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Executive Whitepaper: Connecting Content to Compliance

Managing the Complexity with Confidence

This paper portrays the current regulatory environment and one of the key challenges facing the modern regulatory practitioner within a large financial services provider.

The current regulatory environment

The compliance challenge facing financial services companies has never been more complex, nor more burdensome. Regulatory requirements are not destined to get any lighter in the foreseeable future and are often described as simply 'the cost of doing business' in financial services by senior management.

Extensive lobbying by the senior management of some of the most powerful players in the market has been heard by governments and regulators alike. However, the accelerating pace at which markets and products are developing leaves little doubt that regulatory change will remain a constant in the daily fabric of the modern Legal and Compliance Department.

The role of the Legal and Compliance Department and the challenges it faces have changed dramatically in the last five years. Regulators have become more exacting and have generally adopted a more aggressive approach to enforcement, while additional external pressures related to more stringent governance and risk management have increased the responsibilities of Legal and Compliance Departments.

The risk to professional reputations has increased as media interest in and coverage of regulatory scandal has grown. Governments have insisted that regulators enforce regimes that make individuals, including senior management, ultimately accountable for regulatory deviance or negligence.

This regulatory heat has released much needed budget for compliance purposes, focusing C-level executives on the heightened interest in regulation and raising the importance of the Legal and Compliance Department throughout institutions. This team is now seen as an overall protector of the brand, acting as the Praetorian Guard to the C-level managers, and a robust shield against external forces. Proficient compliance executives need to be excellent judges, applying risk-based compliance, especially in regimens that rely more on principles than prescription.

Good compliance can be hindered by restrictions placed on resource, budget, expertise, and the cultural approach to compliance projected by senior management. There is a notable limit to the talent pool of quality regulatory practitioners with requisite experience. Budgets for tools and vendor solutions to assist regulatory teams are not endless. Some Legal and Compliance Departments are also frustrated by an obstructive, outdated or uninformed attitude towards compliance by their senior management. Every Legal and Compliance Department is facing these challenges in differing proportions.

Global standards, global application

Regulation is converging internationally; growth, technology, consolidation and the dissolution of international borders are each making financial services business an accessible option for a larger group of banks, broker-dealers and fund managers than ever before.

These opportunities create new issues in the areas of compliance, standard setting and communication. The demand for harmonized rules has created the desire for one international set of standards per organization. In practice, achieving this goal is particularly tricky although many global institutions are now striving for more consistency across the enterprise.

The status quo in a modern Legal and Compliance Department

Senior management, and now more than ever the business lines of the institution, are ultimately responsible for their organization's compliance effort, its pervading culture, and the supervision of all employees. They can expect to receive advice from the Legal and Compliance Department on the design and implementation of processes around these requirements, however ideally this team should retain some level of independence as a consultant body to the senior management and business lines of their organization.

Many institutions face scrutiny from multiple regulators with a local, national and international purview. These often adopt different approaches, apply different regulations and sometimes tax the regulated with duplicative examinations.

Most institutions now need specialists within their legal, compliance and risk management teams to cover the multitude of demands and regulatory environments. The days of the all-seeing, omniscient, multi-hat wearing compliance officer in larger institutions are very much over.

The modern Legal and Compliance Department can no longer survive without making some investment in regulatory tools and technology. Automation is becoming the most viable solution to some of the expansive requirements that regulators have now created.

Compliance at the speed of need

Compliance needs to be a real-time application upon which the business lines can rely. A busy institution needs 'live' advice and guidance in order to compete effectively as business can be lost if decisions are not made in a timely fashion. Once dubbed as the 'business prevention department,' organizations now recognize that a quality compliance team and effort can help to win business, deliver a better outcome, create confidence in the client, enhance the reputation of the



institution and affect the bottom line. However, speed must not be pursued at the expense of accuracy.

Time is crucial. It is the scarcest resource available in the Legal and Compliance Department. The need for clarity and efficiency, always combined with accuracy, is paramount.

