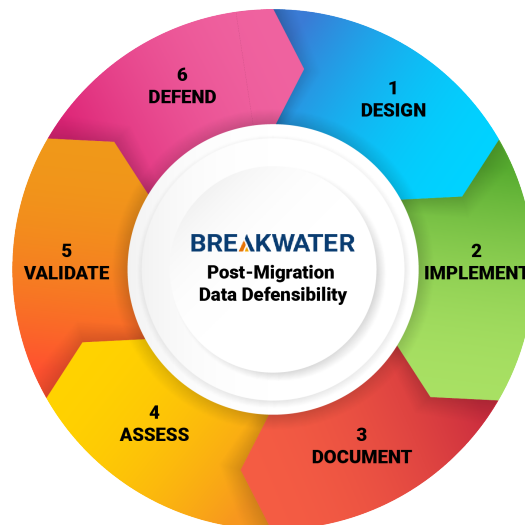# BREAKWATER

Post-Migration Data Defensibility

Data is on the move. How secure and defensible is your process?

Without a defined end-to-end strategy, data migration has inherent risks such as data loss, business interruption, and underestimating the resources and time required to complete the migration process. The myriad of potential data risks magnifies when layering in additional complexities such as an M&A transaction requiring large-scale data integration under time pressure or the need to respond to a discovery request for legacy data sources when documentation and institutional knowledge no longer exists. These data risk events continually emerge as new technology develops, industries consolidate, and regulatory requirements evolve, resulting in financial, legal, and reputational consequences if not appropriately addressed.

Highlights

- Normal Course of Business Data Migration
- M&A Due Diligence and Integration
- Pre-Litigation and Discovery

Breakwater experts have deep experience supporting all aspects of data migration risk mitigation and post-migration data defensibility, including:

- Development and design of a comprehensive data migration strategy,
- Implementation and oversight of the data migration plan,
- Documentation of migration processes, validation results, and issues encountered,
- Assessment of post-migration data risks related to data privacy and cybersecurity,
- Recreation of historical data migration processes and results,
- Preparation of a formal post-migration data defensibility binder, and
- Expert support, such as a data integrity assessment, periodic data audits, and declaration or testimony in a legal proceeding, if the integrity of legacy or migrated data is ever at issue.

Breakwater Post-Migration Data Defensibility Process

The following real-world scenarios and increasingly common business events illustrate when to engage data experts to ensure the completeness, integrity, and defensibility of data sources after a migration.

Normal Course of Business Data Migration

When a large-scale or high-stakes data migration is required in the normal course of business, Breakwater experts can support the overall data migration process and minimize disruption to internal resources and operations. Breakwater experts will work with business, IT, and other stakeholders to

mitigate data risks and support a defensible post-migration data position. Breakwater will also serve as a data migration advisor to ensure continuity of custom processes and litigation holds, provide guidance on compliance with relevant privacy regulations and data retention policies, and respond to ad hoc inquiries on demand.

M&A Due Diligence and Integration

M&A activities spark the need to evaluate an organization's data landscape as an element of valuation and assess the level of effort required to integrate post-transaction data sources and systems. Breakwater experts have deep experience scoping, mapping, and inventorying data sources to evaluate the complexity of an organization's data footprint and identify where data risks exist, the time and cost to mitigate or eliminate the risks, and areas of exposure to potential legal issues and compliance concerns within the data. After an M&A transaction, data integration is almost always required, which is typically complex, voluminous, and time-sensitive. Breakwater can work with corporate M&A lawyers, private equity firms, investment banks, and acquiring organizations on all aspects of data migration, risk mitigation, and data defensibility with an enhanced focus on post-integration data privacy and cybersecurity risks.

Pre-Litigation and Discovery

When the data risk assessment or documentation of processes and results was insufficient, a data risk expert should be engaged to prepare a defensible position on post-migration data sources and avoid accusations of data deletion or spoliation. Data sources that are frequent subjects of litigation such as HR, Finance, IT, and industry- or client-specific transactional data and documents must be assessed and prioritized. Breakwater will proactively evaluate the current state of the data, ingest all available information related to the migration and integration of the legacy systems, and prepare robust documentation of the historical migration processes, along with the rationale for decisions made about the data and issues encountered in the data such as gaps or failed backups. Breakwater will prepare a post-migration data defensibility binder that can be relied upon in the event of a discovery request for the migrated data and defend the position if further declaration or testimony is required.

Experts in Data-Rich, High-Stakes Industries

Breakwater professionals are experts in data and regularly work with clients across industries such as financial services and insurance, healthcare and pharma, high tech, telecom, oil and gas, entertainment, manufacturing, and construction. Engaging Breakwater to proactively identify and mitigate data risk will protect an organization from the time, cost, and exposure associated with unknown or undocumented data sources. It can seem daunting to approach this undertaking. However, action at these inflection points allows for implementation of transitional data minimization, data classification, defensible deletion, an aligned and holistic review of policies and procedures, and a documented baseline for data defensibility, reliability, and use.

About Breakwater

Breakwater helps mitigate risk and gain insight from sprawling information by combining technology automation and human expertise. Our expert consulting, software, and managed services address the challenges within information governance, disputes and investigations, regulatory compliance, privacy, and cybersecurity. Our solutions allow governance, legal, and risk professionals to locate, access, analyze, and manage information by making data transparent and actionable. Breakwater helps clients in public and private sectors mitigate risk, improve productivity, and increase profitability by transforming how they use data.

Learn more at www.breakwatersolutions.com.