

# Domina in IBA: The Off-Channel Communications Headache

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PRACTICES AI and Technology, Social Media

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Haynes Boone Partner [Daren Domina](#) was featured in an article from *International Bar Association* discussing the aftermath of the the Covid-19 pandemic where many workers around the globe were forced to work from home on very little notice, but communication applications allowed for the transition to be largely seamless for most. From WhatsApp and Signal to Teams and Zoom, a huge number of platforms allowed the relationship between businesses and their clients – and between an organization’s staff – to continue.

These platforms are informal and unofficial, meaning the conversations they facilitate when it comes to businesses speaking to their clients are neither recorded nor retained. Regulators such as the US Securities and Exchange Commission (SEC), which require retention of communications so they can ensure businesses are behaving in an appropriate manner, have taken issue with their use.

Domina agrees the pandemic has led to employees taking a laxer approach to business communications but highlights that customers have too. That means in order to ensure they are complying with necessary regulations, financial businesses don’t just have to look to their own people’s behavior but to that of their customers as well. "Working conditions have changed since the pandemic, with more people working from home and using personal devices and computers and that has exacerbated the issue of off-channel communications – people have got more comfortable with their use," he says.

People have been using text messages and other methods of communication without necessarily thinking what that might mean from their employer’s perspective, says Domina. ‘The issue has lessened somewhat because of the return to the workplace, but some of those habits haven’t gone back to where they should be in terms of using only approved channels and clients and customers have got used to using those channels too,’ he explains. ‘Even if a regulated person sends something through an approved channel they might get a separate response or text message to their personal device.’

Domina says this isn’t only an issue for companies themselves. ‘They need to educate clients, customers and counterparties not to use those off-channel communications,’ he explains. ‘That requires an effort. Businesses have to reposition the stream back into an approved channel – if a client sends a text message about a business topic it could mean cutting and pasting it and sending it to your work email so you can send the response from a work email as if it had been sent to an approved channel.’ This, he says, would bring the employee back to communicating with the client in a channel that’s approved and archived by the company.

To read the full article from *International Bar Association*, click [here](#).