The Evolution of Governance Reporting for Corporate Secretaries

Diligent

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Executive summary_

There are few people more central to how an organization runs than the corporate, or company, secretary.

The corporate secretary is more than just the person responsible for the efficient administration of a company. Instead, they fulfill a "strategic position of considerable influence at the heart of governance operations within an organization," according to ICSA. The corporate secretary's role extends across corporate law, finance, governance, strategy and the corporate secretarial practice itself. They have the ear of the Board, providing support and advice to the Chair, the CEO and the non-executive directors.[1]

This is no mere clerical or secretarial duty; the corporate secretary ensures that an organization complies with relevant legislation and regulation, and keeps board members informed of their legal responsibilities. They are named on representative legal documents, and it's their responsibility to:

- Ensure the company and its directors operate within the law
- Register and communicate with shareholders
- Ensure that dividends are paid
- Maintain the corporate record
- Monitor corporate governance

Local regulations in many jurisdictions have specific requirements for the corporate secretary role, and private companies have traditionally been required by law to appoint a corporate secretary, who could also be a senior board member[2] – yes, the corporate secretary is so important to compliance and governance that their duties are often mandated by codes of conduct or even local law. For example:

- According to the July 2018 UK Corporate Governance Code, "All directors should have access to the advice of the company secretary, who is responsible for advising the board on all governance matters. Both the appointment and removal of the company secretary should be a matter for the whole board."[3]

- The US Society for Corporate Governance believes that "its member corporate secretaries are in a unique position to provide value to their Chairmen and Boards of Directors by being their company's Chief Governance Officer, in fact, if not also in title."[4]

- In Australia, the ASX Corporate Governance Council's Corporate Governance Principles and Recommendations state that: "The company secretary plays an important role in supporting the effectiveness of the board by monitoring that board policy and procedures are followed, and coordinating the timely completion and dispatch of board agenda and briefing material... The appointment and removal of the company secretary should be a matter for decision by the board as a whole."[5]

Yet, as organizations have gotten increasingly international, as they've built complex subsidiary structures that need closer attention, and as the compliance burden has grown, the role of the corporate secretary hasn't necessarily evolved. It's moved from a simple matter of facilitating the board to something more akin to an orchestra conductor, getting each section of the business working toward the same governance processes and ensuring the organization's regulatory duties are in hand.

So, what's happened to the role of the corporate secretary in recent years? And how has that governance reporting burden evolved?

The expanding role of the corporate secretary

The word "secretary" here can conjure images of someone who schedules meetings and takes minutes, and while this is part of the corporate secretary's role – though the minutes and scheduling are specific to board support – the remit has expanded over the years. Today, the corporate secretary has moved beyond Chief Administrative Officer to become more of a Chief Governance Officer.

The UK's Cadbury Report (1993) – issued by The Committee on the Financial Aspects of Corporate Governance, and used to establish other codes such as those of the OECD, the European Union, the US, the World Bank and more6 – stressed the importance of the role of the company secretary in relation to governance:

> "The company secretary has a key role to play in ensuring that board procedures are both followed and regularly reviewed. The chairman and the board will look to the company secretary for guidance on what their responsibilities are under the rules and regulations to which they are subject and on how these responsibilities should be discharged. All directors should have access to the advice and services of the company secretary and should recognize that the chairman is entitled to strong support from the company secretary in ensuring the effective functioning of the board."[7]

The duties of the corporate secretary can be many and varied, depending on the shape and purpose of the organization, but all roads eventually lead to governance. Public companies may find listing rules include instructions for corporate governance, the oversight of which falls to the corporate secretary, while multinational organizations will undoubtedly require more orchestrating than a small, local company. For example, NASDAQ has four sets of listing requirements, and each company must meet at least one of the four requirement sets as well as the main rules for all companies, which include minimum trading numbers and prices.8 The corporate secretary's role will be to monitor and maintain compliance against these requirements to ensure the company doesn't run afoul of the exchange's rules and risk de-listing.

Conducting the compliance orchestra

The corporate secretary needs to get the organization playing in harmony, despite the very different instruments involved. This means they must not only maintain the corporate record, but must ensure corporate governance processes and policies are adhered to across the organization.

Administration: There is still a strong and necessary administrative element to the corporate secretary's role. They are responsible for scheduling board and committee meetings and the Annual General Meeting (AGM), and also for taking minutes of these meetings and ensuring safe, accessible storage of those minutes. They usually take responsibility for subsidiary management, stock transfers and dividend distribution, and shareholder engagement. Securities market listings and compliance with any listing standards, as well as regulatory compliance, usually fall under their remit, too.9 Importantly, administration includes acting as the governance liaison for officers and directors.

