call journey

AI Powered Voice Analytics

Data Analytics and Self-Assurance for Financial Services Companies

Whitepaper

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Call Journey whitepaper: Data Analytics and Self-assurance for Financial Services Companies

Financial services companies are being held to higher standards more so than ever before. Present times require a new level of understanding of its internal business operations, policy and procedures, and customer insights. Data analytics is a regulatory technology (regtech) solution that can help in identifying, monitoring, and addressing risks.

In an already heavily regulated industry, financial services companies are now subject to a broader, principles-based, regulatory focus on culture, conduct and accountability.

The Banking Executive Accountability Regulations (BEAR) came into effect on 1 July 2019, introducing personal accountability and liability for senior executives, which cannot be insured against. Under this new regime, companies and executives need assurance, rather than insurance, as to what is happening on their watch, and this is likely to require a new level of due diligence on the bank's operations.

While BEAR is only directly applicable to banks, there are a raft of other measures being taken to improve conduct and standards in the financial services industry generally. The clear message from the regulators is that financial services companies must 'get your house in order', be proactive in under-standing what is happening internally, and that a defensive and reactionary approach to regulation could leave companies exposed.

There is limited practical guidance on how companies can and should navigate this new regime. How-ever, there are certain indicators from the regulators that have been clear and consistent for a number of years:

- Regulators globally, including the Australian Securities and Investments Commission (ASIC) and the Australian Prudential Regulation Authority (APRA), are strengthening their use of data analytics in surveillance, investigation and enforcement. ASIC and APRA have both stated the intention to be more data-driven and intelligence-led in the future, and the government has increased the resources available for them to do so.

- Both ASIC and APRA expect financial services companies to monitor and capture data on key risk and cultural indicators.

"is there monitoring that captures data on key indicators – for example, gathered through employee feedback and surveys, customer complaints, progress on employee training on culture issues and using data analytics to gain insights on culture?"

Greg Medcraft, ASIC Chairman
Tone from the top: Influencing conduct and culture, 21 June 2016

Given the repeated emphasis by regulators on data analytics, it is reasonable to assume that having systems in place to capture, analyse and obtain actionable insights from data, will be considered an important element of compliance.

Financial services companies need to ask themselves:

- *Do we have, and are we using the technology available to capture, analyse, and take action in \ relation to data on key risk indicators?*
- *What risk-based data mining of customer interaction (such as call centre data) is being consistently, reliably and routinely commissioned?*
- *Are we analysing the data we have into readily investigable “warning lights”?*

A BROADER, PRINCIPLE-BASED, REGULATORY FOCUS ON CULTURE, CONDUCT AND ACCOUNTABILITY

Banks, insurance, wealth management, financial planning, superannuation, and other financial services companies are facing increased public, regulatory, government and media scrutiny. The Australian financial services sector is already heavily regulated – such regulation being credited in part for Australian institutions faring relatively well through the global financial crisis compared to other markets. Many of the regulatory deficiencies that were uncovered in other markets following the global financial crisis were not experienced to the same extent in Australia. However, the crisis did highlight areas (addressed by international reforms) for improvement in aspects of Australian regulatory and supervisory arrangements. Additionally, as Australian financial institutions operate in international markets, regulators have noted that it is in Australia's interests for the domestic regulatory architecture to be in line with international standards.[1]

Against this backdrop, the Australian government and regulators are investing significant resources in looking at ways to raise standards and improve conduct of financial services companies.

