



Tips & tricks on how to efficiently steer large remediation projects

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In the aftermath of the 2008 allegations against UBS for marketing tax evasion-strategies to US citizens, the Swiss banking industry was hit by an avalanche of legal allegations resulting in the initiation of several regulatory remediation projects. To date, the US tax dispute alone resulted in fines of over USD 4 billion and equally high fees paid to lawyers and auditing firms.

TALOS has helped several Swiss and foreign banks to manage significant parts of their US and non-US related remediation projects. By working alongside with bank internal teams as well as global law and auditing firms, we have developed particular expertise in steering large remediation projects and on how to avoid some of the common pitfalls.

This publication carves out our key lessons learned and proposes solutions for better managing your remediation project. Continue reading and learn how TALOS can help your bank in successfully managing complex remediation projects.

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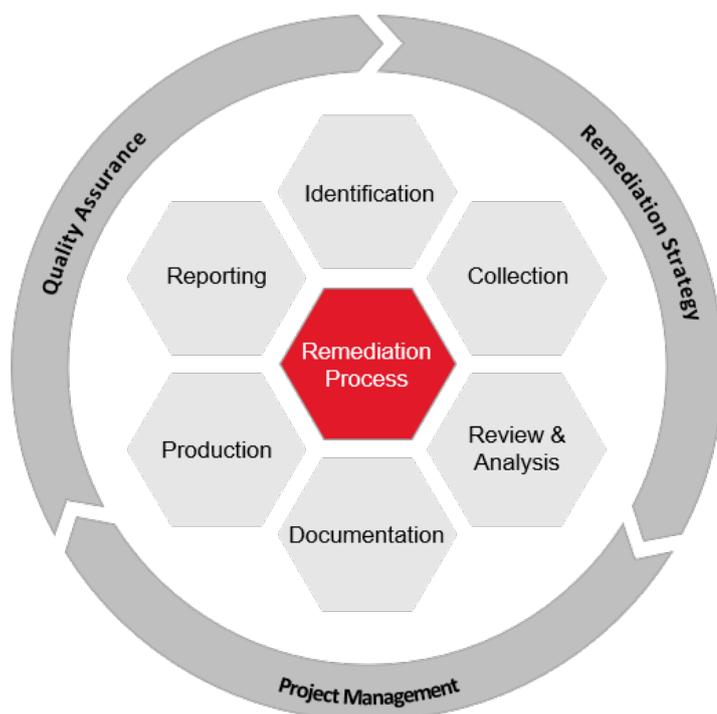
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1. Framework

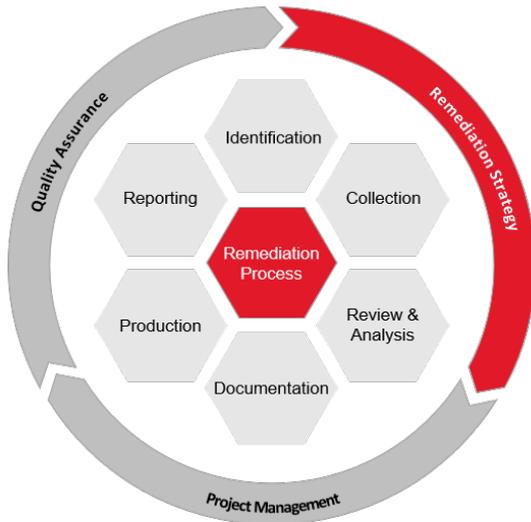
The remediation framework can be understood as a system comprising four defining elements (figure 1). At the center of the framework is the remediation process that is embraced by the remediation's strategy, project management and quality assurance. The remediation process in itself can be further divided into six high-level phases:

1. Identification
2. Collection
3. Review and analysis
4. Documentation
5. Production
6. Reporting

The remediation process starts with the identification of potential sources of information followed by the collection of relevant information and/or population of accounts. The collected information must then be reviewed, analyzed and documented in a way that facilitates the production of relevant reports to stakeholders, regulatory bodies and other authorities. In the subsequent reporting phase, findings, scope and methodologies are described in detail. Each element of the framework and phase of the remediation process holds a set of common pitfalls that can be avoided by proper management of the remediation project.



2. Remediation Strategy



Key Lesson Learned: Carefully plan and document the segregation of duties among your external (legal) advisors.

