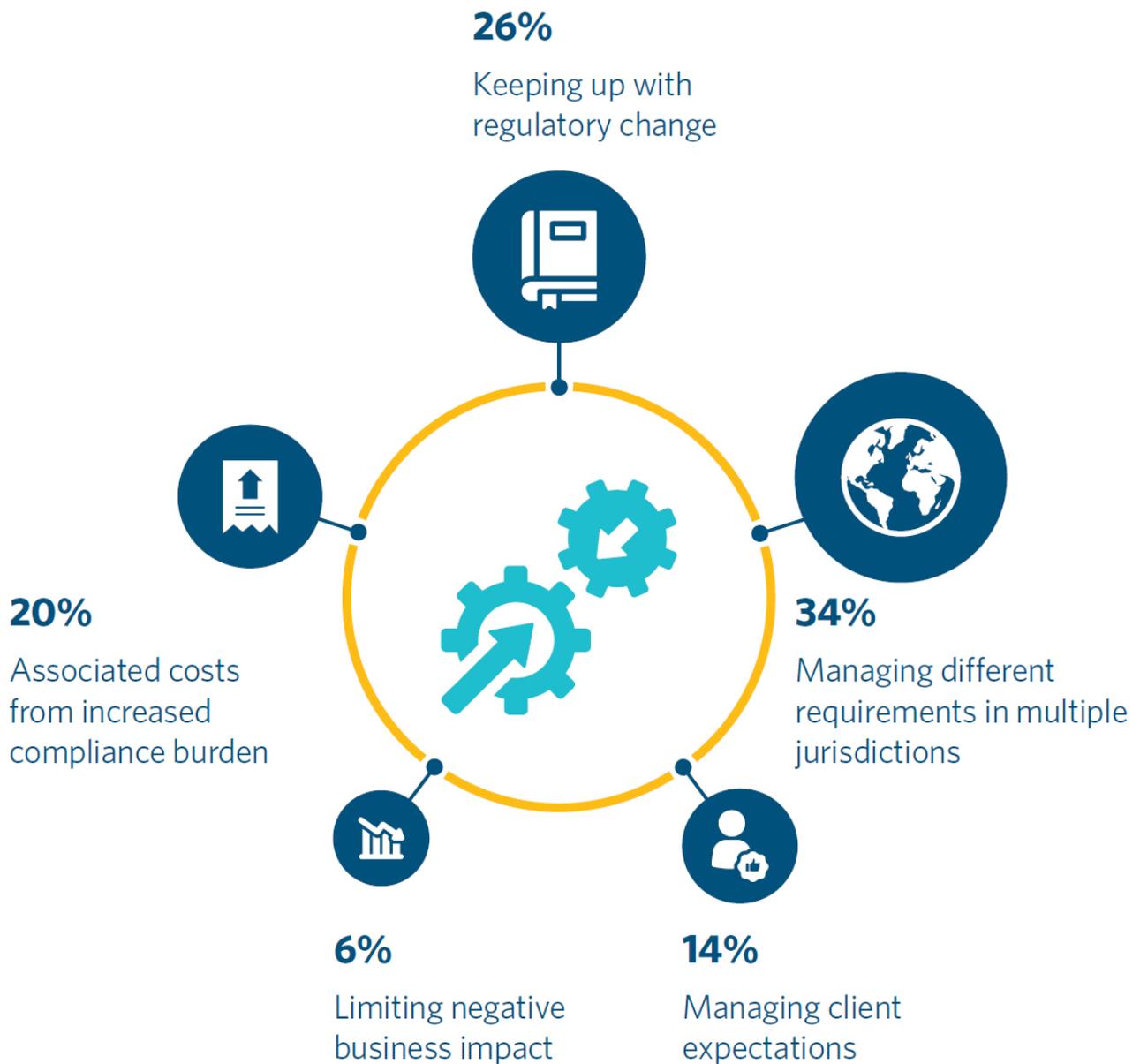


REGULATORY COMPLIANCE IN FOCUS

09 June 2020 | London

The multiplicity of laws to be complied with if trust and company service providers (**TCSPs**) operate in various jurisdictions, and the ever-changing regulatory landscape more generally can make it difficult for TCSPs to navigate and keep on top of their regulatory compliance obligations. Consistent with this, a clear majority of survey participants cited “general regulatory compliance (and associated costs)” over the likes of Anti-Money Laundering (AML), “cyber attack”, “data protection compliance” etc, as the issue that poses the greatest challenge to their business. Furthermore, “managing different requirements in multiple jurisdictions” (34% of survey participants) and “keeping up with regulatory change” (26%) were cited as the most significant regulatory compliance challenges that organisations are facing.

The most significant regulatory compliance challenge your organisation currently faces is:



Of the 20% of survey participants that considered “associated costs from increased compliance burden” to be the most significant regulatory compliance challenge facing their organisation, 60% were independently owned. The remaining 40% were split evenly between being bank owned or private equity backed. No one jurisdiction stood out as more concerned about associated costs from increased compliance burden than any other, with all of the jurisdictions evenly represented in the results.

Only 6% of survey participants considered “limiting negative business impact” to be the most significant regulatory challenge that their organisation is currently facing. This could reflect a shift from organisations focusing on the potential burdens of regulatory compliance (e.g. added costs, slowing down decision making, restricting business etc) to regulatory compliance being recognised as a contributor to the governance of the organisation and even a business enabler, for example, by instilling confidence in customers. With many regulators increasingly focused on board and senior management accountability and oversight, and large fines being levied for AML/CFT failures, a robust compliance framework can provide protection from prosecution and personal liability, and avoid reputation-damaging headlines.

