Improving Entity Governance Through Technology

Executive Summary

The regulatory environment is getting increasingly rigorous and demanding, entity managers and corporate secretaries need technology to support their roles in order to just remain compliant, particularly for those organizations operating in multiple jurisdictions. The technology they choose needs to not only help them store and manage their data, but they also need to figure out a secure way to share information across the organization, whether that's internally, externally or with the board.

Good governance today is about getting the right information to the right people at the right time, enabling them to ask better questions and to make better decisions – but how does that look in these large, cross-jurisdictional organizations? And are smaller companies any different?

Entity Governance 101

Each time the decision is made to start or grow a business and an entity is formed, this brings with it ongoing regulatory compliance and administrative maintenance. For governance professionals, it is good practice to have a justification policy to ensure that this decision is well thought out and to help optimize the corporate structure.

Once created, the day-to-day process of the ongoing maintenance covers staying up to date on the responsibilities – fiduciary, regulatory and statutory – of the entity and its directors, officers, managers and partners. Entity managers must actively maintain and manage the corporate record to support all transactions, filings, reports and audits to fulfill these responsibilities.

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Things stray into entity governance territory when you consider the more advisory role that entity management can play. The facts, documents and other information collected and reported as part of entity management forms the corporate record, and it's this record that helps to inform the decisions taken at board level.

Corporate governance is the system by which companies are directed and controlled; it's about what the board of a company does and how it sets the values of the company, something distinct from the day-to-day operational management of the company.[1]

Governance, then, is the realm that examines the style and quality of leadership within each entity and across the organization.[2] It's not just about who has the power to make decisions; governance allows an entity to have appropriate decision-making processes and controls in such a way that balances the interests of competing stakeholders while maintaining effective management, clear lines of communication and a good relationship with regulators.

How does technology drive entity governance in the modern organization?

These governance processes and controls require a tight rein to ensure smooth running. Many entity governance managers have traditionally used spreadsheets and filing cabinets to store and track the corporate record, but these methods are fraught with risk – risk of human error, risk of corrupt or incomplete records, risk of leaving confidential corporate information in danger of being accessed by people who should not see it – and basing corporate strategy decisions on risky information does not make good business sense.

Technology platforms such as entity management software and board portals have emerged as a solution to mitigate these risks and more – a way to ensure that the "right information, right time, right people" paradigm is met efficiently and in a highly secure way. Entity governance can be hugely improved through the use of technology. In this white paper, we'll explore just how technology can support your entity governance objectives while driving a better, more robust approach to modern governance.

Increase transparency and accountability

How can technology create a single source of truth to enhance the accuracy of entity data?

What's the governance need?

Entity data lies at the heart of so many routine business processes, yet many organizations keep that essential entity data in multiple locations. It might be that the corporate structure is stored in a spreadsheet, while contracts are found in a shared network drive and director information is locked away in a filing cabinet. Information about each entity may be held locally, and the tax department may hold the tax codes and even have a different name for the entity on record.

The issue with this type of fragmented approach to entity governance is that it can hide governance issues from view. Without an easily accessible overview of the entire structure, the interplay between entities could be setting the organization on a collision course with regulatory requirements, or even between internal departments.

Transparency of information is key to modern governance, and those in charge of entity management must have an up-to-date and real-time overview of the current state at all times. This then helps them to hold responsible directors to account for their roles in governance processes, and to advise the board on the status of entities to enable strategic decision-making. This real-time overview cannot be easily gained from spreadsheets and filing cabinets.

What's the role of technology?

Entity governance technology drives more transparency and instills a sense of accountability by creating a single source of truth for entity information, which means all those who access the corporate record know exactly where things stand.

Technology enables governance teams to put in place workflows for entity creation and dissolution, as well as the ongoing management of the entity. Dashboards display the current state and flag any risks, while notifications are sent to those responsible to move the workflow along – the ultimate in taking accountability for your role in the process. Some entity governance platforms even let entity managers file documents directly with the appropriate regulators, creating efficiencies in compliance.3

Using entity governance technology creates visibility across all teams – from tax and finance to legal operations – including where their work and needs may intersect.

