Cost of Compliance 2017

Stacey English
Susannah Hammond

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The survey has become a voice for risk and compliance practitioners. Last year’s report was read by more than 8,500 practitioners from firms and G-SIFIs, regulators, local government, law firms and consultancies. The frank concerns and views shared by participants have consistently given an unparalleled insight into the reality and challenges faced across all industry sectors. Thomson Reuters extends its thanks to all respondents along with a continued assurance that the responses will remain confidential.

The findings of the report are intended to help regulated firms with planning, resourcing and direction, and to allow them to benchmark their own practices and experiences to determine whether their resources, strategy and expectations are in line with the wider industry. The experiences of G-SIFIs are analyzed where these can provide a sense of the approach taken by the world’s largest financial services firms. The responses show the breadth of the role and concerns of compliance officers. The emergence of potential resource constraints highlighted in last year’s report, combined with increased regulatory uncertainty, appear to be leading to a pivot point for firms which are seeking more creative solutions to risk and compliance challenges rather than simply throwing ever more money at the issue.

Executive summary

Thomson Reuters has carried out its annual survey on the cost of compliance and the challenges financial services firms expect to face in the year ahead. The survey is in its eighth year and generated a record rate of responses from almost 900 compliance professionals worldwide, including from the majority of the global systemically important financial institutions (G-SIFIs). As with previous years, the report builds on annual surveys of similar respondents and, where relevant, highlights year-on-year trends and developments.
The main points to note are:

- **Moderating costs of senior resources**: The rate of increase in budgets and associated costs is seen to be moderating. Sixty percent of firms expect the cost of senior compliance staff to increase either slightly or significantly in the next year compared to 67 percent in 2016. Consistent with prior years, the reasons given for increased resource costs include focus on skills and include up-skilling of existing staff, increased costs to obtain required skills as well as the need to keep pay competitive to retain experienced compliance personnel. In the G-SIFI population, 60 percent expect skilled compliance staff to cost more (83 percent in 2016).

- **Budgets are also moderating**: Just over half (53 percent) of firms expect the total compliance budget to be slightly or significantly more over the next 12 months — a reduction in the rate of increase in 2016 when 69 percent reported an increase in the coming year. This is broadly in line with expected changes in the size of the compliance team where 53 percent expected the team to stay the same and 42 percent expected it to grow in the coming year.

- **A future of regulatory uncertainty**: Regulatory uncertainty and change triggered by political developments, most notably the Trump administration and Brexit, were seen as some of the greatest compliance challenges practitioners expected to face in 2017. Despite this, there was a small decline in the expected rate of increase with 62 percent of respondents expecting regulators to publish more information in the next year (69 percent in 2016), and 22 percent expecting significantly more (26 percent in 2016).

- **Tracking regulatory change**: There has been a reduction in the number of firms spending more than a whole day per week tracking and analyzing regulatory change from more than a third (35 percent) in 2016 to 26 percent in 2017. This is set against a background of no let up in the volume of regulatory information which firms need to track and may be due to efficiencies, the use of technology or resource constraints. In parallel, there has been an annual decline in the percentage of compliance teams who spend more than 10 hours a week amending policies and procedures to reflect the latest regulatory rules (3 percent in 2017, 4 percent in 2016, 7 percent in 2015 and 11 percent in 2014).

- **Focus on regulatory risks**: The continued focus on regulatory risk is unremitting with 70 percent of firms expecting the focus on managing regulatory risk to increase over the coming year (73 percent in 2016). Twenty percent report expecting the focus to be significantly more (22 percent in 2016). The top two reasons given are continued regulatory change and the focus on culture and conduct risk.

- **Personal liability**: A level of pragmatism is showing with the expected increase in personal liability with almost half (48 percent) expecting the personal liability of compliance professionals to increase in the coming year, down from 60 percent in 2016. That said, it is only the rate of increase which has declined, with compliance officers still concerned about the enhanced potential for personal liability. The decline holds true for G-SIFIs with 11 percent expecting a significant increase in personal liability in the coming year, down from 27 percent in 2016.

- **Outsourcing**: Outsourcing continues to be a well-trodden path for firms with 28 percent choosing to outsource some or all of their compliance functionality (25 percent in 2016). Consistent with the prior year, the top two reasons given were the lack of in-house compliance skills and the need for additional assurance on compliance processes.

- **Increasing impact of technology**: A third of all firms overall (33 percent) and almost half of G-SIFIs (48 percent) are expecting more compliance involvement in the assessment of fintech and regtech solutions in the coming year. This is in addition to the 48 percent of all firms which expect to spend more time in 2017 assessing cyber resilience in their firm.

- **Coordination between control functions**: A perennial poor relation in terms of focus for many firms over the eight years of the survey, with little change in the reported interaction and alignment between control functions. Firms appear to be continuing to miss opportunities to leverage scarce resources with only half (50 percent) of compliance functions spending more than an hour a week with internal audit. The compliance teams of G-SIFIs are seen to be doing more, with 19 percent spending more than eight hours a week consulting with the other control functions on compliance issues compared to 11 percent for all other firms.
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Introduction and results

Thomson Reuters Regulatory Intelligence conducted its eighth annual cost of compliance survey in Q1 2017. The record rate of nearly 900 responses was received from practitioners worldwide, including Asia, Australasia, Canada, Europe, Middle East, United Kingdom and the United States, representing firms across all sectors and sizes of the financial services industry including asset management, insurance, banking and investment.

What has shown no sign of moderating is the rate, pace, complexity and volume of regulatory change and uncertainty. There are several significant pieces of European legislation which are due to come into effect in the first half of 2018, perhaps the most major of which is the Markets in Financial Instruments Directive II (MiFID II) and the associated Regulation (MiFIR). Having been delayed by a year, most firms are well on the way to delivering the swathe of changes required by January 3, 2018.

Firms have also had to look outside the mainstream financial services regulators for other major changes. The European General Data Protection Regulation (GDPR) comes into effect in May 2018, has potential worldwide impact and introduces fundamental changes to how the personal data of EU citizens, no matter where in the world they are, is to be handled. Financial services firms of all shapes and sizes deal with personal data on a regular basis and need to ensure that they have considered carefully all the potential ramifications of the new regulation. In particular, firms would be very well advised to review the existing consents they have for all personal data held.

“For the most serious violations of the law, my office will have the power to fine companies up to twenty million Euros or four percent of a company’s total annual worldwide turnover for the preceding year.”

“And our enforcement powers aren’t just for “typical” data breaches, like laptops left on trains or information left open to a cyber attack. The GDPR gives regulators the power to enforce in the context of accountability – data protection by design, failure to conduct a data protection impact assessment, DPOs and documentation. If a business can’t show that good data protection is a cornerstone of their practices, they’re leaving themselves open to a fine or other enforcement action that could damage bank balance or business reputation.”

Elizabeth Denham, UK Information Commissioner at the Information Commissioner’s Office. Speech – “GDPR and Accountability” at the Institute of Chartered Accountants in England and Wales. (January 2017)
MiFID II/R and GDPR represent the known. They are examples of big set-piece regulatory change which has been through several iterations of consultation and is now either final or near final. Financial services firms will be all too aware that significant regulatory uncertainty is on the horizon with Brexit and the deregulation planned by the Trump presidency. The results have shown that for some, the planned deregulation is expected to reduce the amount of information published by, and liaison with, regulators. While this may be the case in the longer term, it is entirely possible that the process of deregulation will take more time, energy and expert engagement than the original rule-making.

