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Company boards often lack the know-how to fight cybercrime

Knowledge of cybercrime among company directors is improving, but many board members are 'technologically challenged' and don't act on information

Sophisticated global fraud has become a major threat but detecting cybercrime is difficult and many boards of directors lack the knowledge to properly guard against such risks, attendees at an Iberian Lawyer In-House Club event in Madrid heard.

"There are generally two types of companies, those that have been attacked and those that do not yet know they have been attacked," Goslin referred to the results of an international study by Ponemon Institute that revealed it takes an average of 256 days to discover a system data breach caused by a malicious attack. "Imagine you've had someone living in your house for nearly a year and you had no idea about it!" he concludes.

are becoming more aware and understand the cybersecurity risk because they are being educated about it, attendees were told that it is a slow process partly because many board members, due to their advanced age, are "technologically challenged". In addition, the information sent to boards is often too technical, while some boards do not use or act on the information provided to them.

Intelligence is the best defence

When it comes to preventing and combating cybercrime, intelligence is the best defence, attendees were told. While it used to be the case that cybercrime was always committed with the complicity of an internal employee, that is no longer true. Consequently, there is a need for in-depth protection to safeguard data and critical assets because, as one participant commented, "a major cyber attack means that your company is ruined".

Detection of cyber crime one of the biggest challenges companies face. "The problem with electronic assets is that people don't even know they have been attacked," one attendee remarked. Meanwhile, the event also heard that companies are exposed to greater risk when entering into new markets – therefore, they need to incorporate protection against such risk into their budgets.

Regulations aimed at countering cybercrime vary across sectors. The payment card industry, for example, has very specific regulations that have evolved, but most regulations in many countries – particularly governing banking or healthcare – are too general and when regulations are insufficient, that is when the industry needs to come in and set the standard.



Bruce Goslin with K2 Intelligence and Cristina Coto with CMS Albiñana & Suárez de Lezo

According to session panellist Cristina Coto, a partner at CMS Albiñana & Suárez de Lezo, protecting a business against cybercrime "starts by protecting the company both from external threats and from internal fraud". She added that, while companies are implementing compliance structures to prevent and detect such crimes, whether an effective internal investigation is possible without the support of IT teams was questionable.

Bruce Goslin, executive managing director for EMEA at K2 Intelligence, highlighted one of the most frequent sources of cybercrime. "We often detect that an attack comes through a third-party vendor engaged by the company, and this is how the breach occurs," he said.

The event was attended by heads of compliance and legal of the major Spanish companies.

In terms of differentiating between sectors, financial institutions and global banks are, by and large, ahead of everybody else in terms of tackling the threat, as they are vulnerable to losing a lot of money very quickly, and because they can dedicate large teams to such a task, the event heard. While some boards of directors

Event: Iberian Lawyer Global Compliance Club - Is your company secure or an easy target? Developing strong strategic teams to mitigate risk

Location: Madrid

Panel members: Cristina Cotos, partner, CMS Albiñana & Suárez de Lezo; Bruce Goslin, executive managing director, EMEA, K2 Intelligence

Who	Where from	Where to	What area
Antonio Montero	Ministry of Finance	CMS Albiñana & Suárez de Lezo	Tax
Alejandro Auset	State Attorney	Cuatrecasas, Gonçalves Pereira	Litigation
Beatriz Saura Alberdi	Audiencia Nacional	Legal y Económico	Compliance, criminal law
Berta Aguinaga	CMS Albiñana & Suárez de Lezo	Ontier	White collar crime
David Maeztu	Abogados TIC	Abanlex	Big data, artificial intelligence
Dulce Miranda	Garrigues	Deloitte	Intellectual property
Eduardo Villellas	Pérez-Llorca	Arias SLP	Dispute resolution
Francisco de Mendonça Tavares	FTA – Francisco Tavares e Associados	Antas da Cunha	Corporate, litigation, tax
Guillermo Rodrigo	Clifford Chance	Baker & McKenzie	Real estate
Jaime Espejo	Roca Junyent	Olleros Abogados	Corporate and M&A
Javier Lucas Nieto	Cuatrecasas, Gonçalves Pereira	Ceca Magán	Tax
Javier Prenafeta	Javier Prenafeta Abogados	Abanlex	Big data, artificial intelligence
Joaquim Riera	Grupo Catalunya Banc	Gómez - Acebo & Pombo	Real estate
Jorge Morell	DMS Consulting	Abanlex	Big data, artificial intelligence
José Enrique Solano	Misaver	Dutilh	Tax
José Luis González-Montes	Cremades & Calvo Sotelo	Baylos	Litigation, criminal law
José María Elías De Tejada	Correos	Deloitte Abogados	Corporate
Julio López Quiroga	Uría Menéndez	Avante Legal	Shipping, transport, aviation, litigation
Luciano Parejo	Professor at Universidad Carlos III	Gómez - Acebo & Pombo	Real estate
Luis Miguel Henrique	Abreu Advogados	Macedo Vitorino & Associados	Litigation, employment
María del Mar Alarcón	Fundación Instituto Laboral of Madrid	Ceca Magán	Employment
Tiago Amorim	Amorim Advogados	Miranda	Real estate, dispute resolution
Trinidad Remezal	Misaver	Dutilh	Tax

