a car manufacturer that doesn't use internal combustion engines, EV automaker's NIO provided some curious news in July: it recalled 5000 of its ES8 SUVs, citing a "spontaneous combustion" risk. This after several such vehicles emitted smoke or burst into flames.

Nio, once expected to challenge legacy automakers in the race to dominate China's EV car market, has had a tough two years. It reported a $1.4 billion loss in 2018, a $390 million loss in the first quarter of 2019, and recently bid farewell to its chief software engineer, Li Zhang. According to some new reports, Ms. Zhang's fate was sealed by news that one owner's vehicle stopped on a highway during a software upgrade. Don't expect a phoenix-like rising from the ashes.

▲ It does this without gasoline

Society - UN Headquarters No Longer Moving to Xi'an

In 2015, savvy Nanjing swindlers set up a fake bank – the Nanjing Xinmeng Rural Economic Cooperative Nanjing – securing RMB 200 million in deposits before customers sussed that the friendly rural cooperative only ever took money, never gave it back. Months later a Shandong man used a derivative ruse to open a fake China Construction Bank branch; again, deposit services only. Those schemes have now been bested by the imaginative chicanery at Heping Yuan Construction Management in Xian.

According to the South China Morning Post, Heping employees persuaded unsuspecting investors to back several construction projects, including a grand canal and a new United Nations headquarters to be built just north of Xi'an. "An employee named Wu Yi gave further credibility to the scam by describing himself as president of the UN, complete with an emperor jade seal and sceptre as his official regalia," reported the paper. Unsuspecting investors were milked of RMB 2 million before someone realized that Wu Yi was no Boutros Boutros-Ghali.

Corruption - former Inner Mongolia legislator sets $64 million bribe record

Yet another high-level official has been caught in a corruption scandal. Xing Yun, the former vice chairman of the Standing Committee of the People's Congress of Inner Mongolia, was accused of accepting bribes worth RMB 449 million ($64 million) over his 20-year political career. Xing was placed under investigation for bribery in October 2018, expelled from the party in April 2019 and arrested on bribery charges in May. Xing pleaded guilty in August at a court hearing in Dalian and his punishment will be announced later. Xing is no underachiever – his ceaseless trousering of ill-gotten gains apparently makes him the victor ludorum among provincial-level officials indicted for bribery.

▲ Big boxes

Retail – Costco, a clean, well-liked place

Shoppers rejoice, U.S. wholesaler Costco has hit Shanghai, and what a bang it made. The chain's first Chinese store cast open its doors in August, drawing colossal crowds and causing a traffic jam in its Minhang District home. Costco responded by cutting its first day opening hours, though customers who managed to enter the store faced long check-out lines and mobbed aisles. Costco has had an online presence in China since 2014, through a partnership with Alibaba to sell its brand-owned Kirkland products.

The store's opening comes as other Western supermarket chains, including Carrefour and Metro, pull back from the Chinese market after struggling to sate customer tastes amid a shift to online shopping. Despite the European stores retreating, Costco joins Walmart owned Sam's Club, which plans to open 40 more Chinese stores this year. The first day frenzy at Costco was attributed to novelty and low prices, with fractious shoppers scrabbling to snare both rotisserie and raw chicken. I

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