How GCs Can Team Up with CFOs to Lead a Business through Crisis

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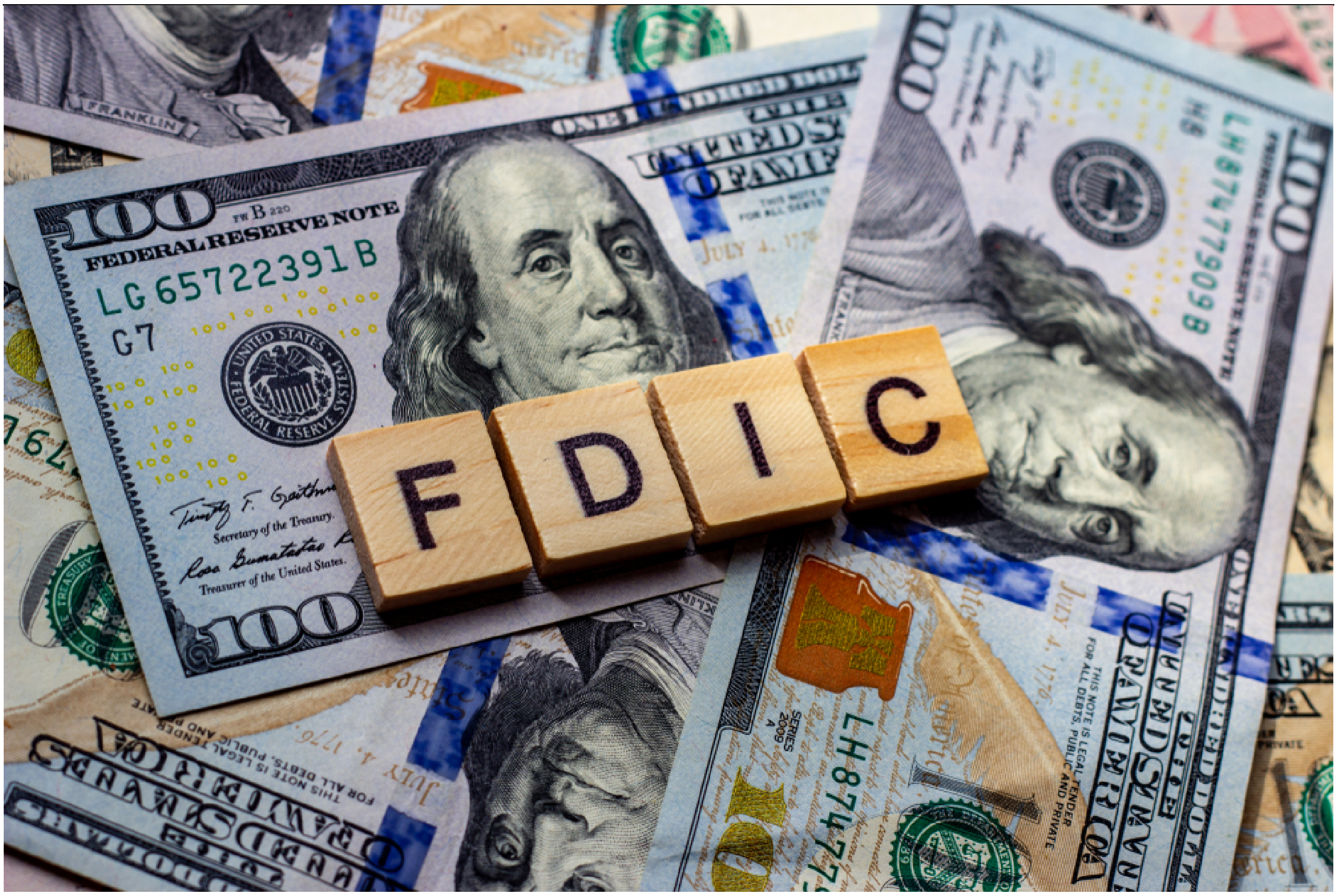
From security breaches to health emergencies like COVID-19, crises come in all shapes and sizes, but the business impact is often identical. Customer attrition, damaged reputation, lost income, strained relationships with stakeholders, and employee turnover are all potential — and probable — outcomes of a crisis.

