Chartered Secretary
focus
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Supporting governance

Finding the right tools for the job

William Booth is Editor of *Chartered Secretary Focus*

In support of governance

There's an old cliché which says that only a bad workman blames his tools.

In truth, of course, it's not that simple: get the tools wrong and no matter how hard you work at a job, no matter how diligent or creative you are, you'll never quite get the result you're looking for. And that's as true of corporate governance as it is of any other form of endeavour.

In this edition of *Chartered Secretary Focus,* we look at a topic familiar enough in our pages, corporate governance, but take a slightly different spin on it. Our theme is 'supporting governance' and as the next few pages demonstrate that encompasses a great many things – from entity management software to online tools for investors to outsourced expertise.

It raises an important point, in fact, which is that corporate governance, despite what critics say, really is about something more than box-ticking, more than shuffling board roles like cards in a deck. It's about putting in place the necessary supports – the people, the structures, the processes and the technologies – that enable boards to get on with the job of creating wealth.

Tony Ford, CEO, Computershare Governance Services

The Datacare Software Group became part of the global Computershare group in July 2007, re-branding as Computershare Governance Services.

Our acquisition by Computershare has opened up many doors for both us and our customers – with increased investment in our UK and Irish businesses, as well as a global network of local offices. I'm a firm believer that company secretaries will increasingly turn towards technology to enforce compliance and governance for their global organisations. Choosing the right tools for the job is a vital part of this trend, and this *Focus* supplement aims to provide you with an initial reference point.

Enjoy the read!

EDITORIAL

Publisher: Clare Grist Taylor
020 7612 7043
cgristtaylor@icsa.co.uk

Editorial Manager: William Booth
020 7612 7045
wbooth@icsa.co.uk

Assistant Editor: Kevin Eddy
020 7612 7094
keddy@icsa.co.uk

Designer/Production Co-ordinator:
Mareike Schulz
020 7612 7046
mschulz@icsa.co.uk

Marketing Manager: Kate Murphy
020 7612 7051
kmurphy@icsa.co.uk

E-mail for editorial enquiries only:
wbooth@icsa.co.uk
keddy@icsa.co.uk

ADVERTISING AND SPONSORSHIP ENQUIRIES

Sponsorship Manager: Sunil Singh
020 7878 2327
sunil.singh@tenalpspublishing.com

Display Advertising Manager: Christopher Bean
020 7878 2415
chris.bean@tenalpspublishing.com

Ten Alps Publishing
9 Savoy Street
London WC2E 7HR

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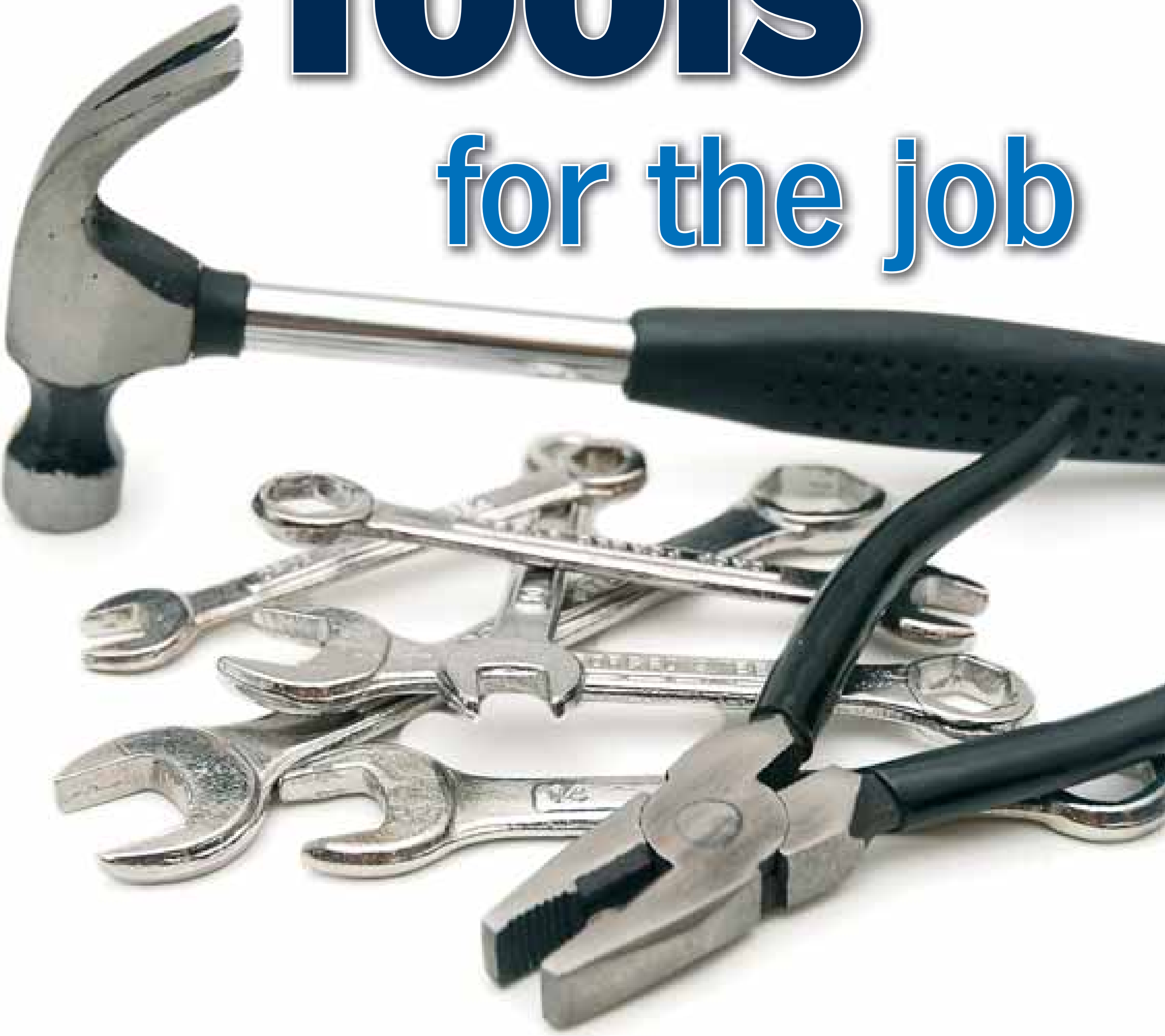
Tools for the job



