

Regulation Turns Off Entrepreneurs From Pursuing The IBD Channel

An advisor that I've friended and conversed with since 2005 saw my article, "**Regulation Throws Sand in the Gears of Business**" and e-mailed me a letter explaining why my article was an understatement. The advisor wrote:

"We spend more of our time doing more and more ridiculous compliance activities and reports that make no sense other than to protect the broker dealer from the regulators. There's not enough time in the day to do it all. Many of the reps in our group find working in the current atmosphere to be in overkill mode and doing business has become drudgery. Applications are increasingly lengthy and take forever to complete; are highly scrutinized making advisors feel they have to be on the defensive all the time, even years after the sale was completed.

It didn't surprise me when two of my reps recently left after several years with me, saying the business isn't what it used to be. They simply told me, "It's not for me anymore." I can relate to how they felt and the pandemic had nothing to do with their decision.

The NYDFS (NY Department of Financial Services) and all the other agencies are making it impossible to do business in our state. It has gotten so bad that insurers like John Hancock are pulling products off the shelves, effectively leaving the state after several others called it quits in the last two years (i.e., MetLife, among others). Advisors are confused by all the regulations and the new regulations on the horizon. It's just too daunting. The worst for me was when my son said after a year at the firm, "I've had enough, this industry is too stifling for me." My son is actively looking for other opportunities elsewhere and it breaks my heart because he'll never know how great a business it used to be.

Indeed, many reps are still making plenty of money, but if you asked the established veterans how much they like the business these days, I'd wager the overwhelming majority would say, I wish I could turn back the hands of time. "

The advisor's letter stuck with me for days compelling me to make his thoughts heard. My last article on regulation was from a broker dealer and macro-regulation perspective so seeing regulation from the perspective of a seasoned top tier advisor would carry weight and bring greater depth of outlook.

After asking the Advisor if he could elaborate on some of his points in order that we could learn from the details of his experiences, he agreed to do so provided he remain anonymous.

Jon: What was it in the past that you enjoyed about the business that has now diminished or disappeared?

Advisor: Most of us were drawn to financial services because we wanted to be in charge of our own lives and destinies. We wanted to be our own bosses, build our own businesses, and have the opportunity for unlimited earnings potential that few callings offered. We had complete control to choose the hours we wanted, choose the clients we wanted to work with and learned to specialize into lucrative niches which reduced my workload while my income climbed. When my business peaked, I loved every minute of it, being the first person in the office and the last to leave. Loving what I was doing never felt like work and I felt I was making a real difference in people's lives. Not being a salesman hawking a product but rather a problem solver earning the respect of peers, the community and other professionals.

We felt appreciated by the acknowledgement and appreciation for the hard work, dedication and sacrifices we made. Recognition in the broker dealer newsletter, lavish out-of-town conferences where the best performers were recognized for their achievements at black-tie dinners and given awards while standing on stage, taking pictures with loved ones and home office executives were just a few of the ways we felt appreciated. In those days, the broker dealer showed loyalty telling us if we did good honest business, they would have our backs if something didn't go according to plan.

That was then, but now broker dealers standing behind advisors through difficult times has largely been replaced with throwing advisors under the bus to save the broker dealer, even when they had followed all the company rules and did nothing wrong. Things have been in such a state of flux that we feel like we've become prisoners to our business and our overlords would be state and federal regulators who micro-manage our world with endless overlapping rules and regulations that sometimes contradict one another and make little or no sense for the consumer.

Jon: What are the activities that take up your day that drag you away from the things you enjoy doing?

Advisor: Shortly after joining our broker dealer we were forced to operate as an OSJ (Office of Supervisory Jurisdiction) which resulted in more responsibility and much more work. Weekly, monthly and annual reports now take up 65% of my time, leaving me very little time to add new clients and grow my business and income. After factoring my loss of time into the equation, my real payout has shrunk drastically over the last 10 years while the cost of doing business has continued to

rise. Even though I have more clients and AUM than ever before, I make less money than I did ten years ago when I joined this firm. Generating reports, filings, storing, and completing annual compliance reviews at the office is a drudgery that makes me and everyone at the office cringe. The one or two days out of the year when the compliance department comes to inspect our files, books and records is a joke. They come to our office to BS and we pay the broker dealer for the privilege to perform all these services. It adds insult to injury.

