The 2nd ASEAN Regulatory Summit took place in Singapore on 1 September 2016. Over 650 senior compliance and risk professionals attended the event to hear from experts from ASEAN and across the globe on the latest regulatory trends and developments that are impacting the ASEAN financial industry.

This report summarizes the key themes from the day, by pulling together a series of articles published on Thomson Reuters Regulatory Intelligence platform based on the content discussed at the event.

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South-East Asian nations need to play a more active and influential role in setting the financial regulation agenda, the Thomson Reuters ASEAN Regulatory Summit heard. Lutfey Siddiqi, a regulatory expert from the Risk Management Institute in Singapore, said ASEAN countries should not be passive “price takers” when it comes to accepting regulatory reforms driven from the international level. Lutfey Siddiqi, who is also a member of the World Economic Forum’s Global Agenda Council, said ASEAN nations need to assert their position to ensure that financial regulation does not disadvantage the region.

Siddiqi warned that the continuing changes to the Basel Capital Accord were an example of the need for ASEAN nations to lobby as a bloc to ensure the reforms are “fit for the purpose that they have been designed to serve”.

“In Asia the socio-economic, political and historical contexts require different things from banking, capital markets and infrastructure. ASEAN countries should not be price-takers, or free-riders, when it comes to the design of regulation,” Siddiqi told delegates at the summit.

Without more active engagement in regulatory decision making, Siddiqi said there was a risk that South-East Asia’s growth aspirations may be stifled. The “ASEAN 5” countries of Indonesia, Malaysia, the Philippines, Singapore and Thailand expect to grow at a rate of 4 to 5 percent per year over the next two decades. Siddiqi said the creation of credit required to finance this kind of growth may not be possible under current trajectory of bank regulation.

**BANK BASHING**

The RMI official also said Asia needed to resist the culture of “bank bashing” that is widely accepted in Europe and North America. Siddiqi said the banking sector would play a critical role in Asia’s continuing development and it should communicate this role to prevent a public backlash against the sector.

“Regulation is contextual. Back in England, it is perfectly acceptable to engage in hate-speech against bankers. This is so even though financial services go a long way towards paying for the UK’s trade deficit,” he said.

Siddiqi said this hostility against the financial sector was the “backdrop upon which regulation is drafted and enforced”.

“There’s no shame in the ASEAN countries reaffirming what their societies need from finance. And if what they need is different from what they’re getting, then the region needs to stop being a regulatory ‘price taker’,” he said.
“STEADY MARCH”

Siddiqi said the ASEAN countries could “decouple” from certain aspects of the Basel accord, for instance, and come together as a coordinated group to argue their case. He noted that Singapore and Indonesia are members of the Basel Committee, while Malaysia has observer status.

If the ASEAN region fails to embrace this challenge as a unified bloc, however, then it is likely that their economies will suffer.

“The cost and consequences of this steady, steep march of complex regulation will ultimately be felt by the end-users: retail depositors, corporate borrowers, pension and other asset managers,” Siddiqi said.

This is an edited version of an article that was originally published on the Thomson Reuters Regulatory Intelligence platform.
Regulators will not be the biggest barrier to digital transformation in the financial services sector but rather the way compliance and risk is managed internally will be the key determinant. Complex regulatory requirements, especially those concerning tax evasion, money laundering, data protection, information disclosure, as well as sales and marketing rules would be further complicated by digitalisation, said Liew Nam Soon, managing partner at EY.

“The complexities of regulatory requirements in these areas limit what can be automated. This drives compliance costs up. Putting in place suitable frameworks and policies for staff helps to mitigate the risks, but eventually simplified regulation is needed,” he told Thomson Reuters’ ASEAN Regulatory Summit in Singapore.

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DIGITALISATION SET TO FURTHER COMPLICATE REGULATORY REQUIREMENTS

Patricia Lee, South-East Asia Editor, Thomson Reuters Regulatory Intelligence

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REGULATORY COMPLIANCE AND INNOVATION

The biggest barrier to digital transformation at financial institutions lies in how compliance and risk are managed, Liew said. Regulatory technology and financial technology will play an increasingly important role in how financial institutions operate, go-to-market and engage with customers while keeping compliance in check, he said.