For many businesses corporate governance is about much more than the makeup of the board or the side interests of the chairman. It's about coping with multiple regulatory and legal obligations, across different entities and different markets.

In 2001, a certain famous global bank found itself at the sharp end of the regulatory stick when it was handed a multi-million dollar fine after one of its subsidiaries was found to have fallen down on a number of basic compliance obligations.

Faced with the prospect of damage to its reputation, plus a dropping share price, the bank realised it had to bring the way it managed its various subsidiaries – its entities, in other words – back under tight control. And it had to do it fast.

That involved asking some pretty fundamental questions. What businesses exactly did it own, and where? Who were the regulators in each instance, and what were they regulating? Most significantly, what precisely were the regulatory and compliance obligations of each subsidiary?

In order to complete the exercise, the bank realised, it needed to invest in a technology platform that would accommodate and help manage what would be a small mountain of data. From the information collected, the company designed a 'subsidiary governance framework', which includes corporate governance standards; alignment of policies and procedures; an 'entity lifecycle policy'; and a data integrity programme. Along the way, it uncovered five different versions of the group structure, all of them supposedly the 'correct' one, and – thanks to inter-company rivalry and poor administration – more subsidiaries than it even needed, and more costs and waste than it could afford.

Completing the exercise was a significant investment – but the payback was immediate. Not only was the company able to avoid fines going forward, it was able to rationalise its entities, save on administration and save on maintenance.

Good governance

The bank's experience is a classic fable of the importance of good entity management – and beyond that, of good corporate governance.

Technology has stripped away the geographical barriers to global investment, opening up new capital markets, new locations for ambitious companies everywhere. From Birmingham to Beijing, Delaware to Delhi, businesses are investing in new opportunities, putting down fresh roots. Every week we read about some household name striking out in a far-flung market, or diversifying its activities. And every week, too, we read of the latest foreign business setting up camp on our doorsteps, raising capital on our local markets.

Yet as every first year business student will tell you, the more a business grows, the more its activities reach into different regulatory and legal environments, the more complex it becomes. And when you think that every legal transaction in which an expanding business can get involved – whether it be a merger, a spinning-off of activities into a separate vehicle, even a simple corporate rebranding – will involve at least two 'bits' of the business, two entities (and, in actuality, probably many more than that) the more profound that complexity becomes, and the greater the need to cope.

That's a big challenge in administrative terms – and an even bigger one in terms of governance. Consider this: there are a number of companies in the US now which are operating with upwards of 6,000 subsidiaries worldwide. That's a huge number of entities for a business to cope with, and it can all quickly mushroom into an unmanageable amorphous mass.

You don't have to look too far, in fact, to see examples of where poor governance has had punitive consequences. It can be seen in penalties for late filing – between January and May last year, for instance, Companies House raised £106,404 in penalties for late filing – and it can be seen in the dormant subsidiaries that sit idly on the end-of-year accounts, the lost or missing shareholders, or the managerial time wasted on expensive and time-consuming housekeeping exercises.

Dormant entities are a particularly big problem. In 2006, PricewaterhouseCoopers published a report showing that dormant entities were costing the 100 biggest companies in the UK anything up to £30 million per year. Almost half of the more than 15,000 incorporated companies within FTSE 100 groups were dormant, the report found.

Supporting governance

The problem, then, is a significant one and the solutions – what we might call mechanisms for supporting governance – are coming from several directions.

> "Dormant entities are a particularly big problem."

Probably the most significant is the proliferation onto the market in the last few years of a range of software solutions. Today, company secretarial and boardroom software offers a wide range of possibilities to companies – not just in terms of electronic filing, incorporation, entity management and subsidiary governance, but also access to archived board papers and records, meetings management – even allowing users to maintain and update such things as the company's by-laws or the group's organisational structure.

These applications have the benefit of being fast and secure, are usually available in a choice of web- or desktop-based, and are interactive and multi-jurisdictional. Needless to say, they also eliminate all the confusion, cost and time involved in the use of hard copy documents.

Regulators, too, are getting in on the act, in fact, not just tightening up on compliance and the penalties in the event of a breach, but also in making use of contemporary technologies as a means of encouraging better compliance.

In the UK, for example, Companies House is currently engaged in a far-reaching project to become fully electronic by 2010. That will include moving a number of its day-to-day filing and regulatory transactions onto an electronic-only basis for the first time, building upon its existing WebFiling system.

Across the Atlantic, there's a similar pioneering spirit. The US Securities and Exchange Commission (SEC) in December launched the first ever online tool enabling investors to instantly compare executive remuneration packages. The tool is part of the SEC's ongoing XBRL tagging program, under which financial and business data is tagged, readable and searchable – and above all, clear.

