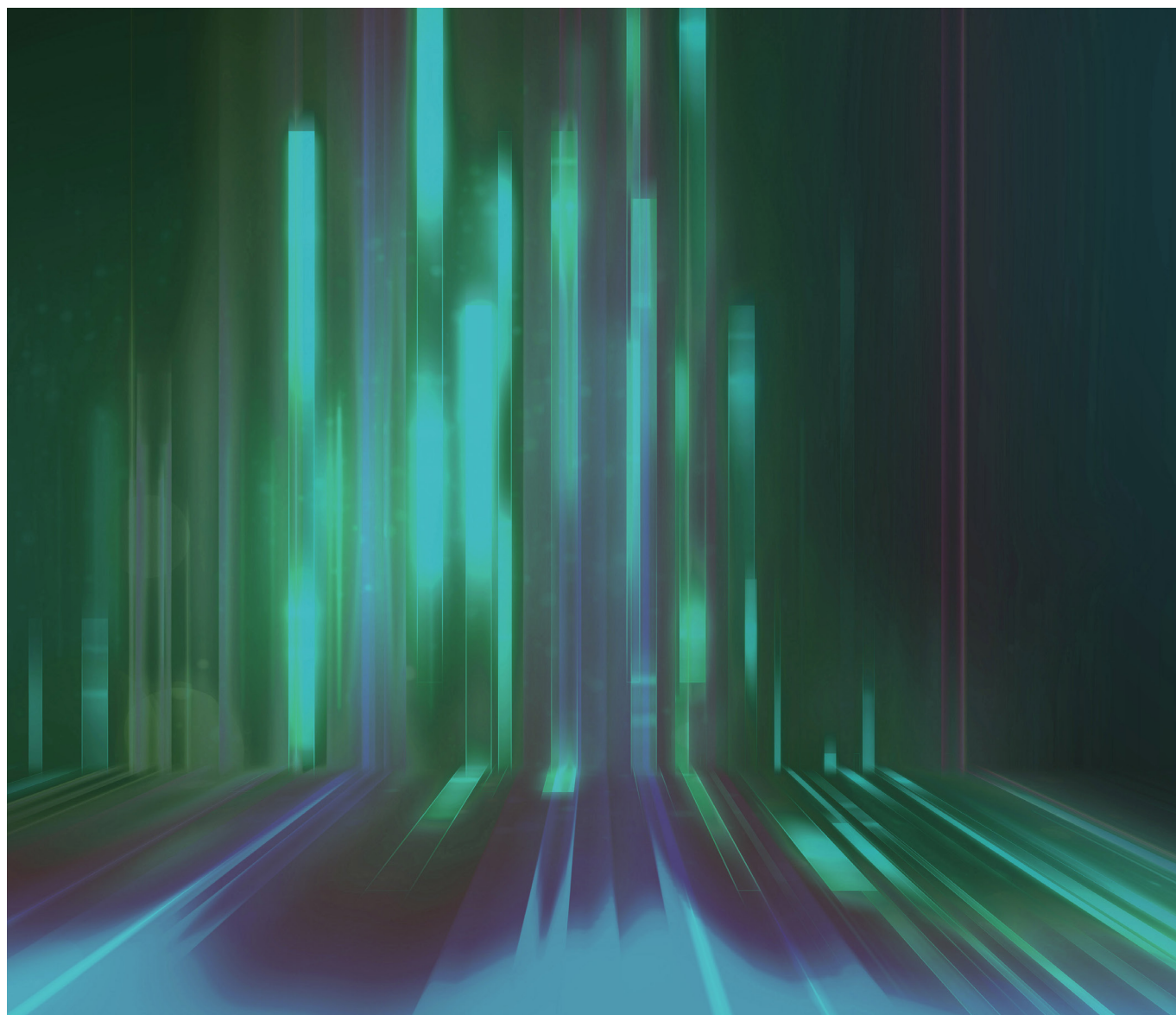


# The Future of the Compliance Control Environment

November 2020



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**November 2020**

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## Foreword

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In 2018, AFME published a paper in collaboration with EY on the ‘Scope and Evolution of the Compliance Function’.<sup>1</sup> It identified that the availability of more complex data would allow Compliance to adopt different ways of managing risks, for example, anticipating or predicting risk events more proactively. This would be likely to result in broader demands from Compliance’s stakeholders, both within and outside the firm. Alongside these, it was anticipated that there would be further structural changes across the 3 Lines of Defence (LOD), driven in part by operational efficiency and cost effectiveness, as well as heightened regulatory expectations.

