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# THE PAN ASIAN REGULATORY SUMMIT 2017

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## The Pan Asian Regulatory Summit 2017

### Post-Event Report

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*The Pan Asian Regulatory Summit 2017 took place in Hong Kong on 10 & 11 October 2017. Over 700 senior compliance and risk professionals attended the event over two days to hear from experts from Asia and across the globe on the latest regulatory trends and developments that are impacting the Asian financial industry.*

*Following the event, we have identified six take-aways crucial to your business, and this report will walk you through these key learning points:*

- 1. Implementing a robust anti-money laundering strategy will make your business more efficient and profitable in the long run.*
- 2. Asia's fragmented data laws create a challenge for firms trying to implement new extraterritorial financial regulations.*
- 3. Investors must keep a close eye on the regulators' evolving approach to enforcement in HK.*
- 4. Increased client outreach and more detailed documentation are key to ensure you are prepared for MiFID II come January 2018.*
- 5. Diversity and agility will determine the success of the compliance function in the future.*
- 6. China's internationalization is transforming the world economic order, but regulatory challenges lie ahead as the country continues its global financial integration.*



# 1. Repositioning AML investment as a revenue generator within your business

Implementing a robust anti-money laundering strategy will make your business more efficient and profitable in the long run.

Creating a strong anti-money laundering (AML) system is key to operating a modern and efficient international financial firm. While the investment requirement to put an AML system in place may come with a daunting price tag, there are many ways to turn AML into a revenue generator for your business.

One of the key strategies to generating value from AML exercises is to find ways to use the information collected to improve your business operations. If you understand where a client's money comes from, and the story of how they came to solicit your services, you will have a head start in understanding their service needs, resulting in a better client experience.

AML and Know Your Customer (KYC) systems are closely linked, and often discussed together, because they create similar data sets. Doing either one well will make the other a much easier task, and we encourage firms to combine these data collecting processes in order to reduce demands on the client. Automating as much of the process and system as possible makes it quicker for the program to deliver real value.

With data protection becoming increasingly important, you must also ensure that your terms and conditions allow you to collect this data and share it across your various business units as needed. Pay special attention to any cross-border transfer of data and local laws regulating this issue.



Expert insight on how to get senior-level buy-in for your AML program; L-r.: Ajay Shamsadani, Thomson Reuters; Paddy O'Hara, Standard Chartered Bank; Martin Woods, Thomson Reuters; Joshua Helliczer, EY; Fai Hung Cheung, Allen & Overy; Lisa Brander, CLSA

Support from the highest level of management is key to implementing an AML strategy. In some cases you may need to create a cost benefit analysis to persuade management to make the investment, showing that there are efficiency benefits beyond simply preventing crime.

The costs from potential penalties, additional distraction and damage to reputation can quickly add up to multiples of what early and proactive action will cost. Cleaning up problems that have not yet caused accidents, but pose a threat, leads to greater efficiency.

Getting buy-in from the top is also aided by the Manager-in-Charge regime as enforcement efforts by regulators are increasingly targeting individuals within firms, not just firms themselves. Support from management, however, is not enough - you also need to incentivize frontline staff to adopt AML best practices. Using bonuses and other incentives linked to compliance scores and activity is one of the most effective ways to drive this cultural change.

Training of frontline staff is very important for AML success. When a transaction monitoring system spots suspicious activity, there is about a 5% chance that the report will result in an investigation. Most reports end up in file boxes in a warehouse, but if a well-trained frontline staff spots something suspicious, there is a 40% chance it will result in an investigation.

Money laundering poses a major threat to financial institutions today, and the more international your operations, the greater the threat is. Taking a strong AML approach requires investment, but if done right, that investment will block crime while attracting increased margins.



REUTERS/Sean Yong

## 2. The challenge of data regulation across Asia

**Asia's fragmented data laws create a challenge for firms trying to implement new extraterritorial financial regulations.**

Asia is home to a mixed bag of data regulations, which means it is often hard to implement incoming financial regulations due to data restraints.