Senior level promotions

Law firm	Who
Freshfields Bruckhaus Deringer	Joe Amann, counsel
Gómez - Acebo & Pombo	Vanessa Fernández Lledó, Remedios García Gómez de Zamora, Luis Gil Bueno, Rodrigo López González, Ana López Muñia, Ángel Vaillo Umbert e Inés Vázquez García, partners ; Carlos Rueda, managing partner
Hogan Lovells	Carolina Revenga, counsel
PLMJ	Rita Samoreno Gomes, Inês Pinto da Costa, Diogo Duarte de Campos, Francisco Lino Dias, Sara Estima Martins, Bruno Xavier de Pina, Miguel Spínola, partners
Vieira de Almeida	Hugo Moredo Santos, Joaquim Pedro Lampreia, Matthieu Le Roux, Teresa Empis Falcão, partners

On the web

The latest from www.iberianlawyer.com

The screenshot shows the Iberian Lawyer website interface. The main content area features several news articles with headlines such as 'Gómez-Acebo & Pombo appoints new managing partner and reveals 2015 results', 'King & Wood Mallesons instructed on €116m EDP Group acquisition', and 'Miranda integrates Oporto firm Amorim Advogados'. There is also a 'Manual digital Compliance' section and a 'LATEST ISSUE HERE' section. The sidebar on the right includes a 'GUIDE TO LEARN LAWYERS' section with links to Banking & Finance, Dispute Resolution, Energy & Renewables, EU, Competition & Public Law, and IP / IT & Life Sciences. At the bottom, there is a 'LATEST JOBS' section listing various legal positions.

News

Herbert Smith advises Kingdom of Spain in victorious investor-state arbitration

Herbert Smith Freehills advised the Kingdom of Spain in its investor-state arbitration under the Stockholm Chamber of Commerce rules commenced by European investors Charanne and Construction Investments.

Gómez-Acebo & Pombo appoints new managing partner and reveals 2015 results

Gómez-Acebo & Pombo has appointed Carlos Rueda as its new managing partner.

King & Wood Mallesons instructed on €116m EDP Group acquisition

King & Wood Mallesons advised EDP Group on the €116 million acquisition of piped gas assets in the north of Spain – specifically the Basque Country, Cantabria and Asturias region – from Repsol.

Miranda integrates Oporto firm Amorim Advogados

Lisbon-based law firm Miranda & Associados has announced the integration of Oporto firm Amorim Advogados.

The Latin American Lawyer**Philippi, Prietocarrizosa & Uría launches in Peru**

Philippi, Prietocarrizosa & Uría, the Iberian American law firm, has announced its merger with Peruvian law firms Ferrero Abogados and Delmar Ugarte.

Hogan Lovells adds four lawyers in Monterrey, Mexico

Hogan Lovells BSTL announced the arrival of María Teresa Garza, Rocío Sánchez-Arriola, David Esquivel, and Luis Fourzán to the firm's Monterrey office.

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adds that the new corporate income tax law in Spain, as well as the country's new general tax law, have also been significant developments in the last year.

Highlighting the effects of these new laws, Enrique Viola, partner at Pintó Ruiz & Del Valle says the new corporate income tax law has meant companies have had to conduct a review of their tax policies, while the general tax law has impacted on the tax planning on a significant proportion of tax payers.

The BEPS process will have a "structural impact", according to Baker & McKenzie partner Rodrigo Ogea. "Clients are less interested in the short term, they are looking for strategic advice because that's where they need more guidance," he adds. "The rewards for short term planning are not that attractive." Ogea says the UK is a very attractive proposition for companies and cites the example of Iberdrola's decision to redirect investment away from Spain to the UK. However, he adds that

there are also opportunities for Spain. Ogea continues: "Spain won't compete on tax efficiency, but has competitive advantages for attracting the hospitality, leisure and logistics industries."

