Business leaders today face a very challenging business environment marked by significant change, competition, uncertainty — and opportunity.

Although many organizations find it hard to accelerate through the kinds of disruptions and mixed signals they face, Gartner research shows that there are ways to position your business to drive through disruption and come out ahead, but it takes concerted action and preparation.
If you’re like most business leaders, you’d probably prefer not to make big moves until the signals are clearer, or you may look for ways to weather uncertainty — perhaps first leveraging low-hanging tactics like cost-cutting to improve a few performance metrics.

But neither a “wait-and-see” approach nor defensive cost-cutting will power you through adversity — not least because today’s current state of uncertainty won’t magically disappear.

There’s little clarity on a range of economic, regulatory, geopolitical and trade issues, and digital disruption has made widespread and multidimensional uncertainty the new normal.

Turns of fortune may be sudden (e.g., enormous security breaches) and can blindside you unexpectedly (e.g., new competition from outside your industry). The g-forces in the turn may be extreme (a nontraditional competitor that doesn’t need to make a profit) and the time to impact short due to digital capabilities (viral anti-brand social media). Turns often coincide, increasing the need to react on different business vectors and requiring a high-performing executive team.

To survive any such turns, organizations must be able to flex as the environment changes. But some progressive business leaders, our research shows, do more than survive; they thrive — by embracing turns as a prime opportunity to seize and sustain a competitive edge.

But winning in the turns in this way requires you to prepare before the turn — whether you’re on the executive committee crafting enterprise strategy or leading your function to execute it.
The risk of paralysis is very real, especially if your organization lacks institutional memory of operating outside of a growth cycle. Many of today’s leaders have, for example, only led strategy and operations during times of growth. Fewer than half of current CxOs were functional heads during the 2008-09 financial crisis, and less than 10% were heading the same function in their current company.

Lack of preparation creates business risk. In today’s business environment, being right is only half the battle. Companies also need to execute at speed — intensely pursuing strategy with confidence and discipline as the environment changes.

This e-book delivers insights from Gartner research in 2019, featuring data and findings from proprietary surveys and engagements. It highlights the actions that progressive functional leaders are taking to improve their execution and drive forward the organization’s objectives, especially through disruptive turns and uncertainty.

These practice-specific insights tackle the very real changes that functional leaders face in their own areas of the organization — from the lack of critical skills and capabilities to evaluating risks and speaking data as a second language — as well as their imperative to execute against the enterprise objectives.

Best regards,

[Signature]

A Perspective From Mike Harris continued
Uncertain Business Conditions Seen in Unprecedented Market Trends

Trend lines across major indexes

This is the first time since the Great Recession that these trends have converged at post-recovery highs.

- **Business Transformation**
  - Business model transformation
  - M&A transactions

- **Competition**
  - Entrepreneurship health index
  - Top-player dominance

- **Economic Uncertainty**
  - Economic policy uncertainty
  - Probability of recession

- **Employee Power in the Labor Market**
  - Employment rate
  - Employee disengagement index

- **Capital Inefficiency**
  - Corporate debt new issues
  - Corporate capital inefficiency

Scaled from 0% to 100%, and where 0% is the minimum while 100% is the maximum rolling three-year average reached since 2009. Trends are based on well-known indexes and reported benchmarks and both public and proprietary data.

Source: Gartner
What legal and compliance leaders should know

Legal and compliance leaders are facing a new and uncertain environment. More than 60% of general counsel (GC) report that they are more frequently providing guidance on unfamiliar risk areas and facing an environment where the organization’s risk posture changes frequently. And in that environment, the majority report that business risk tolerance is undefined or unclear.

These challenges are at the heart of our biggest insights for 2020 — how legal and compliance leaders can provide guidance on managing risk while supporting the company’s strategic priorities.

Christina Hertzler
Practice Vice President
Gartner Research & Advisory
Legal & Compliance

Teach smart risk taking
Uncertain times drive conservatism

Organizations face a macroenvironment characterized by unprecedented levels of uncertainty, and in-house lawyers are too often providing overly conservative guidance at the very time that businesses need to accept more risk to grow.

As the business seeks to expand in areas where risks are less predictable and returns are less certain, in-house lawyers have to provide guidance in new and unfamiliar terrains. But the bets are bigger and the risk appetite is different (or undefined), and few lawyers are comfortable taking risks in the guidance they provide to business decision makers. They respond instead with unduly conservative guidance.