In practice:

You're undergoing an entity rationalization process and have targeted an entity in jurisdiction A for winding down. Without transparency of all information about that entity, you could miss that its establishment was tied to a grant given to the parent company. Winding down the entity would actually cost the company millions in lost grants instead of saving money.

Promote efficiency and break down silos

How can technology get everyone on the same governance page?

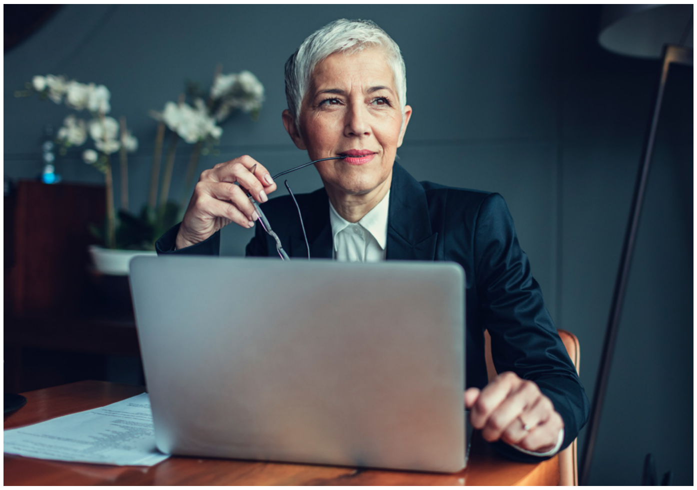
What's the governance need?

With the increase in regulation, the volume of data that needs to be collected and reported on increases. If this is done manually at any stage, it becomes inefficient. Re-keying between systems also would introduce errors that could result in inaccurate reporting and non-compliance. For most corporate secretarial departments, the staff numbers are kept lean and to spend all those man hours on data entry is a woeful misuse of their skills.

Just as there's a need for transparency of the corporate record to drive accountability among the business's responsible people, there's also a need to get everyone in the business singing the same tune. The drive to get the right information to the right people at the right time is a bid to break down internal silos both within an entity and across a structure, and to enable more efficient working.

Entity managers working in the corporate secretarial department are often overloaded with enquiries from around the business. They have traditionally worked from a variety of different systems and processes to track and retain information. However, these repositories have often been network- or office-based, available only to those with immediate access and often hidden from many who either need to consult them or who could help improve the record-keeping. For example, the internal accounting team prepares the annual accounts for filing with the relevant jurisdictional bodies, but without access to, say, the tax position across the structure or the books held by the treasury team, those annual accounts risk being inaccurate or quickly out of date. If that information is owned by the entity managers, then they will spend a large part of their time hunting down information for different teams across the business.

Siloed working can be a major hurdle for strong and robust entity governance, and inefficient working can be a waste of time and money, while causing inaccuracies in the corporate record or even missed filings, which can impact the entity's good standing, leaving it at risk of reputational damage and loss of investor faith.



What's the role of technology?

Modern entity governance technology, such as an entity management system, can automate manual tasks and provide the bridge between teams that gets everyone on that all-important same page. By getting all teams working from the same platform, they can have direct access to the information needed to complete all essential compliance tasks while also being able to get the right information to the right people at the right time.

These platforms are not a free-for-all, either – the platform's administrators can lock down access so that each user can only see the information relevant to their own role, meaning they can't accidentally delete or change data that isn't related to their area of expertise. Secure file-sharing technology enables teams to share information with third parties, such as auditors, regulators, investors or potential M&A teams while also locking down their ability to view documents or information for a chosen length of time. Integration with a board portal means entity information can be shared with the board securely. Outside the board meeting, documents, such as resolutions and minutes, need approval and an eSignature solution helps speed up the inefficient process of gaining signatures on documents.[4]

In practice:

A change in directorship requires the new director to sign a contract, but they're located in another country. Pre-digitalization, the entity manager would have had to prepare and print the contracts to be sent by post or courier to the new director, who would then sign the document and send it back to the entity manager for filing. Entity governance technology makes this more efficient by enabling contracts to be prepared in-platform before a notification is sent to request an esignature, and then the signed document is filed in the platform – taking hours rather than days or even weeks.

Achieve better security to combat cyber risks

Does the corporate record need to be kept to the same high security standards as the rest of the company's essential data?

What's the governance need?