Firms are dealing with regulatory change and uncertainty, a continued high level of personal liability and a moderating of compliance resources. All of this is set against a background of continuing enforcement action.

It is clear that many firms still have to consider not just the cost of compliance, but also the costs of non-compliance. An insight into the impact on some of the world’s largest financial services firms is given in their annual financial statements and updates from regulators. In the UK for instance, the Financial Conduct Authority (FCA) has estimated that the total amount paid in refunds and compensation for the mis-selling of payment protection insurance (PPI) since January 2011 is £26.5bn. UK banks have set aside nearly £35bn for PPI redress. Also in the UK, nine banks are reported to have agreed with the FCA to review the sale of interest rate hedging products since 2011 with £2.2bn paid in redress by Q1 2017.

In the U.S., the resolution of the residential mortgage-backed securities (MBS) proceedings is continuing, with a number of European banks yet to settle. Fines of more than $20bn have been imposed or agreed as at the end of 2016 regarding the mis-selling of MBS, and major banks have allocated specific provisions including RBS, setting aside £6.8bn and UBS £1.5bn to cover pending U.S. fines.

“Global banks’ misconduct costs have now reached over $320 billion – capital that could otherwise have supported up to $5 trillion of lending to households and businesses. But there is a bigger cost. An industry the scale and importance of finance needs social capital as well as economic capital. It requires the consent of society in order to operate, innovate and grow.”

At the core of any compliance function is the budget and resources available to meet evolving regulatory requirements. The vast majority of firms who took part in the research (93 percent overall) reported that they are expecting their compliance budget to either increase slightly or significantly in the year ahead (53 percent), or for it to at least remain the same as the prior year. The picture for G-SIFIs is in line with the overall industry view with the majority (82 percent) expecting either an increase or for budget to remain the same as the previous twelve months. It is evident that firms are still investing in compliance and indeed the consistent picture across the world is that every region, except Asia, is expecting a slight increase in their budget for the year ahead.

That said, there are signs that the seemingly ever-increasing funding for compliance activities since the financial crisis has reached a peak, and for the first time in six years, the largest percentage of firms (40 percent) have reported that their budget is staying flat (31 percent for G-SIFIs). Similarly, for the first time in six years, the fewest number of firms (9 percent) have reported they are expecting a significantly higher budget (11 percent for G-SIFIs).
Practitioners explained the reasons for expecting their compliance budget to be slightly or significantly less in the coming year as follows:

- Economic factors and challenging market conditions resulting in cost cutting
- Compliance functions which have previously been untouched are facing cuts in line with other business areas
- Reducing investment in head count, training and travel
- Focus on regtech, systems and technology to achieve efficiencies
- Unsustainability of current compliance costs and a weakening focus on compliance and value perceived by senior management
- More risk and compliance activity being undertaken in the front line

In contrast, the firms which are expecting a slight or significant increase in budget have clear plans on how the extra funding will be utilized. From the hundreds of responses received, there is much commonality of firms’ plans which fall into the following areas:

- Increasing overall compliance head count
- Investment in specialist staff with higher capabilities and competence
- Staff retention and meeting increased salary costs to replace staff
- Education and training including seminars, webinars and certifications
- Engaging external professionals, consultancy and support
- Outsourcing highly specialized compliance activities
- Investment in new technology, systems and regtech, or enhancement of existing systems, including automating manual systems to meet increased monitoring and reporting requirements
- Extension of the scope and responsibilities of compliance teams including anti-bribery and corruption and data privacy
- Focusing on specific major regulatory reforms, particularly GDPR and data privacy, cyber resilience, UK Senior Managers Regime, U.S. Consumer Financial Protection Bureau (CFPB) requirements, MiFID II/R, Packaged Retail and Insurance-based Investment Products (PRIIPs) reporting and embedding culture
- Meeting general cost increases and increased fees
- International expansion and investment in international offices and local compliance staff rather than reliance at group level and a lifting of travel restrictions

Firms’ ability to develop, and maintain, an adequately resourced compliance department will be determined in part by the availability of high-quality compliance officers with deep experience. A significant proportion of the compliance budget is invested in human capital and we have seen expectations that the cost of senior compliance practitioners will grow year to year, in line with increasing budgets. Compliance teams are also expected to grow in line with budgets. Over two-fifths of firms, representing both G-SIFIs and the wider population (42 percent) are expecting their compliance teams to grow in the next twelve months. That said, a perennial challenge for firms has been the lack of good compliance skills in the marketplace, which has driven up the costs of senior compliance professionals and made it harder for firms and regulators to keep hiring ever more suitably competent compliance staff.
Over the next 12 months I expect the size of my compliance team to...

![Bar chart showing the expected changes in compliance team size from 2012 to 2017.](Figure 2)

Expected cost of senior compliance staff from 2012 to 2017

![Bar chart showing the expected cost of senior compliance staff from 2012 to 2017.](Figure 3)
The overall majority view for the year ahead is that costs of senior compliance staff will either increase or stay the same as the already high costs being commanded in the industry (97 percent). Consistent with the prior six years and in line with the expectations of increasing budgets, the results of this year’s survey show that most firms expect that the costs of skilled compliance staff will continue to rise slightly (50 percent), an expectation that is consistent across the world.

Similarly, in line with budget expectations, there are signs that the seemingly ever-increasing compensation for senior compliance staff since the financial crisis has reached a peak, and for the first time in six years, the largest percentage of respondents have reported that they expect costs to stay flat (37 percent). Similarly, for the first time in six years, the fewest number of participants have reported they are expecting senior compliance staff to cost significantly more (10 percent).

The reasons that firms are expecting senior compliance to be more expensive in the year ahead were explained as:

- Needing to hire more experienced and competent staff at a premium
- Investing in up-skilling and specialist training
- Needing to match industry salaries
- To ensure retention of staff
- Shortage of candidates available which increases the salaries, in part fueled by senior compliance staff leaving the industry as a result of the UK-driven Senior Manager Regime

It’s notable that despite the industry-wide views that personal liability is rising, this high level of personal accountability was not identified as a factor in the increasing cost of senior compliance staff.

In contrast, there were strong and consistent views, albeit from a minority of respondents, who believe the cost of senior compliance staff would be coming down:

- All salaries and compensation are reducing across the board
- The talent pool is deeper, so less need for expensive niche specialists
- Automation and technology are driving efficiency
- Greater focus on and investment in the first line of defense

The regional analysis: expected cost of senior compliance staff over the next 12 months is shown in the figure below.
In the G-SIFI population, there has been a noticeable fall in the expected cost of senior compliance staff. In last year’s survey, 61 percent of respondents expected senior compliance staff to cost slightly more and 22 percent significantly more. Comparatively, in this year’s survey, 60 percent expect an overall increase (50 percent slightly more; 10 percent significantly more). Reasons for this decline range from cost control and reductions in business offerings, to maturity and increased resourcing to the first line of defense.

**Expected increase in the cost of staff versus anticipated compliance budget increase**

- All firms: 60% expecting cost of staff to increase, 53% expecting compliance budget increase
- G-SIFIs: 60% expecting cost of staff to increase, 51% expecting compliance budget increase
- UK: 63% expecting cost of staff to increase, 54% expecting compliance budget increase
- Continental Europe: 56% expecting cost of staff to increase, 58% expecting compliance budget increase
- US & Canada: 57% expecting cost of staff to increase, 52% expecting compliance budget increase
- Asia: 63% expecting cost of staff to increase, 47% expecting compliance budget increase
- Rest of World: 63% expecting cost of staff to increase, 57% expecting compliance budget increase
“In the context of looming fintech disruption, we may be in the era of “peak compliance officer”; that the automation of aspects of compliance (such as know your customer (KYC) and regulatory reporting) will result in threats to compliance officers’ jobs. To mix metaphors, in the same way that hundreds of engineers that were required to deliver radio and television broadcasts have been displaced by technological innovation, so undoubtedly all of our roles are going to be impacted by the spinning jennies of our time. We need to be alive to the disruptions that are coming, to be flexible and adaptive and recognize that successful implementation of new technologies can drive significant efficiencies and greater robustness.”

