

Regulatory Scrutiny — Predicting the Next Steps

The very speed of recent technological advances and financial innovation has outpaced the regulatory response. In addition, today's companies are experiencing increased pressure from society and governments on social and environmental issues that make their way into further oversight and guidelines. The result is an expected wave of new regulation over the next 12 months that positions regulatory scrutiny as a leading challenge for in-house counsel in the near term.

More than 80% of the companies we surveyed have found themselves the subject of regulatory scrutiny over the past two years. The geographies that pose the biggest regulatory challenges in the coming 12 months are Japan (39%), China (35%) and Indonesia (33%).

The rapid proliferation of artificial intelligence ("AI") and the current lack of a regulatory framework governing the use of such technology is top of mind, with legal department expenditure on solutions to meet an anticipated change in the overall regulatory compliance environment expected to increase slightly (34%) or significantly (26%) over the next year.

Along with concerns around AI, respondents believe regulations relating to data protection will have the biggest impact (56%) on their organisations in the next 12 months. Foreign direct investment and environmental regulation are also top of the agenda (both on 46%) while issues on tariffs and trade (43%) also scored highly.

When asked how firms will respond to improve their defensibility associated with data privacy regulations, 71% of respondents said they would spend on new technology while 57% will seek third-party assistance.

“Right now, China is the big one because of data protection and sanctions risk,” says one General Counsel. **“The emphasis is on understanding how others are approaching compliance there, with the vague and increasing number of requirements. India is also a focus area due to its size, complexity and changing data protection laws.”**

Across Asia, there has been a surge in regulatory developments aimed at combating financial crime, specifically focusing on anti-money laundering ("AML") and counter-terrorist financing ("CFT") activities¹. Enforcement efforts are intensifying in the region, necessitating a proactive approach from in-house legal teams to avoid penalties¹. Hong Kong, Japan, China and Singapore are among the locations introducing or updating AML/CFT-related regulations².



“AML requirements for real estate brokers vary across APAC,” says one General Counsel. “AML regulation has been on the horizon for a year or so in some markets, but we have been prepared for any major regulatory issues.”

Regulatory initiatives in the region underscore a resolute commitment to advancing financial innovation, particularly around virtual assets. Recent measures include the Hong Kong Virtual Asset Licensing Regime ("VASP") established in 2023 requiring all Virtual Asset Trading Platforms ("VATPs") to be licensed under the Securities and Futures Commission ("SFC"). In Singapore, the Monetary Authority of Singapore recently strengthened regulatory measures for Digital Payment Token ("DPT") service providers.

Environmental regulation has also been gathering momentum in recent years, with a number of jurisdictions introducing new framework including China's Certified Emission Reduction ("CCER") and the Hong Kong Stock Exchange's adoption of the International Sustainability Standards Board ("ISSB"). The region has also witnessed the evolution of sustainable finance, with locations such as Japan, Singapore and South Korea implementing Environmental, Social and Governance ("ESG") disclosure regulations and guidelines³.

As risks associated with regulatory scrutiny grow, companies are finding new ways to keep abreast of changes. These include sources such as social media (60%), online news (56%) and internal research (55%).

When asked how confident respondents were about their firms' ability to proactively prepare for emerging legal risks, almost all (97%) said they were either very confident (61%) or slightly confident (36%), while 3% said they had no confidence at all that proactive preparations were being made.

While it is evident that the Asia region adopts diverse approaches to policy, regulation and compliance, it is notable that authorities are working together to close this gap through efforts such as collaboration on digital innovation in the financial sector.

“The increase in regulation is a big trend in Southeast Asia,” says one General Counsel. “In Asia, in-house legal counsel don't always have a seat at the table with the global leadership team. However, as regulations increase in the region, we expect more senior GC being situated in Asia getting a seat at the table.”