While this transformation has been taking place to varying degrees, the disruption to the capital markets industry caused by COVID-19 has resulted in immediate and fundamental changes to AFME’s Members, e.g. large-scale remote working and accelerated developments in the use of technology. The lessons learned during the 2020 pandemic period are likely to inform new ways of working, which will undoubtedly lead to a more fragmented workforce going forward and thus the need for greater supervision and surveillance techniques, including the use of a broader set of data points combined with enhanced analytical tools.

This is aligned with increasing regulatory expectations, as well as the need for a more predictive, and forward-looking approach to identify emerging conduct and regulatory risks. Some firms are creating increased synergies, or even, in certain cases, unification of 2LOD functions towards a more holistic and collective view of risk. This, in turn, is leading to data centralisation and an emerging focus on a single view of risk from which the 2LOD functions can draw, along with the need for broader and richer data sets.

In parallel, economic conditions have remained challenging for the banking industry. This has continued to accelerate the ongoing structural changes that are occurring within many member firms; as they seek to establish a strategy that embraces technology whilst also driving towards a more cost-efficient model. A key challenge for AFME Members, and in particular for Compliance, will be how to ensure that the control environment continues to be robust, and can evolve to address new and developing risks in these conditions.

It is with this background that this latest paper has been produced to reflect the views of Compliance Committee member firms as well as several European regulators; where we consider the strategic direction of the Compliance Function and the drivers of that journey.

AFME represents European wholesale firms and this paper is specifically targeted at its Members. Although much of what follows is relevant across the industry, global firms will have to take account of differences in local law and regulation, as well as the specifics of their unique business model, in planning and executing their strategy. This paper is limited to reflecting current practice and implications for Compliance; it is not intended to be an exhaustive list of required changes and the key points covered in this paper may not apply to all firms.

We are grateful to all those who have participated in this paper, including Member firms and European regulators.



**James Kemp**  
Managing Director  
GFMA and AFME

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<sup>1</sup> <https://www.afme.eu/reports/publications/details/afme-ey-the-scope-and-evolution-of-compliance>

## Executive Summary

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The evolution of Compliance is being driven by a number of competing factors; including increased regulatory expectations, structural change and cost reduction. Inevitably, the remote working environment caused by the COVID-19 pandemic is also proving to be a key driver in this change process, bringing both challenges and opportunities. The AFME Members interviewed for this paper consistently referenced four key themes that are driving the development of the Compliance function:

### Enhancing data and analytical tools

All participants emphasised the volume of data now available to Compliance and the need to develop better analytical tools to identify forward-looking regulatory and conduct issues. In doing so, many firms felt that this could be a solution to the issue of greater coverage of regulatory issues at a reduced cost. The three main steps required to address the data challenge are firstly the need to define the key risk outcomes that the firm wishes to identify; secondly to reduce the noise within the data to a manageable set of red flags; and finally to ensure that Compliance staff are appropriately skilled to provide robust interpretation of the data.

### Surveillance, testing and monitoring

Banks' surveillance and testing capabilities are now seen as central to their understanding of the outcome and culture of their own trading activities and information flows, as well as those of their clients. The significant increase of alerts in surveillance systems during the early stage of the 2020 pandemic has caused firms and regulators to reconsider the capacity of their systems to respond to stress scenarios. The remote environment has also prompted Compliance functions to develop testing programmes over 1LOD trading and information flow supervision; to assess the oversight and judgements being exercised over the business.

### Conduct, culture and well-being

The recent pandemic has caused firms to assess the human impact of both the societal challenge on staff, as well as the way in which the positive culture of the firm can be maintained, or in the case of new joiners, developed in their teams. Many now see the wellbeing of staff and the ability to train and support teams in each of the 3 LODs as one of the most important and, as yet, less well understood aspects of the market changes.