Given the vital role played by innovation, this raises important questions about the place of regulatory compliance at in the heart of innovation and the implications for financial institutions in managing compliance in an era of rapid change.
Liew cited KYC protocols as an example, which he said, were hampering the move to “digital-only” for critical processes such as account opening, loan applications or investment advisory. This is especially true in the wealth management sector where financial institutions are increasingly working toward standardising a process which will ensure product suitability and anti-money laundering compliance.

“Financial institutions find themselves having to strike the right balance between delivering a more efficient and appealing customer experience and ensuring security and the necessary checks are not compromised,” he said.

Singapore has actively supported digitalization which was evident in the various initiatives undertaken by the Monetary Authority of Singapore, but MAS has pointed out that the ultimate responsibility lies with financial institutions in ensuring due diligence processes are put in place, rather than relying on regulators’ approval.

MAS’ digital transformation initiatives include establishing a smart financial centre built on the back of a regulatory approach that supports innovation, while ensuring safety and security; creating an innovation ecosystem which includes supporting and funding for bank-led initiatives.

 ROLE OF LEGAL, RISK AND COMPLIANCE NEEDS TO EVOLVE

The role of legal, risk and compliance also need to evolve to become consultants to and partners in innovation rather than remaining as gatekeepers, Liew said. This would require them to analyse the risks involved and providing solutions to ensure compliance while minimising other risks.

“This will require compliance staff to better understand IT, use new, dynamic models to assess operational risks and establish better controls to safeguard the process. It also means that the ultimate decision of whether to take a risk will now lie with the business and not just the compliance team. This is a drastic change from today’s culture of control to a new collaborative culture of risk,” he said.

Regulators, Liew said, will also pay closer attention to financial institutions’ framework of risk conduct and culture, and the safeguards to encourage a culture of compliance.

 FINTECH DISRUPTION

The hype over fintech has also raised concerns about whether the financial services sector will experience widespread disruption. Disruption has already happened in niche areas where financial institutions were too slow or which was too expensive for them to venture into, Liew said.

The latest fear among financial institution is the rise of new players outside the financial services sector, particularly in areas such as payments, peer-to-peer lending, robo-advisers and financial management tools, Liew said, adding that some of these fears may be misplaced.

Financial institutions need to consider how they can best use digitalization to their best advantage through collaborating with fintech players and leveraging regtech to help them remain competitive, reduce regulatory cost, while remaining compliant, Liew said.

Digitalisation also brings with it risk, most notably cyber risk and security, which is a top concern for financial institutions worldwide. The concern is most prevalent in the space of big data due to excessive data on cloud or in-house servers. Along with that, is the concern about data leaks.

This is an edited version of an article that was originally published on the Thomson Reuters Regulatory Intelligence platform.
Trade financing and dual-use goods will be an area of heightened regulatory focus across the Asia-Pacific region in coming years as governments take a harder line on money laundering, terrorist financing and weapons proliferation. Speakers at Thomson Reuters’ ASEAN Regulatory Summit in Singapore said there was significant international pressure for anti-money laundering and counter financing of terrorism (AML/CFT) agencies to crack down on trade-based laundering.

They said Singapore and Hong Kong were leading the charge but other countries across the region were expected to follow suit with tighter regulatory controls and more proactive supervision and enforcement action.

Nizam Ismail, partner at RHTLaw Taylor Wessing, said the Monetary Authority of Singapore (MAS) has made it clear that it intends to take a harder line on AML/CFT supervision and enforcement. The recent closure of BSI Bank in Singapore was a stark warning to the financial sector, he said.

“The MAS is taking quite an extreme regulatory approach, revoking the licence of a bank here, referring names for criminal prosecution and making it all public. This is really unprecedented,” Ismail said.
To bolster its supervision capabilities the MAS set up a new AML enforcement department in June and has already appointed around 30 staff, the conference heard.