The point, says the SEC, is to improve the quality and comprehensibility of disclosure – which is, of course, an issue at the very heart of good governance.

* * *

It's easy to understand why companies fall foul of regulatory requirements. Even the smallest entities have to satisfy the demands of several regulators, and those demands are increasing all the time. With resources limited, and systems often simply not up to the task, the problem of managing governance can quickly deteriorate into a big shapeless mess.

One of the most important developments in business thought over the past few years, then, is the idea that effective entity management is not just an essential part of compliance – it can add value across a company's entire governance program.

ABOUT THE AUTHORS

William Booth is Editorial Manager of *Chartered Secretary* magazine; Lucy Newcombe is Marketing Director at Computershare.

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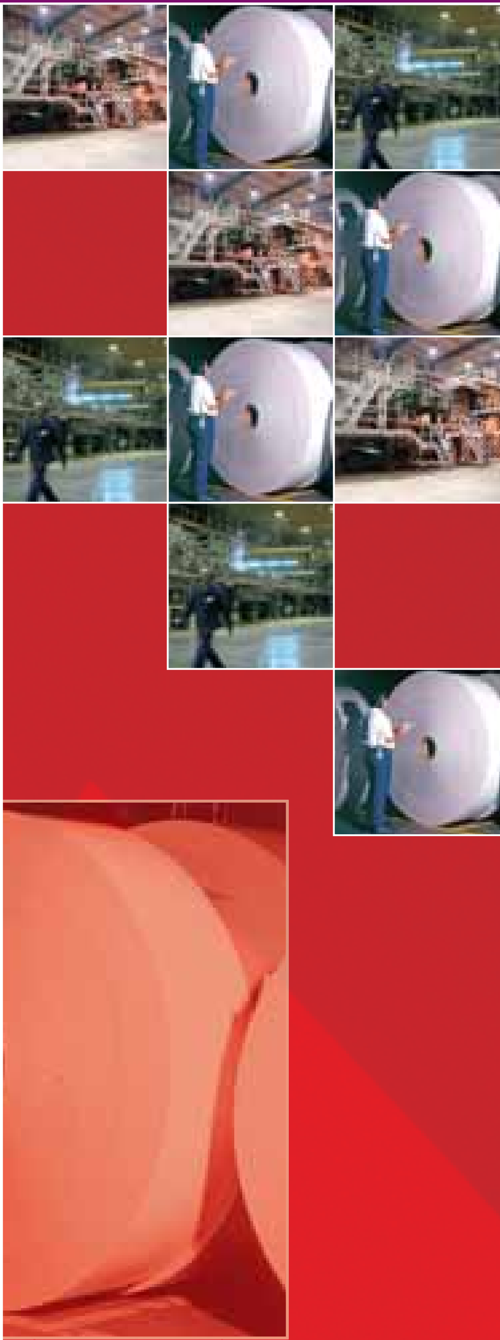


Every business has different governance needs, and every business will find its own solution. **Lucy Newcombe** speaks to one business, Smurfit Kappa, about what supporting governance means to them.

Although he laughs off the idea that he was in any way a pioneer, it is quite remarkable to think that next year Jim Fitzharris, Assistant Group Secretary in Smurfit Kappa Group plc, will have been using entity management software for almost 20 years.

Headquartered in Ireland, Smurfit Kappa Group is a world leader in paper-based packaging, with sales in excess of €7 billion and over 40,000 employees. The company operates in over 30 countries, including 22 in Europe.

'Up until the late 1980s, the Irish compliance regime in terms of statutory data was reasonably lax,' says Jim. 'The Companies Registration Office itself was fairly relaxed about enforcing compliance – there were no late filing penalties, you could easily file a batch of outstanding returns for a number of years, and companies could even notify changes in their directors without having to file consent forms in order to facilitate retrospective filing.

'In the late 1980s, the regime tightened up, there was some new legislation and the attitude of authorities changed significantly. We quickly realised that occasionally attacking a bunch of forms, or getting someone in to handle the backlog was no longer going to work – we needed a more professional and systematic approach.'

Prior to the late 1980s, no software for entity management and compliance was available in Ireland. It was the emergence of mass market computer technology – primarily PCs – and customer demand in the face of a more stringent approach to compliance by the Irish authorities that initiated development of such a product. In 1989, Smurfit Kappa decided to use the software package developed by Datacare, which was at that time the only Irish company providing a software product to deliver companies' entity management requirements.

'We had a large number of Irish subsidiaries and associates,' says Jim. 'It was rapidly becoming obvious that an electronic system was needed to help us. The product we chose stood out because it understood the specific Irish compliance regime, and could adapt quickly to meet changing customer demands in the light of local requirements. Since then, they've expanded their expertise to other countries as well – but at the time, it was quite novel to have an indigenous company that was producing software of this nature,' points out Jim.

Having used the product in a number of different guises over the years, Smurfit Kappa Group now uses the Global Entity Management System (GEMS) for statutory compliance in the Republic of Ireland, and for a small amount of work in the UK. It is currently exploring the possibility of rolling it out for their Dutch and German subsidiaries as well. 'We also use the system to maintain a master list of all our statutory entities worldwide – it's a global database of all our companies and associates and it works very well for this important purpose.'

When asked what has been his biggest compliance challenge, Jim cites the need to constantly respond in a timely fashion: 'It's a compliment to the product that it has not presented any huge challenges – the biggest for me would have to be the requirement to take notice of those little red flashing lights and action those filings – something every company secretary must be able to relate to!'

