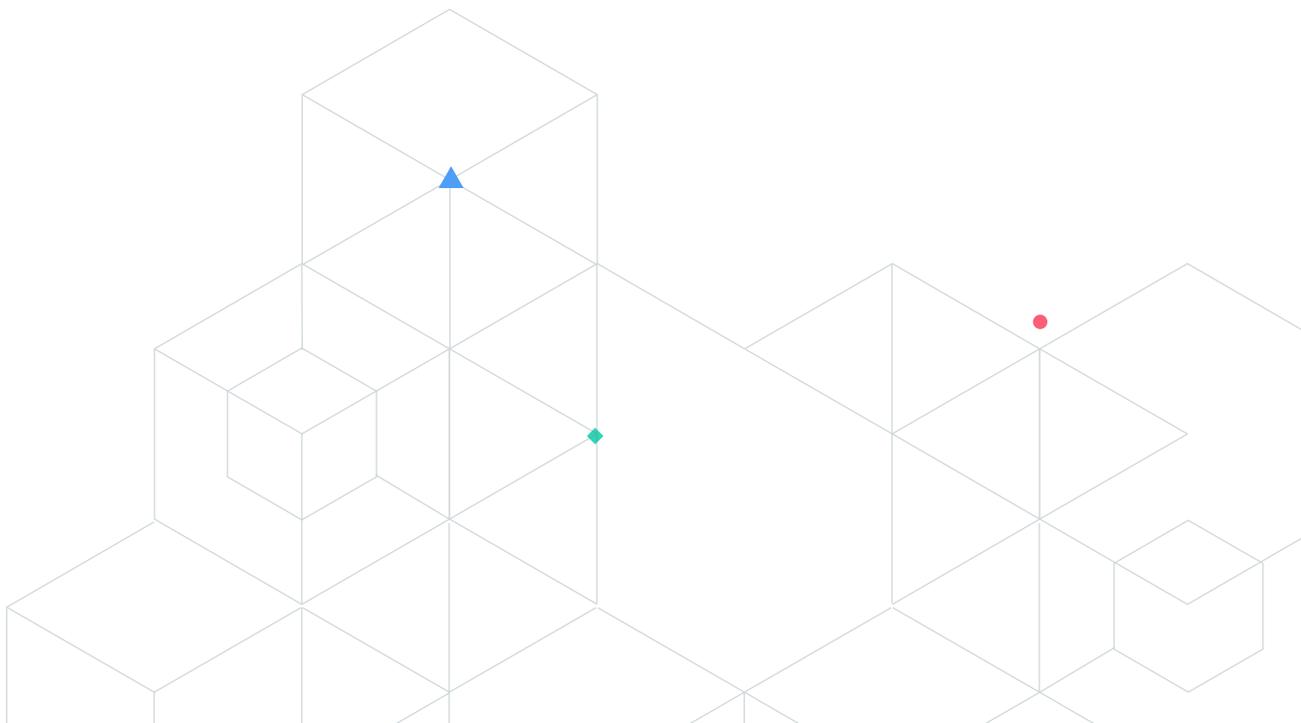




Automating Conflict Clearance to Win More Deals

A technology solution for control rooms and legal/compliance departments



Introduction

Deal clearance, or the removal and or management of all conflicts of interest, is an important but unheralded and often under-resourced part of every financial transaction. For most financial advisors involved in M&A, capital market, trust, and especially restructuring engagements, the responsibility for clearing a deal typically falls on compliance and, depending on the size of the firm, a single officer or a small staff working under them. Until now, there has been a wide discrepancy in sophistication between the systems used by bankers and consultants to facilitate deals and those utilized by compliance staff to safeguard them. While professionals use the latest and most efficient technology to quickly accumulate and race through deals, compliance is left to keep up using manual and inefficient systems and processes prone to human neglect and error. With the speed, complexity and volume of deals increasing daily, something has to give: Unfortunately, that something is firms' ability to avoid conflicts and remain in compliance with the FINRA, the US Bankruptcy Court, and the other rules that regulate them.

New reforms and the intensified scrutiny has brought this problem into stark relief bringing increased civil and criminal penalties for financial malfeasance. Advisory deals are the bread and butter of investment banks, accounting, and consulting firms, but if firms and their advisement practices are going to continue to prosper, they must reevaluate how they conduct compliance and look at new strategies and technologies for clearing and managing conflicts.