While financial regulators want institutions to collect and share more information about their clients and activities, national privacy laws often restrict the transfer of such data. Indonesia and China already have laws requiring certain data to be kept onshore, and Malaysia is also considering similar restrictions.

Many privacy regulations were created in an earlier and simpler era of the Internet. Today, data sources are much wider and more random. Data comes from your mobile devices and the apps you use, and institutions must be aware of the sources of data they are working with, which is key to determining their level of liability.

Although Asia's approach to data is influenced by the EU, with various industry and government groups examining the issue, they have yet to come up with a robust, regional solution. Data privacy rules must therefore be dealt with on a jurisdiction by jurisdiction basis, depending on where your business and clients are based. In addition, data regulations must also be taken account when companies consider using an internal or external cloud.

The EU's General Data Protection Regulation (GDPR) gives individuals the right to know what data about them is stored, and to have access to it. Subject to fulfilling a set of conditions, European rules also enable data portability and sharing, which continues to be a grey area in Asia.

There have been calls in the region to create a joint KYC utility, a shared database between banks and regulators containing due diligence information on existing customers. If a customer has been screened by one bank, they would not face the same documentary requirements if they decided to use banking facilities at another financial institution with access to the database.

Such a KYC industry solution could streamline compliance with financial regulations and improve customer experience by reducing, for instance, the time required to open a bank account.

Every jurisdiction has a different motivation for its data laws, from privacy to trade protection. The trend of Asian companies going global, and therefore dealing with data laws in multiple jurisdictions, should influence domestic rules on cross-border data use.

The fragmented and rapidly changing nature of data regulations across Asia means companies must adopt a systematic approach to meet both local and extraterritorial privacy obligations without it impacting their financial compliance.

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### 3. Regulatory enforcement trends in Hong Kong

Investors should keep a close eye on regulators' evolving approach to enforcement in HK, including a heightened focus on anti-money laundering and IPO sponsors.



Panel on regulatory enforcement trends; L-r.: Nathan Lynch, Thomson Reuters; Simon Clarke, Allen & Overy; Meena Datwani, Hong Kong Monetary Authority; Tom Atkinson, Hong Kong Securities & Futures Commission

Over the last year the Hong Kong Securities and Futures Commission (SFC) has undergone a review to strengthen its enforcement operations. It has reorganized the division, reduced its backlog of cases and has become more focused on what it sees as key priorities for the organization.

The SFC has announced that it would soon release guidelines on its enforcement cooperation policy, clarifying the level of leniency firms can expect in return for greater cooperation during investigations. The policy will allow the regulator to further streamline its caseload and concentrate its enforcement efforts on cases with the highest market risks.

One identified target area for enforcement is evaluating the responsibility of IPO sponsor firms in verifying critical business data of issuing companies. Sponsors have a gatekeeper role to review the listing company and make sure companies with red flags do not move ahead with a listing. These duties have not been taken seriously enough by some sponsors. The SFC has made it clear that they hold sponsor firms responsible, and are actively enforcing regulations surrounding this role.

The Hong Kong Monetary Authority is focusing on anti-money laundering effectiveness, particularly in the area of trade money-laundering and fraud. This is of particular concern in Hong Kong as it is an open, international financial center with a thriving SME marketplace and active international trading channels. The upcoming Mutual Evaluation of Hong Kong by the Financial Action Task Force ( FATF) in 2018 will play an important role in determining future AML regulatory approach.

## What best describes your view of the Managers in Charge regime?



Regulators are also zeroing in on holding senior managers accountable so that their enforcement actions will have a greater deterrent effect. Following the 2008 global financial crisis, there has been an international recognition that key decision-makers in financial institutions need to take more personal responsibility for their decisions.

While the industry generally welcomes the enforcement of the Manager-In-Charge regime, some critics feel that personal liability has gone too far. However, Hong Kong regulators have been clear that individual responsibility will remain at the core of their investigations.

Successful regulation and enforcement requires multi-jurisdictional collaboration between the industry and regulators. This is particularly important in Hong Kong due to its close relationship with mainland China, and cooperation between the two is steadily increasing. While cross-border evidence collection and finding suspects on the mainland continues to present challenges, regulators on both sides of the border are eager to strengthen their partnership.



