

ADVISER PROFILE



Name: Nishant Choudhary
Position: Partner,
Deputy Managing Director,
Head of Banking and Finance
Location: Yangon, Myanmar
Experience: 14 years
Nationality: Indian

CURRICULUM VITAE

Key Qualifications:

Nishant has more than thirteen years of professional experience practicing law in India and Myanmar, over five years of which have been spent in Myanmar. He has advised on some of the largest, most challenging and groundbreaking transactions and investments in Myanmar. His areas of specialization include M&A and general corporate, banking and finance, telecommunication, aviation, energy and real estate. Nishant's client portfolio features some of the leading Myanmar companies across a range of sectors. In addition to transactional advisory work, he has substantial experience with dispute resolution in India. In addition to being a frequent speaker at various national and international conferences and seminars across the globe, Nishant has authored several articles and papers published in various journals such as the IBA, Asia-MENA, Lexis Nexis and IFLR. He is often quoted for his views on legal matters relating to Myanmar by several Myanmar and international newspapers. Ranked by Chambers and Partners, Nishant was also awarded as 40 EU-India Business Leader 2019, which he received at the European Parliament at Brussels by the hands of Hon Caroline Nagtegaal, MEP – Netherlands & Vice Chair- European Parliament delegation for relations with India. He holds a Master of Laws (LL.M.) in Business and Finance Law from the George Washington University Law School, Washington DC.

Education:

- **Master of Laws (LL.M.), Business and Finance Law** (2011)
George Washington University Law School, Washington DC
- **Bachelor of Laws (LL.B.)** (2006)
Symbiosis Law College, Pune University, Pune, Maharashtra, India
- **Bachelor of Socio-Legal Sciences (B.S.L.)** (2004)
Symbiosis Law College, Pune University, Pune, Maharashtra, India

Membership in Professional Societies:

- Bar Council of India
- Advocate on Record Patna High Court, India
- International Bar Association
- Inter-Pacific Bar Association
- EuroCham, Myanmar (Co-chair, Legal Advocacy)
- India Myanmar Chamber of Commerce (Board Member)
- Myanmar India Business Chamber

Employment Record:

- **DFDL, Yangon, Myanmar** (January 2020 – Present)

Partner (May 2018 – Present)

Deputy Managing Director, Myanmar (December 2017 – Present)

Head of Banking and Finance, Myanmar (December 2016 – April 2018)

Senior Legal Adviser & Project Manager

Areas of practice include banking and finance, power, oil & gas, mergers and acquisition, real estate, competition and general corporate.
- **VDB Loi, Yangon, Myanmar** (November 2014 – November 2016)

Senior Associate, Lead Banking and Finance

Banking and finance (primarily), real estate work and general corporate.

He was relationship leader for many companies under retainer with VDB Loi. As a senior associate, he was responsible for business development, which included activities from arranging client briefings, email correspondence, liaising with and hosting business delegations and providing workshops on the general Myanmar investment climate. Duties also included in-house training activities for colleagues (especially local staff) and interns.
- **ICICI Bank Limited (Corporate Legal Group) Kolkata, India** (September 2012 – October 2014)

Senior Manager (Band 2, Team Leader)

Team Leader for Corporate Commercial Banking (including Project Financing, Syndication Financing, general Term Loan facilities and Working Capital facilities), Middle Market Banking, Small and Medium Enterprises Banking, Stressed Assets and Debenture Trustee Issues. Drafting of all the documents in-house for bilateral, consortium, syndication and project finance deals. Coordinating and negotiating with international counsels on cross-border transactions, and the vetting of documents in cross-border transactions drafted by international counsel.
- **Parekh & Co., Advocates & Attorneys, New Delhi, India** (July 2011 – September 2012)

Associate

Dealing in Competition Law, appeared before the CCI and Competition Appellate Tribunal in:

 - An 'Indian Cement Cartel matter' and 'Housing society abuse of dominant position matter'.
 - 'Man-Made Fiber cartel' and 'Multiplex cartel and Sugar Cartel'; and
 - Advised clients regarding Investigations before the D.G.

