

Law Firm Business Acceptance Survey Report

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Introduction

Business acceptance practices have become more complex and strategic over the past several years as departments have evolved from back office, risk management functions to vital, strategic partners to the organizations they support. Law firms that have invested early to strengthen business acceptance activities are adding value in the form of better data collection and analysis, increased business development opportunities and the ability to better scale their support for increasingly global firms.

At the same time, growing external pressures such as anti-money laundering, insider trading and data protection laws, the desire to capture experience data, and tighter financial / business due diligence needs are putting business acceptance teams under the microscope. Extra scrutiny, in addition to the increasing frequency of lateral lawyer transitions and firm mergers, means that firms must retool and expand their administrative departments and show a return on investment to the firm.

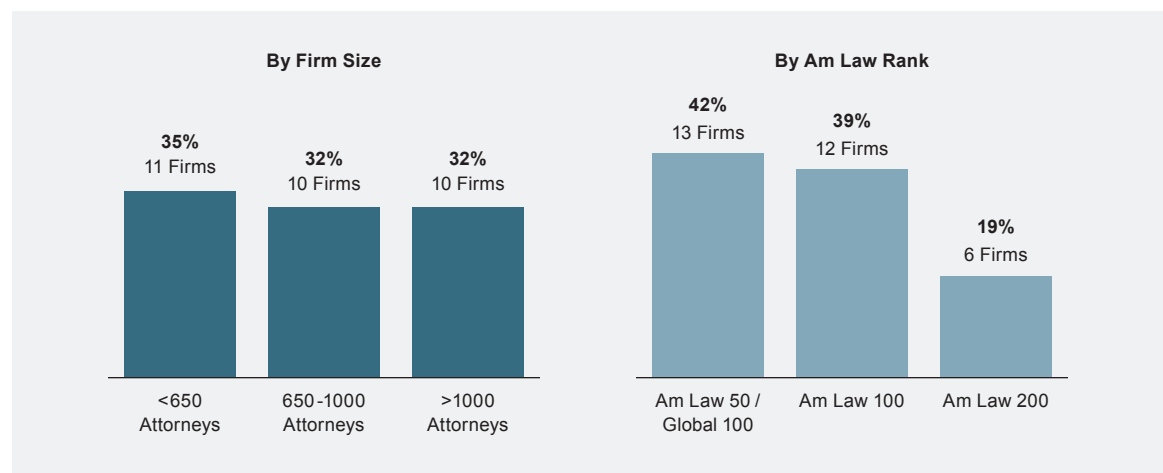
This report on HBR Consulting's 2018 Law Firm Business Acceptance Survey highlights three key areas making the biggest impact on Law Firm business acceptance departments:

- Rigorous due diligence requirements;
- The impact of globalized legal practice; and
- The evolving role of people, process and technology.

For each of these topics, we discuss what firms have done to expand the adoption of best practices and where we see changes in the way firms approach the intake process. Finally, we review future opportunities for the business acceptance function to contribute value to the firm.

In late spring of 2018, HBR conducted an in-depth survey of Am Law 200 / Global firms regarding their business acceptance policies, procedures and staffing. There were 31 responses. HBR has compared these results to past surveys, along with our experience helping dozens of firms evaluate and improve their business acceptance processes, to provide additional context for the changes we are seeing in the market.

DISTRIBUTION OF PARTICIPANTS



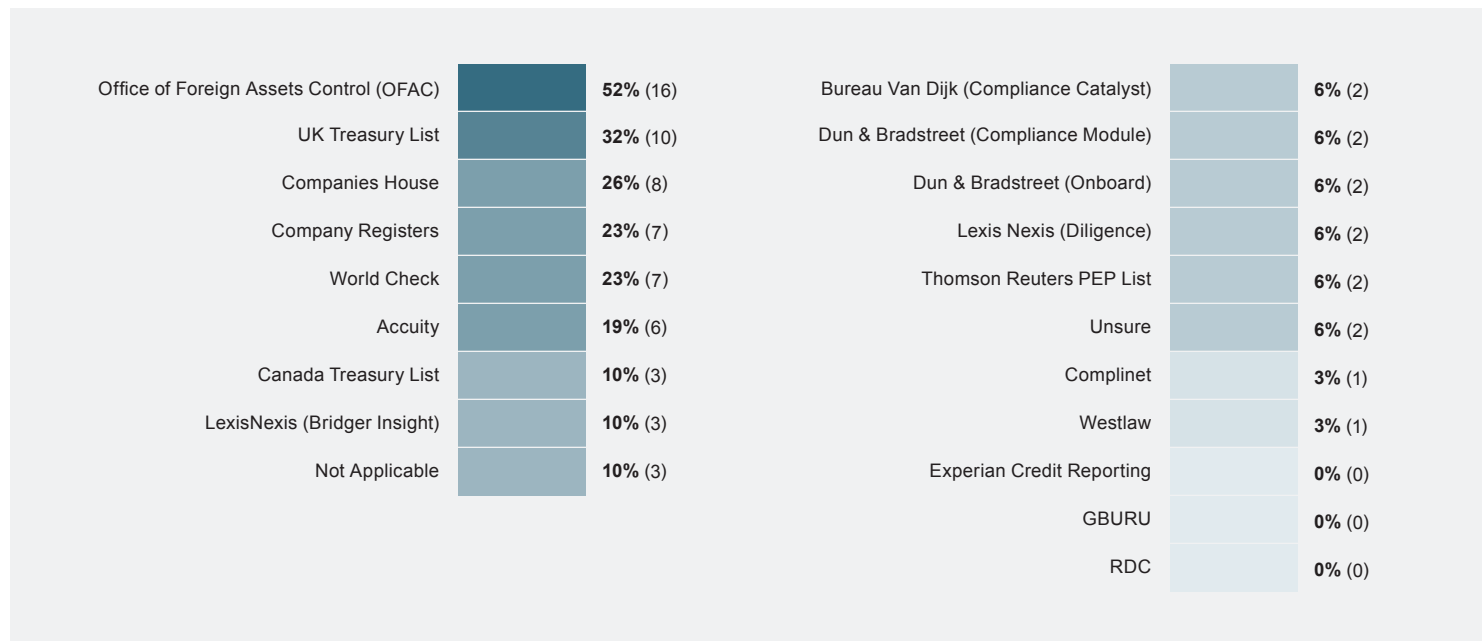
Due Diligence and Conflicts: Going Beyond the Intake Form