Identified Challenges: We have seen examples where a single law firm was controlling significant parts of the remediation at the expense of the bank's control over strategy and timelines of the remediation. Although the law firms were initially mandated with a narrow scope of activities, some began influencing and shaping the overall remediation strategy to an extent that was not originally intended by the bank. To circumvent this, banks are well advised to carefully plan and balance the mandates of the different law firms in order to limit potential conflicts of interest and to not unnecessarily broaden the scope of the remediation. Further, the cooperation between different law firms on one remediation can sometimes lead to a 'competition' and thereby blow-up the overall effort.

Proposed Solution: We recommend to install a governance structure with at least three independent parties that are mandated with following overarching responsibilities:

- Party 1: Primarily focusing on advisory duties related to the remediation strategy
- Party 2: Supervising and implementing the remediation strategy while conducting the required reviews
- Party 3: Ensuring continuous quality of the remediation

In addition to and at any point in time, the bank must maintain its capabilities to control the performance of the external parties by implementing a strong reporting and management layer. This can be supported through a core team of internal resources that support the execution of the reviews by providing knowledge of the relevant processes and systems. The core team also ensures that the bank is continuously involved in the process and does not lose its expertise in conducting and following up on remediations on its own.

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Key Lesson Learned: Develop an remediation roadmap and make it transparent to the external authorities.

Identified Challenges: Many remediations that we consulted had suffered from unclear priorities and an ever-changing scope of the remediation. In one instance, frequently extending the scope resulted in several repetitive account reviews either due to a limitation of the initial key word search or a review methodology that was not providing all the insights required to produce reports according to up-to-date requirements. In another example, additional types of reviews were started at the expense of following up on earlier concessions that were made to the external authorities.

Proposed Solution: It is important that the bank develops a roadmap for the remediation and aligns its efforts and resources accordingly. Further, the roadmap should not be kept internally but should also be presented to the external stakeholders of the project team, such as to the authorities. Even if authorities would not agree to conform to any roadmap developed by the bank, the roadmap will help to manage the authority's expectations in regards to time and effort required to respond to a certain request.

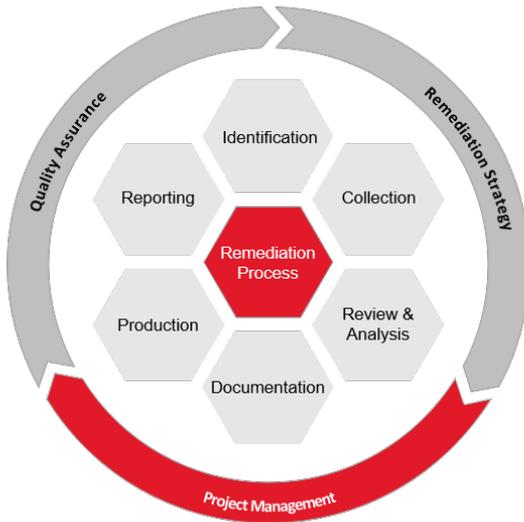
Key Lesson Learned: Regularly assess your remediation strategy and management.

Identified Challenges: The nature of long-term projects compromises that involved parties develop a biased perspective for problems that occur as a result of their choice of strategy, approach or methodology. Usually, the parties involved spend all their energy in progressing with the remediation without any halt to recapitalize on lessons learned and the effectiveness of a certain approach.

Proposed Solutions: Banks are well advised to assess their remediation strategy and management through the support of external experts, enabling the bank to gain an outside view and unbiased perspective.

TALOS provides health checks with focus on governance and processes of the remediation, which can be crucial to the management and effectiveness/efficiency of teams and work streams.

3. Project Management



Key Lesson Learned: Establish a pool of resources that can manage smaller, isolated reviews.

Identified Challenges: Often, large remediations receive requests for additional reviews to the main remediation. These reviews might address a rather isolated problem identified during the main remediation or are meant to test the depth of a problem by performing a preliminary analysis and review. In those situations, the review team leads were often too busy with managing the regular part of the remediation and only had limited time available to develop, plan and oversee these additional reviews.

Proposed Solution: TALOS has solved this problem by identifying and establishing a pool of resources capable to initiate and manage smaller reviews independently from the team leads. We call those resources 'content owners'. A content owner is responsible for the end-to-end review process, i.e. from identifying data sources to reporting results. The conclusion of every phase has to be approved by the project management and the review stream leads. The resources are operating under the supervision of the review team lead, but are also in direct contact with the project management. This pool of resources has proven highly effective to work on a number of smaller reviews that ran parallel to the overall timeline without jeopardizing priorities or timelines of the remediation.