So what does the future hold for Smurfit Kappa and entity management? 'We've had a fairly acquisitive strategy,' says Jim. 'Going forward, we need to ensure that we have 100 per cent correct and timely statutory information on the legal entities that we have in different countries, and that we are able to provide accurate data really fast. Increasing compliance is demanding increasing accuracy and availability of statutory information on a global, regional and sometimes provincial level – and we'll be looking to our entity management software supplier to help us deliver that.

'I'm not sure if we need or will ever get to the level where we have a centralised European Companies House, but it would be nice to have some standardised information requirements across European countries. Mind you, we're constantly thankful that we're now free of Sarbanes-Oxley!'

ABOUT THE AUTHOR

Lucy Newcombe is Marketing Director for Computershare.

Reliable

sources

A growing number of companies are looking out-of-house to meet their compliance obligations, says **William Booth.**

'Outsourcing of global company secretarial services is not big business, it's not in demand and it'll never take off.'

Eight years ago, that was a claim that Jarrod Simpson heard a great deal. But when it came to Jarrod, who was leading Ernst & Young's Company Secretarial Department, that claim was falling on deaf ears. It was he and his team's conviction that the market was ripe for such services – and they were right.

Outsourcing is hardly a new phenomenon. Depending upon how tightly one defines the word, outsourcing has been around for decades, and the outsourcing of what you might call ancillary services – services essential to the running of the company as an entity, but not related specifically to its core business – has grown in popularity in leaps and bounds since the early 1990s. So, anything from accounting to human resources, data processing to internal post distribution, security to maintenance have been contracted out to third parties. Sometimes that contracting out will be an ongoing arrangement, sometimes on a strict project basis, sometimes with a view to a specific goal such as business transformation.

Compliance, and governance and company secretarial services, may have been something of a late entrant to the field, but they are catching up fast. There are a number of established larger consultancies adding these sorts of services to their portfolios, while smaller, dedicated suppliers of services are building up a solid presence in the market.

So why would companies look outside to meet their governance and compliance needs? 'The simple answer,' says Craig Hunter, Managing Director of VERSEC, one business that offers company secretarial services, 'is because you can! Historically, the only external providers were accountants who offered an additional service alongside their traditional audit practice, and that was often an expensive option.

'Now, there's a growing group of professionally qualified company secretaries who base their business model on providing these services, and so can offer them at more competitive rates.'

Priorities

Whether or not a business opts for an in-house company secretarial or compliance service, or looks out of house to meet its needs, will depend upon a variety of factors.

Size is an obvious factor. For many smaller businesses, there simply isn't enough work there to warrant employing a dedicated compliance executive. That's not to take away from the fact that the work is still there, or the importance of its being done properly, simply that the amount of time that needs to be allocated to it may not be all that substantial.

> "For many smaller businesses, there simply isn't enough work there to warrant employing a dedicated compliance executive."

As Craig points out, too, again with regard to smaller organisations, where compliance work has been done in-house it has often ended up being 'bolted on' to the workload of a busy finance professional – who may have neither the time nor skills to deal with compliance matters.

Even for larger companies, they face a challenge in striking a balance between having in place a robust compliance regime, but not letting that distract management from the job of actually managing. Most businesses want to focus on growth, and on improving their profitability, so outsourcing these types of services can bring enormous benefits in terms of freeing up managers' time and enabling them to focus their knowledge, their skills, more directly on adding value.

'What businesses like VERSEC have to offer is a dedicated service,' says Craig. 'We're at the end of the telephone 24/7 to provide support and advice, we can deal with problems same-day rather than being added to the workload of an already stressed executive, and we can offer greater certainty when it comes to managing costs – particularly the hidden costs of non-compliance.'

Services

Two particular areas where companies look to outsource compliance are project-based assistance and records management.

Records management has become increasingly sophisticated in recent years, as company secretarial and compliance software has enabled companies to divest themselves of the traditional shelf-upon-shelf of compliance paperwork – and to rethink how they store and manage records generally.

'Businesses these days don't like keeping old-fashioned books,' says Craig Hunter, 'but the investment costs associated with soft-copy record-keeping are high. That's where outsourcing comes in. VERSEC and companies like it maintain those records for their clients. Technology allows us to file online and offer a portal for clients to view their records – just as if they were maintained on premises.'

With project work, it's a slightly different story. The business in question may be looking for that extra little bit of resource to help it through a complex action, or to cover for absent staff, or to import particular specialist skills and experience.

'I had a client recently whose Assistant Secretary had called in one morning to say that she would be off work for six months following an accident,' says Craig. 'As well as being a member of staff down, the company had a number of loose ends that needed tying up. So I was called in to sort things out, identify problems and get things back on track.

'Companies also call upon this kind of help when it comes to dealing with some of the bigger deals. When you're heavily involved in something like a merger or takeover, it's easy to focus exclusively on the big picture and lose sight of things like Companies House filings or records management. What quite often happens, as well, is that if a big law firm is handling the project, these types of jobs get handed down to the junior staff, to trainees perhaps, and they don't necessarily receive the attention to detail they deserve.'

The Companies Act

Probably the biggest single area about which companies are looking for advice and assistance is the Companies Act.

The largest single piece of legislation ever passed in the UK, many companies are struggling to keep up with the wide range of new requirements it contains – and that's even true of those companies that do keep the greater part of their compliance work in-house. So, many of them are looking out-of-house for advice and support, to offer a fresh perspective or a spot of in-house training – and to make sure they simply don't overlook anything.

The Stanley Davis Group is one of the leading service providers in the UK, Europe and the world, and compliance services form a large part of its work.