Record-keeping: As the keeper of the corporate record, the corporate secretary must ensure all entity data is kept up to date. Whenever anyone internally needs to track a director's details, an entity's compliance status, or ask questions about board papers for the AGM, they're likely to come to the corporate secretary. An accurate corporate record is key when running governance reports; otherwise, board decisions will be made based on out-of-date information. For example, the board might be weighing a potential acquisition to enter a new market. The corporate secretary must facilitate reports from the entity management system to: showcase the current group structure to highlight any potential conflicts or regulatory issues in making that acquisition; check the financial status of the company to assess the economic viability of the acquisition; and get details of board compositions to ensure the talent is in-house to lead the new entity. Teams such as finance, operations and compliance need to access the central record to bring entity data to life for the board to make their ultimate decision based on accurate entity data.

Role	Advantages
Board of Directors	View compliance-related data in order to provide advice on how the organization can achieve or maintain a healthy position
Compliance/Risk officers	View compliance/risk-related data and make sure the organization is in a healthy position
General Counsel	Ensure department is working with good quality data, is on top of tasks, and can adapt to changes in regulatory environment or new circumstances
Security	Ensure security around the data and documents that make up the corporate record
Financial Management	Leverage entity data to assist with tax reporting and financial modeling
Corporate Secretary	Keep companies up to date with requirements, ensuring they can respond to requests from other internal/external stakeholders
Outside Counsel	Easily access the information required to keep company up to date with local filing requirements
Paralegal	Find answers to entity-related questions from key stakeholders faster and with more accurate and up-to-date data.

Supporting the board: Scheduling board meetings, handling voting, taking minutes and chasing actions are all under the remit of the corporate secretary – not to mention general board governance and responsibility for how things are run. Governance must be led from the top.

Shareholder liaison: Whether the company is listed or private, it will have shareholders, investors and interested parties who must be kept up to date with board decisions. The corporate secretary must be aware and keep track of conflicts of interest, ensure dividends are distributed, and stakeholder communications run smoothly. Again, an up-to-date corporate record will ensure any governance reports run for shareholders reflect the current state, and that work with the Investor Relations team is efficient and coherent.

Compliance: Any changes in regulatory responsibilities must be spotted and handled, ensuring the internal governance processes are aligned with any regulatory need. While the corporate secretary is not responsible for gathering and writing, say, the annual financial report, they are responsible for making sure all regulatory responsibilities are being handled and the organization will be able to meet all of its deadlines.

Governance: Responsibilities go beyond just filing reports, of course; the corporate secretary is the gatekeeper for organizational governance. This means the oversight of internal policies for correct and efficient operations, as well as the continuous monitoring of their proper implementation, fall to the corporate secretary. With board members increasingly being held responsible for the company culture they foster – there are few examples better than the recent Australian Royal Commission into the banking and financial sector10 – the corporate secretary must set forth the right behaviors across the board and beyond.

Advisory: From their privileged position, the corporate secretary has access to data regarding the entire organization, so it's no wonder they are considered an essential strategic sounding board and advisor to the board when it makes decisions. The corporate secretary must provide information regarding the current state of the organization and help to inform scenario planning and organizational charting to ensure business strategy and planning are based on good quality information. The corporate secretary, through governance reporting, must ensure the board of directors has the proper advice and resources to fulfill its duties to shareholders.11

Increased breadth and responsibilities

The corporate secretary's role has evolved since the global financial crisis in 2008. Prior to that industry-shaking event, the corporate secretary's role was largely administrative; since then, there has been a tighter focus on corporate governance in all sectors.

As Stone Executive says: "Boards and chairmen in all industries now rely on the company secretary to advise not only on statutory duties, but also on matters concerning corporate governance and effective board processes. The company secretary has gained greater visibility and greater influence in the boardroom."[12]

In a recent survey by Grant Thornton13, 80% of respondents said the role of the corporate secretary had increased in both responsibilities and breadth, with this increased responsibility largely attributed to regulation and the associated compliance.

"As the role of governance changes and progresses, so does the role of the company secretary and those tasked with implementing governance," write Simon Lowe and Jenny Brown in that report. "What was once traditionally viewed as an administrative role is now expanding in some sectors with the company secretary viewed as accountable for the embedding of effective governance practices within the organization. Increasingly, the chair of the board looks to the company secretary to advise them not only on matters of compliance but for effective working of governance practices at board level, how these are manifesting in the organization and finally their impact on stakeholders. Ultimately the company secretary is one of the key governance professionals, and a critical conduit between the board and the organization."

And with greater visibility comes greater scrutiny, too; the corporate secretary today must have a wide range of entity and business data at their fingertips to ensure the right information can get to the right people at the right time and in the right format, whether that's a shareholder, a board member or a regulator. Corporate secretaries are increasingly turning to technology and automation to ensure governance reporting is handled on time and on target.

