



COMPLIANCE CONSIDERATIONS FOR TRADER VOICE PLATFORMS

SUBJECT

This brief sets out the compliance considerations that financial services firms need to consider when using trader voice tools specifically in relation to the capture, retention, and supervision of electronic communications. It describes the features and capabilities of trader voice platforms and how they are used in practice.

We then outline the applicable regulations in the US and UK for capturing and supervising trader voice communications. Finally, we analyze a couple of use cases for trader voice platforms and how regulatory compliance mandates apply to those scenarios.

HOW TRADER VOICE PLATFORMS ARE USED

Trader voice systems provide fast, secure communications between brokers, traders, and clients. They are used to discuss and execute trades, particularly complex or bespoke transactions that require human judgment and negotiation and where terms must be discussed and agreed in real time. For example, trader voice communications enable critical trades to be negotiated and executed during market stress or volatile conditions. The tools are used alongside electronic trading systems.

Trader voice systems provide multiple features that enable instantaneous connection, and multi-party communication. In addition to traditional dial tone calls, there are open channels enabling continuous communication and information sharing across desks or between counterparties. Intercom and conferencing functions enable internal coordination, while private wires give traders direct access to specific external parties.

To illustrate, what follows are real-world examples of how trader voice 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:

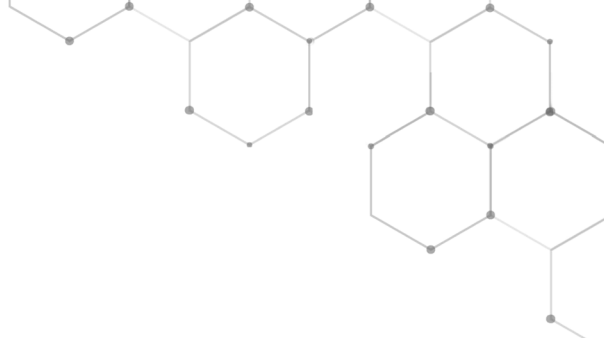
Trading in swaps and derivatives markets - regulated communications

The swaps desk at a CFTC regulated firm uses IPC for its voice trading, providing immediate access to a wide range of key financial counterparties. Dealers are able to share information, make time-sensitive decisions, discuss complex trades and close transactions. The audio communications are recorded by a local on-premise recording solution.

EXAMPLE B:

Investment banking - policy notification on sharing MNPI

AA UK based inter-dealer broker uses Cloud9 to discuss a wide range of services including trade execution of non-standardized and illiquid products, including currencies and commodities. The cloud based capabilities provide traders with continuous interaction and communication with banks, broker-dealers and clients, whether they are in the office, on the go or working remotely. The audio communications are retained in a cloud-based archive.



THE KEY DIGITAL COMMUNICATIONS CAPABILITIES OF TRADER VOICE TOOLS

Understanding the scope of electronic communications capabilities within trader voice is critical for firms to be able to capture and supervise them in accordance with regulatory obligations. The capabilities vary by both the tool and the features deployed by organizations.

Trader voice systems have traditionally been delivered through on-premise or hosted infrastructure from vendors such as BT, IPC, and Speakerbus. These on-premises systems are supported by local recording platforms such as NICE, Verint, and RedBox to meet regulatory requirements for recordkeeping, surveillance, and trade reconstruction. In practice, legacy on-premise trader voice systems present limitations. These include the ongoing costs of hardware maintenance, lack of flexibility for remote and distributed users, business continuity risks due to reliance on local telephony infrastructure, and challenges in consistently applying compliance controls or unifying data to achieve a complete view of communications.

Cloud native capabilities play an increasingly vital role in trader voice communications, with the evolution of cloud-based platforms such as Cloud9, IPC Connexus Unigy and BT providing trader voice capabilities through a software-as-a-service (SaaS) model. These cloud-based tools replicate traditional functionality and eliminate the need for on-premise infrastructure, as well as providing access for remote traders. Communications can be captured and ingested into cloud-based compliance tools for archiving and surveillance to meet regulatory obligations.

Trading turrets have traditionally been the central hardware for enabling communications on trading floors. The turret allows a trader to visualize and prioritize multiple incoming calls and quickly place outgoing calls. They provide multi-channel capacity with support for 'hoots' or 'shout downs' which describe the permanent open channel between two or more parties where any user can speak at any time and be heard over the system immediately. There are also intercom capabilities which facilitate quick and efficient communication within trading floors, helping traders coordinate their activities, share information, and make time-sensitive decisions. Cloud-based platforms such as Cloud9, IPC Connexus Unigy and BT provide a fully cloud-based alternative to traditional turret devices, with software-based capabilities such as 'soft turrets' which do not require physical hardware.

Private lines, including manual and automatic ring downs, provide direct and instant connections to external counterparties. Cloud-based platforms extend trader voice to remote and mobile environments, maintaining access to specialist communication features with phone numbers enabled by cloud providers like Zoom Phone, Cisco and Avaya.

Audio communications records can be linked to trade and execution data to reconstruct a full audit trail of trading that supports surveillance, compliance monitoring, and regulatory reporting. Using APIs to consolidate data in surveillance platforms allows supervisors to contextualize why a trade was made, verify order intent, and resolve disputes.

KEY REGULATIONS THAT APPLY TO THE CAPTURE AND SUPERVISION OF TRADER VOICE COMMUNICATIONS

The Regulatory frameworks governing trader voice communication are designed to maintain transparency, integrity, and fair practices within financial markets.