Ed Sibley, Director of Credit Institutions Supervision, Central Bank of Ireland. Speech to the Association of Compliance Officers of Ireland. (March 2017)
Personal Liability

“Whether a crime is committed on the street corner or in the corner office, no one gets a free pass simply because they were working for a corporation when they broke the law... Today’s indictment reiterates our commitment to holding individuals accountable for corporate misconduct.”


Personal liability for compliance officers has become a persistent worry bead. That said, there seems to be a leveling off in terms of the rate of increase of concern with almost half (48 percent) of respondents reporting that the personal liability of compliance professionals would remain the same in the coming year, up from 40 percent in 2016. The other half (48 percent) still expect the personal liability of compliance officers to increase in 2017, 11 percent significantly.

Compliance practitioners who, over the next 12 months, expect their personal liability will be the same as or more than today

Figure 7
The G-SIFI population shows something of a similar pattern with 43 percent believing that the personal liability of compliance officers will remain the same in 2017 (32 percent in 2016). The G-SIFIs remain distinctly more concerned than the general population of financial services firms with 52 percent of G-SIFIs still expecting personal liability to increase, 11 percent significantly (27 percent expected a significant increase in 2016).

In parallel with the apparent leveling off of the increase in concern about personal liability is the moderating of the rate of increase of cost of senior compliance, with 60 percent expecting an increase in 2017 compared to 67 percent in the previous year. The results may be a reflection that greater personal liability for all senior individuals is a now a practical reality in many jurisdictions.

The UK has perhaps taken the most decisive steps toward changing expectations of senior managers. Since March 2016, banks and the largest asset managers (UK Prudential Regulation Authority-designated investment firms) have been subject to the new Senior Managers and Certification Regime, which requires firms to allocate prescribed responsibilities to individuals and document the accountabilities in formal “responsibilities maps.” The regime is due to be rolled out to all UK-regulated firms in 2018.

“The SMR re-establishes the link between seniority and accountability. Senior Managers now must take reasonable steps (including training or proper oversight) to prevent or stop regulatory breaches in their areas of responsibility. Adoption is spreading. Some international firms are voluntarily adopting elements of the SMR’s certification requirements to strengthen their global operations. And the FSB is now reviewing the merits of such ‘responsibility mapping.’ A decade on, individual responsibility is returning.”


The United States, Canada, Hong Kong and Australia have all made policy moves to drive both personal accountability and the need for consistently better behavior by senior individuals, compliance officers included.

In December 2016, the Hong Kong Securities and Futures Commission set out measures to “augment” the accountability of senior managers, which reiterated that senior individuals bear “primary responsibility” for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures by the firm. The measures further specify that senior managers should:

- Properly manage the risks associated with the business of the firm including performing periodic evaluations of its risk management processes
- Understand the nature of the business of the firm, its internal control procedures and its policies on the assumption of risk
- Understand the extent of their own authority and responsibilities

The moves in Hong Kong chime with the results of an audience poll held as part of a Thomson Reuters Regulatory Intelligence webinar in February 2017 on the top regulatory risks for the Asia-Pacific region in the coming year. A clear majority (70 percent) reported that Asia needed to bring itself in line with other major financial services jurisdictions and introduce regimes for senior manager liability. The focus on the accountability of senior managers being further enhanced by the suggestion that they should be named in the breach reports accompanying serious compliance failures.

The perception around senior manager liability was more measured when it came to terminating employment for serious compliance failures with fewer than half (45 percent) of respondents recommending sacking in the wake of a serious breach.
Should senior managers be ‘sacked’ where there are serious compliance failures?

- Yes: 45%
- Maybe: 48%
- No: 6%

Is there a need for senior management liability equivalent regime in Asia?

- Yes: 70%
- Maybe: 27%
- No: 3%

Should the names of senior managers be included in breach reports where there have been serious compliance failures?

- Yes: 62%
- Maybe: 25%
- No: 13%

Figure 8
Firms and their compliance officers need to be aware that it is not just mainstream financial services regulators that are focused on driving better behaviors through increased levels of personal liability. In the UK for instance, the Information Commissioner’s Office is to be given powers in 2017, to fine directors individually up to £500,000 for breaches of the Privacy and Electronic Communications Regulation (PECR) which covers issues such as nuisance calls. It would be a very rare firm that is not potentially caught by the new liability, as PECR covers any electronic marketing messages whether by phone, fax, email or text.

“We hope to see a tone from the top that consistently and as a matter of course places client interests and the integrity of the market at the center of business decisions. This, rather than mere reliance on disciplinary action to deter bad behavior, is the key to ensuring proper behavior and long-term business success.”

Julia Leung, Executive Director, Intermediaries, at the Securities and Futures Commission Hong Kong. Keynote speech – “Manager-In-Charge initiative: Fostering Accountability and a Compliance Culture” at the AIMA APAC Annual Forum 2017. (January 2017)

The emergence of culture and conduct risk as global regulatory themes has exacerbated the increase in personal liability for all senior managers. The Thomson Reuters fourth annual survey report on culture and conduct risk found that 73 percent of respondents said they expected the regulatory focus on culture and conduct risk to increase the personal liability of senior managers.

Do you think that the regulatory focus on culture and/or conduct risk will increase the personal liability of senior managers?

![Figure 9](source: Thomson Reuters Culture and Conduct Risk 2017 Report)
The clear expectation is that personal liability for senior individuals in financial services firms is increasing, though the level of increase is less acute. The board and other senior managers are vulnerable as never before if they fail either to appreciate the nature of the risks being run or indeed how to evidence the adequate discharge of regulatory expectations.

Given that regulatory personal liability is here to stay, compliance officers would be well advised to assess for themselves what “good” looks like in terms of their own personal regulatory risk management, which in turn, can be used as the blueprint for everyone else. There are several benefits for compliance officers who think through in detail how best to manage their own personal regulatory risk. Not only will they will have a better chance of staying out of trouble, they will also be able to advise fellow senior managers around the world on best practice. Once they have the infrastructure and protocols in place to manage their own risk, they will be able to devote more attention back to overseeing the firm’s compliance.
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Years ago, the skills and expertise required of the compliance area and its personnel were fairly straightforward. You had to develop a basic expertise in the laws and regulations that affect your business. Back then, compliance was comprised of lawyers, accountants and auditors, and some operational staff. In the future, I envision that the necessary expertise for compliance will consist of a far broader set of subjects, including expertise in technology, operations, market, risk and auditing, to name a few. Even now, compliance personnel need to have a solid understanding of these areas, but I envision the role becoming even more demanding such that a CCO will truly need to be a jack of all trades with access to a wide array of skillsets.”


The never-ending balancing act required of compliance officers to fit in a multitude of tasks within a typical week has been one of the mainstays of the cost of compliance survey. To a certain degree, the typical week of a compliance officer has changed little, however, 2017 sees the first time that compliance officers are spending as little as a third of their week (32 percent) on core compliance activities such as tracking and analyzing regulatory developments, reporting to the board, amending policies and procedures and liaising with other control functions (down from 39 percent in 2016; 44 percent in 2015). What has changed considerably since the start of the survey is the range of ‘other’ things which compliance officers may now be expected to squeeze into their remit.

