From Entity Management to Strategic Governance Operations

Diligent’s philosophy of Modern Governance.

At Diligent we believe that corporate governance is the foundation for financial integrity, investor confidence and sustainable performance.

For this reason, we’ve set out on a mission to empower leaders with the technology, insights, and processes required to fuel modern governance. Ultimately, good governance practices will increase your company’s long-term viability, enhance your business’ value and pave the way for your organization’s growth.

According to Deloitte, best-in-class organizations are shifting their perception of the legal and compliance function. Previously seen as a cost-center, they are realizing that investment in the governance and compliance function, and software that helps accelerate its maturity, is associated with increased top and bottom lines in addition to lowered danger of organizational and reputational risk.

A first fundamental factor for increasing the positive impact of any governance and compliance function is a solid foundation of good data. All essential governance and compliance teams rely on an accurate corporate record. Articles of incorporation announce a corporation’s birth, and bylaws, in part, explain the rules by which they are governed. From the point of creation until the point of dissolution, merger, bankruptcy, etc., a variety of documents track each step of a company’s existence.

If documents are the lifeblood of legal entities, the brain and heart reside in a company’s legal department. Those who work in the office of the General Counsel create, track and manage a legal entity’s documents and related information.

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The 3 key reasons why organizations need to invest in entity governance.

1. Managing regulatory compliance on a local and global level is becoming increasingly complex.

Tracking regulatory change and complying with regulatory requirements, internal policies and external obligations is difficult as the pace of change accelerates.

a. According to a research study commissioned by Deloitte Legal “Future Trends for Legal Services”, global compliance was perceived as a major issue for in-house lawyers, with 26% saying it was one of their biggest challenges.

b. Based on research from “Risk in Focus 2020,” a report that has sought to shed light on key business risks as identified by 528 Chief Audit Executives (CAEs) across Europe, data security and regulatory change and compliance are the two biggest risks to the future of their organizations.

c. Accenture estimates that financial services firms globally will spend 4% of total revenues, on average, for compliance related activities with that figure expected to rise to 10% by 2021.

In today’s increasingly complex business environment, it is imperative that organizations have clear oversight and control. The risks of non-compliance are increasing, with a growing threat of fines and regulatory censure, while directors face greater personal responsibility.

2. Poor subsidiary management negatively impacts M&A outcomes.

2018 and 2019 were big years for M&A, and many organizations are still facing the challenges presented by integrating two companies' information, processes, people and technology.

a. The value of M&A globally totaled about $3.9 trillion in 2019, making it the fourth strongest year for deal-making, according to figures published by financial data provider Refinitiv. This is only slightly lower than the $3.96 trillion in deals recorded in 2018.

b. 21 deals, each worth more than $20 billion, accounted for almost a quarter of global volume in 2019.

c. Cross border M&A, which increases complexities (i.e., has the strongest entity governance implications), totaled $1.2 trillion.

Acquisitions can become a nightmare if you do not have enough information to do adequate due diligence. This is highlighted in a particular horror story presented by Kariem Abdellatif the Head of Global Subsidiary Governance Services at Citco.

In one case, a routine corporate health check uncovered that a multinational had acquired a portfolio containing a delinquent entity domiciled in Trinidad, which had not filed a company statement for a decade. Furthermore, as the directors of the entity could no longer be located, the only options were to dissolve the entity voluntarily by paying a fine of $165,000 or to wait for Trinidad's registry to dissolve the entity of its own accord.

Having a strategic approach to subsidiary management, along with more comprehensive due diligence during acquisition activity, will help avoid hefty penalties and allow for a smooth transition with fewer surprises.

3. In this environment, business continuity, enabled by better access to business-critical information, is essential.

Entity governance permeates across all crucial governance and compliance functions. General Counsels, Paralegals, Corporate Secretaries, Tax and Finance professionals need instant, real-time access to subsidiary related data and documents in order to accomplish routine business processes.

According to CIO, many organizations believe they have the tools needed to allow employees to work from home seamlessly, but now that working remotely has become a mandate for many, cracks in the foundation are showing.

a. Upwork's Future Workforce Report states that by 2028 73% of all departments will have remote workers.
b. A recent Gartner survey revealed that 74% of CFOs are looking to make remote work and telecommuting more permanent following COVID-19.
c. According to Compliance Week, 65% of organizations are operating under "reactive" or "basic" policy management programs (as opposed to maturing or advanced).
d. Disruptions caused by remote working are costly; in an Information Technology Industry Council study, 98% of organizations report that a single hour of downtime costs them $100,000 or more.

With the current work from home environment, many organizations are realizing that they do not have a true single source of truth for their corporate record. Instead, critical data is stored in various systems or physical documents, which multiple stakeholders working from remote locations cannot consistently or securely access. This is destroying operational efficiency and leading to costly disruptions and downtime.

Organizations are increasing their investment in GRC.

Due to the factors above, as well as the changing landscape of regulatory issues worldwide (including those surrounding KYC and AML requirements), organizations are ramping up their investment in initiatives focused on governance, risk management, internal auditing and compliance. International Data Corporation (IDC) estimates that worldwide investment in GRC could reach as high as $11.8B by the year 2021.