Cybersecurity is a clear priority for most organizations today, but its application can vary depending on who takes responsibility and where they focus their efforts. Much can be done to erect a firewall and stop hackers from getting into the network, but data breaches are becoming more commonplace – from the well-documented issues at Facebook5, to the theft of 25 million passport numbers (5 million of which were unencrypted) during a data breach at the Marriott hotels group.6

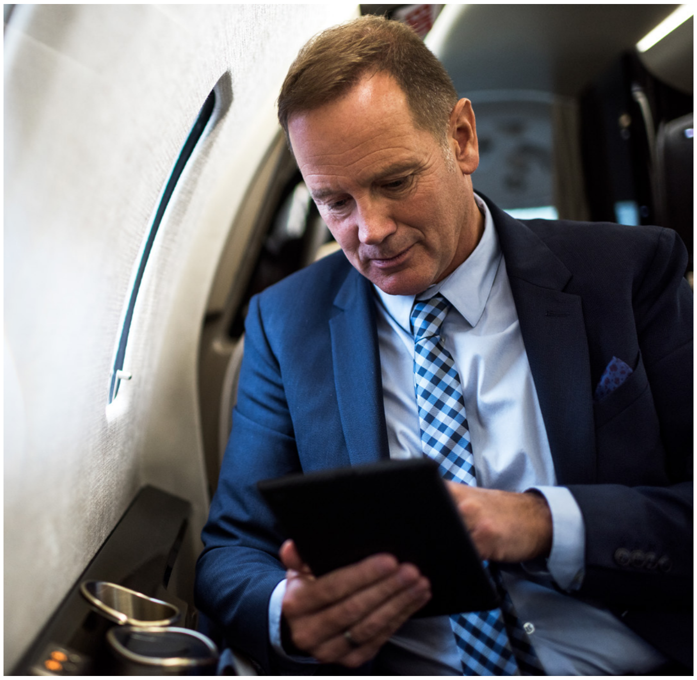
Sometimes, even with a major focus on securing the company's data, the corporate record itself can languish, forgotten by the security team because they're not necessarily aware of what's inside. The board books will be kept under lock and key, but not the corporate record – those articles of incorporation, bylaws, lists of directors and their personal details, all of these are just popped into an Excel spreadsheet and uploaded to the internal Sharepoint system. And that represents a huge chasm in entity governance that needs to be crossed and closed.

On the flip side, some organizations outsource the keeping of their corporate record to registered agents, many of whom have built their own software platform to improve efficiency for their own teams. But these registered agents aren't specialists in software or cybersecurity, and the organization's own security specialists can't control how their company's data is held by these agents.

There is a clear entity governance need for robust, highly secure systems – but ones that don't impinge on the other entity governance requirements for transparency, easy access from anywhere and an ability to bridge any internal silos.

What's the role of technology?

Cybersecurity is not just a matter of protecting confidential corporate information, it's also a matter for compliance – there are numerous regulatory requirements around the world, from the European Union's General Data Protection Regulation (GDPR)7 to the Gramm-Leach-Bliley Act (GLBA)8 requiring US financial institutions to explain how they share and protect customer data. And where there is a regulatory requirement, there is a need to prove compliance.



Modern entity governance has been bolstered by cloud-based technology, which enables the "right information, right person, right time" paradigm in an efficient and highly secure manner, though some CIOs are still nervous about storing such essential corporate data with a SaaS provider. Cloud service models have matured substantially over the last decade, with the US federal government even using AWS public cloud services to run the country. Likewise, cloud-based platforms and SaaS technology providers can actually help organizations to be more compliant, with certain regulations requiring data owners to store PII or NPI data within specific geographic regions or countries – SaaS data centers have the flexibility to accommodate these needs and to help the organization to be compliant without needing to spend millions installing their own on-premises servers around the world. Technology providers can actually take the compliance burden off an organization.

In practice:

The details of directors across the structure are held in a central repository for easy access. However, that central repository is an Excel spreadsheet in the team Sharepoint, and it can only be accessed by the company secretary and legal operations team who must field constant requests for information. Moving to a cloud-based entity management system means that those who regularly request this information can access the details online without asking the company secretary. Admin controls mean that those people can only see the details they are legally bound to see, and the information can also be locked down so they can't accidentally edit or delete an entry, thus assuring the integrity of the corporate record.