In the aftermath of the financial crisis, firms began to go beyond what was included on the standard intake forms to screen clients for the ability to pay and identify other forms of client-related risk. Firms now take a deeper dive into both client finances and client conflicts, using external research resources. The practices that began a decade ago have grown into the robust due diligence and know-your-client procedures now ubiquitous in the law firm business acceptance function: every firm we surveyed, regardless of size or location, conducts some form of due diligence. This increased scrutiny gives firms additional insights and information that can be invaluable in functional areas such as finance, business development and marketing, as well as to firms developing innovation teams that are eager to collect complete and accurate data about clients and matters.

Depth of Diligence Varies by Firm

While firms are universally doing some form of client due diligence research, the depth of that research varies. Firms have prioritized critical research from databases like the Office of Foreign Assets Control, with 87% of firms conducting sanctions checks on new clients. Just over half (55%) of participants go even deeper, conducting anti-money laundering (AML) or other detailed due diligence on new business. Firms are also beginning to track insider trading and market abuse information for reporting purposes, with 39% of participants indicating that they are monitoring this data.

AML AND DUE DILIGENCE TOOLS



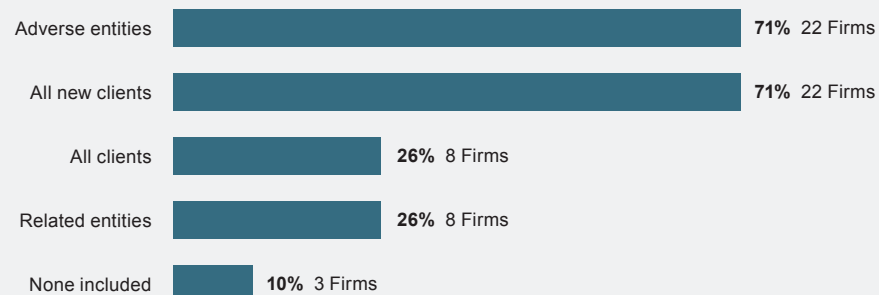
Firms are beginning to track **insider trading** and **market abuse** information.

Family Trees

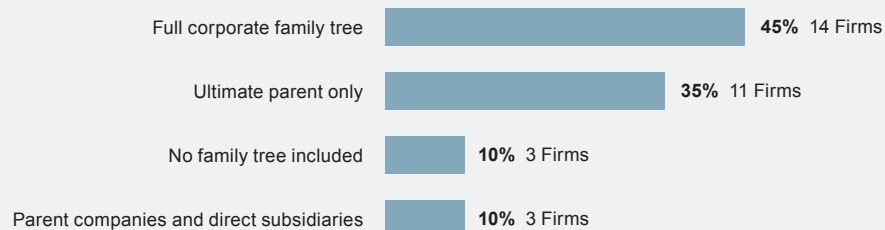
Traditionally highlighted during the course of a conflicts check, corporate family tree analysis is a key part of the due diligence process, ensuring firms meet their ethical obligations and comply with outside counsel guidelines. Seventy-one percent of participants use a corporate family tree service during their due diligence research process. While firms have traditionally focused on client family trees, searches are now going deeper, with 71% of firms evaluating the complex web of affiliates and subsidiaries for adverse parties.

CONFLICT SEARCHES: FAMILY TREES

For what parties are corporate family trees included in conflict searches?



