

## How Will the Pandemic Change Regulation?

Actions taken over the past year may mean big future shifts, including a reduction in compliance costs.

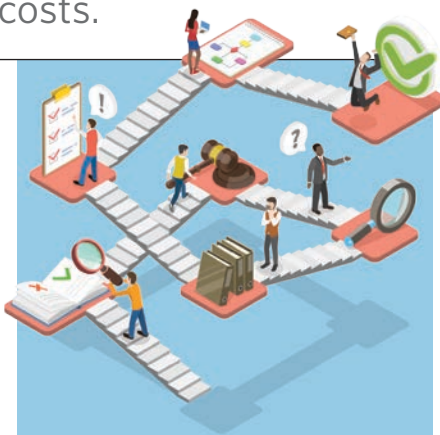
**I**t started with fear unlike the markets had ever experienced — a pandemic threatening life as we knew it. Advisory firms hunkered down, left their offices and opted to work remotely. But they proved resilient, continuing to provide seamless services to a stressed clientele, albeit with the assistance of some amazing technology.

We saw a massive correction in the stock market only to be followed by historic gains. What first looked like financial Armageddon turned to substantial gains for both investors and advisory firms alike. Although the pandemic is not over, with firms gradually returning to the office, it appears that the worst is behind us.

I have been a road warrior for more than 30 years, traveling the country to meet with and prepare advisory firms for regulatory examinations. Travel stopped, and even when it started to resume, firms were (and some rightfully remain) hesitant. I took my first flight the last week of April to visit clients in Texas. I now have booked flights for almost every remaining week in 2021.

However, prior to this week, I sat in my recliner chair conducting those same meetings, albeit differently, with the assistance of technology. My dry cleaning bill became virtually non-existent. I spent more time with my wife than I have during the past 30 years; for that, I was and am grateful. Although a travel veteran, it was hard for me to leave on Monday for the airport (I don't know if my wife shared my emotions).

Through it all, regulators did not miss a beat. They continued examining advisory firms, opting for remote examina-



tions with the assistance of technology.

What have we learned personally? We can adapt. Good employees can excel in the office or remotely; and despite the tragedy of the pandemic, life goes on.

And what have we learned professionally?

- With the advent of some amazing technology, advisors, their lawyers and consultants and their regulators, can discharge their obligations from home or the office;
- Regulators don't need to physically visit offices to conduct thorough examinations. To the contrary, perhaps their ability to more effectively and efficiently do so is enhanced by the virtual examination format:
  - a. Request and exchange documentation electronically;
  - b. Conduct interviews using one of several vendors;
  - c. Maintain electronic records of all exchanged information/documentation;
  - d. Conduct exit meetings; and,
  - e. Send/respond to an exam findings letter (perhaps, for those well prepared, no responses will be necessary).

What might the future hold for regulatory examinations? They become more streamlined. There also may be the option for virtual vs. on-site exams, especially once it's realized that on-site exams only increase regulatory budgets, time away from family and enhance exam anxiety.

In addition is the realization that many of the standard routine examination issues have run their course, with regulators opting to direct their efforts to examine and confirm the critical issues (i.e., is the money where it is supposed to be, are firms proving services reasonably consistent with their Forms ADV, and are they maintaining client information in a secure and confidential manner). This can be accomplished more effectively and efficiently on a remote basis.

But, alas, this changing world — and ways to do business and regulate from afar — brings up other questions. What about human interaction and the daily mix of being within an office — or will offices become smaller, perhaps shrinking advisory firm overhead? Will we permit employees to continue to work remotely? And when a valued employee needs to relocate, might we opt for retaining that employee remotely vs. having to find, and train, a replacement?

The world has certainly changed. It will be interesting to revisit these issues one year from now. **IA**

*Thomas D. Giachetti is chairman of the Investment Management and Securities Practice Group of Stark & Stark. He can be reached at [tgiachetti@stark-stark.com](mailto:tgiachetti@stark-stark.com).*