'When the changes to the Companies Act were first announced,' says Andrew Davis, the Group's Chief Executive, 'we and our subsidiary York Place did have some fears that we were going to have to spend a lot of time and money in changing all our systems and in ensuring that everything was completely correct for our clients. It seemed all such a long way off, something that we knew we had to address soon, but for the moment could put to the back of our minds.

'We are now putting in a lot of effort and making great strides in order to ensure that everything will be compliant and in place at every stage of the change in legislation – both to the client and behind the scenes. At the moment, for example, urgent changes to our software are being made for the imminent arrival in just a few weeks time of the new rules regarding company secretaries.'

Even so, says Andrew, to date the changes have had no marked effect upon the company's workload – although they do expect that to change when the major changes are implemented in April and October this year and in October 2009. And in the meantime, clients are not exactly short of things they need help with.

'The changes in implementation dates have prompted many requests from our clients,' he says, 'the primary focus of which has been on private companies. Just when exactly does each part of the Act come into force?, they want to know. Many of them are concerned, as well, about what happens to those companies incorporated now under the old Act, and what happens for example to the company secretary or the corporate directors? Do they have to be replaced with other directors? What changes need to be made to the Articles to comply with the new Act? Do they still require an AGM? Are there any changes in how they make an elective resolution?'

'There is certainly a lack of clarity on our clients' part, and to a large extent they rely upon us to guide them through it.'

In demand: TMF

TMF IS A GLOBAL independent management and accounting outsourcing firm, with over 2,500 professionals working from 77 offices in 64 countries around the world.

James Menzies is a Senior Manager in TMF's Global Corporate Secretarial group: 'We provide company secretarial services to companies both big and small,' he says, 'and we're seeing a massive demand for it. The larger a company is, the more hurdles they encounter from a compliance standpoint – and they don't always want to deal with them in-house.'

The team has been using Computershare Governance Service's (formerly Datacare) entity management software to help in its delivery of company secretarial services for over 10 years now. All global clients have a separate database and log-in, with read-only access to the data in the system, allowing them to devise, read and print reports. TMF edit, control and maintain the database via regional co-ordinators in the UK, Hong Kong and Miami, who deal with each overseas office on behalf of the client.

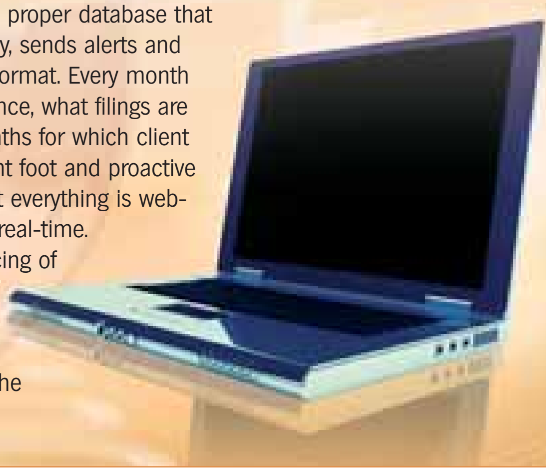
'The local offices provide the on-the-ground expertise', explains Menzies. 'No one person knows all the rules and regulations in every country around the globe – so we use local expertise on local rules. The client only has to contact one team: TMF undertakes all the hard work of reaching out to countries to work out the detail and entering this into the system.'

When a company instructs TMF to undertake company secretarial services the first thing they do is undertake a 'health check'. 'We match the information on record with the local equivalent of Companies House with the actual state of play within the company,' says James, 'and more often than not, there are discrepancies, most of which are relatively minor. Generally, these aren't brought about by any particular fault – there's just so much to do and not enough resource in-house to do it. The biggest single problem is the late or non-filing of accounts.'

In TMF's experience, software and telecoms companies seem to require the highest level of regulatory filings. They also tend to be acquisitive in nature, and whenever one business goes out and buys another, legal entities need to be brought into the fold. The officers and shareholders have to be changed; all the relevant information must be gathered, stored, updated and amended. Even a small software house may have activities across 30–40 jurisdictions – generally requiring some form of legal entity to operate. Telecoms companies have to have individual licences for each country – licences that have to be renewed without fail in order to avoid large fines. 'Managing entities can be a cost heavy exercise,' says James.

James and team rely hugely on their entity management technology: 'It's vital to have a good piece of software to support what we do; we'd struggle to do our job without it. You can't beat a proper database that links everything up, files it away, sends alerts and prints reports in a consistent format. Every month we are able to review, at a glance, what filings are due in the next couple of months for which client – allowing us to be on the front foot and proactive in helping clients. The fact that everything is web-based, too, means that it's all real-time.

'I'm convinced that outsourcing of company secretarial services is set to continue apace, and that technology provides many of the answers to that demand.'



ABOUT THE AUTHOR

William Booth is Editorial Manager of *Chartered Secretary* magazine.

Killer apps

It's a given that the pace of technological change is getting ever faster, but when it comes to governance and compliance technologies that's especially true. **Kevin Eddy** looks at the latest developments – and at what's around the corner.

Most professionals could be forgiven for being dazzled by the speed with which technological solutions arrive, reinvent themselves, and either become something very different or pass into history.

The speed which modern business operates and the increasing tangle of local and international regulatory obligations with which many businesses today are expected to comply, means that getting to grips with new software packages which will meet those demands without harming profitability is essential. In response, technologies have had to become ever more sophisticated, and today's governance solutions are light years ahead of the simple systems of old – and bear in mind that, in computing terms, 'old' could means as little as five years ago.

Entity management software is probably the most common type of system that companies will have in place, particularly global companies, and it's moved from being a bit of luxury for the more tech-savvy compliance departments to being a fundamental part of governance.

