They Just Don't Add Up:

Stockholder Record Tracking

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It's midnight the night before a closing, and the young associate points out the elephant in the conference room: the numbers in the fully diluted cap table *almost* add up. But when it comes to multi-million dollar transactions, *almost* isn't good enough.

How Did We Get So Many Spreadsheets?

For the vast majority of privately held companies, law firms act as the transfer agent for stockholder records. Unfortunately, lawyers don't often realize when they volunteer to maintain the stock records of a newly formed company that their ownership tracking responsibilities will become a spreadsheet nightmare as these companies grow and prosper.

Thus, the ticking time bomb in records management is not the physical files or documents in-process, it's really the tens of thousands of spreadsheets used to track the stockholders of the most valuable, privately-held companies in America. It's the ownership of every major company that has not gone public; those companies that are venture-backed, family-owned, employee-held, pre-IPO or about to be acquired.

Tracking thousands of stock records in hundreds of slightly different spreadsheets over the course of many years is fraught with potential error. It puts companies at risk for securities litigation and law firms at risk for malpractice exposure. It's anything but a "best practice."

Is It Time to Graduate from Spreadsheets?

Although this ownership tracking problem has been around for many years, the availability of new, browser-based ownership tracking systems designed specifically for the needs of law firms has changed the cost-benefit analysis. These new systems have greatly reduced the total cost of ownership and significantly increased the benefits to both law firms and their clients.

Total cost of ownership has been reduced because these systems are easier to learn, easier to install and support, and more comprehensive. Likewise, the benefits have increased since more time can be saved, more complex calculations are included, and it's even easier to link related legal documents. In light of the current focus on greater risk reduction, better corporate governance and improved client service, it's a good time for law firms to question whether their current methods for tracking ownership records satisfy what their clients would consider minimum standards.

Selecting a System to Limit Ownership Tracking Risk

When evaluating an ownership records management system for a law firm, the first requirement is that the system be designed for the unique needs of law firms. For example, it should be designed to track ownership records for many different, unrelated clients, not just a single company or family of companies. Then, the system must satisfy the following minimum criteria:

Consolidated System: *All information currently tracked in many different systems needs to be brought together in a single, consolidated location so everyone knows where critical ownership and related client data can be found.*

Comprehensive Tracking: *All types of ownership information and all supporting information (such as entity data, lists of officers and directors, governing documents and minutes of meetings) must be tracked together. Users should not need other sources to find supporting data or documents.*

Complex Calculations: *The system must provide checks and balances on ownership transactions and automate complex, time-consuming and error-prone calculations (e.g., fully diluted cap tables, stock option vesting and stock splits).*

Complete Audit Trail: *To rely on the data, there must be an audit trail that tracks each change made by a user, as well as dynamic links to historical legal documents (e.g., minutes of a meeting or a signed stock certificate). In this way, information can be easily verified.*

Flexible Reports and Documents: *In addition to a complete set of standard reports, users need the flexibility to create custom reports and documents, as well as export data to spreadsheets.*

Beyond Spreadsheets — Make the Right Choice

In order to limit internal risk and provide clients with the foundation for good corporate governance, law firms need to consider implementing appropriate systems for ownership records management. The right system can showcase a firm's use of technology to provide even better service to its clients. It will also mitigate the risk of errors that develops as the volume of spreadsheets grows over time. When it comes to ownership record tracking, law firms need to choose whether to do it right — or not at all.

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