COMPLIANCE CONSIDERATIONS
USING GENERATIVE AI TO CREATE INVESTOR COMMUNICATIONS

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SUBJECT

This brief sets out the compliance considerations for financial services firms when using the generative AI capabilities of unified communications and collaboration (UCC) platforms to create content for investors. It explains the generative AI capabilities that are available within UCC platforms, specifically AI assistants, and explains how they are used to create communications and disseminate information for investors.

Additionally, the brief outlines the applicable regulations in the US, UK and Canada for capturing and supervising communications. Finally, we analyze use cases for AI generated content and consider how regulatory compliance mandates apply to those scenarios.

GENERATIVE AI CAPABILITIES IN UCC PLATFORMS & HOW THEY ARE USED

Generative artificial intelligence is a type of AI that, based on a user's prompt, can create content such as text, audio and video. UCC platforms provide generative AI capabilities through AI assistants to help users improve productivity and work together more effectively. These AI assistants provide powerful, real-time capabilities for meetings, phone, chat, whiteboard, and email applications. They provide summarization and translation capabilities as well assisting users to draft content like emails, documents, and chats. Examples include Microsoft Teams Copilot, Zoom AI Companion, Cisco AI Assistant for Webex and RingCentral AI Assistant.

AI assistants efficiently manage large volumes of information by summarizing communications like chat threads, meetings, calls, SMS, and voicemails. The summaries provide a clear overview of conversations and identify actionable items and next steps, reducing the time employees spend on reviewing communications, and helping them stay informed of key points, respond effectively and prioritize tasks.

The AI assistants also help employees draft and compose communications including chat responses, follow-up emails and documents based on meeting discussions. They facilitate brainstorming by generating whiteboard content and organizing ideas into structured formats.

To illustrate, here are real-world examples of how the tools are used in financial services organizations.

EXAMPLE A:

Website support - non-regulated

A bank's website support team uses Microsoft Teams Copilot to draft responses to customer enquiries related to office opening times, contact details or where to find information. These frequently asked queries only need a quick confirmation or a routine reply so instead of typing a response to a message, employees save time by tapping one of the AI-suggested replies and the response is sent immediately.

EXAMPLE B:

Individual client meeting - regulated

A registered representative at a US broker-dealer holds a financial review meeting with an individual investor using Webex, to check that their investments are on track and make any changes needed. Slido Q&A and polling is used to assess the investor's risk tolerance and reaction to proposed strategies. Following the meetings, Webex AI Assistant creates a summary of the key points discussed and investment changes needed. The registered rep shares the summary in an email with the customer as a record of decisions made and follow up actions.

THE KEY GENERATIVE AI CAPABILITIES OF UCC PLATFORMS

Understanding how and where content is generated by AI is critical for firms to be able to capture and supervise content and communications in accordance with regulatory obligations. The generative AI capabilities are continually evolving and vary by platform, including the examples below.

The AI summarization capabilities enhance the productivity of meetings. Real-time summarization enables attendees to summarize the meeting so far, list different perspectives by topic or ask specific questions about what has been discussed, without interrupting the session. Post-meeting summaries provide an overview of topics discussed and next steps, which can be shared via email or chat. For example, Copilot Intelligent Recap presents information by topic or speaker, Zoom AI Companion's Smart Recording organizes cloud meeting recordings into chapters, highlighting important information, and actionable steps. Webex AI Assistant supports multiple languages for in-meeting and post meeting summaries and transcripts.

The AI assistants help employees compose written communications specifically tailored to the conversation's context, reducing the time spent on correspondence and supporting efficient collaboration by. For example, RingCentral helps draft, compose, or translate messages and texts; Zoom AI Companion suggests sentence completion, and AI-recommended email and chat responses based on thread content; Copilot enables rewriting a whole message or specific sessions to adjust style and length; and Webex AI Assistant provides options to fix mistakes, improve spelling and grammar, and change the message tone. Summarization Capabilities such as RingCental's Message summaries or Zoom's Thread summaries distill lengthy chat conversations into concise overviews, and summarize unread messages enabling users to catch up on long threads.

The AI capabilities extend to brainstorming and creative tasks. During whiteboard sessions, Zoom AI Companion and Microsoft Copilot help users generate ideas, add objects to the canvas as well as categorizing notes and organizing content into headings.

Employees are able to have more effective audio calls or catch up on ones they've missed. The AI capabilities for phone include call summaries that can be edited and shared, task lists generated from voicemail transcriptions, and prioritization of voicemails based on topic or intent. For example, Copilot will recap the call so far and list action items. Zoom AI Companion summarizes SMS threads and recommends quick responses.