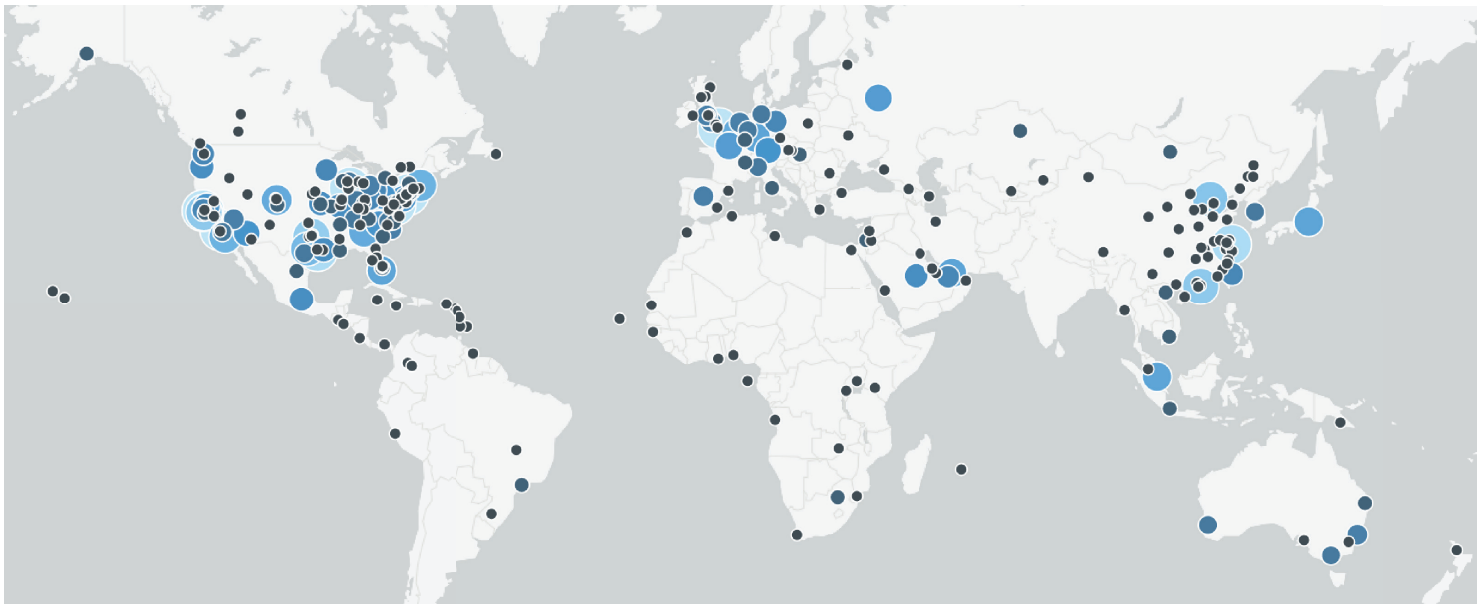
If your firm is adding corporate family tree information to conflict searches, what information is included?



The Rise of the Global Conflicts Department

Seventy-four percent of respondents are faced with the challenge of managing offices in countries outside of their primary domicile, adding a new layer of complexity to a function that is often asked to do more with less. Firms are rising to the challenge by making investments to establish a global “follow the sun” operation to support their lawyers no matter where they work.

GLOBAL OFFICE LOCATIONS



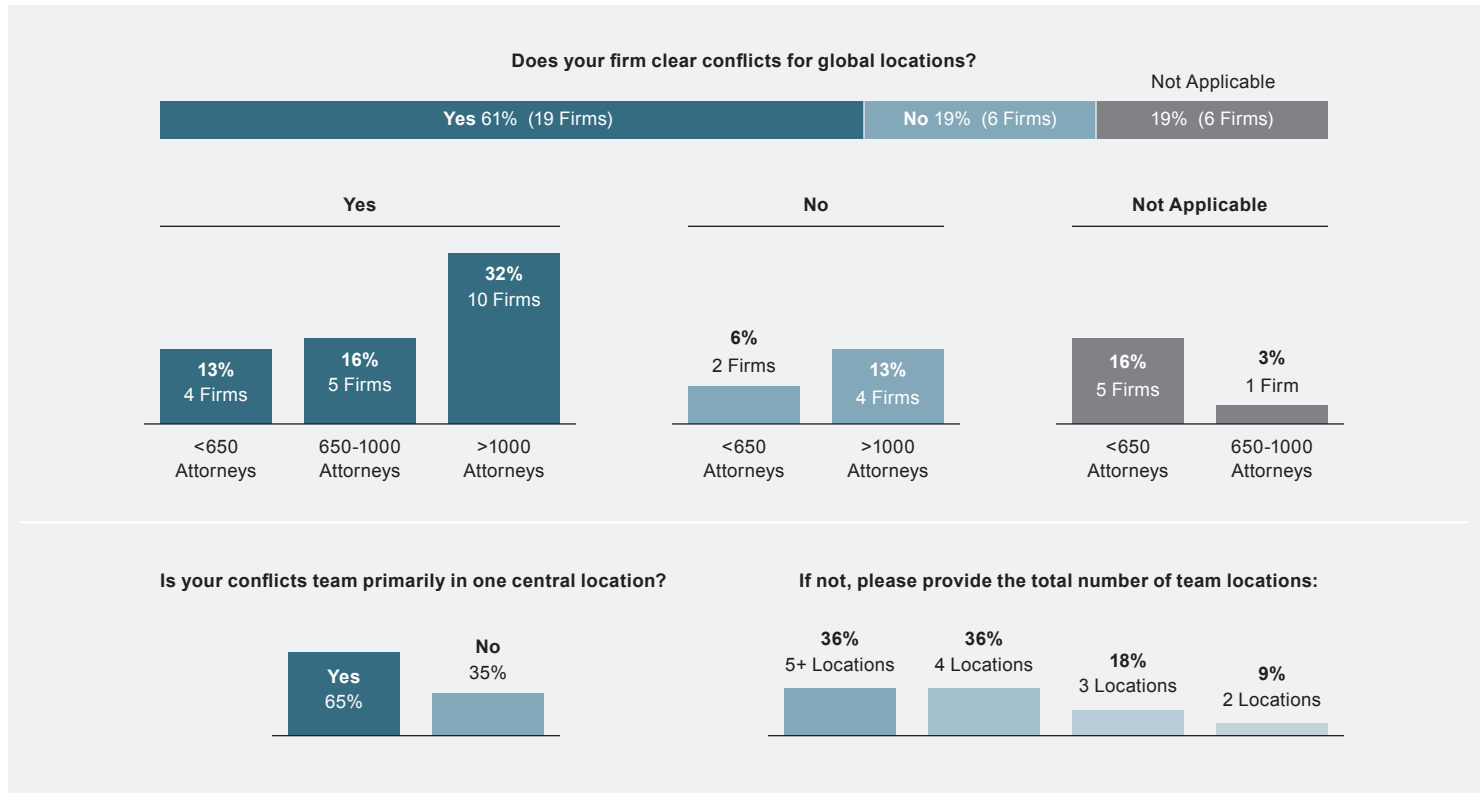
Circle size represents number of participants reporting an office at location.

