

REPRINT

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# CONDUCTING REMOTE INVESTIGATIONS

REPRINTED FROM:  
RISK & COMPLIANCE MAGAZINE  
APR-JUN 2021 ISSUE



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MINI-ROUNDTABLE

# CONDUCTING REMOTE INVESTIGATIONS



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**Salvatore LaScala** is a partner and head of Guidehouse's global investigations and compliance practice. Possessing a broad range of subject matter knowledge and expertise, he applies his 20-plus years of hands-on experience to conduct investigations and compliance reviews on behalf of financial institution clients responding to regulatory or law enforcement matters concerning anti-money laundering (AML), Bank Secrecy Act (BSA), USA PATRIOT Act and Office of Foreign Assets Control (OFAC).

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**James Siswick** is a partner and European global investigations and compliance lead. A seasoned risk and compliance professional specialising in financial crime compliance, he manages client relationships while also developing technology and forensic solutions for institutions facing increasingly complex compliance demands from regulators. His professional background includes more than 20 years' experience in financial crime and technology engagements, leading some of the largest global financial crime investigation and remediation projects.

**R&C: In your experience, how have professionals involved in conducting corporate investigations adapted to pandemic-related challenges over the past 12 months?**

**LaScala:** Regarding financial crimes investigations around anti-money laundering and fraud, the keys to success before and after the pandemic are training, experience, access to the right investigative tools and preparation. Without a team leader or supervisor hovering, the specificity of the desk operating procedures and investigative protocols is critical to the success of any type of corporate investigation. That said, technology like GoToMeeting or Microsoft Teams is a compelling substitute and can be a big help when overseeing a large and dedicated team. Many investigations related to anti-money laundering (AML) and sanctions are predominantly desk investigations resulting in the filing of a suspicious activity report with the Financial Crimes Enforcement Network or a 'no further action' resolution, with no interviewing of witnesses. Colleagues, however, with experience – anecdotal or otherwise – are great sources of training and learning and the inability to sit in a large room and share fact patterns with other experienced investigators can be a disadvantage, especially to staff who are less experienced.

**Siswick:** People in the investigations industry have adapted amazingly well to the challenges

brought about by the pandemic. Many investigations are data-driven reviews that can be done remotely. There should be relatively limited impact on productivity as long as the right tools for document review, collaboration and security have been deployed. The limitations on social interaction, however, have heightened the importance of in-person, experiential training for junior staff and 'water cooler' conversations that are key to the development of new ideas and innovative ways of solving problems. It has also become more challenging to connect the dots in some more complex investigations. A key issue, which is much broader than the world of investigations, is how to maintain wellbeing and morale – and it is difficult to achieve this in a remote working context. The future of work post-pandemic remains unclear, but we have certainly shown that the adaptability and flexibility of people, coupled with the remarkable technological progress, will allow us to overcome many of the remaining challenges. Many of the approaches we have learned during this time will really drive the innovative working approaches of the future.

**R&C: What advantages does a remote investigation offer investigators? Conversely, what are the likely downsides?**

**LaScala:** Remote investigations offer investigators a greater flexibility, which can lead to efficiency and

can considerably reduce client costs. Specifically, conducting investigations remotely minimises the impact of a tough commute into or out of the workplace. Working at home, however, is a double-edged sword. If you have the right workspace, connectivity, robust case management and oversight and other relevant technology, and are not caring for children, spouse, parents or other dependents, or all of the above, a lot of work can get done. Without the right workspace and the appropriate support to care for loved ones, working at home can be very challenging. Where interviews are required, obtaining information remotely can be challenging because it is unclear whether the interview subject is being coached and, if there is no video, it is hard to incorporate all the different things you can learn from body language and other subtleties.

**Siswick:** There are several advantages to remote investigations, starting with lower costs and faster set up speeds due to lower infrastructure requirements. Moreover, professional services firms can set up hub approaches that allow continuous engagement and leverage a combination of the most relevant skills and lower cost locations. This approach is empowered by investments in collaboration tools focused on data, such as cloud environments and software solutions that, for

example, allow teams to collaborate on the same document in real time. Remote investigations do, however, pose significant challenges, starting with the separation of work and life environments. The

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*Salvatore LaScala,  
Guidehouse*

lack of an office-based environment limits the opportunities for social interaction and networking that are critical to the development of innovative solutions. Interactions tend to be more formulaic, leaving less room for forming and storming of ideas and teams. We have seen that training and coaching of junior employees – both technical and cultural – is more difficult in remote environments.