## 4. MiFID II: Final steps to prepare for January 2018

Increased client outreach and more detailed documentation is key to ensure that your business is prepared for MiFID II come January 2018.



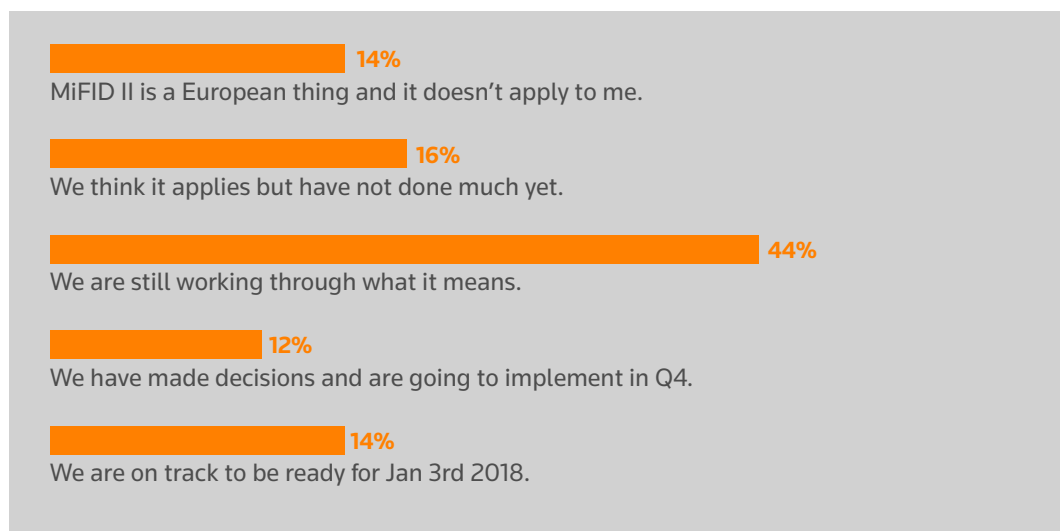
Discussing the impact of MiFID II on Asia; l-r.: Neil Pabari, Thomson Reuters; Vijay Chander, ASIFMA; Marie Gervacio, EY; Tim Fox, Thomson Reuters; Martine Vanasse, Credit Suisse

MiFID II's extended transparency requirements will affect everyone engaged in the dealing and processing of financial instruments, from operating models and systems to data, people and processes.

Preparedness varies widely across the industry, but in general Asia is lagging behind the EU in progress. The most prepared companies tend to be European firms doing business in Asia, followed by Asian businesses with a presence in Europe, trailed by Asian companies without branches outside of the region.



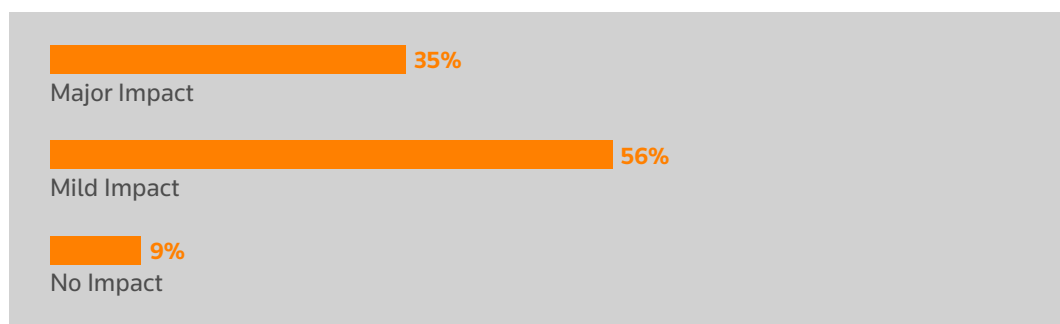
## How ready is your firm with respect to MiFID II?



In Q1 2017 many firms in Asia were focused on seeking direction from London and the EU on whether or not their operations were within the scope of MiFID II. That analysis is now complete, with most firms aware of where they stand in regard to the incoming regulations – but while many have begun to address needs and build solutions, few are fully operationally ready.