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Global Reach

Sixty-one percent of all respondents report they are responsible for clearing conflicts for their firm’s global locations through a centralized conflicts department. Although department management is centralized, 35% of respondents’ conflicts teams are spread across multiple offices and time zones. With up to seven different locations for conflicts staff, responding firms are focused more than ever on providing a global reach. This geographic distribution also presents an opportunity for conflicts staff to work face-to face with more lawyers, raising the profile of the department.

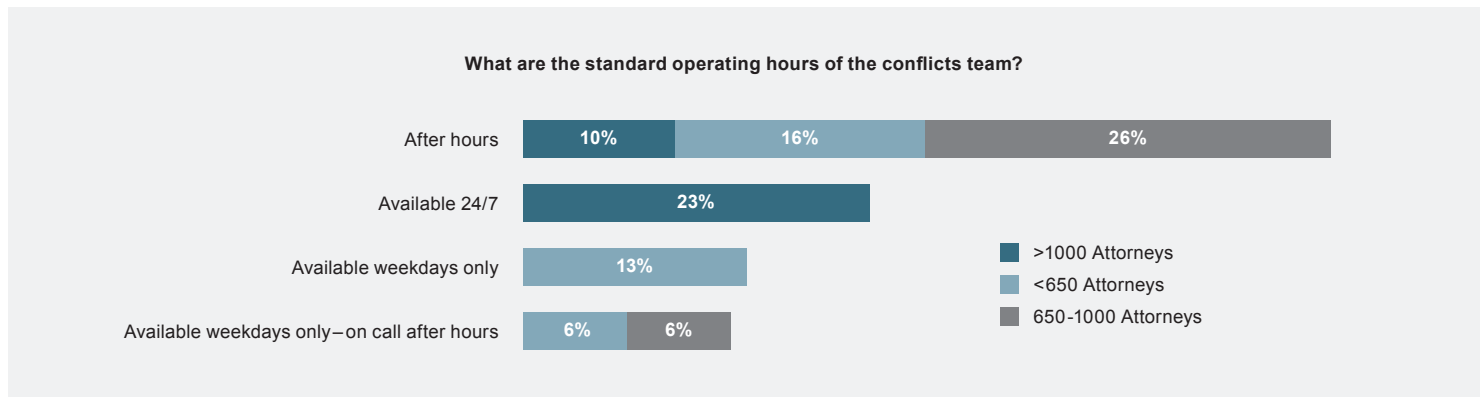
GLOBAL CONFLICTS CLEARANCE



After-Hours Support

Conflicts departments have historically accommodated occasional requests outside of normal business hours, but by analyzing the survey answers and reviewing the write-in results, we can see that virtually all respondents now systematically staff their departments for after-hours support. This includes 23% of firms that have round-the-clock support for conflicts to ensure the business of law can continue unabated without regard to the local time zone. While this trend is most prevalent in firms with an international presence, even U.S.-focused firms have greatly expanded their capabilities for support.