'The use of entity management software is certainly now an accepted discipline,' says Andrew Moore, Computershare's Head of Governance Services for North America. 'The mentality that you could do without it has been almost entirely driven out by the increased regulatory demands being put on companies.

As a result, the software itself has changed,

to the point where today's packages are almost unrecognisable from their antecedents. 'Entity management systems have moved on from being repositories of information to become a proactive tool that's designed to ensure company secretaries stay on top of *all* aspects of their role – from local filing to international registration. E-mail reminders for statutory dates – automatically generated according to jurisdiction –are common, for example.

'Modern packages also go above and beyond that administrative role by measuring how compliant you are, and presents that performance data in an easily interpreted graphical way, so that it's useful for target-setting. It doesn't just help you perform the tasks – it helps you measure, monitor, and improve.'

Profitability

That, argues Andrew, is especially important for getting board buy-in.

'It expresses compliance in a way that it's not really been associated with in the past', he enthuses, 'it makes it a commercial issue. Systems like this demonstrate in a tangible, quantifiable way how productivity can be maximised.'

Andrew argues that there's a financial imperative for ensuring good entity management, too.

'Boards are becoming increasingly aware that good entity management is absolutely fundamental to corporate profitability, After all, if you're having to restate your whole group's results because you've just discovered several entities that you didn't know you owned – perhaps they came along with a recent acquisition – there are severe repercussions in the market, let alone with regulators. Executives need to know how compliant a company is, and how efficiency can be improved.'

> "Boards are increasingly aware that good entity management is fundamental to corporate profitability."

It's that elusive link between compliance, business strategy and profitability that means the use of entity management software as a management tool is only likely to grow. 'The technology is developing in such a way that it will disseminate key entity information across the executive and other departments, and extrapolate even more information about performance, productivity and ultimately profitability,' adds Andrew. 'They are rapidly growing far beyond the scope of their original administrative and tactical function.

'From here on in, they're going to be absolutely crucial as a strategic tool.'

That strategic element is key to another type of software that has been increasingly growing in popularity, the board portal. In their simplest form, board portals offer secure webspaces within which papers are uploaded and can be printed, accessed online or archived. More advanced versions offer extra functionality.

Andrew thinks that these kinds of packages are set to grow and grow in popularity. 'We're really still at the early adoption stage of board portals', he says. 'A few companies are using them but it's not widely spread yet. The situation we've seen in the US, though, is that its spread seems to be very network-oriented – almost viral. Once someone on a board has used a portal with one of their companies, they're likely to recommend it to others they work with.

'It's a common-sense answer to a lot of issues, actually. Executive communication is arguably the most important communications channel within a company, and should be one of the most secure. However, most companies print out confidential information and put it on reception, where a stranger on a bike picks it up and takes it to its intended target – hopefully.'

'Communicating electronically improves security. You can interact with directors at a faster pace, there's a practically unlimited quantity of information that they can access, including historical information, and that information is held is accessible 24 hours a day, seven days a week.

'Documents can also be protected using digital rights management, so you don't get situations where confidential material can be forwarded onto external parties like in the recent HP affair, where a disgruntled director e-mailed material to a journalist. It's also likely to be useful where directors are geographically spread out, which is happening more and more. And, above all that, it's greener, because you don't necessarily need to print copies of board books and courier them around.'

The virtual boardroom

What's the logical conclusion of all this, then? Are we likely to see directors meeting in 'virtual boardrooms'?

'It's already happening,' says Andrew. 'I'm aware of companies where the directors meet online, use video calling and a number of software packages to talk, discuss and vote, all while accessing the same board papers online.

'The applications don't end there, though. Board portals could be – and are – used for director induction, education and training. They could be linked directly into entity and financial management software to create a one-stop company information shop,' he enthuses. 'They could also be used for board evaluation using self-evaluation questionnaires, and could also to be used to track directors' activities, to see if and when they're accessing information. Whether that's ethical or desirable, though, is still a matter for discussion.'

That's all very well, but some would argue that company directors are not exactly the most technologically-literate of professionals – some of them might even be labelled technophobes.

That's not really true of directors today, Andrew argues. 'That stereotype might have been true three or four years ago, but people of all ages are more tech-savvy now,' he says. 'The online world, computers and e-mail are woven into everyday life. Over and above that, to be able to direct a company effectively executives now need to have an awareness of electronic media.'

'However, we do acknowledge that this is embryonic technology, and it needs to be kept simple to begin with. It's a case of crawl, walk, run. If you confront a complete beginner with a hugely complex system, then, yes, they'll run a mile. However, if you keep it simple to access, present it well and remember your audience, then there's no reason why it wouldn't be a success.'

"To direct a company effectively executives need to have an awareness of electronic media."

'Also, it's actually a relatively low investment, compared to other governance solutions, with a good return on that investment. Companies spend tens of thousands on providing board papers, and if you can save even 50 per cent of that by getting half the board to use the digital version, then it'll pay for itself. And, all it will take is for one director to be disadvantaged because they didn't get a vital piece of time-sensitive information until after all the other directors – just because their package didn't arrive until the next morning – for them to be convinced of the commercial benefits.

'It's not a case of if it will take off, but when.'

Instant gratification

IN NOVEMBER 2006, an issue which had rumbling under for some time in the accounting world was blown wide open.

A joint paper authored by six of the largest accounting firms –PricewaterhouseCoopers, Deloitte, KPMG, Ernst & Young, Grant Thornton and BDO ¬– proposed to junk the existing financial reporting regime of quarterly- and half-yearly financial statements to be replaced by real-time, internet-based reporting.