After the recent collapse of Silicon Valley Bank, the biggest bank failure since the 2008 financial crisis, companies were faced with immediate cash flow issues — threatening their ability to make payroll, to make capital expenditures (e.g., for supplies), and to meet other cash requirements from contractual engagements.

And, although the Federal Reserve reimbursed SVB depositors in full just three days after the shutdown, they can't promise a crisis of this kind won't happen again.



The FDIC insures up to $250,000 per depositor, per insured bank, for each account ownership category.
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The central bank is currently on a mission to drive down inflation with increased interest rates, but continuing that project could put further stress on the world's already fragile banks (like Swiss banking giant Credit Suisse) — potentially spinning the country into a financial crisis similar to that of 2008.

Crisis management is a group effort: It takes coordination from almost every level of a business to right the ship. The nature of the crisis, however, determines who takes point. For a personnel crisis, for example, an HR leader might lead the charge. For a cyber incident, a security expert might step in. For a financial crisis, like the collapse of SVB, a CFO will spearhead the response.

The GC-CFO link

At a high level, GCs and CFOs share a similar purpose within any organization: to identify risk and support new business ventures. Unsurprisingly, these are also the primary activities involved in crisis management, meaning finance and legal get an automatic seat at the crisis response table.

Further, most (if not all) financial activity within a business has legal implications. During "normal" times, GCs help CFOs navigate contracts, understand the legal implications of financial actions, and stay compliant — a workflow that becomes critical during times of crisis.

In this post-pandemic, pre-recession world, the GC-CFO relationship is becoming more critical than ever before. In fact, a strong GC-CFO connection might be the difference between making payroll (or not), or — as in Etsy's case after the SVB collapse — the difference between making on-time payments to key users (or not).

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As budgets — including legal budgets — continue to get slashed (roughly 98 percent of legal departments have seen their budgets cut as the result of the economic uncertainty), in-house legal teams are trying to do more with less. The areas in which GCs report struggling to find the right internal support include data privacy and cybersecurity, commercial and contract law, and labor and employment.

The best way to solve this discrepancy and reduce overall risk during uncertain times is to ensure finance and legal are in sync.

Before a crisis: GCs help businesses prepare for the worst

Before a crisis, GCs should partner with finance to ensure there is clear strategy, documentation of the plan, and general preparedness for a crisis — especially a financial crisis. This preventative work ultimately helps businesses minimize the negative impacts of a crisis and creates the foundation for the kind of strong GC-CFO relationship needed to lead a business through difficult times. Below are three ways GCs can lean in to help businesses before a crisis.

1. Create a scenario-specific crisis management plan (and document it)

GCs provide the legal context necessary to develop a sound crisis management strategy. They offer CFOs and other key stakeholders a kind of legal "compass" for creating (and eventually executing on) that strategy.

Crisis management plans need to be documented so that everyone is operating from the same playbook when the time comes. That documentation should be scenario-specific, updated annually (at least), and include:

- Risk analyses: Using their shared knowledge of risk management, GCs, and CFOs team up to identify all possible risks a company may incur in the face of a specific crisis — and rank them in order of probability. The business can then prioritize work accordingly when the actual crisis hits.

- Team assembly: As key players in any business crisis, GCs and CFOs know how to assemble effective crisis management teams. As such, they should have a say in who will be involved when something goes wrong — and help outline the roles and responsibilities of those team members.

- Emergency contacts: No business gets out of a crisis on its own — it takes a village. In partnership with the CFO, CMO, and other key stakeholders, GCs help assemble a list of people to consider contacting during a specific crisis. Usually, this list involves banking, PR, legal, and security contacts.

- Activation protocol: Since GCs and CFOs handle the most critical activity around crisis management, they should help determine what needs to happen and in what order. Usually, that response is broken down into immediate actions that need to be taken (within days), short-term actions (one to three months), and mid- to long-term actions (four months or later).