Think more strategically

How can strong, efficient entity governance leave more time to think about the bigger picture and make the right decisions for the future?

What's the governance need?

Those who look after governance and compliance in an organization are often some of the busiest and most-bothered people on the payroll. It's their role to ensure the right information gets to the right people at the right time and in the right format for the company to retain its good standing, its stakeholder and investor confidence, and its reputation. But that can mean they are constantly reacting, not able to have the space to think proactively about how to improve compliance and governance.

That strategic thinking is essential for business growth, because companies with strong corporate governance can make better, more informed decisions – and all of this leads to more growth and ultimately more revenue and profit for the company. Robust entity governance and entity data can have a direct correlation to all manner of business strategy.

Strong, efficient entity governance – and a confidence that the processes surrounding entity data are working for the company, not against it – can directly impact business strategy. The information can inform the board's decision-making, while making sure the compliance, governance and legal operations teams can gather that information efficiently and store it securely is of paramount importance.

What's the role of technology?

Entity governance technology plays a role in strategic thinking by enabling efficient processes and workflows and making information more easily accessible, all of which gives the time and space to think proactively about the organization and not have to scramble and hope that this document is the correct and most recent version of events.

Technology allows general counsels to run reports on the projected impact of strategy decisions; it allows paralegals and company secretaries to get access to the data they need to answer questions during the board meeting; it enables risk reporting and easier regulatory filing and generally more efficient working in the governance and compliance field. And that gives everyone in the business – from the frontline to the board room – both the space to think about the bigger picture, and the data needed to inform those decisions.

In practice:

An acquisition opportunity has emerged in Jurisdiction X, which would allow the organization to grow its presence in the market. But regulation in that jurisdiction requires a certain level of distance between the parent and subsidiary boards, a certain number of independent directors, and limits the amount of foreign ownership of any local entity. With entity governance technology, the legal operations team can create an organizational chart that highlights any risks in ownership and directorships, while also providing access to the current financial position to assess the opportunity in an informed manner.

Conclusion

The days of having filing cabinets full of documents hidden in a basement are long behind the world of entity governance; technology has made this world more efficient, more secure and more robust. Entity governance technology enables a single source of truth to be established for any organization, along with automated workflows, scheduled reports, prompts and notifications, which, in turn, helps those in the business to focus beyond the day-to-day operations and think more strategically about growth.

Entity governance technology can improve operational efficiency and mitigate risk, improving the integrity of entity data and the efficacy of corporate governance. Entities with good corporate governance tend to outperform competitors because they can make better decisions, which leads to more revenue. Together, these render the question of whether your organization should adopt that technology a moot point. Entity governance is vastly improved through technology, and that makes good business

For more information on this module and how Diligent is pioneering modern governance, go to:

https://diligent.com/es/nombramientos-consejeros/

About Diligent Entities

Diligent Entities helps organizations to centralize, manage and effectively structure their corporate record to improve entity governance to better ensure compliance, manage risk and improve decision-making through an integrated governance solution. Entities offers the most comprehensive integrated entity governance solution to address three business challenges:

1. Increase operational efficiency by connecting entity data, documents, individuals, business units, tasks and third-party platforms to more effectively manage the corporate record.
2. Mitigate risk and help ensure compliance with the confidence that you are meeting your statutory requirements.
3. Ensure smarter, less costly and more effective decision-making.

Diligent invests more in its Entities application than any other provider to drive forward better governance for its clients.

Diligent Entities proudly partners with:

- 5 of the Fortune 10
- 30 of the Fortune 100
- 80 of the FTSE 100
- 115 of the FTSE 250
- 21 of the ASX 30

We have a 98% client retention rate, the highest in our industry, achieved by providing superior customer service and support.

Footnotes

1. https://www.icaew.com/technical/corporate-governance/principles/principles-articles/does-corporate-governance-matter
2. https://insights.diligent.com/entity-governance/the-relationship-between-corporate-governance-and-entity-management/
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6. https://techcrunch.com/2019/01/04/marriott-five-million-passport-numbers-stolen-starwood/
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8. https://digitalguardian.com/blog/what-glba-compliance-understanding-data-protection-requirements-gramm-leach-bliley-act

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