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How Legal Technologies

Bolster Corporate Compliance and Mitigate Risk

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ABOUT THE AUTHOR

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He has been recognized by the Legal 500 (GC Powerlist - 2020, 2019 (Teams), 2016), Precedent magazine (Innovation Award - 2020), Canadian Lawyer (Top 25 Most Influential – 2019), the International Law Office/Association of Corporate Counsel (Global Counsel Awards – 2019, 2016), LEXPERT® (Zenith Award as Change Agent in Law – 2019), National Post/ZSA (Canadian General Counsel Awards (Finalist) – 2019, 2018) and the Financial Times (Innovative Lawyers North America Awards – 2018 (“Highly Commended”)).

He is a frequent speaker and contributor on topics relating to legal technology, legal operations and the practice of law in the in-house environment. Peter graduated from the Faculty of Law at the University of Toronto and is admitted to practice law in Ontario and New York.

Written in collaboration with Stephanie Ford from Obiter Marketing

Obiter Marketing is a content marketing consultancy focusing exclusively on the legal industry. It caters to the unique marketing needs of lawyers, law firms, and legal technology providers.

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The Corporate Risk Landscape in 2022

The pandemic has changed the nature of corporate risk for boards and management teams globally. Changing regulations have stress-tested the ability of corporations to respond swiftly. Meanwhile, reputation management has never been more important - as the lines between negative public sentiment and regulator enforcement grow closer. Good corporate governance is both increasingly more demanding and more difficult.

The uncertainty stemming from the pandemic also shrank the budgets of the legal departments tasked with managing corporate compliance. Legal departments are facing budget cuts in an environment where their workloads are expected to increase by 25% by 2025.

Where these opposing pressures exist, operational inefficiencies and repetitive tasks are placed under a microscope. Innovation and change will (typically) follow.

Corporations are searching for solutions. However, the complicated nature of governing a corporation during and beyond the pandemic is dizzying.

Yet, while the specific risks and challenges are constantly evolving, the requirements for success remain the same:

- Boards must continue to provide oversight of a company's management.
- Managers must continue to work towards the company's strategic goals.
- Legal advisors must focus on delivering value while meeting compliance requirements.

For all these parties, (accurate) information is power.

In this whitepaper, we are going to explore the significant risks corporations face in 2022. Then, we'll home in on the technologies bridging the gap between increasing compliance risk and shrinking legal department budgets.

7 Key Risks and Challenges Entities Must Face in 2022

1 Maintaining a Remote Workforce

Remote and hybrid work arrangements are very likely to remain in place after pandemic-related restrictions end. Today's workers want to work remotely. As a result, offering remote work can help your company attract and retain talent, reduce its carbon footprint, and improve worker wellbeing and mental health. However, maintaining a remote workforce comes with increased legal and operational risk.

Some of the most pressing risks and challenges boards and their management teams need to consider for maintaining a remote workforce for the long term include:

- Boards must continue to provide oversight of a company's management.
- Employment Law Compliance. Laws relating to employees vary from jurisdiction to jurisdiction. The risk of non-compliance stemming from these varying laws, including those relating to occupational health and safety, minimum wage and break compliance, and training requirements, must be carefully managed.
- Knowledge Management. The importance of dedicated processes and accountabilities for knowledge management is heightened in a remote workforce.

2 Pandemic-Related Supply Chain Issues.

The importance of supply chain management at the board level was steadily increasing prior to the pandemic. For the past decade, consumers and regulators have demanded that companies pay more attention to ESG issues within their supply chains, such as child labor, modern slavery or bonded labor, workplace safety, living wages, and greenhouse gas emissions.

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However, the time being devoted to supply chain management at the board level has skyrocketed since the pandemic was declared in early 2020. In fact, the recent BDO Fall Board Survey revealed that 32% of boards revealed their belief that supply chain management represents their greatest risk in 2022.

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The pandemic has caused exponential increases in the costs of shipping, further complicated due diligence and auditing, and placed additional stress on the resiliency of supply chains. These challenges all have the potential to impede organizational growth and derail planning.

Transparency and digitalization are widely recognized as being critical in building resilient and compliant supply chains. Promoting transparency and digitalization allows for greater oversight of the entire supply chain which, in turn, helps boards build better management and compliance strategies.