The Key Compliance Challenge - collate, evaluate, translate, update, disseminate, educate, demonstrate

Legal and Compliance Departments wrestle with the volume and complexity of regulatory change on a daily basis. There have been more than 50,000 changes to the UK FSA's Handbook since it was published in 2001. Between October 2006 and January 2007, the FSA produced 4,000 pages of amendments in legal instruments. For example SUP 16.1 has changed 13 times since November 2001 (http://www.complinet.com/global-rulebooks/display/display.html?rbid=74&record_id=49324). NASD made 135 rule filings in 2006. AMEX Rule 903 has changed six times since June 2005 (http://www.complinet.com/global-rulebooks/display/display.html?rbid=1182&record_id=2371).

Changes can impact an organization's business in different ways and different proportions. It is one of the core responsibilities of the Legal and Compliance Departments to be alert to all regulatory change from all relevant sources. It must evaluate this change in terms of how much it affects existing or future business, interpret the change and contextualize it before deciding who needs to be informed of the change and the appropriate type of communication that befits it.

Further to this, a decision will need to be made as to whether policies and procedures need to be amended, which interest groups need to be apprised of this update and whether it is necessary to train such interest groups further, especially if the change is significant. This entire process needs to be comprehensive, methodical and continual. Regulators will want to see the process in action and evidenced.

Progressive teams will spot significant regulatory change well in advance of its impact. This will allow them to successfully lobby against it, alert their senior management to its impact and effective date and then prepare the rest of the organization for its impact so that compliance is achieved by the effective date and new procedure is updated and in place in accord with this.



Traditional approaches in a disconnected world

The regulatory burden is intensified by an organization's traditional approach to staying apprised of live change. In short, risks and costs mount quickly when employing high-end legal and compliance experts to scour a plethora of external websites and data sources. This is not an efficient use of an extremely valuable resource.

The loss of utility when attempting to link change - related to new rules, a speech from a prominent regulator, an amended procedure, a required training course or a recently sanctioned entity - and to then communicate this via traditional mechanisms, is significant. Existing applications do not easily lend themselves to the necessary workflow.

The Legal and Compliance Department loses inordinate amounts of its most precious commodity - time - attempting to fulfill this daily obligation through an ill-fitting and unsuitable combination of human resource and technology not designed for the purpose.

The legal and compliance practitioner is confronted by a daily blizzard of data. This data is raw, unrefined and not connected to equivalent external data or to the internal systems of the organization. It tells no story, has no color and no context. It adds no value. Expensive resources are required to scan the multitude of external sources to find this data, sift it, stitch it together, weave it into the internal systems and finally to communicate it. In this day and age such resources would be far better used on proactive compliance projects.

The consequences of non-compliance

Enforcement has become a favorite topic of the financial media as high-profile regulatory scandals have damaged the reputations of individuals, institutions and even entire national financial services marketplaces.

Censures vary in size and severity. Individuals have lost their jobs and their ability to continue to work in the financial markets. Institutions have been banned from doing business and many have had their bottom line affected by regulatory actions. The pain does not stop here either. Legal costs and further liability to affected clients and shareholders should not be underestimated.

It is no wonder that many Legal and Compliance Departments have their bonuses based on the avoidance of regulatory hits that their organization suffers each year.



Regulatory failure leaves additional scars which take time to heal. Regulators may require some form of remediation and will be more exacting during future examinations and less forgiving. A mishap can quickly disrupt the confidence engendered by a previously sound and robust compliance culture which is supported by informed senior management and delivered by an experienced, well funded Legal and Compliance Department employing demonstrable and effective systems.

Is aggregation an acceptable alternative to connection?

Advances in technology and the birth of niche web services allied with the improvement in the output from external regulatory websites, have empowered the regulatory practitioner's ability to receive bespoke data. However it is debatable as to the true value of this.

This form of aggregation is actually nothing more than an efficient way for legal and compliance professionals to find out what their peers (and sometimes themselves) were doing wrong. The reactive nature of this information, while educating the regulatory practitioner, rarely serves to prevent non-compliance; in reality it tends to alert organizations to its inevitability.

It is after the event. Ancient history. Too late. It is not the proactive approach to risk management demanded by progressive institutions in the modern markets. Resources are wasted reading about the past when it is the present and future that could hurt the enterprise - the change that is taking place now and that looms just ahead.

Aggregation adds minimal value. Aggregation services deliver data in a one dimensional format without any sense of relevance. This may reduce time spent tracking multiple sources but more information does not solve the fundamental need for being better informed.

