

# Cross-Border Business

## The Opportunities and the Potential Pitfalls

*A panel comprising compliance experts from banks, lawyers and a risk consultant was the perfect mix for an insightful look at the pluses and minuses of cross-border business in the wealth management space. The discussion was especially pertinent with Hong Kong and Singapore both vying so energetically for pre-eminence as wealth centres in the region, and with dynamic private wealth accumulation across so many countries of Asia.*

**These were the topics discussed:**

- *Understanding the risks and rewards of cross-border wealth management product and services sales*
- *Understanding and following the 'Rules of Engagement'*
- *Implementing clear policies, procedures and the focus on training*
- *The commercial interplay and balance required between business development and compliance*
- *Ensuring corporate communications and promotional material meet the required compliance standards*
- *What to do when things go wrong*

### PANEL SPEAKERS

- **Evelyn Koh**, Head, Network Compliance, Wealth Management, Standard Chartered Bank
- **Sabrina Cheng**, Head of Wealth Management Compliance, Singapore, BNP Paribas
- **Tan Woon Hum**, Partner, Head of Trust, Asset & Wealth Management Practice, Shook Lin & Bok
- **Matthew Maddocks**, Independent Risk Consultant, ORC Professional Services
- **Daniel P. Levison**, Partner, Morrison & Foerster



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## THE KEY TAKEAWAYS

### **A holistic approach to compliance required**

As regulators now tend to look at private banks and external asset managers (EAMs) as high risk in terms of risk to anti-money laundering (AML) diligence, all parties within a private bank or wealth manager need to support the compliance initiatives, while the compliance teams also need to be sensitive to the pressures on client-facing colleagues.

### **The bigger you are, the higher the risks**

The element of franchise risk escalates the more extensive the wealth management firm's footprint and risk must be managed based on individual risk appetites and the cultures of the institution.

### **The fly-drive model persists**

There is great risk in the cross-border world. It is too expensive merely to open shop in each market, so the fly-drive model persists, making it essential to be fully aware of and then comply with local practices and regulations.

### **Navigation and monitoring**

Each firm must navigate compliance risks through stringent, evolved policies and procedures, but the monitoring of the execution is essential as that is where the most significant dangers lie.

### **Top of the pops**

In terms of the broad trends, anti-corruption and anti-bribery are still high on the regulators' lists, but cyber-security, cyber-terrorism and sanctions' compliance are all areas of intensifying focus.

### **Manuals, handbooks and specific guidelines**

Each firm, especially the larger banks, will likely have some form of cross-border handbook or manual, but on top of this general guidance, there should be country-specific training and protocols, and the critical business heads need to be intimately involved throughout.

### **Training and certification are vital, as is learning from peers**

Training, certification and communication are also vital ingredients to cross-border business and compliance. Moreover, training programmes are great opportunities for compliance professionals to learn about the effectiveness of compliance programmes, from client-facing colleagues on the ground.

### **No more blind-siding**

The discussion highlighted how often top management turns a blind eye to concerns voiced by client-facing bankers about their own clients but warned that this practice will be stamped down on hard by regulators.

### **Empathy is valuable for business**

Compliance experts should have empathy with their client-facing, business-generating colleagues and work to enable them while carefully steering them and their firms towards prudence.



EVELYN KOH  
Standard Chartered Bank

**“THE FULL GAMUT OF LEADERS** and decision-makers in this business need to adopt a compliance culture,” opined one lawyer, opening the discussion. “None of this is going away, at the local and international levels. Many of you are I am sure aware that local regulators now tend to look at private banks and external asset managers (EAMs) as very high risk in terms of AML, so we must all be more aware.”

**Balancing off risk and opportunity**

Focusing more directly on cross-border activities, a banker commented that there are degrees of risk between smaller firms with a modest footprint in the region and fully regional or global banks. “The element of franchise risk escalates the wider the footprint,” they explained. “So, it depends on the risk appetite and the culture of the institution. It is also a behavioural and conduct matter for RMs and the business to consider when operating cross-borders.”

A personal perspective came from another panellist who observed that China now has 3.5 million millionaires and by 2022 they will hold an estimated USD6 trillion of investable assets. “China is clearly a key target market, as is India,” she explained. “Moreover, we are no longer dealing with the old money; it is now the new money of the entrepreneurial business creators, often not achieved through inheritance. But clearly we must navigate compliance risks, and as much as the



SABRINA CHENG  
BNP Paribas



TAN WOON HUM  
Shook Lin & Bok

bank can lay down policies and procedures, it is the execution part that becomes risky and challenging, if not well done.”