Key Lesson Learned: Strong project management is key.

Identified Challenges: Remediation projects have a complex nature and usually involve a high number of stakeholders that are heavily invested in the remediation. Commonly this involves varying requests from stakeholders that require constant re-prioritization of tasks as well as an efficient coordination and communication between the various legal advising firms, bank functions and project streams. In other words, remediation projects require strong project management expertise, governance structures, and tools.

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Proposed Solution: TALOS supports the bank in setting up effective governance and communication structures, as well as in implementing project management methodologies and tools. It is imperative that the project's structure is accepted and adhered to by all the parties. Thus, we advise to include external experts to the project's steering committee to stimulate the open exchange of information and to ensure that prioritization is based on a joint understanding of importance, urgency and allocation of resources. Remediations cannot be run in a strict 'waterfall' approach. Constant re-prioritization and flexibility require a more agile approach.

Key Lesson Learned: Do not underestimate the importance to capitalize on lessons learned.

Identified Challenges: Despite common pitfalls in managing large legal remediation projects, many organizations repeat the same mistakes. Some remediations lasted as long as 5 or even 10 years and resources have been replaced and organizational knowledge was lost.

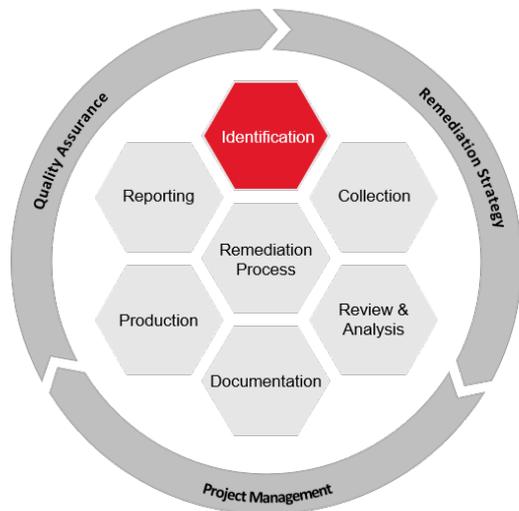
Proposed Solution: Every project manager shall maintain a 'lesson learned log' in which his/her learnings are recorded. Subsequently, lessons learned are compiled and summarized in a structured report that is presented and approved by the steering committee. Making the log then available to relevant internal stakeholders and other teams will lead to a spillover effect of the learnings and allow to build a 'learning organization'.

Key Lesson Learned: Maintain high levels of employee motivation.

Identified Challenges: With regard to the frequently long-lasting nature of remediation projects, the risk of diminishing employee motivation will need to be carefully considered. If a lack of motivation is present in a single team, it can swap over to other departments and ultimately aggravate the whole remediation as such. The reasons for low motivation are diverse and could be caused by repetitive work or a lack of information that is presented to the reviewers performing the actual file reviews.

Proposed Solution: No matter the cause, any situation or stimuli that could lead to a declining motivation among employees will need to be tackled early and vigorously. It is the management's responsibility to ensure clear communication from top to bottom, provide information on the scope of the project, upcoming milestones and current achievements. This ensures that the added value of respective work performed is visible to all members of the remediation team. In addition, communication must be transparent, open and honest. TALOS places a premium on project-internal communication and has extensive knowledge in developing appropriate communication and change management strategies, processes and environments.

4. Remediation Process – Identification of data sources



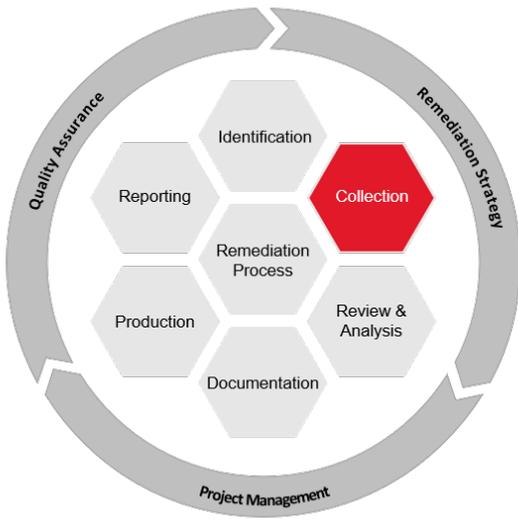
Key Lesson Learned: Improve communication between lawyers and bank internal resources to identify relevant sources of information.