**R&C: How important is it to weigh up the benefits and risks of proceeding with an investigation during a pandemic? What**

## factors should influence the decision on whether to move forward or delay?

**LaScala:** Financial crimes investigations and the disposition of Office of Foreign Assets Control (OFAC) or other sanctions-related alerts should continue regardless of the requirement to work remotely, so long as the data is secure and the investigative team has an appropriate workspace, oversight, quality control, data protection and data confidentiality training.

**Siswick:** The decision to conduct or delay an investigation depends on multiple factors. These include the availability of resources, potential issues relating to data privacy, especially in cross-border investigations or model validations, and whether the investigation is dictated by internal factors or regulatory pressures. The client's technology environment is also important, such as the use of cloud environments and availability of data – whether it is readily available in a data room or requires manual processing, including hard-copy documents and legacy information storage systems. The new work environment has made it easier to match resources to tasks, however. Subject-matter experts in other countries can be increasingly leveraged, volume work can be completed in low-cost locations, and there are

fewer constraints emerging from factors such as real estate.

## R&C: What steps do investigators need to take to coordinate the range of activities involved in a corporate investigation, such as choosing a platform, gathering documentation and addressing privacy concerns?

**LaScala:** Maintaining the confidentiality of documents while leveraging them for investigative purposes is always at the forefront when conducting investigations. It is important to have a document protocol that spells out in explicit terms how

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documents will be exchanged, both internally and externally. Hardware used at home should be locked down so that only secure VPN access into systems

is available and USB ports and other methods to extract data from the computer are disabled for the duration of the project. Investigators should work exclusively within their case management systems and periodically someone should check, live or virtually by access to the desktop, that the work and data related to it remain within the VPN environment and not elsewhere on the laptop.

**Siswick:** There are multiple considerations around the coordination of remote corporate investigations. From a technology perspective, we must ensure that the right platforms are available, such as structured data analytics, e-discovery, case management, artificial intelligence and machine learning. These have to be measured against data custody, security and privacy issues. This includes the access to data within domestic environments, compliance with cross-border rules, and the delivery and processing of information stored in legacy data formats, such as offline backup drives, CDs, microfiche and telexes. In some investigations, restrictions need to be in place for certain types of data for individuals working in certain countries. The role of the project manager becomes critical in remote investigations. The dispersion of staff may create mission and scope creep. This can be proactively managed by focused resources that ensure unity of purpose together with excellent team communication.

### **R&C: As we tentatively move toward a post-pandemic world, what lessons should investigators take forward to ensure their work continues in an unpredictable environment?**

**LaScala:** Be flexible and ready to adapt. It is very likely that some features of our pandemic world will continue post-pandemic, as organisations have now seen the benefits of successful remote working. Even when onsite investigations can resume, there are significant advantages to conducting an investigation offsite. For example, remote work can minimise the stress and apprehension that can spread through an organisation when the investigators, auditors or examiners are onsite. When data and records can be reliably extracted and protected from destruction, analysing data before even going onsite can permit you to build an investigative thesis to implement without creating stress across the organisation and making hardworking people, who are not subjects of the investigation, lose focus on their day-to-day functions. When the time is right, onsite work can resume with full knowledge that all the relevant documentation, including the elements of proof of the investigative theory, is set up so interviews and further data analysis can begin.

**Siswick:** The pandemic has shown that firms that embraced the advancement of technology



and were flexible about remote working practices had higher chances of success. Nonetheless, we should recognise that certain tasks and projects are more effective and efficient if done in-person. From a cultural perspective, it is also easier to integrate new employees and promote company values in an office-based environment. Accordingly, even if some workers primarily remain remote, teams should aim to coalesce around hub locations periodically. As society edges closer to the return to traditional work environments, we must ensure that new and successful human resources practices and technology improvements are embedded into existing company culture, values and working practices. This includes flexible working environments, investments in collaboration tools and cloud-based data systems. **RC**