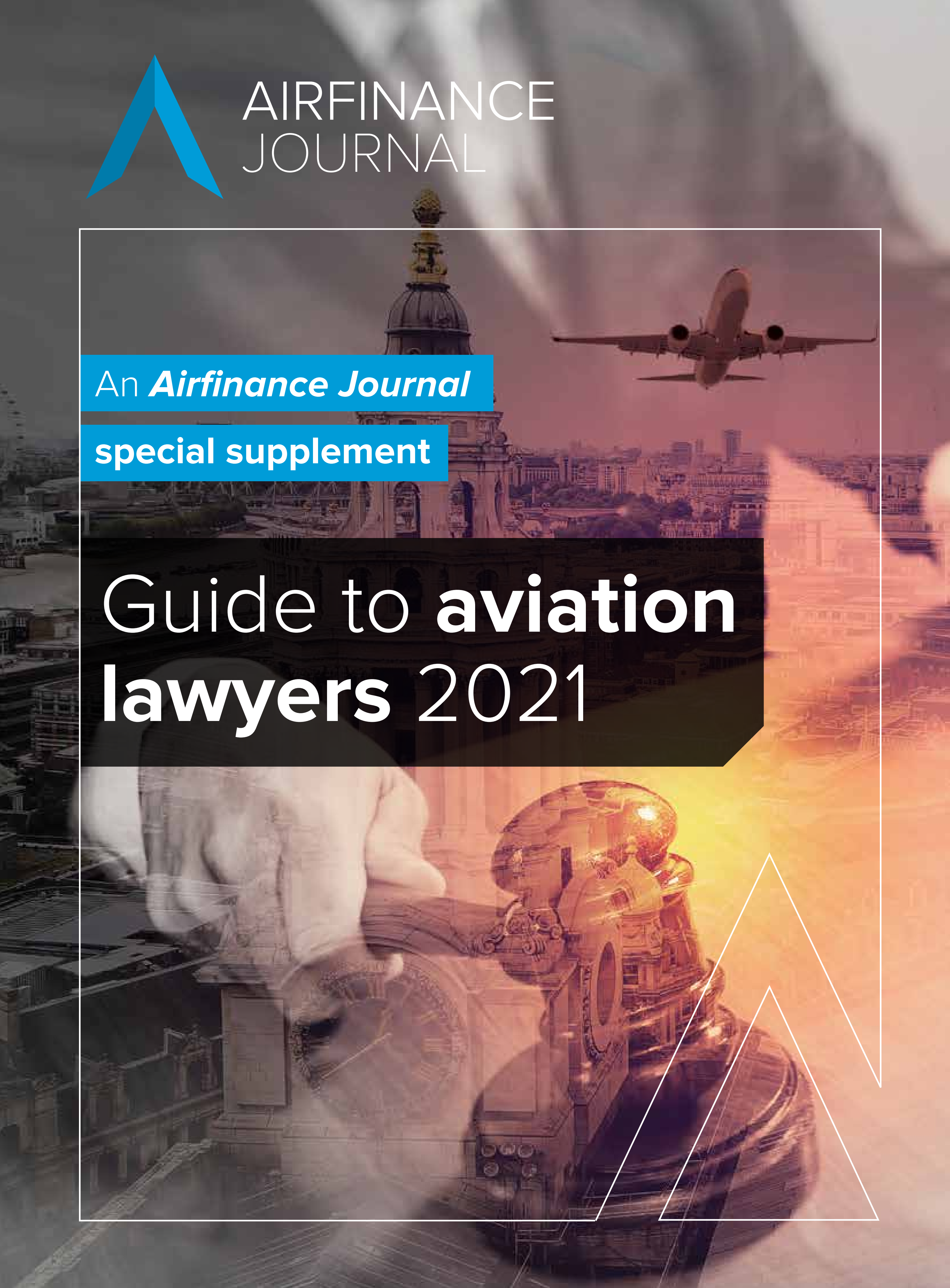


AIRFINANCE JOURNAL

An *Airfinance Journal* special supplement

Guide to **aviation lawyers** 2021

Legal moves 2020-21

McCann FitzGerald promotes Deignan

Irish law firm McCann FitzGerald has promoted aviation finance specialist Laura Deignan as partner at its aviation and asset finance group.

Deignan has been involved in a variety of instructions, including multiple aircraft portfolio acquisitions and disposals and cross-border leasing transactions.

She specialises in aircraft finance and leasing transactions and acts for many leading aircraft lessors, financiers and airlines on all aspects of aircraft financing and leasing. These include secured lending, portfolio sales and acquisitions, cross-boarder leasing transactions and the establishment of leasing and financing platforms in Ireland.

Deignan also advises in relation to airline restructurings, aircraft repossessions and the registration and operation of aircraft in Ireland.

Her highlights include advising Standard Chartered Bank/Pembroke on a variety of instructions including multiple aircraft portfolio acquisitions and disposals and cross-border leasing transactions. Deignan also represented a number of aircraft lessors in connection with the Irish Examinership of Norwegian Air Shuttle and certain of its Irish incorporated affiliates.

She has also acted for SMBC Aviation Capital on a variety of instructions including aircraft sales and acquisitions and a wide range of leasing transactions.

Stephenson Harwood strengthens European presence

Stephenson Harwood has strengthened its aviation finance practice with the hiring of partner Laurence Hanley in Paris, France.

Also joining the law firm is associate Diane de Bustamante from Stream, formerly Ince & Co France.

Hanley's practice is focused on aircraft finance and commercial aviation. He advises airlines on all structured finance matters, from letter-of-intent stage to financing, covering debt, Japanese operating lease with call option (Jolco) and specialist sale agreements, tax structuring and aircraft portfolio securitisation.

On the operating side, he is a specialist aircraft lease negotiator. He advises lessors on aircraft purchase and leasing, and lenders – in the event of operator insolvency – on security issues and asset recovery. He also advises clients on the commercial contracts surrounding aircraft operation.

"Despite the current challenges brought by the global pandemic, the aviation sector has avoided the level of turbulence many predicted, and funding continues to flow into the aircraft financing sector," says Tammy Samuel, head of finance, Stephenson Harwood.

De Bustamante specialises in aircraft finance and deals, both under French and English law.

Her practice focuses on advising airlines, lessors, financial institutions – in particular in the event of operator insolvency – and owners of corporate jets, on a wide range of asset finance and leasing transactions. She also assists with more sophisticated tax structures such as Jolcos, title retention agreements and sale and leasebacks, as well as with international asset recovery and enforcement proceedings.

Single joins Pillsbury

Antony Single has joined Pillsbury Winthrop Shaw Pittman's asset finance team as a partner in London.

He comes to Pillsbury from Clifford Chance, where he was a partner and helped establish the firm's asset finance practice in the Middle East.

Single advises financiers and lessors on aviation, defence and other asset-based and receivables-backed finance and leasing transactions.

He has a broad range of financing and leasing experience, having worked on transactions utilising commercial debt, warehouse facilities, capital markets, funds platforms, and tax-enhanced and Sharia-compliant structured financings.

Single also has extensive experience in airline restructurings and workouts.

"Much like our seasoned asset finance professionals around the globe, Antony really does it all in this highly specialised sector," says Mark Lessard, leader of Pillsbury's finance practice.

"The fact that he has thrived in both up and down markets was very attractive to the team. Likewise, he brings bona fide accomplishments in the Middle East, where we share many clients and interests," he adds.

Last year, Pillsbury recruited aviation finance lawyer Patrick Reisinger from Clifford Chance to join its asset finance practice as counsel in New York.

K&L Gates grows Asian teams

K&L Gates has expanded its aviation practices in Hong Kong and Singapore with the additions of Eugene Yeung and Terry Chang.

Chang joined the Banking & Asset Finance Team at K&L Gates in the Singapore office as a senior associate.

Robert Melson, a Tokyo-based partner and leader of K&L Gates' global aviation finance practice, says: "Terry's addition will help our global team to assist our aviation clients with the myriad of issues that they currently face in light of Covid-19's impact on the industry."

K&L Gates also added Yeung as a partner to the firm's finance practice in Hong Kong. He joined from Pillsbury Winthrop Shaw Pittman.

Yeung, who is qualified in Hong Kong, Australia, New York, and England and Wales, focuses on aviation finance and restructuring and insolvency in Asia.

David Tang, managing partner, Asia, says: "His strengths and experience in both asset finance and restructuring will complement our award-winning aviation finance team's capabilities and add to our growing restructuring practice in Hong Kong and the Asia region."

Hogan Lovells adds former FAA chief counsel

Hogan Lovells has appointed Arjun Garg, the former chief counsel and acting deputy administrator of the US Federal Aviation Administration (FAA), as a partner based at the law firm's transportation regulatory practice in Washington DC.

Drawing on his deep government leadership experience, Garg will advise transportation clients on a broad spectrum of regulatory, litigation and corporate matters and help lead Hogan Lovells' aviation practice.

"Arjun is a top-tier lawyer whose leadership experience at two key Department of Transportation agencies will be extremely valuable to our clients," says Latane Montague, head of Hogan Lovells' transportation regulatory practice.


AIRFINANCE
JOURNAL
PODCAST
BOARDING PASS
Week In Review
Hosted by
Laura Mueller

Milbank comes out on top

Milbank is the winner of *Airfinance Journal*'s legal survey, which recognises the most active law firms in 2020 by regions and financing structures.

Law firm Milbank secured the number one spot in 2020 with its aviation team "firing on all cylinders" particularly with a strong performance in North America, Latin America, commercial loans and capital markets.

Clifford Chance was second, although it almost closed a similar number of transactions.

K&L Gates completed the podium, while White & Case and Pillsbury came fourth and fifth. Hughes Hubbard & Reed was the law firm which progressed the most year-on-year.

Airfinance Journal would like to thank all the law firms which participated in this year's survey. Our annual legal survey includes aviation finance deals based on submissions from law firms as well as *Airfinance Journal*'s Deal Tracker transactions.

Those are subsequently aggregated to create the winners.

Airfinance Journal received submissions from 18 firms, compiling 1,035 deals overall, including transactions gathered from Deal Tracker.

This is the fifth year *Airfinance Journal* has used data transactions from Deal Tracker for our legal survey. It provides a more accurate picture of the 2020 activity because it includes law firms which were not able to submit or decided not to submit. The firms that did submit have the most accurate representation of their deals in 2020.

In 2020, *Airfinance Journal* recorded 391 unique transactions compared with 947 the previous year.

The survey also highlighted more activity in the capital markets and commercial loans, reflecting the need for liquidity in the sector.

Europe represented 350 transaction points, or a third of last year's volume. Asia-Pacific was the second region with 326 transactions, or 31%. North America remained third by region but its market share increased to 23% from 20% in 2019.

Winner

Drew Fine, a Milbank partner, says the firm's global aviation team was very active.

"We had a high level of activity globally, particularly in North America, Latin America, Europe and Asia. The Covid-19 pandemic resulted in airlines having unprecedented liquidity needs. During the year, we saw both innovation and the largest airline financings in history," he says.

> *"We had a high level of activity globally, particularly in North America, Latin America, Europe and Asia. The Covid-19 pandemic resulted in airlines having unprecedented liquidity needs."*
>
> **Drew Fine**, partner, Milbank

With Covid effectively closing down aviation, airlines needed to generate liquidity in a quick and efficient manner.

