

Compliance in Asian Wealth Management Forum 2019 Video Insights



At the Hubbis Compliance in Asian Wealth Management Forum 2019 in Singapore on January 17th, we asked leading industry experts for their insights

We hope you enjoy this summary – it’s packed with content from the forum.

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Who did we interview?

Adriel Loh

Managing Director,
Global Head of Compliance
Bank of Singapore

Raffael Maio

Managing Director APAC,
Co-founder
NetGuardians

Daniel P. Levison

Partner
Morrison & Foerster

Conrad Lim

Managing Director &
Deputy Chief
Executive Officer,
Senior Regulatory
Counsel Asia
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Philipp Piaz

Partner
Finaport

Rolf Haudenschild

Co-Founder, Head of Regulatory
& Risk Services
Ingenia Consultants

Zac Lucas

Founder, Head of Legal
Centenal

Vikna Rajah

Partner, Head of Tax,
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Josh Heiliczer

Partner, Advisory Services
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Andreas Wenger

General Manager,
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Tan Woon Hum

Partner, Head of Trust, Asset &
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Shook Lin & Bok

Laurence Lancaster

Barrister-at-Law,
Group Head of Tax
Sovereign Group

Prof Gunter Dufey

Professor Emeritus
of Corporate Strategy,
International Business
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University of Michigan Ross



[Adriel Loh](#)
Managing Director,
Global Head of Compliance
Bank of Singapore

What are the opportunities and challenges for the year ahead?
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I think one of the main focus of the regulators in (compliance) is really about culture. It's really about the fact that private banks need to have the right culture, the right compliance culture to be able to balance the business needs as well as the regulatory risks that we face. So especially in the area of private banking, where it's inherent high risk, the need to ensure that there is a very strong senior management to inform the top. In terms of supporting the compliance culture, it is very important. We're seeing this with the new senior management accountability regime come into place. I think the focus in terms of how we remunerate our bankers also is going to be a big area of focus. As to whether or not just remunerated by financials, but whether there are qualitative factors of conduct and culture and compliance and risk factors that are also included that impact them financially if there were to be misconduct. I think that's something that the regulators are really going to want to see within the private banks.

[Raffael Maio](#)
Managing Director APAC,
Co-founder
NetGuardians

Risk Heat Map 2019 - what goes up, what goes down and why?
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Regarding the Risk Heat Map 2019, I see two trends. We've seen in the past a lot of burden on compliance. That has slowed down a little bit. Not that compliance is no longer an issue, but clearly, banks are well-equipped right now and we see more direction going into all these new channels for payment, and in regards to the new type of regulations such as GDPR and so on, are really elements that the banks are looking forward.

What are some of the changes in cyber-crime that we are likely to see in 2019?
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Clearly, we see a strong wave in cybercrime going from more and more sophisticated attack towards financial institution. So we saw the last 24 months, and the trend is continuing, that financial institutions are really suffering from that area. The countermeasure that needs to be put in place must be way more sophisticated than what has been done in the past. And one of the

strong answers to that is really embracing AI.

[Philipp Piaz](#)
Partner
Finaport

How best to meet the challenge of finding the appropriate skillset in a millennial world?
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I think the best way to find the appropriate mindset is actually to help them find it and to help them develop it. And the best way to do that is, living it for them to see, for them to adapt, for them to learn.

[Conrad Lim](#)
Managing Director & Deputy
Chief Executive Officer,
Senior Regulatory Counsel Asia
LGT Bank

How can compliance become more effective and even cheaper?
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How can something become cheaper without sacrificing quality? If there were fewer difficulties and challenges, and if regulations were straightforward and less complicated, if there was less individual decision-making, then I suppose the need for greater quality and therefore more expensive solutions would be reduced. Ultimately,





you could say that the more mundane repetitive mechanical processes could be improved in terms of digitalization. Technology will, if we do it smartly enough, reduce our costs, but ultimately, it's in how one runs and how one designs the business. Is it done cheaply, and can you deliver quality product or service at the end of that? We'll find out.

[Daniel P. Levison](#)
Partner
Morrison & Foerster

The importance of “appropriate” retention of company data
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In the new DOJ FCPA Enforcement Policy, the DOJ has set out that they expect the companies will engage in the appropriate retention of data, which includes messaging apps and other modes of communication. It's important that those, also, be captured in the company's enterprise data retention. There's no one size fits all. It's important to conduct an adequate risk assessment and it will be difficult for the

regulators to challenge a decision that was made on and formed an appropriate risk assessment.

Where should compliance teams focus their efforts and available resources in 2019?
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Some things I think we need to consider this year, similar to last year, anti-bribery, corruption but also economic sanctions as well. It's been a focus. We've seen Singapore companies get into trouble with the U.S. authorities on economic sanctions and I think that's going to be a trend that continues.

