

Contents

About the Authors	v
Acknowledgments	vii
Introduction: Information Matters	xxi
Digital Transformation: Everything Information	xxiv
Employee-Created Electronic Information Movement	xxiv
Internet Information Movement	xxv
Communication Information Movement	xxvi
Social Network Movement	xxvi
Data Analytics Movement	xxvii
Internet of Things (IoT) Movement	xxvii
Information as a Revenue Source Movement	xxviii
Electronically Stored Information (ESI)/Discovery Movement	xxix
Why Executives Need to Act	xxix
What the Book Covers	xxx
Rule 1: Learn from Transformative Movers	1
Executive Takeaway	2
Background	2
Business Implications	4
First Things First: Assess the Value of Data Silos	4

X THE EXECUTIVE'S GUIDE TO NAVIGATING THE
INFORMATION UNIVERSE

Ensure That Employees Are Thinking about How Information Drives Business	4
Legal Implications	5
See and Balance Risk and Opportunity	5
Rule 2: Be a Transformative Mover	7
Executive Takeaway	7
Background	7
Executive Messaging	8
Conjuring Up Big Thoughts	8
Business Implications	9
Lead the Way	9
Incubate Information-Focused Business Initiatives	10
Investing in Information Innovation	10
Legal Implications	11
Information Innovation: Lawyers Needed	11
Innovative Lawyers for Innovative Ideas	11
Rule 3: The Days of Companies “Controlling” Their Information Are Over	13
Executive Takeaway	13
Background	13
Business Implications	15
Infinite Scalability	16
Faster, Better, Cheaper	16
Maybe They Are Just Better	17
Cost	17
Infinite Storage Breeds Bad Behavior	17
Generally Little Room for Negotiation	18
Do with Policy What You Couldn’t Do with Contract Negotiations	18

A Lack of Control Is Being Baked into Technologies Like Blockchain	19
Information Will Always Be a Target for Criminals	20
Legal Implications	22
Lawyers Need to Negotiate Up Front	22
Legal and Compliance Obligations	22
Applying Policy to Data	23
Rule 4: Know the Building Blocks	27
Executive Takeaway	27
Background	27
Data	28
Records	28
Non-Record	29
Why This All Matters!	30
Business Implications	31
About Master Data Management	31
Legal Implications	33
Rule 5: Your Information Universe Is Chaos	35
Executive Takeaway	35
Background	35
It's a Volume Problem	35
It's a Speed Problem	36
It's a Storage Location Problem	38
It's a Lack of Organization Problem	38
It's a More Laws Problem	38
It's a "No End of Life" Problem	39
Business Implications	40
How the Chaos Impacts Your Organization	40

XII THE EXECUTIVE'S GUIDE TO NAVIGATING THE
INFORMATION UNIVERSE

How Culling the Bad and Keeping the Good Can Reduce Impact	40
It Requires Guidance and Engagement	41
Build a Big Picture Plan with the Right People	41
Legal Implications	41
What Are the Legal Implications for Your Company?	41
Over-Retention of Information Must Stop	42
Proactively Address Litigation Response	42
Principle 6 of the Sedona Conference	42
Rule 6: Executives Must Create a Governance Culture to Protect Information	45
Executive Takeaway	45
Background	45
Making Employees Care	46
Routinized Communication	46
Policies Are Manifestations of Company Values	47
Train but Don't Over-Train	47
Audit and Monitor to Make Sure Employees Get It	48
Business Implications	48
Governance Takes a Team	48
Governance Takes Resources	48
Legal Implications	49
Lawyers Need to Participate in Building an Information Governance Culture	49
Five Qualities of an Information-Innovative Lawyer	49
Rule 7: Monetize Information	51
Executive Takeaway	51
Background	51

Business Implications	55
Understand Data Sources	55
Making Sure Your Data Is Clean	56
Find Opportunities to Monetize Your Information	56
Privacy vs. Money, Reputation vs. Transforming Your Business, and Other Dichotomies	60
Legal Implications	60
Anonymizing Data	61
Manage Contractual Relationships	61
Manage Trust, Privacy, and Customer Expectations	62
Rule 8: Information Changes Over Time	65
Executive Takeaway	65
Background	65
Business Implications	68
Legal Implications	69
Rule 9: Storage Is Not Cheap	71
Executive Takeaway	71
Background	71
Manage the Footprint	72
How to Attack Unneeded Information	73
Business Implications	75
Control Information Cost	75
Clean Up the Crud	76
Legal Implications	77
Rule 10: Know the Expanding Legal and Regulatory Landscape	79
Executive Takeaway	79

XIV THE EXECUTIVE'S GUIDE TO NAVIGATING THE
INFORMATION UNIVERSE

Background	79
The Expanse of Legal Requirements	80
Following the Law of the Land	81
Make Sense of Conflicting Laws	81
Business Implications	82
Lay It All on the Table	82
It Takes a Team	82
Legal Implications	82
The Letter and the Spirit of the Law	82
The Evolution of the Custodian	83
Rule 11: Bridge Worlds and Navigate Conflicts	85
Executive Takeaway	85
Background	85
Business Implications	89
Evaluate Information before Using It in a New Way	89
Conflicts Go beyond Official Company Records	90
Legal Implications	91
Know Your Risk Appetite	91
Conflicts between Business Needs and Law	92
The Right to Be Forgotten	92
Retention Requirements	93
Rule 12: Build and Support a Compliance Culture	95
Executive Takeaway	95
Background	95
What Is Compliance Methodology?	97
Components of Compliance Methodology	98
Business Implications	98
Legal Implications	99