2. Use tabletop exercises to hone the plan

Crisis training exercises, called tabletop exercises, provide opportunities for key crisis management personnel to practice responding to realistic threat scenarios. That way, when a crisis hits, they're more likely to perform well under pressure. Tabletop exercises are also a great way to model to team members how they can work with legal and finance during a crisis — and an even better way to identify and address weaknesses in a crisis management plan before it's too late.

3. Build trust with key stakeholders

GCs manage the entire contract lifecycle with vendors, customers, and other key stakeholders. Through contract negotiations and maintenance, GCs act as the face of an organization, representing the interests of the business (especially the CFO). As such, GCs have the unique opportunity (and responsibility) to build trust and good will with partners so that when the going gets tough, those partners will be more likely to help.

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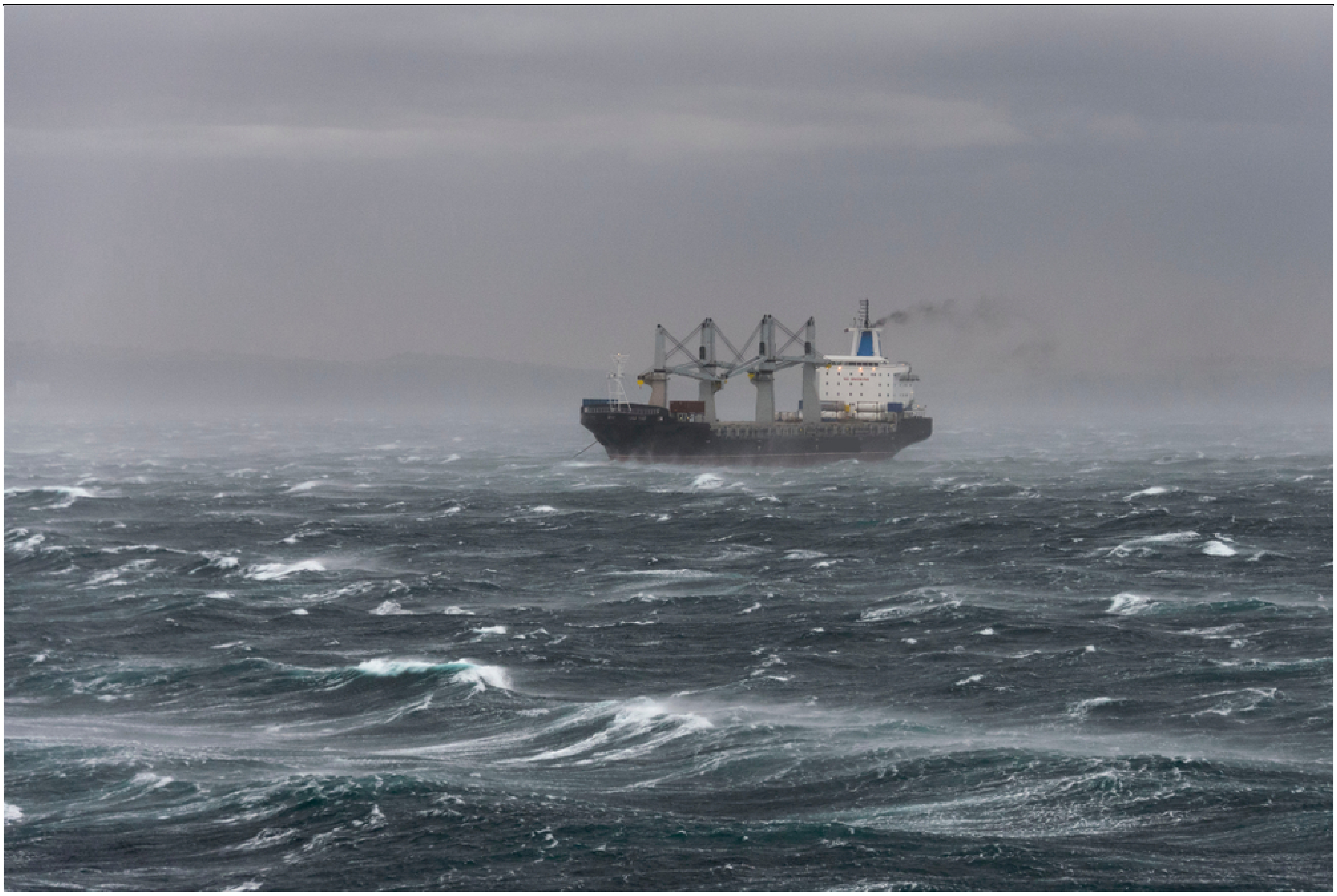
During a crisis: How GCs can help businesses identify risk and opportunity

General counsel have access to business systems that house key organizational legal data. When combined with business and financial data, that legal data can help companies get the insights they need to make data-driven, high-impact decisions during times of crisis.