This whitepaper will:

1. Review the risks due to conflicts of interest inherent in each stage of the deal compliance lifecycle, the principal actors involved, and the challenges each of those individuals face in the course of managing those risks.
2. Evaluate the current risk management systems available to financial firms, to examine their limitations and establish a framework and the requirements for overcoming them.
3. Introduce the new systems, processes and set of best practices that we believe financial firms will need to adopt in order successfully manage risk from conflicts of interest now and for the foreseeable future.

The Compliance Lifecycle

Winning deals requires the elaborate orchestration of all levels of the firm and trusted outside partners. However, before a deal is even won, the first step is to make sure that the firm can advise the client on the transaction without raising conflict of interest issues. Then, once that conflict is cleared, to manage the risk of any potential future conflicts by continuously monitoring each deal through its compliance lifecycle.

For advisory practices, clearing a new deal or client for acceptance involves multiple steps including checking for conflicts of interest against internal and external data sources, standard AML and KYC checks and re-running checks as additional deal team members are added or subtracted, as well as other client and regulatory evaluation processes. As the volume of deals grows, and the number of professionals involved with each deal increases, the challenge of performing dynamic conflicts searches also increases.

In the next section we'll define the six stages that can make up the compliance lifecycle of the typical advisory deal and examine the key conflicts of interest risks professionals face as they progress through them.

Notification

The first compliance stage of any advisory deal is 'notification.' While the actual workflow can and does vary from firm to firm, this is the stage where the lead banker, consultant, accountant, or lawyer notifies her Compliance or Legal Department of the intent to enter a deal and makes the formal request for clearance. This stage is all about capturing the deal information correctly so it can be properly vetted by Compliance. It is here where Compliance collects the primary data points that comprise the deal.

Risk

While the risk level is relatively low at this point, the importance of collecting all the required information in a complete, accurate and timely manner cannot be overstated. An incorrectly spelled name or unobserved relationship can mask a conflict that could cause trouble for the deal or firm down the road.

The absence of an established or formalized workflow is another potential problem. In many cases, the banker will signal her intention to enter a deal through the submission of a non-disclosure agreement (or NDA) to Legal. With a formalized workflow in place, Compliance would be notified simultaneously, ensuring that the legal review of the NDA doesn't commence until the conflicts are cleared by Compliance. Without the formal workflow, this crucial step or others could be overlooked, which opens the door for miscommunication, or misconduct.

Conflicts Search

Once Compliance or Legal has the details of the deal from the banker, they perform a search to see if the client is involved in another of the firm's deals and, if so, whether or not the deal is still live. This is the 'conflicts search' stage and can also include a check to determine if the firm possesses material non-public information (or MNPI) about the client or has an active NDA or confidentiality agreement.

If Compliance uncovers MNPI associated with another live client deal during the search, the transaction will be flagged and moved to the 'conflicts management' stage for resolution. If no conflict is identified, the transaction is cleared and the client's name (and its ticker symbol if it is a publicly traded company) is added to the firm's Restricted list.

Risk

The risks and stakes become magnified as you progress from stage to stage. For the search, accuracy and attention to detail are everything, especially when dealing with large organizations with complex corporate hierarchies. A seemingly benign error, like omitting the complete company name, could lead to an incorrect association and the delay or even termination of the deal.

Conflicts Management

As deals become more complex and involve more parties, the likelihood of a conflict exponentially increases. While the existence of a conflict will not necessarily scuttle the deal, it does present a number of issues that must be resolved before it can be cleared to continue. It is in this, the 'conflicts management' stage, where the firm and its client must decide to work through the issues or walk away from the transaction.

When a search uncovers a conflict, the first thing the firm needs to do is disclose the finding to the client, and inform them that it may preclude it from serving as their advisor on the transaction. At this time, the firm can attempt to resolve the conflict, by, for example, substituting a banker or consultant or erecting a firewall between the deal team and the rest of the team, but the choice to continue lies solely with the client or governing body such as the bankruptcy court. Unless, of course, the firm is unable to waive or otherwise resolve the conflict, then it has no choice but to recuse itself and walk away from the deal.

