

viewpoints

Regulatory Compliance

Managing your approach to regulatory compliance

Kevin Nordt, Managing Consultant, shares his thoughts on what kinds of challenges companies are facing today in managing compliance and how companies can best face those challenges.

In recent years, the United States has seen social, cultural and political pressures explode around personal data privacy concerns, national security, corporate governance and identity theft. Congress and various state legislatures are responding by signing into law new remedies aimed at addressing these very complex issues. New legislation – highly technical, profoundly complicated, and with severe penalties for non-compliance - is introduced on an almost continual basis.

Organizations of all types, sizes and industries are affected. Business impact varies with the requirements of a particular piece of legislation, but often cuts across every line of business, affects competitive positioning in the marketplace, and if not managed effectively, can severely disrupt enterprise-wide goals and objectives. Worst case scenarios involve heavy fines, cessation of operations and even jail time. Regulatory compliance, perhaps to the dismay of many, is here to stay. However, organizations that embrace regulatory compliance and work to proactively and effectively manage the process in a systematic fashion will find significant benefits both long and short term.

Q: Many large organizations have a Chief Compliance Officer and a department working on compliance issues. What's their role exactly?

A Well typically, the primary purpose of the compliance department is really to help the organization develop effective strategies and policies through which compliance with a myriad of state and federal regulations can be achieved. Beyond that, they are looking for a means to engrain compliance into the corporate culture.

Q: What kinds of challenges do they face?

A The challenges are many but I think it's important for several reasons to not overstate the case. At a fundamental level, the challenge they face is twofold: they have to understand the numerous legal intricacies within a given piece of legislation as well as the associated risk the regulation imposes onto the business. A significant part of all this requires a deep understanding of the business itself. A global financial services firm with multiple lines of business that are in a state of constant flux can be a tough thing to get your arms around.

Q: As new legislation is signed, say for example one that is going to have far-reaching impacts on a broad swath of the market for consumers and enterprise organizations, what's going on inside these compliance efforts?

A Let's paint with broad brush strokes here. Initially, the focus is going to be on how to interpret this particular piece of legislation. That, in and of itself is a major undertaking. There's some significant interaction between the compliance and legal departments as well as the business unit managers. You are trying to understand legal requirements and translate those into business requirements. Only then can one begin to identify impacts.

The insight you gain around business impact is going to help drive the solution process.

Q: How does a given compliance department scope a given project?

A Much of what happens depends on culture. To a large extent whether a given firm is comfortable or not with risk, will shape the response to new or even pending legislation. What we've seen happen, and it happens quite often, is that risk-averse firms will scope the project well beyond what is necessary.

Q: Why is that? What factors lead to an out of proportion scope?

A There are clauses in the USA Patriot Act and in Sarbanes-Oxley as well as other pieces of legislation that speak to severe criminal penalties and cessation of operations for non-compliance. Ultimately, legislation that is difficult to interpret coupled with the threat of severe consequences for non-compliance quite understandably leads to overreaction.

Q: How do funding and budget issues play out in the compliance picture?

A A couple of things play out here. One is that compliance is a cost center. It's about risk mitigation. There is no revenue to be found in a compliance initiative. You're playing defense. So funding is not easy to come by. It's quite common that most organizations aim to achieve the minimal amount of compliance that effectively manages their risk, based on the investment they are willing to make and how significant the risk is.

Q: Is that a wise course to take?

A It makes sense to marshal your resources and not spend any more than you have to. But to shape your compliance efforts around budget considerations as opposed to effectively managed and repeatable processes is not going to help you in the long run. We try to steer our clients in the direction of a standardized sustainable process.

Q: What does it mean to align compliance initiatives with business objectives?

A At a basic level it simply means that you have to execute these initiatives while protecting shareholder value. Take Sarbanes-Oxley as one example. The law requires that corporate officers attest to the accuracy of financial statements. Although many find compliance efforts onerous, accountability and accuracy with regard to financials will in fact protect shareholder value, which after all, is a bedrock business objective. Many requirements found in regulatory compliance speak to transparency and integrity, risk management and accountability, all of which support good business practice.

Q: Do organizations gain competitive advantage with effective compliance efforts?

A They could and let's emphasize "could." Privacy is such a huge public policy issue right now. You could easily imagine another huge piece of privacy legislation with a lot of media attention being signed into law. This legislation may have stipulations about how credit card companies handle customer data and you can easily see how one major credit card company could leverage its position in the market if it achieved compliance first. First to market issues can play out in the compliance space as well.

Q: Why would an organization with an existing compliance department call on you?

A It's a matter of supplementing internal resources and capabilities with experienced partners. Sweeping legislative changes present large organizations with very steep challenges on many fronts. With Dominion Digital, we're usually brought in because a director, manager or chief legal counsel or some combination thereof, have no immediate sightline to a solution and their personnel are tied up pursuing other key business objectives. Further, that chief counsel may not be sleeping well at night. Remember, the scale, complexity and potential penalties here are enormous. The stakes in some cases are very high. It's very natural to look to compliance consultants for help.

Q: So how does Dominion Digital help customers with compliance initiatives?

A First, we develop partnerships with internal compliance teams. This type of work really depends on an ability to quickly create an atmosphere of trust and one of the hallmarks of our firm is that we do this extremely well. Depth and breadth of knowledge is obviously huge here. We have truly exceptional and dedicated people here. Interpersonal skills and team building are critical. We help them digest the legislation, distill legal requirements, define business entity specific requirements, outline possible solution options, do some solutions analysis work, COTS analysis and so on. We may need to define new business processes or remediate existing ones. At times, this can lead to an IT engagement.

Q: What part of your work do you think is most important for the organization you're helping?

A Two things. We help set an appropriate context for the project scope so that the compliance initiative is measured and deliberate and not driven by fear. As an example we helped one client move from a \$5 million solution to a \$200,000 one. The initial scope was well beyond what was actually needed. And, we help our clients design a set of standardized, repeatable processes to cost effectively manage ongoing compliance efforts. Our work also helps individual executives who can state with confidence that their unit or enterprise now manages compliance more effectively and for less cost than the competition.

Q: What is essential for an organization to understand about working with consultants on compliance?

A I guess I'd say that it's essential to understand that regulatory compliance does not have to be the cause of all your nightmares. I'd also say that depending on the given culture of a consulting firm, you may receive exactly what the contract says you receive and no more. We try to do things a little differently.

Q: What's different about Dominion Digital?

A One of the very best qualities of our firm, I think, is that our consultants take personal ownership and responsibility for our clients' problems and issues. A regulatory compliance engagement at its core is a relationship. There are many opportunities along the path of that relationship to "stick to the contract" or to do what is right. We're interested in doing what's right.

We've had a lot of success helping businesses develop standard, repeatable processes. So I think it's essential for businesses to understand that standardization of business processes can also apply to managing regulatory compliance. Companies should not be afraid to make investments in regulatory compliance so that the process is better for the long term. It comes down to an idea every business knows a lot about: Do more with less.

Q: Any last thoughts on this?

A When an organization builds regulatory compliance on a production line model, with specific teams assigned to perform various task along the chain, they are building a standardized, cost effective, sustainable process. In the long run, they remain more flexible, less exposed to risk and more profitable. I'd like to help more companies create that approach.

For more information on our solutions, contact us at 1.877.334.4266 or solutions@dominiondigital.com. Or visit our web site www.dominiondigital.com.