

Remote compliance rises to the challenge

BY MARK SCHOEFF JR.

Investment advisory firms generally have done a good job of maintaining compliance with securities laws while working remotely since the beginning of the Covid-19 pandemic. But strong markets may be hiding problems, and firms are facing challenges in keeping records of electronic communications, experts said.

"It's actually working pretty well," said Sander J. Ressler, co-owner and managing director of Essential Edge Compliance Outsourcing Services.

But keep the good report card in perspective, Ressler added, because a stock market that has reached record highs despite the pandemic could be masking compliance shortfalls.

"One of the great blessings for compliance is that Covid happened during an up market," Ressler said. "The real test of whether remote supervision is going to work is when we're in an economy that's not working well."

Amy Lynch, president of FrontLine Compliance, also has an optimistic assessment of advisory firms' efforts to adhere to rules and regulations. "Overall, they're doing well," she said.

How well, though, depends on where a firm is in its lifecycle, Lynch said. If it's going through a growth spurt during the pandemic, compliance could suffer while hiring increases and product lines expand.

"It's tough to keep up on the compliance side if management is not keeping compliance in the loop, and compliance doesn't feel as if it is part of the communication and decision-making process regarding firm changes that may affect compliance," Lynch said. "Those challenges are exacerbated in a remote environment."

One red flag is the lack of oversight of new communications tools that facilitate remote work, according to the recent Risk & Compliance Survey by Smarsh, a compliance tech firm. The online survey of more than 100 financial industry IT and compliance professionals shows 70% of respondents have shifted to remote working and 51% have adopted Zoom and other collaborative technology.

But of the 83% of firms that use conferencing tools, only 22% have established retention and oversight programs to capture, archive and supervise communications on the platforms. That ratio alarms Stephen Marsh, founder and chairman of Smarsh.

"We've never seen a compliance gap that is that large," Marsh said. "There's an elevated risk, and [firms] haven't addressed it."

Firms aren't likely to get any oversight sympathy for compliance de-

iciencies from regulators who themselves are working remotely, even though they had to pivot almost instantly from meetings in conference rooms to Zoom.

"The regulators have made clear you

can't fail to supervise your employees," Marsh said.

On the bright side, compliance staff quality has increased as remote hiring reduced the need for top candidates to relocate. Firms "are able to fill positions faster and get more experienced people than before," Ressler said. "That's been a good by-product of Covid."

But chief compliance officers working from home can feel isolated, Lynch said.

"Remote work fatigue is coming into play," she said. "The struggle to keep the voice of compliance heard is becoming more and more difficult for firms where lines of communication are not in place."

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