COMPLIANCE CONSIDERATIONS FOR PROJECT & WORKSTREAM MANAGEMENT PLATFORMS

THETALAKE

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SUBJECT

This brief sets out the compliance considerations that financial services firms need to consider when using project and workstream management platforms, specifically in relation to the capture, retention, and supervision of electronic communications. It describes the features and capabilities of the project and workstream management tools which create electronic 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 communications. Finally, we analyze a few use cases for project and workstream management tools and how regulatory compliance mandates apply to those scenarios.

HOW PROJECT & WORKSTREAM MANAGEMENT TOOLS ARE USED

Project and workstream management platforms enable teams to plan, track, and manage their work in a collaborative and organized space, ensuring that projects and tasks are delivered efficiently and on time. Examples of tools include Asana, Monday.com, Wrike, Trello and Smartstreet.

Project tasks are listed within the platforms where they can be organized and prioritized. This includes setting deadlines and assigning tasks to team members to help them stay on top of deliverables and responsibilities. By centralizing communication, the tools enable team members across offices and regions, to share updates, files, and feedback. This facilitates the tracking of project-related discussions and team coordination, and reduces reliance on separate email and other communication threads for updates.

Project tracking is supported through calendars and visual features including dashboards, Gantt charts and Kanban boards. Stakeholders are able to view and monitor progress in real time, and make necessary resource adjustments to meet deadlines. Automation features are available for routine tasks, such as sending status notifications for completed activities. The tools can also be integrated with other platforms like Slack, Google Drive, Zoom, and Salesforce allowing teams to connect their workflows with other collaboration, sales and customer management processes and platforms.

To illustrate, these are real-world examples of how workstream and project management tools 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.

A. Rebranding exercise: non-regulated communications

Organization A uses Monday.com to manage its visual rebranding efforts across all marketing channels. Teams manage everything from office signage to firm logos in dedicated boards where employees collaborate directly within the platform, using comments and file attachments to provide updates, discuss issues, and share relevant documents. Notifications keep project stakeholders updated on progress.

B. Preparing for an acquisition: regulated and non-regulated communications

In preparation for an acquisition, organization B is using Trello to streamline the integration of an acquired entity. Tasks are organized by function including HR, IT and client retention, allowing team members to communicate updates, attach relevant documents like NDAs, client contact information, and track progress in one place. The bank sets the board as ‘private’, sharing it only with essential team members and third parties, including external legal advisors.

C. Investment portfolio management: regulated communications

A portfolio management team at an investment firm uses Asana to track the review and rebalancing of client investment portfolios on a quarterly basis. The portfolio management team assigns tasks to individual analysts for reviewing each client's portfolio. Team members update the status of each portfolio's review, adding performance reports and customer communications with any recommended changes to asset allocations. Managers can review progress in real time.

THE KEY DIGITAL COMMUNICATIONS CAPABILITIES OF PROJECT & WORKSTREAM MANAGEMENT TOOLS

Understanding the scope of electronic communications within project and workstream management tools is critical for firms to be able to capture and supervise them in accordance with regulatory obligations. The capabilities are continuously evolving and vary by both the project and workstream management tool and the features enabled by organizations.

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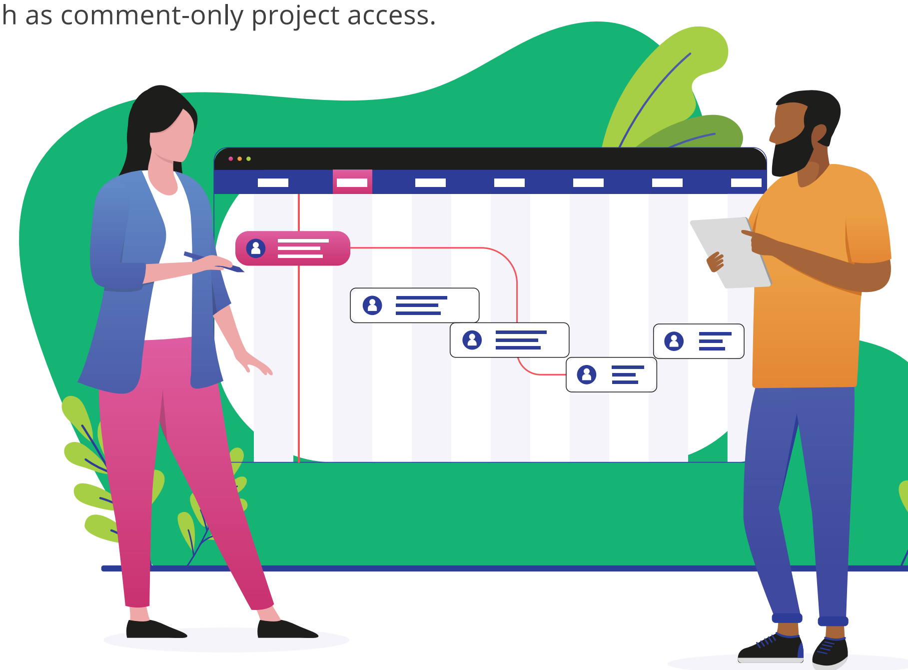
A core feature of the tools is the ability for users to add comments to tasks, where they can provide updates, feedback, or request information. Comments can include file attachments such as PDFs, spreadsheets or images as well as links to files or websites. Users can respond with a thumbs-up reaction for quick acknowledgment.