This presents a critical challenge for the GC as executive leader. Many GC work to ensure that in-house lawyers better meet the business’s risk-taking needs. They provide top-down messaging on the importance of taking risks, create more workflow capacity for business advice and develop team expertise in new legal risk areas.

But these tactics, while necessary, are insufficient for differentiated performance.

64% say their departments more frequently need to provide guidance on unfamiliar business opportunities and in unfamiliar risk areas than 12 months ago.

62% agree their organization’s risk exposure is changing more quickly than 12 months ago.

55% say they more frequently need to provide guidance in areas where the business’s risk tolerance is undefined or unclear.

Source: 2019 Gartner Risk-Aligned Legal Guidance Model for General Counsel
In-house lawyers play it safe — and that’s costly

This is precisely the wrong time for the legal function to be playing it safe. In a late-stage growth cycle, growth is harder to accomplish and CEOs highly prize the first-mover advantage. When guidance is too conservative, business leaders become constrained in their ability to identify, pursue and capture growth opportunities.

Conservatism also drives productivity loss and “drag” within the legal function itself. Lawyers’ advice is escalated four times as frequently — bringing in more senior lawyers to advise on the same issues. GC alone spend 20% of their time — one day a week — dealing with escalated requests. With every escalation, the amount of legal time spent on an issue doubles.

Overly conservative advice also drives 4.5 times more internal “forum shopping” by business partners taking their question to multiple lawyers in search of the best answer. This creates a drag on legal time and can generate inconsistent positions on the same issues, undermining the department’s credibility.

**Business Impact When Legal Guidance Is Too Conservative**

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Percentage of In-House Lawyers Reporting Each Outcome After Providing Legal Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lost Business Opportunities</td>
<td>2.50x</td>
</tr>
<tr>
<td>Reduced Opportunity Capture</td>
<td>4.25x</td>
</tr>
<tr>
<td>Delayed Business Opportunities</td>
<td>2.50x</td>
</tr>
</tbody>
</table>

Source: 2019 Gartner Risk-Aligned Legal Guidance Model for In-House Lawyers
Build risk-advising know-how

Gartner surveyed over 200 in-house lawyers to understand the drivers of risk-aligned guidance, and found that subject matter expertise is critical — but far from the only factor — in improving the ability of lawyers to provide risk-aligned guidance. The good news is that risk-taking know-how can be cultivated by providing three things:

1. Access to information and experiences that help lawyers to determine the appropriate risk posture to apply when advising on business opportunities
2. Strong, consistent examples of what risk-aligned guidance looks like
3. Frameworks that help lawyers to accurately assess risk and balance it against reward

This approach provides in-house counsel with a transferable set of practical knowledge and skills that, together with subject matter expertise, enables them to provide risk-aligned guidance and be strategic business enablers.

Impact on Risk-Aligned Guidance

Source: 2019 Gartner Risk-Aligned Legal Guidance Model for In-House Lawyers
The Gartner Expert View

“In-house attorneys can produce guidance on the familiar repeatedly and build up an expertise muscle, which is important for providing risk-adjusted guidance. But it’s the know-how of operating in uncertain times that will make the difference between the winners and those businesses that fall short of expectations. Legal leaders must show their attorneys how to take the risks to grow to capitalize on growth expectations.”

Atul Dighe
VP, Advisory

“To enable growth in this environment full of gray areas and new opportunities, it’s imperative for general counsel and their teams to avoid anchoring decisions based on what’s worked in the past. Instead, focus on the socialization of good risk-taking behavior. You can’t expect lawyers to proactively adapt — they need to see examples from their peers. Codification is also a huge part of the equation. New risks require clear, consistent guidance to avoid forum shopping and bottlenecks.”

Ross Gardiner
Director, Advisory
Moving From Insight to Action

Gartner for Legal & Compliance Leaders

Discover how Gartner supports legal and compliance leaders

Gartner for Legal & Compliance Leaders is the definitive research and advisory resource for general counsel and legal teams. Gartner equips legal leaders and their teams to transform their function across a range of key areas, including legal operations and department management, board and C-suite support, and legal and compliance technology and analytics.

In addition, Gartner’s unique blend of insights, advice and tools support legal leaders’ success by:

- Staying ahead of emerging enterprise risks
- Improving legal operations and department effectiveness
- Developing critical skills and competencies for their staff
- Making smart technology investments

Learn more

Make Legal Digital-Ready: Enabling Digital Business While Managing Risk
Download our guide to building a digital project governance model.