Many organizations know they need to make these investments; however, they have trouble identifying key problems they are looking to solve within their organization that justify the cost. Ultimately, how well you define a problem determines how well you solve it. With that in mind, we believe a key to productivity is to invest time in defining the problem as opposed to jumping right into dreaming up solutions.

The 4 fundamental challenges of good entity governance.

In the spirit of clearly identifying the problem, we have found that many organizations face four fundamental challenges in their pursuit of good governance practices and a pristine corporate record.

1. Lack of trust in data

Current State:

Legal teams lack confidence in the accuracy and completeness of the information in their corporate record due to poor data maintenance processes.

a. According to Opus, entity data is estimated to decay at a monstrous rate of 25% a year.

b. KPMG says that less than three-quarters (69%) of organizations are leveraging technology to support their compliance initiatives.

c. The Forrester Opportunity Snapshot study reveals, despite easy manipulation and a lack of controls, nearly 50% of companies still rely on spreadsheets alone to do their auditing and controls. However, Deloitte notes that 23% of all spreadsheets contain errors, too. So a spreadsheet-based process can lead to errors, data leaks, and inefficient processes.

Negative Consequences: Bad entity and compliance management practices result in bad data, and bad data causes operational inefficiencies. This leads to increased data maintenance costs, heightened corporate risk and loss of internal credibility.

Future State:

Organizations can proactively help maintain the completeness and accuracy of their data by:

- Defining guardrails for how information is entered into the system to prevent garbage in and garbage out.
- Increasing the completeness of information with entry of certain data fields being required via mandatory fields.
- Improving data validation and information oversight with data entry and data review workflows for four eye reviews and notifications when information in the system is changed.
- Adding external data validation points via APIs and/or feeds to confirm information accuracy and leveraging up to date information from connected third party systems.
- Collaborating across teams by unifying different sets of data from multiple business units into one single source of truth (for example: Signing Authority for Finance, Bank Details for Treasury, Business Licenses for Legal, etc.)

Positive Business Outcome: When data is unified and accurate, processes are standardized, and collaboration across functions is easily adopted, organizations can overcome the complexity of managing voluminous amounts of legal entity information. A key measure of effective entity governance lies in an organization's ability to locate accurate corporate data quickly in response to requests for information from key stakeholders across the business.

2. Uncertainty over compliance status

Current State:

Tracking regulatory change and complying with regulatory requirements, internal policies, and external obligations is difficult as the pace of change accelerates.

a. According to Thomson Reuters, compliance officers rank “continuing regulatory change” as their biggest challenge.

b. As reported by Globalscape, $59 billion: The amount corporations paid out in penalties for U.S. regulatory infractions in 2015. This number grew by more than five times between 2010 and 2015.

c. According to KPMG, only 27% of chief compliance officers strongly agree that their organization’s compliance function has a change management process in place to both identify and incorporate regulatory and legal changes and to integrate those changes into their policies and procedures.

Negative Consequences: Financial penalties and reputational damage that destroy shareholder value.

Future State:

Position your organization with the ability to achieve improved governance, risk and compliance standards by:

- Increasing visibility of important dates and accountability for the actions that need to be taken by individuals/teams in order to maintain good standing.
- Building confidence in compliance with regulatory requirements, internal policies, and external obligations by implementing controls to demonstrate compliance and always being audit ready.
- Better controlling regulatory filings via direct statutory form creation and electronic filing. This also increases operational efficiency and reduces money spent on external providers.
- Collaborating across teams in order to quickly and easily handle business requests that rely on access to entity information.

Positive Business Outcome: To oversee governance and compliance performance, organizations and their directors must put in place a system of processes to communicate, control and oversee the business. It is also critical to bring the right people together to discuss the most important items. Investment in the compliance function – and in software that helps support its operational efficiency and maturity – is associated with increased top and bottom lines in addition to a reduced danger of organizational and reputational risk.

3. Reporting deficiencies

Current State:

Without adequate governance, risk and compliance information, multiple stakeholders are at risk of making consequential bad decisions that will adversely affect their organization.

a. According to KPMG, only 47% of chief compliance officers say that their organization has an enterprise-wide reporting system across functions and business units that integrates with compliance monitoring.

b. According to Ventana Research, companies spend an average of 18 hours each month modifying, consolidating, correcting and updating information in their company-created spreadsheets.

c. A Forrester Consulting study showed that nearly 1 in 5 governance, risk and compliance professionals depend on spreadsheet accuracy to inform their critical business decisions.

Negative Consequences: Reputational damage as a result of a compliance or governance failures which ultimately result in destruction of shareholder value.

Future State:

Organizations achieve new levels of performance by putting the right information, analytics, and insights at their fingertips by:

- Improving operational efficiency and decision making by surfacing the necessary information in the right format to the right people via secure rooms and user provisioning to maintain high levels of data security.
- Increasing profitability by allowing organizations to think proactively about how best to align their legal entity structure with their business strategy and eliminate components that are irrelevant as the business strategy evolves.
- Demonstrating compliance against a range of business, regulatory, legislative and/or contractual requirements using best practice frameworks and standards to understand your organization's compliance, capability and maturity.

