

BALANCE THE EQUATION



**How do you reach
smart equilibrium
in the new legal
landscape?**

EXECUTIVE SUMMARY

The office of the General Counsel for many years has remained focused on a consistent and important mandate to provide advice and guidance to the business. During the financial crisis their role remained largely the same while their workload substantially increased in complexity and volume. This was met through increased numbers of in-house attorneys and by filling gaps with outside counsel.

As firms recover and drive profitability, Legal has found itself caught in the cross hairs. Businesses are increasing the demands of the General Counsel's office, requesting higher levels of service, with more control of their cost around an increasingly complex and changing set of legal matters.

In our view these changes will be fundamental and require the General Counsel to re-architect the legal department to meet the demands of an ever changing and demanding business environment. The legal department of the future should be agile and have an operating structure that keeps pace with business demands. The General Counsel's role is to focus the lawyers on the practice of law while creating a culture that is adaptive to the changing face of financial services in the fourth industrial revolution.



Legal demand is increasing – budgets are not

Meeting the challenges ahead requires the General Counsel to take a different approach as this executive looks to balance these objectives through re-architecting the operating structure of the legal function of the future. The goal is better alignment to the organizational strategy, mandates and changing risk profiles. In addition, leveraging technologies to separate administrative and operational activities. This will help focus highly skilled teams on legal advisory and legal risk management activities. Legal departments will need better and greater access to data that helps prioritize the legal issues, scrutinize staffing decisions with the same rigor as any other profit and loss decision, and build an optimal legal resource team (including closely monitoring its in-house to outside counsel ratio).



Legal risks are changing

From the increase in litigation, to disruptive technology like blockchain, to the headline grabbing cyberattacks on law firm's seemingly confidential data, the risks inherent in the legal department are rising. Legal departments should have dedicated resources focusing on the risks inherent in their operations so that lawyers can concentrate on legal work.



The right talent is key to “success”

The pace of change is only increasing for legal departments. Lawyers are now called upon to advise and litigate in a world challenged by disrupters like blockchain, crypto currency and big data. This requires lawyers to continue to adapt and focus on their “Highest and Best Use” skills.



Driving change in a change adverse world

Lawyers are trained to respond to changes in the law, not in technology. Don't try and change the DNA of lawyers, instead staff up for the challenge. To do more with less, legal departments should get high cost lawyers out of the operations business. Firms should rely on operations and change professionals to make their processes more cost efficient and effective through the use of technology. By leveraging technology, lawyers can work at a faster pace without introducing new risks.

IN DEPTH

Legal demand is increasing, but budgets are not

There is no shortfall in the demand for legal expertise. As the pace of change in the financial service world continues to increase, driven by new technology, changing global business landscapes and increased regulation, the demand for lawyers does as well. The complication for the General Counsel is that its budget is not keeping pace with the increasing changes and demands from the business and technology. In response, General Counsels will find themselves having to increase their service levels, for less cost. The foundation for such a transformation is process driven, technology enabled, data driven and vested in talent.

67%

of Accenture 2018 Legal Risk Study respondents intend to maintain spend to current budgets for their legal functions.

In-house legal departments are facing significant pressure to become more efficient. Results from the Accenture 2018 Legal Risk Study show that two thirds of the legal organizations polled spent at least 3% of the firm's net income on the in-house legal function. We believe this level of spend requires legal functions to further justify spend to senior management and creates pressure for cost saving measures.

Throughout the firm, business decisions are driven by data, yet General Counsels do not have the same access to data as their business counterparts. Like their peers,

General Counsels need to source data to be able to make better decisions about their teams and operations. A sensitive topic among in-house lawyers is time tracking. Yet, General Counsels should require in-house lawyers to do so. Time tracking should be done with sufficient granularity, striking the right balance and providing sufficient data to make informed decisions around legal staff and legal matters.

Legal risks are changing

Lawyers handle some of the most sensitive data within a financial services firm. From M&A to litigation, from protecting a client to guarding firm strategy, the legal department often has a need to see and handle the firm's most critical data. This means that the legal department has a significant responsibility to protect against nefarious actors and data theft.

65%

of respondents to the Accenture 2018 Legal Risk Study track hours to general internal purposes but not to specific tasks/projects. This can stymie efforts to objectively measure productivity.