Typical week of a compliance officer in 2017

- Tracking and analysing regulatory developments: 15%
- Board reporting: 4%
- Amending policies and procedures: 4%
- Liaison with control functions: 9%
- Other compliance tasks: 68%

Figure 10
In figure 10, 68 percent of compliance officers’ time is now spent on “other compliance tasks” such as:

- Interaction with regulators
- Maintenance and renewal of licenses and registrations for regulated business activities and individuals
- Regulatory inspections and examinations
- Regulatory reporting
- Project management of regulatory implementation projects
- Compliance monitoring
- Compliance training
- Past business reviews and assessing lessons learned from industry peers
- Leading on implementing cultural change
- Advising the business on regulatory change and requirements
- Lobbying and influencing emerging regulatory change
- Assessing regulatory solutions
- Oversight of conduct risk issues which affect customers, including cyber resilience
- Recruitment and retention of skilled compliance staff
- Acting as money laundering reporting officer (MLRO) and data protection officer (DPO)

The continuing evolution that the role a compliance officer is expected to play within a firm is demonstrated by the breadth of “other compliance tasks” that now occupy two-thirds of a respondent’s typical week. In 2016, Thomson Reuters captured 52,506 regulatory alerts from over 750 regulatory bodies averaging more than 200 updates a day. Keeping up to date with the sheer volume of regulatory information being published is a perennial challenge. Many firms are using technology as a key enabler in this ongoing challenge to stay on top of regulatory requirements, but the expertise required by compliance officers in a more automated environment is quite different from those required in a more manual setting. The ability to filter through the sheer number of regulatory updates published on a daily basis and only track those that are truly relevant to the business provides tremendous benefit and time savings. However, it should be noted that this increase in the use of technology, while it brings countless benefits, also requires a significant up-skilling of compliance officers to ensure the solutions and functionality work.
Regulatory Change and Uncertainty

“It is critical that you make it a priority to develop the necessary technical expertise, keep up with changing market dynamics, fully appreciate all of the firm’s businesses and follow regulatory developments and their impact on your firm and its operations. I know that sounds exhaustive, but the significant role you play demands no less.”


2017 was to have been the year that firms entered the final stages of the big regulatory change programs associated with the last of the major set-piece reforms. Indeed the future promised a risk and compliance agenda not dominated by significant change programs. The potential for firms to innovate rather than have their entire IT change capacity absorbed by the ramifications of rule changes appeared to be in sight.

A perfect storm of Brexit, the Trump presidency together with the rescheduling of a number of EU reforms has put regulatory change and uncertainty firmly back into the spotlight. The vaunted deregulation in the U.S. is likely to bring a spike in change, uncertainty and information published by regulators and exchanges with deregulation likely to be just as, if not more, challenging as regulation itself.

In the EU, firms now have a cluster of major changes due to come into effect in the first half of 2018. MiFID II/R in January, Insurance Distribution Directive in February and GDPR in May. Even if nothing else was changing, firms operating from or into the EU have a significant regulatory change program to deliver in the rest of 2017.

Firms and their compliance officers are now facing change, change and more change, overlaid with the challenge of an increasingly wide range of sanctions being used by regulators to drive home the need for visibly effective compliance and the resulting good customer outcomes. One clear and present danger is that of regulatory fatigue, which is enhanced by the evolving regulatory expectations around culture and conduct risk. Boards have always had to multi-task, but a crucial skill remains the ability to balance commercial and compliance demands to allow for business improvement and development rather than having all change capacity and capability taken up by regulatory issues. Regulatory uncertainty presents opportunities and firms would be well advised to seek to shape and influence their regulatory future rather than simply watching the rule book change.

There are several ramifications for compliance officers of regulatory uncertainty. First off is to be very clear that future uncertainty does not make the current rule book any less valid. Indeed, regulators around the world are likely to use any policy hiatus to increase their supervision efforts and so firms should expect enhanced scrutiny on their ability to robustly evidence compliant activities, particularly with regards to stated supervisory priorities such as the appropriate treatment of vulnerable customers and the implementation of culture and conduct risk policies.

A double-check on existing compliance is also a good means of ensuring that any future change is built on strong foundations as well as acting as a refresher for senior managers as to the state of risk management in the business. The reporting and discussion on risk management could be used as the basis of developing a lobbying strategy with regard to potential regulatory change. As a first step, firms, with express compliance officer involvement, need to think through the implications for their own business of any possible changes no matter where in the world they may arise and then make a senior-level decision as to what good looks like for their business. “Good” in this sense could include a scenario which is neutral for the firm itself but potentially a significant threat for its competitors. Equally, if a possible threat is bad for the firm, it might end up being worse for competitors leaving the firm in a relatively better position.

Whatever strategy is agreed upon, firms should be prepared to engage with policy makers – it is in no one’s interests to have poor-quality legislation or guidance. So what can firms do now to influence the future shape of regulatory policy?

• Firms need to invest in skilled risk and compliance resources to respond to all forms of draft policy and rule changes. Even if the apparent chances of getting a policy maker to alter his or her approach are small they will, by definition, be nil if firms do not respond. Firms may wish to coordinate further between themselves and/or trade bodies to add weight to key arguments where compliance will either be
unduly onerous or the approach is unlikely to meet the required good customer outcomes.

- Firms also need to submit written responses if they then wish to follow up with politicians, supranational bodies or others. Any firm approaching any entity or individual without having submitted a detailed, reasoned response to a formal consultation process will be given short shrift.

- A well-trodden lobbying path has been for firms to engage with relevant politicians to get key points across. Firms need to appreciate the differing levels of detail of policy makers and the granular detail of the rule book and pitch their lobbying at the appropriate level. That said, big picture concerns can be raised and discussed but any and all points made are likely to carry particular weight if they reference specific examples and are couched in either market integrity or customer and investor protection terms.

Lobbying is not a quick-win scenario but rather should be considered a medium to long-term investment. For any investment in lobbying to be successful, firms need to have both the resources and a deep understanding of the evolving stance and approach taken by regulators around the world. That specifically involves considering not only the rules and regulations being made at the jurisdiction level, but also the policy making by the supranational bodies (such as Financial Stability Board, Organization for Economic Co-operation and Development as well as Basel and the International Monetary Fund) which set, and comment on, the international regulatory framework.

Expectation that the volume of regulatory information published by regulators and exchanges will increase over the next 12 months

In the G-SIFI population, expectations of increased volume of regulatory information published by regulators and exchanges over the next 12 months are largely the same compared to all firms. However, G-SIFIs seem to be a leading indicator on expectations relating to significant increase (20 percent) and increase in “slightly more” (43 percent), which may mark the start of an anticipated “leveling off” during a turbulent year of regulatory and political uncertainty.

The amount of time spent tracking and analyzing regulatory developments has remained remarkably static over time, despite the equally persistent expectation that the amount of regulatory information to be published by regulators and exchanges will continue to grow. The rate of growth of the increase has slowed in recent years, but 62 percent still expect more information will be published, 22 percent significantly more. Firms may be tackling this potential mismatch through technological solutions or, as a matter of potential concern, choosing to de-prioritize the tracking and analyzing of regulatory developments.