"Initially, we worked on 364-day liquidity financings and that led to longer-term financings. The dire need for liquidity led to innovation resulting in loyalty programme financings, initially for United Airlines, but then for Delta Air Lines, Spirit Airlines and others. The loyalty programme financings were among the largest financings for airlines in history. Later in the year, Milbank was involved in the development of the current incarnation of the lessor EETC [enhanced equipment trust certificate], particularly to finance sale and leaseback transactions," says Fine.

Methodology

The legal survey reviews transactions for calendar year 2020 only.

Aviation law firms were invited to submit deals to be included in Deal Tracker. The *Airfinance Journal* data team then reviews the different deals and selects those eligible for Deal Tracker.

All of the deals used to judge the winners are eventually loaded into Deal Tracker and can be reviewed by our readers. In this sense, our survey is unique. Our researchers assess each deal to verify them and to avoid double counting.

The benefit of using Deal Tracker is that we can offer a granular presentation of law firm activity by both product type and region. There are limitations to the survey. Client confidentiality may be an issue for law firms when submitting deals and some firms opted not to participate.

As a consequence, the survey does not represent all of the deals happening in the market, but it remains the most comprehensive survey of its type and crucially offers a real insight into the aviation market.

The survey gives a strong indication of which law firms are most favoured for certain product types and for certain regions.

Last year, we modified the evaluation criteria to reflect the transaction complexity as well as the law firm's role in a transaction rather than simply count the number of deals.

As a result, law firms are asked to self-assess the complexity of each transaction and their role in the transaction according to the following new set of criteria for which the specified points were awarded:

Complexity

- groundbreaking pioneer transaction – 10 points;
- complex transaction, some new parties or jurisdictions – 7 points;
- average complexity, repeat transaction with same players and jurisdictions – 5 points;
- less complex transaction – 3 points; and
- low complexity – 1 point.

Role

- drafting counsel for major transaction documents – 10 points;
- primary counsel to major transaction parties – 7 points; and
- secondary counsel to transaction parties – 3 points.

For all Deal Tracker transactions that were not part of the submitted deals, *Airfinance Journal* assigned one point for the complexity of a transaction and three points for the role played by the law firm. This resulted in a total score of four that was assigned to all Deal Tracker transactions which were not part of the submitted deals.

Like previous years, the survey records the overall number of deals for each law firm. A deal, as defined by the survey, represents one mandate and can include multiple aircraft and law firms.

In addition to presenting the most active law firms by product and region, the survey also aggregates how law firms have performed to produce an overall ranking.

Legal Transaction of the Year: **Delta SkyMiles loyalty programme financing**

The *Airfinance Journal* editorial team selected the Delta SkyMiles loyalty programme financing as the winning submission in 2020.

Delta Air Lines drew a massive crowd for its $9 billion package of bonds and loans secured against its SkyMiles loyalty programme in September 2020, aimed at further buffering its liquidity position.

The Atlanta-based carrier became the third airline – after United Airlines and Spirit Airlines – to use its valuable rewards programme to raise liquidity as it continues to burn cash in a depressed travel market.

The financings involved multiple banks. Joint bookrunners Barclays, Goldman Sachs, JP Morgan and Morgan Stanley upsized the overall deal from an initial $6.5 billion. Goldman was left lead on the bonds; Barclays was left lead on the loan.

Delta, which at the time said it was burning $27 million a day in cash, revealed earlier in the month that it would not chase a $4.6 billion federal loan available under the Coronavirus Aid, Relief and Economic Security Act.

Milbank was involved in this innovative transaction, which provided the US carrier a total of $9 billion in liquidity.

The deal marked the largest airline financing in history at the time of the closing. The transaction involved a unique, cutting edge structure whereby all of Delta's loyalty assets – brand, customer information, co-branding agreements –were contributed to a new loyalty programme company and then financed. This structure has been copied for several subsequent financings by other airlines.

The three-tranche financing was structured as secured bond offerings from the capital markets as well as term loan facility. It consists of $2.5 billion senior secured notes at 4.5% with a five-year term as well as $3.5 billion senior secured notes at 4.75% due 2028.

The transaction also includes a $3 billion term loan with an eight-year tenor.

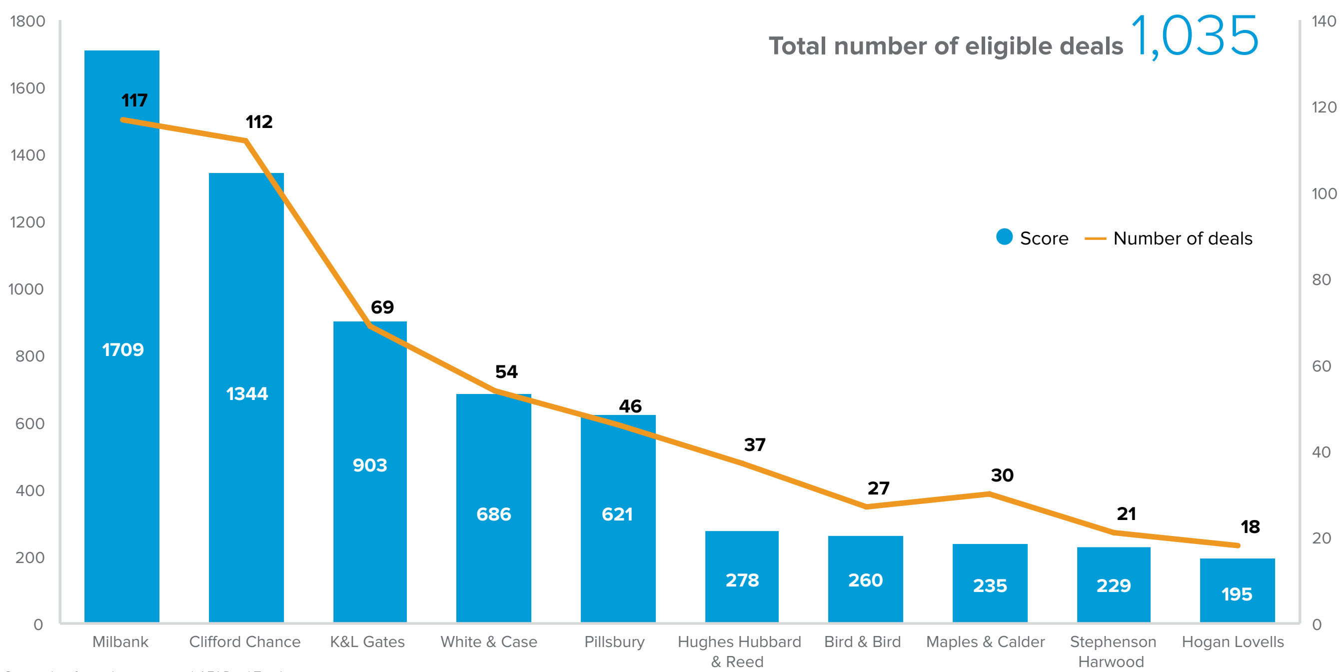
The blended average annual rate was 4.75%.

Milbank was the drafting counsel for major transaction documents and was the law firm advising the lenders. David Polk advised Delta Air Lines on the transaction.

"The Delta SkyMiles loyalty programme financing was particularly unique since Delta's loyalty assets were all owned by the airline and a new loyalty programme company was formed specifically for the financing," says Milbank partner Drew Fine.

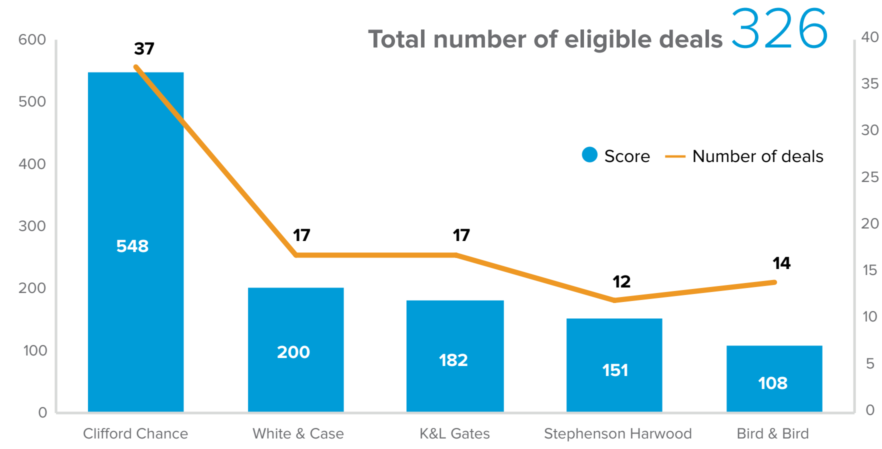
He adds: "All of Delta's loyalty assets – brand, customer information and co-branding agreements – were contributed to the new loyalty company and then financed. The transaction was structured in a way to strongly encourage the airline to continue the financing even after a potential future bankruptcy filing."

Top 10 law firms by number of deals



Source: law firm submissions and *AFJ Deal Tracker*

Asia-Pacific



Source: law firm submissions and *AFJ Deal Tracker*

The types of financings in the Asia-Pacific (Apac) region continue to diversify. Commercial loans represent 31% of transactions in the region, closely followed by operating leases (29%) and capital markets (28%).

Asia was the first to experience the Covid-19 downturn, yet, with the principal exception of Singapore, none of the governments in the Association of Southeast Asian Nations region has supported its airlines.

The Cathay Pacific Airways and Virgin Australia restructurings were the highlights of last year's airline headlines. Singapore Airlines Group (SIA Group) was also active in the equity market through a S$5.3 billion ($3.9 billion) rights issue and a mandatorily convertible S$9.7 billion bond issue for a total of S$15 billion. The group also closed commercial loans, as well as sale and leasebacks, to protect its liquidity position.

For the first few months of 2020, borrowing on an unsecured basis was almost impossible. Exceptions include the SIA Group, which was able to secure a S$4 billion unsecured loan from DBS Bank and some airlines in China which could access the domestic short-term notes market.

The Asia-Pacific market recorded 326 eligible deals last year, compared with 410 transactions in 2019.

Still Clifford Chance performed well above its peers with 37 eligible deals.

Clifford Chance says 2020 was an extremely challenging year for the aviation sector in the APAC region, with travel becoming very restricted from early on in the year and with a number of high profile airline restructurings commencing as the year wore on (eg Thai Airways, Malaysia Airlines, Virgin Australia, Nok, Philippine Airlines, HNA) and government backed capital raisings for others (eg Singapore Airlines and Cathay Pacific).

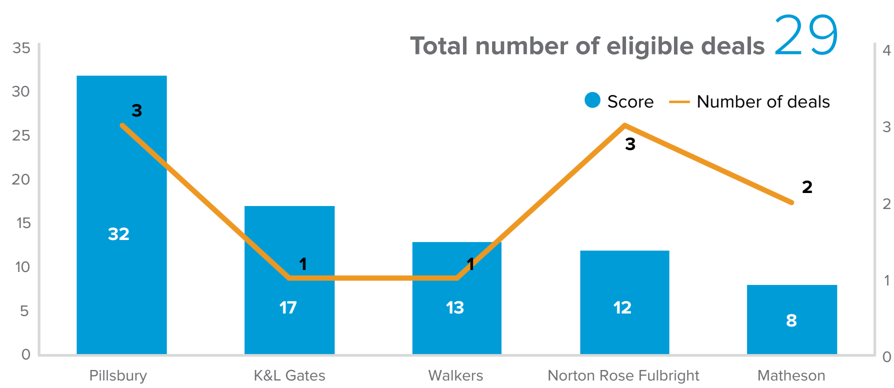
"On the investor side, a number of APAC based lessors (including tax structured lessors) encountered their first major airline restructurings (especially US Chapter 11 proceedings) as well as having to deal with continuing challenges to repossession and redeployment. Much of the year was spent working on restructurings and rental deferrals but there were some airlines across APAC which had entered the pandemic with unencumbered owned aircraft in their fleets and so were still able to raise new money through arranging financings or sale and leasebacks of such aircraft," says Clifford Chance.