In recent years we have seen:

- ASIC confirming that it intended to monitor the culture and conduct of financial gatekeepers, and that if ASIC found culture lacking, this may signal broader regulatory problems in the financial services sector that needed to be addressed[2]
- the Standing Committee on Economics inquiring into and reporting on a review of Australia's four major banks[3]
- The government announcing that it would be significantly bolstering ASIC's powers and resources and creating a framework to hold banking executives accountable for their actions[4]
- Commencement of legal proceedings against several banks and officers in relation to misconduct[5]
- a Senate enquiry into a major financial services company in relation to an ASIC investigation over financial misconduct[6]
- the establishment of a Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission)[7]
- the Treasurer stating the government would be working closely with the regulators "to make sure we have a full court press response to what has happened at CBA"[8]
- APRA conducting a special inquiry into any shortcomings in governance, culture and accountability within Commonwealth Bank of Australia (CBA)[9]
- the introduction of the Banking Executive Accountability Regulations (known as the BEAR regulations) which came into effect on 1 July 2018 [10]

The regulatory environment in which financial services companies operate includes ASIC regulating market conduct, the duties placed on directors under the Corporations Act 2001, APRA's prudential framework and standards embodied in the Corporations Act, APRA and ASIC regulatory guides, and specific risk management requirements for AFS licensees and APRA regulated entities. The regulatory framework is relatively clear on what constitutes misconduct or a breach of the law, the reporting requirements, and steps that can be taken for appropriate risk management. The laws and regulations are generally well supported by legislative definition, judicial interpretation and regulatory guidance and practice notes.

However, ASIC and APRA's focus on 'culture' and the introduction of BEAR, signals an overlay to the existing regulations, of a more principles-based regime, to which financial services companies will also be subjected.

The BEAR regulations are aimed at Authorised Deposit-taking Institutions (ADIs) and their senior officers. APRA will be given the power to impose significant financial and other penalties against senior officers of these organisations and to also seek penalties in the courts if the 'accountable persons' do not take 'reasonable steps' to (among other obligations) 'prevent matters impacting negatively the prudential standing or reputation of the ADI'[11].

The mandate of the Financial Services Royal Commission includes reviewing 'whether any conduct, practices, behaviour or business activities by financial services entities fall below community standards and expectations' [12].

What companies need to do to comply with this broader, principles-based focus of the regulators and government on conduct, culture and accountability, is far less clear than the existing legislative framework. Financial services companies must consider how, in a practical sense, they can demonstrate compliance with undefined concepts such as 'good culture', 'meeting community standards and expectations' and 'taking reasonable steps to prevent matters impacting negatively the prudential standing or reputation of the [bank]'.

"It is not just a problem with the bad apples; there is generally often a problem with the tree...let us deal with the tree"
Greg Medcraft, ASIC Chairman
Committee Hansard, 14 October 2016

IMPLEMENTING THE BEAR

Why poke the BEAR?

APRA has stated that it does not intend to provide prudential guidance, practice notes and reporting requirements to support the implementation of the BEAR regulations[13].

With a lack of definition of how the regulator expects companies to comply with the obligations under the BEAR, it may be tempting for financial services companies to take a ‘wait and see’ approach. However, in the current environment of litigation, class actions, prudential inquiries, a royal commission, and far more muscular regulators, a defensive and reactionary approach to regulation is likely to leave companies exposed.

Financial services companies, and their officers who are personally accountable and subject to liability that they cannot insure against, simply cannot afford to wait for express guidance and clarity. Companies are not able to rely on uncertainty as a defence for doing nothing. Banks and their officers need to take action now to face the BEAR.

Assurance v insurance - Know what’s happening on your watch.

Accepting that companies need to act now - what steps can they take to face the BEAR? In this new regime, companies and executives need to look for assurance, rather than insurance, which requires a new level of due diligence, and introspection, on their own affairs.

How can a company get assurance that its ‘culture’ is up to standard, that it is ‘meeting community expectations’, that its officers ‘are taking reasonable steps to prevent matters impacting negatively its prudential standing or reputation’?

One of the first fundamental steps must be to find out what is really going on in the company. This would involve not just putting in place policies and compliance programs, but also monitoring what is actually happening on the ground with employees, customers, operations, services and product offerings.