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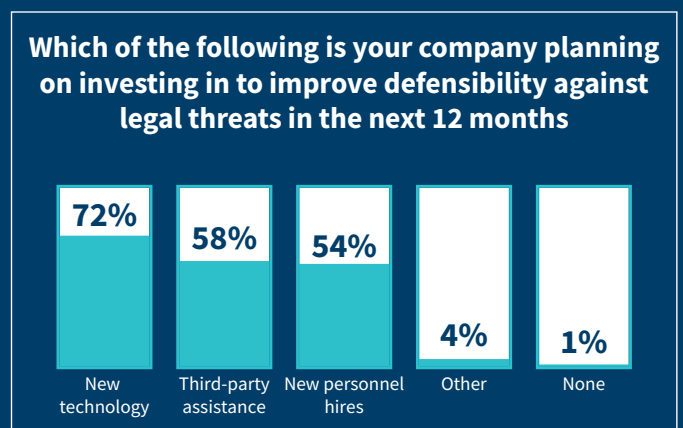
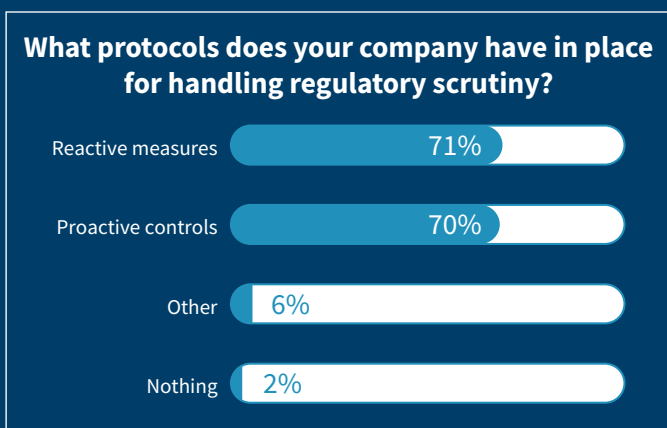
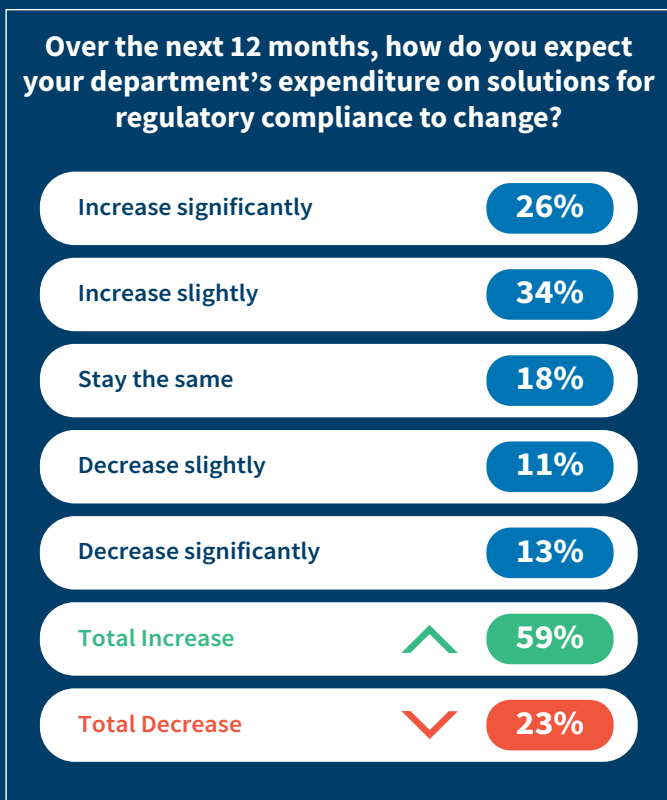
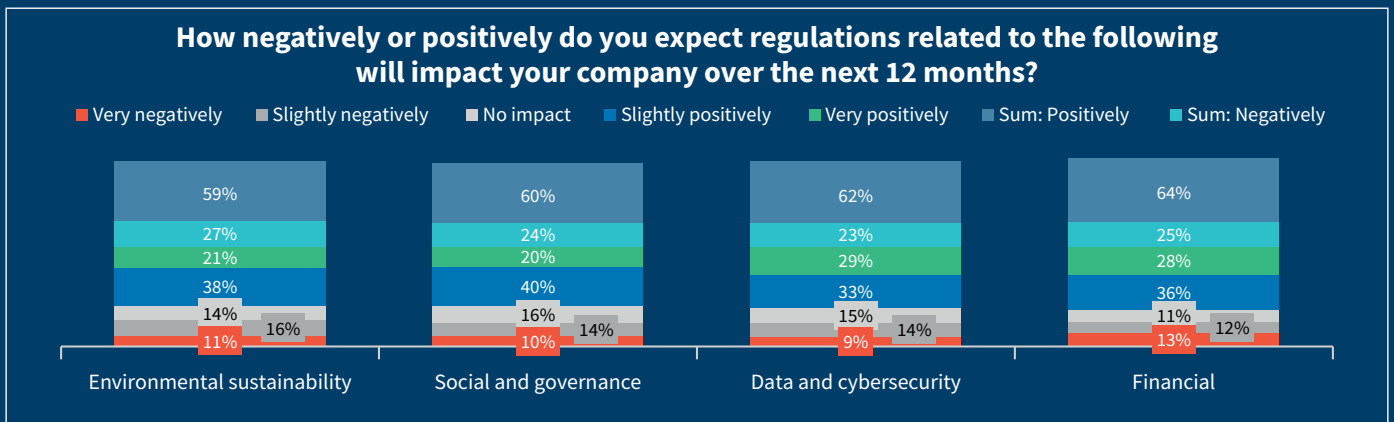
¹ Pardeep Khosa and Charles Mo, “Recent Trends in Asia-Pacific Anti-Money Laundering,” Global Investigations Review (13 September 2023), <https://globalinvestigationsreview.com/guide/the-guide-anti-money-laundering/first-edition/article/recent-trends-in-asia-pacific-anti-money-laundering>.