White & Case came second in the region with about the same number of transactions as in 2019, when it ranked third.

Partner Simon Collins says: "Recovery in Apac continues to take time. While the large domestic markets such as China are active, regional and long-haul passenger traffic remain subdued. Additionally, confidence of investors and financiers has been impacted by the complex restructurings they have encountered. While the long-term forecasts for APAC are positive, the road to recovery in this region is long."

"Similarly, a number of lessors (APAC based and otherwise) were able to seek funding from shareholders in China and Japan. By the end of the year, domestic travel had largely recovered in the bigger domestic markets such as the PRC, Japan and Australia but airlines in most of the rest of APAC (especially those dependent on international travel) were still badly affected by travel restrictions."

Africa



Source: law firm submissions and *AFJ Deal Tracker*

Over the past few years, South African banks, such as Nedbank and Investec, have been among the more active in the region.

Air Côte d'Ivoire, Air Tanzania, Cabo Verde Airlines, Comair, Egyptair, Royal Air Maroc and Rwandair have benefitted from government-guaranteed loans, while some of the major carriers in the region are going through restructurings (Air Mauritius, South African Airways, Tunisair).

Kenya Airways is holding discussions with lenders to renew moratoriums on loan repayments signed last year in response to the Covid-19 crisis.

Ethiopian Airlines is the exception regarding its ability to access financing because of its scale and ability to adapt to the market. Romain Ekoto, chief aviation officer, African Development Bank, recently told *Airfinance Journal* the African Union Commission has estimated, together with aviation stakeholders, that about $20 billion of financial assistance would be required to bolster the airline sector's inability to withstand the impacts caused by the Covid-19 pandemic.

Pillsbury Hong Kong SAR managing partner, Paul Jebely, has been involved in many financings in Africa. His teams at Pillsbury and Clyde & Co have ranked first for six years and consistently remained in the top three law firms since the Airfinance Journal survey began in 2012.

He says: "It takes a concerted effort to be present in and patient with this market. The deal work is never easy, and the non-deal work (including restructuring) is seemingly never ending. Still, the work matters, because there is at some level an escapable development narrative for each commercial passenger (or cargo) aircraft that takes to African skies."

The region's ageing fleet is in need of replacement but there are pockets of fleet-renewal activity. Operating leases represented almost 50% of the activity in Africa last year. Some placements in the region have included regional aircraft. Over the past year, new carriers such as Green Africa Airways have started operations with used ATR72-600s ahead of a planned A220-300 fleet.

K&L Gates partner Sidanth Rajagopal confirms this trend. "Capitalising on the reduction in long-haul flights, regional carriers in Africa appeared to focus on taking regional aircraft on operating leases. This also gave rise to the region seeing the mushrooming of various low-cost airlines – ie, Green Africa, which only received its first aircraft in 2021."

TAAG Angola Airlines financed six Dash8-400 deliveries through a finance lease structure last year with African Export-Import Bank and Absa Bank.

One interesting financing was a structured term financing for Egyptair Cargo. The facility was raised to part fund the acquisition and conversion costs of three A330-200 P2F aircraft. The financing is secured on revenues generated by Egyptair Cargo through the International Air Transport Association's cargo accounts settlement system, the first time this has been done for an African airline.

Europe

K&L Gates recorded fewer eligible transactions last year in the European market than Clifford Chance but pipped the law firm for the number one spot, thanks to a better scoring.

Sebastian Smith, K&L Gates partner, says Covid lockdowns sent the European airline industry into disarray resulting in some difficult restructurings and enterprising solutions.

"Restructured lease terms had to be negotiated with the majority of European airlines. Many aircraft that were redelivered early in an as-is basis now had to be repaired, stored, insured and registered with CAMO [continuing airworthiness management organisations] arrangements in place, as there was simply no secondary aircraft for some aircraft types. Thankfully, we saw a surge of freighter lease conversions, using facilities such as EFW, and assisted in the negotiation of freighter conversion documentation and new leases with freighter operators."

Smith observes that difficult decisions ultimately had to be made with some equipment being sold piecemeal to part-out operators. "This all made for a very intense albeit interesting year."

The commercial loan market accounted for more than 40% of the transactions in Europe last year. Many governments rescued airlines through state-guaranteed loans and, in some cases, via the equity market.

The UK government quickly stated that it will not offer any industry-wide support programmes for the airline industry but rather bespoke solutions. That said, Easyjet, British Airways, Jet2, Ryanair UK and Wizz Air UK were able to access a generic Covid-19 Bank of England commercial paper programme for more than £2 billion ($2.73 billion).

In December 2020, British Airways announced plans for a £2 billion facility with a five-year tenor partially guaranteed by UK Export Finance under its Export Development Guarantee scheme.

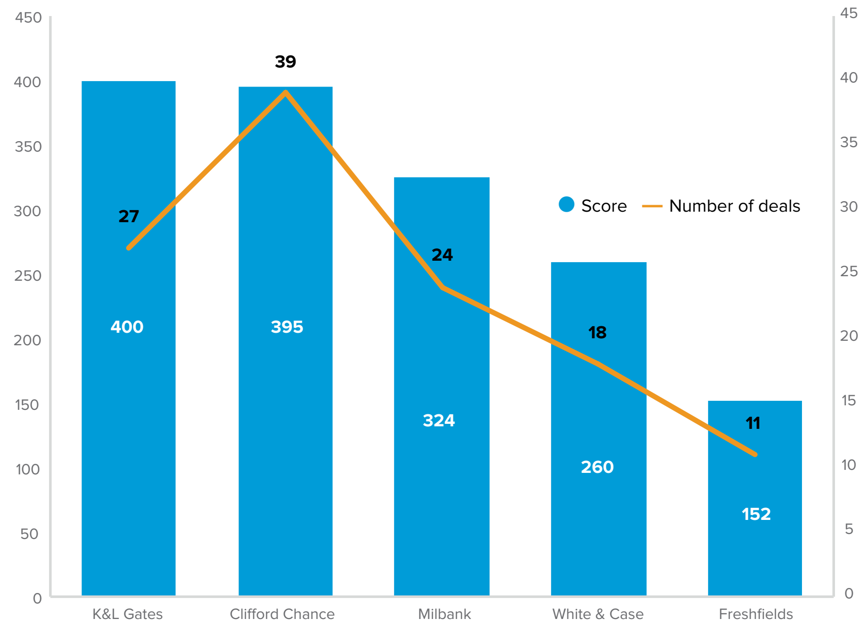
Easyjet followed through earlier this year signing a new term loan facility for $1.87 billion underwritten by a syndicate of banks.

The UK carrier was also proactive in securing some assets in the commercial loan market during 2020. As a result, its unencumbered fleet now accounts for 41%. Ryanair recently noted that more than 85% of its aircraft fleet is unencumbered.

France and The Netherlands offered loan support to Air France-KLM, while Lufthansa and its subsidiaries received support from different governments. Airlines in Spain, Portugal and the Nordic countries also received government-guaranteed loans. The Portuguese government recently increased its stake in TAP to 72.5% to support the carrier during the pandemic. Clifford Chance says the impact of Covid-19 on the aviation industry within Europe has been significant. "Many airlines in the region have been forced to seek accommodation from their creditors in the form of lease and debt restructurings, both in and out of court. In particular, we have seen a number of airlines, both European (e.g. Virgin Atlantic) and others (e.g. MAB Leasing) seeking to utilise English schemes of arrangement as a flexible tool to implement these restructurings without having to implement a formal insolvency process, as well as some airlines using Irish examinership (e.g. Norwegian)."

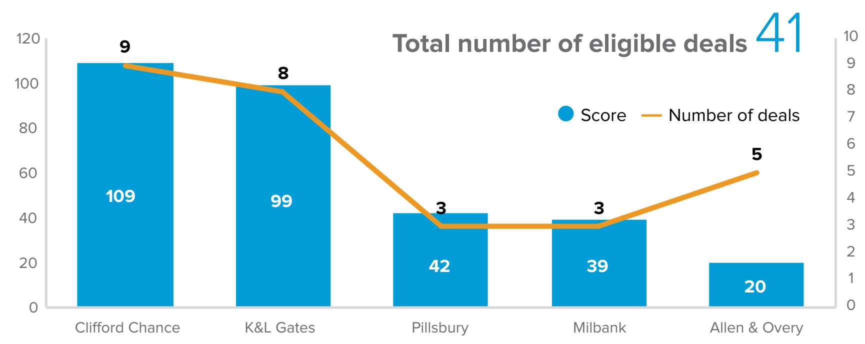
Looking through to 2021, as vaccination rates rise across Europe, Clifford Chance expects to see the continued recovery of aviation within Europe, but significant headwinds remain for many European airlines, particularly if there is disruption to 2021 summer traffic.

Total number of eligible deals 350



Source: law firm submissions and *AFJ Deal Tracker*

Middle East



Source: law firm submissions and *AFJ Deal Tracker*

K&L Gates significantly closed the gap on Clifford Chance last year in the Middle East region but Clifford Chance maintained its first position.

Rajagopal of K&L Gates says last year was a 'mixed bag' in the region from carriers looking at restructuring their fleet, to various requests for deferred rent payment, to carriers utilising various financing structures to shore up liquidity. The Middle East continues to have a microclimate which is different from the rest of world, he comments.

"We acted for lessors involved in various sale and leaseback transactions where the lessor community tapped into local banks providing funding through Islamic structures. In addition, all major carriers continued to discuss fleet rationalising methods with OEMs [original equipment manufacturers] including dealing with the Max aircraft," he says.

Commercial loan structures once again topped the ranking in the Middle East region last year but the region also saw some activities in the sale and leaseback market for new deliveries and older assets. Etihad Airways signed a landmark deal with Altavair Airfinance for the sale and leaseback of 13 A330s as well as the forward sale agreement for 16 Boeing 777-300ERs.

The highlighted deal in the region was Etihad Airways' $600 million sukuk which was described as the "world's first transition sukuk", a form of Islamic bond issuance financing linked to Etihad's carbon reduction targets and investments in next-generation aircraft. Clifford Chance and Allen & Overy represented the parties in this landmark transaction.

Clifford Chance says Covid-19 has had a substantial impact on the aviation industry in the Middle East. "With many airlines in the region relying on connecting passengers for a significant portion of their traffic, the travel restrictions imposed by governments around the world have caused them significant hardship, notwithstanding high domestic vaccination rates. Many of the Middle East airlines have relied on significant direct and indirect state funding in order to support them during this period, as well as raising funds through secured financings and sale and leaseback transactions," says Clifford Chance.