### Remote working and location strategy

Finally, the current remote working environment is expected to drive long-term change, with global firms seeing benefits to operational efficiency and staff wishing to embrace a more flexible working environment. At the same time, regulators' expectations are that office and working from home arrangements should be equivalent for all firms.

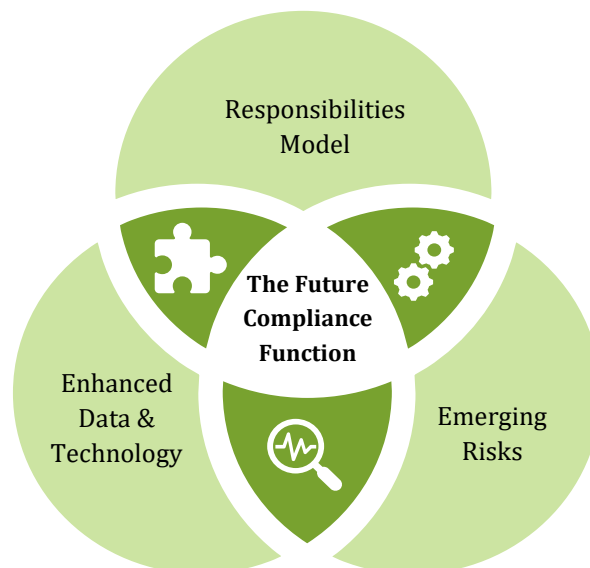
Whilst the next stage of Compliance evolution may provide challenges, it also points towards opportunities to develop a more focused Compliance function, which is integrated in a front-to-back control system and with staff able to operate in a more globally connected, yet personally flexible, environment.

## Background

The Compliance function in wholesale markets is undergoing a period of radical change as banks evolve their strategic objectives and regulators increase their expectations. The factors that are driving this change include the expectation of a more forward-looking view of emerging risks, the need to analyse a growing data set to better understand behaviours and outcomes, as well as a drive for operational and cost efficiency across the 1LOD and 2LOD control environment.

The remote working environment that banks have had to adopt as a result of the COVID-19 pandemic has accelerated this process, causing Compliance functions to deal with heightened risks and reduced visibility of day-to-day operations, whilst adapting to new ways of working. At the same time, the increased market volatility at the outset of the pandemic lockdown in Q1 of 2020 saw trading levels rise to such an extent that control areas such as surveillance were facing alerts at multiples of their normal levels.

Overall, Compliance functions have adapted very well in a short timeframe to exceptional market and societal conditions. In fact, the apparent lack of market failures or significant regulatory issues during this period might lead to the conclusion that Compliance functions can continue to maintain a fully sustainable model on the current basis. However, the feedback from member firms who have contributed to this paper suggests that the real impacts from the pandemic period may yet emerge and that Compliance functions have operated effectively, but on a relatively tactical and risk-based approach thus far. Hence, the lack of evidence of systemic failures to date should not necessarily be taken as indicative of potential issues not coming to light over the longer term.



At the time of writing, the majority of firms have been able to adapt their Compliance functions to effectively manage re-prioritised regulatory risks. However, it should be noted that most functions have had to increase their workload - in some cases by up to a third - to maintain a somewhat reduced, albeit risk-based, capability. This risk prioritisation is further compounded by the continuous cost pressures facing Compliance, as well as the fact that Compliance's roles and responsibilities may be growing both geographically, due to the move to multiple location strategies via Brexit, and in coverage, due to the increasing volume and breadth of relevant risks. Managing the competing forces of cost reduction, whilst increasing scope and coverage, is a key challenge for Member firms, and COVID-19 may prove to be a catalyst in identifying solutions to these challenges.

### Cost and structural change

Historically, the role of Compliance has been shaped by some guiding principles, including independence and the need to review and challenge the business. Compliance has also been seen as an important adviser to the business, both by banks and regulators, in interpreting the spirit as well as the letter of the law - especially in principle-based environments. The next phase of development may cause firms to take differing positions in their expectations of the Compliance function. However, whilst the split between 1LOD and 2LOD will differ by firm, the decision of what to put where should be deliberate, and should be driven by 'who should do this', rather than 'who is prepared to do this'. Crucially, the route to deciding ownership needs to be clear, as risks and issues will undoubtedly arise where there is not absolute clarity on where ownership might naturally sit, based on existing roles and responsibilities.