Ismail said the team would be cracking down on trade-based laundering and proliferation financing (PF) under its new supervision and enforcement remit. He said banks that did not have robust compliance systems and controls in place to manage these threats were risking significant regulatory and reputational damage, or even closure.

“The MAS will not hesitate to ‘name and shame’ for AML/CFT breaches. They are also relying on some very sophisticated monitoring tools for AML enforcement. This really means that if something is picked up by the regulator and you didn’t pick it up in your system, that’s a major red flag in itself,” Ismail said.

INDUSTRY GUIDANCE

The Financial Action Task Force (FATF) has identified trade-based money laundering as one of the main channels that criminal organisations and terrorist financiers use to move money throughout the global economy. The problem is widespread across the Asia-Pacific region where there are high levels of manufacturing, established shipping industries and a number of major financial centres.

The AML/CFT regulators in Singapore and Hong Kong have both said that confidence in the integrity of their financial centres will be undermined if financial institutions do not have effective systems and controls in place to manage these risks.

The MAS issued guidance for banks on managing trade-based money laundering controls in October 2015. The Hong Kong Association of Banks (HKAB) issued similar guidance in February this year, with input from the Hong Kong Monetary Authority (HKMA).

The guidance papers said it was vital that banks establish and maintain robust AML/CFT risk management systems and controls to mitigate the financial crime risks arising from trade finance and dual-use goods, which can be used in weapons manufacturing.

“For Singapore to maintain her reputation as a clean and trusted commercial, trading and transportation hub, banks must ensure that their AML/CFT controls remain effective and are commensurate with the size, nature and complexity of their business,” the MAS guidance said.

“It is imperative that senior management set the right tone at the top and inculcate an appropriate risk and compliance culture amongst its staff, across all levels and functions, to ensure effective implementation of a strong AML/CFT framework,” it added.

MANAGING RISKS

Richard Moore, managing director and group head of financial crime at DBS Bank in Singapore, said his organisation was taking trade financing, proliferation financing and vessels screening compliance extremely seriously. The bank treats trade finance the same way that it would any other AML risk: it conducts a risk assessment, identifies any high-risk segments and businesses and then develops policies and standards around managing those risks.

Moore said knowing customers and understanding their business activities thoroughly was essential to effective compliance in this area.

“We have very strong onboarding controls. When we bring on new customers we make sure that we understand the nature of their business, the geographies in which they operate and the sectors in which they operate. Then we have the right due diligence around each stage of the transaction to make sure we understand it, in light of their business profile,” Moore said.

“STEMMING THE FLOW”

Bos Smith, chief operating officer at Seabury TFX, said governments around the world were under significant pressure to stem the flow of funds to terrorist organisations through trade financing, as well as stopping the movement of dual-use goods for military purposes.

Smith agreed that Singapore and Hong Kong were setting the regional agenda and other Asia-Pacific jurisdictions were likely to follow suit in response to international pressure.

“Singapore is looking to set a precedent with its enforcement, creating this dedicated enforcement team division. The restructuring of the MAS sends a clear message, along with the shuttering of BSI, that banks and financial institutions need to take these AML considerations very, very seriously,” he said.

Smith said the guidance in Singapore and Hong Kong was welcome in the sense that it took a strong principles-based approach, in line with precedent set in the UK.

He said the Singaporean regulator wanted to see a culture of compliance that started at the top, where policies and procedures are created, and then spread throughout the organisation with strong internal messaging, compliance programs and training. The risk-based approach meant that compliance programs should be commensurate with the size and scope of the financial institution’s overall trade finance program, he said.
REGULAR REVIEWS

The MAS guidance noted that trade finance-specific risk assessments can be conducted as part of the broader risk assessment that banks perform. The assessment should identify any risk areas in their trade finance activities and determine whether the controls are adequate.

“The enterprise-wide risk assessment is intended to enable the bank to better understand its vulnerability to ML/TF risks, including the financial crime risks presented by its trade finance business, and forms the basis for the bank’s overall risk-based approach,” the MAS said.

In addition to the standard customer due diligence obligations, banks are expected to obtain further information to assess the financial crime risks specific to a trade finance transaction.