Risk

If the firm and its client acknowledge the conflict and agree to continue with the deal, it is the responsibility of the firm to manage the conflict and protect the client's MNPI throughout the life of the transaction. In order to successfully manage the conflict, the firm will need to keep the deal information up to date, erect sufficient barriers between the deal team and the rest of the organization, and maintain an audit trail that documents all changes and access throughout the deal.

AML and KYC Checks

Anti-money laundering (AML), know your client (KYC) and other provisions intended to keep illicit money out of world's legitimate financial systems proliferated after 9-11 and the passage of the USA PATRIOT Act. The laws and regulations are constantly evol-

ing, and differ from nation to nation, but they all share a common purpose of preventing the illegal activities of terrorists, drug traffickers and other bad actors. In the US, the rules are set out by the aforementioned PATRIOT Act, the Bank Secrecy Act and the Office of Foreign Assets Control. Every deal, once cleared in

The Special Case of Bankruptcy and Restructuring Engagements

A bankruptcy or restructuring engagement presents perhaps the most daunting challenge in conflicts clearance. The sheer volume of potential conflicts to clear creates a level of complexity and coordination that can quickly overwhelm even the the most senior compliance and control room staffs.

Consider the recent bankruptcy deliberations involving Toys R Us. According to the Washington Post: "Toys R Us owes ... more than 100,000 creditors."

That bears repeating. Toy R Us owes more than one-hundred thousand creditors. Each creditor must be cleared through each of the financial advisory firm's multiple databases and employee and partner holdings in order to produce the retention application for the court.

The industry refers to these conflicts clearing processes as "Weekend Killers".

In a major restructuring, the tapestry of creditors, subsidiaries and conflict types makes for a dizzying matrix of conflict possibilities that renders traditional non-digital solutions perilously quaint.

For example: Quartz Media lists these as the top 20 toy makers to whom Toys R Us owes money:

| | | |
|------------------|-------------------|-------------------|
| Mattel | Hasbro | Spin Master |
| Lego | Just Play | MGA Entertainment |
| Vtech Electronic | Jakks Radio Flyer | Skyrocket Toys |
| Pacific Cycle | Moose Toys | Dorel Juvenile |
| Jazwares | Zuru | BandaiCepia |
| Huffy | Wowwee | Razor |

Mattel has about 50 subsidiaries; Hasbro 20; Spin Master 7. Did Bank X Team Member 4 consult with Tsuburaya Productions, a Bandai subsidiary? Does Team Member 2 have a prior relationship with Little Tikes, an MGA Entertainment subsidiary? Did Team Member 6 donate money to the political campaign of an executive who once worked at Gen-X Sports, Inc., a Huffy subsidiary?

To successfully clear the volume of conflicts to secure a restructuring engagement, technology is a must to provide:

- ✓ Integrated corporate tree content to confidently understand the correct entity to be cleared
- ✓ The ability to pull out only changes made to the Parties In Interest (PII) list as each list will have to be re-run several times durint he course of winnign the deal, and then as the engagemtn continues through months and sometimes years.
- ✓ The ability to assign work to multiple compliance staff and still maintain a consolidated and singular view of the engagement.
- ✓ The production of the retention application from all the disparate sources of data and conflicts

the conflict stages, must also be vetted by Compliance and Legal at the 'AML and KYC checks' stage to ensure that the client or its known associates are not at risk for violating the provisions.

Risk

Bad actors will take extraordinary measures to hide their true identity and intentions. AML and KYC checks are only as good as the information underlying them. For the review to be effective, the firm needs the most current and accurate information possible. Human error and the ever-changing nature of the deal make it difficult to manually verify the accuracy of the information coming from the bankers and other sources, opening the door to errors or omissions that could mask an illicit connection.

Restricted List Management and Trade Monitoring

While free to continue after clearing conflicts, the deal, assuming it is live and includes the transmission of MNPI, must now be added to the firm's Restricted list/database. In many instances, the deal will impact other firm clients on the list. Compliance is required to document and update the record appropriately.

For the majority of firms that solely consist of a banking or consulting business, the updating requirement ends here. For larger, more complex firms, with separate trading and research arms, the responsibility includes an additional component. In all instances, Compliance must continually monitor firm employees, and check all requests for preclearance against the Restricted list, to restrict all trades in the client's name while it is on the list.