Infrastructure-related dispute resolution, represented HCC in NTADCL & Lahorinag Arbitration Opinion and transaction work in the area of project finance & infrastructure.
- **Private Practice of Laws, the High Court of Judicature at Patna, Bihar, India**(October 2006 – June 2010)

Advocate (on record), Patna High Court

Commercial contract/agreement drafting, vetting of documents, commercial arbitration.

Handled litigation work for banking institutions, excise and service tax, revenue, family law, land law, personal law and criminal law matters by performing legal research, client counseling, drafting legal opinions and a variety of legal documents, conveyancing and maintenance of litigation records and documentation.

Details of Major Projects Undertaken

Aviation

Experience in the aviation sector involves assistance on the following projects:

- Acted as special Myanmar counsel for KfW IPEX-Bank GmbH in its capacity as security trustee in connection with the financing of four aircraft leased by three different companies in Myanmar. Scope of work included reviewing transaction documents and providing a Myanmar legal opinion upon "capacity, validity and enforceability."

- Assisted the lessor and the ECA financiers on the financing and leasing of one of the largest such leasing and financing aviation projects in Myanmar. Assistance included drafting and negotiation of transactional and security documents. Achieved the closing of the transaction by verifying the completion deliverables and provided legal opinion on the validity, enforceability and legality of the transaction and security documents.
- Assisted on the cross-border leasing of an aircraft from a Dubai based company to a private airline operator in Myanmar. Assistance included drafting the various leasing documents, the security documents, the deregistration powers of attorney, insurance and reinsurance documents. Completion and perfection of the project was duly achieved with delivery of the aircraft taking place.
- Assisted Korean Airlines on various operational and advised on legal matters. Reviewed and revised various agreements including, but not limited to, a metal neutral agreement to be entered into by Korean Airlines with an American airline.
- Assisted several lessors like Aviation Capital, and CDB Aviation in their aircraft leasing transaction in Myanmar.

Banking & Finance and Insurance

Advised several banking and financial institutions (including microfinance companies) in Myanmar. The clients include: International Finance Corporation (IFC), Asian Development Bank (ADB), European Investment Bank (EIB), Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. (FMO), Deutsche Investitions- und Entwicklungsgesellschaft (DEG), Proparco – Groupe Agence Française De Développement, CDC Group plc, Oesterreichische Entwicklungsbank (OEeB), Belgian Investment Company for Developing Countries (BIO), KfW IPEX-Bank GmbH, ANZ, State Bank of India, May Bank, Bank of China (HK), Chine EXIM Bank, BTMU, SMBC, Bank of America Merrill Lynch, Goldman Sachs, Morgan Stanley, Standard Charter, Shinhan Bank, Bangkok Bank, OCBC Bank, UOB Bank, TP Bank, Deutsche Bank AG, etc. The matters ranged from e-banking, mobile money, credit services, term-loan and working capital financings, securities and derivatives, foreign exchange transactions, trade financing, acquisition and syndicate financing, project financing etc.

Some of the recent notable transactions/advice include:

- Advising AIA Group, one of the largest life insurance companies to enter into a bancassurance agreement with AYA Bank as one of the first collaborations between a bank and an insurance company in Myanmar. The legal support included a complex advisory process due to the lack of a regulatory framework for such collaborations, due-diligence on the bank and advising on the transaction structure and necessary documentation.
- Advised the Credit Guarantee and Investment Facility, a trust fund of the Asian Development Bank (CGIF), which is acting as guarantor to the holders of USD 70 million equivalent Thai Baht bonds issued on 25 January by Yoma Strategic Holdings Ltd. (YSH), a company listed on the Singapore stock exchange with a focus on investments in Myanmar across a range of sectors.
- Advising China Development Bank as its Myanmar counsel for the USD 100 million non-recourse financing of a 489 MW (combined cycle) power plant under the implementation (Phase I) at Thaketa, Yangon. The project would be implemented in two phases, 106 MW for Phase I and 380 MW for Phase II. The scope of work included; due diligence, negotiation on the term-sheet, drafting and review of the financing documents and government approvals.
- Advising international counsel with local law advisory, compliances and processes required for the momentous reorganization of OPIC as DFC. The transaction includes advisory on the perfection and approval process/compliances that DFC needs to follow from local law perspective with respect to its financial assets. Also assisted DFC on the achievement of all perfection requirements in respect to each of its financial transactions to ensure a smooth transition to DFC.