This enhanced due diligence should cover all of the parties to a transaction, including the beneficiaries of letters of credit and documentary collections, agents and third parties. Using a risk-based approach, the due diligence may cover:

- trading partners or counterparties of the customer (including buyers, sellers, shippers, consignees, notifying parties, shipping agents, etc.);
- the nature of the goods traded;
- the country of origin of the goods (including whether the goods originate from any sanctioned country);
- the trade cycle;
- the flag of the vessel, flag history and name history (to check whether it is related to any country in the list of sanctioned countries);
- the name and unique identification number (e.g., the International Maritime Organisation (IMO) number) of any vessels;
- any ports of call;
- the market prices of any goods traded to identify over or under-invoicing.
BC Tan, a trade financing specialist at Thomson Reuters, said many banks have an over-reliance on vessel names and flags when undertaking due diligence work. He said banks should also ensure that they record the IMO number of any vessels involved in transactions that they facilitate.

“I’m surprised that in many cases banks don’t have the IMO identifying information,” Tan said. “Vessels can rename and re-flag almost instantaneously. They can go to a corporate registry, get a new flag — a Mongolian flag or a Panamanian flag — overnight. So using the name and the flag is almost pointless in identifying a vessel.”

Tan said that in many other respects banks already hold the type of information that the regulators expect them to collect during their due diligence work. He said the obligations around trade finance, dual-use goods and proliferation financing require banks to become more effective about the way the use the information they are already collecting across various parts of the business.

“The challenge is not to reinvent everything. It’s really about getting all the existing parts to work more efficiently and then add onto it any additional requirements — for instance, the vessel tracking,” Tan said.

**DUAL-USE GOODS**

With regard to dual-use goods, many banks struggle to have the level of technical expertise that they need to manage their regulatory and reputational risks effectively. The regulators define dual-use items as any goods, software or technology that are used for civilian purposes but may have military applications, or may contribute to the proliferation of weapons of mass destruction.

The MAS said banks need to ensure that staff are aware of the risks of dual-use goods and the common types of goods with dual uses, such as the aluminium tubes used in centrifuges. The banks need to be capable of identifying any red flags that might suggest that dual-use goods are being supplied for illicit purposes.

Moore said a bank’s best defence was the quality of its customer due diligence work and the extent to which it understands what is a normal transaction for each client. He said banks should be able to detect customers that are suddenly moving goods that are not in their normal line of business or are moving into countries where there is a heightened risk of dual-use goods being redirected for military purposes.

“You need to go back and understand the client you’re doing business with, understand the products and channels that they use for the various transactions they do. If they’re starting to use products or goods that differ from the nature of their business then that should raise a red flag,” he said.

**PERIODICAL REVIEWS**

Once firms have effective trade finance compliance frameworks in place, they are expected to review their policies and processes regularly, taking into account changes in the operating environment and any regulatory developments that have occurred since the last review.

“Banks should also devote attention to raising the effectiveness of their AML/CFT controls through adequate systems, processes, staff expertise and training,” the MAS said in its guidance.

Moore said that even with the best compliance framework in place, however, there was sometimes no substitute for an old-fashioned site visit.

“We do conduct site inspections, depending on the client and depending on the client’s geography and the type of business they operate in. Sometimes we’ll do that at the transactional level, so if someone says they have a pile of coal we may go on site and make sure it’s actually present. So we do validate the goods from time to time,” he said.

*This is an edited version of an article that was originally published on the Thomson Reuters Regulatory Intelligence platform.*
Developments in financial technology should help banking and securities regulators become more efficient and improve the way they view data, despite the significant challenges that remain. This was the view expressed during a fintech panel discussion at the Thomson Reuters ASEAN Regulatory Summit in Singapore.

The ability to predict and prove market manipulation in real time with software which self-updated in response to regulatory changes was among the possibilities in a new fintech world that would ease the burden on compliance officers and securities lawyers, they told an industry panel.

“Regulatory compliance and legal costs go up every year. There are regulations from the Monetary Authority of Singapore (MAS) that have to be interpreted and codified,” said Neal Cross, chief innovation officer at DBS Bank told the second ASEAN Regulatory Summit in Singapore on September 1.