For some banks' Compliance functions, the role of testing, rule interpretation and advising on the application of regulations will continue, but will be expanded to connect with other second line functions. In some instances, first line control teams may move towards a more connected 'non-financial risk' environment. The objectives will be to 'join the dots' by sharing data and creating a single view of risk through the lens of different risk functions; whilst reducing duplication at the same time. Those firms that are already on this journey have now established common tools (such as a single risk taxonomy) to create better connectivity.

Some member firms noted that a significant number of recent Compliance issues have been driven by operational failures and/or poor connectivity with change management programmes, reinforcing the idea that further alignment of some functions could have a material impact in reducing the volume of regulatory and compliance risks and issues.

Alternatively, other banks will direct the efforts of Compliance to testing, monitoring and surveillance (albeit that these titles may have slightly different interpretations, depending upon the organisation). The objectives here will be to focus upon the independent challenge aspect of Compliance across a range of testing disciplines, from thematic to rule-specific.

In future, regulators and management are both likely to want more for less, with greater coverage expected in areas such as surveillance but at reduced cost. To achieve this, most firms expect automation and offshoring to be key tools in managing that transition, with the pandemic experience acting as an accelerator to firms harnessing the power of remote staff working, whilst responding to regulators' calls for wider coverage of trading and business activities in this 'new normal'.

## Enhancing Data and Analytical Tools

A consistent theme amongst Members is the need for Compliance to develop enhanced data analytics over the significant amount of data available from the business and 1LOD control functions. This seems to be the key to addressing several pressing issues, as well as the opportunity to develop richer data which has been generated during the recent pandemic. The first of these issues is the expectation that Compliance should provide greater coverage in its testing capabilities, as well as a more holistic view of regulatory and conduct outcomes thematically across the business – which comes from both management and regulators. At the same time, there is a clear need for cost reduction; the feedback from members suggests that automation and/or offshoring remain the most likely tools to achieve these competing objectives of ‘doing more for less’.

Given the data-rich environment in which Compliance increasingly operates, and the importance of utilising data in the most effective way given the rise in remote working, most Members believe that their key priorities remain: improved data quality, the identification of better data reference points and the development of analytical tools that enable them to interpret the significant volume of data available to them.

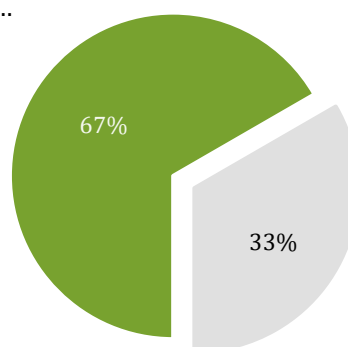
A number of member firms are continuing to enhance their data infrastructure by investing in data lakes that can be accessed by different parts of the business, or a centralised data function, in order to reduce duplication of effort. On the other hand, it was noted that this represents additional cost in developing usable data visualisation tools and advanced reporting, as well as the cost of training or hiring staff to help identify, organise and share the data points in a manageable format. Furthermore, one regulator noted that it is simply not enough to provide the summarised data to management: they have to be guided around how to interpret and act upon what is presented. In this respect, the ability of Compliance to provide tools for interpretation, such as comparative (e.g. year-on-year) data and benchmarking, will be key.

Another regulator cautioned that firms can no longer ‘leave it to IT’ when the data, systems or subjects get too technical. Members are approaching this technical challenge in different ways – some hiring technical skills directly into the function, others strengthening links with their Technology functions to ‘tap into’ their expertise.

An extension of the ‘skills challenge’ is the requirement to understand and be able to interrogate the way in which 1LOD uses technology in their sales and trading activities. For example, for Compliance to fully supervise the management of a trading algorithm they need to be able to understand what is happening within the algorithm, in order to make sure that it is market ready and safe, whilst being able to build a control framework around it.

Conversely, some member firms have indicated that it is not the ability to utilise and leverage data in the right way that is important for Compliance, rather it is the ability to think like a trader and have deeper insights as to what is going through the minds of the Front Office which is more beneficial. This has recently been reflected by FCA’s latest feedback on their Conduct Five Questions.<sup>2</sup> Business knowledge and acumen have also been held up as key skills for the Compliance Officer. For example, this will be important for the upcoming IBOR transition where there will be a significant requirement to fully understand the P&L impact of rate changes, in order to make sure that the right outcome is being obtained for all clients.