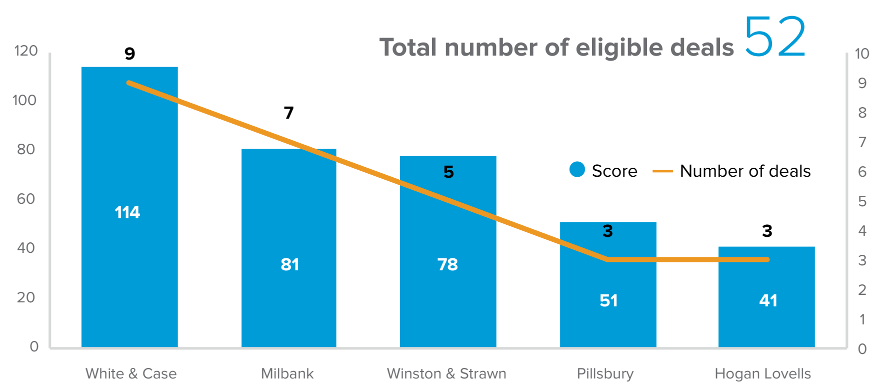
"Etihad Airways also became the first airline to issue a sustainability-linked sukuk, another sign of the increasing focus of aviation market participants on sustainability issues. Looking forward to 2021, we expect that recovery will start to take hold in the region based around domestic and regional traffic, but with a full recovery likely to take longer than in other areas given the reliance of many carriers in the region on long-haul flights."

The Middle East region is also attracting more asset manager/boutique players reflecting the financing requirements in the region in the future.

Sirius Aviation Capital commenced operations in ADGM during March 2020 and in just over a year has grown its fleet to 10 aircraft. The company plans to grow its fleet to 100 aircraft over the next three years.

Magi Aviation Capital, a more established boutique financing company expanded its footprint in the Middle East with the opening of a regional office in Doha, Qatar last year.

Latin America



Source: law firm submissions and *AFJ Deal Tracker*

Chris Hansen, partner at White & Case, says 2020 initially seemed like it would be another solid year for Latin American aviation finance.

"Early in the year, Aeromexico issued its first unsecured bond in the international markets in many years. The sale and leaseback market for new and used aircraft was strong, and the Jolco [Japanese operating lease with call option] market remained open to carriers in the region, with several deals completed or in the pipeline during January and February," he says.

Hansen adds that the problems faced by all airlines because of the Covid-19 pandemic were arguably more acute in the region.

"Most governments in Latin America were forced to focus their limited resources on directly fighting the pandemic and supporting populations that depend on the informal economy to a large extent, leaving airlines to fend for themselves to survive. This was in contrast to other regions such as Asia, Europe and North America, where in many cases significant government financial support helped keep local airlines afloat," he says.

Although there have been some commercial fundraisings in Latin America, there has been very little government support in the region.

A major development in the region last year was the use by LATAM, Avianca and Aeromexico of legal protection under the US Chapter 11 regime to carry out their respective restructuring programmes.

"There is now a growing confidence that each of these airlines will emerge from Chapter 11 and the Covid crisis in a strong and very competitive position," says

Winston & Strawn partner Mark Moody.

"White & Case clearly benefitted in 2020 from having very strong restructuring and aviation finance practices that have worked closely together for a long time and having been particularly active in Latin American aircraft finance for many years, working with airlines, lessors, lenders and ECAs [export credit agencies] on transactions in the region. This helped us to secure mandates on behalf of airlines in Chapter 11 (Aeromexico's special aviation counsel), DIP [debtor-in-possession] financiers, ad hoc bondholders and other creditors in the Chapter 11 cases," says Hansen.

Milbank was also active in the airline bankruptcies. "The Latam market was very active in 2020 due to the need for liquidity as well as the airline bankruptcies, including LATAM, Avianca and Aeromexico," says Drew Fine, a partner at Milbank. "We have represented Avianca as well as four of the five largest secured creditor groups in the LATAM bankruptcy."

Milbank also participated in the different financings of Brazilian carrier Gol Transportes Aereos: sale and leaseback transactions, engine financings, as well as US Ex-Im-supported financings.

White & Case's Hansen says investor interest in Latin American aviation remained high notwithstanding the pandemic. "Copa was able to secure convertible bond financing on favourable terms very early in the pandemic and other carriers such as Viva Aerobus in Mexico have also been able to tap that market lately."

Hansen says there is ample room for optimism that most or all traditional financing sources will return to the region in the coming years, but significant challenges remain.

"Though the signs are good, none of the Chapter 11 cases has yet reached its conclusion so there remains a level of uncertainty in the market," he says.

Hansen adds: "In addition, South America is currently the epicentre for the Covid-19 pandemic, with Argentina, Brazil, Peru and Colombia particularly hard hit. This is causing social and political upheaval in the region as well. As in other jurisdictions, it is extremely important that vaccination rates increase quickly in Latin America to secure a vibrant air travel market in the rest of 2021 and beyond."

North America

Airfinance Journal's Deal Tracker shows that more than $407 billion was raised in 2020, of which $108 billion was government-supported financings.

The response of governments in supporting their airlines through the Covid-19 crisis was varied. The USA has offered the largest and most comprehensive support package with a programme of grants and between five- and 10-year unsecured and secured loans. The top US airlines signed up early for the payroll-support programme, a 70% grant/30% unsecured loan offering plus equity warrants.

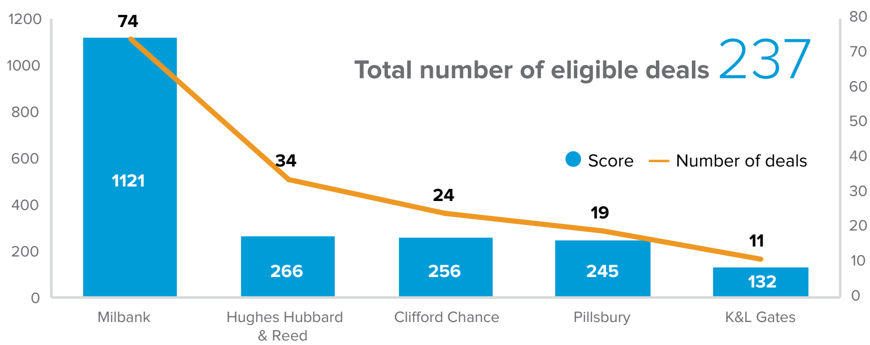
Milbank was the clear winner in this region, doubling the number of transactions from 2019.

Milbank's Fine points out the firm's involvement in almost every product. Milbank helped develop the lessor enhanced equipment trust certificates (EETCs), which were largely used to finance sale and leasebacks for aircraft leasing companies but also worked on loans and capital markets offerings. "The year 2020 was an unprecedented year for raising liquidity for US airlines," he says.

Over the course of the year, Milbank worked on deals to raise more than $50 billion for airlines in North America. Fine says the collateral for the loans included aircraft, engines, spare parts, slots, gates and routes and loyalty financings.

"Due to the urgent need for liquidity, the financings were completed quickly and efficiently. And since many of the early financings were 364-day financings, they all needed to be refinanced," he comments.

Fine says the loyalty financings were particularly interesting because they were a new financing product which needed to be structured properly to protect investors but give airlines operating flexibility.



Source: law firm submissions and *AFJ Deal Tracker*

"These financings proved to be very popular for airlines and investors," he adds.

The capital markets also played a key role in North America last year. The lessors issued unsecured bonds from the end of the second quarter to protect their liquidity levels while 12 EETC issuances raised almost $10 billion.

The asset-backed securities (ABS) market paused in March 2020 after a flurry of deals were issued in the first few weeks of the year. A total of five deals, worth $2.38 billion, were issued in the first quarter of last year, including two transactions with engines only.

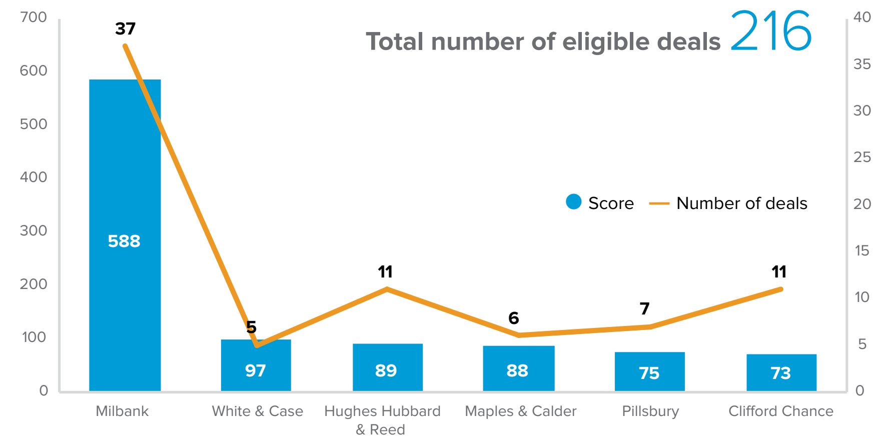
"The aviation sector once again demonstrated its deep resilience as streamlined business models built during prior "black swan" events, such as the 2008 financial crisis and 9/11, enabled industry participants to remain flexible while working with their customers and clients to navigate yet another unprecedented challenge," says Steve Chung a partner at Hughes Hubbard & Reed.

"This included proactively seeking unique financing alternatives; in fact, many of our industry-leading clients, Air Lease Corporation, Delta Air Lines, Griffin Global Asset Management, Hawaiian Airlines and United Airlines, managed to exceed expectations during this last year by capitalizing on their ability to adapt. As borders continue to open up, vaccination rates reach all-time highs and travel confidence returns, the future is again bright and optimistic for aviation," adds Chung.

"2020 was a devastating year for the aviation industry in North America. With the exponential increase in the Covid-19 cases in the region in 2020, the airlines grounded most of their aircraft and a complete lockdown was imposed in most of the countries. The sudden halt in air travel completely disrupted the aviation industry in the region. Airlines based in the U.S. raised capital through a mix of financing techniques including heavily utilizing government support through the pool of funds available under the CARES Act," Clifford Chance says.

"We continue to see a gradual recovery in the market as passenger demand continues to fuel domestic travel. Cargo remained a viable source of income for numerous operators in the industry. The North American market appears to be on its way to recovery in 2021 mainly due to the effective distribution of the COVID vaccine. We expect to see private equity and funds play a critical role in funding the growth of the aviation industry in the region," says Clifford Chance.

Capital markets



Source: law firm submissions and AFJ Deal Tracker

Airfinance Journal's Deal Tracker estimates that $142 billion-worth of capital market transactions closed in 2020.

Milbank's capital markets activity was off the charts in 2020. The firm was involved in 37 transactions, seven more than the previous year.

"Pre-Covid, the ABS market got off to a strong start with five ABS closing in January and February. Once Covid closed ABS down in March, the need for airline liquidity resulted in an unprecedent amount of capital markets financings, including some of the biggest deals in history. This included the $6.5 billion United loyalty financing and the $9 billion Delta loyalty financing," says partner Drew Fine.

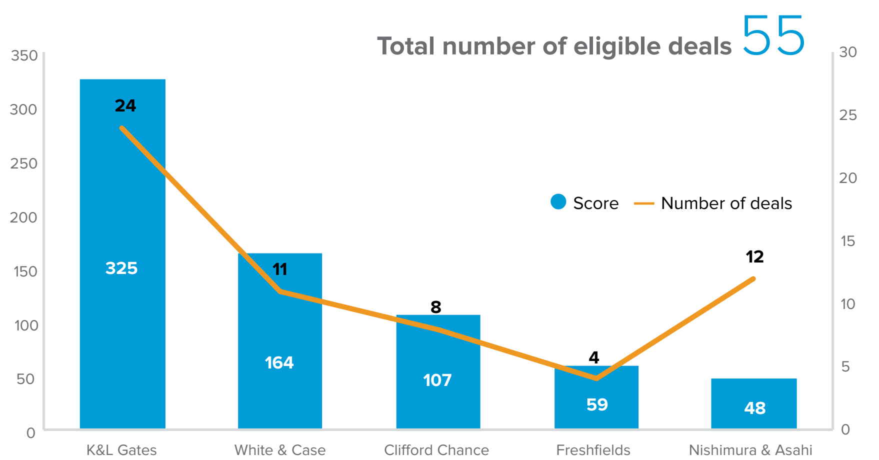
The firm also represented underwriters on EETCs for United Airlines, Delta Air Lines, Alaska Airlines, Federal Express, British Airways, Air Canada and Hawaiian Airlines. And then the substantial uptick in sale and leasebacks led to the development of the modern lessor EETC for aircraft leasing companies.

