

# Understanding the Sarbanes-Oxley Act

## A TOWER Software White Paper

### Introduction

The business events of the past few years have resulted in an increased awareness of the importance of records management by senior managers and industry analysts. The collapses of Enron, Arthur Andersen, and others are seen as examples of organizations failing to manage their records in accordance with legislation guiding good business, good business ethics, and the best interests of investors. The demise of Arthur Andersen—a company worth \$9.3 billion—as a result of failing to maintain records is a clear indication that proper corporate governance is not exclusively about maximizing profits. Long-term survival and viability are equally important. But will these events truly change corporate practice?

The Sarbanes-Oxley Act (2002) introduces compelling reasons for CEOs to implement corporate records management. Non-compliance is now a Federal crime and can result in punishment of up to twenty years in prison. In addition, the Act governs accounting practices and specifies mandatory five-year retention periods for all audit and review work papers. The penalty for non-compliance in cases of retention failure can be imprisonment of up to ten years. While the United States is the only government to introduce such legislation, it should be noted that most organizations, both public and private, expect to achieve compliance with similar regulations in the near future.

### Are CEOs Interested?

CEOs are experts in risk analysis as it applies to business. Now they must carefully weigh the costs and benefits of implementing strategies that take account of the new Act's requirements. As the necessity of compliance becomes more urgent, a renewed interest in records management solutions and the hiring of professional record managers may become much more prevalent.

### The Current Scenario for Records Management

For too long, organizations have depicted records management as referring to only inactive paper and/or physical records. This may be partly because vendors continually choose to find new terminology to differentiate their product or service offerings. Documents produced in electronic format formerly were seen as different and therefore 'special' systems were required to manage them. Hence the birth of electronic document management systems. Knowledge management, integrated document management, content management, and enterprise content management have all followed since. Suppliers and industry analysts can all accept some of the blame for the confusion in the marketplace and the loss of the perceived importance of records management.

Until quite recently, the focus in the marketplace has been mainly on document management. However, the past five years has witnessed large document management companies purchasing records management companies or attempting to develop their own records management capabilities. In addition there have been



many attempted integrations between document management and records management companies. Some records management companies choose not to develop the capability to manage electronic documents but rather to consolidate their product offerings and enter into alliances with other companies. The result has consumers continuing to be offered a bewildering and diverse array of application options, the majority of which now include records management.

Given the pace of change, it should come as no surprise that most organizations operate with a mish-mash of document and records management processes and procedures. Many employees very likely do not know what constitutes a record. In most cases, even if they do, there is a lack of understanding regarding how and where it should be stored. A common procedure in place across many organizations is to print a copy of a document that might (subjectively) be considered worth keeping, and then file it. In these cases, although some information is placed on file, a far greater number of electronic documents are never recorded. Much electronic information—some of which constitutes records—remains stored only on the hard drive of the end user.

## **What is Modern Records Management?**

Before proceeding any further it is important to understand the distinction between a document and a record. There are a number of definitions, but we will take as a benchmark the one from the International Standard for Records Management ISO 15489. According to ISO 15489, a document is 'recorded information or object which can be treated as a unit.' Records, by contrast, have important additional qualities and are defined as 'information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in transaction of business.' According to this definition the majority of documents created in the course of business (regardless of medium) are records.

Records management is not simply about the management of paper or other physical objects. It is about applying philosophies and business rules to the management of information as dictated by legislative, audit, quality, regulatory, and corporate requirements to maintain and preserve access to corporate information. A mistake of many organizations is to treat paper and electronic documents as separate entities, primarily because of their format. As far back as 1988, information specialists were claiming that a paperless society was imminent. This has yet to occur, and according to recent statistics, the use of paper is actually expanding.

However, avoiding the management of digital records is not an option. The cost of not implementing records management can result in the collapse of a company, huge fines, imprisonment, loss of investment funds, and loss of jobs. Andersen, Enron, Merrill Lynch, and Prudential are a few recent examples. If records have been destroyed, an organization must prove it has applied appropriate business rules approving their destruction.

