

# How Boards Must Think Differently in Today's Digital Landscape



The evolving digital landscape continues to challenge many sitting directors with the various transformation and security issues it presents, according to [Boardroom Resources](#). Boardroom discussions can no longer ignore the rise of the digital consumer, which has begun to affect industries far beyond just retail or business-to-consumer. These challenges are accompanied by many opportunities for directors to improve board and company performance.

In [a video](#), Alex Schmelkin, board member with Essendant and founder & CEO of Cake & Arrow, is given an interesting task: If you could design a digital training program for today's board members, what would it look like? Host TK Kerstetter asks Schmelkin how he would both define 'digital' and communicate its current and future impact for today's directors.

In the video discussion, Schmelkin outlines several approaches that boards can take to better understand the "end user" no matter the organization or industry.

[Watch the video.](#)

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# Assessing the Ability to Change Culture – Complimentary Article from NACD



The National Association of Corporate Directors has published a complimentary article titled “[Assessing the Ability to Change Culture](#),” providing a quick overview of best practices set forth in the *Report of the NACD Blue Ribbon Commission on Culture as a Corporate Asset*.

Most boards recognize that management’s actions create an organization’s culture, and that leaders should “walk the talk.” But few know what’s involved in assessing and changing culture in a rigorous, comprehensive, and data-driven way, NACD says on its website.

The article describes how boards should:

- Assess the company’s commitment to change along four key dimensions
- Oversee management in identifying and implementing needed interventions
- Seek to modify specific behaviors, not just instill values or tone from the top

[Download the article.](#)

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# Benchmark Report: Learn How Your Peers Manage Third-Party Risk



NAVEX Global has published its [2017 Third-Party Risk Management Benchmark Report](#) to document how practitioners are successfully conducting third-party risk management – including screening, monitoring and auditing techniques.

“Third parties can be unpredictable,” the company says on its website. “When managing hundreds or even thousands of third parties, keeping an eye out for red flags may seem a herculean task. Use the report to improve your own program outcomes, stop bad behavior in its tracks, and ensure you know how to spot the warning signs.”

The study, which includes information from more than 400 professionals, offers guidance on the approach to third-party risk management that organizations find most effective, how they are using outside providers to assist with third-party due diligence, if automated due diligence affects ROI, and more.

[Download the benchmark report.](#)

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# Invitation: 2018 Chief Litigation Officer & IP Law Summits



Marcus Evans Summits [has announced](#) the schedule for the 2018 Chief Litigation Officer Summit and IP Law Summit, both scheduled for March 11-13, 2018, at the Venetian in Las Vegas.

Both summits will feature networking, presentations and panel discussions.

“With our unique in-house platform, attendees have the ability to pre-select meetings with the delegates/vendors they would like to meet with. This way your agenda is tailored exactly to your needs and maximises your time there,” the company says in its invitation.

[Get details about the summits.](#)

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# 2017 In-House Benchmarking Report Just Released



Exterro has published its 40-page [2017 In-House Legal Benchmarking Report](#) and made the report available for free downloading on its website.

This year's report shows the areas of focus that corporate legal teams are homing in on in the hopes of gaining the kind of control that will bring efficiency: control over the process, both in-house and with third-party vendors; control over project management through the use of technology; control over data volumes and data types during preservation.

Some points about the report:

- **40-page** comprehensive report, which surveyed 85 in-house legal professionals
- **Key topics** include how legal departments are allocating spend, techniques used to manage legal operations and much more...
- **Expert analysis** by **EDRM co-founder George Socha**, on what he sees as the key takeaways from this report

[Download the report.](#)

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# Dealmakers Increasingly Optimistic About M&A Market and U.S. Economy in Dykema Survey



Respondents to Dykema’s [13th Annual M&A Outlook Survey](#) expressed an overall bullish viewpoint of the economy and U.S. merger and acquisition market, bringing a new level of optimism, not seen in several years.