"If you think the cost of getting data quality right is high, consider the cost of being found in non-compliance by a regulatory body"

The role of technology in governance reporting

As the corporate secretary moves from Chief Administration Officer to Chief Governance Officer, they must harness technology to ensure governance reporting is based on up-to-date entity data, and that reporting can become less manual. This is enabled by the plethora of legal and compliance technology on the market, offering help with everything from scheduling meetings to securely storing the corporate record.

And we're now in an age where the technology involved in governance reporting is reaching the next phase, where automation and machine learning are being introduced to ease the governance reporting burden even more.

Regulatory movements, the increased demand for more transparency from regulators, and the greater emphasis being put on robust corporate governance means that much of the corporate secretary's work is based around running reports for various interested parties. Harnessing technology such as entity management software, board portals and secure file-sharing platforms helps to support the corporate secretary's administrative duties.

For example, board management software allows the board to easily manage agendas, annotations, documents, discussions and minutes quickly and securely, while the cloud-based nature of this technology helps to provide real-time updates to board materials. The highly secure environment enables collaboration between board members from anywhere in the world. Board portals can also support voting, D&O questionnaires and board assessments. By conducting these tasks within a technology platform, the corporate secretary saves time and effort in transcribing and uploading documents to a central repository, and can better enforce the corporate governance code.

Get clear space for strategy by adding a force multiplier

And, of course, with the time saved with these efficiencies, the corporate secretary is no longer spending time chasing documents and answering routine questions. This gives them the space to dig further into governance reporting, to query data and investigate process status, providing them with the time and space to be more strategic with their governance role.

In this constantly moving business environment, the right technology infrastructure empowers the corporate secretary to meet governance challenges head-on and enables the board to gain a competitive edge by having the right information, analytics and insights to spot risks, act on opportunities and turn insights into action.

Technology helps to make sense of tricky structures

In an ideal world, organizations would be structured cleanly, with logical ladders up to the parent entity. In reality, though, companies grow through mergers and acquisitions, and company secretaries inherit structures and they're not always set up in an ideal way. This can wreak havoc for Know Your Customer (KYC) requirements; if a regulator requests to see the supply chain or structure, companies must be able to very quickly surface structures above and below certain entities.

Gemma[14] works at one such company; she talks about how she uses technology to manage her entities:

"We are divisionalized, so not managed from the center. We also can't insist on a governance structure because of this divisionalized nature, but we do have a document that dictates sign-off levels by job title. All of our overseas entities are decentralized, but we have an internal person appointed who is responsible for keeping the legal entity structure up to date within the entity management software. Record-keeping is done at a local level with business units responsible for their own legal entities.

"We use entity management software as the central source of truth for our organization. It helps us to understand what entities are needed and to make sure worldwide information is up to date. Every year we go through a verification process at the center, asking each local responsible person to confirm through the entity management software that they are up to date.

"Using governance and compliance technology helps us to join up different systems and ensure information can flow between different departments. It's been so helpful to go paperless and be able to join up different systems and data sets."

Gemma's company works on a decentralized model, which brings a need to empower subsidiary boards to have the freedom to develop their business in a way that makes sense locally without unnecessary interference from the parent board. This can make local entities more agile and proactive, better able to respond to local conditions.

Companies could also work on a centralized model, where a strong parent board leads a number of largely passive subsidiary boards. Centralized structures involve more direct control and a clear division of responsibilities, but it also risks stifling motivation and slowing down decision making.

Whether governance is directed from the top or developed locally, clear and relevant information flows are essential – that is why entity management technology complements the work of the company secretary.

The evolution of governance reporting: What does the next decade hold for the corporate secretary?

The pace of change is fast, and while the corporate secretary has seen a lot of transformation in the last few decades, the coming years are bound to see even more.

Given current movements, we can assume the global regulator's push for more transparency in business and tax operations is going to keep up, which means the demand on the corporate secretary's time and expertise is going to get greater and greater. How can we ease this burden and give more support to this essential role?

Increased scrutiny and demand for transparency

The regulatory climate right now is one of increasing cooperation at a global level. The Global Legal Entity Identifier Foundation (GLEIF) is on a mission to increase transparency in corporate operations through the implementation of the Legal Entity Identifier (LEI) and by making available the Global LEI Index, the only global online source that provides open, standardized and high-quality legal entity reference data. GLEIF believes each business worldwide should only have one global identity, including a digital identity, and wants to ultimately provide a 360-degree view of financial transactions worldwide.[15]

Likewise, the Organization for Economic Cooperation and Development, or OECD – an intergovernmental body founded to stimulate economic progress and world trade – is in the mood to foster more sharing of information and remove the shadows where shady organizations have been able to hide. Regulation such as FATCA (the US Foreign Account Tax Compliance Act) and BEPS[16] (the OECD's Base Erosion and Profit Shifting project) have led to Country by Country Reporting and the Common Reporting Standard, all of which mean a country's financial and regulatory institutions are increasingly sharing data about shareholders, beneficial owners and tax regimes. Corporate secretaries must ensure the right governance and compliance processes are in place to ensure that what's being reported matches internal data.