Below are three ways GCs can lean in to do just that.



How can in-house teams help their organization weather the storm?
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1. Leverage contract knowledge to address cash flow

The first few days of a crisis, especially a financial crisis, are all about cash flow — understanding where the company's money lives and how to get access to it as quickly as possible. Usually, contracts hold that critical information.

To help address cash flow, GCs can look into contract data — usually housed in contract lifecycle management (CLM) systems — to figure out who hasn't paid yet and who is owed. They can help identify happy customers who would be willing to pay early or vendors who would be willing to provide payment extensions to keep the business afloat.

2. Combine legal data to get the complete picture (CLMs and ELMs)

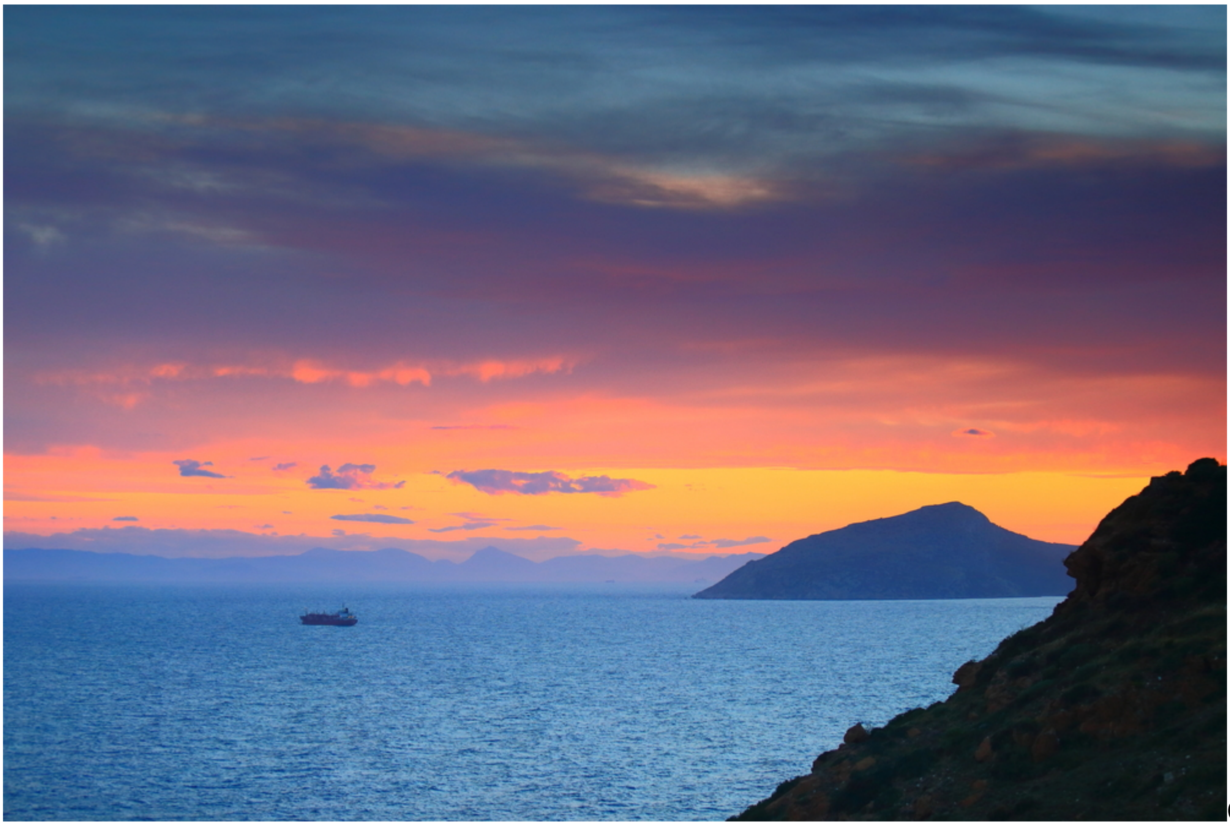
Contracts are a great resource for initial crisis management. Data from CLMs provides simple information around deal transactions: when the contract was signed, how long it took to negotiate, what the key terms were, and more. GCs, however, also have access to more nuanced legal data around stakeholder relationships, usually housed in an enterprise legal management (ELM) system.

