

Legal Guide to Entity Management

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Professionals & Organizations

This “Legal Guide to Entity Management” (the Guide) is meant for you. The Guide is full of practical steps you can take to improve the governance, compliance, and risk management for your business. This Guide focuses on certain professions and types of organizations.

PROFESSIONALS

Business, finance, and legal professionals who want to use technology, data, and processes to deliver more value will find this Guide useful.

GENERAL COUNSEL

For general counsel, the Guide helps support business growth within risk and compliance boundaries. In-house legal teams can meet the challenge of constrained resources and deliver more value.

BUSINESS LAWYERS

Outside legal counsel with many clients strive to turn transactional work into lasting client relationships. The Guide explains how to **leverage the work you are already doing** to deepen client engagement.

CORPORATE SECRETARIES

Entity management practices simplify the governance details and notifications for corporate secretaries.

CORPORATE PARALEGALS

As a corporate paralegal with solid entity management skills, you can directly improve the financial performance of a law firm or business client, while supporting more entities.

TAX AND FINANCE PROFESSIONALS

Entity management can reveal all the jurisdictions where a company has nexus for tax purposes. Tax advisors can use an organizational chart to show the corporate structure.

COMPLIANCE OFFICERS

Entity management provides tools for preventative measures.



Compliance Officer

Finance Professional

General Counsel

Business Lawyer

Tax Advisor

PROFESSIONALS

RISK MANAGERS

Corporate structure isolates risks within a single entity of the business. Risk managers can track coverage for insurance risks, like directors and officers policies, or errors and omissions policies.

ORGANIZATIONS

The Legal Guide to Entity Management illustrates how a variety of organizations use entity management technology.

PUBLIC AND PRIVATE COMPANIES

Companies use entity management in the context of an ultimate parent company at the top of the organizational chart.

Entity management simplifies the assignment of officers and directors among subsidiaries and affiliates.

LAW FIRMS

Law firms need to manage collections of legal entities for each client. They often

provide corporate secretarial functions. Entity management makes those tasks more cost-effective and engaging for the client.

PRIVATE EQUITY / INVESTMENT FIRMS

Each fund or group of investments can be an independent collection of entities. Those collections can roll up to an ultimate parent: the fund manager or general partner.

FAMILY OFFICES

Family offices can have more complex ownership structures than a standalone company. A network of trusts, individuals, and legal entities own the operating companies.

NONPROFIT ORGANIZATIONS

Maximizing resources is important. Entity management allows executive directors to track terms of service for board members. Filing deadlines and document management become routine.

Definition & Description

What is entity management and how does it differ from practicing corporate law?

Technology for legal entity management turns the facts of corporate law into a system and process to increase the company's financial value. It speeds the routine maintenance work. This technology provides a global view of the interlocking corporate structure.

Your company or firm might not need all these capabilities today, yet their availability for important legal entities is invaluable.

REGISTRY

A corporate registry is a list of legal entities. Any legal form of organization can appear in the registry from limited liability companies, corporations, partnerships, trusts, individuals, or exotic entities like Series LLCs. The registry includes entities from any jurisdiction.

The jurisdiction of formation can be national, like Switzerland, Luxembourg, or Singapore; subnational, like the United States; or a hybrid system, like Australia and Canada.

ENTITY VIEW

The registry view brings all entities together; the **entity view** brings together all the data and documents about one entity.

DOCUMENTS

Entity management software can store the documents important for an entity: organizational documents and ownership agreements. As discussed later, some applications can do even more with legal documents.

REQUIREMENTS & FILINGS

Legal entities have filings or compliance obligations. Entity management tacks those filings in one place.

OWNERSHIP & ORG CHARTS

Ownership information unlocks the ability to visualize the company's organizational chart.

KEY FEATURES

- A single registry for all legal entities,
- A consolidated view of each entity,
- Document storage optimized for legal entity management,
- Compliance requirement tracking,
- Ownership data and organizational charts,
- Officer and director assignment monitoring,
- Task management,
- Reporting and analysis, and
- System configuration.