Companies may well ask ‘Why would we go looking for problems?’ ‘Do we really want to open up a can of worms?’. The response to which, in a context where you can be held personally liable for what happens on your watch, is ‘can you afford not to know’?

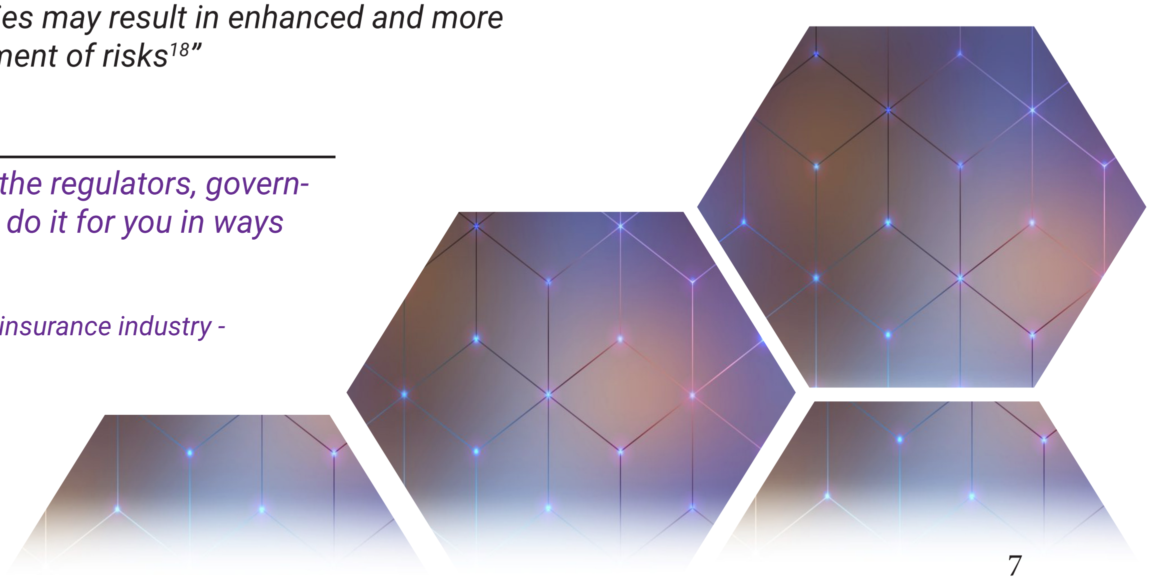
Regulators expect companies to capture and analyse data on key risk indicators

Although there is no express guidance on what actions companies can take to ensure compliance with BEAR, there are certain indicators from the regulators that have been consistent for a number of years. It is clear that regulators consider that capturing and analysing data on key risk indictors is an important element of having a 'good culture'.

Consider the following from ASIC:

- ASIC has repeatedly noted that a practical step that companies can take in improving culture is "monitoring that captures data on key indicators – for example, gathered through employee fee*d-back and surveys, customer complaints, progress on employee training on culture issues and using data analytics to gain insights on culture*[14]"
- ASIC has also noted 'at the heart of the responsibility at the top is the need to know, the need to understand, the nee*d to check and change course if necessary, all with a clear view out to the customer the company serves. As a leader, do you: Encourage interaction across the organisation so that information can flow to those who hold key director and management roles, to give them a chance to consider and act on culture? …Identify key indicator data relevant to culture and track to see how various indicators change or move together?*[15]"
- *"Technology is enabling the development of tools to identify cultural issues, including using predictive behavioural analytics. Through analysing large data sets, key predictors of certain behaviour can be distilled, and then used to identify misconduct risks – and possibly prevent misconduct – in the future.*[16]*"*
- *"There are different ways to identify the risks that can affect a responsible entity's business. For example, evidence-based methods that rely on reviewing audit reports, post-event reports, historical data or risk registers can help to identify existing and emerging risks that the responsible entity may face. Observations from our regulatory experience indicate that incorporating this approach to risk identification in strategic and business planning is particularly helpful in identifying risk. …Purpose-built software can also be used*[17]*"*
- *"There are a variety of technological resources that can be used to help responsible entities manage risks. These technologies come in a variety of forms and can help by analysing and storing data, automating compliance processes, monitoring trading, and streamlining regulatory reporting. … The use of these technologies may result in enhanced and more cost-effective management of risks*[18]*"*