[Andreas Wenger](#)
General Manager, Asia Pacific
IMTF

Where should we focus attention in terms of digitisation of compliance functions this year?
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We have still a lot of false positives in this area with the AML alerts, and fraud, and name screening, so reducing false positives is a key area where

compliance functions should focus on to reduce the manual work, to reduce the risk. This one can be supported with tools. This will help to be more compliant, reduce the risk, and overall be more stable for the bank.

[Rolf Haudenschild](#)
Co-Founder, Head of Regulatory & Risk Services
Ingenia Consultants

What are the current compliance challenges for IAMs in the year ahead?
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For the year ahead, compliance for IAMs is probably still on the AML side. MAS has done inspections in the last year. They have already announced or published, some guidance on the findings they had there, so there are very clear indications by MAS on what their expectations are on IAMs, on the more general wealth management, font management landscape, and they will be looking further to enforce that. In addition, a challenge that I see coming is the accredited investor opt-in. The MAS has actually

postponed the implementation of the new regulations of the opt-in regime. That will now strike on 8 April 2019 instead of the beginning of the year, but the IAMs and wealth managers, more generally, really need to get their accredited investors sorted, who still meets the new criteria, who doesn't, and then follow up with the accredited investor opt-in information and declaration.

What do the recent regulatory changes in Singapore mean for locally based IAMs?

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Overall, once again, it is going to be an increase in compliance and in the dedication, you need to have to compliance. The AML implementation, the more stringent implementation, reviews inspections by MAS means you really need to up your game on it on a general risk assessment but also on how detailed your work. They highlight things like expired passports, so you need to be not only up to scratch but you really need to have every single detail under control now. From the general risk assessment board supervision all the way to the small nitty-gritty details. An accredited investor often may be a business challenge for the IAMs because they need to convince their clients that the accredited investor's state really provides them with additional benefit. It's not only a burden, it doesn't only make it easier for the IAM but it actually is to the benefit of the client as well. Having it properly rolled out, it should not be that much of a challenge. Finally, to round it up, there is the MAS expectation that you need to have proper

frameworks, so you need to work on your frameworks. Once again, that goes into senior management board, I guess they will have their hands full with compliance issues this year and really need to make sure that everything is in place and properly in place.

[Zac Lucas](#)

Founder, Head of Legal Centenal

CRS and AEOI, MDR and beneficial ownership registers. What can we expect to be targeted next?

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I think probably there will likely be some alignment between the European Union's version of CRS, which covers director fees as well as rents of land. I think that will be a natural expansion of the CRS. It will also probably try and capture asset classes that are known to be areas where clients are avoiding the CRS, so things like chattels, fine art, gold, gold bullion, looking at properties, commercial, residential. I think that will be a key area that they'll probably expand the CRS into going forward.

FATCA - Where are we on enforcement of compliance breaches?

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Well last year, in July 2018 we had the first prosecution under the FATCA legislation so this was an executive, I think the CEO of Loyal Bank in Saint Vincent and the Grenadines, and he was prosecuted successfully in the US courts for effectively entering into an arrangement with a

client where he promised that the FATCA information would not be exchanged and the client could open accounts without having that risk of a FATCA disclosure. I think that was what he plead guilty to and that was what he was prosecuted for, so that's the first case of any on FATCA enforcement.



[Josh Heiliczer](#)
Partner, Advisory Services
EY

Unexplained Wealth Orders
- Are we likely to see Asian
jurisdictions follow the new UK
regime?

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Unexplained Wealth Orders, I think they'll definitely be coming to Asian jurisdictions. Hong Kong already has something similar where if there is an unexplained wealth they could essentially come in and ask you questions and to substantiate the source of the wealth and where it's coming from. I imagine that most countries in the Asia-Pacific region will look towards Unexplained Wealth Orders as well. It's a good way of basically saying, well if you have brought funds into the market we don't necessarily need to prove any predicate offense, we don't need to prove money laundering, we don't need to prove any tax evasion, you just explain to us so that it puts the burden on you as a politically exposed figure or a wealthy person, to explain the source of your wealth. Definitely pops up in newspapers, particularly about the real estate market in different areas. That is

going to continue to be a function and will definitely be coming to jurisdictions out here in Asia.

[Tan Woon Hum](#)
Partner, Head of Trust, Asset &
Wealth Management Practice
Shook Lin & Bok

What more can be done to
educate clients about the
potential impact on them of tax
transparency?