A cyberattack is not a possibility it is an eventuality for legal departments with the threat growing in part due to the proliferation of data generated. According to an Accenture – Ponemon Institute study the “Cost of Cyber Crime 2017,” the average number of reported breaches suffered by financial services firms was 125 in 2017, up from 40 in 2012.¹

Further, the average annualized cost of cyber crime for financial firms globally reached \$18 million per firm in 2017, the highest among all industries surveyed by Accenture and the Ponemon Institute.² As legal departments become increasingly reliant on technology, they are encouraged to adopt a cyber security first attitude to balance technology-driven opportunities.

46%

of Accenture 2018 Legal Risk Study respondents say reducing legal risk is one of their three most important goals over the next twelve months.

Risk is not only present inside the walls of the financial firm. Outside counsels often receive some of the firm’s most sensitive data. The document leak/data breach at Panamanian offshore law firm, Mossack Fonseca, is a prime example of the data security risks relating to handling of sensitive client data by outside counsel. Our experience and the results from our 2018 Legal Risk Study confirm that a majority of outside law firms do not undergo additional vendor risk assessments, creating both privacy and cyber concerns (see Figure 1). This should be an acute

concern for legal departments. As Legal departments begin to adopt new technology solutions and outsource functions to Legal Process Outsourcing providers, they should develop controls to address both privacy and cyber risks.

64%

of respondents to the Accenture 2018 Legal Risk Study named cyber security among their top three technology challenges in the next year, followed by big data (58%) and data privacy (56%).

The right talent is key to success

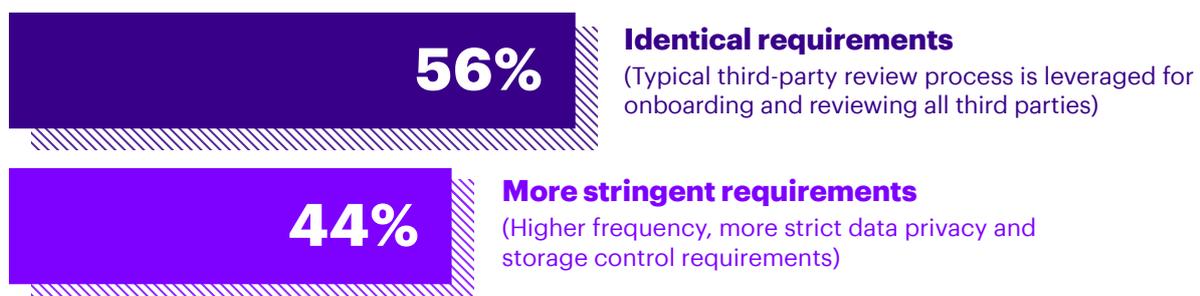
The pace of change is only increasing for legal departments. Lawyers should learn to advise and litigate in the world of disruptive technologies like blockchain, crypto currencies and big data. This puts pressure on lawyers to continue to adapt and hone their skills. To increase their ability to give strategic advice, manage legal risk and respond to mounting litigation requirements, legal departments should increase the expertise of their lawyers.

Figure 1. Over half (56%) of outside law firms do not undergo additional vendor assessments

Legal respondents were asked:

Does your organization’s legal function have more stringent requirements for reviews of outside counsel than it does for reviews of other third-party vendors?

(Base: All legal respondents)



Source: Accenture 2018 Legal Risk Study

50%

of Accenture 2018 Legal Risk Study respondents say improving the expertise of their legal departments is one of their three most important goals over the next twelve months.

Using new technology tools to improve and enhance processes greatly reduces the time in-house lawyers spend doing work that does not require legal skills, yielding more time to work on the firm's most critical matters and strategic thinking to grow the business. Accenture's Legal Risk Study finds that 68% of respondents agree that legal technology solutions have reduced the time it takes to complete legal tasks.

Reducing manual processes through technology, recruiting operations professionals and outsourcing non-core activities allows lawyers to focus on the "Highest and Best" use of their legal skills in more complex and demanding legal work. This allows legal departments to build and retain the technical legal and soft skills needed to support the business today and intuit where the business is heading in the future.

Driving change in a change adverse world

Lawyers are trained to respond to changes in the law, and not the disruptive challenges from emerging technology. Legal departments should staff up with the appropriate skills and capabilities to meet these challenges and avoid changing the DNA of their lawyers. Furthermore, to do more with less, legal departments are strongly encouraged to get high cost lawyers out of the operations business.

Though lawyers are not by nature change agents, this is a change they need to accept. The General Counsel should build a culture where non-legal professionals are driving process-based changes and the legal professionals are supporting and facilitating this change. Firms need to rely on operations and change professionals to make their processes more cost efficient and effective through the use of technology.