Rule 13: Empower Your Organization to Unlock Answers	101
Executive Takeaway	101
Background	101
The Tools Are Getting More Powerful	101
Let Algorithms Do the Heavy Lifting	103
Let the Machines Learn and Improve at Getting Your Answers	104
Where Does the Information Come From?	104
Business Implications	105
Select the Right Tool	105
Resist Shiny Objects	105
Acquire the Expertise	106
Legal Implications	106
Privacy and Trust	106
If It's Around, It's Likely Discoverable	107
Watch Out for Bias in Algorithms	107
Encrypt and Anonymize to Protect Privacy	108
 Rule 14: Treat Privacy Like Your Company's Reputation Depends on It	 109
Executive Takeaway	109
Background	109
The Privacy Regulatory Landscape Is Full	109
Is Privacy a Human Right?	109
The United States Has Seen Privacy as a Consumer Issue	110
But Things Are Changing	110
Consequences for Failure Are Getting Bigger	111
Everyone Is a Manager of Personal Information	111
Business Implications	112
Legal Implications	114

Rule 15: Information Security: Protect the Crown Jewels	115
Executive Takeaway	115
Background	115
The Never-Ending Assault	115
The Internet of Things (IoT)	116
Economic Espionage as a Service	116
The Problem of Smallness	117
Encryption Policies Abound, Encryption Use Is Sorely Lacking	117
How Some Business Partners Are Legally Mandating the Frustration of Your Information Security Controls	118
Exploiting Your Relationships and Joint Ventures	119
Manage Credentials and Bolster Security	120
The Attacks Grow in Sophistication	121
Finding the Cyber Hackers inside Your Environment Can Be Difficult	122
The Weakest Link May Be Members of Your Workforce or Your Recruiter	123
Business Implications	123
Executives and the Board Must Be Involved	123
Is a Data Breach Inevitable?	124
The Need to Share to Win	125
Perform a Risk Assessment	126
Some Technologies Make Protecting Information Tougher	126
Volumes Make Stealing Your Business Way Easier	126
Encrypt Early and Often	127
Defensibly Dispose of Outdated Information	127
Legal Implications	127
Think about Security at the Contract Level	127
Think about Security at the Policy Level	128

Think about Security at the Compliance Methodology Level	129
Think about Security at the Business Process Level	129
Rule 16: Introduce Transparency into Your Information Sources	131
Executive Takeaway	131
Background	131
Data Visualization	131
Customer Experience	133
Chatbots Are Getting More Intelligent	134
Location-Based Business	135
Business Implications	136
Transparency Culture	136
Customer and Company Stickiness	137
End User Interface	137
Why the User Interface Matters	137
Legal Implications	138
Companies Remain Responsible for What Their Smart Technology Does	138
Policies, Laws, Rules Still Apply	139
Transparency for Law Department Efficiency	139
Rule 17: Manage the Expanding IoT Data Universe	141
Executive Takeaway	141
Background	141
Where It's Hot	142
But Security Remains a Major Issue	144
Business Implications	144
Unintentional and Potentially Valuable Data	144

XVIII THE EXECUTIVE'S GUIDE TO NAVIGATING THE
INFORMATION UNIVERSE

Legal Implications	146
Protect Privacy	146
Laws Are Evolving to Address Connected Devices	146
Conflicting Laws	147
The E-Discovery Problem	147
Rule 18: The Rule of Yes	149
Executive Takeaway	149
Background	149
Bringing In and Keeping the Best and the Brightest	150
Enhancing Collaboration	150
Is Your Knowledge Leaving the Building?	152
Communication Technologies Help Structure Modern Work Life	152
Business Implications	153
Saying No All the Time Has Its Consequences	153
Centralized Vetting to Avoid Duplicative Purchases	154
Remove Obstacles	155
Fund and Support New Information Flows	155
Building Institutional Knowledge When Using Collaboration Technology	156
Legal Implications	156
Build Functional Legal and Compliance Requirements into New Technology	156
Protect Property Rights	156
Macro Access	157
Micro Access	157
Discovery in Collaboration and Communication Environments	157

Rule 19: Bring Your Own Device	159
Executive Takeaway	159
Background	159
Business Implications	160
Accommodating the Workforce	160
Ownership and Use	160
Security	160
Loss of Device	160
Legal Implications	162
Good Policy and Training	162
Litigation Discovery	162
BYOD Agreement with Employees	162
Rule 20: See the Challenge as Both Proactive and Reactive	163
Executive Takeaway	163
Background	163
Business Implications	164
Governance and Ownership	164
Build a Team	165
Building a Plan	165
Lean on Technology and Rely on the Village Only When You Have To	165
Be Proactive to Get Ahead of Issues	165
Acknowledge That There Are Reactive Initiatives That Must Get Done	166
Legal Implications	167
Conclusion	169