Risk

Coordination at this point is key to keep the Restricted list up to date and the firm and its traders free from doing anything actionable. Without a formalized workflow or standardized process, there's no way to guarantee the accuracy of the list or, in the case of a more complex firm organizational structure, ensure it is in sync with Control.

Continuance, Monitoring, and Updating Conflicts Searches

Maintaining the firm's compliance is a dynamic process that continues long after the deal is cleared of conflicts. A deal could take anywhere from a few months to several years to complete and much could happen during that time to make the firm more or less susceptible to a conflict of interest. It's up to legal and compliance to periodically check the deal details on record, to make sure they are still accurate and up to date. Inaccurate or out-of-date records could expose it to prosecution or prevent it from pursuing important new opportunities.

Risk

Time is one of the biggest enemies of Compliance as they work to keep on top of all the transactions in the deal list or database. With every passing day, the deals age and add details that can change or append the record.

The Current Mechanisms for Managing Conflicts

Investment banks operate in an increasingly complex and treacherous environment and Compliance has to do more and more every day to keep their firms out of trouble. Clearing and managing conflicts of interest is just one of the hundred or so responsibilities on Compliance's plate, and its importance is often overshadowed by other organizational priorities. As a result, the systems and processes Compliance is given to manage conflicts are typically not on par with those used by the bankers, traders and researchers to produce them. The resulting resource and technological gap places the compliance officer and her staff at a serious disadvantage. A closer look at how the typical Compliance Department manages its firm's conflicts reveals why that is the case.

Policies and Procedures

Investment Banks and all members of FINRA (regardless of the type of business activity) manage risk through establishing policies and procedures that are relevant to its business. The policies of the firm outline what the firm does and how it complies with securities rules and regulations. Compliance and other risk areas are then responsible for establishing the processes and controls to ensure the firm follows the policies.

That all works fine generally and for most of Compliance's charter, but when it comes specifically to conflicts of interest, it becomes a problem. Unlike with other areas, security regulators are practically silent when it comes to managing conflicts of interest. The rules, for example, prohibit the trading on insider information, but they don't prescribe the means or method to prevent it. Without a clear mandate, firms are given wide latitude to create their own self-enforcement regimes, and little incentive to invest resources to support them, which have led to the manual and ad hoc – and increasingly insufficient – approaches and practices we're left with today.

Processes

While essential, Compliance doesn't typically command the same resources or support from Finance as other divisions such as Sales. You will rarely find Compliance investing resources to automate processes or standardize its practices, which typically leaves Compliance with a large and noisy deal sheet and a handful of informal workflows and practices with which to manage the firm's conflicts of interest. In most cases, that deal sheet is an Excel spreadsheet or Access database manually maintained and updated by Compliance. Any information that comes in or out of the database during the entire compliance lifecycle is by design part of a manual process with minimal or no audit and tracking capabilities. Other than integrations with other firm business systems, Compliance is completely reliant on the diligence of the bankers and other information sources for key inputs and updates to the deal file.

Despite the digital revolution that put the world on a smart phone, it is not unusual for the conflict management process to begin with a deal team lead walking across an office to ask co-workers if they have done business with the potential client. They will then alert Compliance, who will take the relevant information and search an Excel spreadsheet. After this step, Compliance might then email finance to check if the bank has ever worked with the potential client. Then, manual third-party searches are undertaken, none of which are necessarily documented, and are therefore themselves unsearchable in the future.

Amongst other issues, this process is heavily dependent on individual analysts having to remember factors such as exclusivity agreements, conflict waivers and other arcane policies. Processes can be duplicated; information may be missing or inaccurately captured. In a manual world, the specter of human error is always present.

In addition, these manual searches are not automatically ranked for relevance and by their nature contain irrelevant search results. Partners evaluating new matters find themselves forced to navigate large and noisy deal sheets – a tedious process that adds hours to the conflicts evaluation process and costs valuable partner time.