² “APAC AML Regulation Changes 2023: What You Need To Know,” Ripjar, <https://ripjar.com/blog/apac-aml-regulation-changes-2023-what-you-need-to-know/>

³ “Regulatory Updates in Asia ESG — August 2023,” Latham & Watkins LLP (26 August 2023), <https://www.lw.com/en/insights/regulatory-updates-in-asia-esg-august-2023>.

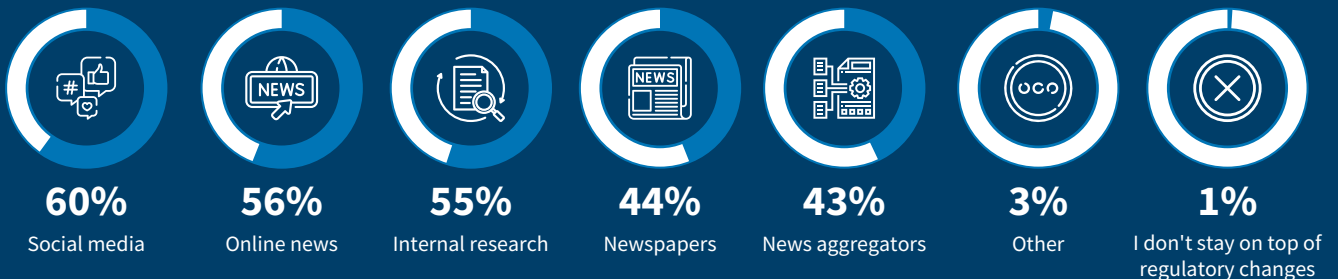


Regulatory Scrutiny: Survey Findings



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How do you stay on top of regulatory changes impacting your company?

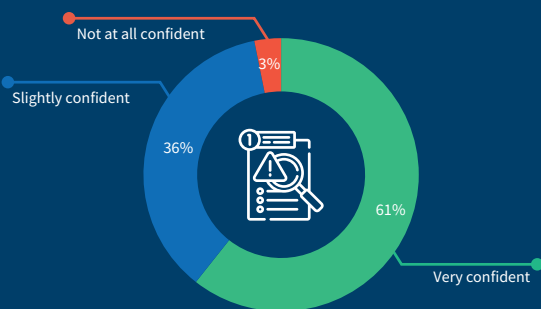


Regulations related to which of the following do you believe are likely to affect your organisation in the next 12 months?

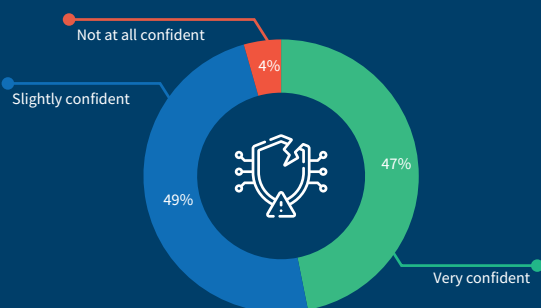


How confident are you in your company's ability to do the following?

Proactively prepare for emerging legal risks that may occur



Effectively respond to legal incidents that have occurred



To the best of your knowledge, when was the last time your company was the subject of regulatory scrutiny / investigations?



Which of the following is your company planning on investing in to improve defensibility against data privacy regulations in the next 12 months?