Jon: What are the most burdensome aspects of paperwork?

Advisor: You would think that opening an account with the aid of today's technology would make taking on new clients easier but if the people who designed the system and those processing the applications behind the scenes aren't 100% proficient in their roles, the work grows exponentially for both the customer and the rep. Forms are constantly changing to meet the latest rules and the length of forms is getting insanely long as I reviewed an application to open an IRA account that can run 120 pages or more (applications vary in length with the product vendor). In addition to servicing clients, performing annual meetings and updating client suitability requirements, the home office personnel believe that we serve them and not the other way around. A departure from the way things used to be years ago when home office employees realized we pay their salaries.

Jon: When your two representatives left saying, "It's not for me" what were the factors that made them conclude this business wasn't for them?

Advisor: The older of the two advisors that had been with me for over 15 years started to do less and less variable business. The rep started selling more and more fixed insurance business and lost interest in doing products through the broker dealer. He explained, "Doing variable products, I have to work harder to make less money. He didn't see the point anymore so he left the securities industry. The younger rep was full of enthusiasm at the start and had a promising career ahead of him but he started to wonder whether he had taken the right career path. He clashed with compliance, not that he had done anything wrong, he just couldn't stand the lack of imagination and people that stood in his way of doing business in a way he thought was better. His passions for life took him to another place with the freedom to do something he's truly passionate about and has the freedom he was seeking but couldn't find in this business.

Jon: When your son said he wanted to leave commenting "This industry is too stifling for me," what was it he found stifling and what will he do as an alternative?

Advisor: My son may have had the makings of a future superstar in the industry and I don't say that out of nepotism because everyone in the office and my clients who met him, believed he certainly had the potential to excel. After experiencing what he said were such stifling rules on how to do self-promotion, creative marketing, telemarketing, seminars and many other rules and policies that the industry and broker dealer imposed on its advisors, he couldn't imagine doing this for the rest of his life. He said this industry is behind the times in almost every way. Everything he wanted to try was treated with skepticism and rejected with a "no go". Where was the freedom of expression in the new world of technology that every other industry seemed to embrace except ours?" He's still an active Investment Advisor but has begun taking classes to get into broadcasting.

In Conclusion: The advisor's son is very entrepreneurial minded and seeing so many regulatory restrictions on how he can market himself in spite of technological advancements, became such a turnoff, he wants to explore other career paths that aren't so stifling. In the book, *Defending the Undefendable* by Walter Block, Block states, "There is a positive relationship between the amount of governmental interference in an economic arena, and the abuse and invective heaped upon the businessmen serving that arena." Overregulation is ultimately the death knell of freedom, ergo the death of the entrepreneur. The 17th century Dutch philosopher Baruch Spinoza looked at regulation on a practical level claiming, "He who seeks to regulate everything by law is more likely to arouse vices than to reform them. It is best to grant what cannot be abolished, even though it be in itself harmful. How many evils spring from envy, avarice, drunkenness and the like, yet these are tolerated because they cannot be prevented by legal enactments."

The financial services industry has regulations heaped upon them, yet advisors determined to do Ponzi schemes, steal from clients, commit fraud etc., don't follow rules but rather, bypass the rules, while the advisors that walk the straight and narrow path have to operate their business through a mountain of rules, policies, procedures and most of all excessive paperwork that does little to protect the public. The greatest challenge to attracting people to our industry isn't identity politics issues like equality or diversity, it is candidates having to contend with being in one of the most regulated industries in the country. As the number of broker dealers and advisors continues to shrink, will we have a viable future as President Biden follows the advice of former Senator Ted Kaufman, who's a champion for more severe financial regulation asking for even more stringent requirements on disclosures and reporting? Financial Services Institute (FSI) will certainly have a busy docket.