




How to Assess Legal Risk Management Practices




Strategy Areas for Assessment:


A number of strategic areas that you may wish to start with are included in the matrix below. We invite comments on additional areas to include.

- Law Department Leadership
- Outside Counsel Participation
- Business Partner Legal Risk Awareness
- Legal Risk Management Coordination
- Identifying Legal Risks
- Project Legal Risk Management
- Reporting to Senior Management
- Law Department Legal Risk Performance Management

Legal Risk Management Practice	Degree to Which This Is Implemented				
	Not At All	Somewhat in Place			Fully in Place
		Low	Med	Mostly	
Law Department Leadership					
1. The law department periodically updates and distributes a comprehensive Legal Risk Assessment Checklist for the legal staff that can be readily utilized to help identify legal risks related to business projects in such categories as: Compliance, Business Operations, Liability, Litigation, Reputation and others.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. The legal staff is provided with consistent and specific guidance as to the level of legal risk that the company is willing to assume in its business operations and litigation activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. The legal team uses consistent legal risk terminology to enable “apples for apples” discussions about legal risks, with specific descriptions of how risks (particularly “high” risks) should be classified in a consistent manner.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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4. There is a specific protocol in place that identifies under what circumstances and to whom legal risk issues are to be escalated (general counsel and senior management) by members of the law department.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Law practice groups meet at least annually to review and discuss the legal risk guidelines for their business partners and the risk profiles of key projects and activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. The law department develops and implements a proactive risk management strategy in collaboration with clients and tracks progress toward the achievement of the strategy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outside Counsel Participation					
 Law firms are provided with consistent and specific guidance as to the level of legal risk that the company is willing to assume in its business operations and litigation activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Law firm engagement partners are asked to confirm periodically that all law firm staff working on assignments for the company have been thoroughly briefed on the company's risk tolerance guidelines.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Periodically or at the end of major legal projects, outside counsel are asked to submit a list of suggested action steps for improving legal risk management.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. A law firm's performance in identifying and managing legal risks on behalf of the company are reviewed annually and law firms are terminated or warned when their performance is not adequate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Law firm representatives participate in briefings with in-house staff to familiarize them with emerging legal risks and potential ways to mitigate those risks	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Business Partner Legal Risk Awareness					

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 The law department regularly distributes to business partners the current version of the Legal Risk Assessment Checklist to provide current insights about legal risk issues to which business partners should be alert.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13. The law department provides ongoing legal risk education for business partners -- via on-line programs, seminars and presentations -- about the company's risk tolerance guidelines and steps they are expected to take to help manage legal risks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14. Lawyers have a well-publicized open-door policy to talk with business partners about legal risk concerns.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Newly hired executives at or above a designated level participate in a legal risk management orientation program provided by the law department to ensure that they are familiar with the company's legal risk management guidelines, resources and protocols, and their responsibilities for helping to manage legal risk.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal Risk Management Coordination					
 Each practice group has a designated legal risk coordinator who is accountable for ensuring that the practice group's legal risk management activities achieve legal risk management objectives.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17. A specific attorney is designated as the project legal risk coordinator for each major business project in which there are multiple lawyers participating in the project.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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18. Project risk coordinators and legal colleagues utilize the Legal Risk Assessment Checklist to assess whether the information the legal team receives from business partners is timely and adequate to identify and evaluate project legal risks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Practice Group legal risk coordinators meet quarterly to review and discuss their role, the standards and processes for managing legal risk, emerging legal risks and risk case study examples.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
20. There is a systematic process in place to ensure that practice group legal risk coordinators discuss high risk matters to identify potential overlapping risk areas and coordinate risk management activities where such overlap exists.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
21. Each practice group has a systematic process in place to correlate internal data on litigation reserves, audit letter inquiries, and matter tracking systems to ensure that law department legal risk determinations and actions are consistent for each matter.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22. There is a process in place to ensure that law firms handling high risk matters submit updated legal risk assessments on a quarterly basis (or more frequently) and that each legal risk update is reviewed by the project risk coordinator, the practice group risk coordinator and with the business project team and/or senior management when appropriate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Identifying Legal Risks					
<i>The law department has a systematic process in place to:</i>					
23. Review all customer, employee and investor complaints and suits to identify trends that may indicate potential legal risks that need attention.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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24. Review the final reports of all regulatory compliance examinations to identify trends that may indicate potential legal risks that need attention.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
25. Review proposed and enacted regulation and legislation to identify legal risks and advise business partners in a timely way of additional compliance and legal risk issues.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
26. Review litigation and regulatory actions against competitors to identify potential areas of legal risk that may apply to the company, and to advise business partners of potential exposure.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
27. Review trends in insurance coverage litigation and the terms of the company's insurance policies to identify potential coverage denial risks.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
28. Annually collect and organize the insights of legal staff about emerging legal risks facing the company and the steps the law department and others should take to address these.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
29. Annually collect and organize the insights of primary law firms about emerging legal risks to which the law department and the company should be alert.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Project Legal Risk Management					
30. The project legal team prepares a risk profile of proposed projects and reviews this profile as appropriate with the business project team.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
31. The project legal team periodically updates the risk profile for ongoing business projects and reviews the update with the business project team (at least quarterly for high risk projects).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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32. At the completion of major projects, the attorney designated as the project risk manager prepares an assessment of the open legal risks that still need to be managed on a going-forward basis. This assessment is reviewed with the practice group risk coordinator and others in the law department and business unit as appropriate. Ongoing legal obligations -- such as payments, disclosure or reporting, and compliance requirements -- are identified.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
33. At the completion of major projects, the lawyers involved with the project (possibly including outside counsel) review the steps taken to manage legal risks and make improvements in the way the legal risk management process operates for future projects.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reporting to Senior Management					
34. Appropriate law department representatives meet quarterly with business unit heads (and other company control executives) to review the status of high risk matters in the business unit and recommend appropriate action steps.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
35. The general counsel and appropriate law department managers meet quarterly to review the status and management of high risk matters in the company and identify appropriate action steps.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Law Department Legal Risk Performance Management					
36. Newly hired lawyers and paralegals participate in a legal risk management orientation program to ensure they are alert to the law department's legal risk management guidelines, resources and responsibilities. There is a process in place to track participation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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37. The performance of attorneys and paralegals in managing legal risks is reviewed at least annually by their supervisors and those whose performance is inadequate are warned or terminated.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>