When asked whether increased data quality is needed for Compliance to effectively operate in the “new normal”, two-thirds of member firms agreed, citing an increased need for meta-data on individual staff members and better MI overall to enable advanced surveillance techniques ...



... with others indicating that overcoming legacy systems’ shortcomings is not a quick fix, and Compliance must adapt existing testing to better cope with recent changes.

<sup>2</sup> <https://www.fca.org.uk/publication/market-studies/5-conduct-questions-industry-feedback-2019-20.pdf>

In order to be able to conduct this role effectively, Compliance will need access to better data. Member firms were consistent in setting out the need to better consolidate and coordinate the various data sets across the firm in order to access richer data attributes (e.g. gaining better intelligence through combining surveillance data and market data) and that COVID-19 is acting as a catalyst to improve data sources as reliance upon them increases. Some Members pointed to COVID-19 as an opportunity, where firms have never before had access to such a rich and wide-ranging data set. Accelerating the build out of a data-led approach would enable Compliance to quickly oversee any 1LOD control breaches and to identify patterns related to wider Compliance breaches or possible misconduct.

**73%**

of interviewed member firms indicated that future Compliance teams will need expertise in data analysis, and be able to clearly articulate outputs to business management

## Surveillance, Testing and Monitoring

The majority of AFME Members, and indeed most financial services firms worldwide, had to rapidly transition from working in centralised and well-structured locations to a model that is physically fragmented and independent of the conventional control and surveillance methods. Crucially, the nature of the required Compliance work was broadly consistent with pre-COVID-19 responsibilities; however, the new ways in which front office staff have communicated, traded and interacted with clients, and each other, through the pandemic has presented surveillance teams with the challenge of maintaining an effective monitoring protocol. At a time when social distancing is dominating the headlines, it is also crucial to consider the importance of managers staying virtually connected with employees, as this is a vital step not only for providing support, but also for the supervision of staff by way of monitoring risk indicators in place of face-to-face contact. As firms continue to advance with remote working capabilities, there is now an expectation that levels of surveillance should be no different to those pre-COVID-19. This has been reinforced by the FCA in a recent speech delivered by Julia Hoggett – *“the expectation is that going forward, office and working from home arrangements should be equivalent – this is not a market for information that we wish to see be arbitrated”*.<sup>3</sup>

At the start of the pandemic, some European regulators were quick to respond by temporarily relaxing surveillance reporting requirements, yet all Members who we interviewed noted that surveillance remained the highest priority control in order to mitigate risk. Overall, despite alert volumes increasing exponentially during the peak of COVID-19, most Members remained comfortable with their surveillance solutions and capability throughout this period.

In contrast, with alert volumes up more than 300%, some participants indicated that detailed review time was directed only to high-risk alerts, posing the question of whether firms could take advantage of this period to create a more efficient and effective solution. It has been debated for some time, with commonly less than 0.01% of alerts officially recorded as ‘suspicious transactions’, whether there is potential to review and sharpen the focus of overall surveillance arrangements, introducing a more risk-based approach.

In recent years a partially offshored surveillance model has become more common, with an overwhelming number of firms using outsourced teams to review lower level alerts. Cost remains the key driver to offshoring and outsourcing; and our interviewees reiterated that there remains significant pressure to find increased operational effectiveness in this area, as well as cost efficiencies to maintain a value-added service to the wider business, which of course can potentially be achieved through offshoring. That said, some Members and regulators pointed to the continued inherent risk to offshoring and outsourcing – namely an external party and / or a remote team

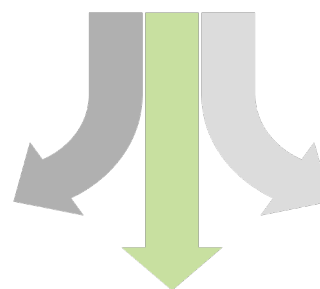
# 93%

of interviewed member firms indicated an increase in surveillance alerts due to market volatility and increased volumes of e-comms

### Remote working and COVID-19 have caused some firms to re-evaluate their testing regimes

Interviewed member firms detailed three main approaches to optimising testing during the pandemic ...