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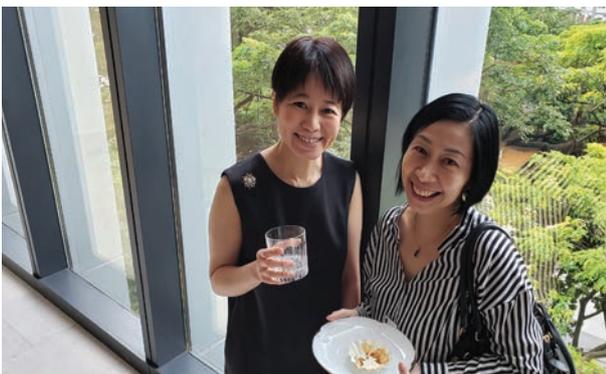
That's the theme of the year, of recent months and so what we can do, is to explain to clients that what is expected of them from the local regulators and enforcement agencies and the international agencies and organizations like, OACD and how that impacts them, their business and with whom they transact. More importantly, give them the framework, give them protocol, let them understand the rationale behind such policies and protocols and it'll be helpful to give the clients and the people that they deal with a practical example of what went wrong and what is right and what you should avoid. So for example, if there are case studies of people that unfortunately, have been convicted or license have been revoked, prohibition orders

have been issued. In such cases, because of such breaches, either technical or office breaches, then it really punches home the point and makes it very clear for the clients to understand. So, that is actually very important.

Mandatory disclosure of tax
avoidance schemes to fight
against "base erosion and profit
sharing"

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BEPS is the next bad word, right? It's Base Erosion Profit Shifting, started a couple of years ago and it is coming into full force. So practically, in short, it looks at a very obvious shift of profit, revenue-generating, profit-generating organisations and entities into a jurisdiction which is low tax or tax-free. This is frowned upon, especially by the OECD, and they are actively looking at this. So we need to educate our clients and our people that this is here, and that going forward it's here to stay, so they have to very, very careful when they choose a tax haven or a tax-free jurisdiction in terms of either wealth planning, wealth transition, corporate organisation, M&A, or acquisitions in general. This is going to be something that is a game changer.



[Laurence Lancaster](#)
Barrister-at-Law,
Group Head of Tax
Sovereign Group

How to best obtain cooperation from clients to meet tax compliance standards?

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I think it does depend on the type of client with whom that you're dealing. You do get clients who are quite happy and accept that the modern approach to dealing with all of this is that you have to have full disclosure and full transparency. And with those clients, it's fairly straight forward and they don't really need educating. They're quite happy to accept the modern approach. However, there are still clients who come through the door who adopt the old approach, which is very much tax planning involves nondisclosure, tax planning must be under the radar. It's a precondition for successful tax planning that the revenue authorities in the state in question where they're a resident will not find out about what it is they're up to. And for those type of clients, it's really those who need educating and need to be informed about how the new regime works. I think there are two key points that they need to be made aware of. The first is that with CRS and all of the other regimes in place in FATCA, the purpose of which is to exchange information between revenue authorities, it's far more likely that a tax arrangement, a structure is going to come to light than what it used to be. So, although this approach of nondisclosure has never worked, technically in the past, of course, it was less likely that it would be discovered. So that's the first

point. It's more likely that it's going to be discovered. The second point is if it is discovered and it's noncompliant, which of course it's likely to be, then the penalties are far more severe. Bearing those two points in mind, they're likely to be caught and if they are caught, there's going to be the tax to play plus penalties and potentially imprisonment. It's far better for them to do things correctly and I think the best way of doing things correctly is to obtain tax advice. Typically, that would be independent professional tax advice that covers all aspects of the tax planning, including the disclosure and provided that is in place, then it won't be possible for the client to have committed tax evasion because they wouldn't have this guilty state of mind. As far as they're concerned, they're acting in accordance with advice. Second, certainly as far as the UK regime is concerned, as long as you have got tax advice by a suitable professional, you won't be subject to penalties. So ultimately, and as long as you disclose at the correct and appropriate time, all you're looking at really is a dispute with the revenue, and there may not be a dispute of course, but all you're looking at is this dispute over what tax you need to pay. You're not in the domain of tax evasion or noncompliance and effectively that's where you want to be. Ideally, they agree with you and nothing more involved, but it may be that they don't agree with you and it's up to you to either stick to the filing position and battle it out with them or you give in and then you just accept their assessment. But that's far better than if you're suffering penalties of 100% of the tax and potentially, as I've said, criminal sanction as well.



Prosecution of 'enablers' of tax evasion.