According to the firm, 39 percent of respondents in this year’s survey expect the M&A market to strengthen over the next 12 months, up from 33 percent last year and 37 percent in 2015. With a record-breaking robust stock market and uncertainty surrounding the presidential election fading, this revelation mirrors the 60 percent of respondents who predict a strong U.S. economy in the next 12 months, doubling last years’ results.

“With the uncertainty around the presidential election in the rearview, our survey respondents are abandoning the ‘wait and see’ mantra, with an increasing number predicting that deal activity is back on the rise,” said Thomas Vaughn, co-leader of Dykema’s M&A practice. “In this year’s survey, we are, however, still hearing that uncertainty around the Trump administration’s priorities and regulations will have the greatest impact on M&A from a global perspective.”

More than half (50 percent) of respondents expect Donald Trump

to be a positive force in U.S. markets as a whole this year. Likely factors playing a role in this optimistic sentiment include expected reduction in corporate tax rates, more favorable business regulations, and the Trump administration's perceived business-friendly positive economic policies.

The survey yielded a number of other interesting conclusions, including:

- Half of respondents said President Trump will have a positive impact on the U.S. economy and M&A market in 2018.
- Seventy-percent of respondents predict the volume of small deals (under \$50 million) will increase over the next 12 months, with 53-percent predicting an uptick in deals valued between \$50 million and \$100 million.
- Sixty-eight-percent of respondents said they would be involved in an acquisition in the next 12 months, which is fairly consistent with 2016's 70 percent.
- For the fourth consecutive year, respondents expect technology and healthcare to see the most M&A activity in the next year. Fifty-nine-percent of respondents also predict an increase in M&A activity between fintech startups and established financial services organizations in 2018.
- Almost 80-percent of respondents expect an increase in M&A activity involving privately owned businesses in the next 12 months, increasing by 10-percent from last year's results.
- Mirroring prior years, dealmakers say the leading driver of cross-border deals will be companies seeking growth via entrance into foreign markets. More companies in Asia are expected to pursue deals in the U.S., and outbound M&A activity from the U.S. to Mexico and Canada is expected to increase in the next year, despite ongoing public statements by the Trump administration around the renegotiation of the North American Free Trade Agreement.

Trade Act (NAFTA).

“The middle market is quickly becoming the focus of M&A,” said Jeff Gifford, co-leader of Dykema’s M&A practice. “Technology and healthcare are two of the more active spaces, with fintech becoming an increasingly popular area of interest. Megadeals have lost some of their steam and we are seeing more and more companies pursuing small to middle market strategic transactions.”

Survey results are being released this week at Dykema’s exclusive annual M&A Outlook events in Detroit and Chicago. The full report is available [here](#).

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## **Leaving the Contractual Term ‘Voting Power’ Undefined Could Be Risky Business**

Any attorney who regularly drafts stock purchase agreements, voting agreements, or other contracts that use the term “voting power” would do well to take note of a recent ruling, suggest [Benjamin F. Jackson](#) and [Stephen P. Younger](#) of [Patterson Belknap Webb & Tyler LLP](#).

They write that the New York case *Special Situations Fund III QP, LP. v. Overland Storage, Inc.* raises several questions: What does the contractual term “voting power” mean? Does it refer only to the power to elect corporate directors, or does it refer to the power to vote on any fundamental



matter of corporate governance? Is voting power an attribute of stock, or is it something that shareholders possess?

Leaving this term undefined in a contract could be risky business, they warn.

[Read the article.](#)

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## [Invitation: 2017 Ethics and Compliance Virtual Conference](#)



NAVEX Global will stage a unique, once-a-year virtual conference to help participants learn about current best practices and new emerging compliance issues.

The free webinar will be on Thursday, Nov. 9, 2017.

