

POWER PROFILE



Photo: Gary Mak

Rising currency

Worldpay’s Asia-Pacific GM Phil Pomford has come a long way from his first job in the payments sector, writes **John Cremer**

HIGH-FLYERS

Phil Pomford’s first encounter with the payments business was hardly auspicious, and he certainly never dreamed it might one day lead to a role as regional head of one of the biggest names in the sector.

“I was in Australia in late 1998, a midway destination on a backpacking trip after university,” says the Asia-Pacific general manager for Worldpay, a UK-based company which provides the technology and services for clients to accept payments by credit card and an increasing number of other methods. “I had run out of money, so I got a job typing in customers’ credit card numbers for a telecoms company. I just needed some cash to keep travelling but, as things turned out, I ended up staying in Australia for nine years.”

He had set off from his UK home with a joint honours degree in accountancy and law, but no particular plan other than to see a bit of the world and, at some point, pursue a career in business. Following an introduction from a friend, he moved from inputting credit card data to a job as management accountant with a travel company in Sydney. Over the next five years, promotion led to a role as regional relationship manager, responsible for negotiating contracts with major hotels and airlines.

“It was one of the best ‘first’ jobs you could have,” Pomford says. “I travelled every quarter, built up experience, and was then approached by Diners Club to work in finance and credit cards, handling contacts with their large customers.”

Around a year on, an ex-client called about joining American Express in Singapore and, for someone who already sensed the growth opportunities in Asia, the offer was simply too good to resist.

“Retailers, airlines and other merchants were starting to see rapid growth in e-commerce and online sales by credit card. It was a natural progression, moving towards faster payments and more cost-effective operations, with some technical learning along the way.”

POWER POINTERS

Phil Pomford’s advice for payments-industry pros.

Have a plan B “People should realise this industry is incredibly fast-paced and dynamic. Be aware of that from the outset and be ready to adapt quickly and rethink strategies whenever necessary.”

Look at all angles “Be inquisitive in your approach to your job. You should be able to identify both the broader trends affecting the sector and the nuggets of information which can potentially make a difference.”

Keep fresh “You must be creative in finding new ways to meet customer needs. That includes ensuring the solutions offered will let clients grow as fast as they want to.”

Focus on growth “Business in the Asia region will only get bigger, and we are looking to expand into other markets. Headcount is currently 80-plus, but it could easily double in the next two years.”

Stay ahead of the pack “We always keep a watchful eye on the competition. Large customers will be connected to multiple providers, so we have to differentiate ourselves through support services, data management and a skilled workforce.”

Leadership is about understanding where the challenges and solutions exist and bringing the right people around the table

PHIL POMFORD, ASIA-PACIFIC GENERAL MANAGER, WORLDPAY

Also expanding, though, were alternative payment methods, or APMs – a category which now includes direct debits, local card schemes, e-invoices, digital currencies, e-wallets and mobile payments. In each case, the aim is to combine convenience with speed and security. But as Pomford discovered after moving to Worldpay to set up a relationship management function, supporting and servicing the multiple options available in different countries adds a new level of complexity.

The company’s systems now accept more than 300 payment types and process transactions in 126 different currencies. At the latest count, there were around 400,000 customers worldwide. And while offering more “gateways” for day-to-day commerce remains a priority, attention is also focused on generating data-based insights on consumer trends and ensuring the very latest security features are in place.

“From a payment perspective, security is absolutely critical; any breach is horrific for brand reputation,” Pomford says. “Fraudsters are becoming more and more sophisticated, so we need to update constantly to keep one step ahead. There is a move towards biometrics and iris scanning; that is the way things are going. And industry standards point to more ‘tokenisation’ to scramble credit card details and prevent deciphering.”

In terms of management style, Singapore-based Pomford sees himself essentially as an enabler. To help the team grow, he focuses on removing any barriers to success and creating a culture which emphasises collaboration and having the “right spirit”.

“Leadership is about understanding where the challenges and solutions exist and bringing the right people around the table,” he says. “Overall, the industry is still incredibly fragmented. But over the next few years, we will start to see a couple of dominant players, so must be ready for that.”

To cope with 100-plus nights a year travelling he tries to take overnight flights, schedule three to four meetings a day, and maintain a strict personal-fitness regime.

“No two days are the same, but I couldn’t imagine it any other way,” he says, noting that much of the reading for his recently completed MBA was done in airport lounges and on planes. “I would get bored with a desk job or a single market. The job has really taken off, so with a first child on the way in March, I’m not expecting a lot of free time this year.”

For the full story visit www.cpjobs.com/hk/highflyers

CASE STUDY

Avoid ambiguity on bonuses in contracts

The Situation
There is a certain buzz and sense of anticipation in many offices now that bonus season is upon us. But expectations may of course not be met – in these uncertain times, more employers may choose not to pay annual bonuses, or perhaps pay smaller ones. What then for disappointed employees?

