

Getting Regulators Comfortable with Data

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The New Normal: The world is changing. From 2013 to 2020, the digital universe — the data created and copied annually will grow by a factor of 10 — from 4.4 trillion gigabytes to 44 trillion gigabytes. By 2020, 1.7 MB of new digital information will be created each minute for every human.¹ To put this in perspective, that means that more data has been created in the past two years than in the entire history of the human race. **Quite simply, the world is getting too big for paper.**

On the other hand, regulators love paper. They have a high-level of comfort with getting a thick file full of supporting documentation that they can work through to determine what happened. It is the way that they have been doing it for years and, for the most part, it will continue as their chosen path going forward.

So the question becomes how to best manage situations when these two opposite positions collide. Put another way, how do you avoid situations where giant data sets and robust technology infrastructure make telling your story to regulators overwhelming?

In this article, we will discuss why we need to get regulators comfortable with electronic information, and how embracing it can bring new insights and save time and costs on your cases.

Rather than try and understand this issue in the abstract, let's discuss it through the context of three real-life scenarios that I've experienced with my clients. We will then talk about solving the problem with one solid solution.

Scenario 1: Just Too Big

FTI Consulting was retained by the outside counsel to a multinational pharmaceutical company to investigate whistleblower allegations of improper payments made in China.

The nature of the allegations, along with the scale of the company — involving thousands of employees — and the duration of the investigation — spanning multiple years — created a vast population of millions of transactions. This is a clear situation where the volume of data would simply be overwhelming for a manual paper-based approach.

Scenario 2: Spread Out

In a U.S. export compliance investigation, regulators ultimately need to understand the scale of the controlled parts which originate in the U.S. and are shipped to sanctioned countries.

In a recent case with a Chinese high-tech company, defining that vast scale proved challenging. The majority of the information needed by the regulator was not readily apparent by looking at the paper documentation. Instead, it was spread throughout its IT infrastructure. Getting the answer required connecting customer, shipping, manufacturing, procurement, and compliance data. Furthermore, all of these resided in separate IT systems that didn't speak to each other.

Scenario 3: System Lockdown

Fresh off of a global financial market meltdown, a U.S. based housing mortgage originator was seeing increased attention from its regulator. The good news was that it generally had its compliance house in order.

The company's approach was to use technology to make sure its employees were forced to follow the rules. Instead of relying on a controls manual gathering dust on a shelf somewhere, the company built IT systems that didn't allow for its employees to bend the rules. The challenge was not its control environment, but rather proving its controls-approach to the regulator.

¹ IDC, "The Digital Universe of Opportunities: Rich Data and the Increasing Value of the Internet of Things," April 2014.

The Solution

In each of these cases, the challenge is about getting the regulators comfortable with data-driven answers that are most practical and/or efficient. The short answer for success: analysis and documentation.

First, we document the process so the regulator can better grasp what the company is doing. Second, we utilise robust data analytics techniques to generate the required insights. Finally, we validate our methodology with detailed forensic testing in order to confirm our data-driven approach.

As evident in each case, the analysis alone was not sufficient to get the regulators comfortable. We followed these up with a series of detailed presentations to educate and guide the regulators on our approach. This often involved showing the paper documentation that supported the data.

To their credit, the regulators understood the magnitude of the work required to complete a more traditional "paper" review and were able to support the alternative "data" approach. Ultimately, they were able to sign off on the companies' efforts.

Conclusion

There is clearly a tension between the traditional paper-driven approach and the new data intensive world in which we now operate. However, in our experience, if you are able to clearly articulate and demonstrate an innovative technology-driven approach, regulators will be more than willing to listen, as they know that this will bring greater clarity, new insights and even save time and costs on your cases.