"Get your house in order, or the regulators, government, media and others will do it for you in ways that may be more onerous."
Peter Kell, Deputy Chair, ASIC
Regulatory update to the general insurance industry - 10 May 2017



From APRA:

- •A particular issue that has emerged from the CBA prudential inquiry was looking at senior executive responsiveness to emerging risk issues and diligence in overseeing the resolution of these issues[19]
- •APRA prudential guide on risk management requires reliable and meaningful risk information to be reported to decisionmakers *"An APRA-regulated institution's [management information system] must provide the Board, board committees and senior management with regular, accurate and timely information concerning the institution's risk profile. The [management information system] must be supported by a robust data framework that enables the aggregation of exposures and risk measures across business lines...[20]"*

Under the BEAR regulations, a reasonable step can include situations where the ADI ensures there is appropriate governance, control and risk management about the particular issue, '*appropriate delegations of responsibility and appropriate procedures to identify and remediate problems about the particular issue[21].'*

Given the repeated emphasis by regulators on data analytics, it is reasonable to assume that having systems in place to capture, analyse and obtain actionable insights from data, will be considered an important element of compliance. Further, having such systems in place could assist in demonstrating a 'culture of compliance', through evident procedures and a documented logic, reasoning and information audit behind decision making.

Increased use of data analytics by regulators

The regulators also see data analytics as a significant part of their own supervisory and enforcement role. In recent years the use of data analytics has become a trend with regulators worldwide, including strengthening data ownership and governance, improving engagement with industry on collection and interactions related to data, getting actionable insights from data, and adopting data analytic methods as part of investigation, surveillance and enforcement[22].

In recent years the government has announced a $127.2 million reform package to equip ASIC with stronger powers and funding to enhance surveillance capabilities.

"Of this funding, approximately $61 million will enhance our data analytics and surveillance capabilities and improve our data management systems. This will equip ASIC with improved information management systems and ensure we have best practice analytical techniques to detect misconduct in the financial sector."

ASIC submission to Senate inquiry into consumer protection in the financial sector

March 2017

Both ASIC and APRA have noted in their corporate focus plans, the intention to invest in and rely on technology and data analytics as an important part of their role. APRA has noted *"An emerging opportunity for APRA is to transform the use of data analytics to support its supervisory risk assessments and increase the transparency of its data in line with whole-of-government initiatives towards an open data environment…Access to timely and relevant information and data is integral to APRA producing well founded, risk-based decisions. Analysis provided through insightful reports, on our institutions, our industries, the financial sector and the broader economy, enhances our capacity to identify and respond to risks and emerging vulnerabilities*[23]."

Any financial services company, director or officer querying whether they need to employ data analytics as part of their compliance efforts, must ask themselves, not only 'can data analytics help us understand what is happening on our watch?' but also 'can we afford for the regulator to know more than we do about the risks in our company?'

DATA ANALYTICS, REGTECH AND COMPLIANCE

Companies may well be facing data overload and looking to avoid adding onerous reporting and information gathering to an already complex, and often burdensome regulatory environment. However, the reality is that compliance in a principle-based regime of culture, conduct and accountability, will require a new approach to monitoring and understanding what is happening in a company.

Financial services companies already have access to vast amount of data about their operations and integration with stakeholders. The question is – how are they using this data? Is there a compliance or 'RegTech' solution that could efficiently and effectively analyse the data that is already being captured?