More than 4,000 legal, audit and compliance professionals are expected for the [2017 Ethics & Compliance Virtual Conference](#) to hear speakers like:

- Shankar Vedantam, Host of the Hidden Brain Podcast and NPR's Science Correspondent
- Kristy Grant-Hart, CEO, Spark Compliance Consulting

- Richard Bistrong, CEO, Front-Line Anti-Bribery LLC

This year's conference will have 23 sessions throughout the day with three specialty tracks on Aligning Corporate Risk & Culture, Leading for the Future and Investing in Corporate Culture.

Participants are free to come and go as they please. Anyone unable to access the live webinar may register to obtain access to the sessions later.

[Register for the webinar.](#)

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## [\*\*Sidley to Add Energy Capital Markets, M&A Team in Houston, Washington, D.C.\*\*](#)

Sidley Austin LLP announced that it will add a team of five partners to its Capital Markets and M&A practices, four of whom – David Buck, Jon Daly, Angela Richards and George Vlahakos – will be based in its Houston office, with the remaining partner – Bill Cooper – splitting his time between Houston and Washington, D.C. Buck, Daly, Vlahakos and Cooper will join Sidley November 1, while Richards will follow in early December.

“David, Bill, John, Angela and George are widely known in the energy sector and recognized for their experience and industry insights,” said Kevin Lewis, co-managing partner of Sidley’s

Houston office. "For the past two decades they have been advising energy companies, investment banks, funds and others on complex and innovative transactions, including for master limited partnerships. Their coveted MLP capital markets and tax work will be an important addition to our office, and together with their broader capital markets and M&A capabilities will complement Sidley's formidable, globally recognized capital markets and M&A practices."

Their arrival is coming on the heels of several other energy partners that have recently joined Sidley, including David Asmus, Brian Bradshaw and Brian Minyard in Houston, and Emily Pitlick Mallen in Washington, D.C.

The firm provides the following biographical information for each of the new partners:

David Buck – Buck is a senior capital markets and M&A partner with a distinguished corporate and securities law practice emphasizing transactional and governance matters. His corporate finance practice includes representing both issuers and investment banks in initial public, private equity and debt offerings. He has particular industry experience with domestic and international energy, including oil and gas exploration and production, midstream, offshore drilling, seismic and other energy services. Buck advises special committees and financial advisers concerning merger and acquisition transactions, joint ventures and private equity investments. Additionally, Buck regularly counsels public clients regarding compliance with periodic reporting, proxy solicitation, corporate governance matters and other requirements of the federal securities laws, the New York Stock Exchange, the NASDAQ Stock Market and other exchange rules.

Bill Cooper – Cooper concentrates his practice on complex capital markets transactions representing both issuers and underwriters on initial public offerings (IPOs), follow-on

equity offerings, traditional private placements, Rule 144A offerings and private investments in public equity. He has substantial experience with master limited partnerships (MLPs), including private formation transactions, IPOs, sponsor drop-down transactions and conflicts committee representation.

Jon Daly – Daly focuses his practice on corporate and securities law. He represents public and private companies, MLPs and investment banks in all forms of capital raising transactions, including IPOs, registered offerings of equity and debt securities, as well as private placements of equity and debt securities. In addition, he advises on corporate governance matters, periodic reporting and other requirements of federal securities laws, and the requirements of the New York Stock Exchange and the NASDAQ Stock Market.

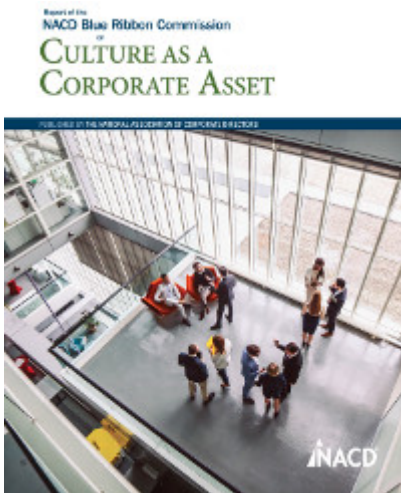
Angela Richards – Richards advises clients in the energy sector on various federal income tax matters, particularly on domestic business transaction planning. She counsels MLPs on mergers and acquisitions, capital formation, acquisition and recapitalization issues. She has also served as tax counsel to both issuers and underwriters in connection with numerous MLPs, IPOs and follow-on offerings.