Repurpose fixed testing capacity to conduct monitoring on emergent risks



Block accept testing batches, with the expectation that these batches will need to be reviewed in the future

Maintain existing testing policies, with the view that maintaining policy will be viewed positively by the regulator should issues arise

Regulators indicated that they expect member firms to maintain the level of control demonstrated prior to COVID-19, and that novel ways to achieve Compliance must be put in place in the remote working world.

<sup>3</sup> <https://www.fca.org.uk/news/speeches/market-abuse-coronavirus>

directly managing elements of the Compliance function. One regulator noted particular interest in this topic and, in their view, it is essential that Compliance has a robust oversight model to enable adequate supervision and visibility of outsourced or offshored activities, which may span multiple legal entities and jurisdictions. Another regulator expressed concerns from a slightly different angle, noting that the loss of proximity to the business line being tested can result in a loss of specialist knowledge in that area. A number of Members expressed efficiency concerns with offshoring, saying that ideally the offshore team should act as a virtually seamless extension of the onshore team; however, this takes extensive planning and ongoing management, and if not executed correctly it could actually lead to inefficiencies across the entire team.

It is clear that the new working environment has presented a challenge in 2020, but that in the main, firms have risen to the challenge. As the initial shock from COVID-19 has now diminished, although not gone away, regulators are indicating that firms are now being expected to update their policies and put in place rigorous oversight to reflect the new working environment – *“the regulatory obligations have not changed, the “how” may be changing, but the “what” remains the same.”*<sup>4</sup>

### Enhanced surveillance techniques

The surge in remote working arising from COVID-19 has presented the industry with the huge task of monitoring an array of ‘old’ and ‘new’ communication channels from afar. Conversations which would have taken place in person have moved to new channels, meaning a significant rise for many Members in call and chat system volumes. Similarly, the use of third-party video applications, such as Skype and Microsoft Teams, present firms with the added hurdle of monitoring verbal and physical body language in a completely new way. There is wide recognition that use of non-company channels for business communications remains unacceptable and Compliance is challenged with preventing staff from utilising these methods when working remotely.<sup>5</sup> Further, Compliance is looking to be involved in understanding the architecture behind new communication methods and being part of finding an adequate solution to performing surveillance on them.

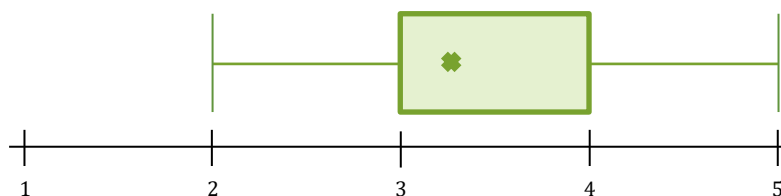
For those communication methods which are registered, Members indicated that their capacity to review both video calling and mobile phone calling more generally is limited to recording of calls only (in most cases no recording of the audio or video elements of video calling is undertaken), which may be sampled retrospectively when / if a trade surveillance flag is applied.

Automation and machine learning may provide a solution, by comparing staff speech with keyword lexicons, much in the way as systems do already with emails. It has been noted that this solution is being explored actively by Members, particularly in the 1LOD in order to accelerate response time to surveillance alerts due to increased understanding of market conditions and alert context. However, one Member has indicated concern that the implementation of these systems may cause undue regulatory attention in the event that the technical roll-out is not 100% successful (e.g. no false negatives). It is clear, therefore, that the deployment and management of automated systems should be subjected to sufficient challenge by appropriately skilled Compliance officers, particularly as Members note that initial attempts at advanced surveillance systems may have initial teething problems.

Ultimately, Members’ efforts to further improve surveillance capabilities should be viewed positively by regulators, as implementation of new systems will demonstrate consideration of recent guidance from the

#### Monitoring and testing volumes have increased or been amended as a result of remote working

Interviewed Members indicated broad agreement that monitoring and testing volumes have increased as a result of remote working and resultant increases in e-comms causing more frequent lexicon matches ...



... although a number contest that the increase in volumes was not driven by remote working, rather increases were driven entirely by market volatility.

#### Key:

1 = Strongly disagree  
5 = Strongly agree

★ Average response

<sup>4</sup> Ibid.

