

**MAY 5, 2021**

For more information,
contact:

Luke Edwards
+65 6303 6079

Darren Gardner
+1 415 318 1246

King & Spalding

Singapore
1 Raffles Quay
#31-01 North Tower
Singapore 048583
Tel: +65 6303 6000

San Francisco
50 California Street
Suite 3300
San Francisco, CA 94111
Tel: +1 415 318 1200

Diversity and Inclusion – An Asia-Pacific Perspective

Issue 9: 10 in 10

Global employers continue to face an evolving myriad of complex laws impacting how they manage their human capital.

The increased regulatory focus on human capital (including diversity and inclusion) is prompting reflection from global employers on what they are doing to manage diversity and inclusion compliance – including across the Asia Pacific region.

While diversity and inclusion compliance will be tailored and specific to each jurisdiction where an employer operates, there are some general commonalities across worker gender, religion and disability hiring and management requirements (to name a few) that employers should be mindful of.

To illustrate, a number of jurisdictions in the Asia Pacific region impose quota requirements on employers regarding the hiring of disabled workers. For example, in Cambodia, an employer with more than 100 employees must hire a disabled worker at the rate of 1% of the total workforce (similar quota related requirements also apply to employers in Thailand, Indonesia and Korea). Further, while there are exceptions to the quota requirement (for example, in Cambodia, Thailand and Korea employers may be eligible to make contributions to a specific fund in lieu of the requirement to hire disabled workers), employers need to carefully assess whether they can rely on such an exemption.

Several jurisdictions in the Asia Pacific also impose gender related protections over female employees. For example, in Malaysia, female employees engaged in certain industries are not permitted to be engaged in night work (unless an exemption is sought from the authorities), while in Indonesia, female employees are required to be provided with certain benefits and transportation arrangements when working at night and early in the morning. In Vietnam, certain working hour restrictions and working condition requirements also apply to female employees that should be taken into account.



In terms of religious related protections, in Indonesia, a prayer or spiritual space must generally be provided to employees to allow them to perform any religious duties or requirements. Further, while not a strict legal requirement, in certain jurisdictions employers will need to take into account broader social and cultural expectations that an employer provide such spaces to its workers.

Other jurisdictions in the Asia Pacific also impose requirements on employers to report on diversity and inclusion related matters to the authorities. For example, in Australia, employers with over 100 employees must report annually on workplace gender and employee remuneration, while in Cambodia, Indonesia and Thailand there are requirements to report on diversity related information as part of annual reporting requirements to the authorities.

Failing to comply with these requirements can have material legal implications. For example, in Indonesia, a failure to comply with the requirements relating to hiring disabled employees can result in administrative sanctions ranging from a written warning, the limitation or freezing of business activity, the cancelling of business registrations or the revocation of applicable licenses.

While the legal consequences from a failure to comply with the applicable diversity and inclusion requirements will turn on the specific circumstances, an employer should also be mindful of the potential public and reputational implications associated with non-compliance - particularly where a compliance failure may need to be disclosed to the authorities, or the market and public.

Diversity and inclusion related matters will continue to remain a regulatory focus globally – including in the Asia Pacific region. As a result, global employers should continue to carefully consider their approach to ensuring compliance.

ABOUT KING & SPALDING

Celebrating more than 130 years of service, King & Spalding is an international law firm that represents a broad array of clients, including half of the Fortune Global 100, with 1,200 lawyers in 22 offices in the United States, Europe, the Middle East and Asia. The firm has handled matters in over 160 countries on six continents and is consistently recognized for the results it obtains, uncompromising commitment to quality, and dedication to understanding the business and culture of its clients.

This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice. In some jurisdictions, this may be considered “Attorney Advertising.” View our [Privacy Notice](#).

ABU DHABI	CHARLOTTE	GENEVA	MOSCOW	RIYADH	TOKYO
ATLANTA	CHICAGO	HOUSTON	NEW YORK	SAN FRANCISCO	WASHINGTON, D.C.
AUSTIN	DUBAI	LONDON	NORTHERN VIRGINIA	SILICON VALLEY	
BRUSSELS	FRANKFURT	LOS ANGELES	PARIS	SINGAPORE	