George Vlahakos – Vlahakos has experience in a broad range of transactional and corporate governance matters. His practice includes representing public and private entities, investment banks and private equity firms in connection with IPOs, mergers and acquisitions, private equity investments and registered offerings, as well as private placements of equity and debt securities. He also counsels MLPs and clients across the energy value chain, including those engaged in upstream, midstream, downstream and oilfield service-related matters.

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## [Download: Complimentary Copy of NACD's New Culture Report](#)



The National Association of Corporate Directors (NACD) has published a report titled "[Culture as a Corporate Asset: Translate Values into Value](#)," the topic of this year's NACD Blue Ribbon Commission Report.

Just released at the 2017 NACD Global Board Leaders' Summit, the report provides directors with the following information:

- A definition and key characteristics of organizational culture
- Priorities for action for the entire board and committees
- 10 strategic recommendations for overseeing culture

Organizations with strong, positive cultures have been shown to outperform their peers in customer satisfaction, quality, productivity, and profitability, the NACD says on its website. The absence of a healthy culture can create or increase many types of risks.

Yet, in a recent NACD survey, less than half of directors

reported that their boards assess alignment between their company's purpose, values, and strategy. And only 50 percent say they understand the "buzz at the bottom" – how culture actually translates into norms and behavior among rank-and-file employees.

[Download the complimentary report.](#)

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## [Webinar: Step-Up Your Third-Party Risk Management Program](#)



NAVEX Global will present a free webinar, "[Using Metrics to Improve Your Third-Party Risk Management Program](#)," on how to set up a third-party risk management program for success.

The event will be Thursday, Oct. 26, at 10 a.m. PDT/1 p.m. EST.

Participants will learn how companies with advanced programs manage their third-party risk and due diligence processes and will get industry benchmarks to size up your program.

Expert presenters will discuss the steps that should be taken to improve a program and minimize risk – regardless of organization size or number of third parties managed.

Organization following the steps have:

- Reduced their risk of legal or regulatory action
- Appropriately defined “high risk” third parties
- Found the most powerful screening and monitoring methods
- Measured the effectiveness of their third-party due diligence programs

[Register for the webinar.](#)

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## [Introducing Yerra Clearly 2.0: Get a Grip on Legal Spend](#)



Yerra Clearly

Yerra Solutions has introduced [Clearly 2.0](#), a legal spend management system that works by combining technology and human intelligence to simplify invoice handling and derive greater savings from the eBilling and spend management process.

The solution provides 100 percent global invoice capture, configures workflows, offers advanced mobile reports and flexible solutions.

“Yerra Clearly combines human intelligence & technology,” the company says on its website. “Our spend management tool is supported by a team of legal and IP spend management experts, as well as specialized analysts trained in invoice review and spend reporting. We understand that our clients have differing priorities and offer a flexible solution that enables you to

choose and pay for only what you need to get the best results.”

[Get more information.](#)

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## [General Counsel Salary is at a 1:3 Ratio to Their CEOs](#)



A new report by Equilar finds that companies with revenue between \$1 billion and \$15 billion pay their CEOs 3.7 times what they pay their general counsel.

The report (via [Above the Law](#)) puts the ratio for companies with revenue less than \$1 billion at 3:1.

“But don’t go crying for in-house counsel just yet.” writes Above the Law’s [Elie Mystal](#). “Median GC salary at the largest companies was \$650,000, while the smaller companies Equilar tracked still posted at \$325,000 median salary for general counsels. Which is pretty decent scratch, all things considered.”

[Read the Above the Law article.](#)



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## [Onit to Unveil Contract Lifecycle Management at ACC](#)



Onit will unveil its Contract Lifecycle Management (CLM) solution at the 2017 ACC Annual Meeting in Washington, DC,, Oct. 16-18.