Positive Business Outcome: Organizations can manage Governance, Risk and Compliance (GRC) activities with efficiency and speed in order to perform at the highest level and deliver long-term success and sustainability.

4. Inefficient processes

Current State:

Legal teams are being asked to do more with less, and they need to find a way to increase output without increasing headcount.

a. According to Gartner, Legal departments that standardize legal work have a much lower legal spend than their peers. Lower cost legal departments take steps for sustainable savings; their investments, not their cuts, differentiate them. Companies that invest in legal operations have 30% lower legal spend than companies that don't, illustrating the functional benefits of the legal operations profession.

b. According to Deloitte, getting entity management right provides a real return on investment. Cost savings come from the reduction of effort necessary to gather, file and publish the correct compliance data, from reducing the need to identify and correct filing mistakes, and from the elimination of fines and other penalties arising from missed deadlines and incorrect filings.

c. According to Competitive Enterprise Institute, $10,000 is the average regulatory costs per employee for organizations, regardless of size.

Negative Consequences: Bad entity and compliance management practices result in bad data, and bad data causes operational inefficiencies resulting in increased data maintenance costs, heightened corporate risk and loss of internal credibility.

Future State:

Increase department productivity and help organizations modernize their legal operations with better processes by:

- Streamlining the entity onboarding, dissolution, and significant change process with workflows for better execution and enhanced visibility across departments.
- Ensuring that regulatory requirements are met in an accurate and timely manner.
- Increasing operational efficiency and reducing money spent on external providers via statutory form creation and electronic filing.
- Improving data validation and information oversight with data entry and data review workflows for four eye reviews and notifications for when information in the system is changed.
- Adding external data validation points via APIs and/or feeds to confirm information accuracy and leveraging up to date information from third party systems.
- Collaborating across teams by unifying different sets of data from multiple business units in one single source of truth (for example: Signing Authority for Finance, Bank Details for Treasury, Business Licenses for Legal, etc.).

Positive Business Outcome: Getting entity and compliance management right provides real ROI. According to Deloitte, cost savings come from the reduction of effort necessary to gather, file and publish the correct compliance data, from reducing the need to identify and correct filing mistakes, and from the elimination of fines and other penalties arising from missed deadlines and incorrect filings. Greater efficiency allows highly paid resources to focus on creating business value rather than fixing mistakes.

How good entity governance enables sustainable growth, stronger profitability and a better brand reputation.

In conclusion, good governance looks different for companies depending on their size and industry; however, the role that good governance plays in compliance, risk management, business performance and sustainable growth is critical to all. Good governance cannot happen without an accurate corporate record where all essential governance and compliance teams can reliably and securely access the latest entity and subsidiary information.

Investment in the governance and compliance function, and software that helps accelerate its maturity and operational efficiency, will enhance an organization's ability to achieve the three most important goals of any business: growth, profitability and brand reputation.

1. Support sustainable growth

Good governance practices can increase your company's long-term viability, enhance the business' value, and pave the way for growth.

2. Ensure profitability through better practices

Good corporate governance is a key driver of sustainable corporate growth and long-term competitive advantage.

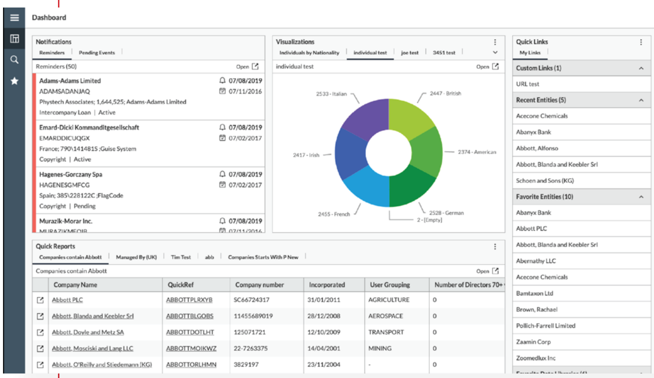
3. Protect brand reputation with enhanced processes

Manage the risk of legal or regulatory sanctions that result in material financial or reputational losses.

Elevate Your Entity Management to Strategic Governance Operations with Diligent Entities

The corporate structure is a constantly evolving picture. It is an enormous task to maintain the integrity of the data and ensure ongoing accuracy. Diligent Entities streamlines this task significantly by setting guardrails for data entry, user access controls, as well as integrating with third party platforms such as HR systems for data validation.

By storing your corporate record in the cloud, you are ensuring that your team are able to access your entity information anytime, anywhere and on any device. Dashboards and automated reporting put the right information, analytics, and insights at your team's fingertips; allowing you to improve compliance, make better informed decisions and help grow your organization sustainably.



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For more information on Diligent Entities and how Diligent is pioneering modern governance, contact us:

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