Whether this increased scrutiny and demand for transparency is likely to get more intense will depend on what happens in the global economy over the next 12 months. Will the move toward global free trade continue as it has in the last decade? Only time will tell at this point.

The growth of automation

We're already seeing how entity management software can help the corporate secretary by automating electronic regulatory filings and installing workflows to notify the next person responsible for a governance process. Where else could automation help in the workflow? Could we see a platform that automates board information packs based on the information in the entity management software? Perhaps an automatic check for new regulation or training requirements that then updates the governance workflow accordingly?

We can already see the impact that integrating entity management platforms and electronic signatures can have on legal operations, allowing corporate secretaries to more easily capture signatures on important documents by integrating signing into existing processes. Now take automation beyond the company's firewall and imagine the impact if entity management platforms could do health checks against the public record in real time to improve data accuracy, or if they could more effectively scrape publicly available information from, for example, the Nikkei index to provide prescriptive guidance to corporate secretaries on changing regulations and new requirements in specific jurisdictions.

According to the Gartner report Five Investment Lessons from Cost-Effective Legal Departments, about 63% of work owned by in-house US legal teams can be codified and standardized to some degree, even if the workflow cannot[17]. The legal team of the future could work to automate common, repetitive tasks to reduce the amount of lawyer input required, which would then allow them to offload low-value work such as contract reviews and non-disclosure agreements to colleagues and give them time to focus on higher-value work.

In the next decade, we could see more automation introduced into entity management where pre-defined workflows around the creation of new entities and the dissolution of existing ones drive better processes and increase visibility across tax, finance and legal departments.

The shape of responsibilities

The emergence of legal operations has shown that the corporate secretary doesn't have to take on the whole burden of compliance and governance management – there is support available and that support is very knowledgeable about the rule of law. The legal operations role is becoming increasingly common: 34% of legal departments have a dedicated legal operations professional, 70% of which employ multiple people on the team.[18]

These essential helpers typically focus on activities and processes that are distinct from traditional legal work – it's less about writing contracts, more about maintaining technology, building internal knowledge management, tracking spend and joining the internal dots – and companies that invest in legal operations have a 30% lower spend[19]. Will the legal operations role develop to a point that the corporate secretary could act only as a final checkpoint for some of the more resource-intensive compliance and governance work, focusing their expertise at the top tier of organizational strategy?

Artificial intelligence and machine learning

Perhaps the biggest transformation to come is the deployment of artificial intelligence and machine learning into the corporate secretary's day-to-day life. Imagine a system of record that learns a shareholder's preferences and can assume how they would vote in a board meeting, or one that can anticipate the optimal subsidiary structure for a group and then incorporate or dissolve entities automatically.

A recent article in Slate[20] even imagined a world where an algorithm would be able to control an errant, tweet-happy CEO better than human directors. The writer believes that, because directors have limited time to study details and focus mostly on big picture, rather than granular, issues, AI could help human board members transition from high-level supervisory entities to effective micromanagers. In fact, the writer believes that AI could independently monitor communications and flag potential issues, or spot patterns in the market that human eyes could easily overlook.

We may eventually see the day where part of the corporate secretary's role is to feed company and business environment data to AI and machine learning to help guide decision making. The possibilities for AI really are seemingly endless right now, and perhaps the better question is how much control the board – and, by extension, the corporate secretary – is willing to give up to a machine.

Conclusion_

Wherever the world goes in the next few years, we can be sure the role of the corporate secretary will continue to evolve, as will governance reporting responsibilities. Governance and compliance processes will need to remain flexible so that the corporate secretary, and the overall business strategy, can pivot as needed.

To keep that flexibility intact, the corporate secretary will likely continue to push into the realms of technology to streamline operations and improve governance reporting. Entity management and board management software have a key role to play here; the ability to create a central repository for all entity and board data means that the right information can be put into the right hands at the right time to enable better decision making and better-quality data.

Governance technology is the next stage in the evolution of governance reporting for corporate secretaries, as it integrates data from multiple business units – from legal, tax, finance, treasury and compliance – into a single system record. It means no more chasing for the latest status, and it means automated filing and reporting can become the new way of doing things.

And with investment in technology, there's no more need to dig into filing cabinets in the basement. The corporate secretary can take center stage in strategic organizational thinking, having the time and space to truly advise and guide the board to make the right decisions for the organization based on up-to-date reports and better-quality data.

We're at an exciting phase in governance reporting; where it goes next rests with the needs and demands of the corporate secretary.

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 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 client retention rate in our industry, achieved by providing superior customer service and support.

Footnotes

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