The expectation that more information will be published by regulators and exchanges is borne out by the number of alerts picked up by Thomson Reuters Regulatory Intelligence tracking service.
Despite the year-on-year increase in total number of regulatory alerts captured on the Thomson Reuters Regulatory Intelligence platform, the percentage of firms dedicating more than 10 hours a week to tracking and analyzing regulatory developments has fallen year-on-year since 2014 and is at an all-time low in 2017 with only seven percent.

In 2017, firms have come to a pivot point. While at first glance such results may be reason for concern, this may indicate improved efficiencies through deployment of technology and automation.

Nevertheless, if firms are using more technological solutions to improve efficiency, are compliance officers having to build a greater understanding of technology as well? Looking at a typical week of a compliance officer, this year’s survey results show that over two-thirds (68 percent) of a compliance officer’s time is dedicated to other compliance tasks, an increase of seven percent from last year’s survey results (61 percent). The ability to “filter” regulatory alerts so only tracking developments that are truly relevant is becoming an increasing challenge.
**Reporting**

“Consistently good outcomes require sound systems and controls, being disciplined about meeting compliance obligations, and good disclosure. Most importantly, it needs to be part of an organization’s culture, including setting clear expectations and, crucially, leading by example.”

Financial Markets Authority (FMA), New Zealand. Guidance Note – A guide to the FMA’s view of conduct. (February 2017)

Communication to executive management and the wider organization on developing regulatory issues and concerns continues to be a key component of the compliance function. Compliance teams, on average, are spending between one and three hours a week creating and amending reports for the board. While there was a slight increase in the number of compliance teams who spend over eight hours a week compared to survey results in 2016, the percentage of firms dedicating eight to 10 or more than 10 hours a week has fallen from its peak of 20 percent in 2014 to 13 percent in 2017. Those firms who reported spending more than 10 hours a week had created specific teams within the compliance function or other elsewhere reporting to parent and subsidiary boards.

**In an average week, how much time does your compliance team spend creating and amending reports for the board?**

![Figure 14](image)

More than a quarter (27 percent) of compliance teams are spending less than one hour a week reporting to the board, with marked regional variances in the results. In the U.S., for instance, 40 percent of respondents regularly spend less than one hour a week on board reporting. This raises the question of whether executive management within these firms is sufficiently informed of compliance issues. Lower levels of compliance reporting are also likely to fall short of regulators’ expectations with regard to information for management.
“Weaknesses have consistently been observed regarding board oversight over key matters, including the approval of risk, compliance and internal audit plans. We have also identified fundamental weaknesses in risk appetite statements and the embedding thereof. In addition, we have seen notable weaknesses in risk reporting to the board, including the absence of key risk indicators, and holistic reporting on all risks facing the institution. There still appears to be an over-reliance on group policies and processes, with inadequate review by local management and the second line of defense to ensure that these policies and processes are fit for purpose for the local entity.”

Ed Sibley, Director of Credit Institutions Supervision, Central Bank of Ireland. Speech to the Association of Compliance Officers of Ireland. (March 2017)

In an average week, how much time does your compliance team spend amending policies and procedures to reflect the latest regulatory rules? (in hours)

![Pie chart showing time spent on amending policies and procedures]

Similarly, with the percentage of compliance teams creating and amending reports for the board, it is concerning that the number of firms spending more than 10 hours a week amending policies and procedures to reflect the latest regulatory rules has fallen year-on-year since 2014. Regionally, the majority of compliance teams in the U.S. and Canada are spending less than three hours a week amending policies and procedures to reflect the latest regulatory rules. This may be a warning sign to U.S. firms in particular, in preparing for legislative changes likely to be made by the Trump administration.

Once again the G-SIFI population is leading the way and seen to be doing more in regard to amending policies and procedures to reflect the latest regulatory rules. Over half (54 percent) of G-SIFI firms are spending more than 4 hours a week, compared to 35 percent of all firms who commit to spending the same amount of time to amending policies and procedures.
Alignment with other risk and control functions

“Regardless of whether the model is more centralized or more decentralized, there are some common practices which could address the likely challenges arising in a group. These practices [...] include having regular periodic meetings between Control Functions at the group level and Control Functions at the entity level to communicate group-wide objectives and policies easily and properly downwards and to inform Control Functions at the group level better so they can carry out their roles effectively.”

Cited in International Association of Insurance Supervisors (IAIS), Draft Application Paper on Group Corporate Governance. (March 2017)

Alignment between compliance and other risk and control functions has been a perennial poor relation in terms of time allocated to it. Risk, compliance, internal audit and legal all have roles to play in the management of a financial services firm. For those roles to be most effective, and the firm to obtain the best value from often scarce skilled resources, there needs to be alignment, cooperation and coordination between the risk and control functions, to ensure there is coverage of the main risks to the organization and all associated reporting is consistent.

The amount of time that needs to be devoted to inter-risk function coordination will vary from one organization to another, but firms should be aware of the potential benefits which greater liaison and cooperation may bring.

In the last year, there has been a slight decrease in the number of compliance teams spending less than an hour a week consulting with the legal and risk functions on compliance issues. Taken over time, around a half of compliance functions still only routinely spend less than an hour a week with their internal audit colleagues.

In an average week, how much time does your compliance team spend consulting with the legal, internal audit and risk functions on compliance issues? (in hours)

<table>
<thead>
<tr>
<th>Year-on-year</th>
<th>Legal</th>
<th>Internal Audit</th>
<th>Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 1</td>
<td>31%</td>
<td>30%</td>
<td>28%</td>
</tr>
<tr>
<td>1 to 3</td>
<td>32%</td>
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<td>7%</td>
<td>7%</td>
</tr>
<tr>
<td>More than 10</td>
<td>9%</td>
<td>8%</td>
<td>10%</td>
</tr>
</tbody>
</table>

Figure 16
Around half of compliance teams in all the regions report that they spend less than an hour a week consulting with the internal audit function, ranging from 46 percent in Asia to 55 percent in the UK. The picture is also fairly consistent with a third in all the regions reporting that they spend less than an hour a week consulting with the legal team. Only risk sees any variance, with just over a fifth (22 percent) of respondents from the Rest of World spending less than an hour a week with risk colleagues. This rises to 45 percent in Continental Europe.

The picture reported by the G-SIFI population is consistent with nearly half (45 percent) spending less than an hour a week with internal audit. The picture is more collaborative for risk, with 27 percent spending less than an hour a week (35 percent in the wider population) and 30 percent spending less than an hour a week with legal (32 percent in the wider population).

**G-SIFI analysis: time spent consulting with the legal, internal audit and risk functions on compliance issues (in hours)**

At a time when the adequacy and availability of skilled resources is a challenge, compliance officers need to ensure they can make the best use of time spent with other risk and control functions. Better alignment will help to drive high-quality management information and reporting, which is not only a regulatory expectation, but also a critical means to demonstrate the discharge of personal liability.
Liaison with Regulators

Compliance officers have always been the front line when liaising with all relevant regulators. While regulators are often choosing to speak to a far wider range of senior managers and individuals in a regulated firm, it is the compliance officer that is the central figure in building and maintaining all regulatory relationships. In a world of regulatory uncertainty, culture and conduct risk, personal liability and a “judgment-based” approach to supervision, firms, now more than ever, need in-house compliance skills and experience to ensure strong working relationships with regulators, supervisors and policy makers.

Year-on-year analysis: Over the next 12 months I expect the time spent liaising and communicating with regulators and exchanges to be...
Regional analysis: Over the next 12 months I expect the time spent liaising and communicating with regulators and exchanges to be...