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I think it's as a starting point that you need to bear in mind where this piece of legislation has come from. It is actually born out of a government consultation on effectively looking at aggressive tax avoidance and tax evasion, and there's been various pieces of legislation that have arisen out of that consultation of which this is obviously one. The first couple of points are that it's a corporate offence. So it applies to corporates, not to individuals. Secondly, it extends to non-resident corporates. So it's not just concerned with UK companies or partnerships. It extends to non-resident companies, non-resident partnerships. In order for this offence to apply, or where it does apply, you're going to have three parties to it and they are effectively the ultimate lay person, the person who actually is going to commit the tax evasion, who we can refer to as Joe Blogs, who could be based anywhere. We've then got the associated person and finally we've got the relevant body. The relevant body is going to be the actual company to whom the associated person is going to provide services. So they're the three key parties to this offence. Now there are two key offences under the legislation. One is the UK tax evasion offence and the other is the overseas tax evasion offence. And remember, the offence is the failure by the corporate to prevent the facilitation of this offence. So in relation to the UK offence, there are essentially three elements to it. You're going

to have the person who commits tax evasion, you're going to have somebody who's facilitated the tax evasion, and then you've got this relevant body, either the UK corporate or the overseas corporate who has failed to prevent the commission of this offence. It's effectively going to be the guy who's facilitated the tax evasion has done it while he has provided services to that relevant body and he's either going to be an employee of it, an agent, or just somebody who provides services generally. Now that's the UK offence. There's also an overseas offence and it's really an example, this legislation, of the UK imposing its legislation extraterritorially, because it's looking, potentially, at tax evasion which has been committed in a foreign country by somebody who is not in the UK, not a UK resident person and potentially the relevant body can be non-UK resident as well. So effectively it's extremely wide in its scope. Now in terms of what needs to be satisfied for this offence to be in point, it's the same conditions as I've just set out, although the tax evasion is foreign tax evasion, not UK tax evasion. There's an additional hurdle though for if you are an overseas company and that is that you've got to have either a UK branch, so a place of business in the UK, or the facilitation of the tax evasion has to have taken place in the UK. So they're effectively the two core offences under this legislation. Now, the key defence in most instances is going to be prevention procedures that you're going to have to have in place as a corporate in order to ensure if you are on the hook for this offence. So if those

conditions I've laid down are satisfied, you're going to have to fall back on this defence and it's very much procedurally focused. So it's looking at whether you've got in place a clear set of policies aimed at combating tax evasion, whether you've got training in place for staff, whether you risk assess clients, particularly for those bodies who are high risk. So we're looking there at tax advisors, lawyers, and accountants, and those essentially involved in areas of business where clients are more likely to commit tax evasion.



[Prof Gunter Dufey](#)
Professor Emeritus of Corporate Strategy, International Business and Finance
University of Michigan Ross

What more can be done to educate clients about the potential impact on them of tax transparency?

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Taxes are always a tricky issue in Wealth Management because nobody, especially wealthy people, like to pay taxes. Now, here is a new challenge. With Singapore having changed its policies drastically, with regard to compliance and taxation, because remember it was not too long ago that our Prime Minister said “We’re not responsible for the enforcement of other people’s tax rules.” That has obviously changed. We have gone with the spirit of times, and we not report, not only to the US, we report to the Europeans, and everybody else. So, the question for the RM for the industry is how do we get our clients to comply. I think the answer is that of course, you have to follow the rules, but there are clever ways to

follow the rules in a legal or legalistic way. I mean, the old principle is that nobody can avoid taxes, but you can structure your affairs in such a way that taxes are minimised. Not tax evasion, but tax avoidance, and that is the principle that in this environment becomes very, very important. Working with your legal department and external lawyers, and the smarts of your clients, you can structure constructions where the client stays on the good side of the law, and yet the burden of taxation is not too burdensome. I think that’s the new challenge. So, take an intelligent approach to taxation.

[Vikna Rajah](#)
Partner, Head of Tax, Trust & Private Client
Rajah & Tann

From the tax perspective, what are some of the challenges that Wealth Managers must consider in 2019?

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They have to be aware that they have very strict obligations under the Income Tax Act to ensure that false and for all

misleading information is not given to the Singapore tax authorities. So if they have reason to believe that for CRS purposes, the information which they have been provided may not be correct or may not be complete, for example, if a client comes up to you and he gives you a Malta identification, the issue then is do you know whether he’s truly a resident there? Do you have any information that suggests he could be a resident in multiple jurisdictions? What phone number do you usually reach him on? Is it a Malta phone number? So I think advisors have to be aware that they have obligations not to assist their clients in committing tax avoidance of any sort.

What are the consequences for Wealth Advisors if they don’t take the new tax guidelines and reporting seriously?

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The institutions, the financial institutions, could actually be fined. And, under Section 105 M, there’s also potential imprisonment of up to two years. So, very, serious consequences. ■

