

TD Bank Financial Group Leverages CT TyMetrix to Improve Law Firm Selection Process, Track Law Firm Performance and Reduce Legal Expenses



ABOUT TD BANK FINANCIAL GROUP:

TD Bank Financial Group offers a range of financial products and services. The company serves more than 13 million customers in three key businesses: personal and commercial banking through TD Canada Trust, its Canadian based retail and commercial operations and TD Banknorth, its U.S.-based retail and commercial operations; wealth management, including the global operations of TD Waterhouse; and wholesale banking, through the operations of TD Securities, operating in a number of locations in key financial centers around the globe. TD Bank Financial Group also ranks among the world's leading online financial services firms, with more than 4.5 million on-line customers.



Bob Aziz, Senior Vice President and Assistant General Counsel

When Bob Aziz joined the TD Bank Financial Group as Senior Vice President and Assistant General Counsel in 2001, he focused on creating a more disciplined approach to outside counsel selection and management in order to strengthen partnerships with outside counsel and make more cost-effective engagement decisions. Counsel management was both a legal department and business problem. The business problem TD Bank Financial Group faced was multi-faceted and included: 1) a relatively large number of firms (850), an unmanageable panel; 2) law firm hiring practices unaligned with business objectives; 3) widely varying rates; 4) large yearly fee increases, often approaching 15 percent; and 5) a lack of objective, granular, segmentable data on outside counsel with which to evaluate performance and develop principled approaches for selecting counsel.

To address the problem, Aziz launched a multi-layered response designed to reduce the number of law firms through better engagement decisions and



generate solid data with which to improve engagement decisions.

Aziz's initial tactic was to use an extreme hypothetical when introducing his initiative and demonstrating his commitment to change. He postulated that with a hypothetical annual budget of \$36 million for outside counsel, expenses could be reduced by one third simply by having the bank's two largest law firms handle all its legal needs. These firms would receive a contracted rate of \$1 million each month to provide TD Bank Financial Group with a firm cap on dollars spent and allow the law firms to

prosper. Of course, Bob faced a “chicken and egg” conundrum in that TD Bank Financial Group did not have sufficiently segmentable data to adequately assess legal spending and from there to strike an arrangement with TD’s law firms that both he and the firms would know was fair.

“We didn’t know whether this approach would save us money,” Aziz acknowledged, “But when I have enough data to support this scenario, it may make sense to seriously consider moving in this direction, albeit not to this extreme. I intended to build tighter relationships with fewer law firms so the bank would be a more important client to those firms,” said Aziz. “The end result was to enable TD Bank Financial Group to get more value from these relationships. It was not necessarily an exercise to lower rates, though by being able to better manage our firms, the company has significantly reduced its legal expenses.”

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TD Bank Financial Group implemented CT TyMetrix electronic invoicing system three years ago to support their convergence program. Among the principles and procedures they intended to follow when selecting counsel were:

- A firm’s commitment to the bank’s strategy and core partnership values;
- An RFP to approximately 200 law firms;
- Comparison of rates and specialties;
- Implementation of retention and billing rules and guidelines;
- Provide TD Bank Financial Group’s lines of business with fewer firms from which to select;
- Mandatory budgeting of large cases;
- Mandatory competitive bidding of largest cases;
- Matter management to segment cases and risks;
- E-billing to gather spend information and speed invoice review/payment; and
- Stakeholder reporting and reanalysis.

In addition to implementing these principles and procedures, Aziz began implementing a system that would:

- Enable the legal department to track valuable information such as blended weighted hourly billing rates by matter and by matter type;

- Identify task distribution among the legal team working on specific matters in a particular firm; and
- Discern where files were in the legal process, focusing on the value of work in progress against the matter budget.

By tracking these metrics, Aziz felt TD Bank Financial Group would be able to better ascertain which firms managed legal files most efficiently and then share those best practices with the other firms approved to do that type of work. This could be done at a high level, looking at work distribution among partners, associates and paralegals, as a percentage of total effort on the file, or on a granular task-based level.