G-SIFI analysis: expected time spent liaising and communicating with regulators and exchanges over the next 12 months
Given the levels of regulatory uncertainty and the potential for widespread regulatory change, it is perhaps surprising that 41 percent of respondents expect the time spent liaising and communicating with regulators and exchanges to be the same as today in the coming year. The G-SIFI response was very much in line with the wider population with 39 percent expecting the time spent liaising with regulators to be the same as today. Thirty nine percent of G-SIFIs also expect to spend more time liaising and communicating with regulators and exchanges, of which 13 percent expect significantly more.

The top three reasons given by those expecting to spend more time liaising and communicating with regulators and exchanges were:

- Need to understand changing regulatory expectations
- Increased information requests from regulators
- More onerous regulatory and reporting requirements

Respondents were asked for more detail on the reasons behind their expectations regarding the time to be spent liaising and communicating with regulators and exchanges in the coming year. The proposed deregulation program announced by the Trump presidency is cited at both ends of the spectrum – as a reason for both less communication with regulators and more. It may be that once deregulation is complete, there will indeed be a reduction in the amount of time U.S. firms spend liaising and communicating with regulators and exchanges, but in the short term, there is likely to be an increased need for firms to engage with policy makers over any proposed changes. Given the likely swathe of change which will need consideration by and response to from U.S. firms, it is perhaps surprising that half (49 percent) of North American respondents expected to spend the same amount of time liaising with regulators in the coming year. Many firms would be well advised to engage in a lobbying program, as discussed in the Regulatory Change and Uncertainty section, to seek to ensure that the future rule book will not be unduly onerous even in its deregulated state.

Other reasons given for increased liaison and communication with regulators and exchanges revolved around license and business changes.
Managing Regulatory Risk

The capacity and capability of firms to manage regulatory risk remains critical in the year ahead. The expanded remit of compliance functions makes their role as vital as ever in helping senior managers understand and manage the wide-ranging regulatory risks they face, from cyber resilience through to embedding a culture of compliance. This is reflected in the 70 percent of respondents who expect the regulatory focus on managing regulatory risk to increase in the coming year (including 20 percent who expect a significant increase).

Factors driving the expected increase in focus on regulatory risk include:

- The impact of Brexit
- Company growth; increased regulated activities being undertaken or in wider jurisdictions
- Increased board appetite for compliance involvement and awareness
- Increased regulatory scrutiny
- Regulatory changes by the new U.S. administration
- Increased focus by stakeholders due to the risks they are facing
- The investment into automation of compliance

While the total percentage of G-SIFI firms who expect the regulatory focus on managing regulatory risk to increase has largely remained the same as last year’s results (73 percent in 2017, 72 percent in 2016), the percentage of G-SIFIs who expect a slight increase over the next 12 months has risen by 22 percent, to 58 percent (36 percent in 2016). The percentage of G-SIFIs who expect managing regulatory risk to significantly increase has fallen by almost the same difference, to 15 percent.

Regionally, almost a quarter of firms in Asia (24 percent) still expect a significant increase in focus on managing regulatory risk over the next 12 months, compared to 14 percent of firms in the U.S. and Canada.

The main reasons given for the expected increase are continued regulatory change and the regulatory focus on culture and conduct risk, which is echoed by the fact that 69 percent of respondents overall are expecting more compliance involvement in the implementation of a demonstrably compliant culture and tone from the top in the coming year. A view consistently expressed across every region.

The expectations of an increased focus on regulatory risk have risen year-on-year in every cost of compliance survey, but it is notable that for the first time, the level of expected increase has reduced. It is clear that regulatory focus is already high and staying high but may have reached a peak, reflected in the fact that there has been a 50 percent decrease in compliance officers expecting a significant increase in focus on regulatory risk from 42 percent in 2011 to 20 percent in 2017.

Respondents were asked for the reasons to support their expectations and it is evident these are predominantly driven by political factors.

For the minority of firms expecting a decrease in the focus on regulatory risk this was:

- Overwhelmingly due to changes in the U.S. administration and an expectation that President Trump would roll back or reduce the regulatory burden on firms
- Because of other reasons cited including an increased focus on commercial profit and the end of historic conduct issues
Expectation that the regulatory focus on managing regulatory risk will increase over the next 12 months

Figure 21
Over the next 12 months I expect more compliance involvement in...

Figure 22

Liaising with and up-skilling of senior managers and board has fallen year-on-year since 2015. This year’s sharp fall may come as a result of focus on assessing fintech/regtech solutions, which was included as a new answer option in 2017 and amounted to a third (33 percent) of all responses.

Implementation of a demonstrably compliant culture and tone from the top was listed as one of the top areas in which firms expect more compliance involvement over the next 12 months (69 percent). Regional outliers are the UK (69 percent), Continental Europe (67 percent) and Asia (72 percent), who expect more compliance involvement in the assessing of effectiveness of corporate governance arrangements.

Practitioners gave details on other areas in which they expect more compliance involvement over the next 12 months including:

- Reviewing Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) requirements and related processes
- Data protection and privacy compliance
- Conflict of interest management
- Market abuse
- Anti-bribery and corruption
- Senior managers and certification regime
- Global data privacy
- Developing risk management culture across the organization
- Lobbying and industry advocacy
- Establishing relevant connections between compliance, internal audit and enterprise risk
- Regulatory change arising from Brexit
- Sanctions position of the U.S. following change of president
- Cross-border business initiatives
- New product/concept development
- MiFID II/R
- Increased monitoring of business practices
- Compliance audit
- Training and awareness: ramping up trainings for relevant staff

The examples given by respondents demonstrate the increasing challenges for the compliance function across multiple aspects of a firm’s activities, and the pressures on compliance officers’ capacity continues to grow; as figure 10 demonstrates, 68 percent of their time is spent on other remedial tasks outside their traditional remit.
Outsourcing

A question on outsourcing was first included in the cost of compliance survey in 2016, as it had come to the fore for all the wrong reasons with Western Union in Eire and R. Raphael & Sons in the UK both being sanctioned for specific outsourcing failures and, in the U.S., a risk alert issued warning of the dangers of outsourcing compliance.

Compliance officers need to be involved in the oversight of all significant outsourcing arrangements, none more so than when it is part of the compliance functionality, which is to be outsourced. Outsourcing can be an efficient and cost-effective way to supplement in-house resources, but it must be delivered appropriately to be of real benefit.

The golden rule for successful outsourcing is that while activities can be moved to a different group, company or third party, the skills to manage those activities must be retained in-house. This may be less obvious in an intragroup outsourcing scenario – but for a separate legal entity with a separate license, it is essential. Equally, if there is a branch or other structure involved, then the firm needs to consider the efficacy of the outsourcing arrangements and the skills, governance and local responsibilities of the branch.

Do you outsource any or all of your compliance functionality?

The results for 2017 show a slight uptick in the outsourcing of any or all of a firm’s compliance functionality with 28 percent (25 percent for 2016). The result is similar to that of the G-SIFI population, which reported 26 percent had outsourced some or all of its compliance functionality. There are some regional variations with the UK at one end of the spectrum with 20 percent utilizing outsourcing and at the other end is North America with 31 percent.
Regional analysis: Do you outsource any or all of your compliance functionality?

