

REGULATORY INTELLIGENCE

South-East Asian firms face increasing tech governance, cyber security and fraud risks in 2021, lawyers say

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South-East Asian businesses need to manage some key risks under the pandemic-induced "new normal" in 2021, including technology governance, cyber security, privacy and fraud risks, a leading law firm has warned.

Hogan Lovells has released the results of its research that found regional businesses are concerned about the dismantling of corporate governance mechanisms.

"Our teams in Australia and Vietnam witnessed a 'weakening of internal controls in businesses due to staff cutbacks or remote working', resulting in new opportunities for fraud," said partners Chalid Heyder and Nick Williams, who specialise in anti-bribery and corruption in Asia.

Normal processes for the purpose of rooting out fraud have been truncated or streamlined, due to cutbacks and remote working among legal, compliance, audit and related staff, Williams told Regulatory Intelligence.

"That can and has resulted in opportunities for individuals to come up with creative new ways to commit fraud," he said.

"There are fewer lawyers, compliance officers and auditors around. They are being asked to do more with fewer resources and they have a diminished ability to physically 'be there' when it matters."

These conditions are conducive to the perpetration of a variety of frauds — financial, product-related and technology-related, among others, according to Williams.

"In fact, we have seen a number of them come to light over the last year or so in the form of diversion of funds, false invoicing procedures, and email scams. We expect that there are more that are happening and that will come to light," he said.

Against this backdrop, companies have been deploying advanced technology to cope with pandemic-related risks. This reliance on technology gathered pace over the past year but the process of automation has never been an easy ride, Williams said.

"Lawyers based in Singapore, Washington DC and other commercial hubs ... have remarked that 'pivoting to compliance programs that are implemented, monitored, and evaluated remotely' can be challenging," the report said.

Cyber security, privacy risks

The rollout of tech programs for joint-venture partners, third parties and agents has become increasingly difficult during the pandemic.

"We are unlikely to see any quick fixes anytime soon," the duo said.

The pandemic brought drastic changes in workplace cultures and such trend will continue in the year ahead. Meanwhile, software tracking employee behaviours and other personal data may seem attractive initially, but it brings cyber security and privacy risks, according to the partners.

"These...concerns have led practitioners to advocate a mixed approach, involving both a refresh of old-fashioned internal controls and the gradual implementation of new technologies," Heyder and Williams said.

In the absence of international travelling, it is inevitable that there will be an increased domestication of contract negotiation and implementation.

"The risk of fraud seeping its way into businesses has increased in many Asia-Pacific countries," the lawyers said.

Since the onset of the pandemic, industry professionals have seen a boom in tech developments that were designed to track company behaviours, whether in the workplace or elsewhere, Williams said.

"More widely, that tech is meant to help ensure that we behave appropriately as the context requires," he said. "However, it entails the collection, storage, and use of large quantities of data about us, some of which may be quite sensitive.

"That clearly creates something nefarious actors may wish to acquire, perhaps most notoriously, by way of cyberattack that can have a multitude of legal, regulatory, and reputational consequences."

It is not always difficult for those actors to succeed – with the tech race in full swing, developers of new products that track behaviours are keen to be first to market, according to Williams.



"However, we have seen instances where insufficient consideration has been given to privacy and data-retention/use concerns prior to going live with new software," he said. "Equally, with individuals remote working, the sentinels who would protect the roll-out and use of new technology in the traditional office space are likely less able to act, as fast or as effectively."

Crisis management in South East Asia

Governments in South East Asia were encouraged to urgently draft laws, regulations and guidance on proper business conduct of corporations during the pandemic.

"Coming to terms with 'uneven enforcement' and 'grey zones' will remain a challenge while local, regional, and international situations evolve," the duo said.

Crisis response and management services are likely to experience the most growth in 2021, which reflects the complexity of the current crises.

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