<sup>5</sup> An interesting challenge was raised by some firms in relation to the ban on such communication channels, namely that staff may end up using permitted channels for personal conversations. This has the potential to raise data privacy issues when surveillance is performed.

FCA indicating that the manner by which Market Abuse offences are subject to surveillance should be updated for the new working arrangements of staff.<sup>6</sup>

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<sup>6</sup> <https://www.fca.org.uk/news/speeches/market-abuse-coronavirus>

## Conduct, Culture and Wellbeing

Members and regulators contributing to this paper have also spoken about the need to recognise the human impact of remote working. This environment will have created a better work-life balance for some, which will cause many people to want to maintain some level of working from home.

However, for many, this new way of working can prove isolating and intense, with staff finding difficulty in creating a separation between their work and home environments. The effect on individual wellbeing has proved problematic to assess. There are many examples of Members finding creative ways to connect their teams. Nevertheless, the reduced 'on the job' training and intra-day face-to-face oversight creates heightened risk and will be a key area of focus in the short-term.

With the increased market activity during COVID-19, combined with remote working, there could be a greater risk of potential misconduct, whether with intent or as a consequence of the challenges of a remote environment. Members stated that they were comfortable with the actions that they took during the early days of the pandemic to help mitigate conduct risks, but there is an understanding that there is still more to do in this area to mitigate the risk of potential misconduct by employees, in particular with the emergence of the 'new normal'.

### Sustaining conduct and culture longer-term

Previously, Compliance Officers in the business advisory team would rely partly on face-to-face contact and the reading of body language to maintain cultural expectations within the front office and to identify potential misconduct. However, given the sustained remote working arrangements, there may be longer term ramifications as to how the right culture is maintained within the 'virtual' firm and how misconduct is identified without the physical oversight of Compliance Officers, and management, sitting at trading desks.

Regulators have also highlighted concerns about how firms maintain culture and connectivity with their staff members with a lack of face-to-face contact, as well as sustainability of remote working for employees' mental health and wellbeing – as noted by Derville Rowland of the CBI *"never is culture more important than in extraordinary times such as these"*<sup>7</sup>. There are fears that individuals may feel despondent and / or detached from the values and purpose of their firm. Therefore, there is an opportunity for Compliance to re-evaluate and strengthen its role in this area. Members must work to understand what risks could arise from this (both to the individual and the firm); Compliance should be actively involved in helping to supervise and mitigate these risks.

**66%**

of interviewed member firms indicated the mix and type of training delivered by Compliance has changed as staff work remotely

Members emphasised their focus on the need to reaffirm their firm's culture to staff through enhanced training and increased communications around their policies and procedures. Communications delivered by business heads were often seen as the most effective, rather than centralised messaging. This is also reinforced by Member feedback about the importance of proactive engagement and management of individuals by senior staff (even where that may be resource-intensive). Positively, member firms have not seen a reduction in engagement during training

and different delivery models have proved successful. Furthermore, member firms are increasing the focus on new joiner induction training, to ensure that behavioural expectations are made clear from Day 1.

There are fears that despite these initial successes, over time a firm's culture may start to be impacted. To overcome this, some Members are looking at how they can best develop, monitor and track data points related to culture. There is evidence of some firms having a renewed focus in looking to update 'conduct dashboards' to track key data attributes from the 1LOD in relation to culture, alongside new risks that have arisen from remote working. This can include a broad range of data, from metrics such as instances of late booking of trades to 'softer' indicators such as the use of inappropriate language in internal communications channels. Some member firms are also looking at creating risk registers specifically related to remote working. Finally, some firms have created specific supervision frameworks against which to assess managers as they oversee remote teams, including the tracking of behavioural metrics of staff to determine whether managers are appropriately disseminating firm culture (for example through cascade calls). Compliance's role is then to

<sup>7</sup> <https://www.centralbank.ie/news/article/speech-protecting-consumers-investors-smes-derville-rowland-5-june-2020>

identify any resulting trends and act as a supervisor to monitor key indicators and deal with any escalated issues.