Most Australian financial services companies would have extensive data collection systems in place – capturing information in relation to their operations, trading, customers, services and products. More recently – technology has developed to curate and analyse enormous data sets effectively and cost efficiently. Modern data analytic programs can integrate multiple and diverse data sources and analyse huge volumes of data in minutes rather than days or months, significantly reducing compliance reporting times.

Financial services companies are likely to have immense stores of data, which, if properly organised and analysed using an effective data management and analytics program, could quickly and efficiently uncover insights into potential regulatory issues, or areas for improvement.

Putting systems and analytic programs in place which can mine, organise and translate search results into actionable insights provides companies with a flexible platform which can quickly adjust to meet changing reporting and compliance requirements.

"Technology is enabling the development of tools to identify cultural issues, including using predictive behavioural analytics. Through analysing large data sets, key predictors of certain behaviour can be distilled, and then used to identify misconduct risks – and possibly prevent misconduct – in the future."

Greg Medcraft, Chairman, ASIC

The human factor: Is conduct risk on your radar - 25 July 2017

"… at the heart of the responsibility at the top is the need to know, the need to understand, the need to check and change course if necessary, all with a clear view out to the customer the company serves"

John Price, Commissioner, ASIC
Managing culture: a good practice
12 December 2017

CASE STUDY: CALL CENTRE DATA AND SPEECH ANALYTICS

Consider an example of where a regtech / data analytic solution could be leveraged to manage and mitigate risks, and allow a company to make better decisions, in relation to an important measure of culture, and a key aspect of its product and service offering - customer experience.

An important aspect of a bank's culture is manifested in customer experience. A consistent message from the regulators is that good culture drives good conduct and the right customer experience. Similarly, a temperature check of customer experience could flag cultural issues that need to be addressed.

A bank looking to improve its 'culture', 'meet community expectations' and take steps to 'prevent matters that may negatively impact [its] reputation' may benefit from taking steps to really 'listen' to, and gather feedback from, its customers. Insurers, wealth management or financial planning companies could look to customer feedback to measure and drive better quality assurance and compliance behaviours at the 'front line'.

Capturing customer feedback and sentiment does not necessarily require additional investment. Many financial services companies, banks in particular, have call centres where every customer call is recorded. Banks have millions of minutes of recorded customer calls per month. Yet – how can companies take advantage of the customer listening opportunities with such an immense amount of data?

Solution – speech analytics: Rather than relying on random call sampling to uncover potential issues, by using a data and speech analytic tool, millions of minutes of calls could be distilled by intelligently mining voice and text for suspicious data patterns, and 'non-compliant' keywords and phrases. The searches could then be translated into visual analytics and dashboards to summarize actionable results.

A company could then proactively use these analytics, dashboards and reports to identify and pre-emptively address any issues of concern - which, in the language of BEAR, would be an important part of ensuring there are 'appropriate procedures to identify and remediate problems about the particular issue'.

"Customer expectations have changed, and customers are more empowered than ever. We now live in a world with technology and social media at our fingertips."
Peter Kell, Deputy Chair, ASIC
Regulatory update to the general insurance industry
10 May 2017

'GETTING YOUR HOUSE IN ORDER'

The regulators have been clear that financial services companies need to 'get your house in order'. As outlined above, a systematic use of data analytics can assist with this. Engaging lawyers to work closely with any data analytic service providers, will provide companies with a more fulsome compliance solution.

Legal advice is likely to be needed to inform the search queries, and inputs into the data analytics program to generate relevant and actionable outputs, ie – lawyers will help in asking the right questions. Companies will also require legal advice to consider any issues that are identified.

By using data analytics through a regulatory and legal lens, companies can detect and prevent potentially improper transactions or misconduct before they create issues for the company, or can consider appropriate action for historical issues identified.

Once a company's data inventory and analytics potential are understood, and tools are identified to leverage that opportunity, lawyers can also assist companies to work through the legal, privacy and cybersecurity issues associated with the collection, storage, analysis and use of information.