OFFICERS & DIRECTORS

Regardless of the legal form, entity management helps assign managers and owner representatives to entities in the corporate family.

TASKS

Some entity management applications allow users to assign tasks to one another. Those tasks might be recurring or one-time.

REPORTS & ANALYSIS

Entity management applications can provide built-in reporting and analysis tools. At a minimum, an application should allow for data export.

CONFIGURATION

A few entity management applications allow for customization of their features from within the applications so that you can adapt it to your organization's needs.

Software **Benefits**

The practice of entity management delivers benefits in governance, compliance, risk, financial performance, and client relations.

Officers and directors can serve more than one role within an entity and across entities. Each **appointment** to a function has a **term of service**: a start and an end.

Entity management can answer the question, "Who was on the board in 2017?" or "Who was in management when that decision was made?"

GOVERNANCE

For professionals who work with legal entities, governance means managing the Board of Directors and the leadership team. While **officers** and **directors** are terms for corporate legal entities, in legal entity management they refer to ownership representation and the operating management team.

Officers and directors can serve more than one role within an entity and across entities. Each **appointment** to a function has a **term of service**: a start and an end.

COMPLIANCE

Compliance starts with a jurisdiction. The place of incorporation and the principal place of business are important. Foreign authorization and trade name (DBA) filings fill out the basic tier of compliance information from an entity management perspective.

Entity management takes an expansive view of compliance requirements. **A requirement is any filing obligation for any jurisdiction.**

Thinking about compliance requirements in a holistic way allows legal professionals to provide clients with insight about upcoming obligations. Compliance reports become easy to create and deliver.

Nuanced compliance reports are simple. For example, show all **foreign authorizations** for **New York** expiring in the next **3 months**.

Entity management enables both **static** and **dynamic** reports. **A static report displays data that does not change.** A report of all directors on any legal entity incorporated in



Joline Armatrading is President and Chief Executive Officer of New Rock Co., which is majority-owned by Rapid Capital, LP. Rapid Capital wants to appoint Joline as a director to its Euro Training, Gmbh investment, where she will serve for an initial two-year term. As part of a tuck-in acquisition for New Rock Co., Rapid Capital appoints Joline as President of Tuck-In, Company.

Entity management tracks these appointments easily.

California during 2018 is a static report. No matter when the report is generated, the results are the same.

A dynamic report reveals upcoming (or retrospective) compliance obligations. A report which shows all signing authorizations or powers of attorney for European entities during the next six months is a dynamic report. The results of the report change based on when the report is run by design.

Automatic notifications of pending compliance obligations should reinforce compliance analysis. Online entity management brings line-of-business leaders together with legal and compliance professionals to ensure the organization's compliance with regulatory obligations.

RISK

Entity management is risk management. Legal entities contain liabilities behind the corporate veil, protecting owners from risk that exceeds their investment.

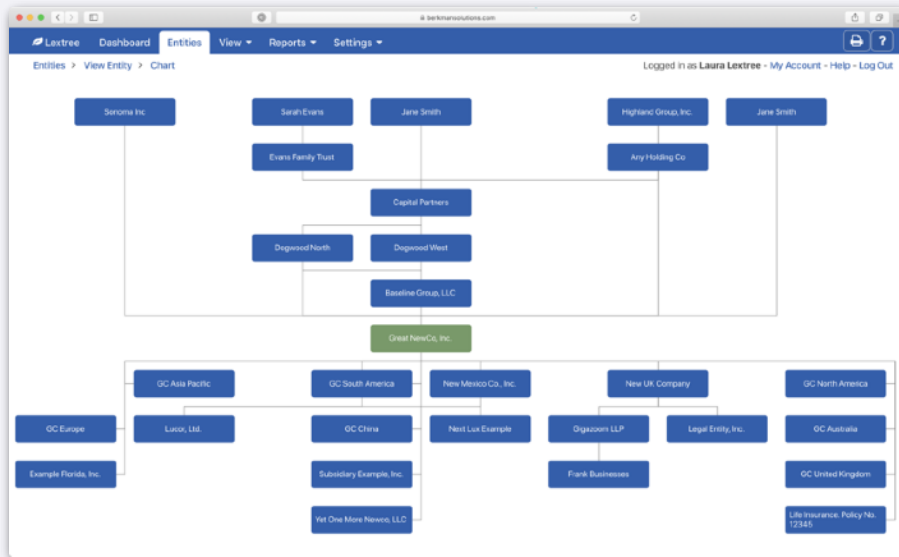
CORPORATE STRUCTURE

Maintenance of the corporate structure is an essential function of entity management. Corporate structure begins with the form of organization. Selection of the type of legal entity must consider:

1. The jurisdiction of the business,
2. Capital requirements,
3. Management expectations, and
4. Tax planning.

Structuring a business needs to account for the organizational context of the entity. What types of entities will own the business in question? Will the business have its own subsidiaries? What are the jurisdictional, tax, capital, and management implications of those subsidiaries?

To measure the risk from that corporate structure, start with an organizational chart ("org chart") which reveals the real-time ownership structure. Accurate images of a corporate legal structure are more than a



pretty picture. They tell a dynamic story about ownership and control.

That org chart needs to show both related and unrelated entities. The distinction between related and unrelated entities is less a legal issue than a managerial one. Simplistically, every owner or subsidiary is “related” to its parent or subsidiary through equity ownership. It is better to think of a related entity as one that you want to manage. Conversely, an unrelated entity is not part of the corporate registry but does appear in the ownership chart for an entity.

Online software for entity management should automatically generate an org chart revealing the ownership structure of both related and unrelated entities.

MANAGEMENT OVERSIGHT

Management oversight is a risk management tool. Legal entity software plays an important role in management oversight. The assignment of officers and directors across legal entities in the corporate structure creates an administrative challenge.

Each person has a different role, title, and term of service for each organization. That person might have more than one role in a single organization. The administrative tracking burden becomes exponential.

Entity management software manages risk by improving management oversight. In those jurisdictions or entity charters where directors are appointed for a specific term, oversight might be as simple as receiving automatic notification about the term expiration.

To get a snapshot of all the entities and roles for a particular person is a simple matter for entity management software. Whether the matter is an investigation or a simple inquiry, accurate information about officer and director assignments is critical.

COMPLIANCE DEFICIENCIES

The final piece of the risk management puzzle is compliance. The best practice is to avoid compliance deficiencies in the first place. Legal and compliance professionals know that deficiencies occur. Entity

management software allows professionals to see when compliance obligations were due and whether they were met.

Compliance analysis underscores areas that need risk management treatment.

FINANCIAL

Investment in entity management software returns tangible financial benefits to the organization.

SAVE TIME

Entity management saves time by automating routine tasks and producing insights with less effort.

Business analysis

To answer fundamental questions about a corporate structure currently requires a review of each legal entity in the structure for the specific information, then compiling that information to answer the question.

With entity management, the answer is moments away. These types of questions take seconds, not hours.

These time savings allow law firms to provide (and bill for) more valuable work. General counsel can deliver concrete value to the business while managing risk.

Recurring notifications

Entity management saves time with automatic notifications of recurring

Who owns an interest in Company DEF?

