5 big trends changing law firm business acceptance

How firms can adapt to succeed in the changing landscape

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Contents

1. 10 years of decreasing realization rates

Revenue leakage is a growing business problem for law firms. We look at how and why firms must turn this trend around.

2. Law departments tighten terms with law firms

These days, legal engagements are tightly constrained by client stipulations. Complicated OCGs and engagement letter commitments must be managed, and new approaches should be considered.

3. All partners must be rainmakers

With the pressure to bring in clients, new-business teams are flooded with requests to act quickly. Firms must reward rainmakers with fast, smart business-acceptance models.

4. Strategic global business alignment

Leading firms now develop strategic business plans to plot out the next three, five, and 10+ years. They are also pursuing growth strategies—acquisitions, global offices, lateral hires—that overwhelm new-business teams and processes.

5. The privacy, cybersecurity, and anti-money laundering regulatory tsunami

These growing regulatory trends heighten global law firms' upfront and ongoing due-diligence requirements around new clients.

6. Testing the limits of business acceptance

Firms must assess the gaps in their business acceptance approach to respond to these trends. We offer a checklist for firms to determine if they have fallen behind in a changing landscape.

Introduction

The business of law is changing, and literally no corner of a large law firm operates exactly like it did several years ago. The process for evaluating and onboarding new clients in law firms is no exception. Five global legal trends are testing the limits of even the best new business acceptance models.

We'll explore why and how these big trends are causing shifts in law firm approaches, offer insights and practical tips on what firms must do to adapt their business acceptance models, and identify specific areas where technology can help.

Lastly we offer law firms a checklist to assess the gaps in their business acceptance approach in this changing landscape.

1. 10 years of decreasing realization rates

The legal industry is grappling with 10 years of decreasing realization rates. Law firm realization rates—the difference between billed hours and what clients actually pay—is largely driven by write-offs. Not surprisingly, many firm chief financial officers (CFOs) are hyper-focused on reducing write-offs. Yet few stop to consider how business acceptance could help right the write-off ship.

There are three ways business acceptance can positively impact write-offs and realization rates in law firms.

Upfront and ongoing client financial analysis

In the rush to sign on a new client, many law firms don't adequately investigate a potential client's financial state, including its payment record. Teams miss red flags that can lead to downstream payment problems or delays. One office's idea of financial due diligence may be quite different from another. With business acceptance analysis and monitoring stopping after onboarding, client Paydex score drops during matter execution can go unnoticed until too late.

Newer technology injects business information databases and Paydex score feeds right into the new-business due diligence process. The latest solutions also include software to automate financial and strategic fit scoring to enable more thoughtful new-business decisions. CFOs should also consider leveraging these fast, early financial red flags to negotiate upfront retainers, or require more frequent payment cycles.

Money down the drain—or back in your pocket

- Firm revenue decreases by 4% for every 30 days of payment delays. (Intapp Research Group)
- The industry realization rate is roughly 82%. (Thompson Reuters/Peer Monitor 2016)
- A $100 million law firm will write down 12-15% during the work effort to cash collection cycle. (Intapp Research Group)
- For a 600-lawyer firm, on average a change of just 1% in realization could increase revenues by $1.1 million. (Intapp Research Group)

> *"Marking a major shift in law firm culture, firms are improving profitability by turning down clients at intake and even firing unprofitable clients."*
>
> **2018 LAW FIRMS IN TRANSITION, ALTMAN WEIL FLASH SURVEY**

Poor OCG visibility poses huge write-off risks

For CFOs, some of the most maddening sources of growing write-offs are outside counsel guidelines (OCGs) and engagement letter billing violations. As OCGs grow in volume and complexity, prohibited billable hours and expenses occur because the case attorneys simply have no visibility into OCG terms. Or there are so many terms and ongoing updates that it is virtually impossible for busy lawyers to keep up.

