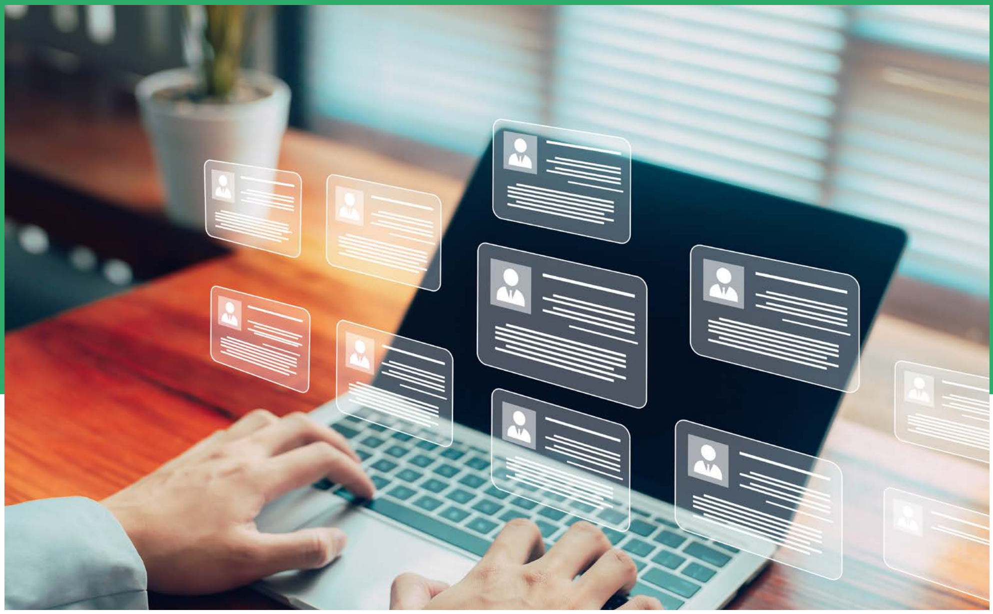

COMPLIANCE CONSIDERATIONS FOR EMPLOYEE EXPERIENCE PLATFORMS

THETALAKE

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SUBJECT

This brief sets out the compliance considerations that financial services firms need to consider when using employee experience platforms, specifically in relation to the capture, retention, and supervision of electronic communications.

It describes the features and capabilities of employee experience platforms which create electronic written, audio and visual communications. It explains how the tools are used in practice and outlines the applicable regulations in the US, UK and Canada for capturing and supervising them. Finally, we analyze a few use cases for employee experience platforms and how regulatory compliance mandates apply to those scenarios.

HOW EMPLOYEE EXPERIENCE PLATFORMS ARE USED

Employee experience platforms are designed to improve how employees connect, communicate, and engage within an organization. The platforms provide a modern, social intranet-like experience with features similar to social media, allowing employees to share updates, comment, and interact in real time.

By consolidating multiple features related to internal communications, employee engagement, and culture-building tools into one unified application, the platforms help create a connected workplace that improves collaboration and productivity. Employees can stay informed through company news and announcements, share ideas, celebrate achievements, and access learning and development resources. Features such as social feeds, communities, surveys, polls, and analytics dashboards support onboarding, strengthen company culture, and give organizations real-time insight into employee sentiment and engagement levels.

Examples of employee experience platforms include Microsoft Viva Engage, Workvivo by Zoom, Staffbase, and Amirra. Although the platforms are designed primarily for internal communication and engagement, integration with tools such as Zoom and Microsoft Teams allows external participants to join specific interactions, such as webinars or events, or to be invited into private communities.

To illustrate, what follows are three real-world examples of how employee experience platforms are used in financial services organizations. We will revisit these use cases in Section 5 and provide guidance about how to apply relevant regulatory requirements to interactions on these platforms.

EXAMPLE A:
Onboarding process

A US broker-dealer uses Workvivo to streamline onboarding for new hires. Each employee receives a personalized welcome dashboard with essential resources like policy documents, and benefits information. Through an interactive “Getting to Know Us” culture feed and the “New Starters” community, new hires can connect with colleagues, ask questions, share experiences, and follow HR-curated checklists to settle in smoothly.