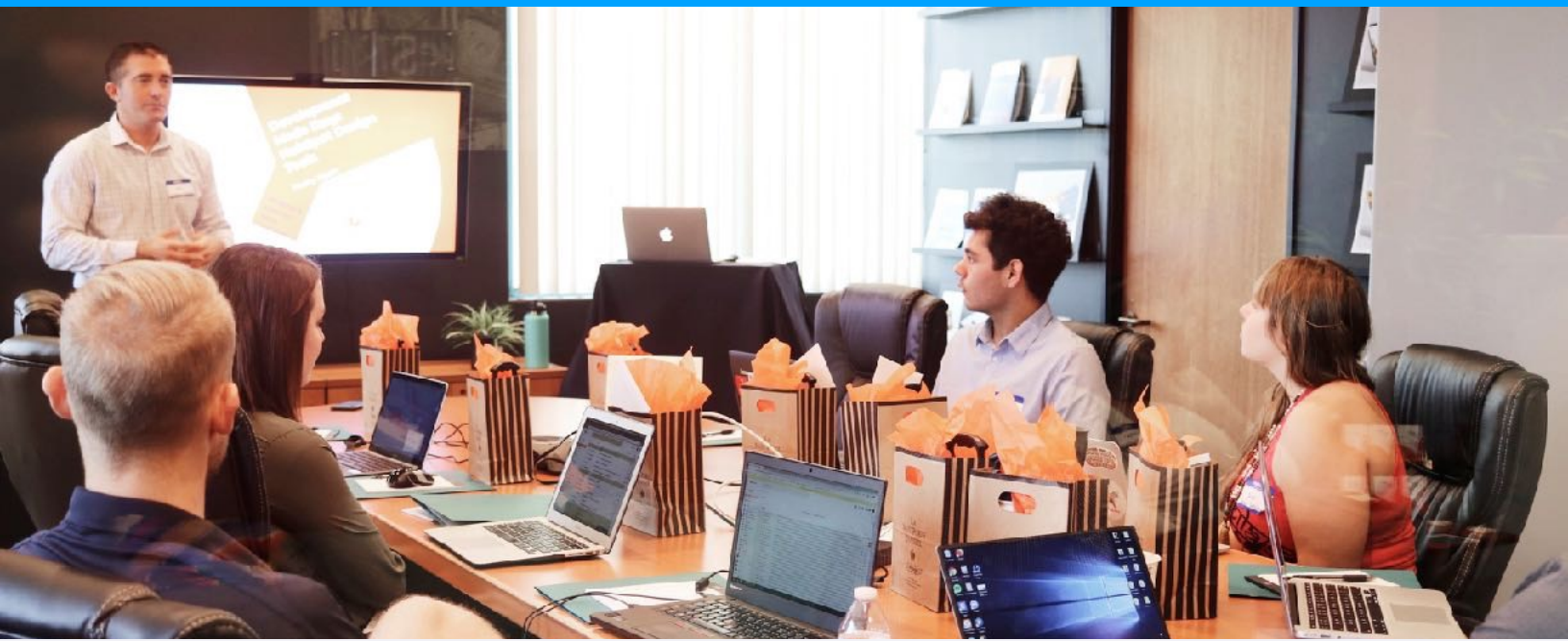
Does Limited LLC have both a direct and indirect ownership relationship with Company DEF?

Ollie Dire is an officer and director for which entities?

Who was on the board of Company, Inc. in 2019 when that decision was made?

What filings are due in California in the next 3 months?





obligations. Professionals can configure a compliance obligation for an entity with an automatic notification. If the obligation is recurring (every quarter or year, or even every few years), then the notifications update automatically with recurrence.

Recurring tasks

Tasks are an important collaboration tool in entity management software. When they are recurring, it is a simple matter to run the necessary compliance and risk management reports to see what work got done, by whom, and when.

One system

The time savings from entity management software stems from the design concept: one system to bring together documents, requirements, ownership, and management tracking for each legal entity in the corporate structure.

SAVE MONEY

Legal professionals and their clients understand that time savings translate into financial benefits. Entity management software provides a direct return on investment.

Missed filings cost organizations money in fines and penalties. To avoid those fines and penalties is to save money. For a single entity, those costs might not be material. At scale, however, and over time, the costs from poor monitoring of compliance obligations are expensive.

Unexpected losses can occur from missed filings as they jeopardize the ability of the corporate structure to protect investors and owners.

CLIENT RELATIONS

Law firms and general counsel both have an interest in client relationships. For law firms, a strong client relationship translates into more billings and less client acquisition costs.

Although general counsel have one client, that relationship is important for two reasons. First, an effective client relationship helps members of the legal office do their job. When general counsel are in touch with the operations of the company, they can spot legal risks early when they are less expensive to solve.

Second, a good client relationship allows the general counsel to show the value of legal services for the organization, keeping them relevant for strategic management decisions.