Identified Challenges: In many cases we come across situations where problems are being addressed pre-maturely. Understanding the cause of such situations is key as it can support us in recognizing and avoiding similar conditions in the future.

A reason for blunt human behavior might be pressure from above to deliver results. Another possibility could be that we are too proud to ask for advice as this might be mistaken for lack of knowledge. No matter the reasons, if not enough time is invested in the identification and pre-analysis of data we might actually end up creating more work for us and our colleagues along the process.

Proposed Solution: A systematic problem-solving approach is key. Thus, it is crucial to reduce the implications of impetuous behavior and lack of information, to ensure the set-up of proper communication channels. Before any actual reviews are being performed, the focus should be on identifying and understanding the various components of a problem by talking to the various knowledge carriers. TALOS has developed various tools and processes that can be used to leverage such communication channels.

4. Remediation Process – Collection of data

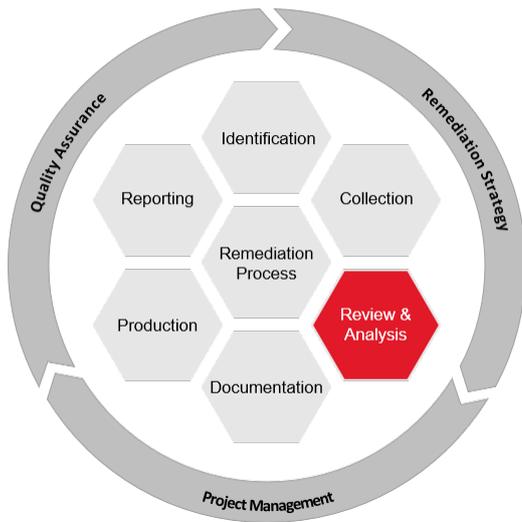


Key Lesson Learned: Working with IT to leverage technical expertise and efficiently identify relevant data sources.

Identified Challenges: In various engagements, we observed a challenge that is frequently prevalent in projects: the collaboration between IT and business. For the most part “IT has difficulties understanding the business requirements and vice versa”. In other words, miscommunication between both parties is a frequent challenge which can lead to an inadequate performance of either task or, at worst, impair collaboration significantly, resulting in major barrier for achieving common goals.

Proposed Solution: It is important to ensure that business defines and communicates requirements in a way that they can be understood and processed by IT. Both parties need to jointly define how information is handed over and signed off. At TALOS, consultants have extensive experience in comprehending the ‘language of IT’ and thus can act as gatekeepers between business and IT.

4. Remediation Process – Review & Analysis



Key Lesson Learned: Guidelines, instructions and training must be clear while offering a certain leeway for reviewer's interpretation.

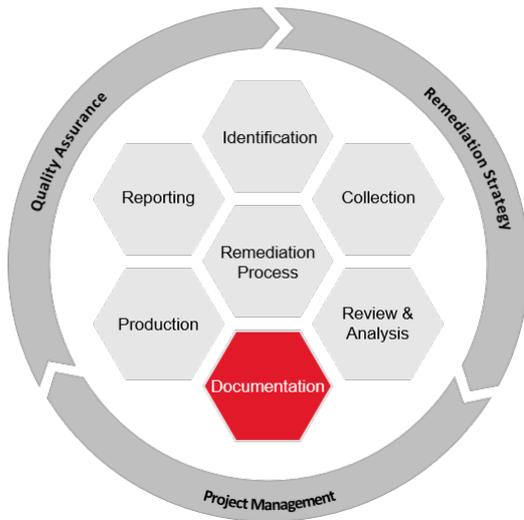
Identified Challenges: Review guidelines are sometimes unclear and leave room for interpretation. By examining results of various reviews, we have identified the problem that reviewers were ultimately solving similar cases in different ways. This is especially a problem if cases are clear cut and one would expect the same results, regardless of the reviewer. On the other hand, room for interpretation is crucial in order not to limit the range of answers.

Proposed Solution: It is imperative to provide clear guidelines and workflows. This will allow for consistent results among identical cases and leaving room for interpretation for special cases. In general, guidelines should eliminate any space for interpretation to ensure a common quality level, independently of who executes the review. Further, guidelines should clearly indicate, what to look for, where to find relevant information and how to document any findings.