The accountancy firms argue that the existing system is, quite simply, 'broken', and that the provision of periodic historical data is increasingly irrelevant in the fast-moving global market. They also point out the large discrepancies between book and market values of many listed companies is clear evidence that the content of traditional financial statements is of limited use.

The paper also argues that advances in technology now make the idea of real-time reporting feasible – deep data mining, XBRL data tagging, and internet availability and access, for example. It also argues that user-customisation would be a key part of real-time reporting, with data being personalised, rather than users needing to wade through standardised financial statements to find the information they require. That personalisation could also help make Information should be available to a wider range of stakeholders beyond employees, shareholders, and employees, such as suppliers, consumers, public and special interest groups.

The response to the proposals has been mixed. Christopher Cox, chairman of the Securities and Exchange Commission (SEC), seems receptive to the idea: 'Think about it: isn't it ironic, in this day and age, that we are still talking about 10-Ks once a year and 10-Qs three times a year, when we live in a world of constant change, 24/7?'

His UK counterpart, though, is less enthusiastic. Real-time reporting could be 'very tricky', says Paul Boyle, Chief Executive of the Financial Reporting Council. He also suggests that the numbers that could be produced continuously were of little interest to the markets.

Many others are sceptical, too. Critics warn that real-time reporting would mean companies would lose much of their ability to manage the messages which accompany release and reporting of periodic financial and other performance data, as well as increasing market volatility. That reluctance – as well as the volatility of current economic conditions – may go some way towards explaining why the firms' proposals have made little headway since the initial presentation a year and a half ago.

It was a point *Chartered Secretary's* accountancy specialist, John Stittle, acknowledged in February last year. 'The current system of reporting to shareholders is too slow and cumbersome, and has failed to keep pace with advances in technology,' he wrote. 'Changes under the Companies Act permit companies to report to shareholders by means of e-mail and their websites, but even these welcome improvements only change the mode of communication: they do not introduce real-time reporting.

'Many companies have simply failed to realise the full potential of the internet revolution when it comes to reporting current accounting numbers to their investors.'

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It's one of the ironies of the compliance field today that just as company secretaries and their colleagues have had to adapt to a changing regulatory environment, so too have they had to adapt to new tools for the job.

Look closely and you can see a number of trends, some of them very familiar, some just now emerging: an emphasis on electronic communications rather than paper; greater integration within and between different governance obligations, and within and between different software packages; less data dump and more high-level analysis; and a greater understanding that what companies really need is the room to be flexible in the way they comply – and the means to 'personalise' the software they use to do so.

The relationship between technology, market change and regulation is, in truth, a symbiotic one. As technology allows us to ever more things, so business and regulators take advantage of the new opportunities it presents: and as business and regulators create new demands, so new technologies develop to fill the gap.

It's in that space where business and technological change collide that the next big developments will come. We can't know what innovations there are just over the brow of the hill – but their impact promises to be significant.

ABOUT THE AUTHOR

Kevin Eddy is Assistant Editor of *Chartered Secretary* magazine.

Tagging along

In December, the US Securities and Exchange Commission launched the first ever online tool enabling investors to instantly compare executive salaries – just the latest part of its much wider XBRL tagging program. **Broc Romanek** takes a look.

Ever since he took the mantle of the Chairman of the US Securities & Exchange Commission several years ago, Christopher Cox has made no secret of the fact that implementing XBRL in the markets is among his highest priorities for his tenure.

XBRL, or eXtensible Business Reporting Language, is a royalty-free, XML-based information format for the electronic communication of financial and business data. As a technology standard, it provides a consistent method for the preparation, exchange, and analysis of business information and it brings with it cost savings, greater efficiency, and improved accuracy and reliability.

In fact, XBRL has been used by a variety of industries for some time. Some 8,300 financial institutions, for instance, have been filing reports with US banking regulators in XBRL for more than a year now.

In brief, XBRL works as follows: if a company's net income is $400 million for the quarter, the amount of $400 million has tags placed on each side of it so that when an XBRL viewer reads that number, it knows that amount is net income. It's akin to when a browser is reading HTML code and a sentence is bold-faced – there are tags around that sentence that the browser reads and knows to display it in bold.

The key to XBRL is that all parties creating data tagged with it use the same taxonomy (or tags) – otherwise, there is no comparison of 'apples' to 'apples'. If the same taxonomy is used to tag data, then analysts and investors will be able to more readily compare financial results.

As Chairman Cox told his audience back

in 2006 at the 14th International XBRL Conference in Philadelphia: '... it is already possible to imagine that XBRL taxonomies – written without bias toward any particular set of accounting rules – could be used to instantly translate any given set of financial data from one accounting system to another. So even if the world is never quite possessed of a global accounting Esperanto, we will still be able to speak the same language.'

Mandating XBRL

For the past few years, several dozen companies have experimented with filing documents coded in XBRL with the SEC as part of a pilot program.

In addition, the SEC has held a number of roundtables for members of the industry to discuss the benefits, costs and obstacles to XBRL. The SEC has even created an Office of Interactive Disclosure.

More recently, in early December, the SEC released for public comment a taxonomy of XBRL tags. That taxonomy, says the SEC, covers every accounting concept under US GAAP – 'virtually every fact that a company might want to report on its financial statements and in its footnotes.' This is quite a remarkable achievement considering that US GAAP is quite complex and cannot be found in a binder.

