

# ALLEN & OVERY



## Global REACH legal services

# REACH: How can Allen & Overy assist you?

REACH is one of the most ambitious pieces of legislation to come out of Europe to date and has already had far-reaching and costly implications for all players in the chemical supply chain.

Through tracking the development of REACH from its inception we have built up extensive knowledge on the key and evolving issues. This pool of knowledge is continuously being refined, tested and expanded as a result of our daily assistance to clients.

We have assisted a wide range of clients from many different sectors on their REACH and CLP compliance issues. We have therefore gained an in-depth understanding of the impact of REACH on the different actors in the marketplace.

## We have advised:

- Manufacturers.
- International groups importing into the EU.
- Trading operations.
- Companies involved in recovering substances and managing waste.
- Producers and importers of articles.

Whether you are looking to bring new products to the market or to protect existing products under threat from greater regulation, we can assist you in a wide range of REACH matters, including:

- Interpreting and advising on the provisions of REACH, CLP and associated regulatory guidance.
- Advising on the implications of substances being placed on the candidate list and/or being made subject to authorisation and actions to challenge the consequences of any listing.
- Drafting and advising on communications with ECHA and competent authorities in respect of draft decisions and decisions in the evaluation process.
- Advising on appeals against decisions made by the European Chemicals Agency (ECHA) and in the context of enforcement actions.
- Drafting, negotiating and advising on disputes under contracts such as consortium agreements, only representative contracts and data and cost-sharing agreements, including letters of access.
- Advising on communications in the supply chain, such as SDS and notifications of the presence of substances of very high concern (SVHCs) in articles.
- Advising on the protection of commercially sensitive information, especially in the context of datasharing under SIEF or consortium framework agreements.
- Providing strategic advice on REACH implementation and compliance including updates on the emergence of similar regimes worldwide and other emerging areas of legislation linked to REACH such as classification and labelling laws.

## Our market-leading experience

Our expertise in this area is global and we also have a strong presence in Brussels which provides excellent connections to the key REACH decision-makers.

We bring this depth of experience together with practical and commercially focused advice when supporting clients. We have unrivalled expertise to offer clients in REACH and chemicals regulation more generally, including:

### Pre-registration/registration – advice for importers and manufacturers

We have provided strategic compliance advice for a wide range of clients across numerous sectors and have been closely involved with the REACH teams at our clients in the crucial periods leading up to both the pre-registration deadline and the first registration date. In particular, we have advised on:

- Issues related to metals and semi-finished materials.
- Pre-registration strategy, including the consequences of protective pre-registration.
- Where the registration obligations lie when dealing with complex supply chains.
- Issues relating to additives and impurities in products and how these should be treated for REACH purposes.
- The scope of exemptions including those relating to medicinal products and naturally occurring substances.
- The application of relevant exemptions for companies dealing with recycled products and recovered substances.
- Issues related to trading companies, for example, the impact of processing and treating substances under customs supervision.

### Article producers

We have advised article manufacturers, importers and distributors on issues such as:

- Obligations relating to the communication of information regarding SVHCs in products.
- The content and form of supply chain communications.
- Obtaining and analysing information received from suppliers.
- The steps to take to verify whether the components in articles contain substances on the Candidate List, including the use of chemical analysis as a last resort.
- Whether a substance is intentionally released from an article.

## Data sharing in consortia and SIEFs

Numerous clients sought our assistance with:

- Considering the merits of joining REACH consortia.
- Reviewing and drafting consortia and SIEF agreements, in particular, helping clients consider the cost-sharing mechanisms and potential liability issues arising from other members' actions or the delegation of decision-making powers.
- The pervasive antitrust aspects of working in consortia and SIEFs.
- Reviewing and drafting lead registrant appointments.
- Drafting third party representative agreements.
- Software tools available for SIEF management.
- Representing clients in negotiations with consortia, for the grant of data use rights.

## Supply chain communication

We have advised:

- Various clients on issues relating to REACH-compliant SDS.
- Producers and importers of articles.
- On REACH-specific wording in supply and trading contracts.
- Various clients on communications relating to strictly controlled conditions of synthesis from intermediates.
- The REACH terms of a tolling agreement.
- Downstream users on impacts of identifying uses.

## Enforcement and preparation for REACH compliance audits

With national enforcement authorities adopting a more coordinated approach on enforcement, you need to be prepared for regulators to come calling. We have advised clients on topics such as:

- The penalties for REACH non-compliances.
- The legal privilege issues relating to internal REACH audits.
- The verification of REACH compliance of traded products.
- REACH due diligence, whether in the context of suppliers or potential acquisitions.
- The possible options for challenging decisions by ECHA and the EU Commission.
- Potential enforcement by customs authorities.

## Only representative services

We have significant experience of advising on the obligations of only representatives and the practical aspects of such appointments, including:

- Strategic analysis of the value of appointing an only representative in both direct and indirect supply chains.
- Setting up intra-group only representatives for several clients, including drafting the contracts and advising on language in communications with importers and downstream users.
- Reviewing and negotiating bespoke only representative services agreements with consultants.
- Advising on the consequences for only representative arrangements following an internal restructuring and advising on associated communications.
- Assisting with the transfer of registrations to a new only representative following termination of the original appointment.

## Other REACH/CLP compliance issues

- The application of REACH restrictions.
- Notifications of classification under the CLP Regulation.
- Labelling and packaging compliance under CLP.
- Eligibility of products that use a substance subject to harmonised classification under CLP for the EU ecolabel.



## Your REACH contacts

Our team of specialists provides unrivalled expertise in issues arising from REACH. If you would like any further information on REACH please contact one of the lawyers listed here or your usual contact in our Global Environmental and Regulatory Law group.

### Key Contacts

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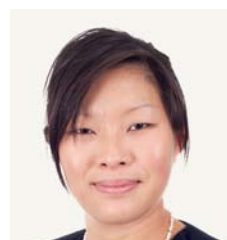
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## GLOBAL PRESENCE

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Allen & Overy is an international legal practice with approximately 5,000 people, including some 526 partners, working in 46 offices worldwide. Allen & Overy LLP or an affiliated undertaking has an office in each of:

Abu Dhabi	Casablanca	London	Rome
Amsterdam	Doha	Luxembourg	São Paulo
Antwerp	Dubai	Madrid	Shanghai
Athens (representative office)	Düsseldorf	Mannheim	Singapore
Bangkok	Frankfurt	Milan	Sydney
Barcelona	Hamburg	Moscow	Tokyo
Beijing	Hanoi	Munich	Toronto
Belfast	Ho Chi Minh City	New York	Warsaw
Bratislava	Hong Kong	Paris	Washington, D.C.
Brussels	Istanbul	Perth	Yangon
Bucharest (associated office)	Jakarta (associated office)	Prague	
Budapest	Johannesburg	Riyadh (associated office)	

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