



RISK AND COMPLIANCE

Simon Whitburn explores the current Legal GRC landscape and reveals how failing to plan for legal GRC could increase risk levels for your organisation

Governance risk and compliance (GRC) is a vital cog in the machine of any successful business today. Its rise can be attributed to the mid-Noughties when several accounting scandals at various organisations – including Enron, Worldcom, and Tyco – led to the introduction of the Sarbanes-Oxley (SOX) Act in the United States. Launched to protect investors from fraudulent accounting activities, SOX required businesses to provide more comprehensive financial disclosures, thus sending shockwaves around the world.

New regulations were instated and older ones were made more stringent, resulting in a state of greater consciousness where companies of all shapes and sizes began to place the concepts of risk, controls, corporate governance and business efficiencies under the microscope.

From audit and risk to policy and business continuity, many of these efforts were initially dedicated to IT and financial operations. Yet as firms began to reap the rewards of more logical procedures, their same methods were expanded to manage the entire organisation's governance, risk and compliance frameworks.

It is vital that CLOs and their legal teams secure a more holistic view of organisational data

Here, GRC as we know it today was born, the landscape having evolved tremendously in the near-two decades since. And now GRC has relevancy across a variety of functions – none less so than legal. Indeed, legal leaders of today are faced with much of the orchestration and interconnections of legal operations, digital forensics, data privacy and cybersecurity compliance. This is no small undertaking – managing the complexity of the business from a legal perspective, all the while keeping continuous business and legal change in sync is a significant challenge.

To do so effectively, a comprehensive, integrated strategy, process, information and technology architecture is required to meet legal commitments, address legal uncertainty and manage risk in a way that is efficient, effective and agile. Indeed, this makes legal departments the perfect candidates to tap into the many benefits that governance, risk management and compliance can bring to the table.

Before we consider the benefits of legal GRC any further, it is worth considering what the landscape looks like in 2022. Like many critical business functions, corporate legal departments have experienced significant transformation since the pandemic first hit two years ago. And in many cases, it's been a transformation borne out of necessity.

Between the rapid digitalisation of operations, increasing data volumes and growing adoption of new technologies, further complexity and therefore expenses have been added to legal processes. Meanwhile, expectations have risen as company executives demand a granular understanding of how their legal teams operate – whether activities are efficient, technologies are cost effective and how processes might be enhanced. At the same time, a variety of economic, political, social and legal changes have bombarded organisations, resulting in the exponential growth of regulatory requirements and legal obligations.

Be it privacy regulations, compliance, data inventory or discovery operations, legal departments have more on their plates today than ever before – and a change in the winds is not expected anytime soon.

The findings from ACC and Exterro's 2022 Chief Legal Officers (CLOs) Survey reflect these growing pressures, highlighting sentiment among legal professionals globally. Based on the responses of 861 CLOs spanning 20 industries and more than 40 countries, the survey shows that many expect industry-specific regulations and data protection privacy rules to present significant hurdles. 66 percent see the former as the most significant source of legal difficulties, while 55 percent also cite data protection rules as a cause for concern.

Given the survey also reveals that six in 10 expect an increase in privacy-related regulatory enforcement in the coming year, and not a single respondent feels that the volume of regulatory enforcement in the privacy area would ease, the challenges are clear to see. It is for these reasons that demand for legal GRC solutions is rising as industry professionals seek more effective and efficient ways of operating.

This aligns with spending habits, the ACC report showing that the majority of legal departments have upped their expenditure in relation to regulation compliance in the past year, with much of this focused

on new technologies. Additionally, firms are also hiring data privacy specialists as well as implementing data privacy policies and providing staff with education and training.

Such investments are driven by a growing need to mitigate litigation and compliance threats that include cyberattacks, data breaches, regulatory fines and other civil sanctions. Without an integrated strategy and process, information and technology architecture that is capable of governing legal affairs effectively and efficiently, the discovery, understanding and management of data in a defensible way is extremely difficult, resulting in a host of risks and exposures.