ELMs go beyond transactions to provide more detailed, qualitative information around contracts, like whether you're in a dispute with a partner (and what the points of contention are), whether you're in litigation with a partner, the status of current transactions, and more. When integrated with CLM data, ELM data helps GCs assess risk and identify opportunities more accurately during a crisis.

3. Prioritize actions

In the first few days of a crisis, it's all about finding a lifeline — and fast. Businesses must find partners (customers, vendors, board members, government) who can help them stay afloat and beat the clock. Using contract knowledge and leveraging the data from CLMs and ELMs, GCs can figure out where to send business leaders to get the most bang for their buck.

After a crisis: How GCs can help business build a better defense


Once the storm has passed, review the trajectory your team took.
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While it may not seem like it in the moment, a crisis is actually an excellent learning opportunity. There's no replacement for the real thing. The insights gained during a true crisis can help companies minimize the impact of future threats. After things have calmed down, here are three steps a general counsel can take — in partnership with the CFO — to build a bullet-proof defense system for the future.

1. Get key relationships back on track

Due to their intimate knowledge of contracts and business relationships, GCs will know coming out of crisis which partnerships need a little extra care and attention. This includes internal stakeholders (like key employees) and external stakeholders (like vendors, customers, and board members). Leveraging CLM and ELM data once again, GCs can provide counsel to leadership as the organization pays money back, rebuilds relationships, and negotiates future contracts.