- Advised one of the largest French banks up to the bidding stage in the first M&A transaction in the Myanmar banking sector. Assistance included advisory on the acquisition of a minority stake in a local Myanmar Bank and its NBFi subsidiary and a multifaceted due-diligence process on the Myanmar bank and its NBFi subsidiary. Advised the French bank on potential transactional risks, commercial and practical workarounds to mitigate the risks and complete documentation.
- Advising Dai-ichi Life Holdings to obtain the first foreign life insurance business license in Myanmar. Advised though the entire bidding and application process and the assistance included advisory on the licensing process, structuring advice and legal complications and mitigation strategies, drafting relevant documents and assistance during the tendering process for the license.
- Advised Metlife on the implementation of life insurance, disability income insurance, car insurance, employee benefits entity, in preparation of a possible future opening of insurance activities in the market.
- Advising the financiers in connection with the development of a greenfield run-of-river 60 MW hydropower plant. The scope of work include due diligence (including project documents), approvals, drafting and review of loan agreements and security documents.
- Advised GEP (Myanmar) Co., Ltd., on a solar power plant project with 220 MW (direct current) estimated installed capacity and maximum output of 170 MW (alternative current) being constructed at Sagu Township, Minbu District, Magway Region, Myanmar. Representing GEP.
- Advised as Myanmar counsel for an Export-Import Bank on its acquisition financing of USD 800 million for a large teak plantation in Myanmar. The scope of work involved due diligence on the Myanmar target, advice on the documentation, approvals, legal opinion and assistance with the closing.
- Acted as local counsel to CEXIM on its proposed USD 225 million secured loan to Yangon Aerodrome Company Limited, the company holding the concession from DCA to develop, construct and operate terminals and other facilities at Yangon International Airport.
- Advised a leading Chinese fintech company on its market entry into a Myanmar e-wallet business. The scope included assistance on the licensing process with the Central bank of Myanmar.
- Advised a Singaporean company on its market entry into Myanmar in respect of wholesale international bandwidth services by utilizing private submarine internet cables, starting from Malaysia into Myanmar and Thailand.
- Acted as local counsel in advising a tower company in Myanmar on the USD 60 million financing of the roll-out of its tower site infrastructure in Myanmar by a mixture of conventional loans and Islamic financing structures.
- Advised Goldman Sachs Investments Holdings (Asia) Limited and Tor Investment Management (Hong Kong) Limited, on a mezzanine facility to the parent company of a leading Myanmar telecom tower company, owning and operating over 1,700 telecom towers in Myanmar.
- Advised Bank of China (HK) on its USD 100 million facility to MFOCN (a Myanmar fiber optic cable company). The scope of work involved due diligence, documentation, approval and perfection of securities and general advisory.
- Advised on the first project financing of its kind in Myanmar, acted as lender counsel for the syndication of European development banks (European Investment Bank (EIB), FMO, DEG, Proparco, CDC, OeEB, BIO) on a USD 122 million syndicated loan and its greenshoe lending option of USD 69 million.
- Advised Shinhan Bank on the licensing of its Myanmar Branch.

Corporate and Commercial

Advised several companies on their regular corporate and commercial activities. Some of the notable companies include Ooredoo Myanmar, Coca-Cola Myanmar, Mitsubishi Corporation, Marubeni Corporation,

Microsoft, Osotspa Public Company Limited, Nord Anglia Education, GIC, Cycle and Carriage Myanmar, OCK Yangon Private Limited, Apollo Towers, Fujitsu Asia.

Some of the notable transactions/advice include:

- Advising a leading Singapore entity as the regional counsel with conducting due diligence over Myanmar and Cambodian subsidiaries and advising on potential red-flags to the listing of shares on Singapore Exchange Limited.
- Advised Osotspa on its greenfield establishment of the largest energy drink manufacturing unit in Myanmar (Thilawa SEZ). Also, advising Osotspa on its phase two of backward and forward integration in Myanmar. Currently advising on the establishment of the company's bottle manufacturing unit in Myanmar in a joint venture with a local partner (outside the SEZ) and establishment of separate wholesale entities. Advisory ranges from elements of mining for silica and midstream supply of gas to the factory on a stand-alone pipeline.
- Advised the internet giant Alibaba in respect of its acquisition of Daraz Group, a Pakistani online shopping platform which operates in Myanmar as "Shop.com".
- Advised as the regional counsel on one of the first cross-border cruise line M&A transactions in frontier markets. Assistance includes conducting legal due diligence of a cruise line company operating in Myanmar, Vietnam and Cambodia and Laos and advisory on potential acquisition structures in consideration of local barriers to foreign investment in the shipping industry.
- Advised Hyundai Motors on entering into a semi knockdown arrangement with one of the largest automobile assembling companies in Myanmar which is one of the first arrangements of this type in Myanmar. Transactional advisory included guidance on the recent regulatory changes, providing optimal investment structuring from a market entry perspective, documentation factoring the optimal structure from both legal and tax perspectives on the importation of automobile parts, manufacturing methods and required licenses.
- Advised Wildlife Conservation Society, Myanmar with the incorporation of the first company limited by guarantee to operate as a biodiversity fund in Myanmar. Advised on the establishment of the first wildlife and biodiversity centric fund in Myanmar- the Myanmar Biodiversity Fund.
- Advised S.F. Express (Overseas) Limited, a group company of S.F. Express (Group) Co., Ltd., the second largest courier service provider in China, on its acquisition of a minority stake in a leading Myanmar logistic company called Kospa, an FMI group company.
- Advised on the acquisition of a major private education business in Myanmar: We acted as Myanmar counsel for a sovereign fund on its investment in a leading Myanmar private education company with several established campuses across all major cities in Myanmar.
- Advised Thai Beverages Public Co. as Myanmar counsel on its 75% shareholding acquisition in two Myanmar distilleries, Myanmar Supply Chain and Services Go (MSCS) and Myanmar Distillery Co (MDC) on a transaction valued at USD 742 million.
- Advised Dentsu Aegis Network Limited as Myanmar counsel on its multi-jurisdiction 100% acquisition of Ambient Digital. The Myanmar target was Ambient Digital Myanmar, a leading digital marketing agency.
- Assisted Ngov Family on its acquisitions of Straits Microfinance Limited, a Myanmar microfinance company. The scope included FRD approval for an acquisition of 90% of the shares, documentation and closing assistance.
- Advised a Thai beverage company on its market entry into Myanmar, by acquiring an existing Myanmar company. The scope of work involved documentation, investment permits and closing assistance.
- Advised a major telecommunication passive infrastructure company on its reorganization of corporate structuring at the parent level.

- Advised Facebook on a number of regulatory aspects related to data protection and privacy. Provided legal advice in consideration of the content of images in Facebook posts as to whether they would lead to violations of Myanmar laws.
- Assisted General Electric on its general corporate secretarial matters including annual filing with DICA and employment matters.

Energy, Mining and Infrastructure

Advised on several projects in the electricity, energy and infrastructure sector in Myanmar. Some of the key projects were:

- Advised several sponsors on the Myanmar's 1GW, 30 solar IPP project tender.
- Advising as lenders' Myanmar counsel on a highly confidential 1GW plus integrated LNG to Power greenfield plant and its 500KV transmission line.
- Advising sponsors on cross-border HVDC transmission for delivery of over 1,500 MW. Assistance included review and drafting of the PPA, concession agreement, government guarantees, and structuring/regulatory report. The project includes a proposed 500 km transmission line.
- Advised a consortium of bidders on the Yangon elevated expressway project. Advised on licensing and approval requirements for the project, concessionary rights and structuring.
- Advising the financing side in connection with the development of a greenfield run-of-river 60 MW hydropower plant. The scope of work included due diligence (including project documents), approvals, drafting and review of loan agreements and security documents.
- Advised the sponsors on an LNG to FSRU 1,000 MW IPP project. The scope of work includes structuring, licensing, permits and documentation.
- Acted as counsel for an equity investor and EPC provider which secured a tender award for a 150 MW combined cycle gas turbine (CCGT) plant. Assistance included drafting project security documentation, perfection of security, drafting and review of consortium agreements and construction contracts. The Project included domestic gas purchase.
- Advised Ocean Sparkle (a leading Indian port management company) on market entry into the shipping business sector in Myanmar.
- Advised on the implementation of an offshore supply base in Mon State, Myanmar. The scope of work involved leading the project and assistance with documentation, incorporation of the local company and approvals for implementation of the project on behalf of a Singaporean company in joint venture with a local entity.
- Advised a Thai investor on a solar power plant project with 220 MW (direct current) estimated installed capacity and maximum output of 170 MW (alternative current) being constructed at Magway Region, Myanmar.
- Advised a Singaporean investor on its implementation of an ESCO Solar Micro Grid roll-out, to build, operate and supply electricity for off-grid villages across Myanmar and provide hybrid solar solutions to mobile operators for their telecom towers.
- Advised two major Japanese companies on a Floating Storage Regasification Unit project in Myanmar coastal waters for the purpose of re-gasifying LNG.

