

Case Study

Mechanics Bank Removes Legal Risk From Delivery of Board Materials

Board Portal Technology Also Aids in Good Governance

By Kathleen Quenneville

As general counsel and assistant corporate secretary at Mechanics Bank in Northern California, I always considered my financial institution's method for delivering its board books to our corporate directors in advance of their board meetings was fraught with peril and legal risk. The fact is that it was no different than what many corporations — banking and otherwise — do when distributing board materials in advance of their meetings.

Because our board of directors meets monthly, aside from June and August, the legal risks were multiplied as compared with corporations whose boards meet quarterly. I wasn't a math major, but understood the equation: 10 meetings means 10 sets of board books to be delivered to 13 directors, or 130 opportunities for materials to get lost in transit, intercepted or forwarded to inappropriate recipients. That's not even counting the meetings held by the board's six committees, which in-

clude audit and compensation committees, among others.

Mechanics Bank, of Richmond, CA, is a \$2.7 billion independent bank. We had employed a number of different board book delivery methods, depending on the director and where they were at the time the board materials were completed. These included overnight mail, e-mail and even hand delivery by bank employees.

e-Mail delivery was cumbersome and risky, as it invited an easy way for directors to inadvertently communicate vital information digitally, a major issue from a risk management and e-discovery perspective. Overnight deliveries had me and other bank executives wondering if they really got the material; and hand delivery by bank employees was no better — and extremely time consuming. And when previously distributed board books were updated prior to a meeting, there was a risk that now out-of-date copies still existed in e-mail and hard copy.

UNCOMFORTABLE RISK

The only thing all these methods had in common was that they all involved some element of risk that didn't sit well with me. While many banks and other companies have grown accustomed to these risks, we sought out

a relatively new set of products as an alternative.

That's why, in 2005, Mechanics Bank joined the first wave of companies to implement what's known as a "board portal" to facilitate the delivery of board materials to corporate directors and to better facilitate communications between boards and the executive management team of the companies they serve. After a review of several products, our bank chose Diligent Boardbooks, from New York-based Diligent Board Member Services.

Aside from reducing potential delivery risks, the portal solution offers several other benefits. Directors had been getting the materials much later than I, as assistant corporate secretary, wanted them to be received, putting undue pressure on board members to review materials in a short period of time. With the implementation of a board portal solution, the books are available online 24/7 in a password-protected and secure Web environment. Materials — whether one document or an entire section — are posted to the site as soon as they are approved internally, eliminating the receipt of all the materials at one time, an often overwhelming challenge for directors to wade through.

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The materials are easy to read, too. The Diligent Boardbook portal we selected features a “book-like” interface that promoted director usage of the new technology immediately following implementation, and helped raise their comfort levels, particularly those directors with an aversion to technology. The Web portal looks like a book — with all the basic features of a book, such as tabs and paginated text.

The make-up of our bank’s board of directors is very similar to boards across the country in terms of demographics and their varying interest in routinely using computers for board work. However, Diligent’s one-to-one training, made available to each director and administrator, helped spur acceptance of the new technology. (And, there’s an added benefit: Because of Mechanics Bank’s use of a board portal, along with its policy of purchasing laptops for directors, about half of the board members now fire up their laptops at board meetings.)

ARCHIVES AND VOTING OPTIONS

From the Diligent board portal, directors have access to archives, including materials and minutes from previous board meetings and company policies. The fact that these archives are “searchable” makes all the differ-

ence to directors who are pressed for time and crave efficiency. Directors can easily search for a file and all related materials, eliminating the need to maintain filing cabinets full of past board books and resolutions.

Directors also can make use of the portal to vote on resolutions and other matters, which yields some important benefits for customers. Like many other lending institutions, we place limits on the size of loans that may be made without board approval. Using the portal, directors can vote on these oversized loans as they are applied for, instead of waiting until the board meets. This insures that loan applicants get timely responses to their applications, in keeping with Mechanics Bank’s commitment to customer service.

Before deciding upon Diligent Boardbooks, I considered the business case for a board portal, working with DD Felton, vice chair of the board. Reluctant to add unnecessary expense, we compared portal technology costs to prior photocopying, courier and postage costs, as well as the legal risks. We concluded that the board portal could pay for itself while delivering significant additional benefits. Three years after implementing the board portal, paper consumption associated with board meetings is down more than 50%.

Aside from decreasing the risk in distribution and increasing productivity of directors, there’s also a risk-based benefit internally at Mechanics Bank. Board portals allow books to be created and approved more quickly. There’s much less collating of materials, and it’s easier to track and insure that various executives sign off and okay materials.

The board portal will continue to play a part in helping the bank manage e-discovery issues, an emerging problem facing all companies. For its own part, our bank is in the process of restructuring its records management process. Part of that challenge is determining what records our board has, and how to best manage them.



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