In Zoom Docs, users can generate, revise, and organize content in one place. This includes creating new summary documents from templates using existing transcripts, as well as completing text in real time with sentence suggestions.

Across all UCC platforms, controls enable Administrators to turn AI assistants on or off for their organization or individual users, while meeting hosts can manage specific capabilities, such as meeting summaries or in-meeting queries.

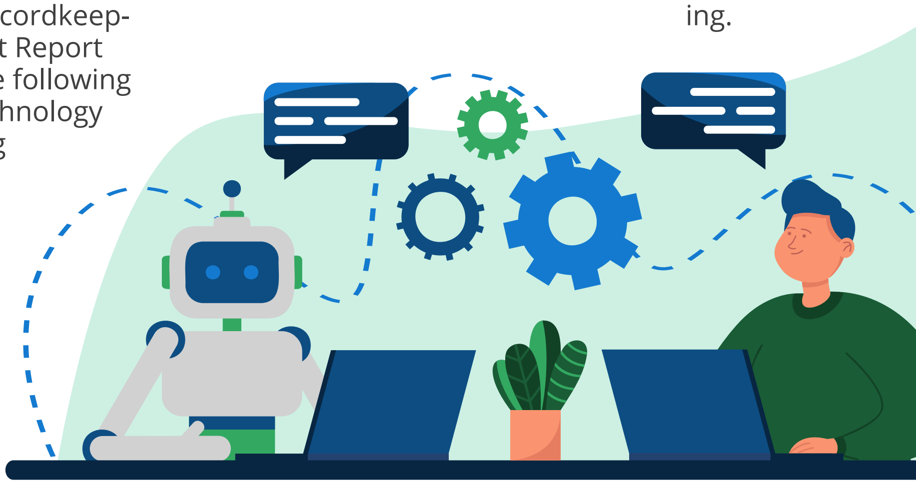
KEY RECORDKEEPING & SUPERVISION REGULATIONS THAT APPLY

The applicable regulations for capturing, retaining and supervising communications are set out by regulators across the US, UK and Canada including the Securities & Exchange Commission (SEC), Financial Industry Regulatory Authority (FINRA), Commodity Futures Trading Commission (CFTC) and National Futures Association (NFA) in the US; the Financial Conduct Authority (FCA) in the UK and the Canadian Investment Regulatory Organization (CIRO).

Recordkeeping requirements have always played a fundamental role in investor protection with the SEC describing them as " an integral part of the investor protection function of the Commission, and other securities regulators...". As technology develops, regulators are responding to the emergence of generative AI tools with specific regulatory guidance relating to firms' use of AI-created content emerging across regulators.

FINRA has provided the most detailed clarification through its FAQs and member notices. In Regulatory Notice 24-09, FINRA states that "FINRA's rules–which are intended to be technology neutral–and the securities laws more generally, continue to apply when member firms use Gen AI or similar technologies in the course of their businesses, just as they apply when member firms use any other technology or tool." This includes "leveraging the technology of a third party, including through embedded features in existing third-party products" reinforcing its applicability to the generative AI features of UCC tools.

The notice further states that "The rules applicable to Gen AI use will depend on how a member firm deploys the technology" providing clarification that where firms leverage new technologies like AI as part of their regulated client interactions, these will be subject to existing rulesets for supervision and recordkeeping. FINRA's 2025 Annual Regulatory Oversight Report reinforces the expectation, setting out the following effective practice: "When using Gen AI technology to generate or otherwise assist in creating communications to customers, reviewing to ensure that these communications comply with applicable federal securities laws and regulations and FINRA rules". Its 2024 Annual Regulatory Oversight Report highlights Books and Records, and Communications With the Public as key regulatory obligations for firms to focus on when considering their use of AI.



FINRA's [Advertising Regulation FAQs] D.8.1 reminds firms that they are "...responsible for their communications, regardless of whether they are generated by a human or AI technology. Accordingly, firms must ensure that AI-generated communications they distribute or make available comply with applicable federal securities laws and regulations and FINRA rules."

FINRA takes the position that such content is subject to the same supervisory requirements outlined in Rule 3110 as any other content shared with investors explaining that "This obligation includes compliance with supervision requirements, applicable FINRA and SEC recordkeeping requirements, as well as the applicable content standards in FINRA Rules 2210 and 2220" which require "communications be fair and balanced and prohibit the inclusion of false, misleading, promissory or exaggerated statements or claims".