The company is offering 30-minute demonstrations to show how the new solution can manage the entire lifecycle of contracts – from origination to execution, storage, administration and renewal.

Some unique features include:

- A clause library with various clause-level controls to help drive workflow with the legal department
- Version control and negotiations management to allow multiple parties to manage versions during the redlining process
- Contract authoring functionality that gives users the ability to build custom contracts with clauses from a clause library

Simply fill out the form below and let us know when you can join us in our demo room on the exhibit floor.

We are also scheduling demos of our other offerings (ie. legal e-billing, matter management, legal holds, legal service requests, NDA management, etc).

- Name

First  Last

- Title

- Company

- Email

- Phone

- What day would you prefer?

Monday, Oct. 16 ▼

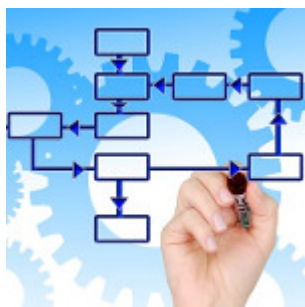
This iframe contains the logic required to handle Ajax powered Gravity Forms.

[Download](#) our whitepaper “Simple Contract Management” (direct PDF download) to learn more.

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[Company Organizational Charts: Quick Tips for](#)

# Lawyers



A corporate organizational chart is more than a pretty picture, writes [Mark Little](#) for Berkman Solutions.

In a [new article](#) on the Berkman website, Little explains the difference between company and management organizational charts, discusses the challenges of company organizational charts, and explains how to make a company organizational chart.

He also discusses the three benefits of company organizational charts:

1. Displays information density: large amounts of ownership data are available as a single graphic.
2. Reveals corporate tracking failures: each entity should be in the lawyer's legal entity management system.
3. Improves client relationships: both corporate counsel and outside business lawyers need effective ways to communicate with clients. Org charts are a rare, meaningful visualization of legal data for clients.

[Read the article.](#)

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# Equifax Breach Caused by Lone Employee's Error, Former CEO Says



The Equifax data breach happened because a single employee failed to implement software fixes, the company's former chief executive told members of Congress on Tuesday.

[The New York Times](#) reports that Richard F. Smith, who stepped down last week, repeatedly apologized to the members of the House Energy and Commerce Committee – and the American people – for the security lapse.

“Angry members of the committee tore into Mr. Smith and pressed him on how a credit bureau of Equifax’s size, responsible for safeguarding billions of sensitive records on Americans’ financial lives, could have allowed so much data to escape, unnoticed,” write [Tara Siegel Bernard](#) and [Stacy Cowley](#).

[Read the NYT article.](#)

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# Tax Reform Plan Makes C Corporations More Appealing



The Republican tax reform plan released this week proposes changes that are likely to make C corporation structures more appealing to U.S. business owners and investors, according to a post on the website of [Androvett Legal Media & Marketing](#).

“The reduction of the top corporate tax rate from 35 percent to 20 percent could certainly lead to a renewed interest in C corporations,” said Dallas tax lawyer [Nathan Smithson](#) of [Jackson Walker LLP](#). “An investment in a corporation is subject to two levels of federal income taxation – once at the corporate level, and then again when a distribution is made out of the corporation to the investor. The proposed 20 percent corporate tax rate would make this investment far more palatable.

“The plan also lowers rates for partnerships and LLCs. However, investors and business owners who do not want to subject themselves to the more complex partnership tax rules – including paying taxes on their share of entity-level income – may now want to convert their entities to corporations,” said Smithson, who advises corporations, LLCs and partnerships on federal tax planning.

“An original investment in stock of a qualifying small business corporation can be sold tax-free if held for five or more years. A drop from a 35 percent to a 20 percent rate may make this type of investment a no-brainer for investors looking to minimize their overall taxes on corporate income.”

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# Yerra Conference Europe for In-House Legal & Compliance

The [5th Annual Yerra Conference Europe](#) will be in London on Oct. 11, 2017, at Glaziers Hall.