3 The Great Resignation

Employee mobility reached unprecedented heights in 2021 and is not yet showing signs of slowing. 54% of young lawyers are somewhat or highly likely to resign from their current position to move to a similar position in the next five years. Meanwhile, a record 4.53 million people voluntarily quit their job in the US in November 2021. The Great Resignation is in full swing.

This represents a significant risk for corporations. Employee turnover is expensive and the ballooning costs of replacing potentially 40% or more of employees over the coming months and years should give employers pause. In addition to the risk of increasing costs of hiring and retaining employees, operational risk increases with employee turnover - particularly where organizational information is stored in spreadsheets. In many cases, the knowledge stored in spreadsheets leaves with departing employees.

The record-breaking 46.55 million pound fine imposed by the Bank of England Prudential Regulation Authority on the Standard Chartered Bank in December 2021 highlights the risk of high staff turnover and operational risk stemming from spreadsheet management. In this case, the Standard Chartered Bank's employee turnover and 'highly manual' reporting processes led to enforcement for non-compliance with financial reporting requirements.

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4 Environment, Social and Governance (ESG) Issues

ESG is top of mind for corporate boards in 2022 for a host of reasons. 73% of boards highlighted regulatory reporting as a near-term priority in the BDO Fall Board Survey. Other short- to mid-term priorities included furthering board and leadership diversity, aligning ESG metrics with corporate strategy and implementing internal reporting frameworks, as well as identifying environmental and social issues.

The interest at the board level is being spurred by increased consumer demand for improvements to corporate ESG issues and widely-anticipated regulatory reporting changes. Last year, the US Securities Exchange Commission (SEC) created its Climate and ESG Task Force in the Division of Enforcement. It is now developing its climate- related sustainability guidance. The SEC also approved Nasdaq's diversity rule in 2021, which requires listed companies to have at least two diverse board members or explain why it does not.

Outside of the US, many jurisdictions are contemplating their approaches to ESG compliance too. The Canadian Securities Administrators (CSA) recently published its guidance for ESG disclosure practices for investment funds, for instance. Meanwhile, India's Securities and Exchange Board now requires annual ESG disclosures for the top 1000 listed companies by market capitalization.

The trend of increased reporting and compliance requirements is widely expected to continue into the future.

5 Regulatory Actions

Regulators around the globe have been taking unprecedented action against corporations and imposing significant fines for non-compliance. To respond to this ever-changing regulatory environment, legal departments must be agile, informed, and equipped to disrupt risk - not just manage it.

Gartner, in its Future of Legal report, highlighted the importance of legal departments learning to rapidly explore and respond to issues. The report notes that in-house counsel who implement flexible operating models that prioritize speed and risk alignment are going to be better equipped to succeed in the current regulatory environment.

The impact of implementing decision guidelines for unplanned legal work was also spotlighted in the Gartner report. Noting that 20% of time spent on unplanned, high-urgency work is wasted, the report suggests that legal departments learn to supply resources where there is high risk or high uncertainty, not perceived urgency.

Considered planning, easy access to information, strong networks, and dynamic legal talent are key to successfully implementing any programs designed to disrupt, not just manage, regulatory and enforcement risk in 2022 and beyond.

6 Privacy and Cyber Security Compliance.

In 2021, 65% of General Counsel reported that they do not have the data or technology they need to respond to a data breach. Meanwhile, the average cost of a data breach rose to the highest level in 17 years - $4.24 million USD.

The risk of a cyber breach represents a significant operational, financial, reputational, and compliance risk for organizations — as does the risk of a ransomware attack. Boards must ensure that their organizations have robust data breach and ransomware response plans in place, as well as processes to routinely stress-test them.

In 2021, **65% of General Counsel** reported that they do not have the data or technology they need to respond to a data breach.

But cyber compliance is more than just responding to bad actors.

The complexity and uncertainty associated with evolving regulations regarding data security and privacy compliance are also front of mind for today's boards. The EU's General Data Protection Right (GDPR) and other privacy laws have led to a flurry of enforcement actions against technology companies. In North America, California, Virginia, and Colorado have passed privacy laws. It is widely expected that federal laws will pass in the coming years in both Canada and the US.

7 Increasing Global Compliance

The rapid pace of digital and regulatory changes, locally and globally, are placing additional pressures on corporate legal departments. The recent EY Global and Harvard Law School Center survey revealed that legal departments expect their workloads to increase by 25% by 2025.