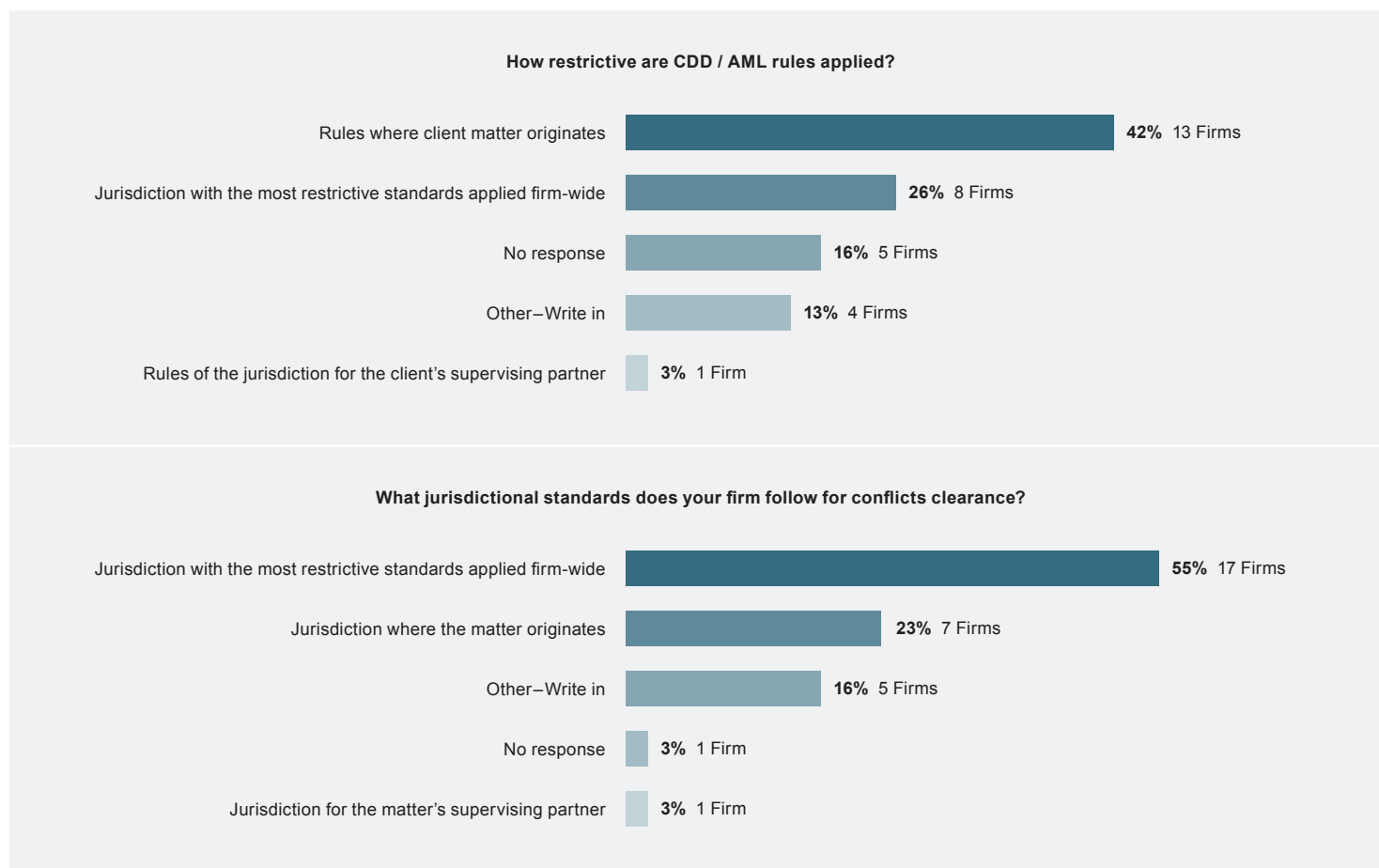
CONFLICTS TEAM OPERATING HOURS



Unified Analysis

One of the most difficult policy decisions for a firm with offices spanning many jurisdictions is how to account for the puzzle of local, national and international laws and ethics rules relevant to various jurisdictions. This is one area where there is no clear consensus among respondents, but the majority have focused on the benefits of consistency. Fifty-five percent of participants indicated that they apply the most restrictive jurisdiction’s conflicts clearance rules firmwide. Other firms apply the rules of the jurisdiction where the matter originates, and 16 of the 19 firms clearing conflicts globally report their staff is trained for all jurisdictions where the firm has an office. Interestingly, for purposes of client due diligence, firms take a more localized approach, with only 8 out of 31 firms using the most restrictive AML review. Forty-five percent of participants monitor U.S. matters for activity from non-U.S. fee earners and adjust their due diligence if there is a change in the location of the matter.

JURISDICTIONAL STANDARDS



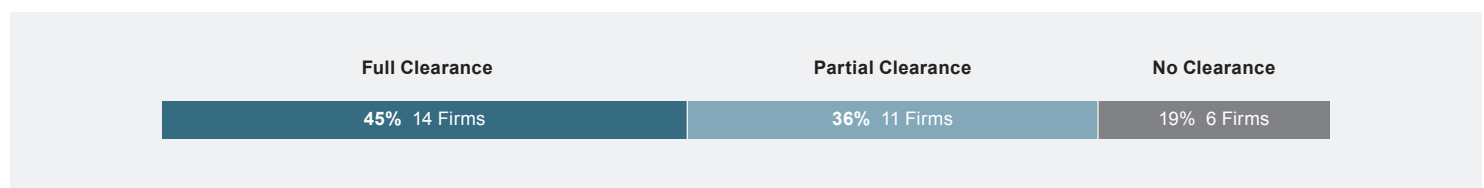
The Lean Business Acceptance Department: People, Process and Technology

Firms continue to ask more of their business acceptance functions, and those teams have risen to the challenge by expanding into increasingly complex and valuable activities. It is important, however, to recognize that in order to be a strategic partner to a firm and its lawyers, departments must execute their fundamental responsibilities with speed, accuracy and trust. While not always the most glamorous aspects of the job, opening files efficiently and establishing a responsive process provide the foundation for further expansion of the business acceptance role. Below are some of the most interesting trends we see as examples for how firms are better leveraging people, process, and technology.

Conflicts Attorneys and Conflicts Clearance Models

Whether responding to the pressure from legal malpractice carriers or the savings in time and hassle for fee earners, firms of all sizes have embraced varying levels of centralized conflicts clearance and the role of dedicated conflicts attorneys. As firms try to differentiate themselves in the legal vertical, they increasingly review non-billable responsibilities of their fee earners. By comparing both direct and write-in responses, we noted that over 80% of responding firms have either fully or partially centralized conflict clearance, meaning the conflicts team does some review prior to (or in lieu of) the requesting lawyer. This relieves fee earners from the burden of reviewing long conflict reports and resolving conflicts. More firms are shifting to a fully centralized clearance model, with nearly half of responding firms taking advantage of the convenience and consistency of this approach.

CONFLICTS CLEARANCE MODELS



Firms using a partial clearance model are generally using the conflicts team as a “first pass” before fee earners review the reports. Alternatively, some firms have established an opt-in approach for fee earners to utilize conflicts attorneys upon request.

