



WHAT 18 YEARS IN-HOUSE TAUGHT ME ABOUT HOW TO ADVISE CLIENTS

BY PIERRE M GENTIN

CONTRAST AND CONVERGENCE

In late 1994, I stepped onto the seventh floor of Eleven Madison Avenue in New York City. I was interviewing for a job in the litigation group at Credit Suisse First Boston. At the time, I was an assistant United States attorney, thoroughly enjoying my in-court experience and proud to be representing the U.S. government in the federal trial and appellate courts. But my wife and I were expecting a child and we had just bought a house. It was time to find a job in the private sector.

I could not have imagined it then but I would spend the next 18 years as an in-house lawyer at Credit Suisse. From the start, I found myself intrigued, amazed, challenged and energised by the dynamism, vitality, and volatility of Wall Street. The range and complexity of issues (legal and otherwise), the out-sized personalities, the creativity and analytic strength of both “front” and “back” office employees; I came to love the drama and pace of the financial services experience. And as the years passed, I progressed from junior litigation lawyer to litigation head for the Americas region, and then litigation head for the Investment Bank. I served as general counsel of Credit Suisse’s global research division and also did a stint as regional head of reputational risk. Ultimately, I spent many years running the bank’s global litigation, regulatory investigations, and employment law function.

From the beginning, my in-house responsibilities put me in close contact with external counsel on issues large and small. As a junior, mid-level and eventually senior in-house lawyer, I worked with numerous law firms – from solo practitioners to the largest international firms – in jurisdictions around the world. I interacted with associates and partners as well as with law firm chairmen

when I negotiated our strategic cost-reduction arrangements. I developed a strong sense of what I and my legal and compliance colleagues valued in our external lawyers. And over the years I came to understand what my business colleagues – from line bankers and traders to senior management executives – appreciated in their external counsel.

In late 2015, I stepped onto the 18th floor of 80 Pine Street in New York City. I had just left Credit Suisse and joined Cahill Gordon & Reindel LLP as a partner focused on litigation and regulatory investigations. While Credit Suisse is now my client and no longer my employer, I am finding that my nearly two decades in-house have had a deep and defining impact on my approach to serving clients. For me, the baseline for an outside counsel is to strive to be a low-maintenance provider of practical solutions that address a client’s needs. But to represent clients most effectively, I’d suggest that an outside lawyer add two additional goals. First, he should seek to understand what his in-house clients are experiencing in the current environment. Second, she should consider what many in-house personnel truly value, and equally, what they find frustrating, in the client-law firm dynamic. For me, those two issues arose in the context of the financial services sector, though I firmly believe the lessons for outside counsel are generically applicable to other sectors as well.

To be an in-house lawyer today in a financial services company remains, in many ways, a deeply rewarding, gratifying and meaningful professional experience. More than ever, in-house lawyers in finance play a hands-on role for the business on major issues every day. Especially at the more senior levels, in-house lawyers are vital day-to-



day advisers to bankers, traders, and members of the management team. Being in-house means that one is part of the family in a way that outside counsel can rarely be, no matter how well respected they are as lawyers. The constant and natural interactions with business people, the working through of problems and issues with internal staff at varying levels of seniority and in different functions are frequent, friendly, intense and just part of the in-house job. An appearance before the executive committee or a committee of the board of directors – a significant and unusual occurrence for many outside lawyers – is often part of the normal calendar for the senior-most in-house bank lawyers.

Just as there is a big demarcation inside a company between the front office (the revenue-generating functions) and the back office (the cost-centers),

so too is there a big demarcation between how people inside and outside the organisation are viewed. As an in-house lawyer, one's allegiances are to one's company and one's professional life – and in many ways personal life as well – are tied to the fortunes of that company. Career development, professional growth, promotion and compensation, all these are very much linked to the company's well-being. For this reason, in-house lawyers (like other employees) feel deeply part of their institutions – and are viewed that way by business people – in a way that's intuitively felt and understood internally. Discussions about the life of the company and its people are just different because everyone inside is living those issues all together.

Working with business people in a close and informal way is a deeply rewarding experience.

For some in-house counsel, the role truly becomes that of a hands-on adviser, a consigliere. An in-house lawyer who has earned the trust of internal business clients may be asked to provide her judgment on all sorts of sensitive strategic and risk issues, many of which are non-public, cutting-edge and still in the process of being shaped for roll-out to the employees or investor community. And in-house managers are rightly proud when the whole team of professionals they have built over many years comes to be recognised within the company, as having its own identity, and making its own distinct contribution to the well-being of the organisation.

