Nishith Desai Associates (NDA), an international law firm, by specializing in niche areas seeks to add value to the existing legal professional clime. The firm was established in 1984 by Nishith M. Desai, an international tax lawyer, researcher, author, lecturer and international business strategist. The firm adopts a multi-disciplinary approach to practice. Besides lawyers, currently the firm is supported by chartered accountants, management graduates and engineers. The client base of the firm predominantly evolved in the U.S. and has now spread across the globe. The firm uses its state of the art facility at the Nariman Point, Mumbai. Its video conferencing facility and remote access service (RAS) enables firm members direct access and round the clock connectivity to the firm from any location in the world, while travelling or otherwise. The firm has adopted the Gandhi-Handy Trust Based Management model that combines Mahatma Gandhi’s trusteeship philosophy with trust-based virtual office management techniques developed by the contemporary corporate philosopher, Charles Handy.

The firm focuses mainly on the following areas of practice:

1. **Globalisation and International tax:**
   - **Structuring:** The firm has evolved innovative multi-jurisdictional tax efficient structures which have been effectively used by its clients for structuring, among others, inbound and outbound investments. The firm has the experience of developing structures for the globalisation of Indian corporates and to list such companies on international stock exchanges. The firm has obtained advance rulings for its foreign clients endorsing these innovative structures. The firm devised the first structure for investment from Mauritius in India. Mauritius has now become the second largest investor in India. The firm has structured a large number of offshore funds investing into India. It has also structured cross-border lease transactions in the aviation sector.
   - **Taxation of E-commerce:** The firm renders advice on taxation issues arising out of doing business through e-commerce.
   - **Taxation of EPC Contracts:** The firm advises clients on tax planning for construction and EPC contracts.
   - **Taxation of artistes and sports persons:** The firm renders professional advice to entertainment companies on the taxation of renowned artistes and performers.

2. **International Corporate and Financial Services Laws:**
   - **Corporate and securities laws:** The firm advises on structuring and negotiating joint ventures in India and abroad. The firm has represented major Wall Street investment bankers and large global corporations in India. Besides, the firm renders legal and strategic advice for both domestic and cross-border M&A. The firm also undertakes legal due-diligence on behalf of its clients in case of domestic and cross-border acquisitions. The firm also advises its clients on the legal and regulatory aspects of the Employee Stock Option Plans.
   - **International listing:** NDA acted as the legal counsel to the underwriters in the first ADR issue out of India (US$ 70 million) in the case of Infosys Technologies Limited which is listed on NASDAQ. It represented Information Management Resources, Inc. as their Indian counsel for their two public offerings in the US. The firm members have been trained overseas to handle IPOs in the US.
   - **Offshore funds:** NDA has acted as legal counsel to a large number of offshore mutual funds and private equity funds as well as domestic funds (please see the enclosed list). The firm has to its credit, the privilege of structuring the very first offshore fund under the FII regime. The firm has also assisted several leading investment bankers to obtain FII licenses.
   - **Project finance:** The firm acted as counsel to both, lenders and borrowers in several project finance deals in the telecom (both basic and cellular (voted ‘Project Finance Deal of the Year’)), oil and gas, energy, expressways and pipeline sectors. The firm also
has the experience of working closely with municipal bodies and state governments and has advised them on the financing of their urban infrastructure development projects. The firm has also assisted the Government of Karnataka in developing the Karnataka Mass Rapid Transit Act to facilitate the construction of the first Elevated Light Rail Transit System in the country on BOT basis.

3. **High technology, media and communication law:**

NDA advises domestic and multi-national companies in computer software, media and entertainment sector on their operations in India and overseas. Members of the firm have specialised in the legal aspects of outer space communications, Internet, Y2K, telecommunication, employee stock option plans and intellectual property rights. The technology team, headed by an electronics engineer-lawyer, deals with the various techno-legal aspects in this field. **E-commerce:** The firm is one of the leading firms in this field in India. It has advised various companies in some pioneering ventures in Cyberspace. The firm has prepared a white paper for Global Information Infrastructure Commission. The members of the firm have been invited to speak at various fora and have presented papers in conferences in India and abroad.

**Telecommunications & Outer Space Law:** The firm advises WorldTel a billion dollar fund set up by the International Telecommunications Union (ITU) for investing and developing telecom projects in its India related activities. The firm also advised Space Systems Loral USA, MEASAT Broadcast Network Systems SDN BHD. Malaysia, ZEE TV and Asia Satellite Communication Group on their space communication ventures.

**Y2K:** The firm has a dedicated Year 2000 cell since late 1997. The cell has been assisting various small, medium and large companies to minimize their legal liability related to the Year 2000 problem.