While there is no requirement under Hong Kong law for employers to pay employees an annual bonus, for those in administrative and supporting roles, end-of-year payments are common and even expected.

These bonuses are often referred to as “13th month pay” or “double pay” as they are usually equal to one month’s basic

salary. They are typically paid before Chinese New Year as extra cash for employees to spend over the holidays.

The term “end-of-year payment”, however, merits some analysis. It can be used to refer to any sort of annual payment or annual bonus which is contractual and is payable only at the discretion of the employer.

The Argument
The question of whether a bonus is an end-of-year payment is an important one because there are certain quirks under Hong Kong law which apply in respect of end-of-year payments.

For example, an employee is entitled to a pro rata portion of their end-of-year

payment if they have been employed under a continuous contract for not less than three months during the bonus year. The only exceptions to this are where the employee resigns of his own accord or is lawfully dismissed without notice or payment in lieu of notice.

Contractual annual bonus clauses are increasingly drafted to state that the employee must still be employed on the payment date to be entitled to the bonus – and therefore if you are not employed on that date, the whole of the bonus (not just a portion) is forfeited. This sort of requirement is, however, unlikely to be enforceable if the bonus happens to be an end-of-year payment because of the pro rata payment rule.

Essentially, the question of whether a payment is an end-of-year payment comes down to whether it is contractual or discretionary in nature.

In deciding this, the Hong Kong courts will usually consider several factors. As a starting point, the courts may look at the language used in the employment contract or employment document where the bonus payment is set out.

There is a general presumption under the Employment Ordinance that an end-of-year payment is a contractual payment, unless the employment contract makes it very clear that this is not the case.

However, even if the bonus payment is clearly labelled as being discretionary, the courts will generally also want to look at what happens in practice and will take a “substance over form” approach. For example, if the bonus payment clause sets out specific targets or parameters which, if achieved, would entitle the employee to the payment (and particularly if those targets have been met), then the courts are likely to consider such a bonus as being contractual.

The courts will also look above and beyond the employment contract and consider the employer’s actual practice of paying the bonus. For example, if a bonus is expressed as being discretionary under the employment contract, but the same

(or broadly the same) amount has been paid by the employer to the employee at around the same time over a number of years, then an employee may be able to argue that the customary practice has turned the bonus into a contractual entitlement.

The Conclusion
Employers should therefore ensure that the language around any bonus payment is very clear, and that the structure and payment of any bonus is consistent with what is set out in the terms and conditions of the employment contract.

There is no hard-and-fast rule as to how bonuses should be structured or paid, but if done right they can be very effective tools for incentivising employees.

However if not reviewed regularly, bonus arrangements may trip up employers who decide not to pay a bonus or to vary past practice, which may not be the most auspicious of starts to the new year...

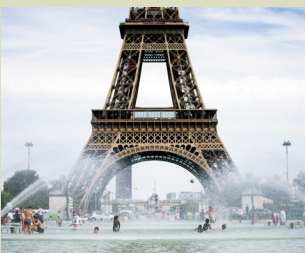
The information contained in this article should not be relied on as legal advice and should not be regarded as a substitute for detailed advice in individual cases. If advice concerning individual problems or other expert assistance is required, the service of a competent professional adviser should be sought.



Laura Chapman (left) is a counsel in Freshfield’s employment, pensions and benefits practice based in Hong Kong. She has a broad range of experience advising employers on both contentious and non-contentious employee matters throughout the Asia-Pacific region. Kathleen Healy (right) is a partner in Freshfield’s employment, pensions and benefits practice in Asia and specialises in advising on Asia-Pacific employment and HR projects.



NEWS BITS



Paris department stores finally open for Sunday trading
PARIS - Deals with unions have finally made Sunday opening a reality for Paris department stores. This follows reforms in 2015 that liberalised Sunday opening laws. Galeries Lafayette will make its first regular opening this Sunday. Other stores, including Printemps and Le Bon Marché, will follow shortly.

Working on Sundays remains controversial, although high unemployment and the higher wages on offer have helped to soften opposition. *AFP*



UK opposition leader Corbyn calls for maximum wage law
LONDON - British opposition leader Jeremy Corbyn has called for a maximum wage for the highest earners, saying he fears Brexit will see the UK become a “grossly unequal, bargain-basement economy”.

The Labour leader said radical action was needed to address inequality. “I would like there to be some kind of high earnings cap,” he told BBC Radio 4’s *Today* programme. “We have the worst levels of income disparity of most OECD countries.” *The Guardian*



US for-profit colleges criticised over poor graduate pay
WASHINGTON - Hundreds of US for-profit college programmes risk losing federal funding if graduates don’t start earning better wages.

The Education Department issued its first round of data measuring whether graduates of 8,700 career programmes earn enough to repay student loans.

The Obama administration’s “gainful employment” rules consider programmes to be failing if their graduates on average pay at least 12 per cent of their yearly earnings on student loans. *AP*

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