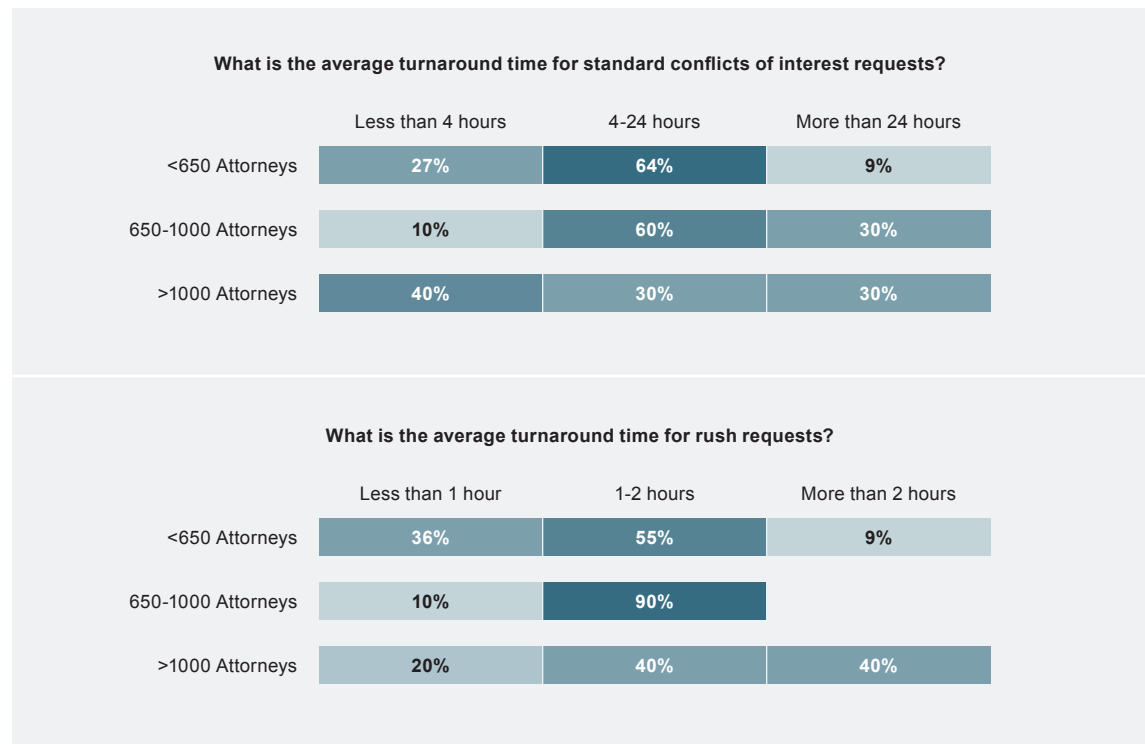
The conflicts attorney role can do more than review and escalate the results of a conflict search.

Critical to centralizing clearance is the increased role of conflicts attorneys in managing the process. Some firms are finding that the conflicts attorney role can do more than review and escalate the results of a conflict search, however. Eleven out of the 28 firms with conflicts attorneys are using them to assist fee earners with the distribution or negotiation of conflicts waivers. More surprising is that almost 20% of firms ask their conflicts department to be involved in the development of pleadings and declarations (e.g., declarations of lawyer disinterestedness) when representing clients in bankruptcy matters. This service that can save firms hundreds of fee earner hours per year. We expect that, as firms realize the return on investment that comes from a well-trained, trusted conflicts attorney team, we will see the continued expansion of these high value services.

Speed and Accuracy

No one disputes that speed is the name of the game for business acceptance, as indicated by the service level firms offer for conflicts resolution. Twenty-four out of 31 respondents offer conflicts clearance in 24 hours or less, an impressive number given that many firms are having to clear conflicts for hundreds of matters per month.

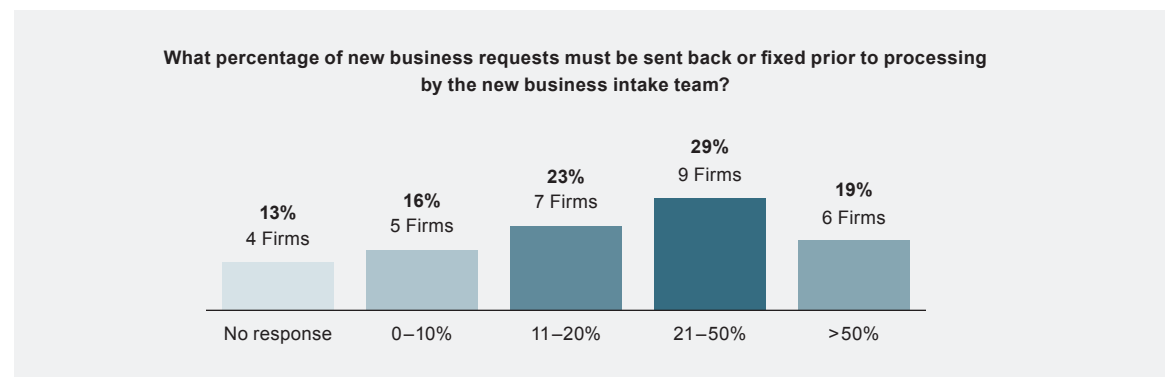
TURNAROUND TIME



Firms have a **ripe opportunity** for process improvement that will reap tangible benefits.

One issue that potentially impacts speed is the accuracy of information received from those completing the intake form. Seventy-one percent of participants indicated that more than 10% of requests are sent back to be fixed, with a surprising 19% saying they send back more than half of all requests for more information. These firms have a ripe opportunity for process improvement that will reap tangible benefits: greater accuracy on the front end can save considerable staff and fee earner time involved in the back and forth of addressing problems with rejected forms.