The CT TyMetrix Solution

“I had considered several options for collecting critical information, including building our own system, which we ultimately decided would be too difficult and costly,” Aziz explained. “I was attending a General Counsel Roundtable event at which the International Paper Company was the focus of a case study highlighting its use of CT TyMetrix’ e-billing and matter management application. I saw a screenshot of the application and realized that it was exactly what we were looking for.”

The CT TyMetrix application enabled TD Bank Financial Group to capture specific information about what each firm was doing for the company as well as how much the company was spending on each matter. It also provided two additional and unexpected benefits. Because the cost of the application was absorbed

by the law firms via a two percent model fee (one of several pricing options offered by CT TyMetrix), there was no cost to TD Bank Financial Group. Additionally, because the application utilized the ASP model, it did not reside on TD Bank Financial Group's infrastructure, thereby eliminating the time and effort involved with internal network integration.

TD Bank Financial Group Needed:

- Immediate management information;
- The control and enforcement of business rules offered by E-invoicing;
- A platform for collaboration around the business relationship; and
- Development of benchmark information.

CT TyMetrix Delivered:

- Full and unified enforcement of business rules;
- Data capture elements configured to mirror company, law department and matter types (including severity);
- E-billing reports to capture work performed by task category, staffing patterns and rate information;
- Collaborative features to exchange budgets and planning information with law firms; and
- Reporting and comparison metrics to help identify best practices and leading law firms.

“By consolidating law firms we took more control of our selection process,” said Aziz. “We set a precedent that firms will be compared to one another on several levels, and be selected accordingly.”

Tracking Law Firm Metrics

Using the CT TyMetrix application, TD Bank Financial Group focused on three key indicators: expertise; value - measured by hourly rates, the efficiency of the lawyers involved and file management (how the file is staffed and the work distributed among those working on the file); and reciprocity, recognizing those firms that were TD Bank Financial Group customers and otherwise provided business referrals to TD.

In so doing, the company also gained a much greater understanding of its firms' budgets and expenditures, which the company required be prepared and submitted for each significant file. TD Bank Financial Group then compared and contrasted those initial estimates, with which TD Bank Financial Group could clearly identify efficiently operating firms.

CT TyMetrix also helped TD Bank Financial Group identify its “real” legal spend.

“Prior to using the CT TyMetrix application it was challenging to identify the bank's total legal expenses,” continued Aziz. “We utilized only six billing codes which were often used by employees as

a dumping ground for projects, such as the annual report, which were not really legal expenditures and were technically outside the legal department. As a result our total legal expenses did not accurately reflect actual legal work. However, using the CT TyMetrix application to track legal expenses instead of internal cross and department charge codes, we more accurately reviewed the company's actual legal expenses – based on invoices submitted by our law firm partners - at the click of a button. Having that information available has been extremely valuable.”

In addition to identifying true legal spend, TD Bank Financial Group gained clarity on granular information such as what each firm was doing for the bank, including the type of files they were managing, who was working on each of the files, how the work was being distributed, what work had already been invoiced, where each file was in the legal process, as well as the total cost for a particular file. Having this information available is critical to understanding the value and strengths that each firm brings to the table.

“CT TyMetrix also helped us identify regional billing rate differences,” said Aziz. “Prior to implementing the

system we were unable to calculate the average billing rate of a particular matter. Larger regions throughout Canada would charge higher rates and smaller regions would be more reasonable. Using CT TyMetrix we can calculate an average billing rate for a particular matter by region, which will help the company more accurately forecast legal expenses.”

Endless Possibilities

Though TD Bank Financial Group has utilized the CT TyMetrix application to better track law firm performance metrics, gain more control of the firm selection process and reduce its legal expenses, the CT TyMetrix system also plays an integral part in the bank’s cost savings plan. The plan, developed with the assistance of Toronto-based Catalyst Consulting, is based on successfully utilizing performance and cost data from the CT TyMetrix reporting system to drive five cascading strategies to re-structure this counsel selection process.