Figure 24

Main drivers for outsourcing all or part of the compliance function

Figure 25
Other drivers for outsourcing all or part of the compliance function include:

- Need more training courses
- Cyber security
- E-communications monitoring
- Need access to consolidated watchlists for screening employees and vendors
- Assurance from a third party when the in-house opinion needed to be validated
- External expertise on topics for which the regulatory agencies haven’t provided public guidance and the external partners are involved in exam and other activity with the agencies so have insight that is not public
- Company focus on outsourcing anything that is not core competency
- Independence
- Additional transactional assessment monitoring
- Whistleblowing hotline
- Lack of staffing for internal audits
- Lack of independence in a small entity
- Continuation of practices in place with acquired company
- Need for specialized, local-area resources for area-or other business-specific issues
- Lack of time and resources
- Automation
- Global model utilizing regional service centers
- Cost efficiencies to buy certain skills vs. hire for them
- Not enough in-house staff to keep up with regulatory demands
- Legal expertise
- Efficiency

In 2016, there were two main drivers for outsourcing the compliance functionality: the need for additional assurance on compliance processes and, of potentially greater concern, a lack of in-house compliance skills. The sheer range of activities which compliance functions are now expected to perform may be an underlying reason for the perceived dearth of skills in-house. While it is good that compliance functions recognize a skills gap, firms need to keep the balance between in-house expertise and any outsourcing under review. It is critical that firms continue to invest in all aspects of their risk and compliance infrastructure, an essential part of which is the skills of the compliance function.

In 2017, the top two drivers for outsourcing were again the need for additional assurance on compliance processes and a lack of in-house compliance skills with cost a close third. For G-SIFIs, cost was the major driver for outsourcing.

In terms of the actual compliance activities outsourced, a wide range of responses were given with a recurrent theme of a spectrum of prevention of money-laundering activities. Other activities outsourced included the whistleblowing hotline, training and the monitoring of all relevant regulatory change.
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risk.tr.com/worldcheck
Technology

“The rate at which technology is undergoing a change is overwhelming. Contrary to that, human beings are slow learners and slower to adapt to changes, especially if it is a new technology. Against this background, the question that we need to ask ourselves is whether there is a need to employ newer and newer technology-enabled products at a fast pace or are we merely doing this since competition has done so? Are you convinced that the new product would significantly enhance the efficiencies and enable better customer experience? My point is frequent introduction of new technology may only end up stretching human resources beyond their capabilities and might eventually prove counterproductive.”

Shri S. S. Mundra, Deputy Governor, Reserve Bank of India. Speech – “Fraud Risk Management in Banks: The Do’s and Don’ts” at Seminar on Financial Crimes Management. (January 2017)

In response to the finding in last year’s report that technology was representing a bigger challenge for compliance officers than ever before, Thomson Reuters Regulatory Intelligence undertook a separate survey of over 500 compliance practitioners for its report entitled “Fintech, Regtech and the Role of Compliance: A Regulatory Opportunity or Challenge?”

The main findings from the report were:

- In terms of risk and compliance involvement in assessing the implications of fintech innovation, less than half (42 percent) of respondents reported some involvement but not enough, with only a fifth (21 percent) fully engaged and consulted. Sixteen percent of risk and compliance practitioners felt they did not need to be involved with assessing the implications of fintech in their business.
- Emerging signs of financial services firms beginning to fragment, with a divide opening up between those firms which have embraced the current wave of technological innovation and those which have chosen to ignore the change.
- Skill sets have grown in response to fintech and regtech with over half (56 percent) having widened the skill set within the risk and compliance functions to accommodate developments in fintech and regtech innovation and associated digital disruption, while 15 percent of respondents reported investing specifically in specialist skills.
- Regtech has begun to shape the practical reality of compliance in firms. Over half (52 percent) of respondents consider that regtech solutions are impacting how they manage compliance in their firm with almost a fifth (17 percent) reporting having already implemented one or more regtech solutions.
- Emerging good practice for firms on the evaluation and deployment of regtech solutions includes the need for due diligence on providers, robust deployment process, acknowledgement of data security concerns and the ability to decommission or retire a solution.
- Regtech has the potential to impact a wide range of compliance activities. The top three areas of compliance and regulatory risk management likely to be impacted by regtech were reported as being compliance monitoring (47 percent), regulatory reporting (40 percent) and capturing regulatory change (35 percent).
- The budget allocated to regtech solutions in the next year was reported as varying widely. At one end of the spectrum almost a quarter (24 percent) did not have a budget for regtech with, at the other end, a third (35 percent) expecting that the budget for regtech solutions would grow in the coming year.
- Global policy responses from regulators are becoming increasingly coordinated with innovations such as the fintech bridge between Australia, Singapore, South Korea and the UK as well as jurisdiction-specific forums, sandboxes and hubs being created to encourage and facilitate fintech developments.

“Industry research shows that over 60% of customers would stop using a company’s products or services if a cyber attack resulted in a known security breach. This would have a catastrophic impact on any business, even if the breach was temporary. The very real threat – and consequences – of a cyber attack means organizations must address the issue fully. In fact, their preparedness must be a long-term commitment that has to be embedded in their very culture.”


Compliance functions have seen their roles and remit grow and change out of all recognition in the last decade. They have weathered the financial crisis, seen unprecedented volumes of continuing regulatory change and are now expected to handle the technological revolution sweeping the world of financial services in the shape of fintech. The rapidly changing use of technology has been described as an inflection point for financial services and it is one which compliance officers need to prepare for in terms of not only the future shape of their firm, but also changing regulatory expectations.

There is a clear and growing regulatory expectation that firms and their compliance functions are both embracing and seeking to make best use of the practical ramifications of fintech. Compliance functions in particular are likely to come under increased scrutiny if they are not seen to be considering and deploying regtech solutions to aid regulatory risk management. As the findings of the technology survey showed, the industry is in danger of becoming fragmented with those firms whose risk and compliance functions have fully engaged with fintech (21 percent) at one end of the spectrum, and at the other, 16 percent of risk and compliance practitioners reporting they did not need to be involved with assessing the implications of fintech in their business.

The critical differentiating factor may be skills combined with a need to revamp older disparate IT systems. To thrive in the new fintech age, firms (and regulators) would be well advised to undertake an IT skills audit that highlights and begins to remediate any gaps and ensures that they are prepared when regulators ask about skills at the board and other levels and about the potential (over) use of consultants. The audit should cover technological skills throughout the firm, not just in the IT department, to ensure that all functions (risk, compliance and
internal audit expressly included) have the appropriate levels of IT expertise for their roles. The need to revamp IT skills as well as the systems themselves may well require substantial but essential investment. The wide spread of budgetary expectations highlights the current differences with, to reprise, respondents reporting that almost a quarter (24 percent) did not have a budget for regtech, but a third (35 percent), expected that the budget for regtech solutions would grow in the coming year.

Without sufficient appropriate investment in technology and associated skills, firms and their compliance functions will not have the infrastructure to enable them to thrive into the medium to long term, and specifically, the compliance function will not be able to reap the benefits of rigorously customized and deployed regtech.

“With hundreds of millions now entering the digital financial system every year, could higher economic growth and a quantum leap in social equity be on the horizon? Or will the range of new financial technologies primarily make existing institutions and markets more efficient and effective? No small prize but hardly a transformation.”


The Dubai Financial Services Authority’s view of opportunities opened up by Fintech

Source: DFSA Consultation Paper CP112 on Testing Fintech Innovations in the Dubai International Financial Centre (DIFC), 6 March 2017

- Improve interaction between financial services firms and customers, including bringing new players into the financial services arena
- Improves the efficiency, structure and competitiveness of markets (including value chains)
- Makes new financial services products available
- Improves risk management by financial services firms
- Reduces both the risks and the costs of many financial services back office processes
- Improves efficiency and security in the provision of financial services

Figure 26
Over the next 12 months, more than half (53 percent) of respondents expect the time spent liaising and communicating with regulators and exchanges to increase due to the need to understand changing regulatory expectations (69 percent) and increased information requests from regulators (65 percent). This may relate to the 33 percent of firms who anticipate more compliance involvement assessing fintech and regtech solutions over the next 12 months.