The interpretation of results should – in most cases – be done by the law firm which represents an independent body of the remediation.

TALOS has extensive knowledge in tailoring guidelines and trainings for the purposes of an remediation.

4. Remediation Process – Documentation



Key Lesson Learned: Data quality and documentation of review is key

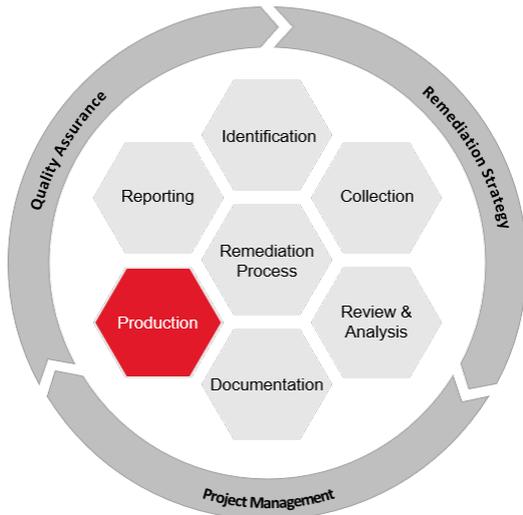
Identified Challenges: In many cases the review conducted is performed with due diligence. However, the documentation is neglected. We can distinguish between inappropriate quantity of the documentation and an inappropriate quality of the documentation.

The first relates to the problem that reviewers did not document all the findings and left room for interpretation. Hereby, forcing management to send the same case for a clean-up. On the other hand, the quality of the documentation can also be an issue, which ultimately would result in the same outcome.

In severe cases, inappropriate documentation can result in a repeated review, entailing significant time and resource implications. In addition, inconsistent documentation can have implications on statistics and reporting to the various stakeholders.

Proposed Solution: In order to reduce the likelihood of repetitive reviews, it is important to provide clear guidelines regarding the documentation of the review. Furthermore, dedicated resources need to be put in place to perform quality assurance and to ensure consistent documentation of the review. In addition, adequate tools need to be implemented to support the documentation (e.g. IT systems, data logs, scalable solutions). Overall a system needs to be put in place to assure highest standard of project documentation, an audit trail and archiving. TALOS has gained extensive knowledge in understanding the business needs regarding documentation of findings during major reviews and can provide best practice guidance, hereby reducing major pitfalls.

4. Remediation Process – Production



Key Lesson Learned: Ensure enough lead time for production of reports and Quality Assurance (QA).

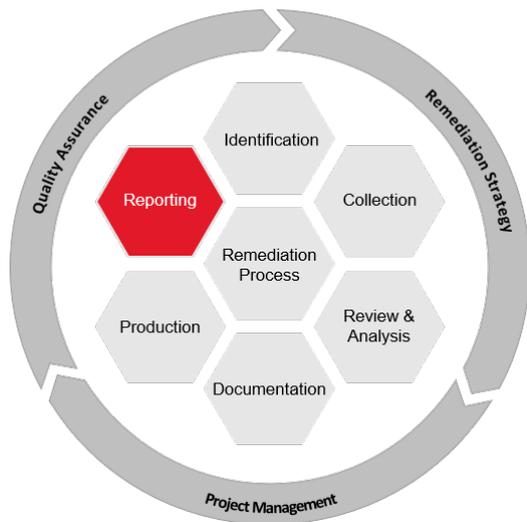
Identified Challenges: The resource requirements for the production of the report is commonly underestimated. We have come across various situations in which the large part of resources was placed on the actual file review without having put sufficient time aside to produce the report or ensure QA.

This occurrence is particularly frequent if project management can solely conduct a high-level project plan due the complex nature of the investigated topic, including several unknown variables.

While the file review is being performed, additional information is being brought to light, ultimately diverting the remediation. Such situations can have severe implications on the planning process and often results in either a reduction/increase in resources. If the additional resources are put aside to tackle such problems, the implications are likely to replicate itself in a prolonged timeline for the actual review. Hereby limiting the time for production and QA.

Proposed Solution: It is crucial in major remediation not too lose sight of the big picture: in our case, producing the report and reporting to the various authorities. It is necessary to have a clear plan of the various stages from the identification of data to the reporting to the authorities and be willing to cut-off the review at an early stage and report on incomplete status. It is also important to pre-discuss which supporting documentation needs to be prepared to accompany the report. Creation of such supporting documentation (e.g. Conduct documentation, project approach) is often not on the radar of the team until shortly before the deadline.