2. Fine-tune the crisis management plan with key lessons

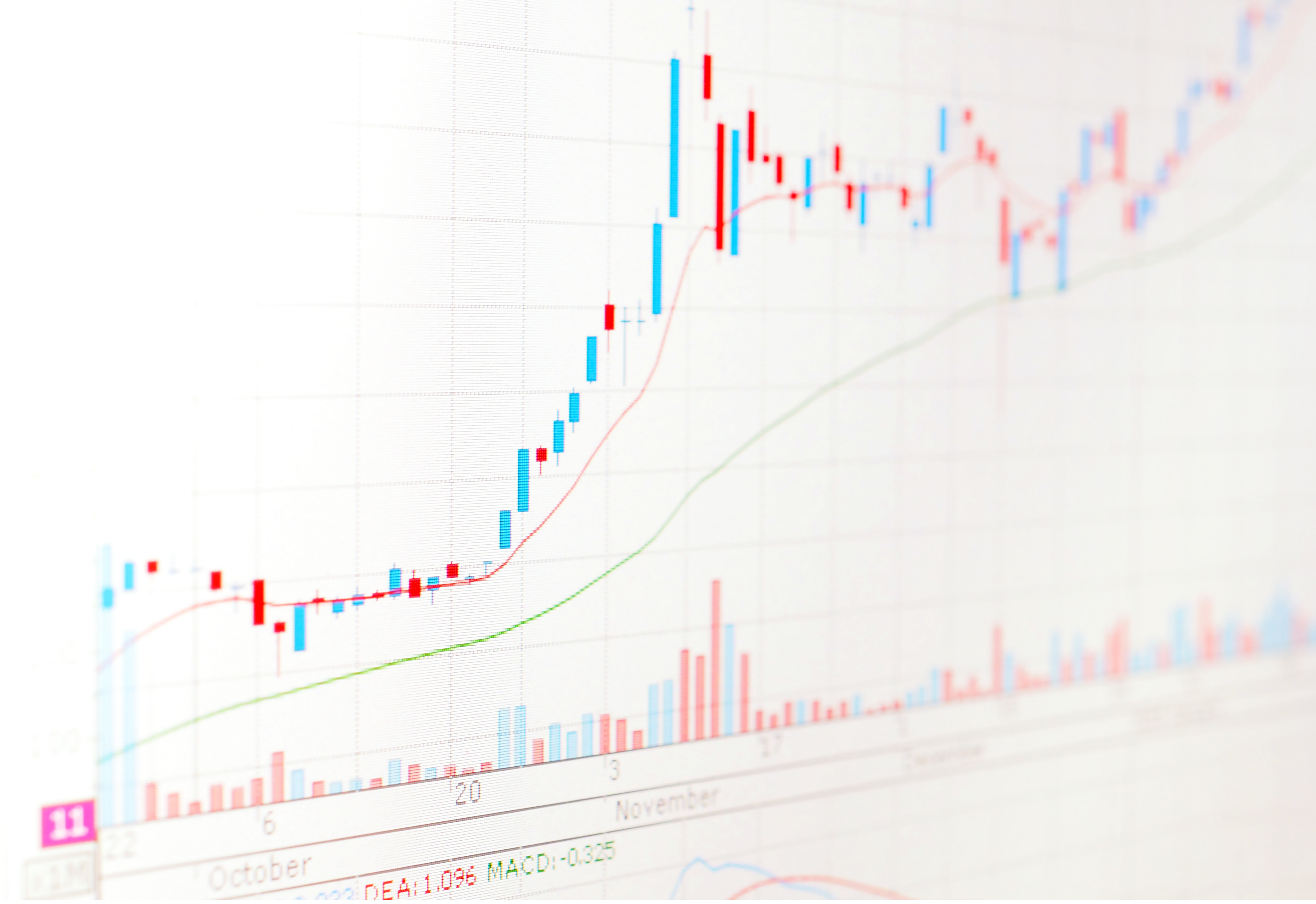
In the beginning, the strategy and documentation of a crisis management plan is largely theoretical. A real crisis provides organizations with practical, empirical insights into how to rectify a specific situation. For example, after the SVB collapse, many organizations learned that it's better to bank with multiple institutions rather than having all their money in one place. GCs, CFOs, and other key crisis personnel should circle up after a crisis to discuss key lessons and takeaways and incorporate them into any crisis management documentation.

3. Get your data in place

If crisis management is all about taking actions that will have the biggest impact in the shortest amount of time, businesses can't waste crucial time on research or chasing down data. After a crisis, GCs should take the time to integrate the CLM with the ELM (and potentially other business systems like ERPs and CRMs) to ensure that next time around all the information they need is in one place. This integration of legal data with business data will help GCs and CFOs make better, faster data-driven decisions in the face of a crisis.