Technology

Like any other business, the typical investment bank deploys a number of cloud and on-premise applications or systems across the enterprise. HR and Finance have their own tools and platforms, to respectively manage personnel and benefits, book revenue and forecast expenses. Compliance has its set of utilities also, such as WorldCheck One to check for AML, employee pre-clearance platforms (MCO, Schwab Technologies) or others to surveil employee activities and conduct conflicts reviews. Integrating these systems is complex and so they are rarely connected. Instead, the information languishes in data silos, where it is maintained and updated independently by each line of business. This means the flow of institutional knowledge across the firm can be severely curtailed, placing the institution at a competitive disadvantage.

In finance, conditions change quickly: deals age rapidly, third parties are added and subtracted, bankers leave the firm or switch accounts and new details surface about the client. All of these events are principal to the deal, and without an automated or standardized way to capture the new information, the firm could potentially be in the dark about a conflict that could come back to haunt it.

It is fair to ask: when there are literally millions of opportunities for conflicts of interest between a bank and its Chapter 11 client, when does it become irresponsible to rely on manual processes to parse a digital world?

The Building Blocks of a Better Conflicts Management System

Even in the best of circumstances, the clearing and managing of conflicts is a complex, chaotic and political process. If financial advisory firms are going to turn conflicts management from a liability into an asset they are going to have to completely rethink on a global level how they resource, support and approach the entire deal lifecycle, from onboarding to delivery.

The Solution

Intapp is a leader in software for managing the entire deal lifecycle – from access control and ethical wall policies, managing conflicts of interest, on-boarding new clients, to managing compliance, and time and record keeping solutions. Over 650 organizations in such demanding disciplines as merger and acquisition advisory, restructuring and valuation, litigation consulting, legal services, trust advisory, and custodial services use Intapp to mitigate risk, protect their reputation and stay competitive and compliant.

Intapp provides software that enables professional services firms to thrive in an increasingly competitive marketplace through transformational change – improving operational efficiency, reducing risk, and aligning business operations with strategy – enabling firms to more effectively meet and exceed client expectations.

Intapp understands that a firm's existing technology and processes may have been in place for many years, and considerable time and resources have been spent in customizing the application and reports to meet specific needs. Intapp offers the comfort and confidence that we can deploy Intapp implementation specialists who are both familiar with the challenges of conflicts clearance, and are experts in risk management.

Once in place, Intapp's solution reduces the risk of missing an independence issue, ethical conflict, or commercial conflict with a more robust and complete single conflict search.

The solution provides the Compliance Team and Control Room with the ability to run a single comprehensive search across multiple internal and external sources, including but not limited to:

- corporate information sources (e.g. Dunn & Bradstreet),
- client relationship databases,
- financial systems and other firm or
- external data sources.

The solution reduces clutter in reports. Rather than seeing 14 versions of a large client Acme, a single Acme entity appears. Filters

and ranking rules reduce “noise” and focus attention on potential independence issues.

Intapp’s solution is built to support collaboration and mobility. The desktop user experience is identical to and synchronised with the mobile app providing unmatched ease of use.

Intapp’s solution makes it easier for compliance staff and professionals to share information, and more efficiently make decisions. By providing both a mobile application and the automated capture of email correspondence, Intapp xxx streamlines issue resolution and maintains an auditable, searchable record of the Compliance process.

Return on Investment

The operations argument for automating deal clearance is apparent. The ROI case can be just as convincing to senior management. It has never been more challenging to compete in the financial advisory industry. New entrants into the market continuously alter the competitive landscape. Rapidly evolving regulatory changes and client expectations demand the constant reappraisal of operating processes. Today’s financial advisory service organizations – whether in mergers and acquisition, restructuring, trust, or capital markets – must improve the efficiency with which they onboard new business, clear conflicts of interest, and meet the challenges of an ever-more rigorous compliance environment.

The key to staying competitive in this arena is to automate a workflow that is historically manual, redundant, complex and in which the data stales over time. Intapp offers a proven solution that brings disparate information to a single platform, creating a golden source of data tracking deals and parties to a transaction with a single search functionality.

There are three main areas in which automation of conflict management results in significant upside for financial advisory firms.

- Decreased Risk
- Direct Operational Savings
- Deal Support

Decreased Risk

Increased regulatory pressure has dramatically increased the stakes in making accurate and sound deal clearance and conflicts management decisions. The ubiquitous nature of technology and social media has increased the visibility and impact of negative outcomes, making the risk management process more important than ever.