Consultations on the taxonomy close by April 2008, and once that happens it is possible that the SEC will propose the mandatory use of XBRL for companies registered with the SEC – and then adopt rules mandating use by the end of 2008. Given the complexity of that project, however, it is likely that any adopting of rules mandating XBRL would have a number of phases to give companies time to adequately gear up to use it.

In the meantime, there are a number of factors that may slow down the coming onslaught of XBRL. They include the fact that, quite simply, it costs too much. Some fear that the costs of tagging financials may come as an unpleasant surprise to companies in much the same way as happened with the Sarbanes-Oxley's infamous Section 404 on internal controls. To make XBRL work, all finance staff within companies, as well as all outside auditors, will have to become familiar with it. Although tools will reduce the burden, the costs – yet unknown – may outweigh the benefits.

Added to that is the fact that investors and analysts aren't demanding XBRL – indeed, many wonder whether anyone will even use the end product. Many analysts already have software that enables them to make comparisons of the types that XBRL promises, and most investors already don't bother reading a company's financials. Will they bother taking the next step and making comparison of a company's peers?

Another problem is that there aren't enough trainers to teach XBRL. Just like IFRS, schools aren't teaching XBRL to accounting students, and, even worse, there are very few experts in XBRL at all. This practical consideration alone may slow implementation to a crawl.

Finally, as might become evident from those that bother to review the recently proposed taxonomy for US GAAP, some commentators worry that it's not possible to create a set of tags for all the circumstances presently explained in notes to financials. Without accurate tags, investors might think they are comparing 'apples with apples' when they're not – and then the lawsuits begin. Moreover, given the SEC's recent movements on IFRS, by the time companies filing with the SEC are ready to apply the US GAAP tags, GAAP itself may be gone. An entire new taxonomy will have to be built, which will inevitably slow things down.

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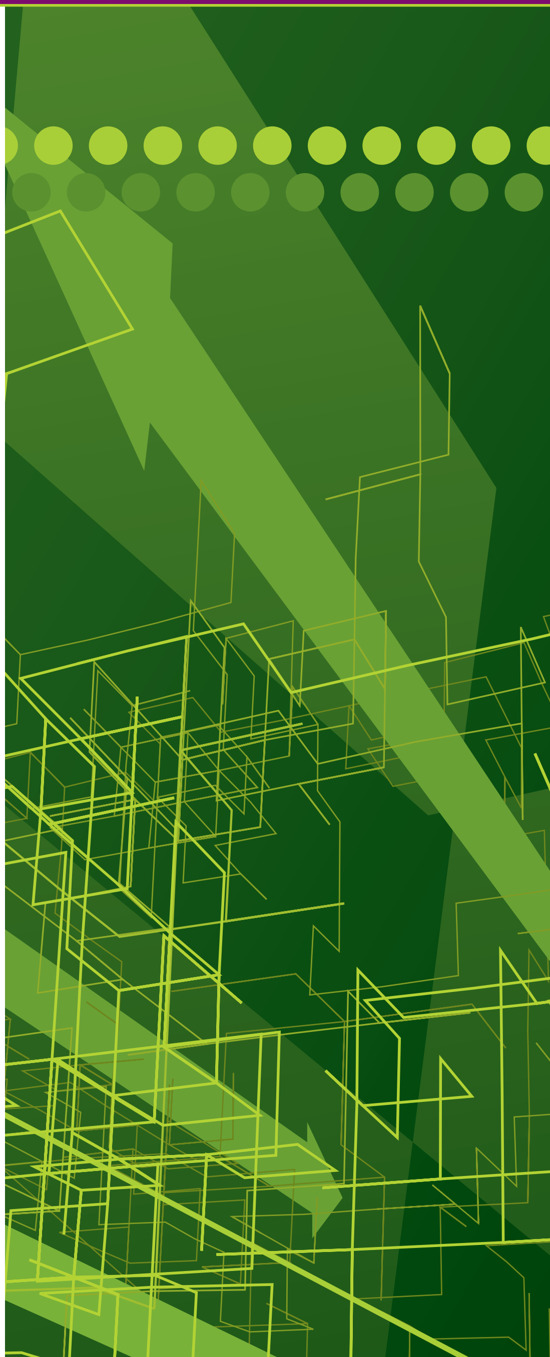
There's some way to go, then, before Chairman Cox's vision of implementing XBRL in the markets becomes a reality.

Nevertheless, with his tenure likely coming to a close after the Presidential election this November, Chairman Cox has his team at the SEC working full-time to make this priority a reality.

ABOUT THE AUTHOR

Broc Romanek is Editor of TheCorporateCounsel.net and a former attorney for the US Securities & Exchange Commission.



Executive compensation

THE LATEST USE OF XBRL, announced in December, is the SEC's new online Executive Compensation Reader.

Using XBRL data, the system allows for companies to be searched by industry, revenue and public market capitalisation, and enables investors and researchers to immediately create a detailed report on an executive's basic salary, bonus, stock and option awards, non-equity incentive plan compensation, change in pension value and other forms of remuneration. It also includes a figure for total remuneration package.

The Reader also includes direct links to companies' original proxy statements filed in EDGAR, and through that to the companies' explanation of their compensation decisions.

The launch of the new system follows on the heels of a report from the SEC's Division of Corporation Finance, which in October warned that US companies should pay more attention to explaining how and why executive compensation is arrived at. The report, Staff Observations in the Review of Executive Compensation Disclosure, argued in favour of what it called 'shorter, crisper and clearer' disclosure, plain English and greater organisation of complex material into tabular and graphical form in the name of clarity.

'The focus,' said the report, 'should be on helping the reader understand the basis and the context for granting different types and amounts of executive compensation.'