Online entity management software improves client relationships through **controlled access to information, generated org charts, and reports.**

CONTROLLED ACCESS

Legal entity data and documents must be safe and secure. In the entity management context, controlled access means allowing business leaders (client representatives) to see the information that is important to them securely.

Controlled access allows legal professionals to share certain entities with certain people.

GENERATED ORG CHARTS

Corporate legal work is about words: agreements, filings, offerings, and legal memoranda. Business leaders face a deluge of information from many sources. There is an all too human problem for lawyers to capture the attention of management with carefully crafted memos.

A visual representation of corporate structure can cut through the noise for business clients. Entity management allows lawyers to add meaningful visual elements to their communications.

The most significant visual element for business lawyers is the **company org chart.**

Entity management software should **automatically generate an org chart** for even the most complicated corporate structures. The org chart must:

- automatically create **generational levels** showing the entire hierarchy,
- handle **generation-skipping ownership** where, for example, a great-grandparent entity owns a great-grandchild entity both directly and indirectly,
- **optimize line drawing** to minimize line crossing for easier reading, and
- show the **up-to-date ownership data** so that the org chart is never out of date.

A good org chart reveals accurate and timely ownership information to lawyers and clients.

REPORTING

Entity management reports not only help legal professionals do their job; they deliver value to clients. One of the key differences between corporate legal work and entity management as a discipline is the macro view of the corporate structure afforded by entity management.

That macro view shows up in reports, which lawyers can give clients. Imagine giving a client these kinds of reports:

- Officer and director appointments for the entire management team,
- All legal entities in France, Singapore, New York, or in any jurisdiction, and
- Legal filings due in the next six months.

Business clients thrive on succinct, data-driven reports. Give clients important information in a form they can consume.

TASKS

The built-in task management features of entity management software allow legal professionals to collaborate with counterparts within a client organization.

Tasks are an effective way to request information from line-of-business staff who have access to information and to receive requests from the client organization.

AUTOMATED NOTIFICATIONS

When lawyers and paralegals use alert features of entity management software, they ensure that they do not miss a deadline. Each notification, however, can be an emissary to a client.

Configure an automatic alert for a client to receive regular communication from the lawyer without the time and expense of written communication.

Lextree

Control even complex legal entities. Lextree is used to manage legal entities in over 80 countries on every continent (yes, including Antarctica). Public companies, private equity firms, law firms, private companies, and nonprofits of all sizes use Lextree for entity management.

Implementation **Success**

Implementation of entity management can be easier than expected.

There are three barriers to purchasing and implementing entity management: security concerns, management approvals, and implementation expectations. It is easier than you might think to overcome these barriers.

TECHNOLOGY

The COVID-19 pandemic highlights the necessity of cloud-based technology solutions for legal professionals. Remote work is likely to become a permanent part of professional life. Software that securely allows lawyers and clients to collaborate is now essential.

CLOUD-BASED SOFTWARE

Software accessible from a browser or application (Software-as-a-Service, or SaaS) provides many benefits. It is available 24 hours a day, 7 days a week, 365 days a year. Users can access cloud-based entity management software from home or work.

There are two basic security concerns with entity management SaaS applications:

protect the data from theft, and limit access to authorized personnel.