EXAMPLE B:

Employee engagement and internal communication

A UK bank uses Workvivo to centralize communication and strengthen employee engagement across its hybrid and distributed workforce. The platform serves as a digital hub for company news and updates including quarterly live streams, helping employees stay connected to the firm's mission and culture. Managers share goals and success stories while employees use the platform to give peer shoutouts and celebrate awards.

EXAMPLE C:

Real-time sharing of industry insights

The investment research division of a US broker dealer uses Microsoft Viva Engage to share timely market updates and insights across the organization. Through its "Market Intel' community, analysts post summaries on regulatory changes, strategy and sector movements. External participants including industry experts are invited to join the private group and comment and engage with the discussion about changes in strategy and direction.

THE KEY DIGITAL COMMUNICATIONS CAPABILITIES OF EMPLOYEE EXPERIENCE PLATFORMS

Understanding the scope of digital communications available within employee experience platforms is critical for firms to be able to capture and supervise them in accordance with regulatory obligations. These capabilities are continuously evolving and vary by both the employee experience platform and the features enabled by organizations.

Employee experience platforms provide centralized corporate communication through tools like news feeds, announcement channels, and community spaces that function as a social intranet. The social and community feeds provide social media-style interaction enabling real-time discussion threads and updates and allowing employees to view posts from their teams, departments, or company-wide channels and to engage through reactions, comments, mentions, tagging and shares. These feeds promote knowledge sharing, encourage dialogue and help maintain a sense of community in hybrid and distributed work environments.

Collaboration spaces provide dedicated environments for teams and projects. Within these virtual workspaces, employees can exchange messages, share files, and co-edit documents in real time. Teams can post updates, track tasks, and integrate with tools such as Jira or Confluence. Microsoft Viva Engage leverages its integration with Microsoft 365 to allow seamless access to shared files, calendars, and Teams meetings.

The platforms also provide instant messaging for both one-to-one and group conversations, facilitating real-time and informal interaction across departments. Video conferencing integration, through tools like Zoom in Workvivo, enables virtual meetings, live events, and company-wide town halls, allowing employees to connect face-to-face regardless of physical location. When the platforms are integrated with external tools such as Zoom or Microsoft Teams, external participants can be included in private, secure spaces or communities, or join specific interactions such as webinars or events, but do not gain access to the platform's internal environment and cannot view or participate in internal feeds, chats, or communities.

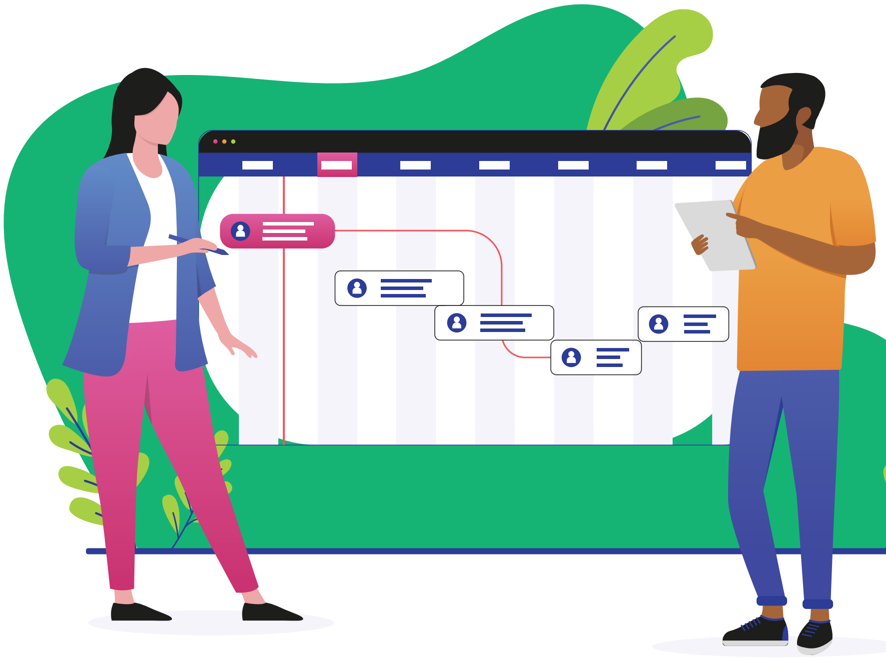
Content management systems underpin the tools, ensuring information is organized and easily accessible, including videos, images, and presentations. Users can create and manage content such as company news, policy documents, and training materials without needing technical expertise. Event management tools allow organizations to plan and promote internal events such as webinars, training sessions, and celebrations, complete with registration tracking and calendar integration. Polls and surveys provide a direct feedback channel, allowing employees to share opinions on workplace initiatives or training outcomes.