The CFTC takes a similar position that existing requirements apply where AI is used, including Regulations 23.202, 1.35, 23.602(a) and 166.3 relating to the retention and supervision of communications. The CFTC clarifies in its Staff AI Advisory that "regulated entities must maintain compliance with applicable requirements whether they choose to deploy AI or any other technology, either directly or by a third-party service provider".

Other emerging regulatory guidance includes the European Securities and Markets Authority's public statement on the use of AI in the provision of retail investment services, which provides guidance "to emphasise the imperative to always prioritise clients' best interests". It outlines how AI could " support the drafting of any firm documents/communications (for example: marketing communications including advertisements and social media posts; email/letters to clients)" and the need to transparently disclose the use of AI for client interactions. Additionally, the FCA's AI Update reinforces the need to communicate information in a way that is clear, fair and not misleading in accordance with its Principle 7.

As outlined above, the rules applicable to Gen AI use depend on how a firm uses the content created by AI. The US rules for retaining electronic communications applicable to relevant written AI-generated communications include SEC's Exchange Act Rule 17a-4, and FINRA Rule 4511 which 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." FINRA's Regulatory Notice 17-18 explains that "for record retention purposes, the content of the communication determines what must be retained".

Other applicable record keeping rules include the Investment Advisers Act Rule 204-2 and NFA's Compliance Rule 2-10(a). The applicable FCA rules include SYSC 10A.1.6, in conjunction with the MiFID II requirements under Article 16(7). Additional obligations for supervising relevant AI-generated written electronic communications include NFA Supervision rule 2-9, as well as CIRO rule 3900 and FCA's SYSC 6.1 which set out broad supervisory requirements to detect risks of non-compliance with regulatory obligations.

INTERPRETATIONS OF THE RULES & APPLICATION TO THE USE CASES

To illustrate how the recordkeeping and supervision rules apply in practice to content created using AI assistants, we can consider the scenarios outlined in section 2. These include regulated and non-regulated communications and the compliance approaches and best practices therefore differ accordingly.

EXAMPLE A:

Website support - non-regulated

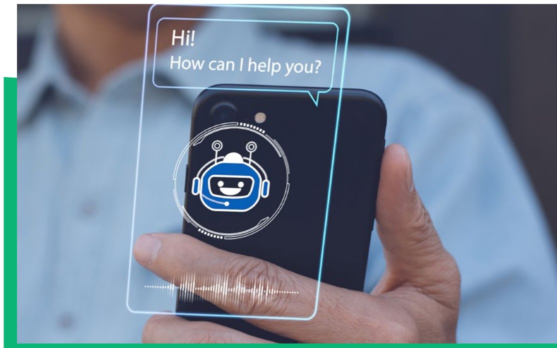
In the first example where the website support team is using Microsoft Copilot to draft responses to incoming queries from investors there is no regulatory requirement to retain the AI-generated messages or or supervise them. This is because the communications relating to office opening times, contact details or where to find information on the website 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:

Individual client meeting - regulated

In scenario B the registered representative is using the AI assistant for Webex to create a summary of the key points discussed in the client meeting, which is shared with the investor by email. Given that the communications with the client relate to the firm's "business as such," it would be required to capture, retain and supervise them. The relevant rules for capturing written communications apply–the SEC's Exchange Act Rule 17a-4 regarding retention as well as 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 relating to the member's investment banking or securities business". These include the written content of the Slido Q&A and polling.

With regards to the meeting summary, the firm needs to ensure that AI-generated communications they distribute or make available to customers comply with applicable rules in line with FINRA's Advertising Regulation FAQs. Based on the guidance in FINRA's FAQs, these AI-generated messages would require a review to confirm that the communications are "fair and balanced" as well as ensuring they do not include "false, misleading, promissory or exaggerated statements or claims" Additionally, the firm would need to retain the summaries alongside the emails, and Q&A and polling content, for at least 3 years to comply with relevant recordkeeping rules.



ABOUT THETA LAKE

Theta Lake's multi-award-winning product suite provides patented compliance and security for modern collaboration platforms, enabling limitless integrations to unify the capture of any UCC platform across all channels. Major integrations include Zoom, RingCentral, Microsoft Teams, Webex by Cisco, Slack, Asana, Movius, Mural, and more. Theta Lake can capture, act as a unified archive connector across modalities for pre-existing archives of record, and/or act as a completely unified archive for all eComms, aComms (voice), vComms (video and images), aiComms (AI tools), and more. In addition to comprehensive capture and archiving, Theta Lake enables unified search and full replay across all modalities and content types including full conversation views across meshed UCC tools and media types. With unified visibility, customers can more successfully implement proactive compliance using patented ML and AI to detect regulatory, privacy, and security risks in communications. Visit us at ThetaLake.com or LinkedIn.