SECURITY

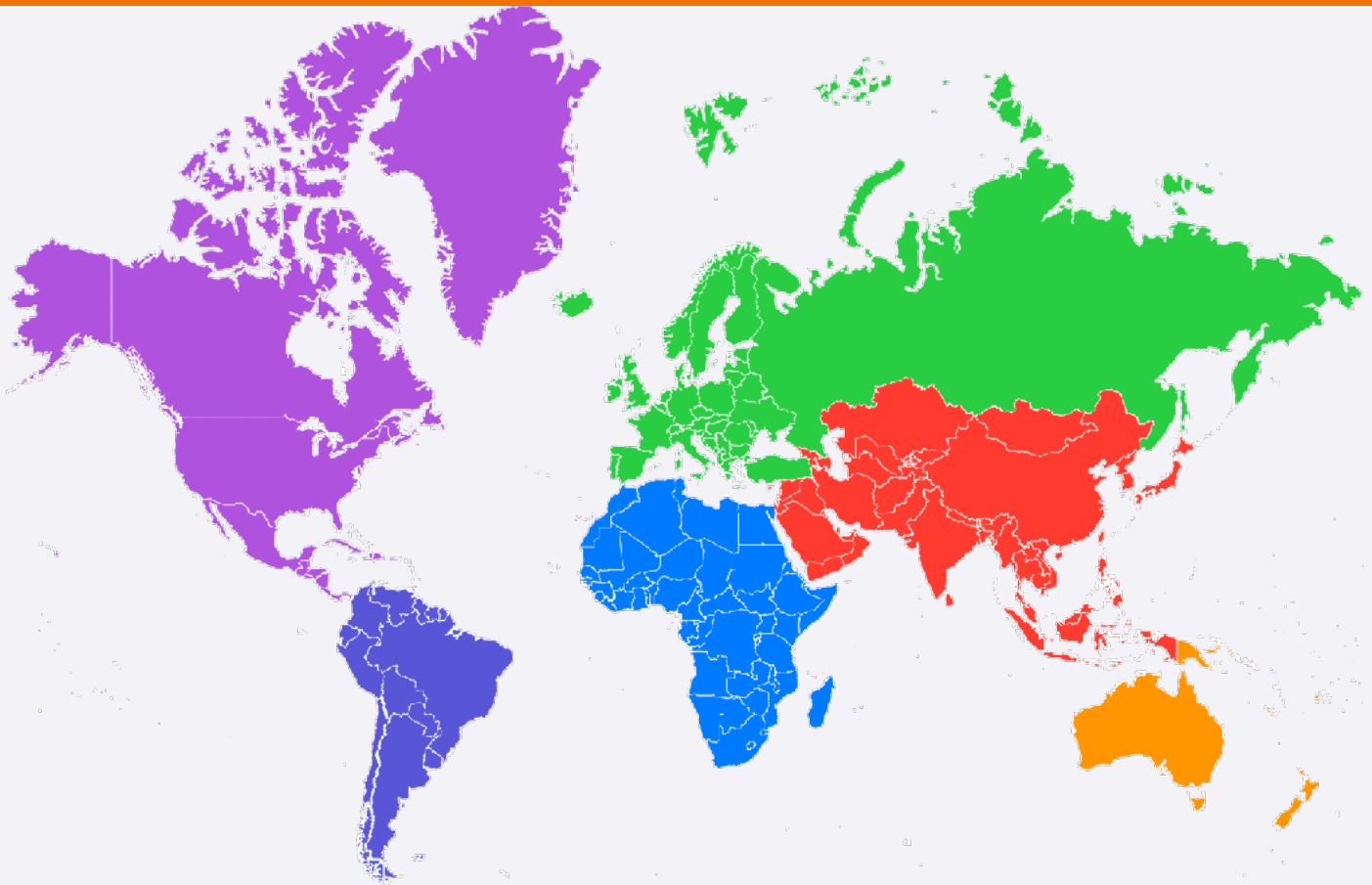
While data security is a complex and evolving area, there are three fundamental considerations when evaluating entity management software:

- Encryption at rest,
- Encryption in transit, and
- Quality of hosting provider.

Encryption at rest

Legal entity data is typically stored in a database. That data should be encrypted, which means that the software vendor uses an encryption algorithm to transform the data into large strings of randomized characters.

Were someone to acquire an encrypted database, the time and computational resources needed to decrypt the data should be so expensive as to render the data inaccessible.



Lawyers, paralegals, and finance staff in EMEA (Europe, Middle East, and Africa) might have access to entities in EMEA. Whereas users working in the Asia Pacific region; to Asian Pacific entities. The staff at headquarters in North America, however, have access to all entities.

Law firms might set up access controls by client group. Corporations could provide access by line-of-business, division, or other internal structure.

Feature permissions

Once a user has access to an entity, entity management software needs to control what that user can do with the entity.

The fundamental permission is **editing**. Can this particular user edit data about the entity? The alternative is to give that user **read-only** permission so that data is viewable but not editable.