In addition to the assessment and use of fintech and regtech solutions, and as a distinct part of the myriad challenges presented by technology, is the issue of cyber resilience. In terms of cyber resilience, cyber risk, cyber crime as well as headline-grabbing cyber attacks, it is perhaps stating the obvious that good customer outcomes will be under threat in the event of a failure of cyber resilience. Compliance officers do not need to become technological experts overnight but they do need to ensure that cyber risks are effectively identified, managed, mitigated, monitored and reported on within their firm’s corporate governance framework. An immediate quick win would be to ensure that cyber risks are expressly included in the range of risks considered and that the board is prepared to discuss the actions taken to ensure that all reasonable steps have been taken to embed cyber resilience throughout the firm.

Much of the best-practice policy advice has shown that simple defense measures, done well, are effective against all but the most sophisticated and determined cyber attacks. Policy advice is starting to be codified into regulatory requirements with the New York Department of Financial Services requiring firms from March 2017 to establish and maintain a cyber security program designed specifically to protect consumers and ensure the safety and soundness of New York State’s financial services industry. Firms will be expected to tailor cyber security plans to any weaknesses highlighted in their risk assessments, to report cyber security events, to file copies of their updated security plans each year and to designate a chief information security officer.
Challenges compliance officers anticipate in 2017

Compliance practitioners were asked their greatest challenges expected in the coming year. Among the issues highlighted by firms in 2017 are volume and pace of regulatory change; implementation of regulatory change; and adequacy and availability of resources. The same concerns were among the greatest challenges listed by practitioners in last year’s results.

The greatest compliance challenges I expect to face in 2017 is/are

- Business growth
- AML and sanctions compliance
- More intensive supervision
- Cyber resilience
- Volume and pace of regulatory change

The added pressure of keeping up to date on regulatory events with a lack of resources continues to challenge firms globally, adding to the emerging threat of additional costs from regulatory uncertainty and more intensive supervision from regulators.

The top five listed concerns in 2017 are:

I. Volume and pace of regulatory change
II. Implementation of regulatory change
III. Adequacy and availability of resources
IV. Meeting regulatory expectations
V. More intensive supervision

Specific areas of regulation which pose the greatest challenge in 2017 include:

- Senior Managers Regime, United Kingdom, to be extended to all firms in 2018
- Bribery Act 2010, United Kingdom
- Alternative Investment Fund Managers Directive, Europe
- General Data Protection Regulation, Europe, to be implemented in 2018
- Fourth Money Laundering Directive, Europe
- Markets in Financial Instruments Directive II, Europe, to be implemented beginning January 2018
- European Market Infrastructure Regulation, Europe
- Packaged Retail and Insurance-Based Investment Products Regulation, Europe
- Undertakings for Collective Investment in Transferable Securities V Directive, Europe
- Affordable Care Act, United States
- Fiduciary Rule, United States, (subject to delay)
- Dodd-Frank Act, United States, under review
- Bank Secrecy Act, United States
- Community Reinvestment Act, United States
- Foreign Account Tax Compliance Act, United States
- Foreign Corrupt Practices Act, United States
- Home Mortgage Disclosure Act, United States
- False Claims Act, United States
- Sarbanes-Oxley Act, United States
- TILA RESPA Integrated Disclosures, United States
- Manager-In-Charge initiative, Hong Kong
- The Protection of Personal Information Act, South Africa
- Financial Intelligence Centre Act, South Africa
The greatest compliance challenges the board expects to face in 2017 is/are

Firms were also asked to share their views on the greatest challenges their board expects to face in 2017. The top five concerns were listed as:

I. Volume and pace of regulatory change
II. Cyber resilience and technology risk
III. More intensive supervision
IV. Regulatory requirements; and
V. Adequacy and availability of skilled resources

While there are some clear comparisons between practitioners' expectations and those of the board, there are some distinct challenges arising in 2017. This year's results show that boards are expecting to dedicate a greater focus on cyber resilience measures. Combined with additional regulatory requirements, it is clear that more intensive supervision is among the top challenges in the year ahead.
Closing Thoughts

2017 is looking like a pivot point for compliance and compliance officers. The rate of increase in perceived personal liability is moderating together with the post-financial crisis trend of ever increasing budget and resources for the compliance function. Personal liability and budgets are still increasing, but there is a growing level of pragmatism that while personal liability is, and will remain, high, that simply throwing ever more resources at risk and compliance is no longer sufficient and should be carefully assessed to ensure any investment is meeting the risk management needs. As part of that assessment, firms are seen as beginning to think more innovatively in terms of the use of technology and the split of centralization versus local resources to meet evolving compliance challenges and regulatory uncertainty.

Regulatory uncertainty should be seen as an opportunity for firms and a chance to engage with regulators, policy makers, politicians and supervisors to help shape their own regulatory futures. As with so many other challenges, skilled in-house compliance resources are needed to make the best of the opportunity, particularly with regard to the strategic response needed to forthcoming regulatory reform. If nothing else, firms would be well advised to have a lobbying position against which to judge the future panoply of likely changes.

What is certain among the swathe of future changes is the unremitting focus on culture, conduct or misconduct risk and good customer outcomes. The language used by regulators and policy makers around the world may vary, but the emphasis is clear. Firms need to build, maintain and be able to evidence a strong positive compliant culture in action in their firm. The qualitative nature of good customer outcomes, culture and conduct risk means that they are challenging for firms to measure robustly and consistently. It is here, yet again, that the need for highly skilled senior compliance resources will come to the fore backed up by tailored, firm-specific technology and data.

Firms are, through circumstance and choice, becoming more discerning about the deployment of resources to compliance and compliance resources themselves. Judicious, targeted investment appears to be beginning to replace the more blanket approach which occurred in the immediate aftermath of the financial crisis. A more targeted approach is not without challenges of its own, requiring potentially enhanced risk and compliance skill sets throughout the business to ensure the most value-adding use of scarce resources. The use of technology, whether fintech, regtech or insurtech, is coming to the fore with firms seeking to leverage the automation of risk and compliance activities to both reduce overall compliance cost and increase efficiency and effectiveness. Ideally lower level, more rote tasks can be accomplished through technology, leaving compliance officers to focus on the myriad more qualitative issues which now routinely form part of their remit.

“Firms should spare no efforts to develop and sustain the right culture that genuinely puts customers first if they want to be around for the long term. I urge all of you to regularly think about your organization’s culture and reflect on changes that you can make to promote a more positive culture of doing the right thing.”

Mr Lee Boon Ngiap, Assistant Managing Director, Monetary Authority of Singapore. Speech – “Culture and Conduct – A Regulatory Perspective” at the Annual Luncheon of the Life Insurance Association Singapore. (March 2017)
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About the Authors

Stacey English is head of regulatory intelligence for Thomson Reuters with 20 years of regulatory compliance, risk and audit experience in financial services as a regulator and practitioner.

uk.linkedin.com/in/stenglish @regexperts @regulatorydata

Susannah Hammond is senior regulatory intelligence expert for Thomson Reuters with more than 25 years of wide-ranging compliance, regulatory and risk experience in international and UK financial services.

uk.linkedin.com/in/susannahhammond @SannaHamm

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