Looking ahead

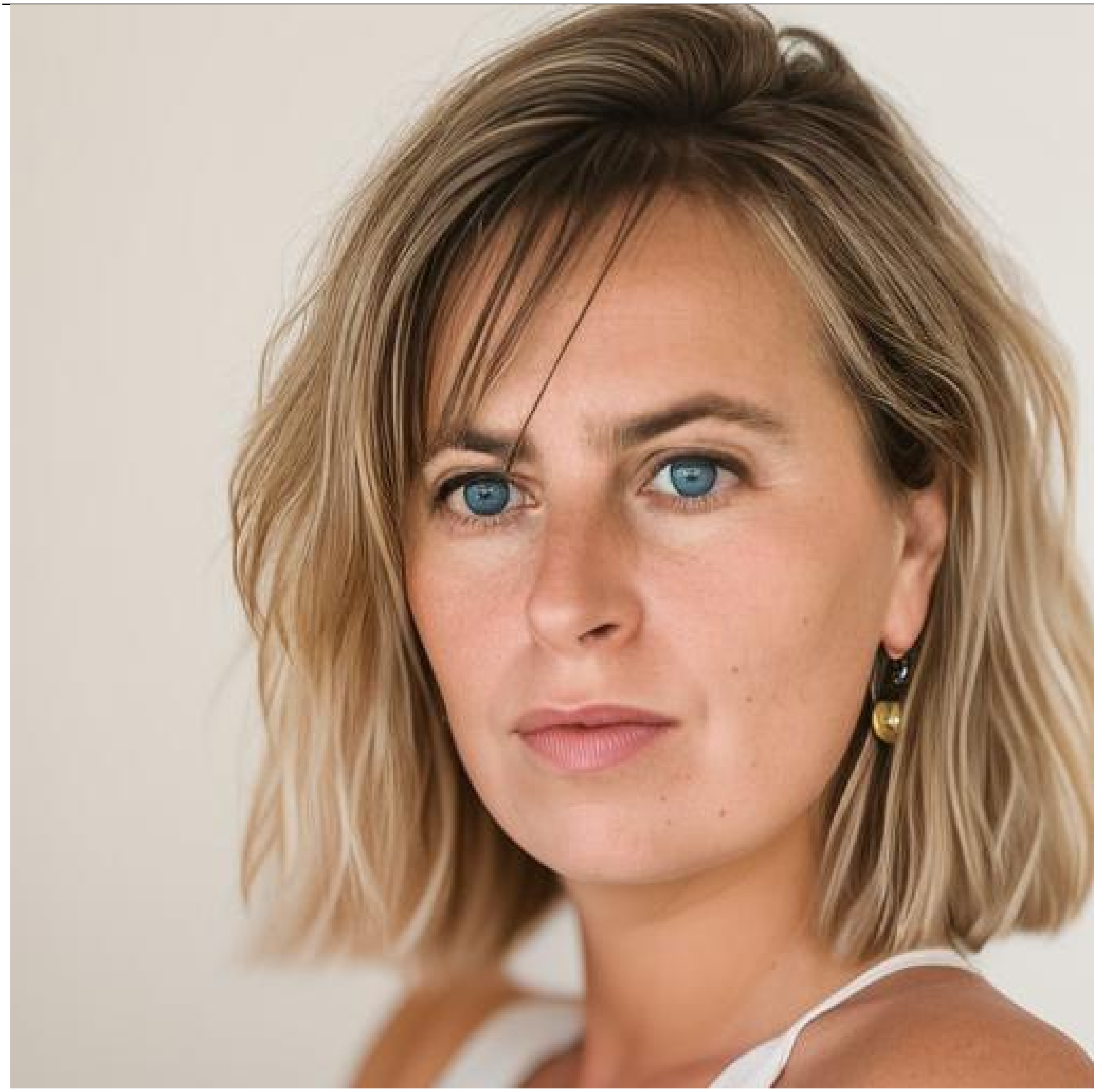
While the Federal Reserve continues to work with large banks to stabilize the US economy and right the precarious financial situation, it's US businesses that will feel the very real ripple effects of their every move in the meantime. The threat of risk remains high heading into the second quarter, making it the perfect time for businesses to bolster their defenses.



Future economic uncertainty calls for diligence from in-house teams.
Artwork by Chalermsak / *Shutterstock.com*

In what could be the eye of a serious financial storm, now is the time to get the right people in place and the right data in place to take on a crisis. Now is the time for general counsel to get closer to the books and fortify their relationship with the CFO — a relationship that could be make or break for all organizations in the coming months.

[Olga V. Mack](#)



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Mack is also an award-winning (such as the prestigious ACC 2018 Top 10 30-Somethings and ABA 2022 Women of Legal Tech) general counsel, operations professional, startup advisor, public speaker, adjunct professor, and entrepreneur. She co-founded SunLaw, an organization dedicated to preparing women in-house attorneys to become general counsels and legal leaders, and WISE to help female law firm partners become rainmakers.

She has authored numerous books, including Get on Board: Earning Your Ticket to a Corporate Board Seat, Fundamentals of Smart Contract Security and Blockchain Value: Transforming Business Models, Society, and Communities. She is working on her next books: Visual IQ for Lawyers (ABA 2024), The Rise of Product Lawyers: An Analytical Framework to Systematically Advise Your Clients Throughout the Product Lifecycle (Globe Law and Business 2024), and Legal Operations in the Age of AI and Data (Globe Law and Business 2024).