For example, a client may refuse to pay a significant fee because the billing attorney was not on the approved matter staffing roster in the OCGs. The expensive senior associate was unaware of the term and went ahead and reviewed a junior lawyer's work. The client quickly finds this anomaly in their e-billing system and tells the firm they won't pay. A write-off results.

Cultural changes

Firms know they have to make hard choices to grow their businesses in a changing landscape. One of the most difficult decisions is a decision to reject a client at intake or fire an unprofitable client. These actions go against every cultural fiber in most law firms. Yet they are necessary measures to reduce write-offs and improve realization rates.

In the last few years, 41% of large law firms have improved profitability by better managing client intake and firing clients. Business acceptance models are helping firms change this norm by surfacing client financial concerns early on as well as throughout service delivery. Firms need data to employ this profitability tactic in a culture where senior partners fight to the end to keep their clients. Using newer technology that rapidly surfaces client financial problems is becoming a key profitability tool.

Another cultural norm firms are overcoming is a hesitancy to argue with clients on billing disputes. Yes, for relationship purposes firms may occasionally write off disputed bills rather than stir the pot. In a larger picture, however, hitting the write-off button too quickly will only exacerbate problems with realization rates and profitability.

Firms are finding that leveraging centralized, well-classified OCG data can help rapidly resolve billing disputes in favor of the firm. Partners don't want their teams spending non-billable time searching for forgotten OCG terms and trying to recall why they billed specific time on a matter three months ago.

Yet there may have been an ambiguous OCG term, client mistake, or valid matter strategy reason for billing the time. With rapid access to OGCs in an automated, centralized system, firms can have clear-headed, data-based conversations with clients that can result in full or partial payments.

2. Law departments tighten terms with law firms

Following the Great Recession, corporate law departments began to impose stringent billing, security, and matter-execution constraints on their law firms. Known as outside counsel guidelines, these documents detail a myriad of rules that law firms must comply with during the engagements. OCG terms range from line-item billing descriptions (such as no block billing), to matter staffing limitations, to excluding new clients that are competitors of a subsidiary. The rise of complex OCGs has created three significant challenges for law firms: capturing and classification, awareness and communication, and client customization.

Data security and need to know

Data security and "need to know" access limits are huge these days in OCGs. If IT or InfoSec doesn't know about each data control requirement in an OCG or fails to make adjustments as attorneys come and go on matters, there are going to be OCG violations.

There's a risk these data control oversights will show up in a client audit, or on a bill. Clients get frustrated when firms don't implement the agreed-upon OCG terms, causing regulatory risks, relationship damage, billing disputes, and even client loss.

> *"Outside counsel guidelines have grown from a couple of pages to 25-page documents in some cases."*
>
> "SOME LAWYERS CHAFE AS CLIENTS EXPAND OUTSIDE COUNSEL GUIDELINES," THE AMERICAN LAWYER, MAY 2018

Capturing and classifying

Most law firms have no solution in place to systematically capture and classify all these OCG requirements to execute and monitor compliance. This is a huge gap in the current state of business acceptance at law firms. OCGs and engagement letters can include 50 or 60 very specific terms. Multiply that by 100 new clients, and compliance seems almost insurmountable.

Awareness and communication

Few firms have technology that automates communication of OCG terms to attorneys and staff. Most OCGs and engagement letters simply sit in file cabinets. It can be exceedingly difficult for matter teams to keep up with all these terms, especially when clients update OCGs. The risk that somebody, sometime will inadvertently violate an OCG business term is extremely high.

Client customized terms

Standard client OCG terms increasingly stipulate that the firm cannot take on business with any competitor of the client's affiliates or subsidiaries. That kind of term can block a firm from pursuing business under its strategic plan. Another hotly debated OCG topic is a client demanding that the firm use the client retention/destruction policies for client data the firm manages. Taken to an extreme, client-specific, customized OCG terms could result in a firm having literally hundreds of different policies and procedures to implement. This is simply not tenable.

