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## JOURNEY TO

# THE CLOUD

HOW BANKS, LAW FIRMS AND  
OTHER COMPANIES ARE EMBARKING ON  
THE PATH TO DIGITAL TRANSFORMATION



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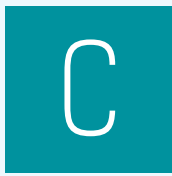
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# JOURNEY TO THE CLOUD


BY JOHN KANG AND RANAJIT DAM



Cloud computing – probably the most exciting new technology to emerge in recent years – has really taken off in the enterprise sector across the world. Much of this has to do with a distinct change of mindset within companies adopting Cloud technology, as they have begun to realise the clear advantages that it brings: lower costs, increased security, added flexibility, the potential for heightened collaboration, and so much more.

The Cloud revolution is underway in Asia as well, with organisations such as banks and law firms seriously considering Cloud technology at least, if not looking to embrace it wholeheartedly. And this attitude is reflected in the findings from The Microsoft Asia Digital Transformation Study (<https://aka.ms/asiastudy>), which surveyed 1,494 business leaders across five industries in the Asia-Pacific region early this year.

The study, which included 335 respondents from the financial services industry, found that 81 percent of leaders from this sector believed they need to be a digital business to succeed. They also agreed that Cloud computing was now an essential part of their digital transformation strategy, and that new data insights could lead to fresh revenue streams.

For those who have yet to undertake the journey to the Cloud, the path forward might appear daunting. What are some of the legal and compliance considerations to keep in mind? How are the necessary approvals from regulators obtained? And what should lawyers and law firms consider when considering storing their and their clients' information in the public Cloud? To answer these questions and more, we asked the users of Cloud technology and regulatory authorities to share their insights. 

01

**'Security, data confidentiality and control are among the key considerations.'**

**Teresa Huang**, Managing Director and Head of Legal, Compliance and Secretariat, Hong Kong and Mainland China, DBS Bank (Hong Kong)

**DBS is one of the first banks to adopt a Cloud-based productivity technology in Hong Kong. What were the main drivers for this move?**

Cloud computing does hold a degree of promise, starting with the basic premise underpinning the architecture. Unlike legacy architecture, Cloud architecture costs less and is arguably more resilient, provided it is set up correctly, with equivalent levels of security and control.

I think the key for us was to understand this well: what it was good at, and what it could be used for. So productivity is only one potential outcome – there are many others.



Next, we had to understand the downsides. What were the risks to adoption? What were we doing today in terms of controls, and could we replicate that in a Cloud architecture? What was our “term sheet” of expectations? Then we worked closely with our vendors to fit our expectations together and find a win-win solution.

#### **What are the legal and compliance considerations?**

Security, data confidentiality and control are among the key considerations from a legal and compliance perspective. It is important to understand the underpinning technology and gain sufficient transparency in how our data will be stored, accessed and viewed, as well as how much control we could have over our data. Based on this understanding, we went through comprehensive risk assessments against legal and regulatory requirements and the standards that we hold.

The assessments included evaluating the data access regimes of locations where the servers would house our data, to make sure that those jurisdictions followed the rule of law and due process in accordance with their prevailing legal systems and practices. We also wanted to be certain that our primary regulators could access and audit data as well as processes that are housed in these jurisdictions. In addition, we had to ensure our data was well shielded against any unauthorised and inappropriate access.

Banking is a highly regulated industry, especially when it comes to data management. Essentially, Cloud computing is the outsourcing of your technology infrastructure under both Hong Kong and Singapore regulatory regimes.

Our tip to banking industry players is to engage regulators early. Cloud computing in banking is at different stages of maturity depending on the underlying use case, so banks need to show regulators that moving towards Cloud-based technology is a thoughtful, carefully paced and well-managed – and this includes risks – corporate strategy.

#### **From a legal and compliance perspective, what are the biggest challenges in adopting Cloud technology?**

Among the many challenges are regulatory regimes, which are not harmonised, i.e. something that works in one market doesn't work in another. Many different laws and regulations also intersect between banking, data privacy, technology risk management and cross-border data transmission.

Our Cloud journey involved 18 markets and multiple stakeholders. As such, the biggest challenge was to ensure that all legal and regulatory requirements of these jurisdictions were properly understood and addressed as we moved within the project timeline. There were limitations, and a lot of effort went into helping all relevant parties understand these and to develop workable solutions. We overcame the hurdles via teamwork and communication, including strong dialogue with both the technology teams and our regulators.

Finally, launching something in the Cloud is one thing, making everyone use it is another. We are helping every staff member understand the new features, so that they can fully deploy them. It is a journey in itself.