The collateral for the secured bonds included aircraft, engines, spare parts, slots, gates and routes and loyalty programmes. Several airlines also issued secured notes and did common stock offerings.

Hughes Hubbard & Reed and Clifford Chance recorded 11 capital market transactions each but White & Case came second in this category.

Justin Benson, global head of asset finance based in White & Case's London office, says: "The unprecedented impact of Covid-19 on the industry led to numerous capital-strengthening measures taken by airlines to bolster their equity and debt capital and to reinforce their cash liquidity positions. As a result, we saw a significant uptake in capital markets transactions, particularly in Europe and North America, with significant issuances by Air France-KLM, Aeroflot, Finnair and many others. Overall, 2020 was a strong year for airline issuances in the capital markets."

Structured leases



Source: law firm submissions and AFJ Deal Tracker

Over the past 12 months, the big wigs in aircraft financing have decried that demand for Jolco and Japanese operating lease (Jol) financings was "gone" and that the market was all but "dead".

The latest data, however, suggests otherwise. While there have undoubtedly been steep cuts in the volume of aircraft equity underwritten by Japanese investors, Jol and Jolco transactions did still see deals in Covid-dominated 2020.

Airlines continue to be preoccupied with securing government bailouts rather than structuring new aircraft deals.

The flow of new aircraft deliveries dried up significantly between the second and fourth quarter of last year, limiting the Jolco market. In the meantime, equity investors were hesitant to commit to the market. The lack of commercial debt for the most part of 2020 did not help.

This was a step back from 2019 when almost 110 deals closed as Jolco financings represented about two-thirds of the structured lease market. In 2019, the overall funding volumes increased, reflecting the confidence in the product and the credits, but also as a consequence of larger transactions requiring larger Japanese equity underwriting capabilities.

First Jolco transactions reached El Al Airlines, Royal Air Maroc and Air Mauritius, while LATAM tapped the market for new and used assets, as Jolco underwriters became more open minded on the risk.

Last year, Jolco investors were hit by some airline bankruptcies and are still digesting some restructurings, including returned/rejected aircraft and equity inventories. In total, 55 aircraft transactions closed in the structured lease market in 2020.

K&L Gates increased its lead position accounting for 45% of all transactions in this market.

"We have seen resiliency on the part of the Jolco equity market in the face of the Covid-19 pandemic," says Robert Melson, K&L Gates partner and global head of aviation finance.

He adds: "Although the number of debt providers for the Jolco market certainly contracted significantly, we worked with a few nimble Japanese leasing companies to structure a significant number of equity-only Jolcos. We also did quite a few traditional debt and equity Jolcos for long-term airline Jolco participants that continue to be seen as relatively safe by debt providers."

Melson says the equity never left and anticipates the number of Jolco transactions to increase in 2022 as Covid-19 travel restrictions decline and more and more debt providers return to the market.

Commercial loan

The commercial loan market accounted for 36.6% of the eligible deals in 2020. This was up from 20% the previous year.

Before Covid-19, the banking market had been resilient despite the abundance of liquidity and structured loans available for borrowers.

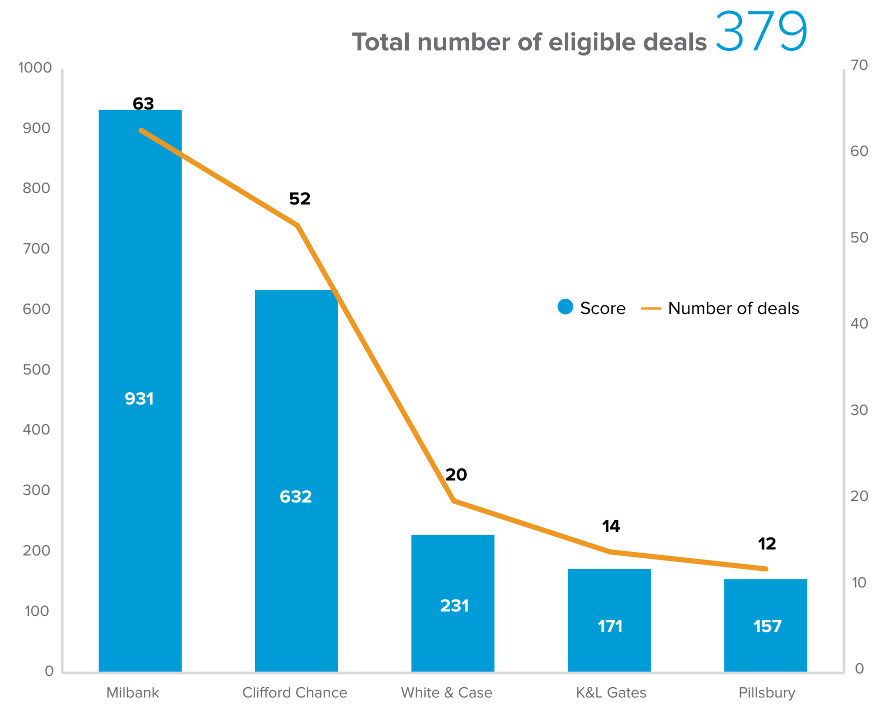
Covid-19 highlighted the importance of the banks, especially from the second quarter of the year. It also marked the pause or retreat from aviation of certain capital providers. Meanwhile, the alternatives offered to borrowers have increased. Over the past year, new players have come to the industry in search of reasonable yields.

Looking back at 2020, commercial loans were prevalent across North America, Europe and, to a certain extent, the Asia-Pacific, which reflects the general need for aviation financing.

The number of aircraft deliveries from manufacturers plummeted last year, but airlines and lessors turned to commercial loans for liquidity purposes.

As a result, 2020 saw a massive increase in commercial loans. According to *Airfinance Journal*'s Deal Tracker, this category accounted for almost $167 billion in financing last year, up from $75 billion in 2019.

Commercial loans also include insurance-supported financings, which have become more popular with airlines over the past few years.



Source: law firm submissions and *AFJ Deal Tracker*

Milbank headed this category with 63 transactions, or 11 more than Clifford Chance.

"As soon as Covid-19 closed down aviation, airlines needed substantial liquidity. Many relatively short-term liquidity financings were provided to airlines. These liquidity financings were ultimately refinanced with longer-term financing. The collateral for the commercial loans included aircraft, engines, spare parts, slots, gates and routes and loyalty financings," says Milbank's Fine.

The firm was also involved in warehouse facilities for Aercap, Sky Leasing and Carlyle Aviation Partners during the year, while it represented the investors in connection with a term loan B for Fly Leasing.

Sales & purchases

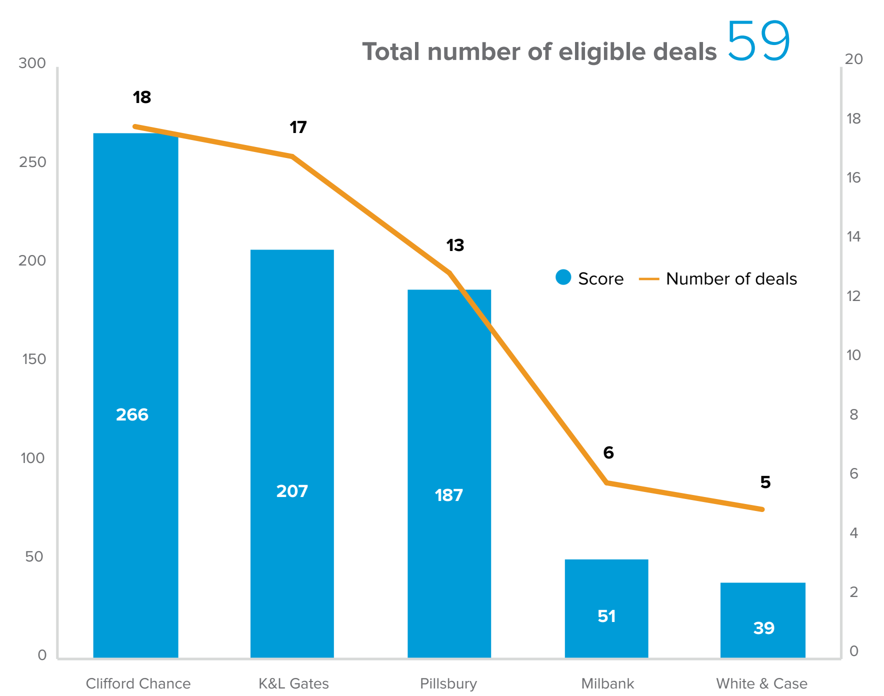
Clifford Chance and K&L Gates were the most active law firms in the sale and purchase market.

But the absence of liquidity as well as plans for buyers, in light of the Covid-19 pandemic, limited this market to about 60 transactions. This was only a fifth of the previous year's tally, when 300 transactions were recorded. There were about 345 transactions the year before that.

Some sale and leasebacks were performed on new equipment in 2020, while some airlines such as Easyjet sold unencumbered assets to raise their liquidity position.

"The sale and purchase market saw an overall decline in 2020 when compared with 2019; however, the US and European markets in particular remained buoyant through the midst of the pandemic," says Amanda Darling, a partner at K&L Gates.

"We also saw some aircraft trading activity among our Japanese investor clients, but less than we see outside pandemic conditions," she says.



Source: law firm submissions and *AFJ Deal Tracker*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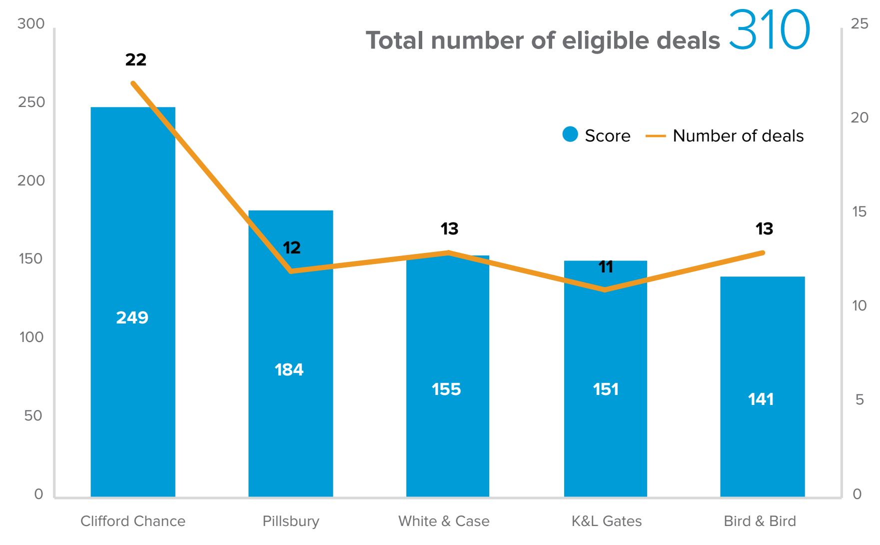
Operating leases



Source: law firm submissions and *AFJ Deal Tracker*

The operating lease market was not very active in 2020, mainly because of the level of capacity it could offer concerned airlines.