The legislation includes the US Dodd-Frank Wall Street Reform and Consumer Protection Act, or the 'Dodd-Frank Act' which includes comprehensive rules for swaps dealers. The rules include requirements to meet business conduct standards to promote market integrity, and monitor trading alongside recordkeeping and reporting requirements which enable the CFTC to have oversight of the markets.

The requirements for retaining voice calls include CFTC Regulation 1.35(a)(1)(iii) as well as the equivalent requirements under NFA's Compliance Rule 2-10(a). These require brokers "to keep all oral communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices that lead to the execution of a transaction in a commodity interest and any related cash or forward transaction". Regulation 1.31(b)(2) requires oral communications to be retained "for a period of not less than one year from the date of the communication".

The supervisory obligations for oversight of trader voice communications include CFTC Regulation 23.602(a) and 166.3 together with NFA Rule Supervision rule 2-9. The rules require that each swap dealer "establish and maintain a system to supervise, and shall diligently supervise, all activities relating to its business...".

The CFTC has stated that it "will continuously pursue swap dealers that fail to meet their recording obligations" in response to a case in which a firm was fined for violating rules 1.31(b)(2) and 23.202(a)(1). The firm failed to retain a significant number of audio calls made using a soft turret which allowed employees to make both handset and speaker calls via their computer. In another example the CFTC fined a firm where deficiencies in a firm's audio recording tools led to a "failure to make or keep approximately 3,000 audio recordings."

In the UK, the applicable rules for retaining voice communications include the FCA's SYSC 10A.1.6, in conjunction with the requirements of the Markets in Financial Instruments Directive II for 'MiFID II' business. Article 16(7) of MiFID II requires the recording of audio conversations involving transactions when dealing on own account or in the provision of client order services that relate to the reception, transmission and execution of client orders. ESMA's Questions and Answers on MiFID II clarifies that the obligation includes both external and internal telephone conversations that "are intended to result in transactions" or "relate to" orders. It also confirms that firms are expected to record all relevant telephone conversations from start to end because it is impossible to appreciate upfront whether the conversation will lead to the conclusion of a transaction.

In terms of supervision, Q3 of the Q&A describes how "the monitoring of records of relevant telephone conversations and electronic communications is necessary to assist the firm in ensuring that it is meeting the recording requirements and also adhering to its wider regulatory obligations under MiFID II". This includes "the deterrence and detection of market abuse".

This is in addition to Article 16(2) of the Market Abuse Regulation (MAR) that requires persons professionally arranging or executing transactions to establish arrangements, systems and procedures to detect and report potential market abuse. FCA's SYSC 6.1 also sets out broad supervisory requirements to detect risks of non-compliance with regulatory obligations.

Firms are required to keep records produced under Article 16(7) of MiFID II for five years, with the extension to seven years, if requested by the Financial Conduct Authority.



INTERPRETATIONS OF THE RULES AND APPLICATION TO THE USE CASES

To illustrate how the recordkeeping and supervision rules apply in practice we can consider the use cases outlined in section 2.

EXAMPLE A:

Trading in swaps and derivatives markets - regulated communications

The swaps desk at a CFTC regulated firm uses IPC for its voice trading, providing immediate access to a wide range of key financial counterparties to share information and discuss complex trades and close transactions. The audio communications are recorded by a local on-premise recording solution.

In this example the firm is required to make and keep recordings of all the audio communications of its dealers and staff that contain oral communications leading to the execution of swaps and related cash and forward transactions. This is in accordance with CFTC Regulations 23.202 and 1.35 to retain “records of all oral and written communications provided or received concerning quotes, solicitations, bids, offers, instructions, trading, and prices” whether “communicated by telephone, voicemail, facsimile, instant messaging, chat rooms, electronic mail, mobile device, or other digital or electronic media.”

The firm will need to retain the records of the oral communications for at least one year from the date of the communication. The swap dealer will also need to maintain a system to supervise and diligently supervise all activities relating to its business in line with Regulation 23.602(a) and 166.3.

EXAMPLE B:

Investment banking - policy notification on sharing MNPI

In example B the UK based inter-dealer broker uses Cloud9 to provide a wide range of services including trade execution of non-standardized and illiquid products, including currencies and commodities. Traders in the office, on the go or working remotely communicate with banks, broker-dealers and trading firms, with audio communications retained in a cloud-based archive.

In accordance with Article 16(7) of MiFID II the firm is required to record and retain any audio conversations which are carried out with a view to reach an agreement to execute swap transactions. This includes conversations regarding prices, solicitations, bids, offers, indications of interest and requests for quotes even if those communications do not lead to the conclusion of such an agreement. This includes recording all internal telephone calls or electronic communications regarding the handling of orders and transactions including research and sales desks, and traders working remotely or using mobile devices. Market Watch 66 reiterates that the expectations for firms on recording telephone conversations remain the same when homeworking arrangements are in place. However, the Questions and Answers on MiFID II clarifies that the regulator would not ordinarily expect persons carrying on back-office functions to be captured by the requirements.

In line with Article 25(1) of UK MiFIR, the firm will need to “keep at disposal of the FCA the relevant data relating to all orders and transactions in financial instruments they have carried out, whether on their own account or on behalf of a client, for 5 years”. The firm will need to maintain the capability to increase the retention period to 7 years at the request of the regulator, in the event of an investigation for example.



The firm's approach to monitoring the recording requirements needs to be appropriate to the nature, size and complexity of its business. The monitoring should at least aim to assess compliance with recording procedures in place, assess the adequacy of such procedures, ensure that the records are readily accessible; and ensure that the records accurately reconstruct the audit trail of a transaction. In accordance with the Market Abuse Regulation (MAR), the firm will need to report suspicious transactions and orders via a Suspicious Transaction and Order Report to identify and address potential market abuse.

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