02

## **'Banks are welcome to adopt Cloud-based and other innovative technologies... so long as sufficient risk management controls are in place.'**

**Hong Kong Monetary Authority (HKMA)**

#### **What is HKMA's approach to the use of Cloud-based technology in the banking industry?**

The HKMA embraces the use of Fintech and innovative technologies, including cloud-based technology, by banks. Banks are welcome to adopt Cloud-based and other innovative technologies to provide better and more convenient services to their customers or to improve operations so long as sufficient risk management controls are in place.



#### **Do you see a trend of banks in Hong Kong starting to consider public Cloud solutions?**

The HKMA has observed an increasing trend of the adoption of public Cloud by banks. Specifically, banks have notified the HKMA of around 50 cases related to the use of public Cloud in the past three years. Most of these cases involved customer relationship management systems, human resources management systems, systems related to anti-money laundering, and systems for office automation or internal use.

#### **What are the relevant rules and processes that banks should observe when considering public Cloud? Are there any specific guidelines by the HKMA?**

As public Cloud is a type of outsourcing arrangement and involves the use of technology, banks are expected to observe the HKMA's requirements for outsourcing and technology risk management, such as the Supervisory Policy Manual (SPM) module on Outsourcing (SA-2) and General Principles for Technology Risk Management (TM-G-1). Banks should notify the HKMA if the public Cloud initiatives are considered as material outsourcing arrangements.

Banks should also ensure that, among others, an independent assessment of relevant controls (such as security controls and resilience capability) of the service providers and of the systems is performed prior to the outsourcing arrangements. They should also ensure that proper measures for protecting consumer data and effective on-going monitoring processes are in place.

03

**'The Cloud is a no-brainer when it comes to digital transformation. It is an option and an enabler when it comes to fostering new innovation.'**

**Connie Leung**, Senior Financial Services Industry Director, Asia Lead, Microsoft Hong Kong

#### **What are your observations about Cloud adoption?**

Globally, we see strong Cloud adoption from the financial services industry, with more than 80 percent of the world's largest banks and over 75 percent of the world's systemically important financial institutions using Microsoft's public Cloud services (<https://aka.ms/ubsoncloud>).



#### **What are some recent success stories of customers using Microsoft's Cloud?**

The world's largest wealth manager is currently using Microsoft's Cloud to power its risk-management platform – technology that requires enormous computing power – to run millions of calculations daily on demand. As a result, calculation time has sped up by 100 percent, 40 percent was saved in infrastructure costs, and nearly infinite scale was gained within minutes. These improvements have given the firm more working capital on hand and allowed employees to make quicker and more informed decisions (<https://aka.ms/ubsoncloud>).

In March 2017, the UK's first new clearing bank in more than 250 years was launched using Microsoft technology, with the aim of increasing competition in the sector and speeding up transactions, saving customers up to £3 billion in costs (<https://aka.ms/clearingbank>).

#### **What trends do you foresee with finance companies adopting Cloud technology?**

Recently, we have seen more banks and insurance companies considering Cloud technology to enhance customer experience.

Data has become the competitive advantage, and the new currency is customer insights. Banks and insurance companies are piloting machine learning and other new technologies for customer segmentation, churn and sentiment analysis for customer insights to generate the next best offer, as well as risk analysis for fraud management.

The Cloud is a no-brainer when it comes to digital transformation. It is an option and an enabler when it comes to fostering new innovation, and we are going to see more industry adoption.

04

**'I see a growing trend of small – and medium-sized law firms adopting Cloud-based solutions.'**

**Nick Chan, MH**, Partner, Squire Patton Boggs Council Member, the Law Society of Hong Kong

#### **What are your views on the use of public Cloud technologies by legal professionals in Hong Kong?**

Through its Technology Committee, the Law Society encourages its solicitor members to adopt the latest technologies appropriate to their practices to better do their professional duties and consequently better serve their clients.



Data and software are stored and processed remotely in the Cloud provider's data centre, accessed as a service by using the internet. In this sense, the duty and standard of care in implementing Cloud technologies in legal practice are no different from entrusting data to other third parties for outsourced services, such as bookkeepers who audit the firms' books.

In selecting IT products and services, lawyers should consider the potential cost efficiencies and operational and security benefits offered by Cloud-based technologies. For example, Cloud storage could minimise the risk of data loss where devices are misplaced, hacked or stolen as the data is not stored in the hardware devices themselves.

#### **Is storing information with Cloud service providers a better way to safeguard clients' information? How would you compare on-premises solutions with Cloud solutions?**

Recent data leaks and hacking incidents involving law firms abroad have shown that practitioners must invest much more in information governance and data security as client confidentiality is a core aspect of legal practice.