It is operational readiness that will take some of the greatest efforts, and time must not be wasted, as the European Securities and Markets Authority (ESMA) will expect full compliance from day one. While the finance industry has complained that it is hard to implement MiFID II as some criteria remain unclear, the EU is unlikely to provide more extensive guidance on how to interpret rules. Firms will have to take decisions based on the current set of guidelines and move forward with implementation.

## What impact do you expect MiFID II to have on your operations?





## 5. The compliance officer in 2030

Diversity and agility will determine the success of the compliance function in the future.

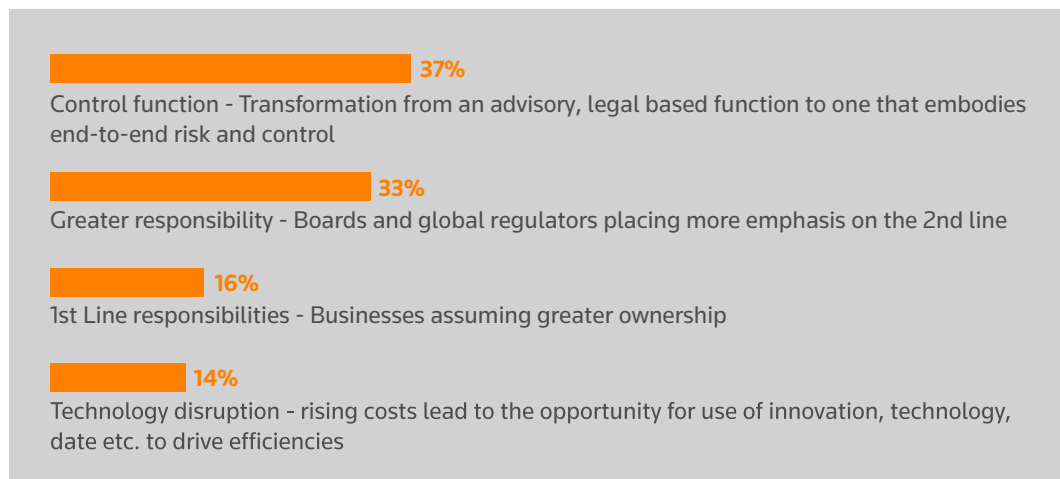


Discussing the changing role of the compliance professional; l-r: Sameer Rege, EY; Sean McHugh, Goldman Sachs; Calum Burnett, Allen & Overy; Angelina Kwan, HKEX; Tim Tesluk, State Street

Increasing regulatory complexity and the heightened focus on technology are making compliance one of the most dynamic roles within any financial firm. How will compliance change in the future, and what skills will the ideal compliance officer have in 2030?

The financial compliance profession has traditionally attracted lawyers, accountants and ex-police officers, but that recruitment pattern is changing. Following the 2008 global financial crisis firms have realized that they need to draw compliance talent from more diverse backgrounds in order to tackle the increasing complexity of financial regulation. The profession has also evolved from a legal role to adopting a more operational risk focus.

## The greatest change in the role of Compliance / Compliance Officer in recent times has been:



Recruitment firms that specialize in compliance say firms are asking for a more diverse skill set when hiring compliance professionals, and that more young graduates are consciously choosing a career in compliance rather than ending up in the field by coincidence.

Today, compliance officers need to be able to build, test and operate complex systems, and technology therefore has become a greater focus than law within many compliance roles, which helps attract younger professionals to the field. Compliance units are also expected to become more collaborative with other business areas to drive a greater exchange of ideas and expertise.

The industry already contains a diverse and complex diaspora of professionals, each with unique skills and knowledge, but this diversity will only increase with time. In the future, compliance professionals will need to become generalists rather than specialists. While accreditation and qualifications are important, the key to being a good compliance officer is curiosity and vision in order to spot problems that others within the firm may not notice.

Although an increasingly large part of the compliance process is being automated to keep pace with the digitization of financial services, the human element remains a crucial part of the profession's success.

