

# Containing the corruption and fraud virus

29 May 2020

*SEA View*, Article X: May 2020

COVID-19 is changing the nature of corruption and fraud. The risks they bring are mutating, and the pandemic is drastically altering the way such risks are detected and mitigated.

## **Recognizing shifting corruption and fraud risks in Southeast Asia**

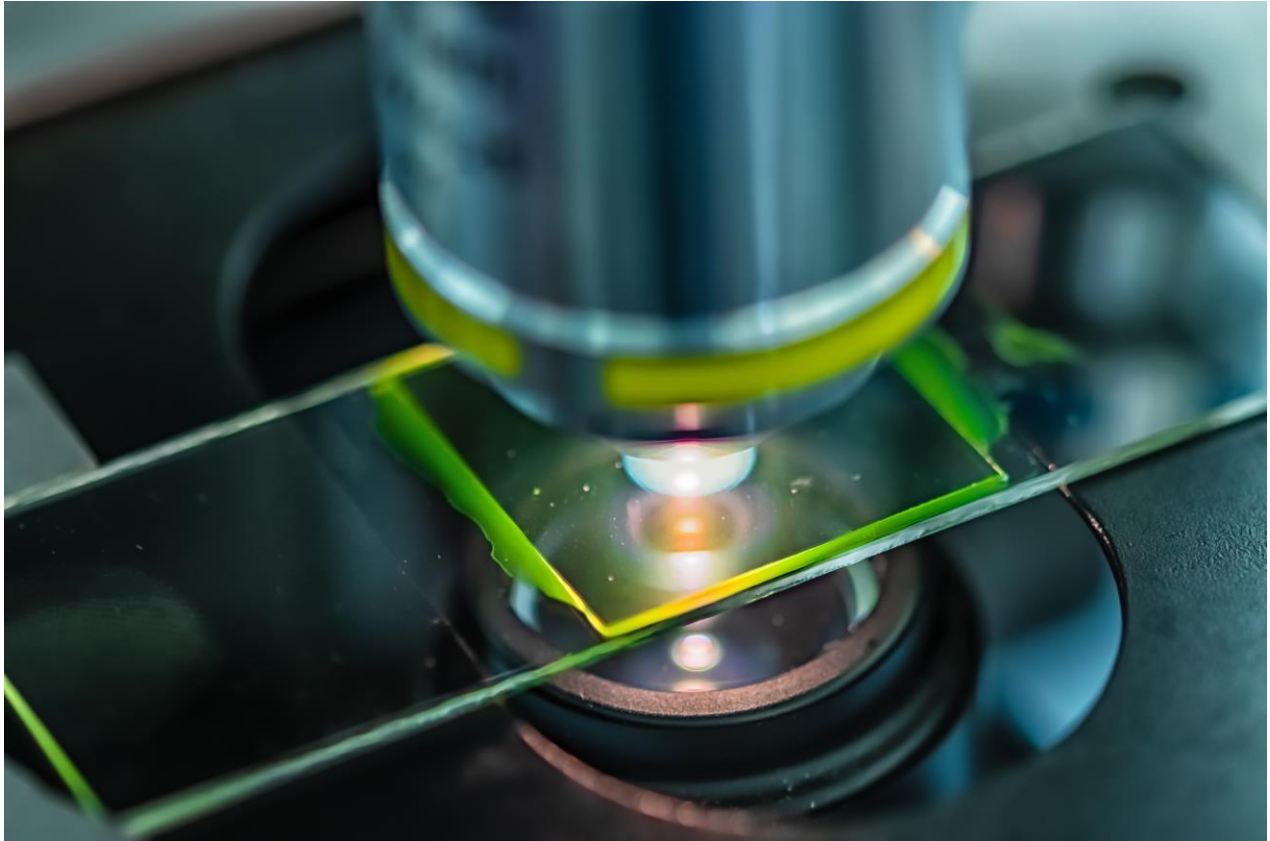
Before the COVID-19 condition, Southeast Asia carried rich economic opportunities accompanied by significant corruption risks.

Businesses are now implementing various continuity plans to shift to a post-COVID-19 "normal". For many of the businesses like the jurisdictions in which they are located, this is taking place at varying velocity. In parallel, we recognize that like a virus, the corruption risks are mutating and must be diagnosed.