This raw data still requires analysis and interpretation. It still needs to be aligned with equivalent data internally and then distributed to ensure the right outcome. This approach makes it very tough to decipher what an organization may be missing. In reality, they don't know what they don't know. Aggregated content is the elevator music of the compliance industry; connected content is more akin to a video iPod.

What does connection mean?

Connected Content is built upon the idea that every regulatory change or event around the world, be it a rule proposal or a statement from a key regulator or a new sanction or an enforcement

action, has some collateral impact in differing proportions to a number of large international financial services institutions.

Policy and the future approach to regulatory practice on a macro level will be influenced to some extent by micro changes that occur in the regulatory landscape on a daily basis. Trends and themes emerge and form mini-cultures, shaping best practice, driving collaborative thought on rule promulgation. This is a global phenomenon now.

Connection offers context for any change and immediately adds value, linking it to relevant procedures and views in an organization, allowing internal reviewers to relate new practice to the existing approach and beginning the evaluation process required to tackle the change.

This precise relationship between the ever-changing regulatory landscape and up-to-the-minute internal policies is critical if an institution is to attempt adherence to the governing rules and regulations. The impact of change does not stop here, however. It flows through everything that the organization does. It could potentially affect the launch of a new product, the suitability of existing investments for current clients, recruitment priorities, budgeting – the ripples through the business can often extend well beyond the initial assessment.

Connection is everything and it means the world to us at Complinet. Applying a disciplined approach to the evaluation of regulatory change allows the institution to compare like with like and immediately create a snapshot of the existing approach within the institution.

This gives the organization a significant head start in amending internal process to account for the change where this is necessary. This dynamic approach reduces risk considerably and validates the efficacy of the organization's systems and controls.

The automated agents are working for the organization while the human resources are attending meetings, industry conferences, sleeping, taking vacation etc. Static elements that previously required human interaction are given movement and workflow is initiated.

Taxonomy is your auto-pilot

Applying a standardized taxonomy to the process allows the organization to file change in a consistent fashion. This optimizes searching, as well as aligning new content and change with existing policy and the current approach, allowing internal staff to quickly survey the possible impact.

This is the heart of the distillation process and is the key to refining the data into categorized, connected, filtered packets so that it can swiftly be consumed by the organization. There is no limit

to how much data can be dropped into the taxonomy; the beauty is in the end product, a valuable commodity that is personalized according to the type of institution and ready for distribution to the needy within that organization.

The taxonomy flows through everything the organization does. From policy setting to client screening, to recruitment and continuing education, using smart lexicons, filters, weighted scoring, and leading to the creation of workflow, facilitating a shared approach to the creation, distribution and consumption of policy change throughout the enterprise.

The ultimate goal is connected compliance where a morass of convoluted data and change has been given a level of relevancy before it has even been touched by human hand, given its place in the daily business of the enterprise and already on its way through the process of interpretation and dissemination, to understanding and audit.

Foregone versus foresight

The fundamental aim for every compliance professional is to sleep well at night. Every day an institution or its representatives will break at least one rule. Every day. We know that. Legal and Compliance practitioners know that. Regulators know that.

It is not practical for Legal and Compliance practitioners to peruse every trade, to chaperone every rep and to be at the side of the business every step they take. The creation of the compliance culture, educating senior management and the business lines on regulatory boundaries and requiring supervision of those closest to impending risk, are the only realistic and practical approaches to modern compliance.

Regulatory awareness increasingly requires the bottom-up approach (educating everyone from the lowest levels of the organization up on their regulatory requirements and that of the enterprise). The previous top-down approach (Legal and Compliance types scolding miscreants after the event) simply isn't constructive.

Effective and continual education is the secret here. Intelligent content allows the Legal and Compliance Department to inform the business lines of the appropriate behavior before the event. This is the best answer to sleepless nights; confidence that the executives will know what they can and cannot do without the Compliance Officer having to constantly peer over their shoulder.



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Complinet's value – the ultimate benefits

Enterprises using Complinet's Connected Content are always prepared for change and never surprised by it.

It serves as the institution's early warning system, an intelligent agent demanding the attention of decision makers within the organization, leading to a fully integrated approach, a connected solution, a compliant institution with time to compete to its optimum.