The tools allow for updates on task status such as 'in-progress' or 'completed' and send notifications to collaborators of changes in assignments, deadlines, or project status. Users can also tag team members with "@" mentions to notify them about specific tasks, comments, or updates, ensuring that the right people are alerted for action. External collaborators, such as clients or contractors, can be included with tailored or restricted permissions such as comment-only project access.

Integration with platforms like Slack, email, or Microsoft Teams enables task update notifications to be sent across different platforms. Email extensions allow users to create tasks directly from emails in their inbox.

High-level project summaries, visual reports, and dashboards keep team leaders and stakeholders informed. Views like calendars, timelines, Gantt charts, and boards provide visualizations of project status and task progression.



KEY REGULATIONS THAT APPLY TO THE CAPTURE AND SUPERVISION OF COMMUNICATIONS WITHIN PROJECT & WORKSTREAM MANAGEMENT TOOLS

The requirements for capturing and supervising electronic communications, including those that may be exchanged within project management and workstream tools, are set out by global regulators. These include rules from the Security & Exchange Commission (SEC), 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." FINRA's 2024 Annual Regulatory Oversight Report reemphasized this point specifically calling out "emails, instant messages, text messages, chat messages, interactive blogs" as business communications that would trigger recordkeeping requirements. FINRA's Regulatory Notice 17-18 explains that the content of communications determines what must be retained.

Links, images and reactions that are added to written communications within the tools provide important contextual information and meaning, as seen in recent legal cases. For example in Canada, the King's Bench for Saskatchewan ruled that an "informed objective bystander would understand" that a thumbs-up emoji can represent a signature agreement to a contract. The Southern District of New York found that "the "rocket ship" emoji, "stock chart" emoji, and "money bags" emoji objectively mean one thing: a financial return on investment." despite a social media post not including the word "profit".

Other applicable 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., and NFA Compliance Rule 2-10(a) . The applicable FCA rules include SYSC 10A.1.6, in conjunction with the requirements for MiFID II business.

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"

Other 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

To illustrate how the recordkeeping and supervision rules apply in practice we can consider the use cases outlined in section 2. These include both regulated and non-regulated business activity, and the compliance approaches and best practices therefore differ accordingly.

A. Rebranding exercise: non-regulated

In the first scenario where organization A is using Monday.com to manage its rebranding efforts across marketing channels, there is no regulatory requirement to retain or proactively supervise the communications between team members within the platform. This is because the communications between non-regulated marketing team members, including comments, updates and file sharing, do not relate to its “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.”

B. Preparing for an acquisition: regulated and non-regulated

In scenario B where the organization is preparing for an acquisition, the communications within Trello include material non-public information in relation to the business as well as confidential information relating to its investment customers. The ‘private’ workspace is shared with essential team members from IT, HR and investment banking as well as external legal advisors.

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 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”.

Given the different types of employees interacting and accessing market sensitive information in this scenario, capturing all comments related to the project, including links, attachments and contextual information like reactions would be advisable. In the event that a compliance review or regulatory investigation is undertaken about the acquisition, then the full conversation and context of interactions between participants would provide a complete perspective and audit trail of events.

C. Investment portfolio management and reviews: regulated communications

The use of Asana in scenario C enables the investment firm to track the performance and rebalancing of client investment portfolios on a quarterly basis. With review tasks assigned to individual advisors, the comments and updates relate to progress of reviews and recommendations given to customers. With managers’ overseeing progress in real time, they can respond to queries about investment advice. The internal links and files attached include copies of relevant documentation sent to customers.

In accordance with SEC’s Exchange Act Rule 17a-4, and FINRA Rule 4511, the investment firm must retain records of communications related to their “business as such”, the application of the requirement being determined by the content of the communication. As the internal communications in this scenario relate to individual customers’ investment portfolio reviews, the content, including any attachments, must be captured and retained to meet the firm’s regulatory obligations.