



**Naana Frimpong
Counsel, Special Matters
and Government
Investigations**

King & Spalding is an international law firm with more than 1,100 lawyers across 21 offices globally. We have a rich history of advising on African-related issues, both for inboard and outward bound work. We have acted on deals and cases in 48 jurisdictions across North, West and Sub-Saharan Africa. We have decades of experience working with local governments, regulators, businesses, investors and other firms in transactions, finance, trade, investigations and dispute resolution matters in the continent.

We speak with Naana Frimpong, Counsel, Special Matters and Government Investigations practice at King & Spalding about the firm’s history and expertise in African-focused investigations, arbitrations and transactions, as well as her insights on recent and future regulatory trends in Africa’s private equity industry.

Q: Could you tell us a little about the history of King & Spalding?

King & Spalding is a global law firm that has a wide array of clients, including half of the Fortune Global 100. Our firm has a very long history, providing over 130 years of service to clients. It boasts the full range of transactional, litigation and regulatory work, with substantial expertise in merger & acquisition-related matters, including an impressive private equity practice and leading white collar and international arbitration practices. Headquartered in Atlanta, the firm has over 1,100 lawyers across 21 offices in the United States, Europe, the Middle East and Asia. The breadth and scope of the firm’s reach is evidenced by the fact that the firm has handled matters in over 160 countries on six different continents.

Our lawyers are consistently recognized for the results we obtain, our uncompromising commitment to quality, our customer service and responsiveness, and our dedication to understanding the business objectives and culture of our clients. In addition, we pride ourselves on the fact that many of our client relationships are long-standing, productive, professional and collegial.

Q: How long has the firm worked with clients or transactions focused on Africa? Could you elaborate on how your Africa practice is structured and areas of specialization?

King & Spalding lawyers have more than 40 years of experience advising commercial, governmental and financial institutions on ground-breaking corporate, finance, regulatory, oil & gas, dispute resolution,

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26

power and mining matters across Africa. For example, we are ranked as a leader for projects and energy law Africa wide in Chambers Global and lead the way on many pioneering oil & gas projects in Africa, helping clients advance transformational projects that will have significant economic impacts on the countries in which they are located.

In addition to the breadth of our substantive Africa expertise, our Africa team has a broad geographic footprint, comprising of lawyers based in three different continents, including lawyers based in London, Brussels, Paris, New York, Washington DC, Dubai, Singapore, and Atlanta. Our Africa team comprises of lawyers who are deeply passionate about the continent and have spent significant time on-the-ground in Africa, advising on matters and displaying the type of cultural and linguistic affinity that is an important aspect of a nuanced engagement with the continent.

Q: Can you tell us about your firm’s private equity practice and experience advising on African deals?

Our firm has a broad-based private equity practice which is well-versed in fund formation, mergers and acquisitions, acquisition finance, compliance issues, securities offerings, tax, and other related issues, with a broad array of clients around the world, including in Europe, Asia, Africa, South America and the Middle East. Complimenting the firm's substantive experience, the private equity team has deep industry experience in sectors such as energy, healthcare, life sciences, real estate and technology. We have led hundreds of transactions in which we help our clients execute the investment, M&A and financing transactions. These transactions range in size from less than US\$25mn to more than US\$25bn. Our aim for all our clients, including those investing in Africa, is not only to provide a legal service but to assist our clients in identifying opportunities to create sustainable value.

Q: Could you elaborate on the work of the Special Matters and Government Investigations practice and its relevance to African PE transactions?

Our team exclusively focuses on white-collar criminal defense, civil and regulatory investigations in various fora, and corporate internal investigations. It includes more than 40 former U.S. federal prosecutors, the former Head of Enforcement at the Bank of England, a former investigating lawyer at the U.K. Serious Fraud Office, and other government enforcement officials, as well as lawyers who have devoted their careers to white-collar criminal defense in high-stakes matters.

Our anti-corruption and compliance consulting practice is one of the most experienced and extensive in the world, with vast experience representing clients around the globe, in discreet and high-stakes internal investigations before government regulators or development finance institutions, in robust due diligence in connection with mergers and acquisitions, as well as in the development and implementation of compliance and risk assessment programs, which can be crucial in the context of private equity investments.

Together, this team of lawyers working in 20 offices around the globe has handled anti-corruption investigations in more than 100 countries (including numerous countries in sub-Saharan Africa) and earned recognition as a premier firm in this practice area.

Q: International arbitration is the most common form of dispute resolution for African private equity firms. Can you tell us about your firm's expertise in this space?

It is an exciting time for African arbitration, as evidenced by the rapid expansion of international arbitration centers located in Africa and the fact

that more than two-thirds of African countries have ratified the NY Convention regarding the recognition and enforcement of arbitral awards.