88%

of respondents to the Accenture 2018 Legal Risk Study say that legal technology solutions are becoming increasingly important for handling day-to-day activities.

Greater scrutiny around legal staffing decisions

The General Counsel's business is the productivity of the legal department. General Counsels should have a detailed understanding of which legal skills are most critical to their department and for building the legal function of the future. Just as a manufacturing company measures the speed and quality of its operations to strengthen their business, the General Counsel needs data to improve its organization. Improving the legal department's organizational structure and reporting on benchmark metrics like the in-house to outside counsel ratio requires detailed data on the skills, efforts and tasks of the lawyers. Specifically, the type of legal reviews, the advice and guidance the lawyers are giving, including the specific area of the law they are researching. The details tracked internally should be roughly equivalent to the details that outside counsel track and provide in their billing to clients.

Our experience indicates that to enhance their in-house to outside counsel ratio, most General Counsel functions would need to change their time tracking technology, and the process and culture of in-house counsel. Creating and tracking this data also generates additional insights into operations by providing a better understanding of the level of effort needed for various legal reviews/analyses and other more administrative tasks. This insight allows General Counsels to make more informed decisions on where to focus their process enhancement efforts and how to best maintain the right balance of skills in their department for HR planning (labor supply).

Such changes also require maintaining a change focused legal operations team. If a legal department fully understood the level of effort needed for legal and non-legal tasks across the board, they could make better decisions on where to focus their process improvement efforts and how to best hire and maintain the right balance of skills.

Additionally, in-house legal departments should also focus on the most value add advisory functions that can be supported by their specialized skills and training. This would require focusing on legal advisory tasks that are the best use of the staff's time while reducing the time spent on administrative tasks which are uneconomical for them to provide. Over time, this helps shift the cost structure to a more flexible and variable pricing model based on the business' demand for legal advice.

Propelling legal departments into the future

In-house legal departments launching transformational programs should concentrate their efforts on key initiatives. Legal departments should re-evaluate their core functions (including determining which may best be outsourced or executed by non-lawyer professionals in-house) as well as re-engineer highly manual processes with new workflow technologies and robotics. They should also streamline the list of external vendors, including external counsel, legal technology and other legal service providers to lower costs. All of this will allow lawyers to concentrate on legal tasks and activities that provide the most value. The General Counsel should create an organization that is process driven, uses technology to drive cost efficiency and effectiveness and relies on data for organizational decisions.

To address the challenges of today and the risks of the future, legal departments should:

- Build a legal model that allows lawyers to focus on the law rather than operations or administrative tasks.
- Empower lawyers by leveraging technology so they can get their work done at a faster pace without introducing new risks.
- Have the operations professionals, not the lawyers, drive change, but create a culture of lawyers who can readily adapt to change.
- Leverage data-driven insights to become more efficient in providing legal advisory services.
- Protect legal data both inside and outside the walls of the firm.

REFERENCES

1. "Cost of Cyber Crime Study," Accenture and Ponemon Institute, February 2018
2. Ibid

ABOUT THE AUTHORS

Samantha Regan

Samantha is a Managing Director, and is the Global Lead for the Regulatory Remediation & Compliance Transformation group within Accenture's Finance & Risk practice. Based in New York, she has 20 years of global experience working with C-suite executives and their businesses in compliance and regulatory initiatives.

Chris Beck

Chris is a Senior Manager and leads the Legal Offering and the Mid-West Region for the Regulatory Remediation & Compliance Transformation group within Accenture's Finance & Risk practice. Based in Chicago, Chris has significant experience leading transformation efforts at the world's largest financial institutions.

Lisa Bloomberg

Lisa is a Principal Director in the Regulatory Remediation & Compliance Transformation group within Accenture's Finance & Risk practice based in New York. Over the course of her two-decade career, Lisa has provided legal, regulatory and compliance advice to asset managers, wealth managers and investment banks involving registered U.S. and non-U.S. advisory products, including mutual funds, closed-end funds, alternative funds and offshore funds.

Garrett Swanberg

Garrett is a Manager in the Regulatory Remediation & Compliance Transformation group within Accenture's Finance & Risk practice based in New York. A Project Management Professional (PMP), he's spent 13 years in financial services control advisory and project-based functions with a focus on strategic change, regulatory compliance and systems implementations project execution.

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