From a risk oversight standpoint, a company’s reputation is inextricably linked with its risk management and crisis management. Effective identification and management of risk can identify major threats to reputation and ensure they are reduced to an acceptable level. Reputational risks can be enormous – a potential client considering between two advisers is far less likely to choose the firm that was recently fined by the SEC for conflicts of interest.

The need for automation is obvious. Once the process of conflict management becomes automated, there is no way to circumvent or ignore the process or policy. Compliance with firm policies becomes part of the daily routine.

Direct Operational Savings

A digital solution that makes data available across the firm’s ecosystem rather than residing in silos will allow firms to easily define custom result rankings and filters to deliver reports that eliminate noise and are easy to read. The Intapp search engine has been developed by conflicts experts to speed the search process and reduce the risk of missed conflicts due to improperly structured queries. The flexibility of the Intapp data structure allows firms to easily incorporate both internal and external data sources.

Intapp’s configurable question form, integration, and workflow capabilities enable IT or admin resources to easily implement policy changes without having to write custom code. Intapp native integration capability enables information to be moved from internal or external systems such as CRM tools, financial systems, credit bureaus, and corporate tree providers eliminating the need to rekey data or to manually review data in external systems. Best practices and enhancements are continuously introduced in new product versions across the Intapp platform further reducing the need for customizations.

Intapp’s audit trail and reporting capabilities allow for easy access to historic data and searches. Intapp’s configurable routing workflows which include escalations, committee approvals, and proxy approvers complete with notifications and reminders are all also tracked and ready for easy access and reporting.

Deal Support

Bringing new business into the firm is the lifeblood of the organization. Deal clearance is a critical but repetitive process. Small inefficiencies and inconveniences add up to massive waste when multiplied by high frequency, especially around the conflicts management process.

Having to enter the same client data in multiple solutions wastes time and creates opportunity for errors. Deal clearance can sometimes be a sprawling process that encompasses multiple data sources and multiple levels of workflows and approvals.

Automation of compliance searches enables senior staff to focus on higher value and more strategic tasks to help win business for the firm. Senior staff's high billable hours should be spent winning business, not researching whether or not the firm can even accept the business. In today's world, the answer to that question should be available instantaneously on a smart phone.

Of course, risk management and compliance is not simply about notifying clients about potential conflicts. It's also about strategizing growth. A robust compliance platform will enable a firm's network-wide revenue to be grown by proactively choosing which clients/subsidiaries/parent corporations will produce the optimal

mix of revenue and growth opportunities. A successfully implemented and consistent compliance system will give a firm greater insight into deal and project pipelines so that revenue maximizing choices can be made in a deliberate and coordinated manner.

Those firms that do not take advantage of a global database solution risk losing business to newer, more nimble financial entities.

Business Benefits of Intapp Solutions: Value Through All Levels of the Conflicts Process

| Value Driver | Benefit Type | Benefit |
|------------------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Optimization of Business Processes | Productivity | <ol style="list-style-type: none"> 1. Reduce time to close a deal and improve market competitiveness 2. Single search functionality: reduce redundancy and need to pull data from multiple sources 3. Eliminate risk of data loss |
| | Cost Savings | <ol style="list-style-type: none"> 4. Reduce staff time spent on manual conflict searches, mitigation, disclosure preparation and resolution 5. Help avoid the need for additional headcount and/or reduce expenses for outsourced contractors by automating workflow |
| Financial Performance Improvement | Revenue Gains | <ol style="list-style-type: none"> 6. Win more deals on faster and more accurate conflict clearances. 7. Ensure deals under consideration do not preclude future deals/revenue |
| | Revenue Gains | <ol style="list-style-type: none"> 8. The ability to more accurately represent prior work will assist in pitching new business and defining specific areas the firm can engage with prospects. |
| Risk Reduction | Reputational Gains | <ol style="list-style-type: none"> 9. Reduce risk of reputational damage. |
| | Compliance Failure Risk Reduction | <ol style="list-style-type: none"> 10. Avoiding compliance failures, avoid fee disgorgements and lost revenue due to compliance issues. |
| | Staff Loss/ institutional memory | <ol style="list-style-type: none"> 11. Standardized procedures and logged and audited data ensures staff turnovers do not impair ongoing compliance efforts |