However, the in-house experience for financial services lawyers can also be complex and challenging, particularly in the current environment. In-house lawyers have keenly felt the significant pressures and constraints facing financial services companies over the past decade or more. And those challenges have increased with every passing year. Like all employees, in-house lawyers are subject to the various pressures facing their institutions: market, regulatory and capital constraints, and ever-increasing cost reduction objectives that, in practice, mean reductions in internal budgets, bonus pools, and ongoing calls to reduce both external spend and internal costs. These and other pressures on the organisation can take a real toll on the day to day work experience for in-house legal personnel. To a degree that many external counsel simply don't realise,

in-house financial services lawyers have learned to be highly effective in their roles with diminished internal support, limited resources, reduced budgets, and smaller bonus pools with which to pay their teams. And beyond resources, the seriousness of the issues (legal and otherwise) facing financial services firms means that there

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can be less institutional time and focus on the careers, professional development, and morale of company employees. Devoted in-house managers spend a lot of time thinking about how to inspire and motivate their people in an environment that remains challenging for the sector. And to put a fine point on it, senior in-house lawyers have been asked to tackle some of the thorniest legal and regulatory headwinds to have faced the industry during precisely this period of significant constraint.

This tension – between the rewarding and challenging aspects of being an in-house financial services lawyer – is the backdrop that needs to be understood when one considers how many in-house lawyers may feel about their external counsel. In general, in-house lawyers like and admire their outside counsel. They know that they cannot do their in-house jobs as effectively without the dedication, responsiveness and

commitment to quality of their outside law firms. They know that there is a real distinction between the culture of the in-house legal department – a corporate cost center reliant on strong self-motivated professionals – and the institutionally ingrained lawyering and structural depth of

external counsel's work. A related failing is the habit of some external counsel to value their in-house clients in direct proportion to their seniority. Junior and mid-level in-house lawyers may not quickly forget (or forgive) an outside counsel who goes around them to get to the general counsel or some other more "valuable" business client.

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Law firm lawyers are well advised to remember: it's not about the law firm, it's about the client! My more critical observations above can be addressed through steady focus on the client's substantive needs

and issues coupled with respect for the in-house counsel with whom we're working. To sum up, the key take-aways for outside counsel, based on my in-house experience:

the traditional law firm. In-house lawyers often admire the intellectual strength of their outside counsel and they respect the law firms' ability to tackle myriad issues and perform tasks quickly and thoroughly irrespective of the hour. And in-house lawyers especially appreciate those moments when the law firm lawyer's analytical rigor and experience, and the in-house lawyer's institutional knowledge and judgment, combine to achieve an exceptional result for the firm.

That said, in-house lawyers can also be frustrated by aspects of the dynamic. External counsel can sometimes seem simply oblivious to the impact that stresses on a company are plainly having on the banks' employees, including in-house counsel. Outside counsel can also fail to understand and appreciate the complexity and nuance of the in-house role. There is a disturbing arrogance that some outside counsel show in signaling that for them, in-house lawyers principally perform a ministerial function designed to support the

1. Be aware of what your in-house client is facing. Many financial services companies are continuing to deal with diverse and meaningful challenges. Those firms' employees, including in-house counsel, are committed to being first class professionals notwithstanding those headwinds. And even where a given company may be having a good quarter or year, the in-house client may nonetheless be facing real cost-related or other pressures. Be aware of and sensitive to the environment, and the specific firm's current concerns, when interacting with in-house counsel at that firm.
2. Recognise and respect that financial services in-house legal roles require great skill,



commitment and judgment. In-house counsel are on the front line in ensuring that their companies address legal and regulatory issues professionally. This is critical work and it is not always fully recognised internally. Respect and collegiality from external counsel is an entirely appropriate expectation from in-house counsel, and it is appreciated.

3. Be a professional friend. In-house lawyers may operate in a less clearly structured and more fluid institution than a traditional law firm. Professional challenges can be difficult to navigate and career opportunities sometimes hard to predict or visualise. Given that structural context, it is very helpful for an in-house counsel to be able to talk things through with a thoughtful, experienced and discrete law firm colleague. Be supportive, encouraging and helpful to the in-house lawyer, and make time for them beyond the business matter at hand. Be sincere, honest

and supportive. Real professional friendships are rewarding in their own right for both in-house and external counsel.

4. Acknowledge the role and contribution of in-house counsel at all levels. As outside counsel, don't take credit for what in-house counsel have done. Where accurate and appropriate, acknowledge the strong work of the in-house personnel when interacting with the general counsel or other senior business personnel at the firm.

At its best, the professional dynamic between in-house and external counsel is an effective and rewarding partnership where strong lawyers on both sides fulfill their roles in a supportive and respectful way. For that dynamic to operate most effectively, in my view, outside counsel needs to consider, and keep in mind, the landscape in which in-house counsel operate, and the remarkable contribution they make for their firms. 