RETURNED REQUESTS



Staff Size

It is our observation that this issue of accurate information at input and the general growth of firms through lateral acquisition and mergers appear to be among the factors leading to an overall increase in business acceptance staff. Nearly 60% of respondents indicated that they will add conflicts staff within the next year. Interestingly, only half of firms indicate that they have a dedicated team for their client due diligence function, despite the rapid growth in sophistication for that role. This may speak to the increased involvement of library or knowledge management teams in the intake process, especially as searches become more in-depth, or it may mean that conflicts team members are receiving more cross-training and moving away from a dedicated role.

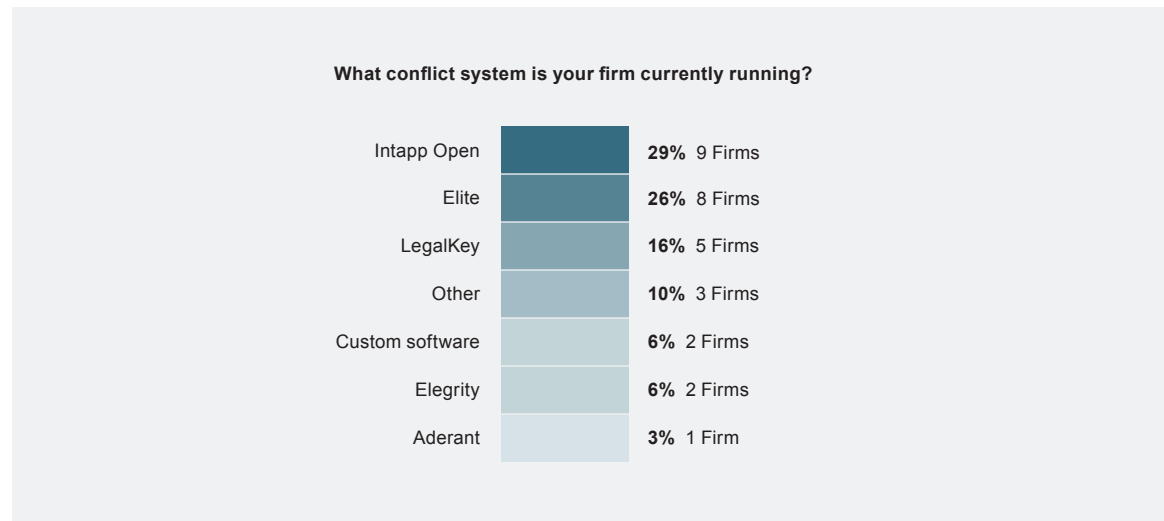
Workflow Technology

Given the scale of information necessary to ensure compliance with billing, risk management and security-related changes in the legal market, it is no wonder that electronic workflows have now become almost universal among survey respondents. Many of those workflows have been in place for multiple years, however, and almost two-thirds of respondents indicated that they will make new conflicts and intake software upgrades in the next two years.

We expect firms will transition from legacy workflows that are either custom built or out of service (e.g., LegalKEY) to modern workflow and conflicts analysis applications. For example, Intapp Open, one of the most commonly selected new intake systems, is currently used by only 29% of respondents.

Almost two-thirds of respondents will make new conflicts and intake **software upgrades** in the next two years.

CONFLICT SYSTEMS



Emerging Trends

Following are a few of the emerging trends reflected in this year's survey responses.

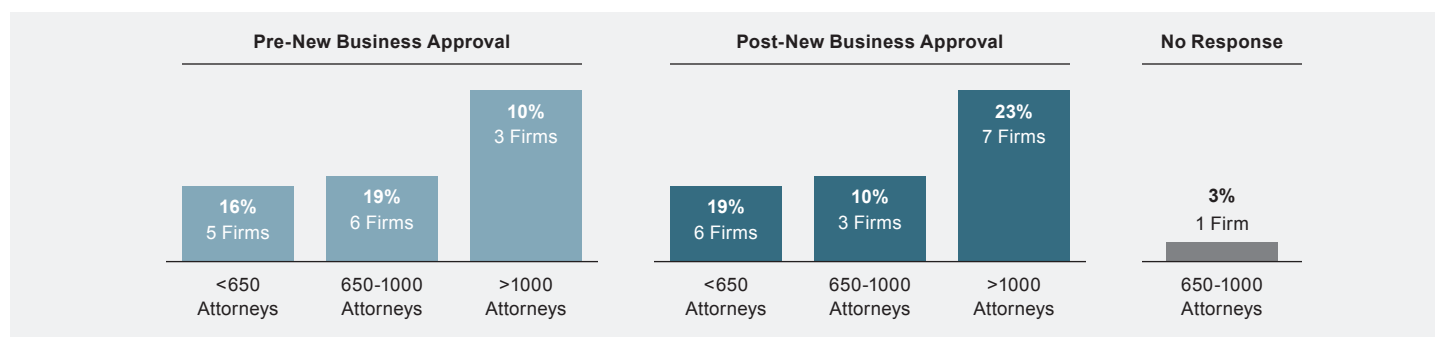
Conflicts on the Go?

Lawyers want more capability on their mobile devices, and intake software companies are promoting their products as being mobile-capable. However, these tools currently only allow users to submit names to the business acceptance department; they do not actually provide on-the-go results. Thus, in many cases, a mobile option may not accelerate the actual conflicts and due diligence process, which may be why only 13% of participants have deployed a mobile feature for the submission of conflict searches. As firms continue to expand their intake services to 24/7 support, we expect to see an uptake in firms' mobile strategy, as round-the-clock conflicts teams can provide quick conflicts results.

