

## Companies' compliance and legal teams often in conflict

Clients' legal departments are often more business-orientated, while compliance departments tend to view matters from a regulatory perspective

Conflicts of interest often exist between companies' compliance departments and in-house legal teams, according to SRS Advogados partner Alexandra Maia de Loureiro.

"Internal legal teams work more with the commercial department so they are more business-orientated," she says. "Compliance departments are more on the regulatory side so quite often their interests do not go together."

For this reason, the independence of external lawyers brings added value for clients, according to Maia de Loureiro. "Getting external advice from an independent entity which is very specialised in that particular sector is always a good option," she says.

Maia de Loureiro says that the increase in regulation is posing a challenge for businesses with the result that there is a need among clients to expand their legal departments. "Regulations are becoming more complex and very technical so you do need to understand them, read them

thoroughly and implement them within the organisation," she adds.

Maia de Loureiro says that the banking sector in particular will face a considerable amount of new regulation. She adds: "With [the EU's] 'banking union', we anticipate a number of new, complex and technical regulations."



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## Clients want lawyers to meet stricter compliance standards

Clients are increasingly demanding that their legal advisers adhere to stricter codes of compliance, according to Paulo de Moura Marques, partner at Abecasis Azoia Moura Marques & Associados (AAMM).

"In heavily regulated sectors, such as pharmaceuticals for instance, we are seeing companies demanding their legal advisers follow a very strict compliance code," Moura Marques says. "Lawyers are not just advising clients on their compliance procedures but also having to follow these procedures themselves."

Moura Marques adds that firms are expected to sign and adhere to contracts that mean lawyers have to be very cautious with regard to compliance matters. "Pharmaceutical companies are very conscious over the perception of inappropriate relations with the public sector after legislation such as the UK Bribery Act or the US Foreign Corrupt Practices Act," he continues. "Some companies insist on provisions, for

example, should a lawyer be at a social event or lunch and is joined by a public sector official who engages in a business-related discussion, they should leave."

Moura Marques says this is becoming an issue in public procurement too following the introduction of the public procurement code and the recent administrative procedure code. Some parties can be prohibited from bidding, and their lawyers forbidden from advising bidders on public contracts and procedures, if they are seen to have "insider knowledge". So, for example, if a law firm hired a former official from the Ministry of Transport, then there is the risk it could be precluded from future transport tenders.

Moura Marques feels some of the compliance rules are too extreme as lawyers already operate within the law. "After all, there are already disciplinary and criminal sanctions for offences such as bribing public officials or unduly using privileged information," he adds.



Paulo de Moura Marques