In principle, solutions on Cloud-based platforms could better provide safeguards to enterprise data compared with on-premises platforms. The solutions, however, must be provided by reputable service providers that can offer reliable, round-the-clock support and must be subject to fair terms and conditions as well as strong data security and data privacy policies. Most importantly, the solutions must allow lawyer users to audit and customise data and processes to ensure defensibility in legal compliance, especially in the context of cross-border data transfers.

### Do you expect to see a trend of legal professionals and law firms adopting Cloud technology in the coming years?

I see a growing trend of small- and medium-sized law firms adopting Cloud-based solutions, having witnessed the success of Cloud implementation by larger firms over the past few years.

Cloud platforms generally reduce enterprise IT footprint significantly. They usually require simple setup and configuration as well as lower upfront investment.

Operationally, Cloud solutions provide easy mobile access, device independence – so long as you have an online connection – and are readily scalable. They allow synchronisation and frequent work back up between multiple devices. This is helpful to enterprises in their plans for disaster preparedness and business continuity. As such, it makes good economic sense for firms that don't have large IT budgets to consider Cloud-based solutions.

### What should legal professionals and law firms consider when considering storing their and their clients' information in the public Cloud? Are there any guidelines in this area?

Practitioners and firms need to manage their compliance risks, particularly in ways that maximise client confidentiality and data security. This is consistent with principles 1.07 and 8.01 of the Hong Kong Solicitors' Guide to Professional Conduct.

A key area for compliance is data privacy, and informed consent must be obtained from clients for the processing, storage and use of personal data. This could mean a thorough disclosure of the engagement of Cloud service providers and other external data processors in the client retainer.

05

**'It will be imperative for legal and compliance professionals to stay abreast of key legal developments around the world.'**

**Winnie Yeung**, Head of Legal, Microsoft Hong Kong

### What are your observations on Cloud adoption in Hong Kong and the role that legal and compliance professionals play in the digital transformation process?

Currently, 85 percent of Fortune 500 companies, 70 percent of Hong Kong companies on the Hang Seng Index, and more than 30 percent of our local small and medium business customers



are on Microsoft's Cloud platform. By deploying in a hybrid environment, corporations in regulated sectors are able to deploy public Cloud to handle less-sensitive workloads, while continue to manage critical and sensitive data on premises or on private Cloud.

Very often, in the process of evaluating Cloud proposals, business decision-makers will turn to their legal and compliance team for advice on compliance and risk assessment. According to a recent survey from the International Data Corporation (IDC) (<https://aka.ms/idc>), 18.9 percent of our Hong Kong legal and compliance professionals viewed Cloud as being more trustworthy than on-premises solutions, 32 percent saw no difference between the two, but 49.1 percent still had a more conventional perception and trusted on-premises solutions more. On the other hand, in the Microsoft IT Leaders Survey 2016 (<https://aka.ms/ITsurvey>), 80% of IT leaders revealed that they are comfortable hosting all their business applications on the public cloud in the future.

### What are the major concerns that legal and compliance professionals have when considering Cloud proposals?

No matter which industry, we notice that the key concerns over adoption of Cloud are similar: privacy, security, transparency, and data location. Many legal and compliance professionals will also refer to international standards to evaluate a Cloud service provider, such as ISO/IEC 27018. There would be additional compliance requirements for companies in regulated sectors.

The legal environment is also constantly changing with technology advancement and heightened awareness of privacy and security issues. It will be imperative for legal and compliance professionals to stay abreast of key legal developments around the world to help their clients assess options in Cloud services.

We need to understand and be able to advise clients how new privacy laws in the form of the General Data Protection Regulation (GDPR) in Europe, Cybersecurity Law in China, and section 33 of the Personal Data (Privacy) Ordinance in Hong Kong, when in operation, will impact business operations.

### How is legal team supporting your customers' digital transformation process?

We understand that Cloud computing is still quite new to a lot of legal and compliance professionals. We are sharing a lot of resources to help them understand more about the technologies, the relevant issues to consider, and Microsoft's approach.

For example, we have the Microsoft Trust Center (<https://microsoft.com/trustcenter>), a website with a comprehensive repository of information and training resources about Cloud. Microsoft published "A Cloud for Global Good" (<https://news.microsoft.com/cloudforgood/>) in 2016 to share our vision on "Trusted Cloud," "Responsible Cloud" and "Inclusive Cloud."

My team has also been working on a publication that provides information from technical, legal, compliance and policy perspectives on the issues that different stakeholders should understand in the course of their Cloud journey or digital transformation.