**One size does not fit all**

Another expert addressed the practical matter of putting theory into action. “There is actually no off-the-shelf solution,” he commented. “Each business must look very hard at their unique risk profile and then tailor their compliance, bearing in mind also the expectations of the regulators. In terms of the broad trends that we are seeing, anti-corruption and anti-bribery are still high on the list, but cyber-security, cyber-terrorism and sanctions’ compliance are areas that we definitely see more focus on by the regulators.”

A banker observed that given the October detention of a Swiss banker at the airport in China, allegedly for breaking regulations relating to cross-border business, the whole area has become more pressing. “This all needs to be carefully handled,” she added. “Even if the meeting is taking place outside a certain country, for example, a mainland Chinese client meeting an RM from Singapore in Hong Kong, there are procedures to adhere to and attendant risks. I just want to emphasise that sometimes it is not even what happens in a country, the rules persist outside as well.”

**By the book...**

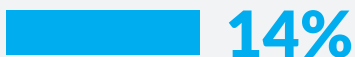
An expert noted that most banks of a certain size would generally have some form of cross-border handbook or manual. “Sometimes,” she remarked, “these can be generic, and sometimes more



MATTHEW MADDOCKS  
ORC Professional Services

**DO YOU REALLY UNDERSTAND THE DIFFERENT CAPITAL CONTROLS AND RESTRICTIONS IN ALL ASIAN COUNTRIES ?**

Yes



No



Source: Compliance in Asian Wealth Management Forum 2019



country-specific. But imagine an RM who covers clients across many countries, it is a major burden to keep in mind all the dos and don'ts, especially if in relation to more restrictive countries. I think on my take on this is that it is important to have rule books, but when things fall into grey areas, your legal and compliance colleagues, the business heads should be involved.”

However, she also noted that even with due care and attention in these areas, the risk remains in the cross-border world. “It is too expensive simply to open shop in each market, so the fly-drive model persists, making it essential to comply with local practices and regulations.”

### Training for the fight

Training and certification are vital elements, observed another panellist. “There are certain main pillars in a cross-border handbook that will be similar across most banks or financial institutions, and when clients visit the RMs that is generally fine, but when the RM travels overseas that opens up the highest risk. And the third element is communication from the RM’s base to the client when in his or her home country. That also needs careful consideration in the overall governance of the wealth management and private banking spaces.”

Compensation plays a vital part as well, noted another expert. “For example, one particular bank states that if you fall behind in your compliance training or any of your compliance activities, even KYC, there is a financial penalty.”



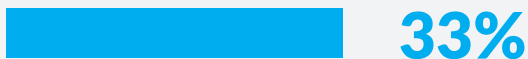
DANIEL P. LEVISON  
Morrison & Foerster

### “IT IS ALSO IMPORTANT TO LEARN ABOUT THE EFFECTIVENESS OF COMPLIANCE PROGRAMMES,”

“It is also important to learn about the effectiveness of compliance programmes,” said another panellist. “It is a great opportunity during training to get one-on-one feedback from client-facing colleagues. Maybe, for example, there

### DO CLIENTS ACTUALLY RESPECT RESTRICTIONS THAT ARE PLACED ON VISITING PROFESSIONALS?

Yes



No



Source: Compliance in Asian Wealth Management Forum 2019

are business practices in a particular market or business segment that you can learn about. This sort of live interaction is very valuable.”

Turning to the types of ‘handbook’ that are in place, a compliance expert explained that RMs must look beyond whether for example, they can take account opening booklets cross-border, or whether they can discuss offshore asset portfolios, and think broader about what it is that they might now be aware of, what regulations might have emerged or changed. “There are,” he said, “rules in some places that you cannot actually talk to the client unless the client speaks to you first, so even if you wanted to close a particular account, how can you do that with first talking to the client. It is often highly complex.”

### **Be warier of savvy clients**

Another panellist explained that there are many considerations to take into account. For example, an RM might be dealing with a non-resident Sri Lankan, for example, with offshore accounts. “Now we all have to think about how did the money get offshore? Was it from offshore business, or did it originate in Sri Lanka. Clients

are sophisticated and savvy, but the regulators are aware of the changing landscapes.”

The discussion turned to how often top management turns a blind eye to concerns voiced by client-facing bankers about their own clients. “This is really not acceptable any more and the risks are huge,” opined one expert. “Management attitudes must change. There are consequences, and they will only increase.”

### **Take the less stressful path**

A lawyer stepped up and stated that he always advises his clients to choose the path that avoids the most dire consequences. “The revenue should not trump the risks and consequences,” he said. “Everyone should assume responsibility, especially those with teams under them. It is clear as crystal.”

A kind word towards bankers closed the panel. “I have a lot of empathy towards private bankers,” said the panellist. “Your jobs are getting harder by the day, and as a compliance officer, I try to remember that we also have to be business enablers, to find the right path to be cautious but also helpful. Building and maintaining relationships internally is essential to this.” ■