King & Spalding's top-tier International Arbitration group has more than 110 members

who have handled arbitrations under all the major international arbitration rules. We have a record of proven success in both investment and commercial arbitration, obtaining awards ranging in amount from US\$10mn to over US\$9bn. Our international arbitration team has handled commercial and investment treaty arbitrations in relation to projects in over 30 African countries. We have particular expertise in disputes in the energy, mining and infrastructure sectors across Africa.

Our team includes native French, Arabic and Lusophone speakers, as well as practitioners with extensive experience acting as counsel and arbitrators in arbitrations involving African parties. With this vast array of experience around the world and in Africa, we are able to provide excellent representation in any international arbitration or global dispute and we are also able to proactively counsel our clients on the most effective dispute resolution mechanisms to adopt in the transactional phases.

Q: What trends or developments do you see in the regulatory oversight of African private equity firms?

In the last decade, U.S. and U.K. regulators, in both their rhetoric and enforcement actions, have been increasingly focused on less regulated parts of the financial services industry, such as private equity. The enactment of Dodd-Frank in the U.S. and the initiation of various financial services investigations ultimately led, in 2016, to a US\$400mn Foreign Corrupt Practices Act settlement by global hedge fund manager Och-Ziff. Additional enforcement actions in later years suggest that this enhanced scrutiny is ongoing, including of course Abraaj. Across the pond, the U.K. Financial Conduct Authority conducted a review of anti-money laundering and anti-bribery systems and controls at various asset managers, brought a number of enforcement actions relating to financial crimes and internal control failures, and has a number of investigations still pending.

With this backdrop, given that there has been an explosion in growth of successful African PE firms, many of whom are increasingly looking to the U.S. and U.K. not only for exit options but also to secure LP investments, and the fact that many of these firms operate in countries with high corruption indices, there is likely to be a marked increase in enforcement activity that is focused on African PE actors.

Q: Do you think the increased attention that large U.S. and U.K. institutional investors are paying to Africa will have an effect on the regulatory scrutiny of African PE firms?

The capital deployment from these institutional investors to Africa in recent years has been significant. U.S. pension funds, for example, facing significant funding gaps have increasingly looked to emerging markets, including Africa, to complement their investments and hopefully help to close some of these gaps. Last year, the Chicago Teachers' Pension Fund, which manages approximately US\$11bn, approved a US\$20mn allocation to two different managers with a focus on investing in African private equity.

However, the involvement of large institutional investors will likely invite more scrutiny from U.K. and U.S. regulators. In the action that the SEC brought against Abraaj, for example, the charging documents indicate that the action's jurisdictional basis included the fact that Abraaj sold partnership interests in its health fund to US investors, that US investors were members of the fund's LPAC and that U.S. investors transmitted capital contributions to the fund from U.S. bank accounts. As these large-scale institutional investors deploy more capital in the continent and become more intimately involved in their investments, it is likely that more regulatory attention will follow.

Q: What effect do you anticipate Covid-19 will have on compliance and anti-corruption measures employed by African PE firms?

Covid-19 has caused significant operational anxiety to a wide variety of businesses around the world. The increased pressure to mitigate losses from the effects of the coronavirus, in conjunction with the decreased ability that many companies have to conduct their typical on-the-ground oversight (due to the unprecedented disruption in work and travel), is likely to place significant strain on the internal controls and compliance measures of companies, including African PE firms. Further, to lessen the gravity of the economic effects of Covid-19, national governments and DFIs have pledged cash infusions. The World Bank and IFC recently approved US\$14bn in "fast-track" financing to assist companies and countries in addressing the pandemic. Some of the funds will assist existing clients in the private sector that are in industries directly affected, for example healthcare. It remains to be seen whether this additional DFI financing will be subject to enhanced due diligence. Notwithstanding, it is incumbent upon all companies to re-affirm their commitment to sound corporate governance controls since the increased business pressure, decreased ability to conduct adequate oversight and significant increase in funding create the perfect opportunity

for inappropriate actions that could expose these companies to regulatory scrutiny.

Q: How has the AVCA membership been of value to the firm?

Being a member of the largest and most influential association dedicated to promoting private investment in Africa has provided us with a unique opportunity to engage with other practitioners, industry shapers and thought-leaders to share best practices, learn, and invest in this dynamic and innovative industry. Our firm is uniquely positioned to draw on its global leading practices in white collar regulatory and international dispute matters, its extensive private equity expertise, and its long-standing engagement with the African continent to provide sustained value to African private equity and venture capital clients.

Want to learn more about King & Spalding. [Click here](#) to explore AVCA's 2019 Member Directory.

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