“The ‘Holy Grail’ in this space would be platforms that self-codify. So, if there is a legal or compliance change, the software takes that change and reconfigures [compliance protocols and procedures] because the system takes into consideration when new regulations come out. The technology exists for such process change; it is all about how quickly and efficiently you can access and analyse data,” he said.
Cross said while it was possible to use artificial intelligence-enabled computers for such real-time regulatory updates, it could also be done manually. Ideally, he said, software providers would provide the requisite updates so their financial institutions clients did not have to do anything.

“Once self-configuring software becomes available, we will have to look immediately at assessing it [for suitability across] … entire organisations,” Cross said.

He was however unconvinced software could solve every compliance-related problem at financial firms. “When there are compliance changes, you have to change many different things like human process changes and training. Technology will not fix that.”

Financial institutions should be encouraged to automate because on balance it was better for compliance to do so, said Sopnendu Mohanty, chief fintech officer at the MAS.

Banks had obligations to undertake proper risk assessments before they automated aspects of their compliance functions, and these should be regarded as part of their overall risk management strategies, Mohanty said.

REAL-TIME MARKET MANIPULATION DETECTION

Since the 1980s, effective data harnessing has allowed securities regulators in most major developed financial hubs to prove market manipulation, such as insider trading, very shortly after its occurrence, if not in real time. New advances suggest that predicative analytics can be used to determine the likelihood of insider trading occurring on a particular day, given the existence of certain factors.

Mohanty said there were a number of ways for regulators to become more efficient in the way that they viewed data; most notably, it could be used to thwart market manipulation.

“Data can now predict the possibility of market manipulation, as well as prove it once it has happened. Compliance can be pushed in real time to do this,” Mohanty said. “Technology is evolving fast, but regulators are catching up,” he said.

THE CHALLENGE OF TOO MUCH DATA

Mohanty said, however, that both regulators and institutions were trying to cope with an overload of information.

The volume of data coming in made it difficult for banks to carry out regulatory compliance activities efficiently, he said. This was particularly the case with know your customer (KYC) requirements, and he said that both banks and regulators were struggling to cope with the volume of change.

A large part of KYC was identifying customers, knowing where they operated and what they did. As KYC requirements grew, it would continue to become a data- and manpower-intensive process, he said.

DATA MANAGEMENT

“Just understanding data is a huge challenge. Data management is the single biggest issue for us to focus on in terms of data storage, innovation and reporting; the architecture must change. It is all about how we exchange data,” Mohanty said.

Cross reiterated that the benefits that could be derived from using data were underrated, and that until now the focus had been on installing the best and fastest technology into financial institutions.

“The focus should be on data plus machine learning, leading to better [regulatory] reporting,” he said. “Compliance is a big cost and it certainly gets harder over time and is not a competitive advantage.”

Banks worldwide were spending considerable amounts on information technology and software resources, Cross said.

This is an edited version of an article that was originally published on the Thomson Reuters Regulatory Intelligence platform.
MARGIN REQUIREMENTS FOR DERIVATIVES TRADES SET TO PROVE CHALLENGING IN ASIA

Nathan Lynch, Head Regulatory Analyst, Thomson Reuters Regulatory Intelligence

The beginning of the phase-in period for collecting and posting margin against non-centrally cleared derivatives trades will prove challenging for financial institutions in Asia, the Thomson Reuters ASEAN Regulatory Summit heard. Officials in Singapore said there were a number of unresolved questions about the local implementation of the regulatory model, which took effect for large firms on the day of the summit.

Later in the day, U.S. regulators gave over-the-counter (OTC) swap dealers an additional month to comply with new derivatives trading rules, after Asia’s market ground to a near halt due to uncertainty about changes. Dealers said the margin requirements could increase global funding costs by more than $500 billion.

The structure for margin requirements for non-centrally cleared derivatives was developed by the Basel Committee on Banking Supervision (BCBS) and the International Organisation of Securities Commissions (IOSCO).

