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INCREASING REGULATORY EXPECTATIONS HEIGHTENS RISK OF CROSS BORDER SCRUTINY

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News

In the post-GFC climate, financial institutions are facing increased multi-jurisdictional scrutiny from regulators eager to protect their respective markets, according to a new Herbert Smith Freehills' guide launched in London this week.

“Regulators are increasingly asking their overseas counterparts for help with investigations,” Herbert Smith Freehills’ London-based financial services and regulation partner [Andrew Procter](#) said.

“This is resulting in financial institutions facing the possibility of being investigated, and potentially sanctioned, in several jurisdictions at the same time, for the same alleged conduct.”

Now in its third edition, the new legal guide - *The Long Arm of Regulation: Responding to Cross-Border Financial Services Investigations* - examines the challenges in 14 key financial markets around the world and includes new chapters covering Germany, Singapore and the US, reflecting the global breadth and depth of Herbert Smith Freehills’ corporate regulatory expertise.

“The new guide will help financial institutions navigate the maze of regulatory and criminal regimes to better understand how regulators work together, what is expected of them as financial institutions and the range of criminal, civil and administrative sanctions they may face in different jurisdictions.

“All regulators examined in the guide have sweeping powers to assist their overseas counterparts. At the request of an overseas regulator, they can investigate, obtain information and documents from financial institutions and individuals and compel attendance at interviews and answers to questions.

“While none of the regulators examined in the guide are under a strict obligation to cooperate, they are generally eager to assist and do comply with requests.

“Once new European regulations come into effect, European regulators will be obliged to cooperate with each other and the relevant European Supervisory Authority where necessary,” Andrew said.

Sydney-based partner [Luke Hastings](#) said the Australian Securities and Investments Commission (**ASIC**) and the Australian Prudential Regulation Authority (**APRA**) have entered into various MOUs with regulators to facilitate cooperation.

“In this context it’s clear that ASIC is regularly engaging with its overseas counterparts, with 362 international cooperation requests made in 2013-14, and 448 requests received,” Luke said.

Andrew Procter and Hong Kong based partner [William Hallatt](#) are in London this week to join the financial services regulation team in launching the guide, which is also being released across Herbert Smith Freehills’ global network.

KEY CONTACTS

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



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