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Legal & Compliance

Improve third-party risk outcomes
Third-party risk is a CEO challenge

Twice as many compliance leaders identified third-party risk as a top threat this year. This comes as no surprise, considering the fundamental change in those risks and the ways in which third parties are used.

Today’s third parties require more access to an organization’s data assets and are increasingly working with their own third parties, multiplying the size and complexity of the third-party network. In fact, in the past four years, legal and compliance leaders have classified 2.5x more third parties as high risk. Managing the risks associated with these networks without hindering business speed is a critical challenge for leaders.

Nearly one in five organizations lacks clarity on the primary owner for third-party risk management.

Compliance and legal are the primary owners of third-party risk management in more than half of organizations, but many other functions also have a stake in improving risk management and business outcomes. With growing demand from boards and regulators, CEOs and other C-suite leaders are also feeling urgency to design a program and governance structure.

Our research shows that there is no clear answer as to which function should own third-party risk management. Instead, what drives an outsized impact on risk outcomes is designating one primary owner, regardless of chosen function. But not all organizations have nailed that down.
Misplaced effort on risk is costly

As third-party risks continue to grow, CEOs and other C-suite leaders struggle to understand which third-party management practices are most effective for improving risk outcomes. Many leaders spend much of their time and effort focusing on large-scale improvements, evaluating new governance models, assessing ownership and determining optimal technology strategies in pursuit of improved risk outcomes.

Consider the use of due diligence surveys — a classic example of efforts that are expanding with little payoff. Many organizations require third parties to undergo multiple functional due diligence and risk identification processes. This approach may seem comprehensive and exhaustive, but it produces minimal actionable information and does little to remediate potential risks. It does, however, result in significant time delays and mountains of information that are never used.

One in four organizations reviews less than 60% of the information it collects in due diligence.

If their due diligence processes were streamlined with improved coordination across functions,

51% of organizations predict they could save 3–4 hours a week, on average.

18% say that 5–6 hours could be saved, on average.

Source: 2019 Gartner Cross-Functional Third-Party Risk Management Model

60% of organizations participate in regularly auditing high-risk third parties — an activity minimally correlated to improved risk identification.

Source: Gartner
Five incremental steps improve risk outcomes

Gartner conducted a study on third-party risk management across 11 corporate functions in 2019. The results offer a prescriptive view of impactful actions to improve third-party risk management outcomes.

Five key choices favor accessible, incremental process changes in current activities over wholesale changes in governance or investments in technology.

1. Designate one primary functional owner for third-party risk management.

2. Determine clear roles and responsibilities for functional partners in third-party risk management.

3. Prioritize the most important risks to review within streamlined due diligence questionnaires.

4. Enhance ongoing monitoring through targeted business partnership activities that expand visibility into changing risk conditions.

5. Monitor risks throughout the third-party relationship based on changes in the scope of the relationship.

Legal teams can use these five insights to inform the framework design and governance of their third-party risk management programs.

Those who work with the business to learn how scope changes might affect third-party risks experience a 36% improvement in risk outcomes.

Educating business partners in managing risks over the course of the third-party relationship offers the strongest impact in remediating risk (79%), but only 21% of organizations strongly agree they are doing this.

Source: 2019 Gartner Cross-Functional Third-Party Risk Management Model
“While more legal and compliance teams own third-party risk management than ever before, they still spend too much time on the ‘book ends’ of the process — due diligence and recertification. So much of the real risk manifests when there’s a change in strategy, in scope or in personnel during the life of a third-party contract. The trick is to streamline your due diligence and lock down your deal-breaker questions so that you can reinvest the extra time in monitoring and teach your business partners when to escalate issues they spot on the front lines.”

**Billy Hughes**  
Sr. Director, Advisory

“Consider the new ways your own business is using third parties. Increasingly, they’re performing new-in-kind technology or analytics services, providing services outside of the company’s core business model, and are increasingly composed of startups and other business model innovators. These changes demand a fundamentally different approach to risk identification and monitoring.”

**Chris Audet**  
Director, Team Manager
Moving From Insight to Action

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Gartner for Legal & Compliance Leaders is the definitive research and advisory resource for compliance decision makers. Gartner equips compliance leaders and their teams to transform their function across a range of key areas, including compliance program management, corporate ethics and integrity, and risk management processes.

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• Empowering the business to own compliance risks
• Improving compliance program effectiveness
• Developing critical skills and competencies for their staff
• Building a culture of integrity

Learn more

Stay Ahead of Growing Third-Party Risk
Download our guide to effectively manage third-party risk.

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