Assigning Matter Numbers Early

A fascinating trend we are watching is the number of firms that assign client and matter numbers before a request has completed the intake process. While the largest and smallest firms in our survey have maintained the more traditional practice of assigning matter numbers at process completion, increasingly firms between 650 and 1000 lawyers are assigning matters prior to completing the conflicts or due diligence process. This trend toward early assignment is aligned with law firm goals of accurately capturing billable time as early as possible. The earlier an intake process can assign a number, the faster key systems like time entry and document management can be used by fee earners.

MATTER NUMBER ASSIGNMENT



Outside Counsel Guidelines

The biggest topic in new business acceptance has been the growing importance of outside counsel guidelines driving changes in how firms execute conflicts clearance, billing, project management and security. Ninety percent of the firms surveyed now have a centralized process for reviewing outside counsel guidelines, which is a testament to the importance firms are placing on this critical practice. Once firms review these guidelines, however, less than half (only 48%) of all respondents store the guidelines and engagement agreements in a centralized repository. We expect this trend to change as more firms implement technology solutions to help ensure that they manage ongoing compliance with the expectations contained in these important documents.

Conclusion

Business acceptance teams have made huge strides in standardizing processes to align with best practices over the past few years, demonstrating value by collecting critical data early and accurately and serving as key partners to their firms in initiatives that help grow the firm strategically, mitigate risk and contribute to the bottom line. Firms remain focused on knowing their clients not only for the mitigation of risk, but also to ensure that lawyers can better serve clients' needs by understanding the businesses and industries they serve.

The explosion of international growth in the largest firms has fueled creativity in meeting firms' needs, whether by distributing clearance teams in different time zones or establishing best practices that can help ensure firms' consistent compliance with a patchwork of global regulations.

Focusing on fundamentals like responsiveness and value-added services that relieve fee earners from the burdens of intake have helped give business acceptance departments a foothold into their firms. We expect the level of sophistication of conflicts attorneys to advance this further, as firms continue to improve resource allocation such that fee earners are better able to focus on billable work.

Firms are embracing new technologies and adapting to pressures to increase realization, better govern information and implement key security measures by finding ways to assign matter numbers faster and help centralize compliance with more clearly defined client guidelines. We expect to see continued progress with these initiatives in the coming years.

Finally, while not specifically addressed in the survey, we note that business acceptance departments have an opportunity to contribute to their firms' strategic use of data for broader purposes. HBR foresees the legal industry becoming increasingly data-driven in the years ahead and is already witnessing the beginnings of this trend. Forward-looking law firms are seeking data solutions that can support new insights, create new points of client engagement, aid in forecasting or predicting certain outcomes, and help modernize and enhance service delivery. As data becomes an increasingly important component to legal practice, firms are looking anew, and from different angles, at the data collected during intake and acceptance. Some law firms with a keen data focus now view business acceptance data as a key piece of the strategic jigsaw, merging it with other data stores to support various business objectives. The growing importance of data in law firms will likely lead to continued process changes in the collection and storage of business acceptance data, accompanied by an expansion of the value attributed to this valuable data store. We look forward to seeing what the future holds.

Connect With Our Experts

If you would like more information about the 2018 Law Firm Business Acceptance Survey, or would like to discuss potential opportunities for your firm's business acceptance function, we can help. Please contact us and we will connect you with one of our subject matter experts.

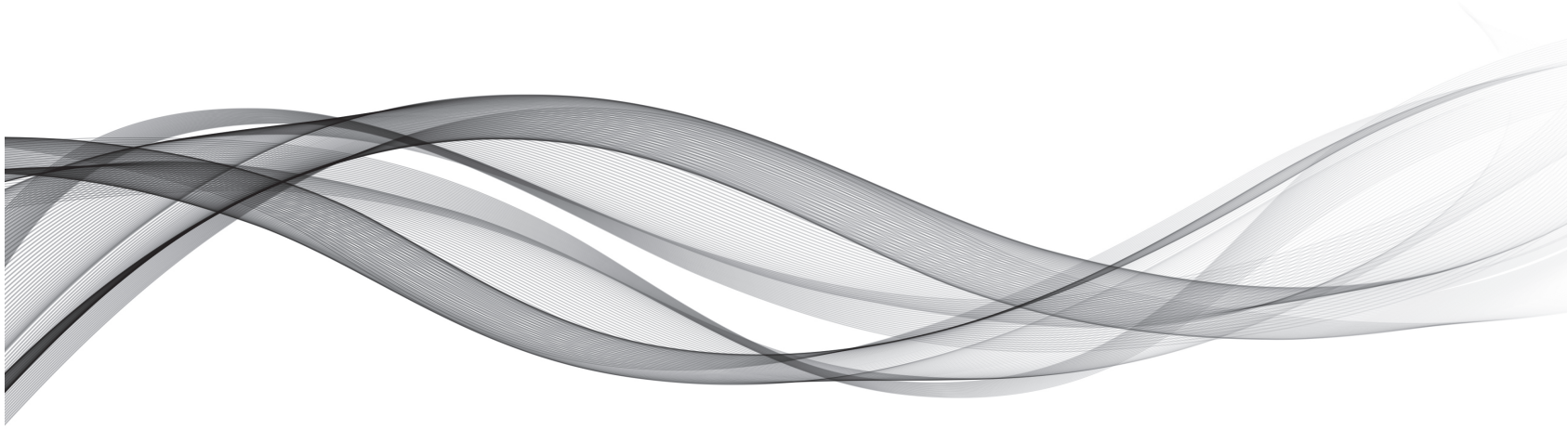


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