As airlines searched for a way of surviving the Covid-19 pandemic, balancing the fleet remained the priority. Many airlines halted growth plans to concentrate on the existing fleet and the stored/active aircraft.

Covid-19 has provided some opportunities for some airlines to benefit from market conditions for leasing aircraft, and this was reflected in lease rates.

Compared with 2019, the number of transactions last year halved.

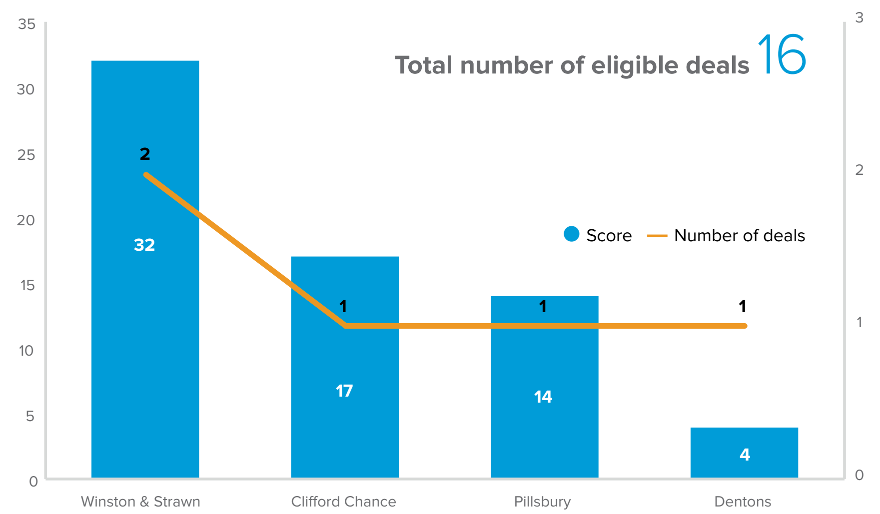
Clifford Chance was a clear winner of this category but four law firms – Bird & Bird, K&L Gates, Pillsbury and White & Case – were neck and neck in the operating lease market.

"While operating lease transaction volumes between new counterparties softened in 2020, the pandemic nevertheless gave rise to a new trend of instructions involving the fast-paced re-leasing of portfolios of aircraft as several airlines moved their excess fleet capacity to group airlines in other jurisdictions necessitating revised lease structures, replacement security and reregistration in highly compressed time frames," says Pillsbury partner Debra Erni.

Europe continues to lead this category with almost 40% of transactions in 2020.

Operating leases continue to be the most popular financing solutions in the market of new aircraft deliveries. Lessors have large orderbooks with the manufacturers but also account for an increasing amount of purchase and leaseback transactions on new deliveries.

Export credit



Source: law firm submissions and *AFJ Deal Tracker*

ECAs are still underwriting financings, although the introduction of ECA premiums by the new Aircraft Sector Understanding rules almost a decade ago have impacted their attractiveness to airlines.

The transactions recorded in 2020 include some A380s for Emirates Airline, as well as A350-900 deliveries for Turkish Airlines and Ethiopian Airlines. Another Turkish carrier, Pegasus Airlines, tapped the ECA market for a total of 10 A320neo family (eight A320neos and two A321neos) deliveries last autumn.

Turkish Airlines also financed the purchase of two 787-9s with loans guaranteed by Ex-Im Bank in the first transaction completed by the ECA since it was reauthorised in July 2020.

Winston & Strawn topped the rankings in this category.

"It has clearly been a very difficult time for airlines during Covid, in particular those airlines with no access to support from their national governments," says Winston & Strawn partner Mark Moody.

"The ECAs have certainly played their part in trying to support airlines who have ECA-supported financings in place – this has included the ECAs developing an ECA common approach to airlines seeking certain restructuring terms during the pandemic, which has been implemented quickly in several cases," adds Moody.

Pillsbury partner Graham Tyler says: "From a borrower's perspective, like many other counterparties on secured aircraft financings, during the pandemic the ECAs have looked to preserve existing transactions as far as has been possible through deal restructurings not least because there have been few, if any, options for financial institutions or lessors to place aircraft that are returned early or repossessed.

"Looking forward, the ECAs will continue to have an important role in supporting the financing of new aircraft, perhaps for more financially challenged airline borrowers, but we don't anticipate the levels getting anywhere near those seen in the financial crisis back in 2008."

Tyler adds: "As the sector recovers, there will be many alternative options for borrowers to consider alongside ECA financings including raising money in the debt capital markets, the insurance-backed products of AFIC [Aircraft Finance Insurance Consortium] and Balthazar, secured commercial debt and the sale and leaseback market."

Rising **stars**

Airfinance Journal recognises six of the most promising legal associates for 2020.

Amanda Teoh

Senior associate, Herbert Smith Freehills
Singapore

Amanda Teoh is the senior associate in the Herbert Smith Freehills' Singapore aviation finance team, having joined from Clifford Chance in January 2019.

She has acted for banks, operating lessors and airlines in a range of aircraft transactions, including commercial and export credit financing, operating leases, and sale and novation transactions. She also experienced a client secondment with the aviation desk of leading aviation finance bank BNP Paribas in Singapore.

Teoh has extensive aviation experience across the Asia-Pacific region. Over the past 12 months, and notwithstanding the impact of Covid-19 on the industry, she has continued to act on market-leading transactions, most notably assisting Bain Capital on its acquisition of Virgin Australia, in which she took a leading role in conducting due diligence across the leasing and financing arrangements of Virgin Australia's fleet.

Throughout her career, Teoh has had the benefit of great mentors. While working with Simon Briscoe at Clifford Chance, she gained particular leasing expertise and became the resident expert dealing with Indonesian transactions and lease restructurings.

Since joining Herbert Smith Freehills, under the guidance of Siva Subramaniam and Samuel Kolehmainen, Teoh's practice has expanded to include acting for airlines, such as Scoot, Singapore Airlines and Air Asia, and advising on the aviation financing aspects of restructuring and insolvency transactions, including for Virgin Atlantic and Flybe.

Teoh is a quiet achiever, but combines legal knowledge with a commercial, pragmatic and collaborative approach to ensure a smooth transaction for all parties involved. This was recently recognised by her inclusion as an aviation rising star in The Legal 500 Asia Pacific 2021.

In addition to aviation finance, Teoh is an active member of the Herbert Smith Freehills' diversity and inclusion and corporate social responsibility committees, and is co-leading the firm's pro bono practice in Asia.

"Amanda's contribution to the team is invaluable in that she leads the junior lawyers effectively and she provides solid support on transactions to partners," says the legal firm. "By way of an example, in Bain's acquisition of Virgin Australia, Amanda was instrumental in managing the due diligence process of the fleet (involving over 130 aircraft and nine engines) and team (including partners) that undertook the due diligence."

Teoh holds bachelor's degrees in arts and law (first-class honours) from the University of New South Wales. She was admitted as a solicitor of the NSW Supreme Court in 2011, as a barrister and solicitor of the High Court of New Zealand in 2015 and as a solicitor of the Senior Courts of England and Wales in 2018.

Before commencing her corporate career with King & Wood Mallesons in Sydney, Teoh was a judges' associate with the president of the NSW Court of Appeal.

Cynthia Liu

Senior Associate, Hughes Hubbard & Reed
Washington

Cynthia Liu is a senior associate in Hughes Hubbard & Reed's Washington DC office, and a member of the firm's corporate and equipment finance groups where she focuses on commercial aircraft financing.

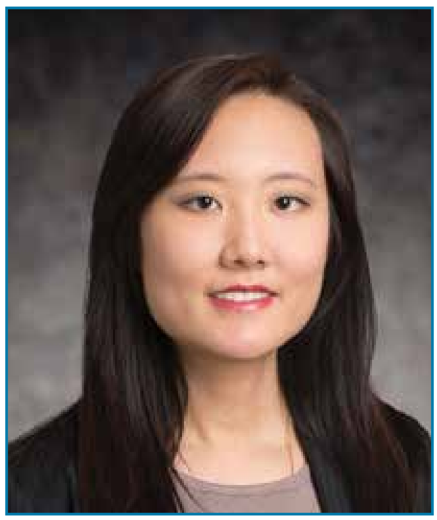
Liu represents commercial banks, leasing companies, borrowers, lenders, initial purchasers, arrangers, private equity investors and airlines in connection with secured and unsecured lending, simple and complex bank loans, sale and lease transactions and other financing transactions in the USA and around the globe.

Utilising her extensive aviation finance experience, she has helped clients navigate complex aviation matters, many of which have been named Deal of the Year by *Airfinance Journal*.

In 2019 alone, Liu served as counsel on two matters selected as 2019's Middle East Deal of the Year and North America Deal of the Year.

In the Middle East Deal of the Year, Liu and the Hughes Hubbard & Reed team advised a group of financing parties, including Citigroup Global Markets and BNP Paribas, in a $500 million Islamic finance Murabaha revolving warehouse facility for NCB Capital, a leading investment firm in the Middle East.

In the North America Deal of the Year, Liu and the Hughes Hubbard & Reed team advised Hawaiian Airlines in the Japanese yen-dominated (JPY) financings of six Airbus aircraft in a deal worth up to $233 million. This deal consisted of two separate loan agreements and came on the heels of Hawaiian's first-ever JPY financing.



"Cynthia has continued to earn recognition for her strong work ethic and dedication to the field and her ability to get the most innovative deals across the finish line."

Steven Chung, partner, Hughes Hubbard & Reed

Last year, Liu represented Hawaiian Airlines in its receipt of a $420 million loan (later increased to up to $622 million) under the Coronavirus Aid, Relief and Economic Security Act from the US Department of the Treasury. Earlier this year, she represented Hawaiian Airlines again on its $1.2 billion bond offering amid the company's recovery from the pandemic.

Liu also worked on several multimillion-dollar sale and leaseback transactions this past year for industry leaders including Delta Air Lines and Hawaiian Airlines.

She also has experience in the capital markets through the representation of Sculptor Capital Management as asset manager in a $446 million GECAS START III aircraft asset-backed securitisation (ABS) offering as well as Och Ziff Capital Management (now Sculptor Capital Management) as lead equity investor with the $577 million GECAS START II ABS offering.

Liu started her career at Hughes Hubbard in 2011 as an associate in the international trade practice, gaining experience handling trade policy, World Trade Organization litigation, trade remedies, US export controls and sanctions matters.

She joined Akin Gump in Washington DC in 2013 before returning to Hughes Hubbard in 2017. This combination of trade and regulatory experience and aviation finance expertise undoubtedly gives Liu a rare versatility that separates her from her peers.

"Cynthia Liu is truly a recognised leader in the aviation finance community," says partner Steven Chung. "She has an innate ability to help clients navigate through some of the most complex aviation matters and transactions. Beginning her career in just 2011, Cynthia has continued to earn recognition for her strong work ethic and dedication to the field and her ability to get the most innovative deals across the finish line."

Keith Mulhern

Senior Associate, A&L Goodbody

Dublin

Keith Mulhern is a key member of the aviation and transport finance practice at A&L Goodbody and has provided exceptional advice as the lead associate on a broad range of complex, innovative and award-winning transactions for important clients over several years.

