



From Regulatory Tooth Pulling to Kindred Spirit

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During 2000 and 2001 I was the leader of a merry band of professionals attempting to launch a company to change the way broker-dealers supervised registered representatives, executed surveillance and conducted sales practice audits. That adventure was called Protegent; a company since acquired by SunGard in 2005. Many hours, days and weeks were spent presenting this software solution to securities regulators and to say that it received a cool response would be a dramatic understatement.

Just a few short years ago, regulators saw the process of supervision and account surveillance as a purely human endeavor. No one in 2000 and 2001 was talking in terms of creating a “compliance culture” as they do today. There were very few people that understood that the complexities of the capital markets, KYC, back and front office systems and relationships could all be harmonized into a unified process of broker supervision and account surveillance. Technology budgets were at best razor thin and compliance departments were the red-headed stepchild of the broker-dealers resource chain. There was no coordination between compliance, risk, retail sales and senior management to facilitate the establishment of goals, process or strategy. It was indeed a dark, dark hole and trying to lead a company with an innovative solution through those times was both challenging and frustrating.

Much energy was committed to presenting our supervision/compliance solutions to securities regulators at both the local and national level. The response was lukewarm though every regulator wished us luck. No doubt they were expecting to find us on the trash heap of what became the infamous technology bubble. We certainly didn't end up there as the markets began faltering, customer complaints soared and litigation and arbitration claims followed closely behind.

Today our world has reversed itself like the occasional reversal of the Earth's magnetic field. Since 2004, hundreds of broker-dealers of every flavor use some form of compliance, supervision and surveillance technology. This is universally true on the capital markets side of the business and very much the case on the retail side as well. Today's conversations don't focus on whether software is needed to facilitate a positive compliance culture rather it is more about how the next generation of solutions will be shaped. Conversation focuses on things such as style drift in householded retail accounts, KYC, case management and aggregation across corporate barriers. Compliance departments are now viewed as mission critical entities and while budgets have contracted given our economic times funding does still exist for compliance projects. This was not the case just a few short years ago.



Today many wonder what the next generation of compliance software will look like, many firms are already organizing procurement efforts. The original contracts from the initial software procurement process are approaching renewal and many companies are trying to determine next steps. There is with that a major opportunity for financial services companies; namely, a review of what they bought, how it performed and what variables will lead to the most effective next steps.

This opportunity is for each firm using compliance, surveillance and supervision software to conduct, or more appropriately hire an independent outside firm to conduct, a Compliance Efficacy Audit. This would be an unbiased evaluation of current systems and software, the compliance process that compliments the software systems and the understanding of usage, distribution and delegation of that process. To conduct a Compliance Efficacy Audit is to possibly discover that the requirement is not in procuring a new system but adjusting that which a firm already has deployed. Very often it is the remapping of data, redesign of rules and alerts, incremental training and strategy review that takes and re-energizes an already significant investment.

This idea has met with very supportive response from the regulatory community. Regulators now have fully accepted that a compliance culture that protects the public is nothing less than a marriage of human effort and technology innovation. I suspect that they will sit back and see if firms begin to evaluate their own systems objectively.....for how long is uncertain.....forever is not the answer to that question.