What can firms do?

To better understand what clients are requesting in OCGs and negotiate what is reasonable and practical, firms need a central database to automate categorization and searches across all their OCGs. This allows them to mine the system for terms they have agreed to in the past and use this data to limit or exclude unreasonable terms in a potential client's standard OCGs. Even though the prospect of a new, lucrative client is heady stuff, firms must avoid saying "yes" to OCG terms they cannot practically administer.

And the corporate law department modus operandi is not the only thing changing. A client's corporate tree may continue to evolve after an initial conflicts clearance. Relying on a quarterly calendar tickler to search the internet or perusing watch list subscriptions won't cut it anymore—corporate M&A and global expansion initiatives are just too dynamic. Law firms face a constant risk that delayed awareness of client corporate changes may cause significant conflicts issues with important clients. Thus, firms also need to employ a systematic, real-time method for monitoring corporate tree changes to avoid new, unknown conflicts with long-time, major revenue clients.

2018 LAW FIRMS IN TRANSITION, ALTMAN WEIL FLASH SURVEY

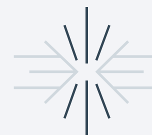
> *"78% of surveyed managing partners said their firm considers business development skill demonstration a major factor for admission to the partnership."*
>
> 2018 LAWYERS IN TRANSITION, ALTMAN WEIL

3. All partners must be rainmakers

Business pressures and chronically underperforming partners have led many law firms to make business development a required skill for admission to the equity partnership club. Moreover, in leading firms, long-standing partners' performance and pay is based on profitability. This rainmaker trend impacts new business in three essential ways: throughput, output significance, and attorney communications.

Throughput

Needless to say, senior associates and partners are highly motivated to bring in new business these days. Firms are investing in building attorney business development skills. Practice groups now have dedicated business-development managers to support lawyers with research and pitch preparation. This intense focus on having attorneys generate new business has opened a floodgate of submissions to the new-business acceptance team. How will they cope?



Firm investments in business development resources will strain current business acceptance

In the last year, 26.5% of firms saw significant improvement in chronically underperforming lawyers when they were supported by increased business development resources. This outcome foretells continued investments in training and resources to help lawyers become more effective rainmakers.

Chief operating officers should ask themselves if their current business acceptance processes can handle future demand three years from now, when those investments begin to bear fruit.

Need for speed

Suddenly, there's a premium on speed and efficient throughput. However, many new-business acceptance teams simply can't keep up with demand, hampered as they are by manual research methods and inadequate systems that don't share data. New-business teams must complete evaluations faster, so that partners can start billing. Leveraging shared data and automated research methods are two ways to approve and open matters faster.

Output significance

You can believe that far-sighted lawyers now see business acceptance as a key internal resource. Lawyers increasingly depend on the team to identify problems before they become problems. For example, lawyers don't want to be caught off guard by changes in a client's ability to pay. Practice group leaders rely on the business acceptance team to stay ahead of any client corporate changes that could diminish or even conflict the group out of budgeted revenue.

Exceptional, ongoing evaluation

New-business teams must produce exceptional research and insights for this new world of "make rain or die." Equally important: The scrutiny of new business can't stop at matter approval. Attorneys and CFOs need continuous alerts on client financial and corporate changes that impact revenue forecasts. The rainmaking pressure calls for more automated, complete, and continuous new-business evaluations. Few firm business acceptance models are prepared to deliver on the heightened significance of their outputs.

Attorney communications

Firms must adapt their new-business acceptance processes to better serve their internal client, the requesting partner eager to get to his or her client approved. Today, much time is lost due to multiple, siloed communications: back-and-forth emails requesting status updates, checks done in inadequate conflicts modules bolted on to financial systems, and due diligence work performed in yet another system (with add-on findings from online sources). Lawyers get bloated, disjointed new-business evaluation reports, with unsearchable addenda and often-outdated request to comment on conflicts and other issues.