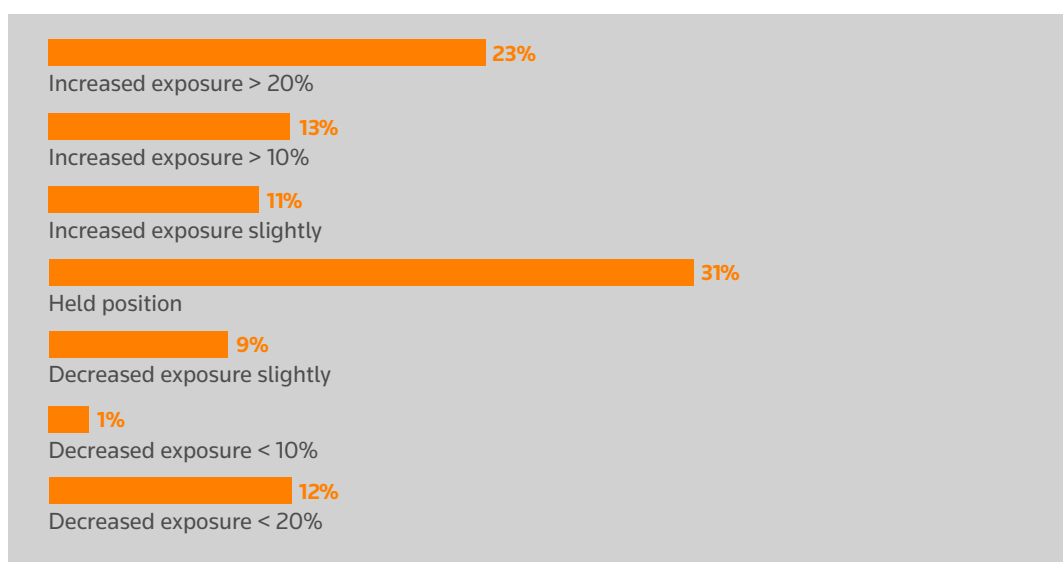


## 6. China's financial internationalization

The opening up of China is transforming the world economic order, but regulatory challenges lie ahead as the country continues its global financial integration.

There have never been more channels for investment flowing in and out of China, from Stock Connect and Bond Connect to interbank bond market access. Chinese investors expand to international markets to diversify their portfolio and gain access to Chinese companies listed in Hong Kong, such as Tencent. Investors, however, still have concerns about the strength of the underlying systems and regulatory regimes for China's internationalization strategy.

### How did your relative portfolio allocation to China onshore stocks and bonds change in the last 12 months?



Banks are playing an important role in China's financial internationalization. Following their clients' footprint helps them expand overseas, often via a toehold in Hong Kong. This started with large Tier 1 and state-owned banks, but now Tier 2 and 3 banks, often from rural or provincial backgrounds, are following suit. Often opening an office in Hong Kong also marks the launch of their investment and corporate banking services in order to serve their long-term corporate clients as they expand their operations.

Much of China's overseas activity is now being put under the umbrella of the Belt and Road initiative. With the US and Europe focused on domestic issues, both political and economic, the country has found an opportunity to expand its sphere of influence globally.

## Regarding China's Belt & Road infrastructure initiative, what best describes your attitude?



China helps developing countries build vital infrastructure while opening doors to its banks and companies in a cross-section of industries, including transportation, ports or telecommunications. As Chinese companies go global, they learn more about international standards and systems, and bring that knowledge back to the domestic market.

Operating on an international stage means that China must also build more sophisticated tools and controls in areas such as international arbitration and corruption. It is already undertaking steps to ensure its courts improve their ability to understand international law, and to improve mutual recognition of international judgments.

Yet investor uncertainty continues to exist. This is particularly true for the bond market, where international investors are still doubtful over information disclosure on bond documentation, the liability regime for underwriters, offshore creditor rights in case of default and the creditor debt restructuring process.

In addition, many have seen China's recent data localisation law as a sign of protectionism with a potential adverse impact on investment climate. This is only one of the multiple challenges ahead for China.

*\*The word cloud and poll results showcased in this report originate from the surveys conducted at the 2017 Pan Asian Regulatory Summit.*