## **Implementing Records Management**

The effective implementation of records management is not a simple process. It demands significant business process change and reengineering. It requires a thorough analysis of the way a company does business. Likewise, it requires recognition at the most senior level that records management is pivotal to an organization's entire information management structure. Changes should begin with an analysis of business processes to identify activities and transactions and to show where records occur. Records critical to the organization, regardless of format, application, or jurisdictional area in which they are produced, must be classified; security and access controls applied; and retention policies developed. At the same

time, internal legal and regulatory requirements must be considered. This is where the Sarbanes-Oxley Act's regulations come into play. These decisions must be made before records have even been created.

A system must be specified to meet all the defined records requirements, including those of the Sarbanes-Oxley Act (2002). Complying with the Act requires that an organization has the ability to produce, on request, authentic and reliable records, as well as all supporting documentation. The management of records, regardless of their format, is enabled by an electronic records management system that can support the application of the appropriate business rules, such as naming and filing standards, retention policies, and cross referencing. Defining such a system is not an insurmountable task but one that requires time and resources, especially adequate training, a culture for embracing and sustaining organizational change, a professional staff, and a fully supportive CEO.

## **The Benefits of Records Management**

Meeting the requirements of the Sarbanes-Oxley Act can provide indisputable benefits to an organization. In addition to ensuring the necessary protection and support in the event of litigation, authentic and reliable records can:

- Assist an organization in conducting business in an orderly, efficient and accountable manner
- Provide an audit trail of actions taken
- Deliver services equitably
- Underpin accountability
- Provide a reliable and durable long-term historical record
- Ensure that an organization meets legislative and regulatory requirements
- Support document policy formation and managerial decision making
- Protect the interests of the organization, the rights of employees, clients and present and future shareholders
- Maintain corporate, personal and cultural identity

## **The Future of Records Management**

Some industries have already embraced modern records management, as evidenced from sales of products such as TOWER Software's TRIM Context® solution. Companies that have modernized records management practices are those with a powerful business reason for doing so. In the private sector, these include pharmaceutical companies, healthcare organizations, and utilities where there may be significant penalties for failing to meet legislative requirements. Government agencies are also implementing records management to meet today's standards. It is clear that the Sarbanes-Oxley Act is destined to have a significant impact on accounting firms and investment analysts. In the farther-reaching private sector, it remains to be seen whether CEOs will recognize the benefits of records management, assess the risks of non-compliance, and opt for the necessary business process changes to ensure the integrity of corporate records.

## About TOWER Software

TOWER Software, a leading enterprise content management (ECM) provider, delivers electronic document and records management (EDRM) solutions. TOWER Software's award-winning solutions empower organizations to manage and secure their vital information assets. The TRIM Context® solution is a single, integrated platform that manages business information throughout its complete lifecycle. By relying on its proven domain expertise, strong strategic partnerships, and powerful solutions, TOWER Software enables organizations to improve the accuracy of information on which business decisions are made; maximize efficiency by finding business critical information more quickly and easily; and achieve and maintain standards compliance across industries, resulting in sustained competitive advantage. TOWER Software is a privately held company with operations in North America, Europe and Asia-Pacific. For more information, visit [www.towersoft.com](http://www.towersoft.com).



**TOWER Software - Asia Pacific**  
**Head Office - Canberra ACT**  
[www.towersoft.com.au](http://www.towersoft.com.au)

**TOWER Software**  
**North America**  
[www.towersoft.com](http://www.towersoft.com)

**TOWER Software**  
**Europe, Middle East & Africa**  
[www.towersoft.co.uk](http://www.towersoft.co.uk)

White Paper Title: Understanding the Sarbanes-Oxley Act

Release date: September, 2003

TRIM Context is a registered trademark of TOWER Software. All rights reserved.

Copyright © 2003, 2004 TOWER Software