Make rainmakers happy

What would make hard-working, rainmaking lawyers (and other stakeholders) happy? Easy access to project status, progress, and other dashboard analytics, coupled with better reporting. By moving to next-generation technology, new-business teams can produce succinct, lawyer-friendly reports with filtering capabilities and with interactive links to key data. Improving the lives of rainmakers with better technology should be a central goal for modern business acceptance endeavors.

4. Strategic global business alignment

For the last five years, competitive forces in the legal market have impelled law firms to devise and execute new strategic directions. Forbes took note of this sea change, commenting that "(Many) firms need effective strategy at this stage of the market's evolution if they are to survive, much less thrive. Even the (law firm) 'Elites' should be investing in strategy – Rome didn't last forever."

Firms now develop strategic business plans to plot their successes over the next three, five, and 10+ years. This kind of planning across global offices and practice groups is very new for law firms. As such, firms are challenged to put processes in place to keep the entire firm rowing in the same direction. Here's how business acceptance shifts emerge as firms execute strategic plans.

A cautionary tale of two cities

Imagine that a multinational firm has set its sights on "owning" legal services for global nanomedicine. Their strategic plan includes objectives to develop the necessary in-house expertise, and court major industry players with the right long-term R&D road map and resources to dominate the emerging vertical.

Yet a partner in New York just submitted a new business request to onboard a pharmaceutical client that could conflict the firm out of landing a massive nanomedicine player another partner is courting in Zurich.

The need to vet clients against a firm's strategic plan is growing inside law firms. But most business acceptance models lack an effective way to measure strategic fit—and potential conflicts in future strategy—when evaluating new clients across the firm.

Merger mania and lateral hires reveal limitations

Mergers and acquisitions (M&A) and lateral hiring are key growth strategies for many law firms. The lateral hire frenzy continues too—firms scoop up entire practice groups or major rainmakers from competitors to bolster strategically targeted practice areas. European and Asian lateral markets are downright frothy. What does this mean for new-business models?

New business and intake teams have experienced massive surges in conflicts and onboarding requests related to these combinations and laterals. The challenge of coordinating the conflicts analysis and decision-making process on which clients have to go, which can stay, and which ones require ethical walls for M&A activities reveals the limits of current conflicts and business intake approaches.

“LAW FIRM MERGERS ON PACE FOR ANOTHER RECORD YEAR,” BLOOMBERG, JUL. 2018

Complex conflicts and time pressures

Baselining global and U.S. state professional conflict of interest rules—and then analyzing the conflicts between acquired-firm clients and acquirer-firm clients—can take weeks, if not months. Partners anxious to influence decisions on the fates of their lucrative clients after merger conflict analysis add pressure and up the ante for fast and accurate new-business acceptance processes.

Siloed systems "make work"

Then there's the research on all the client's financial, corporate, and other risk factors. Along with conflicts, much of this work has traditionally been done in different systems. The intake team must constantly learn how to use new systems across the firm to perform new-business research. Then comes the wrangling to incorporate all findings into a succinct, user-friendly report. Nothing must be dropped as the data from different systems into the report. It's becoming increasingly evident that a single, integrated new-business acceptance system will provide the speed to support growing M&A and lateral hire firm strategies.

Decentralized data and intake

Letting newly acquired offices continue to use their legacy conflicts systems or intake procedures spells more trouble down the line. Firms are left with piles of client conflict and diligence data in various decentralized systems across their offices. The data cannot be easily mined for client pitches or the next wave of M&A conflicts checks and due diligence research. Decentralized, inconsistent intake processes across offices also pose risks that critical items will be missed.

Business acceptance teams yearn for a centralized business acceptance system, with a single data base used for all firm new-business acceptance. The ability to enforce firm-wide intake policies and process with a single system would greatly reduce risks. These new approaches would empower intake teams to more effectively support firm M&A and lateral hire strategies.