COMPANY APPROVALS

Legal teams and investment professionals who work with entities regularly see the immediate benefits of entity management applications. There is usually an approval process that creates a barrier to adoption.

EXPENSE

The first element of approval is the expense. Software licenses and subscriptions are not as simple as they once were. When evaluating subscription pricing it is important to consider the following:

- The base annual subscription fee,
- Implementation or start-up service charges, Ongoing support fees,
- Customization expenses,
- Data restrictions,
- Document restrictions,
- User restrictions,
- Geographic limitations, and
- Feature restrictions.

Consider the total annual cost using all factors.

STAKEHOLDER BUY-IN

People throughout the company or law firm have a stake in the decision to purchase entity management software. The impetus might come from the top management who want better reporting and analysis, or from the people close to the work who are trying to do more with less. Either way, account for both **decision-makers** and **users** in the process.

Decision-makers

Decision-makers pay the bills. They want to make sure that the organization gets value for the price. Decision-makers often care more about reporting capabilities to help deliver value to the client(s).

Users

Users are the lawyers, paralegals, finance, and other professionals who actively use entity management technology to complete

their work. Users want to know that software is easy-to-use so they can respond to requests quickly and accurately.

Value and usability contribute to broad support for implementing an entity management solution.

GETTING STARTED

The implementation process for entity management applications can take as little as a few minutes or as long as several months. The tools, processes, and expertise of the vendor influence the project timeline. The most important question for implementation is whether there is any existing entity management data to import. If not, there need not be any implementation process: turn on the application and start.

Spreadsheet applications serve as frequent entity management repositories when there is existing data about legal entities.



PROJECTS



EXISTING DATA

Locating all the relevant spreadsheets in advance of a move to an entity management solution can challenge even modestly sized organizations.

Once the spreadsheets are corralled, the legal entity should be standardized on one of the spreadsheets based on the destination entity management application to ease the import. Data standardization about legal entities is the secret sauce for reports and accurate org charts.

DOCUMENT MANAGEMENT

Paper creates corporate structure. Any implementation of entity management software needs to address documents. Some organizations elect to separate document management from entity management. Even in those cases, it is prudent to maintain a link between the entity record and the document.

The line between document management and entity management can blur. Entity

management systems contain document storage features optimized for legal entities. General-purpose document management solutions provide many features for dealing with documents, not legal entities. The decision where to store documents depends on the investment in document management and the specialized needs of the legal department. A couple of examples illustrate the choice.

Organizational documents, such as articles of incorporation and by-laws, should travel with the legal entity data. The professionals tending the entity will need those documents to resolve governance questions in the future.

Key officer **employment agreements** or **officers and directors liability policies** likely belong with the entity, but a case could be made to store them with a general-purpose document management system.

CONFIGURATION

The firm or company adopting legal entity technology needs to decide how to

configure the system. The scope of configuration varies by vendor.

The two critical configuration choices are legal forms of organization and jurisdictions that the application will support. The legal form of organization refers to the **types of entities** available in the jurisdiction where the company is formed.

Make sure that any entity in the portfolio can manage data about its business in any jurisdiction in the world.

ACCESS CONTROLS

The final step before "going live" is to decide who has access to which entities and what permissions they have about data. The best choice for most organizations is to limit all access to primary users in the beginning.

Access controls are best employed when it is time to expand access to the system to users with limited permissions.

Berkman | Solutions

Berkman provides compliance and risk management software and services. We help organizations around the world to improve performance with better management of contracts, legal entities, due diligence, compliance, and legal risk. We are lawyers, compliance experts, and business people first; technologists, second.

Experience

Our team has managed, negotiated, and drafted almost \$4 Billion in contracts across industries and around the world for the last fifteen years. We have performed and facilitated due diligence on thousands of companies. Berkman staff are recognized experts on contracts, risks, due diligence, and legal entities. We write and speak about compliance, legal risk, and contract management regularly.

Clients

Our clients operate in every sector of the economy: health care, sports and entertainment, manufacturing, business services, and more. We count Fortune 500 companies as well as small businesses (and everything in between) among our clients.

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