While workloads are skyrocketing, budgets for legal departments are shrinking. 88% of the General Counsel surveyed in the EY and Harvard survey are planning to reduce the cost of their in-house legal operations by 2025. On average, large organizations are seeking an 18% reduction in the overall cost of their legal functions.

Insufficient investment in technology compounds the challenge of keeping up with increasing and evolving global compliance for legal departments. Just 30% of in-house counsel reported being equipped with the technology they need to do their job effectively.

It is little wonder that in-house legal departments do not feel prepared to identify, measure, and manage complex and evolving risks.

Technology's Role in Good Corporate Governance During and Beyond the Pandemic

Innovation and technologies are key in addressing gaps that exist wherever there's downwards pressure on budgets and increasing workloads. These pressures exist in law firms and legal departments around the world, which is why legal technology expenditure is expected to grow threefold by 2025.

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Investment in technology drives more than just productivity and efficiency, however. Legal technologies reduce the risk of human error and promote engagement amongst workers. They can also empower legal teams by providing easy access to accurate information and improving internal workflows.

By embedding legal technologies that streamline or disrupt inefficient workflows, law firms and legal departments become better organized and better prepared to manage evolving risks and challenges.

Mitigating Risk with Technologies: *How To Achieve Better Corporate Governance with Entity Management Software*

The move to work-from-home exacerbated the impact of commonplace, yet ineffective entity management processes.

Practices that cause essential entity management information or documents to be siloed, for instance, were quickly exposed as inefficient and risky when corporate teams began working remotely.

However, 89% of organizations report facing challenges in managing their legal entities. The respondents noted the most common issues they experience as being:

- Lack of access to accurate, up-to-date information on legal entities; and
- Difficulty in keeping up with the changing global compliance landscape.

Let's consider how legal entity management software can address these issues, as well as those highlighted in the list of 7 key corporate governance risks and challenges for 2022.

89% of organizations report facing challenges in managing their legal entities.

Legal Technologies Can Streamline Data Sharing for Entity Management.

The issue: Information management is challenging for organizations.

Many older and manual data and knowledge management 'solutions' cause friction for users. Wherever this friction exists, it becomes less likely that the information will be stored correctly, let alone used to its full potential.

Issues and inefficiencies frequently arise where information is stored either manually or using less-modern solutions. The lost productivity is very apparent when we consider low-tech information management processes, like the manual effort associated with the physical storage of company minute books.

However, tech-based solutions can cause similar inefficiencies where they simply 'digitize' these manual processes. The digital storage of company minutes, for example, is only effective if these minutes are stored in a centralized database that can be easily accessed by those who need the information.

The risk associated with data management is heightened with a remote workforce, too. Where workers store entity information locally on their computers or networks, the risk of a data breach increases. The risk of losing valuable company information when workers leave increases dramatically too where information is not stored in a central database.

How entity management solutions streamline information management and data sharing:

Modern entity management software, like Athennian, maintains an easily-accessible centralized database for storing essential information. The central storage streamlines data sharing for boards, legal and management teams, paralegals, finance and tax professionals, and other authorized users.

The benefits organizations receive from having easy access to accurate information include:

- Reduced compliance risk;
- Streamlined entity management;
- Improved deal readiness; and
- Increased agility and responsiveness.

Automation Drives Employee Engagement and Reduces The Risk of Human Error.

The issue: **Manual processes increase the risk of human error and employee disengagement.**

Human capital has long been recognized for the immense value it brings to organizations. Generally, the humans involved in a company's operations, management, and oversight generate volumes of value.

However, humans are fallible.

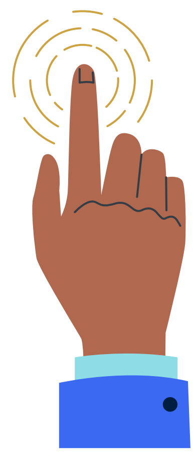
Human error has been consistently identified as a common element of most data leaks and breaches. In fact, minor human errors can lead to major data breaches and data leaks, as well as missed deadlines, inaccurate reporting, and, ultimately, non-compliance.

Humans can also become disengaged, burned out, and stressed when their workloads involve repetitive clerical tasks.

Gallup's State of the Global Workplace report revealed that employee engagement has fallen throughout the pandemic, while stress has increased. Stress and engagement are widely recognized as contributing to increased absentee-ism and turnover, as well as decreased productivity and creativity.