**Software & IP:** The firm has unique expertise in drafting and reviewing a diverse range of IT contracts including software license agreements, development contracts, source-code contracts, subcontracting agreements, outsourcing contracts, Y2K Contracts, Commercial Service Provider (CSP) contracts, contracts relating to ISPs, etc. The firm is also advising an international consortium in setting up a 2000-acre hardware technology park in the Country. The firm is currently working on setting up the country’s first Intellectual Property Park.

**ESOPs:** The firm has structured a large number of employee stock options plans for international and domestic companies. Mr. Nishith Desai was on the SEBI Committee set up to review on ESOP guidelines in India.

**Representative clients**

**International**

- Bechtel Corporation
- Citibank N.A.
- Dupont
- Mastercard International
- ARCO
- International Group of Club Corp.
- Browning-Ferris Industries
- Duckworth Group
- Information Mgt. Res. Inc.
- VeriFone Inc.
- i2 Technologies Inc.
- MTV Asia, Singapore
- Loral Space & Communication
- MEASAT Broadcast Network Sys. SDN BHD, Malaysia
- Motorola Iridium Networks
- Afro-Asian Satellite Communication
- Warner Bros
- Nalco Chemical Company
- The Clorox International
- Abacus International Pte Ltd.
- Sabre Inc.
- Merrill Lynch
- DLJ Merchant Banking
- NationsBanc Montgomery Secs.
- Barclays
- Prudential Corporation plc, U.K.
- Transamerica Distribution Finance
- Jardine Electra
- Trust Company of the West/ICICI
- George Soros Funds
- American Bank Notes
- HSBC Private Equity Mgmt. Ltd.
- ANZ Grindlays Offshore Funds
- ABN Amro Asia Securities Ltd.
- Hamon Investment Group
- J. P. Morgan
- Bear Stearns Inc.
- Carr Indosuez Asia
- Oppenheimer, Inc.
- Alliance Capital
- Worldtel Plc.
- Sumitomo International

**Domestic**

- Unit Trust of India
- State Bank of India
- Wockhardt Limited
- Infrastructure Leasing & Fin. Services (IL&FS), India
- Societe Generale
- J. B. Boda Group of Cos.
- NASSCOM, India
- Zee Telefilms Limited
- Petronet Ltd
- Gujarat Machinery Ltd./Pfoudier HDFC
- Silverline Industries Limited
- HCL, India
- Blue Dart Aviation, India
- Transamerica Apple Distribution Finance Ltd.
- Ashapura Minechem Ltd.
- Gujarat Infrastructure Development Board
- Wizcraft Entertainment Pvt. Ltd.
- Mahindra British Telecom
- Aptech
- Hexaware Information Systems
Research Publications:
The firm has its own research division located at Juhu beach. The research center focuses on future issues in the areas of law, finance and taxation; especially identifying those issues related to and of interest to the international business community. It has developed its own very unique library system and has a huge computerized database of news items, articles, various research papers, etc. The research undertaken by the firm includes the following works:

Nuclear sanctions and their impact * Legal issues accompanying privatization of insurance * Discovering derivatives * Asian counterparty risks in derivatives * Legal and tax considerations confronting Indian companies issuing GDRs/ADRs * Understanding the U.S. capital markets, with special emphasis on U.S. GAAP * Considerations in a U.S. securities offering * Legal issues in e-commerce * The mechanism of employee stock option plans in the U.S. * Insider trading: a comparative study * Asset securitization * Tax aspects of transfer and enhancement of technology with a particular focus on software * Foreign investment with special reference to Mauritius published by the International Bureau of Fiscal Documentation (IBFD), The Netherlands * Legal considerations in takeover of companies * Legal and tax issues in international acquisitions: Indian perspective * Private equity investments in India * Structuring venture capital funds for the Indo-Asian region * Advance tax ruling - India * India-US double taxation avoidance agreement and its implications * Investing into and out of the Indian Subcontinent * Investing in India (Financial Times publication) - Chapters on Taxation, Intellectual Property and Environmental Law * Foreign investment in India – a comparison with China * Indian AAR issues favorable ruling on foreign investment through Mauritius (AIG’s case) * Current developments in international investment law (Butterworths publication) – Chapter on India’s laws and policies on foreign investments * Telecom scenario in India * Establishing software companies in India * Role of ethics in regulation of Internet: a survey * Legal considerations for structuring of joint ventures in the media industry * Foreign Institutional Investment in India – an overview and recent changes * Legal and tax issues in infrastructure development * Port privatization in India - a broad perspective * Conciliation and ADR in India.
## Nishith Desai Associates