Micro niches and vertical strategies call for strategic fit scoring

The best strategic law firm plans set objectives to invest in the expertise needed to win new business in the future wave of client demand. Firms that differentiate their legal services and expertise in micro niches such as 3D imaging, artificial intelligence, food security, bio-based industries, or robotics, to name just a few, will thrive in the next 10 years. Others will concentrate more broadly on verticals like healthcare and financial services. What challenges does law firm business acceptance face in the age of niche legal strategies?

Bringing strategic fit criteria into the business acceptance process is a must-have for law firms with strategic mid- and-long-term niche and vertical industry plays. Inconsistent application of manual guidelines on strategic priorities is a risky approach for large, complex firms with powerful practice groups across far-flung locations. A new approach that automates strategic fit checks in a centralized business acceptance system is something modern law firms should consider.

5. The privacy, cybersecurity, and anti-money laundering regulatory tsunami

For several years, the expanding legal requirements governing data privacy, security, and money laundering have significantly impacted law firms. These growing regulatory trends heighten the importance of law firm new-business risk assessment and related compliance measures.

Modern business acceptance keeps serious firm repercussions at bay

- Highest 2018 HIPAA penalty to date: $3.5M
- Maximum GDPR penalty: 4% of annual revenue
- Percent of reviewed U.K. law firms not complying with anti-fraud procedures: 66%

Privacy and new-business evaluation

When law firms take on new clients, a systematic evaluation of privacy law risks is paramount. Whether it's private health information or the address of a European citizen, the firm must understand what types of regulated client data it will manage. From there, the firm must implement and monitor protocols during matter set-up and beyond.

Avoiding hefty fines

Both the U.S. Health Insurance Portability and Accountability Act (HIPAA) and the E.U. General Data Protection Regulations (GDPR) impose substantial security and privacy requirements on law firms. And the privacy tsunami is just beginning. Recent election-related social media transgressions and a new California consumer privacy law foretell a surge in privacy regulations.

In the absence of automated due-diligence processes that ferret out and monitor privacy compliance protocols, law firm noncompliance risks will escalate. For example, modern business acceptance workflows must include excellent client intake questionnaires. A library of best-practice forms can help ensure that the right questions are consistently asked up front to surface any privacy compliance issues right away. Old practices, such as emailing case-by-case questions to the requesting partner or conducting inadequate privacy risk assessment at intake, don't work anymore.

HIPAA, GDPR, and financial services regulations require law firms to cordon off client data so it is accessible only on a "need to know" or "specific use consent" basis. Firms need flexible ethical-wall technology to quickly set up, change, or remove access controls. For example, a permanent restriction must keep a new lateral attorney from intentionally or accidently accessing data on matters he or she conflicted out of during conflicts analysis. In addition, when an attorney leaves a matter, his or her access rights must be immediately cut off.

Living up to data security and commitments

In response to increasing awareness about cybersecurity vulnerabilities, clients worry that their law firms will get them in trouble with regulators. The specter of leaked sensitive legal data that can impact legal outcomes, stock prices, and customer retention keeps general counsels from sleeping.

These concerns contribute to multiple new pressures on law firms to implement and commit to new rules, standards, and approaches in dealing with client data security. It's not unusual for clients to articulate extensive security requirements in OCGs, engagement letters, and even RFPs for legal services.

Law firms may also find themselves subject to emerging local, state, and even federal cybersecurity regulations. A good example is the groundbreaking 2018 New York financial services cybersecurity regulation. The extensive rules apply to law firms with New York financial service clients.

On top of that, law firms regularly face fire drills when responding to 300-page client audit questionnaires, or host a client's onsite security auditors. Law firms need a way to efficiently respond to client security audits and demonstrate compliance with the security terms.

This dire picture has spurred many firms to install next-generation technology that categorizes, centralizes, and exposes client security terms to IT for implementation. Leaving the information

organization to spreadsheets and confusing email threads is simply no longer tenable. Centralizing security requirements in a common database enables firms to more effectively manage client audits.