He graduated with a Master of Law degree from the University of Cambridge (UK) and is known for having excellent legal and technical skills, a practical and commercial approach to transactions and a calm demeanour.

"Keith has acted on many complex transactions for Aergo over the years and has always impressed with his professional approach."

Neil O'Donnell, senior vice-president legal, Aergo Capital

Mulhern has acted for a wide range of aviation clients including leasing companies, airlines, banks, manufacturers, funds and credit support providers.

He has extensive experience acting on a variety of aviation financing and leasing products and structures including operating leases, finance leases, sale and leasebacks, Japanese operating lease with call option (Jolco) structures, debt finance (bilateral, syndicated and warehouse facilities), capital markets issuances (secured ABS and unsecured perpetual bonds), predelivery payment financing, Islamic financing, joint ventures/side cars, export credit agency-supported financing and Aircraft Finance Insurance Consortium (AFIC)/Balthazar-supported financing.

Mulhern has excellent experience advising on large, high-profile and complex restructurings and distressed transactions. Notably, he recently worked on advising several financiers and leasing companies in connection with the Irish Examinership of Norwegian Air Shuttle and its affiliates.

He has advised on a number of market-leading and award-winning capital markets transactions including the recent launch of the first aircraft ABS successfully to close since the severe impact of Covid-19 on the aviation sector. He also recently launched with David Berkery, partner, the first episode in the ALG Aviation & Transport Finance Soundbite Series with an overview of that transaction and its impact on the industry.

Mulhern's considerable ABS experience includes advising on Lunar Aircraft 2020-1, Raptor 2019-1, ZCAP 2018-1, Vx Cargo 2018-1 (all-freighter ABS), Prop 2017-1 (all-turboprop ABS) and Labrador Aviation Finance 2016. He also recently advised CALC on its $200 million unsecured perpetual capital securities issue through a private placement.

He has had a lead role working on transactions involving new, innovative and alternative financing structures such as acting for NCB Capital on the establishment of its Dara Aviation platform involving the acquisition and Islamic financing of a portfolio of 19 aircraft using a Murabaha structure.

Mulhern also advised CALC on its first aircraft investment sidecar, China Aircraft Global. He recently advised Aergo Capital on its Islamic financing of one Boeing 787 and one Airbus A350 with Dubai Islamic Bank using Sharia-compliant funding. He has also advised on financing products with new alternative financing and investment platforms including acting for Aergo Capital on its financing of one A321 and one 737 with Volofin and acting for new alternative lending platform, Valkyrie.

He also has wide-ranging experience advising on warehouse financing structures including advising each of Chorus Aviation Capital, Zephyrus Capital Aviation and Sculptor Capital Management, respectively, on their first aircraft warehouse facilities.

Mulhern also represents A&L Goodbody on the International Registry Advisory Board and works actively on projects for the legal advisory panel to the Aviation Working Group. He has also lectured and tutored students in Law Society of Ireland programmes including the Professional Practice Course (Part II) and the Certificate of Aviation Leasing and Financing.

"Keith has acted on many complex transactions for Aergo over the years and has always impressed with his professional approach and his ability to deploy ALG's legal input seamlessly into fast-paced deals," says Neil O'Donnell, senior vice-president legal, Aergo Capital.

"He is adept at providing commercially tailored legal advice that suits our business model and is effective at communicating such advice in a straightforward manner. He has consistently demonstrated a strong knowledge of the law and can marry this to his excellent understanding of the Aergo corporate structure and commercial dynamics," adds O'Donnell.

"Keith is an exceptional senior associate and brings expertise, professionalism and good humour to every aspect of his role. Although his client relationships and transactional experience is standout, the addition of his strong teamwork ethic and role in mentoring junior members truly makes him a Rising Star," says A&L Goodbody head of aviation and transport finance Marie O'Brien.

Amma Ofori

Associate, Watson Farley & Williams
London

Amma Ofori is an associate in the assets and structured finance group at Watson Farley & Williams, based in London.

She has notable experience acting for banks, lessors and airlines in connection with a wide variety of cross-border leasing and financing transactions. Over the past few years, Ofori has been involved with cutting-edge transactions such as ECA financings, warehouse facilities and Jolco financings.

Some of her recent transaction highlights include acting for Investec Bank (Mauritius) Limited in its arranging of a revolving credit facility by way of a private placement bond for Air Austral.

Ofori also has assisted a syndicate of lenders in connection with the Jolco financing of two Airbus A320 aircraft to be subleased by PT Garuda (Persero) TBK (with Japanese equity provided by Financial Products Group).

She represented Bank of China London Branch in connection with the Jolco refinancing of one A330-300 for AVIC Leasing. The bank acted as facility agent, security agent and hedge counterparty in the transaction.

Ofori also assisted on the ECA-supported financing of one A380 to be leased by Asiana Airlines.

She joined the firm as a paralegal in 2013, qualified as a solicitor in 2016 and has spent time in the firm's Singapore, New York and London offices.

Being part of the largest asset finance practice in London, Ofori has still managed to build a strong reputation with clients and colleagues as one of the leading associates for aviation finance in the City.

She is one of the few associates with extensive experience advising in multiple jurisdictions and on a broad range of transactions – from commercial aircraft to corporate jets and even simulators, and from complex warehouse financings and revolving credit facilities, to all types of general finance and leasing transactions in the aviation market.

Jim Bell, Watson & Farley global co-head of aviation, says: "Amma is a great technical lawyer with excellent commercial understanding. Amma has a distinct ability to keep a transaction running smoothly. Her fantastic experience, across multiple jurisdictions, makes her a real asset to our clients."

Nick Harding

Legal director, Clyde & Co
London

Nick Harding is well on track to being one of the best regarded aviation finance lawyers in the industry, noted not just for the depth of his skills but for the range of the work on which he advises.

Harding is noted by colleagues and peers for his outstanding technical skills. His broad experience shapes his legal analysis and drafting skills, which rank him alongside the magic circle partners with whom he habitually deals.

He is renowned for his highly professional approach to transaction management: early identification and resolution of issues, frequently with creative solutions; pro-activity and driving the deal forwards; a focus on key points which need to be pushed forcefully but fairly on behalf of the client, while being able to exercise good judgment in moving on from points of less importance which can hold up deals. This is different from "being commercial", which is too often a euphemism for dropping points in the interest of just getting a deal done.

Harding is well regarded in the industry for his calm and methodical manner and polite respectful approach to negotiation, articulating his points in a convincing manner without making the other side feel demeaned.

He joined Clyde & Co's aviation finance team in 2015, having previously worked for several years in the asset finance team at Dentons. He has experience in the financing and leasing of commercial and business aircraft and helicopters. His experience includes export credit-supported financings, finance and operating lease transactions, predelivery payment financings, tax-based leases (especially French tax leases and Jolcos) and financings, manufacturer-supported financings and warranty arrangements, asset value guarantees and sale and purchase transactions.

Harding also acts for financiers, owners and operators in the business jet market, advising on purchase, financing, operating and tax arrangements. Commercial airline clients for which he works regularly include Turkish Airlines, Wizz Air, Royal Air Maroc, Air Baltic, Aegean Airlines and Sun Express.

Among his recent innovative deals are the first Balthazar transaction in the global aviation market (Balthazar-supported French tax lease financing of five A321neo aircraft, with financing provided by BNP Paribas) and the second AFIC transaction for Turkish Airlines (two 787-9s), which was the first US Ex-Im Bank financing of a large aircraft since the bank's reauthorisation.

Over the past year, Harding has also been advising a number of airlines on Covid-19 related issues, and restructuring. Before that, he advised various airlines on issues relating to the grounding/delays in delivery of 737 Max aircraft.

Harding has advised a number of airlines on refleeting programmes and engine support. He acted for Air Baltic on its A220-300 aircraft including PW1000G engine warranty support, and acted on the EDC financing of the first deliveries, including the first A220 (then CS300) aircraft to be delivered as launch customer in November 2016; and acting on subsequent sale and leasebacks.

He also has extensive litigation experience, which he can bring to bear on his transaction advice. A recent highlight was acting for Alitalia's parent company, Compagnia Aerea Italiana (CAI), in the English Commercial Court in a dispute with Aircraft Purchase Fleet Limited (APFL). The dispute related to the non-delivery of 13 Airbus aircraft which, according to APFL, CAI was bound, but refused, to take on lease between 2012 and 2015 under a framework agreement in force between them.

After a two-week trial, the court dismissed in its entirety the $260 million claim for damages brought by APFL alleging renunciation of that agreement by CAI.

Harding also advises on regulatory matters – for example, in 2017, he assisted in the establishment of Wizz Air UK.

"We very much appreciate the quality of support that Nick provides to us," says Youness Agzid, head of the legal department, Royal Air Maroc. "He has a good understanding of our commercial requirements, and knows which points to push hard, and which can be traded or conceded. He clearly has real knowledge of industry practice and wide experience of a number of finance/leasing products and this comes across in his advice."

Imants Jansons, general counsel at Air Baltic, says: "In 2016, Air Baltic was a launch operator of the new Airbus A220-300 aircraft and Nick played a crucial role providing legal support in that complex journey making it a huge global success. Since then, he has become an integral part of all aircraft finance transactions and a person to turn to in case of all other aircraft-related legal issues.

"Nick's legal skills, industry knowledge and accessibility are well known and recognised at all levels of the company and his guidance is sought after not only by the legal team but also the finance and technical team. He has become a part of Air Baltic."

Charlotte McNeilly

Senior Associate Stephenson Harwood
London

Charlotte McNeilly is an experienced aviation lawyer with more than eight years' experience in the aviation sector. She has extensive experience advising banks, lessors and airlines on all aspects of aircraft financing, leasing and aircraft-trading transactions, each involving multiple jurisdictions. At Stephenson Harwood, she is the lead associate on all the team's key client relationships.

Of particular value is McNeilly's ability to deliver bespoke solutions for clients. She has recently advised on the conversion of several A330 aircraft from passenger-to-freighter configuration and the subsequent leasing. Negotiation of the leases was involved not only because it represented a new relationship for the lessor but also to take account of the predelivery freighter conversion process and a bespoke arrangement whereby the aircraft was to be operated by a third-party airline on behalf of the lessor's non-airline customer, resulting in the need for sensitive negotiations, balancing all parties' requirements and expectations.

"Charlotte is a stand-out senior associate and we highly value her contribution to all aspects of our team and our business."

Richard Parsons, partner and head of aviation, Stephenson Harwood

On another matter, she negotiated unprecedented step-in obligations for a lessor into subleasing arrangements in order to secure the end user as a follow-on customer for the lessor in anticipation of the imminent insolvency of its direct lessee customer.

Landmark transactions on which McNeilly has advised include advising the investors in connection with Virgin Atlantic's groundbreaking bond issuance in which landing slots were used as collateral for the first time in Europe. She was primarily responsible for the main transaction documents and assisted with the investor roadshows and the ratings process. This transaction won *Airfinance Journal*'s Deal of the Year, Capital Markets, award.

In addition, McNeilly recently advised on a six-aircraft sale and leaseback transaction with Delta Air Lines at the height of the Covid-19 pandemic in which the documents were agreed in a record four days to meet Delta's strict timeline to ensure an improved cash-flow position for the airline. Two of the aircraft in the Delta sale and leaseback transaction were subsequently refinanced in what was the client's and the financier's first new money deal since Covid-19 resulting in more involved negotiation of the financing documents.

