

We are all witnessing an ever-increasing demand to operate globally, reduce the cost and complexity, accelerate expansion into other jurisdictions, with a need to know of regulatory implications - fast. We all want some creative solutions within a 'global dictionary' which covers needs across different jurisdictions from different regulators, increasing, not reducing the burden of compliance. How do we effectively manage AML controls, monitoring misconduct, accuracy of regulatory reporting, the resources and time taken to achieve it in a consistent, timely manner? How to effectively implement new General Data Protection Regulation (GDPR), which goes into force on May 25th, 2018, what controls to have to protect customers personal data, getting a consent to use personal data in an appropriate manner? The regulation calls for extensive record keeping, assuring privacy safeguards and security settings into existing systems, making data accessible upon request, and having the ability to completely erase a subject's data upon request. As a process, compliance with the regulation will be data and document intensive.

Under GDPR organizations in breach can be fined up to 4% of annual global turnover or €20 Million (whichever is greater). This is the maximum fine that can be imposed for the most serious infringements e.g. not having sufficient customer consent to process data or violating the core of Privacy by Design concepts. There is a tiered approach to fines e.g. a company can be fined 2% for not having their records in order (article 28), not notifying the supervising authority and data subject about a breach or not conducting impact assessment. It is important to note that these rules apply to both controllers and processors, meaning 'clouds' will not be exempt from GDPR enforcement.¹

It's important to give your Compliance Plan a final check, making sure your systems are available, recoverable, handled with integrity. Regulators want us not only to be in strict compliance with GDPR requirements but to consider the spirit of it, in conjunction with other relevant rules and regulations. GDPR widens the definition of personal data, considering any data that can be used to identify an individual as personal data. From now, hardly any personal data will not fall under the GDPR. The GDPR requires any business that depends on processing personal information will have to appoint a DPO (viewed as an additional burden especially by smaller firms), who will be an extension of the data protection authority to ensure personal data processes, activities and systems conform to the law by design. Human error may hinder compliance efforts for both MiFID II and GDPR, reinforcing the requirement of moving towards automotive technical controls and assuring the employees are well informed and trained.

SINGAPORE already matching the GDPR by its Personal Data Protection Act (PDPA) passed in Oct 2012. However, it doesn't apply to all personal data processing activities. Business Contact information has been effectively entirely excluded from the scope of PDPA, furthermore, PDPA allows for "deemed consent" or consent not required entirely if data processing falls within the purview of the section 17 exemptions. On the contrary, GDPR does not allow for any, demanding for an explicit, unambiguous, expressed and freely given consent for data processing (Article 4).

The GDPR mandates that only personal data that is necessary for the purpose can be collected. The data minimization principle in Article 5 requires that personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are collected and/or further processed. There is no such principle under the PDPA, and any personal data that is remotely relevant to the purpose can be collected.

The GDPR also grants a right to object to processing due to the data subject's particular situation, right to object to processing where it is for purposes of direct marketing activities and profiling, a general right to object to

¹ <https://www.euqdp.org/key-changes.html>



automated individual decisions, and a right to data portability that allows individuals to receive personal data concerning themselves in a structured, commonly used and machine-readable format. The PDPA also notably diverges from the GDPR in that it does not provide extra protection or special handling for sensitive personal data, such as health data, race, ethnicity and religion.

Singapore' Central Bank is recognising transformative role of technology, participating in a global sandbox along with regulators from Europe, the US and Far East. RegTech/FinTech journey is promising financial institutions a better and more robust regulatory compliance. MAS is immensely supportive of AI, having already launched a \$27mIn AI and Data Analytics grant to promote the usage of AI. MAS was collaborating with industry leaders to develop a Guidance on a Fair and transparent Data Use, AI and Data Analytics aimed to promote a "fair, ethical, accountable and transparent use of data, transforming financial industry in Singapore". (Bloomberg on 11th April, 2018, 1:36 pm GMT+0800, [D Hardoon](#)). Main area of focus of the Guidance is ownership and usage of data by the companies when marketing, offering and developing new products, analyse its risk modules. The ultimate question new Guidance would be addressing is how to leverage the impact of the AI, ultimately ensuring fairness and "beneficiality" of it to the end consumers. MAS believes that following the depths of research in the AI area and the potentiality of the technology application is huge, the challenge is to understand what can happen when this technology is put into wrong hands and what we are trying to achieve from the financial point of view be that product development, risk management. The Guidance is promising to make sense and guide by principles, evolving into better practices of use of AI and Data within the finance sector. MAS will be seeking feedback on the proposed Guide in 2Q of 2018.

Interestingly, the MAS strategy is timely amid last month' Facebook scandal, further reinforcing the point that the regulators are determined to be proactive and not wait for such crises to happen, co creating an industry that on one hand allowing for the innovation to happen on other hand assuring a responsible and ethical use of technology.

Technology is the future for financial institutions to cope with new regulations. In the **EU**, particularly, that includes but not limited to the Markets in Financial Instruments Directive (MiFID II), the Undertakings for Collective Investments in Transferrable Securities (UCITS) Directive, and the Alternative Investment Fund Managers Directive (AIFMD). Firms could potentially leverage natural language processing (NLP) and other machine learning tools to interpret these regulations into a common language. They could then analyse and codify the rules for automation into the integrated risk and reporting systems to help firms comply with the regulations. This could bring down the cost, effort and time needed to interpret and implement new and updated regulations.

We recognize the firms' shareholders are increasingly seeking greater efficiency, cost cutting, agility and compliance effectiveness to further compete in the expanding digital and automated world.

Here in Albamd we believe that automation or outsourcing of specific compliance efforts can help meet these expectations.

Investment in following 5 areas can help financial institutions to improve its competitiveness:

1. Operational integration of the Compliance Program, including with support functions to achieve greater coordination and consistency
2. Automation of compliance activities such as client categorization, KYC and AML assessments would address ever increasing customer demand for an efficient and smooth onboarding.
3. Accountability of employees and contractors to the firms' standards for an ethical compliance across all three lines of defense
4. Formalise risk assessments
5. Continuous improvement of the ever-evolving compliance program.

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