Analytics and dashboards provide visibility into how the tools are used and their impact on engagement. Metrics such as active user counts, post interactions, and survey participation rates help organizations evaluate the effectiveness of their internal communication efforts.

KEY REGULATIONS THAT APPLY TO THE CAPTURE & SUPERVISION OF EMPLOYEE EXPERIENCE PLATFORM COMMUNICATIONS

The requirements for capturing and supervising electronic communications are set out by global regulators. These include rules from the Security & Exchange Commission (SEC), the Financial Industry Regulatory Authority (FINRA), the Commodity Futures Trading Commission (CFTC) and the National Futures Association (NFA) in the US; the Financial Conduct Authority (FCA) in the UK and the Canadian Investment Regulatory Organization (CIRO). As a baseline, any written communications related to a firm's business must be captured, retained, and supervised.

US rules set out detailed expectations for retaining written electronic communications. The SEC's Exchange Act Rule 17a-4, and FINRA Rule 4511 require member firms to, "among other things, create and preserve, in an easily accessible place, originals of all communications received and sent relating to their "business as such." Other record keeping rules include FINRA rule 2210 regarding Communications with the Public, the Investment Advisers Act Rule 204-2, CFTC Regulations 23.202 and 1.35., NFA Compliance Rule 2-10(a) and FCA's SYSC 10A.1.6, in conjunction with the requirements for MiFID II business. These rules mandate



the retention of relevant internal communications to the extent they relate to a firm's securities business. [FINRA's Regulatory Notice 17-18] explains that the content of communications determines what must be retained.

The supervisory obligations for written electronic communications include FINRA Rule 3110(b)(4) which requires firms to have procedures for the "review of incoming and outgoing written (including electronic) correspondence and internal communications". The FCA's Code of Conduct (COCON) rules set out standards for individual and senior managers to ensure integrity and high standards of behavior across the financial services industry, including mandates for staff to act with integrity and respect market conduct.

Other supervisory requirements include CFTC Regulation 23.602(a) and 166.3 together with NFA Rule Supervision rule 2-9 . Similarly CIRO rule 3900 and FCA's SYSC 6.1 set out broad supervisory requirements to detect risks of non-compliance with regulatory obligations.

INTERPRETATIONS OF THE RULES AND APPLICATION TO THE USE CASES

EXAMPLE A:

Onboarding process - non regulated

In the first scenario, a US broker-dealer uses Workvivo to streamline onboarding for new hires, providing access to company resources, an interactive culture feed, and a new-starter community where employees can ask questions and share first-week experiences to settle in smoothly. There is no regulatory requirement to retain these communications because they do not relate to the firm's "business as such," and FINRA's Regulatory Notice 17-18 clarifies that "for record retention purposes, the content of the communication determines what must be retained."

EXAMPLE B:

Employee engagement and internal communication - regulated and non regulated

In Example B, where the UK bank uses Workvivo to centralize communication and enhance employee engagement, the platform serves as a digital hub for company news and recognition posts, helping employees stay connected to the firm's mission and culture. In this scenario, recordkeeping requirements related to sales, advice, and transactions under SYSC and MiFID II would not apply.

However, the FCA's Conduct Rules apply to all individuals and managers, and the firm should maintain appropriate oversight of conduct on the platform, particularly given the informal nature of communications. This includes the ability to detect and address potential misconduct such as bullying, sexual harassment, or the inappropriate sharing of personal or confidential information across video, chat, shared content, and other channels.

EXAMPLE C:

Real-time sharing of industry insights - regulated

In the third scenario, the investment research division of a US broker-dealer uses Microsoft Viva Engage to share market updates, insights, and strategy notes in a private group that includes both internal colleagues and invited external participants.

At a minimum, the firm would be subject to the e-comms capture, retention and supervision obligations applicable to its regulated investment banking staff. These include the need to capture written communications under the SEC's Exchange Act Rule 17a-4 as well as Rule 3110(b)(4) which requires firms to have procedures for the "review of incoming and outgoing written (including electronic) correspondence and internal communications relating to the member's investment banking or securities business".

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