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LEGAL EAGLES WHO KEEP ASSET FINANCIERS FLYING HIGH

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It is not just asset financiers who work in asset finance: there is a huge supporting network of other businesses as well. In the UK there are between eight and ten giant City legal firms who are active in the area: the one that has the biggest team is Norton Rose, which has more than 100 lawyers working on asset finance and in 2008 dealt with a transaction aggregate value of \$20 billion for shipping alone. Most of the deals are large ticket items of £50 million or more. "The role of the lawyer depends on which part of the market you're talking about," says Alistair MacRae, a partner in the banking team at Norton Rose. "At its simplest, you have something like car finance, hire purchase, leasing and so on and at the other end you have airlines wanting to finance the purchase of an aircraft. And there's the whole spectrum in between. If you have small transactions involving someone buying a photocopier or computer equipment, there will often be standard documentation and legal advice won't be needed. But further up the scale, where the assets are greater and the transactions more complex, you need tailored documents and at that point clients should be taking advice."

Tax advice is crucial

The most obvious role of a legal advisor is drafting the contract, but the lawyer will also offer tax advice. Deals are, indeed, often underpinned by their tax implications both for the financier and the client company and if the transaction doesn't attract the tax treatment the financier was hoping for, then the increased costs will be passed to the customer, who must be made aware of that. Another of the major players in the field is DLA Piper, the fifth largest legal practice globally by turnover. It, too, deals in the major manufacturing industries, although Graham Tyler, head of asset finance at the firm, says he is seeing increasing inquiries from other sectors such as technology, for example, to finance leasing equipment. "We explain to clients with no knowledge of the industry how a finance lease or an operating lease works," he says. "We are also able to discuss with clients whether the transaction should be on or off balance sheet, and make suggestions to them as to who might be interested in the proposed transaction. "As a general concept when considering a deal lessors and financiers are going to be looking at the lessee's credit and the underlying asset and price the deal accordingly. For example, in the context of aviation, some aircraft are not so easily re-marketed at the end of a lease term and so may prove to be less attractive. Similarly, you might find a piece of equipment has been integrated into another piece of equipment, such as a GPS system and so the lessor will accept that the chances of recovering the asset may be slight. These factors, coupled with the likely location of the asset throughout the term, are key when a lessor is pricing a deal."

Keeping paperwork tidy

As the industry has become increasingly complex, other service providers have grown up, too. One of these is **Formscan**, a document services company, which works with invoice financiers. "We provide a range of services around business documents, including storing, scanning, changing them to a different format and managing them online," says managing director Chris Haden. "Primarily, we make sure good processes are in place." The company has five major clients in the industry and says it can save between 30 and 50 per cent of invoice processing costs. "Currently, when most companies generate invoices, the system is transaction-based rather than rules-based," Chris Haden continues. "Our software can transfer this onto a rules based system." At its simplest, this means that, for example, the system can differentiate between a good and bad credit risk and in the latter case, allow the supplier to reclaim the goods even before the invoice has been issued. Apart from saving money pursuing a debt that will never be repaid, it also impacts reputational costs. "It makes the business look good," he explains. "If a company gets a bad reputation, it makes an underwriter lose confidence - and so it ends up paying more in fees."