

# HOW RISING PERSONAL LIABILITY IS AFFECTING THE SUPPLY OF TALENT IN THE HONG KONG COMPLIANCE SECTOR

*by Gina Hui, Director - Risk & Compliance, Aquis Search*

Compliance positions have proved lucrative over recent years, and as the competition for skills that are up to date with the regulations continues, professionals continue to move into the space. Roles have evolved to become highly specialised and technical putting pressure on the talent pool to deliver high performing, qualified and experienced individuals. Whilst this may seem like an opportunity for candidates in the job market to name their price, we are seeing many carefully consider their options, moving away from the higher paying investment banking roles and opting instead for traditionally lower paid roles with consulting firms or the regulators themselves.

There are a number of reasons for this, but it is impossible to ignore the growing accountabilities that are attached to positions, including personal liability.

Back in July 2015, the Hong Kong Monetary Authority (HKMA) issued a press release announcing that it has taken disciplinary action against a bank in Hong Kong under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) (AMLO). This was the first reported case in which the HKMA has taken disciplinary action against a bank under the AMLO, which came into effect on 1 April 2012. The Hong Kong Ordinance makes provision for personal liability of a fine up to HK\$1million and 2 years imprisonment.

Similarly, the Securities and Futures Commission (SFC) also introduced new measures in December last year to heighten the accountability of the senior management of all licensed corporations (LCs). The new Managers-in-Charge (MIC) Regime is the first step in rolling out a tougher regime focused on senior manager's responsibility.

We are now seeing the ripple effect in the recruitment market, as organisations adopt the regime, and work the responsibilities and accountabilities into their corporate structure. With the increasing spotlight focusing on compliance officers, those in the sector are feeling more vulnerable and evaluating their positions. When considering a job move, there are more factors to consider than ever before and the top concerns for most candidates are the compliance culture of the company and now, the additional accountabilities (such as MIC or MLRO) attached to the position. Even though the new MIC Regime does not impose any additional civil or criminal liability on the senior management of LCs, individuals must consider carefully whether they should be appointed as MICs and, if so, what their responsibilities for the designated Core Functions are.

It is expected that personal liability will continue to increase in the coming years as Hong Kong aligns closely with international regulations. Compliance roles now carry the most personal liability - more than roles that traditionally come with accountabilities such as Responsible Officers and Chief Executives.

Compliance jobs in financial institutions generally offer higher pay but consulting firms and the regulators are catching up with the income gap in recent years due to the scaling down of different business lines in particular investment banking. This is making them an attractive alternative to those unwilling to take on the risks. In addition, consulting firms and the regulators also provide greater stability and job security to senior candidates as redundancies are uncommon.

As personal liability continues to increase for senior compliance officers, we foresee that compliance candidates will be more selective and exercise more caution when making their next career move, and will take a more balanced approach in weighing the risk associated with the position to the premium on salary that used to compensate for the additional accountability. In a market that is already very competitive, it appears the complexities and demands placed on candidates will continue to ensure salaries remain high and opportunities abundant.



## About the Author

### **Gina Hui**

Director - Risk & Compliance

+852 2537 0333

[ginahui@aquissearch.com](mailto:ginahui@aquissearch.com)



*Gina is the Director of the Risk & Compliance Financial Services team, based in Hong Kong.*

*Gina specialises in the recruitment of Compliance professionals in functions covering AML and KYC specialists, Advisory Compliance for Equities, Fixed Income, Corporate Finance and Control Room, Investment Compliance, Core Compliance, Regulatory Affairs & Licensing and Credit, Market & Operational Risk. She has particularly strong networks in Investment Banking, Asset Management, Consultancy and Consumer Banking.*

*Gina has five years of Executive Search experience. Prior to her recruitment career she worked for a number of years in Accounting with internationally recognised firms in HK.*

*Gina has a Bachelor's degree in Accounting & Finance from the University of Hong Kong. She speaks English, Cantonese and Mandarin.*



[www.aquissearch.com](http://www.aquissearch.com)  
[info@aquissearch.com](mailto:info@aquissearch.com)

#### **Beijing**

+86 10 5336 9256

#### **Mumbai**

+91 22 67866700

#### **Delhi**

+91 11 4986 8545

#### **Shanghai**

+86 21 2605 2153

#### **Hong Kong**

+852 2537 0333

#### **Singapore**

+65 3157 9393

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+886 2 7732 5778