Yerra says it will be an exclusive event for legal, IP, eDiscovery and compliance professionals, with speakers from UBS, Roche, BT, GSK and more.

## 2017 AGENDA

09:00 – 09:30 | Breakfast and Registration

09:30 – 09:40 | Welcome Message and Yerra Update  
Rajitha Boer, Founder & CEO, Yerra Solutions

09:40 – 10:55 | Keynote Address – When Governance Controls Fail  
Michael Woodford, Author, Whistle-blower and former President and CEO of Olympus Corp.

10:55 – 11:15 | Morning Break & Book Signing (Michael Woodford)

11:15 – 12:00 | Establishing an End-to-End In-house eDiscovery Service in a Global Financial Services Institution  
Siegrun Heberle, Executive Director, UBS  
David Kern, Director, Head Data Processing & Hosting,

eDiscovery Technology Service, UBS

12:00 – 12:30 | Panel Discussion on Regulatory Trends

Catherine Contiguglia, London-based Finance Reporter, Politico  
Aditya Prakash, Chief Innovation Officer & Head of Client Services, Yerra Solutions

12:30 – 13:30 | Networking Lunch – The Story of London Bridge

Vanessa Harding, Professor of London History, University of London

13:30 – 14:30 | Everything You Always Wanted to Know About High Performing Teams (But Were Afraid to Ask)

Max Huebner, Director Corporate Legal and Tax, PGGM N.V.  
Chris Fowler, General Counsel, BT

14:30 – 15:15 | Spend Management Simplified

Karin Bruehlmann, Head of Legal Service Controlling, Roche

15:15 – 15:25 | Afternoon Break

15:25 – 16:10 | Managing Third Party Risk in the Supply Chain

Anthony Kenny, Assistant General Counsel, GlaxoSmithKline

16:10 – 17:10 | Afternoon Keynote – Assessing Risk and Making Better Decisions

Caspar Berry, Professional Poker Player & Risk Expert

17:10 – 17:15 | Closing Discussion & Wrap Up

Jerome Raguin, Global COO, Yerra Solutions

17:15 – 19:30 | Networking Reception & Poker Workshop

[Register for the event.](#)

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# Trump's Impact Felt in Supreme Court Labor Rights Cases

When the Supreme Court opens its 2017 term on the first Monday in October, its very first cases will serve as a stark reminder of why elections matter, predicts [USA Today](#).

Reporter [Richard Wolf](#) writes that the upcoming term stands “a real chance of being a one-two punch against workers’ rights,” says Claire Prestel, associate general counsel for the Service Employees International Union.

Wolf points out how things have changed:

When the court was asked to hear three cases on labor arbitration agreements last September, Barack Obama was president, Hillary Clinton was heavily favored to succeed him, and federal appeals court Judge Merrick Garland was in line to replace the late Antonin Scalia. Garland had a strong record of defending workers’ rights.

[Read the USA Today article.](#)

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# The Evolving Role of the GC in Risk and Crisis – Complimentary Article



The National Association of Corporate Directors has published an article that outlines five key steps to help companies prevent negative headline events and respond when a crisis can't be avoided. The article [can be downloaded](#) from the NACD website.

With social media as an accelerant, a smoldering corporate crisis or failure can almost instantly flare into the firestorm of a viral headline event. In this recent interview in *NACD Directorship* magazine, Robert E. Bostrom outlines the five key steps companies can follow. He strongly recommends that companies take the following measures:

- Establish an enterprise-wide risk committee.
- Proactively evaluate and prioritize a broad portfolio of risks.
- Empower the GC as the representative on risk to the board.
- Use risk management as a business tool for evaluating strategies, plans, and investments.
- Strategize and plan for managing negative events.

Bostrom provides some strong insights into the role of the GC in both preventing and managing crises. He also offers his thoughts on how boards and management must align in order to prevent (or survive) headline events.

[Download the article.](#)