Vinuesa says, in the future, "reputable tax advisers" will be financial intermediaries between the tax authorities and clients. "However, in order to achieve this, the relationship and the modus operandi of the Spanish tax authorities should change – some progress has been made, but

Spain: What are currently the biggest opportunities for law firms in the area of tax?

"While we are still facing restructurings and a substantial amount of tax litigation, we are also seeing many M&A and capital market transactions, as well as real estate investments. Integrated legal and tax capabilities add extraordinary value a multi-practice law firm's offering". **Carlos Albiñana, partner, Allen & Overy**

"The Spanish tax reform provided a scenario for new structuring opportunities. Examples of this include the participation exemption regime applicable to capital gains obtained by Spanish companies upon sale of other Spanish companies, not only in respect of foreign subsidiaries." **Marta Esteban, of counsel, Herbert Smith Freehills**

"The sustainable recovery of the Spanish macroeconomic situation and the existence of assets which have adjusted their prices represent an opportunity to foreign investors." **Miguel Ángel Sánchez, partner, Hogan Lovells**

"The globalisation of transactions - especially within the EU - will create new tax opportunities due to the fact that, in general, all transactions have tax consequences." **Antonio Montero, counsel, CMS Albiñana & Suárez de Lezo**

"In relation to the battle against tax fraud, law firms are currently dealing with more tax audit procedures than ever." **Enrique López de Ceballos, partner, Ontier**

"We will continue protecting clients' wealth in two different ways: (i) using the local tax mechanisms and (ii) moving money out of Spain in a tax efficient way (Luxemburg and Switzerland)." **Miguel Ángel Albaladejo, partner, Lener**

"Real Estate is growing again in Spain, principally in the main cities, and tax advisors will have to help investors to plan and maintain their investments." **Enrique Viola, partner, Pintó Ruiz & Del Valle**

"The introduction of country by country reports in relation to transfer pricing in multinational groups and the possible introduction of the obligatory use of electronic log book systems in VAT." **Alberto Monreal, partner, PwC Tax & Legal Services**

"The development of BEPS will be a hot topic in the following years. Furthermore, the international automatic exchange of tax information is not merely a trend, but a reality." **Javier Prieto, partner, Araoz & Rueda**

"M&A transactions (notably leveraged acquisitions) will in all likelihood continue to grow in terms of number and average size. Furthermore, tax litigation (including related to tax audits regarding tax losses or transactions implemented in statute-barred years) will also become a major concern for our clients." **Paula Caro, partner, Ollereros Abogados**

"The most important development has been the tax reform, effective from 1 January, 2015. This has included a major amendment to the current individuals and non-residents tax laws, and a brand new corporate tax law that follows a very restrictive approach in the deduction and carry forward of expenses and losses." **Alberto Ruano, King & Wood Mallesons**

"The introduction of a general exemption from the double taxation of share transfers and acquiring dividends and the lack of withholding taxes within the EU permit the implementation of group restructuring projects and changes in the existing investment structures." **Iñaki Silva, partner, RCD – Rousaud Costas Duran**

"The increase in tax lease transactions in the Spanish shipping finance market due to the recent judgement of the General Court of the European Union of 17 December, 2015, which found that the "old" Spanish tax lease did not constitute a state aid." **Luis Soto, partner, Watson Farley & Williams**

"Increasingly our clients ask us about the impact that one government or other might have on their family heritage and assets." **Fernando Fuster-Fabra, Fuster-Fabra Abogados**

"The new tax exemption applicable to dividends or capital gains from subsidiaries." **Gonzalo González, partner, Marimón Abogados**

"Compliance still represents a big opportunity as, after most of the big corporations have implemented it, it is now SMEs' turn." **Roberto Antunez, tax adviser, Yingke Adarve Law Firm**

"M&A, the real estate market, and the stock exchange market." **Javier Segon Roca-Umbert, partner, Bufete B. Buigas**

"Law firms will be able to capitalise on opportunities arising from new compliance requirements derived from BEPS, revision of existing tax structures as well as the increase in tax investigations" **Victor Manzanares Sainz, tax manager, Monereo, Meyer Marinell-lo Abogados**



cases to continue in the coming year, and also anticipates more consumer cases against banks. She adds that disputes relating to Spanish companies' activities in Latin America should create opportunities for law firms. Huerta fears the political situation in Spain will slow down investment and this will have an impact on litigation and ADR. He adds: "Lawyers will have to recover their entrepreneurial spirit as we need to be innovative

and find new products for clients – however, corporate disputes will increase as well as stand-alone and follow-on actions, compliance-related work will also increase."