- Convergence: drive efficiencies with a 10 percent reduction of projected hours;
- Budgeting: file management and optimal delegation – pay for the work, not for the person;
- Pricing: price certainty, managed increases, and tiered volume discounts;
- Disbursements: exclude some, place limits on others; and
- Other considerations, including:
 - de-bundle services

- use targeted blended hourly rates
- drive competitors to lowest pricing

Reducing Legal Expenses

Through consolidation of law firms, there were several areas in which Aziz hoped he might reduce his legal spend.

“By consolidating law firms we took more control of our selection process,” said Aziz. “We set a precedent that firms will be compared to one another on several levels, and be selected accordingly. By gaining control of the selection process we were able to do a number of things.

“We were able to be stricter with disbursements - what could and couldn’t be billed to the company. We could also ask for discounted rates based on volume. We now had more leverage to negotiate annual rate increases to significantly reduce the annual increases of 9 – 12 percent per year that we were experiencing. We were also better able to ensure files were properly managed by the law firm and drive

firms to the best practices utilized by their peers.”

Aziz also used the CT TyMetrix application to track law firm budgets that are required for large projects.

“We asked each firm to submit a budget for projects costing more than \$20,000, with two or more budgets where fees were estimated to exceed \$50,000,” continued Aziz. “These budgets are simply estimates, not fixed pricing arrangements (although those are also welcome). We wanted to know how many people were working the file, and what percentage of the work each level of professional would do. Though it seems obvious, it had rarely been done before. A typical situation would be the receipt of an invoice for \$500,000 on a file where the business expectation was legal fees of \$150,000 based on past experience, a very large discrepancy. The disconnect starts and ends with poor communication. The business didn’t ask how much it was going to cost, and the law firm took from that failure to ask that money was no issue. By having a budget in place, we convey the message that we do care about cost. It also

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establishes the basis for continual communication about cost. Once a law firm provides a budget, they typically work to it. If they feel that circumstances are changing in a way that will result in increased costs, they are quick to pick up the phone

aggregated in the CT TyMetrix system to drive their strategy. The reports and data aggregated from law firm invoices have allowed TD Bank Financial Group to identify and implement best practices in law firm engagement. TD Bank Financial

the bank's business; better controls on staffing; and elimination of blind rate increases.

Strategic initiatives such as those undertaken by TD Bank Financial Group start with disciplined segmentation and effective use of data. Much of what TD Bank Financial Group has done represents the next major leap forward in utilizing e-billing data and technology driven metrics that serve as a foundation for planning strategies and creating a healthy ROI.

Bob Aziz reduced his company's legal spend while improving overall results.

“Our goal is to reduce legal costs by \$75 million over three years,” said Aziz. “By providing us with a system to help our company consolidate law firms, better evaluate law firm performance, enforce engagement guidelines and monitor adherence to budgets, CT TyMetrix is helping us reach that goal.”

and discuss that with the business. Where appropriate, the budget is amended. The key is that the cost discussion is current and ongoing, eliminating the nasty end of file surprises which were common in the past.”

“By tracking these budgets through CT TyMetrix, we experienced significant cost savings,” continued Aziz. “CT TyMetrix allows us to see actual spending against the budget on each file as the bill is received. It prompts the business and the law firm to communicate immediately about any discrepancies or a trend that suggests the budget needs to be revisited. We saved over \$1 million on the first three files that utilized this competitive budgeting approach.”

Results

TD Bank has successfully used performance and cost data

Group has reduced its outside counsel panel from over 800 firms to less than 120. Impressively, TD Bank Financial Group is on track to save over 30 percent per annum on outside counsel expenditures in each of the three years of the initial term agreements reached with the selected firms.

Conclusion

The CT TyMetrix system has enabled TD Bank Financial Group to put the constraints in place to implement these strategies and more importantly has provided a mechanism to aggregate data to objectively evaluate the efficacy of these strategies. TD Bank Financial Group has achieved several goals through the use of the data, including: three-year engagement terms; holistic internal allocation of work; budget transparency; better management of risk; healthy competition among the firms for

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For more information on CT TyMetrix, please access www.cttymetrix.com or call (860) 549-8795.