Regulators want lawyers to know their clients

After the Panama Papers revelations, Europe turned a microscope on the role of lawyers as potential facilitators of tax evasion and money laundering. Unlike in the U.S., E.U. and the United Kingdom (U.K.), lawyers have been subject to anti-money laundering (AML) laws for years. A Global Witness report documenting questionable behavior in several New York law firms led European pundits to dub the U.S. a tax evasion and money laundering haven. In the last few years, authorities across the globe have taken actions to strengthen lawyers' responsibilities to ferret out potential client tax evasion and money laundering intentions.

UK regulations

Updates to the U.K. Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017, require that lawyers:

- Write client money-laundering risk assessments and specify internal controls features
- Establish when and how different categories of client due diligence must be conducted
- Specify trust-beneficial ownership for a central register

European Union directives

The E.U.'s Fourth Anti-Money Laundering Directive, released in 2017, reinforces lawyers' risk-assessment obligations, and improves transparency on client company beneficial ownership. The law also reinforces the sanctioning powers of authorities.

U.S. AML trends

In the wake of these international trends, an American Bar Association task force is considering an update to the Model Rule of Professional Conduct to impose basic "client due diligence"—requiring U.S. lawyers to ascertain if clients are engaging in money laundering or terrorist financing. The U.S. Senate is pursing legislation to extend the Bank Secrecy Act anti-money laundering requirements to law firms, including recurring AML compliance assessments.

What do AML trends mean for new-business acceptance?

These regulatory trends make new-business risk assessment, due diligence, and compliance monitoring much more complicated for law firms. The changes also make firm-wide compliance with new-business regulatory diligence policies and procedures vital.

With the massive financial penalty and reputational harm risks, firms need risk scoring to swiftly and accurately gauge privacy and anti-money laundering risks and protocols for new business. System alerts on annual AML assessments, for example, will ensure none go undone. Global law firms should also consider integrating terrorist watch-list publications into business acceptance workflows and reports with APIs.

6. Testing the limits of business acceptance

The big trends discussed in this ebook are exerting new and increasingly painful pressures on firms' new-business acceptance processes. Firms must implement and leverage new technologies to adapt to the changing landscape. For many firms the answer lies in adopting technology that automates and integrates the entire new business lifecycle—from upfront analysis and matter opening to ongoing compliance monitoring.

Firms can use the provided checklist to assess their current business acceptance process. The checklist indicators can help firms determine if they need to modernize their business acceptance to keep pace with a changing landscape.

Leading firms now leverage firm-wide risk assessment, strategic scoring, and ongoing monitoring with Intapp Unified Business Acceptance. The automated, integrated approach helps firms minimize risk and maximize revenue. You can learn more at https://www.intapp.com/business-acceptance/.

Let's work together to assess your business acceptance approach

Intapp experts are available to work with you to assess your current business acceptance approach in a changing landscape.

CONTACT AN EXPERT

Do you need better business acceptance?

- We have seen an increase in outside counsel guidelines the last few years.
- Our firm is focused on improving its realization rates.
- A lack of visibility into OCGs has caused billing errors and write-offs.
- It is difficult for our firms' attorneys to keep track of all the OGC guidelines for their matters.
- The ability to slice and dice OCGs in a common database would assist our firm in tracking and negotiating terms.
- Rainmaking pressure at our firm has increased demand for new-business acceptance services.
- Our growth strategy has made it challenging to maintain consistent business acceptance criteria and processes across global, regional, and local offices.
- We don't have an effective way to align client selection with our firm's mid- and long-term strategies.
- Monitoring new client Paydex scores and corporate changes would be helpful for fee structure negotiations and business acceptance diligence.
- We need to improve due diligence with new-business evaluations with regard to privacy, anti-money laundering, and cybersecurity regulations.

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