We identify themes with:

- **Onboarding new third parties after shifting supply chains** – supply chains are altering rapidly. We witness moves to more "protectionist" supply chains in the region during this COVID-19 period. There should nevertheless be a high level of due diligence conducted on new suppliers or existing suppliers handling larger mandates as your company maneuvers its management of supply chains. In the absence of in-person interactions with third parties, tighter transaction limits/higher levels of management approval are more likely required.
- **Securing government licenses/tenders/relief in the proper manner** – despite the global health emergency we find ourselves in, businesses must still secure government licenses/tenders in the proper manner. Particularly of note for companies who may not be operating "essential services" (a definition which varies country to country), all communications with government officials should be transparent and properly recorded with no ambiguity as to any (improper) dealings with government officials. There have already been news reports in Malaysia and Indonesia, where investigations by local authorities have been launched as a result of improper granting of government mandates. Similarly, any companies securing government funds/loans or seeking temporary tax relief should ensure that these processes are conducted transparently with the relevant government agencies. What may not have attracted a regulatory gaze in the maelstrom of the pandemic, will likely be the subject of review in the coming months.

- **Risks arising from delays in auditing/regulatory reporting** – there have been some delays in mandated reporting and filing obligations in the region due to the practical obstacles of undertaking and verifying such exercises. Companies should therefore be mindful of any improper manipulation of auditing/reporting materials, the risk of which is exacerbated when there are currently obstacles to effective data sharing, communication, and coordination.



### **Adapting methods to monitor corruption and fraud risks and conduct compliance due diligence**

Southeast Asia has a disproportionate number of individual stakeholders working for multinational corporations in fairly remote sites who assume a disproportionate level of commercial and compliance responsibility compared to their regional and global peers. They should remain concerned with:

- **Ensuring document integrity for digital files (e.g., incorporation certificates)** – in a situation where hard copies can no longer be scrutinized physically for forgeries, document custody records should be properly maintained to safeguard the integrity of information and evidence. Similarly, protocols around the use of digital signatures should remain and/or be implemented and properly monitored.
- **Using advanced technology** – undertaking detailed due diligence, evidencing, continuing business operations and/or assets is critical. In the absence of on-the-ground site visits, GPS coordinates/satellite imaging can be used to verify sites, vehicles, and business activity. We recommend the extra expense of engaging specialists to verify and utilize technology to authenticate findings. If it is too good to be true now, it would still have been a mirage pre- or post-pandemic.
- **The manner of conducting due diligence interviews via video** – minimizing the number of attendees on video interviews will facilitate smoother interviews and better human

interaction which is important in interviews. If the interview is in a foreign language, real-time translation of questions and answers in text form should facilitate the smoother conducting of interviews. There is no substitute for clarification of a response rather than an assumption of an answer.

- **Enhancing subsequent monitoring and verification obligations (to compensate for the current obstructions or delays in the same)** – in the current circumstances, certain monitoring and verification obligations (for example monitoring inventory or conducting know-your-customer checks) are obviously compromised. Therefore it is key that subsequent or renewed monitoring is implemented once the physical and regulatory restrictions reduce.
- **Continuing compliance training and education** – online or virtual compliance training and education should still be conducted. While this form of training is often not as effective as in-person training in your company's various on-the-ground sites in Southeast Asia, remote monitoring of attendance at such training should be fairly straightforward. Do not create a backlog of regulatory and/or internal obligations. As we recognize, a return to traditional working practices will be piecemeal and uneven across international operations. Remote work provides an opportunity for compliance awareness.

Governments are in the midst of anticipating life after lockdown. Fraud and corruption are cockroaches of the business environment. They are resilient, evasive, and gnarly. They will survive COVID-19.

## Contacts



**Kathryn (Katie) Hellings**  
Partner, Washington, D.C.  
T +1 202 637 5483  
[kathryn.hellings@hoganlovells.com](mailto:kathryn.hellings@hoganlovells.com)



**Wataru Kawai**  
Senior Associate, Singapore  
T +65 6302 7146  
[wataru.kawai@hoganlovells.com](mailto:wataru.kawai@hoganlovells.com)

### SEA View

Since April 2019, our monthly periodical has featured investigation, compliance, and regulatory developments in Southeast Asia (SEA). Drawing on the firm's market-leading practices, and our extensive network, including our assembled Global Regulatory team, we lead clients' businesses through challenges encountered in and out of SEA.

SEA View is horizon spotting in practice.

Find our previous insights [here](#).

### [www.hoganlovells.com](http://www.hoganlovells.com)

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses.

The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members. For more information about Hogan Lovells, the partners and their qualifications, see [www.hoganlovells.com](http://www.hoganlovells.com).

Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising. Images of people may feature current or former lawyers and employees at Hogan Lovells or models not connected with the firm.

© Hogan Lovells 2020. All rights reserved.