### List of the Offshore Funds advised by Nishith Desai Associates

<table>
<thead>
<tr>
<th>Name of the Fund</th>
<th>Investment Manager/Sponsor</th>
<th>Corpus (US$ million)</th>
<th>Launch Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>The India Fund</td>
<td>UTI/Merrill Lynch</td>
<td>Close-ended for 7 yrs., now open-ended</td>
<td>July 1986</td>
</tr>
<tr>
<td>The India Growth Fund</td>
<td>UTI/Merrill Lynch</td>
<td>200 - close-ended</td>
<td>August 1988</td>
</tr>
<tr>
<td>The Bombay Fund</td>
<td>Barclays de Zoette Wedd</td>
<td>Open-ended</td>
<td>July 1993</td>
</tr>
<tr>
<td>The India Fund, Inc.</td>
<td>Oppenheimer, IL&amp;FS</td>
<td>510</td>
<td>February 1994</td>
</tr>
<tr>
<td>India Liberalisation Fund</td>
<td>Alliance Capital</td>
<td>235 open-ended</td>
<td>February 1994</td>
</tr>
<tr>
<td>Columbus India Fund</td>
<td>UTI/Columbus</td>
<td>25</td>
<td>May 1994</td>
</tr>
<tr>
<td>The Chanakya Fund</td>
<td>Hamon Asset Mgt. Ltd.</td>
<td></td>
<td>1996</td>
</tr>
<tr>
<td>South Asia Access Fund</td>
<td>Gem Dolphin Group</td>
<td></td>
<td>1996</td>
</tr>
<tr>
<td>South Asia Income and Growth</td>
<td>Gem Dolphin Group</td>
<td></td>
<td>1997</td>
</tr>
<tr>
<td>Investment Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>India Access Fund</td>
<td>UTI/Commercial Union/CDC</td>
<td>54</td>
<td>1997</td>
</tr>
<tr>
<td>India Debt Fund</td>
<td>UTI</td>
<td>30</td>
<td>1997</td>
</tr>
<tr>
<td>India I.T. Fund</td>
<td>UTI/Peregrine</td>
<td>60</td>
<td>1997</td>
</tr>
<tr>
<td>Discovery Fund</td>
<td>IL&amp;FS</td>
<td></td>
<td>1998</td>
</tr>
</tbody>
</table>

**Private Equity Funds:**

<table>
<thead>
<tr>
<th>Name of the Fund</th>
<th>Investment Manager/Sponsor</th>
<th>Issue Size (US$ million)</th>
<th>Issue Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Indocean Funds</td>
<td>George Soros/Chemical Venture Partners</td>
<td>125</td>
<td>1994</td>
</tr>
<tr>
<td>Indocean Funds II</td>
<td>George Soros/Chemical Venture Partners</td>
<td>150</td>
<td>1996</td>
</tr>
<tr>
<td>HSBC Pvt. Equity India Fund</td>
<td>HSBC</td>
<td>60</td>
<td>June 1996</td>
</tr>
<tr>
<td>AIG India Sectoral Equity Fund</td>
<td>AIG/IL&amp;FS</td>
<td>150</td>
<td>February 1997</td>
</tr>
<tr>
<td>TCW/ICICI India Private Equity Fund</td>
<td>TCW/ICICI Investment Partners</td>
<td>130</td>
<td>April 1997</td>
</tr>
<tr>
<td>AIG</td>
<td>AIG</td>
<td>2,500</td>
<td>1997</td>
</tr>
<tr>
<td>Meghraj Fund</td>
<td>Meghraj Private Equity Investments Limited</td>
<td>25</td>
<td>1997</td>
</tr>
<tr>
<td>GE-IDBI Private Equity Fund</td>
<td>GE-U.S. and IDBI-India</td>
<td>100</td>
<td>-</td>
</tr>
<tr>
<td>Tata Auto Components Fund</td>
<td>Merrill Lynch and Tata-India</td>
<td>200</td>
<td>Proposed 1998</td>
</tr>
<tr>
<td>Productivity Fund</td>
<td></td>
<td>50</td>
<td>Proposed 1998</td>
</tr>
<tr>
<td>Auto Ancilliary Fund</td>
<td>IL&amp;FS</td>
<td>22</td>
<td>Proposed 1998</td>
</tr>
</tbody>
</table>

### Overseas Listings

<table>
<thead>
<tr>
<th>Name of Company</th>
<th>Managers</th>
<th>Issue Size (US$ million)</th>
<th>Issue Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Information Management Resources Inc.</td>
<td>Montgomery Securities; Alex. Brown &amp; Sons</td>
<td>49</td>
<td>November 7, 1996</td>
</tr>
<tr>
<td>Information Management Resources Inc.</td>
<td>Montgomery Securities; Alex. Brown &amp; Sons; Furman Selz; Rayman James &amp; Associates, Inc.</td>
<td>97.5</td>
<td>July 30, 1997</td>
</tr>
<tr>
<td>Infosys Technologies Limited.</td>
<td>NationsBanc Montgomery Securities LLC; BancBoston Robertson Stephens; BT Alex Brown; Thomas Weisel Partners LLC</td>
<td>75</td>
<td>March 11, 1999</td>
</tr>
</tbody>
</table>