Portugal: BES fallout continues

In Portugal, the "tsunami" of litigation related to the collapse of Banco Espírito Santo continues, according to one partner, who adds that the disputes relate to a wide range of areas including, banking and finance, criminal law

and public law. Meanwhile, the recent collapse of the Portuguese bank Banif will also lead to significant dispute resolution-related work for lawyers.

There is a significant amount of litigation related to transnational insolvencies involving Luxembourg, Switzerland and the Cayman Islands, PLMJ partner Nuno Líbano Monteiro explains. He adds: "There are also cases related to the liability of boards of directors with disputes

Spain: What are currently the biggest litigation and ADR-related opportunities for law firms?

"Regulatory scrutiny in the financial sector as well as in antitrust compliance will increase. Likewise, it is foreseeable that criminal prosecution related with bribery and corruption will start to be more common." **Borja Fernández de Trocóniz, partner, Linklaters**

"Banking litigation, litigation fees are decreasing, though the workload is not. But law firms are creating more innovative ways of billing." **Santiago Hurtado, partner, Deloitte Abogados**

"Arbitration, especially in energy and infrastructure. Companies also need advice regarding pre-insolvency or insolvency proceedings. Mediation, as well, is gaining a lot of interest." **Eduardo Soler-Tappa, partner, Herbert Smith Freehills**

"Mediation can be seen as an opportunity to develop new mechanisms to satisfy clients' needs quickly and resolve their conflicts, as well as agree success fees allowing law firms to invoice and receive payment in a very short time." **Jordi Sánchez, partner, RCD – Rousaud Costas Duran**

"If M&A deals and real estate transactions keep increasing it could be a big opportunity as they are often the source of a lot of disputes." **Jordi Calvo Costa, partner, Roca Junyent**

"True specialisation in fields litigious by essence – for instance in construction, lawyers with engineering education." **Jean-Marie Vulliemin, managing partner, Froriep Swiss lawyers**

"Law firms have the opportunity to develop the necessary legal and technical skills to meet the requirements of lawsuits or arbitrations with the complexity and dimension that investment litigation usually entails." **Luis Javier Vidal, partner, CMS Albiñana & Suárez de Lezo**

"The wide variety of financial disputes is an important source of activity for litigation departments." **Fernando González, partner, Squire Patton Boggs**

"Providing Spanish companies with cross-border advice to prevent investment-related risk. International arbitration is a big opportunity too." **Rafael Montejo, managing partner, Osborne Clarke**

"The foreseeable economic slowdown creates business disputes that could finish before a court or an arbitral body." **Pablo Albert, head of litigation, BDO Abogados**

"The increase in class actions – related, recently, to banking disputes – will probably contribute to a wide increase in such actions with respect to disputes in other sectors, such as the telephone or insurance industry." **Cristina Camarero Espinosa, partner, Ontier**

"Corporate compliance matters will be at the core of our strategy this year." **Iñigo Rodríguez-Sastre, partner, Olleros Abogados**

"Given the growth of the real estate market, litigation in this area is probably a good opportunity – including eviction proceedings, construction damages, mortgage foreclosure proceedings, and asset recovery." **Patricia Gualde, partner, Broseta**

"Law firms shall develop new legal skills, being at the same time more accessible and transparent to clients, combining the best legal advice with an extraordinary service." **Yago Vázquez Moraga, partner, Pintó Ruiz & Del Valle**

Arbitration – arbitral proceedings are increasing in certain sectors and jurisdictions which were traditionally less prone to accept this practice (for example, the financial sector). Meanwhile, sectors and jurisdictions where arbitration is already common are witnessing further development and specialisation." **Dámaso Riaño, partner, Arias SLP**

"Corporate compliance is one of the major fields where expert legal advice is required, due to the novelty of the regulations and the lack of practical experience and case law in comparison with Anglo-Saxon jurisdictions." **Alfredo Guerrero, partner, King & Wood Mallesons**

"An increase in transnational and cross-borders disputes. Meanwhile, the number of disputes resolved using ADR, rather than in traditional courts, might increase due to the caseload of traditional courts, the perception of lower costs and the shorter timescales." **Esther Domínguez, lawyer, Marimón**

"Disputes related to cybersecurity, labour and employment law, tax controversies and, in general, claims against the state and public authorities are expected to increase." **Roberto Giralte Leinweber, partner, Bufete B. Buigas**

"New concessions and case law concerning the unauthorised use of trademarks in internet search engines means that, in any related litigation, there will be an extraordinary burden of proof on claimants to provide evidence of the risk of confusion." **Javier Matanzo, partner, Lener**