



# If your customers ask you about Regulatory Compliance, what would you say?

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Regulatory Compliance is one of the terms that are commonly heard in business meetings today. But what does it actually mean to you? The truth is that it means different things to different businesses but there is a common thread that ties them all together. When I first heard the term, I immediately turned to the internet to find out some definitions. Initially the definition I thought summed it up well was:

*Regulatory Compliance is either a state of being in accordance with established guidelines, specifications, regulations or legislation or the process of becoming so.*

But with more thought that did not actually tell me anything I did not already know or could deduce myself. So what really is it all about?

Ideally we need to step back and look at one of the first pieces of legislation that brought this term to become more common place: The Sarbanes-Oxley Act of 2002. Often shortened to SOX it is legislation enacted in response to the high-profile Enron and WorldCom financial and is administered by the Securities and Exchange Commission (SEC), which sets deadlines for compliance and publishes rules on requirements. Now this Act states that all business records, including electronic records and electronic messages, must be saved for "not less than five years." The consequences for non-compliance are fines, imprisonment, or both. It does not tell you how to store them nor does it assist with business processes. It leaves you to work those details out.

The legislation was introduced because of a proven lack of control and that is what Regulatory Compliance is really all about: CONTROL. Organizations have used control mechanisms for years to regulate their processes. Accounting controls, production controls and sales control, amongst many others, are all parts of the daily life of every business. These controls help businesses reduce risk, identify and correct problems, and protect assets which all, hopefully, lead to improved efficiencies. Regulatory Compliance now makes those controls, for many organizations, mandatory and auditable rather than voluntary.

For most organizations there are 3 primary pieces of legislation that have been introduced in recent years that affect a widespread range of industries:

- Sarbanes-Oxley Act (SOX)
- Gramm-Leach-Bliley Act (GLBA)

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- *Health Insurance Portability and Accountability Act (HIPAA)*

There are many more and the complexity comes when trying to ensure compliance with multiple sets of regulations and even industry standards, such as *ISO 17799:2005 Code of Practice for Information Security Management*

Now whenever a problem is begging for a solution you can be sure that technology is in the race to be your one-stop shop. So can technology alone solve the problems of controlling processes to ensure compliance? I have never believed that technology alone is the answer to anything but some vertical sectors are trying very hard to prove me wrong. They are driven to meet those challenges to the point that large companies, such as IBM<sup>1</sup> and CA<sup>2</sup>, have recently moved to acquire corporations who develop software and services to assist with compliance.

There are several vertical markets that lead themselves to the development of technology solutions. Probably the most obvious are:

- Business Process Management<sup>1</sup>
- Document Management<sup>2</sup>
- Project Management
- Incident Management

So why have these vertical markets developed? As an example, let's look at document management solutions, which combine software and processes to help manage unstructured information. Forrester Research Inc<sup>3</sup>, an independent technology and market research company, projects the records management market to grow at compound annual growth rate of 84% to \$1.3 billion in 2008.

Solutions can range from the very simple to extremely complex:

The characteristics of a simple solution are the use of manual intervention to detect or prevent problems. For example, if SOX says that all records of a certain type must be maintained for a minimum of 5 years, controls can be put in place to ensure this happens. It is very important to ensure that this control is built right into the company policies that apply to the entire organization and that someone is responsible for monitoring the effectiveness of the process.

The characteristics of complex solutions are controls that are completely automated and designed to be preventative. This is without a doubt the best way to ensure compliance because, by design, they prevent problems rather than detecting and fixing them.

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Regulatory Compliance is not something you or your customers should fear and no organization should feel that it is out of their reach. Your customers' auditors or legal representatives can get them started by identifying which legislation or standards they need to comply with. By taking time to understand how they apply to their business and by being practical about implementing controls, whether simple or complex, they should be able to demonstrate that they are compliant.

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Note 1: August 10, 2006 – IBM (NYSE: IBM) and FileNet Corporation (NASDAQ: FILE) today announced that the two companies have entered into a definitive agreement for IBM to acquire FileNet, a publicly held company based in Costa Mesa, Calif., in an all-cash transaction at a price of approximately \$1.6 billion. FileNet is a leading provider of business process and content management solutions.

Note 2: June 13, 2006 – CA (NYSE: CA) today announced the acquisition of MDY Group International, Inc who's innovative solutions help organizations to centrally manage physical and electronic records distributed across the enterprise, regardless of location or origin. The acquisition will help CA customers more easily fulfill their company-wide compliance, corporate governance and legal discovery requirements.

Note 3: "Market Overview: ECM Growth Outpaces the Overall Software Market," Forrester Research Inc., July 2005

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