How modern entity management technologies improve outcomes for their human users:

Automating legal processes remains a top priority for legal departments. 57% of legal departments surveyed identified the automation of legal processes as a high priority last year, while a further 39% ranked it as a medium priority.



57% of legal departments surveyed identified the automation of legal processes as a high priority last year.

The immense interest in the automation of legal processes is unsurprising, given the benefits that accompany the automation of repetitive tasks (like entity management). Consider, for instance, the manual processes for stock certificates, eSignatures, and generating tasks for legal entity compliance. Automating these tasks frees up time for paralegals and lawyers to focus on higher-value tasks.

As a result, employees benefit from optimized workflows, reduced stress, and better collaboration and teamwork, all of which lead to increased engagement and decreased talent turnover. Automation also streamlines compliance, reduces the risk of missed deadlines or filing errors, and improves governance at the entity level.

Legal Technologies Function as a Talent Attraction and Retention Tool.

The Issue: Talented lawyers are planning on leaving their current roles.

How entity management software can help organisations attract and retain talent:

Legal technologies aren't a stand-alone solution to the multifaceted causes of lawyer attrition. However, implementing legal technologies comes with tangible benefits for the people working in legal departments and law firms, including:

- Increased engagement. Where repetitive and clerical tasks are automated, lawyers and paralegals can spend more time on meaningful legal work.
- Improved work-life balance. Legal technologies that increase productivity and automate routine tasks can free up time for team members, promoting better balance.
- Reduced stress. With easier access to accurate and up-to-date information and reporting, legal services providers have one less thing to worry about.

Finally, a significant benefit is that implementing legal technologies helps lawyers and legal professionals develop future-focused skills.

40% of young lawyers view artificial intelligence and legal technology training as critical for their future in their current role. In fact, the lawyers surveyed viewed "AI and legal technology training are...vital in order to stay relevant and appropriately skilled in the future". Law firms and in-house legal departments not implementing technologies to drive innovation and productivity are, therefore, at a greater risk of increased turnover - and the associated operational risks.

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Cloud-Based Legal Technologies Cybersecurity Reduce Data and Privacy Risk.

There are compelling reasons more companies, industries, and governments are turning to the cloud. Cloud services are typically cost-effective, convenient, secure, scalable, flexible, and remote-serviceable, which makes them ideal for growing companies and in situations where workers need remote access.

For most software vendors, reputation is amongst their most valuable assets. As a result, legal technology providers implement leading-edge data security to protect their clients. Quality cloud-based software leverage measures, such as encryption, access control, and real-time threat detection, keep information safe.

In Athennian's case, achieving the SOC 2 certification demonstrates a strong commitment to data security. The SOC 2 certification is widely recognized as a gold standard for data security. Additionally, the entity management software is actively monitored by a dedicated security team for an added layer of protection. Third-party integrations and routine platform audits are amongst the other advanced data security protections Athennian offers.

For most legal departments and law firms, implementing similar data security measures would be cost and time prohibitive. Legal technologies represent a cost-effective way for organizations to access these superior data security protections.

Finally, cloud-based backups reduce the risk of data being siloed and lost in the case of a catastrophe or ransomware attack. These backups can be protected by access control, ensuring that phishing attacks or social engineering hacks don't result in the malicious actor gaining access to confidential and important data. The personal and organizational information stored is secure and under control with Athennian.

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Bring Your **Entity Management** From Out of Control **to Under Control.**

Athennian's cloud-based platform makes entity management more efficient by building in automation, customizable workflows, dynamic reports, and self-serve digital experiences.

What can you achieve with Athennian?

- Create self-service digital experiences for stakeholders
- Minimize non-compliance risk and turnover expenses
- Make data-driven decisions through custom reports
- Streamline entity data management
- Collaborate with national teams through the cloud
- View, search, modify and share virtual minute books
- Manage productivity and deadlines with tasks and reminders
- Create, share and export documents, org charts and more
- Automate document templates and request signatures via DocuSign

150,000+ Entities Managed In Athennian

This means the paralegals and in-house counsel for more than 150,000 entities are spending less time on administrative duties and more time supporting clients.

Discover streamlined corporate legal workflows, increased productivity, and decreased risk with Athennian.

Speak to an Entity Management Expert Today