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PERSPECTIVES

HOW THE CHALLENGES FACING CFOS TODAY CAN LEAD TO DISPUTES

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Against a backdrop of declining confidence in business, it is worth highlighting some of the factors placing increasing pressures on CFOs, including cyber crime, cryptocurrencies and political instability.

The response to the recent collapse of Carillion has shown that politicians and the media are quick to condemn senior management of high-profile businesses when something goes wrong. This sentiment seems to be matched by a lack of public confidence. Edelman's annual Trust Barometer shows that only half of the world's population trust businesses to do the right thing, and with recent revelations from the leaked Panama and Paradise papers, corporate practices continue to be thrust into the spotlight.

One may have thought that responding to commercial pressures as well as keeping on top of financial reporting, including getting to grips with new complex financial reporting standards, managing budgets and cashflows, maintaining adequate systems and controls and challenging the relevance of corporate transactions, together with considering the implications of Brexit and GDPR, may be enough to keep a CFO busy.

Clearly, CFOs are key personnel in ensuring that the business, and its strategy, is robust enough to withstand the challenges raised by the full range of these issues. However, with developing technology

and a changing landscape, the opportunity for disputes and issues to arise is an increasing focus of a CFO's time.

Cyber crime

In the UK, 17 percent of retail spend is made online as the internet makes it easier for consumers to purchase what they need quickly, but not necessarily securely.

As businesses and their customers become increasingly reliant on the internet, the ease by which criminals, often in remote locations, can defraud both customers and businesses has also increased. According to Kroll's 2017 Global Fraud & Risk Report, 87 percent of professional services executives said their company had experienced a cyber incident in the past year. In separate reported data from the Financial Conduct Authority (FCA), hacking attacks against financial services companies quadrupled from four in 2016 to 17 in 2017.

Organised crime is often blamed for cyber attacks, although more recently state actors have also been accused. In February 2018, the British government openly accused Russia of being behind the 'NotPetya' ransomware attack. That attack is said to have cost businesses across the world more than $1.2bn, affecting high-profile companies such as Reckitt Benckiser, TNT and Maersk.

In the event of a data breach, companies must report the breach to the Data Protection Commissioner within 72 hours. Penalties for non-compliance will be up €20m or 4 percent of global turnover, whichever is greater. However, responding to an attack is too late, as telecoms business TalkTalk, among others, has discovered, after a massive leakage of confidential customer data resulted in huge reputational damage and a corresponding impact on its share price.

The CFO needs to be at the forefront of a business' proactive response to cyber crime, especially in light of the EU's new GDPR law, so that they can assess risk, analyse the outputs and implement change, before it is too late.

Cryptocurrencies

Cryptocurrencies such as Bitcoin pose challenging new issues for CFOs, with more businesses willing to trade in them. This comes at the same time as UK regulators are becoming increasingly aware of the risks cryptocurrencies generate, as they provide

an opportunity for organised crime to launder dirty money.

Although the use of bitcoins to make retail purchases remains relatively uncommon in the UK, its prevalence is growing. It is now possible to use bitcoins to buy a drink in a pub, order takeaway food from an online retailer or purchase a bicycle to burn off those unwanted calories.

Despite the changes taking place, the price of a bitcoin varies hugely and talk continues that it might be a bubble waiting to burst. At the end of 2017, over approximately a month, the value of a single bitcoin varied from approximately $7500 to more than $17,500.

For businesses that utilise cryptocurrencies, or might start to consider it, the CFO faces the challenge of managing cashflow and preparing reliable budgets that take account of a widely-fluctuating currency. Further challenges arise for CFOs who need to satisfy themselves that it is appropriate to prepare their accounts on a going concern basis, and where numbers are reported in conventional currencies, consideration of the stability and integrity of the cryptocurrency. Cryptocurrency transactions have already led to a number of disputes relating to fraud and negligence. With the uncovering of fake bitcoin websites and false transactions, there will undoubtedly be more disputes on the horizon.

Cryptocurrencies are likely to come under increasing regulatory attention as their use has been linked with the laundering of criminal funds. This poses particular challenges for businesses that are already the focus of money laundering regulations, such as gaming companies and estate agents. While UK regulators have been slow to respond to the risks created by cryptocurrencies, some businesses have already taken precautionary steps. Lloyds Bank no longer allows its customers to purchase bitcoins using the bank's credit cards, fearing that the bubble will burst and customers will default on their loans.

Political instability

The coming year is set to be a momentous one for Brexit and wider political change. It is becoming increasingly clear that there is no majority in parliament for the government's approach to Brexit (leaving the single market and the customs union) and there is no majority among Conservative MPs for a softer Brexit. This is a recipe for political instability as we reach the point when the government has to make some decisions on the future relationship between the UK and EU.

> **"The CFO needs to take ownership of ensuring that organisational structures are set up to drive efficient and effective delivery, as well as ensuring there is sufficient finance in place to support growth, and to withstand the fallout of Brexit."**

Consequently, there are concerns for CFOs and businesses in the UK, as well as those that trade with the UK, who face significant uncertainty and change. Organisations need to think through a range of scenarios and assess the potential impact.

Increasingly, businesses are also keen to consider the impact of a Labour-led government, alongside potential Brexit changes.

Within the UK, companies are encouraged to work hard to insulate their balance sheets against the risks posed by Brexit. The CFO is faced with delivering financial insights that help shape the corporate strategy and consider, for example, whether contracts may need renegotiating – which entails an increased risk of disputes arising.

The CFO needs to take ownership of ensuring that organisational structures are set up to drive efficient and effective delivery, as well as ensuring there is sufficient finance in place to support growth, and to withstand the fallout of Brexit.

Summary

Modern day CFOs are faced with new challenges that put them under increasing pressure. Changes in technology, bringing about an increased risk of cyber crime, the rise of cryptocurrencies, and the political and economic uncertainty generated by Brexit, are just some of the factors that a CFO needs to be mindful of. Failure to consider these challenges could result in disputes arising between businesses and third parties, such as suppliers, customers or regulators, which could give rise to not only financial penalties and litigation costs, but also reputational damage. CD

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