Of the 14% of survey participants that considered “managing client expectations” to be the most significant regulatory compliance challenge facing their organisation, 70% of them were bank owned, while the remaining 30% were independently owned. It is possible that bank owned TCSPs might find it harder to manage their clients’ expectations if they have to also comply with the stricter regulatory compliance obligations that apply to banks.

IS REGULATORY INTERVENTION IN YOUR BUSINESS INEVITABLE?



61% of survey participants responded in the affirmative when asked “whether regulatory intervention in their business was inevitable”. This is a fair expectation given regulators around the world are increasing their regulatory reach and supervisory remit in respect of the TCSP industry. Take, for example, the licensing regime and AML/CFT regulatory framework for TCSPs that came into force in Hong Kong in 2018. This survey result may also reflect that even the best run businesses are at risk of regulatory intervention, and as such it is important that regulatory compliance is taken seriously.

TIP: COMPLIANCE AS A CORE BUSINESS VALUE

The Financial Action Task Force has issued guidance to the effect that it is the responsibility of the senior management of a TCSP to foster and promote a culture of compliance as a core business value. In our view, this would almost certainly assist the TCSP to effectively navigate the challenges referred to above. It would also help to ensure that those who are tasked with implementing the TCSP's regulatory compliance framework are well supported. This is important as the regulatory compliance landscape will continue to evolve and the repercussions of any enforcement action can be significant.

Listen to our accompanying podcast below

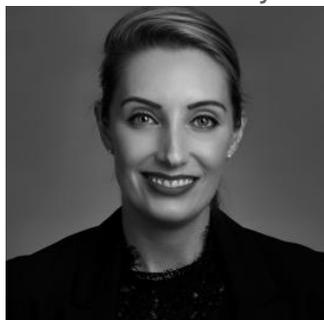
[Herbert Smith Freehills Podcasts · Private Wealth & Charities Podcast EP12: Trust Companies Survey – Regulatory compliance](#)

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KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



NATALIE CURTIS
PARTNER,
SINGAPORE
+65 6868 9805
Natalie.Curtis@hsf.com



KENNETH LO
ASSOCIATE,
SINGAPORE
+65 6868 9827
kenneth.lo@hsf.com



RICHARD NORRIDGE
PARTNER, HEAD OF
PRIVATE WEALTH
AND CHARITIES,
LONDON
+44 20 7466 2686
richard.norridge@hsf.com

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