

Harmonisation of worldwide regulations – is it wishful thinking?

Harmonisation of global regulations might be high on the wish-list for some governments and many compliance professionals, faced as they all are with numerous diverse rules and practices worldwide. But will it ever happen, or will culture, history, politics and even religion get in the way?

These were the topics discussed:

- *Domestic, Regional and International Regulations - how do you avoid duplication of effort and cost?*
- *Reducing costs by harmonisation and the use of digital solutions*
- *How practical is it to implement a global policy given differences in approach by regulators in different countries?*
- *Are we going to see a more unified international approach to regulation in the future?*
- *Is differentiation a better option for countries who want to get a competitive advantage on other countries? Complexity of regulations in some countries just does not make commercial sense to operate there*
- *How do you best organise international servicing and the international distribution of products?*
- *Passporting in the EU, ASEAN and the Asia Region Funds Passport (ARFP) - How promising are the international passporting regimes?*
- *How do you efficiently apply differing regulations from multiple jurisdictions? Can you harmonise your policies and processes? Do you need to “gold plate”?*
- *Will fintech lead to an international application and ultimately harmonisation of regulations?*
- *Are platforms on websites and apps viable tools considering the different jurisdictions that may apply to them?*

A PANEL OF REGULATORY AND COMPLIANCE EXPERTS assembled for the Hubbis Compliance in Asian Wealth Management Forum in Singapore on January 18 to debate the changes they expect in the foreseeable future in the

PANEL SPEAKERS

- **Alison Fidler**, Head, Compliance, Wealth Markets Products & Sales, Standard Chartered Bank
- **Rolf Haudenschild**, Co-Founder, Head of Compliance and Internal Audit Services, Ingenia Consultants
- **Conrad Lim**, Managing Director and Deputy Chief Executive Officer, LGT Bank
- **Stephanie Magnus**, Principal, Baker & McKenzie
- **Kenneth Chia**, Independent Consultant, Compliance

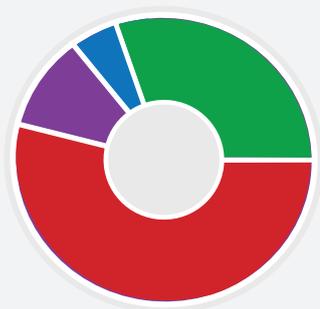


ALISON FIDLER
Standard Chartered Bank



CONRAD LIM
LGT Bank

HOW WOULD YOU RATE YOUR COMPANY'S RESILIENCE TO A CYBER ATTACK?



- Excellent - I know we're in a good place
- Satisfactory - the IT guys tell me we should be OK
- I'm concerned - I'm not sure I'm in a position to judge
- I'm worried - I have no idea about this stuff

Source: Hubbis Compliance in Asian Wealth Management Forum 2018

world of financial markets regulation and compliance. The conclusion was that for the next decade regulation will increase but for the foreseeable future harmonisation appears unlikely.

“While the global financial crisis spurred some drive towards harmonisation,” said one expert, “I think we will not see much harmonisation and am therefore afraid that banks and other financial institutions will need to continue to comply with different regulations in different jurisdictions.”

I THINK WE WILL NOT SEE MUCH HARMONISATION AND AM THEREFORE AFRAID THAT BANKS AND OTHER FINANCIAL INSTITUTIONS WILL NEED TO CONTINUE TO COMPLY WITH DIFFERENT REGULATIONS IN DIFFERENT JURISDICTIONS.

Minimum standards, not regulatory convergence

Another expert opined: “I would like to say that there is more commonality and convergence globally but, for lack of a better word, ‘rogue’ markets that are divergent in that sense. But where there is a degree of convergence I think there are opportunities to instil minimum standards.”

Another panellist noted that from a global HQ perspective it is easy to see the difficulties that colleagues in many countries are dealing with in how their regulators approach regulatory priorities.

Organisations can also set their own standards

Global organisations can come up with guidelines and principles to cover key facets of compliance, for example, money laundering, insolvency and so forth. But the implementation and adoption of these by different jurisdictions and regulators can vary greatly. “Those nuances are difficult to manage,” observed one panellist, “but organisations are themselves able to define and rely considerably on certain basic principles.”

The US and EU appear to be driving the regulatory train, while other markets are following with their own interpretations. “When you operate through a global organisation it is very difficult not to look at a global approach especially when it is coming from your prime regulator,” said one expert.



STEPHANIE MAGNUS
Baker & McKenzie

IS HARMONISATION OF REGULATIONS PRACTICALLY IMPOSSIBLE, GIVEN THE COMMERCIAL ADVANTAGES POORER COUNTRIES GAIN FROM BEING LESS REGULATED?

Yes, the commercial advantages for low regulation countries are too strong



No, eventually international pressure means it must happen



Source: Hubbis Compliance in Asian Wealth Management Forum 2018

“There can be considerable divergence between global and local regulations that impact business decisions and competitiveness. There is this conflict much of the time. However, I believe it comes down sometimes to doing what you know or think to be the right thing.”

Harmonisation also needs to consider local cultural values, history and even religious perspectives. And in the private banking and wealth management business the client must be considered and often a blended approach between the global regulations and the local regulations is required, but this requires complex decisions.