Real Estate

Extensive experience in real estate transaction in Myanmar. Some of the key projects are:

- Assisted with the first registration of mortgage over leasehold interest of an immovable property in favour of a foreign lender. The ground breaking successful registration of mortgage was in respect of the USD 650 million Yoma Central mixed-use real estate development transaction in downtown Yangon.
- Advised Kajima Corporation on its market entry into a mixed-use real estate project.
- Advised on the development of a mixed-use complex in Yangon. Phase 1 development comprised office space, a hotel and apartment building and a residential tower, as well as retail space including underground car parking, sewage and waste water treatment plant, power supply, cooling system, fuel and gas storage location, firefighting systems, and security control systems. Phase 2 development comprised refurbishment of an existing building into an office tower.
- Advised a consortium comprising several Japanese multinationals - on the development of a billion-dollar infrastructure and mixed use real estate development project to comprise residential, commercial, retail and sporting facilities.

Telecommunications

Some of the notable projects in the Telecommunication sector are:

- Maintaining Telenor Myanmar's portfolio on a general retainer basis.
- Advised as the local counsel for the M&A of two of the largest tower companies in Myanmar, with the target having more than 3,000 tower sites across Myanmar. Assistance includes multifarious due-diligence with a range of issues from real estate to licensing. Advising on the legal and regulatory aspects of the potential deal structure as part of the pre-bidding stage in connection with the potential M&A slated to be one of the largest M&A transactions in Myanmar in the telecommunications sector.
- Advised OCK Yangon Private Limited on its market entry into Myanmar in telecommunication passive infrastructure.
- Advised on general corporate matters on a retainer basis to Ooredoo Myanmar.
- Advised and rendered assistance regarding the issuance of a USD 10 million bond in a tender for the issuance of telecommunications licenses.
- Advised BNP Paribas on its investment in wholesale international bandwidth services by utilizing private submarine internet cables, starting from Malaysia into Myanmar and Thailand.
- Acted as local counsel for a Canadian consulting company to advise the Posts & Telecommunications Department on Myanmar's first public auction of spectrum lots in the 2600MHz range

Recent Publications:

- Myanmar – restructuring and insolvency guide publication, LexisNexis PSL, Jun 2020.
- Cryptocurrencies in Myanmar: A Risky Affair With No Immediate Potential Going Forward, Legalico, July 2019
- Investment by global banks: a pathway to economic growth and foreign markets for Myanmar? by Banking Law Committee Publications, International Bar Association, April 2019 Myanmar – Microfinance institutions and their obligations under the 2016 notifications, by ASEAN MENA In-house Congress, Volume 15, Issue 1, 2017

- Can copyright be a security in Myanmar (?): A closer look at the incorporeal asset IFLR. August 2016
- Myanmar Merger Control. Lexis Nexis PSL. 2015
- Optimal Balance of Financial Instruments: Long-Term Management, Market Volatility & Proposed Changes. Lawyer Club India. May 2011
- The Mekong Agreement Negotiation: Realism, Requirement and the Mekong Regime. May 2011

Accolade & Awards

- Awarded Top 40 EU India Young Business Leader, 2019, by Europe India Centre for Business & Industry (EICBI) at the European Parliament, Brussels, Belgium.
- Ranked as “Up and Coming” lawyer for Myanmar by Chambers & Partners for the Year 2019-20.

Languages	Speaking	Reading	Writing
English	Excellent	Excellent	Excellent
Hindi	Excellent	Excellent	Excellent
Urdu	Good		

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