CONCLUSION

Put simply – financial services companies and their officers cannot afford not to know what is happening on their watch. A more pro-active, preventative and analytics driven approach is required by financial services companies and their legal teams to adapt to a new principles-based regime, and to properly assess and price remediation and mitigation of regulatory issues.

Data analytics and regulatory technology will be a critical tool for financial services companies to better understand, mitigate and manage potential regulatory issues, while also providing valuable insights to address culture and conduct risk issues.

REFERENCES

1 Reserve Bank of Australia (March 2017) | *Submission to the Financial System Inquiry 3: The Regulatory response to the Global Financial Crisis*

2 Tanzer, Greg (27 May 2015). ASIC Commissioner | *The importance of culture to improving conduct within the financial industry* Speech

3 Parliament of Australia (24 November 2016) | *Standing Committee on Economics Report on Review of Four Major Banks*

4 Prime Minister and Treasurer (30 November 2017) | *Media release*

5 AUSTRAC (3 August 2017) | *Austrac seeking civil penalty orders against Commonwealth Bank of Australia*;

ASIC (1 March 2017) | *ASIC commences civil penalty procseedings against Westpac*

6 Frazer, Simon (5 July 2015) | *IOOF faces Senate grilling, ASIC inquiry over financial misconduct*

7 Financial Services Royal Hearing (12 February 2018) | *Initial public hearing*

8 Eyers, James & Coorey, Philip (28 August 2017) | *APRA starts Commonwealth Bank of Australia inquiry amid AUSTRAC allegations*

9 Commonwealth Bank of Australia (31 January 2018) | *Prudential Inquiry into the Commonwealth Bank of Australia – Progress Report*

10 Parliament of Australia (20 February 2018) | *Banking Executive Accountability Bill 2018*

11 Parliament of Austalia (20 February 2018) | *Banking Executive Accountability Bill 2018 - Schedule 1, item 1, section 37C*

12 Financial Services Royal Commission (12 February 2018) | Initial public hearing

13 Australian Prudential Regulations Authority (31 January 2018) | APRA priorities information paper

14 Price, John (September 2016). ASIC Commissioner | *What you walk past is what you accept - Article submitted to the Governance Institute for publication in the Governance Directions magazine*

15 Price, John (12 December 2017). ASIC Commissioner | *Managing culture: a good practice* Speech

16 Medcraft, Greg (25 July 2017). ASIC Chairman |*The human factor: Is conduct risk on your radar?* Speech

17 Australian Securities and Investments Commission (27 March 2017) | *ASIC Regulatory Guide 259 – Risk management systems of responsible entities, at RG 259.76*

18 Australian Securities and Investments Commission (27 March 2017) | *ASIC Regulatory Guide 259 – Risk management systems of responsible entities, at RG 259.94*

19 Commonwealth Bank of Australia (31 January 2018) | *Prudential Inquiry into the Commonwealth Bank of Australia – Progress Report*

20 *Prudential Standard CPS 220 – Risk Management at 27*

21 Parliament of Australia (20 February 2018) | *Banking Executive Accountability Bill 2018 - Schedule 1, item 1,section 37CB*

22 Austalian Securities and Investments Commission (11 October 2017) | *ASIC's data strategy 2017-20*

23 Australian Prudential Regulations Authority | *APRA Corporate Plan 2017-20*

ABOUT CALL JOURNEY

Call Journey is all about Voice Data. Our mission is to unlock every business conversation and add Voice into the Enterprise data mix. Our passionate Conversation experts bring together Natural Language Processing and Artificial Intelligence to create an industry-leading Conversation analytics ecosystem. Using this technology to harness the power of voice data, we're helping organizations find answers to some of their biggest challenges by delivering insights that directly impact customer experience, business performance, risk management & compliance. For more information, visit www.calljourney.com or follow us at our social media pages: LinkedIn, Twitter and Facebook.