As one panellist noted: “There are a lot of philosophical questions that compliance officers struggle with these days to determine what are real risks or hypothetical risks and what is the right course of action in different cases.”

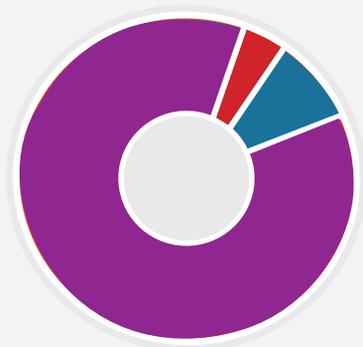


KENNETH CHIA
Independent Consultant

Making compliance part of the business decision

There are indeed many commercial considerations to consider. “It requires a balance to understand both considerations and take a concerted view as to what we do apply, whether we are overstepping boundaries and looking at the commercial intent as well. There will always be a tension as what

WHO SHOULD TAKE THE LEAD ON IMPLEMENTATION OF REGULATION ORIGINATING OVERSEAS?



- Overseas based Compliance team
- Domestic Compliance team
- Combination of overseas and domestic

Source: Hubbis Compliance in Asian Wealth Management Forum 2018

regulators are now looking at is, well you need to make sure that compliance is also top of mind and not just shareholders profits.”

Leading global players now often require contracts signed with overseas parties to provide warranties that they are complying with certain global standards. “The big global players will often say ‘if you want to contract with us, then we need you to comply with our gold standard’.”

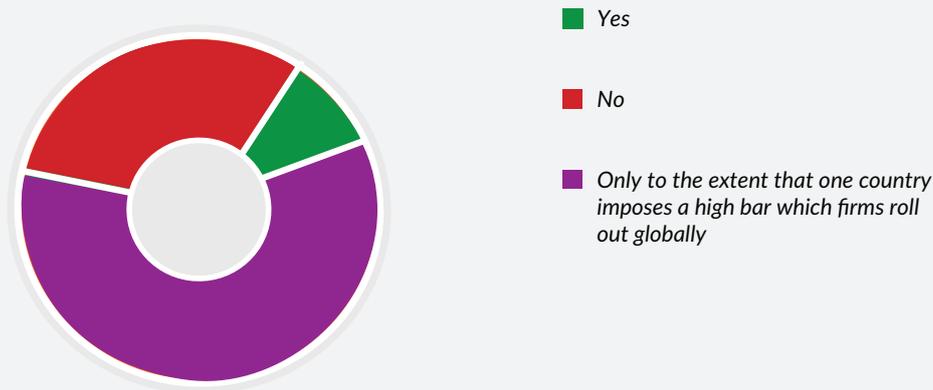
“You cannot offer international access if you are not prepared to step up to the game,” said one expert. “Anybody who wants to have access to the global players in order to execute products and transactions will have to comply with the international regulations.”

Fintech helping the biggest and smallest firms

How do the smaller firms manage to address the same challenges facing large, global organisations? “There is often a huge grey area where experience, judgement and values come into the picture,” commented one expert. “Making mistakes could

YOU CANNOT OFFER INTERNATIONAL ACCESS IF YOU ARE NOT PREPARED TO STEP UP TO THE GAME.

WILL FINTECH LEAD TO INTERNATIONAL APPLICATION AND ULTIMATELY HARMONISATION OF REGULATIONS?



Source: Hubbis Compliance in Asian Wealth Management Forum 2018

result in high penalties, not just financially but reputationally.”

Fintech can potentially help with tools that apply regulations automatically according to the jurisdiction a firm is dealing with. “There are solutions that automatically advise if a firm could or should sell certain products and,” he added. “If it is yes, then there is also pursuant advice on what documents are needed. There is facilitation in that field, increasingly through fintech.”

“There is a call to leverage fintech and RegTech capability to build that seamless data fabric of compliance obligations. Then one can look to further that technology to then manage these obligations regardless of where they originate.”

Stronger anti-financial crime regulations in sophisticated markets are leading the way for the rest of the world and via a waterfall effect are reducing financial crime in other parts of the world.

Opting for regulatory surveillance

Regulatory proliferation is in part being matched to some extent by a migration of firms who want to protect or enhance their brands to centres of regulatory excellence. “If you are in a sound financial centre and you are regulated that does give some credence,” explained a panel member, “so we see more firms actually wanting to be regulated and be in the eyesight of insightful regulators.”

General Data Protection Regulation (GDPR) is another area where harmonisation will be difficult to achieve. There might be a broad set of rules being rolled out, in this case from the EU, but at the same time, wealth firms will still have an implementation problem in many countries in Asia Pacific.

“I certainly would not expect too much harmonisation here at the moment because in Southeast Asia I think what we are struggling with different levels of investor sophistication in the different countries. Accordingly, in the next years, it means that the financial institutions providing cross-border services will, unfortunately, have to deal with it themselves.”



ROLF HAUDENSCHILD
Ingenia Consultants

One panellist cited the example of the Libor scandal and how the different countries involved, such as the UK, France, Germany and others, each took a different stance to prosecuting wrongdoers, some receiving 10 years in jail and some in other countries not even being investigated. “This highlights in fact harmonisation needs to happen because we are all operating in the financial services market.” ■

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COMPLIANCE OBLIGATIONS.**