The Basel Committee and IOSCO have said they will “continue to monitor progress in implementation to ensure consistent implementation across products, jurisdictions and market participants.” The global bodies will also liaise with industry as market participants to ensure that initial margin models comply with the regulatory requirements.

The margin requirements for non-centrally cleared derivatives have been designed to reduce systemic risk and to promote a move towards more central clearing of derivatives.

The reforms will follow a staggered implementation timetable, with the largest banks having to comply first. Any entity belonging to a group with 3 trillion euros in aggregate monthly non-centrally cleared derivatives will be required to exchange variation margin when transacting with another covered entity that meets that condition. Japan and the U.S. were the first jurisdictions to embrace the rules.

From March 1, 2017, all covered entities will be required to exchange variation margin.
“BIG DAY” FOR OTC MARKETS

Only highly liquid assets can be used as collateral for margining, such as cash, government securities or certain types of highly rated equity or fixed-income instruments.

“Today is a big day; in fact it’s the biggest day in terms of the regulation of OTC derivatives in the last three decades. This is one of the biggest financial regulatory reforms since the financial crisis,” said Jing Gu, senior counsel at the International Swaps and Derivatives Association (ISDA).

“The framework says that all OTC trades that are not centrally cleared will be subject to a mandatory margining requirement. So yesterday, if you were trading with a bank whether you provided collateral or not was really a commercial or credit decision. But from today in some cases it’s going to be mandatory margining,” Jing said.

Jing said the initial deadline would affect around 20 of the largest dealers in the OTC derivatives space in Japan and the United States. Smaller firms and those in other jurisdictions would have to meet the March 2017 deadline.

The initial margin requirement is likely to lock up a huge amount of liquidity at affected institutions, Jing said. She said this was likely to be challenging across Asia where there has traditionally been a low requirement for margining trades.

“When Asian banks trade with global dealers a lot of the time they just don’t margin the trades. If you look at some ASEAN countries they never margin the trades. That is no longer going to be the case,” Jing said.

LIQUIDITY GAPS

ISDA is concerned that there might be liquidity challenges, or “gaps”, for some of the dealers in the ASEAN region as they struggle to comply with the new requirements.

Some 50 percent of swaps in the ASEAN region are non-clearable. Delegates heard that the advent of margining rules could prove challenging for regional financial economic stability as ASEAN market participants are expected to pay a considerable premium to margin their trades.

The lack of margining and clearing infrastructure in the ASEAN region, even for standardised trades, could also add additional costs and complexity for local firms.

“Due to the nature of the way that central clearing regulations have been designed you not only have to have a central counterparty that is big enough and commercial enough to support this but you also need to follow certain global standards. That’s quite a high hurdle,” one delegate said.

CENTRAL ROLE IN RISK MANAGEMENT

Dr Douglas Streeter Rolph, senior lecturer at the Nanyang Business School, said it was important to remember that derivatives play a central role in risk management among corporates in the ASEAN region.

“We know from active research that corporates do use derivatives as risk management tools, not as gambling tools. So from that perspective it could really hurt the economy if it makes it prohibitively expensive to enter these sorts of trades,” Streeter Rolph said.

Lutfey Siddiqi, adjunct professor at the Risk Management Institute in Singapore, said that while margining is unambiguously risk-reducing for bilateral credit risk, it could induce systemic risk.

“If everybody needs to post collateral at the same time, at some point the margin calls may force parties to liquidate their original position,” he said.

Siddiqi said liquidating the positions could cause a pro-cyclical downturn in the market which then triggers further margin calls.

“It could create a downward spiral as a result of the system requiring more collateral. So this is a systemic issue that is exacerbated by margin calls and we just need to be aware of those risks,” Siddiqi said.

This is an edited version of an article that was originally published on the Thomson Reuters Regulatory Intelligence platform.
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Thomson Reuters is pleased to announce the Pan Asian Regulatory Summit, running on 8 & 9 November 2016 at the Grand Hyatt Hong Kong.

This event will discuss the key regulatory and compliance challenges for banks and financial institutions as they head in to 2017.

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