4. Remediation Process – Reporting



Key Lesson Learned: Ensure that key Content Owners are involved in the reporting of the results.

Identified Challenges: Subsequent to the file review and report production comes the stage of reporting. During this stage, the information that has been gathered during the file review needs to be interpreted and documented for the various recipients. The level and scope of content depends on to whom the report is intended too. If the recipient is an authority, the report should include an executive summary, description of the organization, explanation of the review goals, the review methodology and the elaboration on the findings.

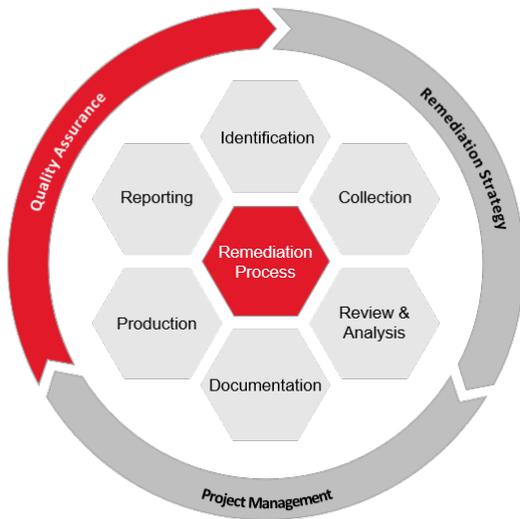
The main problem we encountered in this stage was that the review was performed by a dedicated review team. However, the final interpretation of results and the draft of the documentation was performed by different stakeholders. Hence, in some cases the interpretation of results was based on wrong assumptions and ultimately resulted in flawed reporting of the findings.

Proposed Solution: In order to mitigate such pitfalls, it is important to have dedicated content owners of each topic under remediation. This will ensure the oversight of the review, report production and reporting. TALOS possesses practical expertise in setting up the necessary processes to assure that the gathered information within the review is reflected correctly in the final report.

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5. Quality Assurance



Key Lesson Learned: Integrate the Quality Assurance (QA) stream within the various remediation stages.

Identified Challenges: Quality Assurance plays a vital role in many projects, as it serves the purposes of providing a certain level of confidence and independent assurance that the deliverables are of good quality.

Throughout the various stages of the remediation we have encountered major pitfalls. In the review stage it is difficult to judge whether the scope of the initial search was appropriate or whether certain accounts have been missed. In the production stage we have encountered the issue that data was sourced from various systems and hence wrong data was presented. In the final stage of the remediation we have encountered the issue that the reported figures were not fully aligned with the data due to the fact that review and reporting was done by two different persons/functions.

Proposed Solution: We propose to have a dedicated Quality Assurance stream. A standalone function overseeing the quality of the various deliverables throughout the remediation process. TALOS has extensive knowledge in setting up a Quality Assurance stream and integrating it into the various processes where necessary.

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Summary

The financial crisis together with the strengthening of bank regulations has led to an increasing number of legal remediations against Swiss banks. UBS and Credit Suisse are the more prominent banks that underwent major remediation projects. In recent years, however, small to mid-sized financial institutions with limited financial resources were also falling subject to remediation. Regulatory remediation projects are complex in nature, time consuming and often require significant effort from both bank internal and external resources. If not approached and managed properly, remediations can result in significant costs and reputational damage for the financial institution and eventually even result in its resolution.

This publication described major pitfalls and key lessons learned from managing regulatory remediation projects. TALOS has extensive expertise in managing complex remediations. Contact us and find out more.

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Who we are

TALOS is continuously striving to shape new standards in management consulting. As a specialized consulting boutique of Swiss origin, we are serving the European financial services industry from our local offices in Zurich and Luxembourg.

Founded by experienced management consultants in 2008, we have grown since then to a renowned consulting company with a complementary service offering across various disciplines.

With our tailored hands-on approach, we accompany our clients in mastering the fundamental challenges the industry is facing.

We are a trusted partner for our clients helping them to increase their organizational effectiveness and operational efficiency.

We strive to be recognized as one of the leading management consulting boutiques for the European financial services industry.

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Andrej is a Manager and joined TALOS in 2015. He brings in deep regulatory expertise in various regulations as well as solid project management know how incl. IT proximity. In addition, Andrej has been leading the regulatory think tank in TALOS.

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