Indeed, with such a broad spectrum of economic, political, social, legal and regulatory challenges, those who don't have the visibility and means to address them leave themselves at risk of being punished in multiple areas.

CORPORATE LEGAL DEPARTMENTS HAVE SEEN HUGE TRANSFORMATION SINCE THE PANDEMIC

Equally, while many companies today understand the role of GRC in managing risk and compliance across the organisation, some fail to see its role in coordinating legal activities alongside compliance, IT, finance, HR and other critical areas, creating a series of siloed strategies that result in conflicting methods and potential gaps and/or unnecessary overlap.

A lack of a coordinated strategy will almost always result in a failure to deliver critical insights and context, making it near impossible to link legal risks management with wider business goals, from decision-making through to performance analysis.

Thankfully, there are simple, yet effective ways in which organisations can put a successful, optimised legal GRC strategy in place that minimises corporate risk and helps to drive improved business outcomes. As we have discussed, CLOs have taken on a growing variety of responsibilities. According to ACC, four in five are responsible for compliance, 47 percent manage privacy and 40 percent manage risk. If we compare this with 2021's report, CLOs now have more responsibility in 18 of 21 different corporate functions. There are challenges that come with this, from added pressures to growing complexity. Yet it equally provides opportunity.

To operate in such a capacity successfully, CLOs and their legal teams will have to secure a more holistic view of organisational data – something that can be achieved with the adoption of a unified technology platform, rather than stitching the big picture together from multiple point solutions.

Much has been said of difficulties of solution saturation. Here, legal GRC presents the opportunity to achieve greater solution consolidation and departmental interoperability.

Equally, by taking on a greater role, legal GRC professionals will have the opportunity to address some critical risk areas such as cybersecurity, regulation and compliance, and data privacy. Indeed,

more responsibilities in business-critical priorities translates into more work, but it will provide CLOs with the opportunity to adopt new technologies capable of improving efficiencies and streamlining processes.

Indeed, the ACC study reveals that 56 percent of CLOs implemented new technology last year to assist with privacy – technologies that will also serve to optimise workflows and provide the foundations from which even more intelligent solutions, such as automated processes, can be adopted.

COMPLIANCE THREATS INCLUDE CYBERATTACKS, DATA BREACHES AND REGULATORY FINES

Looking ahead, seven in 10 CLOs said that they wanted to invest in contract management technology, while others are also considering document management technology solutions (39 percent), workflow tools (33 percent), collaboration and knowledge management tools (25 percent), and matter management technology (25 percent).

In terms of greater interdepartmental coordination, there is equally significant cause for optimism. In fact, the report further reveals that 84 percent of participants expect greater collaboration between legal and other business divisions, such as compliance and privacy, as a result

of increased regulations and the need to optimise internal processes.

Between CLOs settling into their expanded roles, the need for greater technology adoption to make these roles sustainable and scalable, and a push for interdepartmental collaboration to unlock wider business benefits, legal GRC will prove to be a busy yet buoyant arena in 2022. The move towards unified, consolidated legal GRC practices is continuing, if not accelerating, presenting a number of opportunities to legal professionals and organisations alike. Such integrated approaches will be critical – today, they should be viewed as business imperatives in helping firms better manage the risk exposure and compliance concerns that are increasingly threatening to exhaust resources.

Indeed, those organisations that are able to develop parameters that clearly define the breadth and depth of their legal GRC management strategy and process requirements will be perfectly placed to operate effectively and efficiently while supporting wider business objectives. Once this has been achieved, the appropriate technologies can be selected to support legal teams in their endeavours, cultivating the perfect toolset to help manage increasingly complex operational requirements.

The market is not short of solutions. A new class of enterprise software designed to seamlessly orchestrate those tasks and activities required to implement processes and address these business challenges is continually evolving, with many of its modules dedicated to legal GRC. By achieving excellence in each of these areas, legal GRC frameworks can become agile, flexible and scalable, capable of meeting not just the requirements of today, but also those of tomorrow ●

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