Before joining Stephenson Harwood, McNeilly worked for an aviation leasing company in Singapore where she managed all leasing, financing and trading transactions for the company. Consequently, she brings to each deal a commercial and outcomes-driven approach, and her time in-house has given her a wider view of the aviation industry as compared with most private practice aviation lawyers, having dealt first-hand with repossessions, lease transitions and technical supplier/consultant contracts alongside the regular leasing, financing and trading deals. McNeilly has maintained strong connections with her former employer and developed relationships between them and Stephenson Harwood, such that her former employer is now an active client of Stephenson Harwood's aviation finance team.

She has also completed secondments at two major aviation finance banks from which she also has great insight into the priorities and demands placed on commercial lenders in the aviation sector.

McNeilly has a track record for advising on high-value and complex transactions. Her work includes advising a syndicate of banks on the restructuring of secured debt in respect of an A330 in conjunction with the restructuring of MAB Aviation. She also represented a new joint-venture leasing platform on its inaugural aviation transaction purchasing three A321 aircraft via sale and leaseback with an Indian carrier (and associated secured debt financing).

Away from transactional work, McNeilly is involved in the team's business development and recruitment activities, and plays a leading role in delivering aviation-related training across Stephenson Harwood's global network. She is also responsible for the supervision and development of trainee solicitors in Stephenson Harwood's aviation finance team.

"Charlotte is a stand-out senior associate and we highly value her contribution to all aspects of our team and our business," says Stephenson Harwood partner and head of aviation, Richard Parsons.

He adds: "Whilst Charlotte is a technically excellent lawyer, with strong drafting and negotiating skills, she also has excellent commerciality, which clients really value. Charlotte is involved in all the team's key client relationships. I know that clients really enjoy working with her, not just because she is a great lawyer, but also because she is always so positive, engaging and unflappable."

Recent private equity **investment in aviation**

Private equity has been upping its game in aviation, writes **David Berkery**, Partner, A&L Goodbody.

Investment by private equity (PE) funds in the aviation sector is not a new phenomenon. PE houses such as Oaktree, CarVal, Terra Firma, Cerberus, Apollo and Fortress have owned or part-owned some of the largest aircraft leasing companies for years. But recently the risk profile and yield potential offered by aviation has attracted even more private equity investment, using a variety of different investment structures.

As the aviation industry grappled with the near worldwide halt of commercial aviation in 2020, new debt funding became increasingly difficult for most leasing companies to source but there remained a plethora of equity investors looking for the right investment opportunity.

Before the onset of Covid-19, there was massive year-on-year increase of the aviation asset-backed securities (ABS) market during the 2014 to 2019 period. It reflected the appetite among private equity firms to acquire aviation debt. While tradable E-Notes (issued under Rule 144A of the US Securities Act as securities of ABS vehicles) were not without their problems when it came to secondary trading, this product did introduce new and different equity investors to the aircraft leasing sector.

Limited partnerships

The most traditional method of raising private equity funds is to form a limited partnership with a defined investment strategy and a trusted general partner to manage the investment. These types of fund raises have been a crucial element in the growth strategy of numerous PE-backed leasing companies.

A typical investment strategy would be to access a warehouse facility to lever up the equity investment, acquire a portfolio of aircraft (either in a single acquisition or over a period of time) and then to take out the warehouse debt using an ABS or another cheaper form of long-term financing.

This type of equity raise has been frequently used by US-based platforms and asset managers, such as Aero Capital Solutions ($200 million equity raise in 2019 and $413 million in 2020), Castlelake, Apollo and Carlyle.

Over the past number of years, sidecar joint ventures have become more and more popular in the aviation sector.

David Berkery, Partner, A&L Goodbody

Raising equity through unregulated fund structures has some potential disadvantages, however, particularly when it comes to attracting investment from European investors and those who are limited to investments into regulated vehicles. Typically, investment by European investors in these types of funds needs to be on a “reverse-solicitation” basis, meaning the investor comes “at its own exclusive initiative” to the investment manager rather than the manager marketing the fund to them.

Given the amount of available capital there has been for aviation in recent years, this has not been a major concern for private equity-backed platforms. But it is clear that there would be advantages to using a regulated vehicle such as an Irish Collective Asset-management Vehicle or an Irish Investment Limited Partnership to raise an aviation fund, and we expect to see a lot more interest in these types of vehicles.

Sidecar joint ventures

Over the past few years, sidecar joint ventures have become more and more popular in the aviation sector. These structures typically marry a passive investor with capital to deploy, but lacking an aircraft leasing platform with the expertise and resources of an existing aircraft lessor.

A good example of this was the $2 billion Einn Volant structure created in 2017 between Caisse de dépôt et placement du Québec, a leading institutional asset manager, and GE Capital Aviation Services Limited (GECAS). More recently, GECAS entered into a similar arrangement with PIMCO, creating a $3 billion leasing investment platform. In both cases, the platform vehicle was an Irish entity capitalised using profit participating notes.

From the perspective of the private equity investors, they benefitted from world-class experience and expertise, access to the marketing network of a global lessor and improved access to warehouse and other financing.

From the perspective of the leasing company, aside from the new equity which is being invested into the vehicle and the ongoing servicing fees being generated, they can use the sidecar vehicle to allow them to do deals which may have otherwise triggered concertation concerns.

For example, an airline in Russia issues a request for proposal for a six-aircraft sale and leaseback transaction but the leasing company could trigger a concentration limit default if it leased more than four aircraft to airlines in that country. Working with the sidecar investors, the leasing company could still do that six-aircraft deal but on the basis that two of the sisterships would go into the sidecar vehicle instead.

Sidecar deals are structured to align interests between the parties as much as possible so that it is to everyone’s benefit that the platform succeeds. It was not surprising to see Kennedy Lewis team-up with Arena Aviation, Corrum Capital Management enter into a joint venture with Sirius Aviation in early 2021 and before that Avolon, CALC and Air Lease Corporation enter into sidecar arrangements with investors.

Loan book acquisitions

Even before the economic impact of the Covid-19 pandemic hit the aviation sector, the changes to global bank capital requirements imposed by Basel IV prompted certain banks to reassess their aviation lending platforms.

In 2019, it was reported that DVB Bank's aviation loan book was on the market and a suite of private equity investors expressed interest in acquiring the book. Similarly, General Electric's sale of PK Airfinance drew the attention of multiple private equity firms before its ultimate acquisition by Apollo Global Management and its insurance company affiliate, Athene.

As the effects of the pandemic took hold, certain other lenders in the sector looked to exit, and private equity investors saw value in the opportunities which emerged. In May 2021, funds managed by Stonepeak Infrastructure Partners and Sydney-based Bellinger Asset Management agreed to acquire a $1.1 billion performing aircraft loan portfolio (secured by 159 aircraft) from National Australia Bank.

Soon afterwards, funds managed by KKR launched a new lending platform (AV Airfinance) with a team of established aviation professionals and acquired an almost $800 million portfolio of aviation loans from CIT Group.

Also in 2021, alternative asset manager Entrust Global and investment firm Strategic Value Partners acquired DVB Bank's aviation asset management and investment businesses.

Despite the differences between aircraft portfolio acquisitions and secured loan portfolio acquisitions, the processes have been relatively similar:

- private equity investors have sought out expertise (either through a joint venture with an existing platform or by launching a new platform with experienced professionals);
- the new vehicle has sourced either a warehouse loan or an acquisition financing allowing it to leverage-up the equity commitment;
- the portfolio of loans has been acquired from the previous lender; and
- the vehicles have looked at ways of taking out the expensive acquisition financing either through a modified ABS, a collateralised loan obligation or a hybrid of the two.

It is reasonable to think we will see this model adopted by others if more traditional lenders in the sector seek to sell some or all of their positions.

New leasing platforms

A different strategy adopted by other investors has been to identify key individuals in the industry and to build a new platform around them. Bain Capital announced in early 2020 that it would provide capital to support a new leasing and asset management platform (Griffin Global Asset Management) with Ryan McKenna as chief executive officer of the new venture. Griffin has gone on to close a $1 billion warehouse facility enabling it to build its portfolio of aircraft and aircraft loans.

Another example of this can be seen in the M&G Investments equity investment in Sky Leasing under the executive leadership of Austin Wiley in 2019. By the middle of 2021, Sky Leasing had secured a $600 million warehouse facility (later upsized by an incremental $150 million), acquired a portfolio of young Airbus and Boeing aircraft and taken out the warehouse debt through its SLAM 2021-1 ABS with record low pricing on the senior tranche.

A similar approach was used in the formation of new US lessor Vmo with funds managed by Ares Private Equity attracting some of the original founders of Vx Capital Partners to launch a new leasing platform.

Existing platforms

There are many upsides to starting a new platform from scratch but depending on market conditions, growing a portfolio (let alone a team) can take time. This can be avoided by acquiring an existing platform, as was the case in CarVal Investors' acquisition of a 90% stake in Aergo Capital in 2014.

More recently, funds managed by Oaktree Capital Management adopted this approach when they invested in existing regional aircraft leasing platform Azorra Aviation based out of Fort Lauderdale, Florida.

In speaking with private equity firms looking to invest in the sector through the acquisition of an existing platform, it is clear that the make-up of the management team is more important than the make-up of the aircraft portfolio. Negotiations for this type of investment can frequently centre on ensuring that the management team remains in place after the investment has been made.

Other types of investment

Perhaps the most straight-forward investment into the aviation leasing and finance sector is to buy publically traded stock of listed aircraft lessors. This investment typically offers very limited execution risk and a clear path to exit in the future. However, a number of factors may make this option less attractive:

- since Avolon Holdings' delisting in 2016, the acquisition by Marubeni and Mizuho of publically traded Aircastle and, most recently, Carlyle Aviation Partners' acquisition of Fly Leasing, there are a limited number of listed aircraft lessors remaining in which to invest;
- the ABS tradable E-Note gave investors a taste for increased transparency and detailed information, an ability to influence management of the portfolio and (subject to limited substitution and reinvestment rights) a defined portfolio of aircraft into which it was investing; and
- this type of investment will be more sensitive to general conditions prevailing in the equity markets and, as the early days of the pandemic demonstrated, stock prices can be prone to greater fluctuation than the metal underpinning the investment.

ABS debt and E-Notes have also proven to be attractive investment tools for private equity investors over the years and the rapid post-pandemic return of the ABS market was testament to this. While it is unlikely we will see tradable E-Notes return in the near future, single third-party equity holder deals have a lot to offer investors.

In essence, these deals are similar to the sidecar joint ventures that have proven very popular recently. But instead of investing in a blind portfolio supported by a warehouse loan, the investor would have the benefit of due diligence on the defined aircraft portfolio while still inputting on the terms of the external debt and working with the servicer of its choice. Once trading conditions improve and large portfolio sales return, this type of structure may make a comeback.

Opportunities in a distressed environment

As certain airlines and leasing companies have faced distress, opportunities have arisen for private equity investors whose investment criteria tend to be more flexible than those of institutional lenders. As a number of airlines filed for Chapter 11 protection in 2020, private equity investors took the opportunity to provide debtor-in-possession financing on a super-senior secured basis.

Similarly, as secured lenders, bolstered by protections afforded by the Cape Town Convention, seek to exercise enforcement rights against insolvent airlines or lessors, private equity investors are watching closely for opportunities to acquire aircraft in distressed market conditions.

*A&L Goodbody acted as Irish counsel on transactions cited in the article. All factual information contained in this article is already in the public domain.

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