As the fragmented working environment continues, at least in part, regulators will wish to understand how firms will look to assess the well-being of staff and the impact on their conduct and decision-making. This is highlighted by reduced physical supervision, a limited team connection to colleagues and, for those who are new to the organisation, a potential lack of appreciation of the organisational culture within which they are expected to operate.

## Remote Working and Location Strategy

The issue of remote working and location strategy is one that has been tested during 2020, with the new remote way of working expected by Members to be a permanent feature, albeit how widespread or fragmented that model will eventually prove to be is still not clear and is likely to evolve during 2021. Firms have already developed or reinforced policies that require staff to be permanently based in the location where they are conducting regulated activities, given the potential challenges that exist for regulatory licensing, as well as working visas, tax considerations and data privacy requirements for those staff who have chosen to temporarily work from overseas locations.

Whilst firms have demonstrated an ability to operate remotely, as noted above, the sustainability and effectiveness of that model for staff and the culture of the firm has yet to be fully addressed. Many firms may offer more flexibility to their staff for on-site or off-site working in future, depending on the role of the individual. We may see a greater proportion of trading staff based on-site, but potentially a significant proportion of Compliance staff working from home. The potential for this to create split cultures across the firm will require banks to establish more creative approaches to maintaining a single organisational culture and will cause Compliance to be more proactive in maintaining the dialogue with their business stakeholders. The majority of firms have quickly adapted and overcome initial challenges created by remote working, but some regulators insisted that this was just the beginning, and that firms should ensure they are adequately challenging themselves on the robustness of their policies and procedures in this area.

### The dispersed Compliance function

We asked firms if they thought a precedent had been set by the impact of COVID-19 and whether employees are now likely to expect fully flexible working arrangements in future. Some of our Member interviews suggested that this is highly likely, whilst others were adamant that face-to-face time with the team and staff is vital. It should be noted, however, that the position put forward by some Member firms is that COVID-19 has merely accelerated expected changes, rather than forced new ones onto the industry.

Members' feedback on remote working was as follows: staff are embracing the opportunities which remote working brings to vary their working locations, in some cases going so far as to work from abroad. Whilst in most cases an employees' physical location has little effect on their ability to perform their tasks effectively (provided that appropriate technology is available), additional considerations are brought to the fore when considering, for example, a trader operating from a different jurisdiction. Here the individual will be limited not only to appropriate tax and visa factors, but there will be potential for limitations on client data being able to be shared between jurisdictions, based on GDPR<sup>8</sup> requirements, plus regulatory licence restrictions.

In response to staff choosing to work from abroad, some member firms have instituted stricter policies as the pandemic continues, such as staff needing to nominate a permanent working from home location and to seek approvals to change that location. It has even been suggested by one firm that in future they may request key personnel to attest to working only in pre-authorised locations and verifying this on an ad-hoc basis as part of the internal audit process.

It must be noted that there are also several positive impacts of remote working on the workforce. Members highlighted the increased awareness that people can work from different locations outside their normal working hours. This will serve as a means to increase diversity within the banking environment, and as a way to potentially increase morale in the workforce. This goes hand-in-hand with statements from regulators for the need of banks to increase the diversity in their workforce and in particular their senior management.<sup>9</sup> It is hoped that the more widespread acceptance of flexible working will lead to more individuals feeling that they can balance their work-life commitments in a more stable manner; leading to a more positive work culture and potentially improved retention rates.

Also, we cannot discount the greater connectivity between global and regional teams, as well as the improved connectivity between employees, albeit virtually. One Member noted that they have seen a significant increase in the engagement of junior staff members on internal conference calls and video calls: in the office some may not have the opportunity to attend given more senior staff would typically represent the whole team, or they

<sup>8</sup> General Data Protection Regulation - Regulation (EU) 2016/679

<sup>9</sup> See, for example: <https://www.fca.org.uk/about/diversity-and-inclusion-why-it-matters-us/our-role-regulator-why-diversity-and-inclusion-matter-financial-services>  
<https://www.centralbank.ie/news/article/balance-makes-for-better-business---director-general-derville-rowland> and  
<https://www.cnmv.es/portal/verDoc.axd?t={4ce49c19-170e-4e3d-beba-e42bfad1a8d7}>

may have attended but not felt comfortable to contribute. It appears that through virtual media, more junior staff are better represented, and adding fresh ideas and providing increased contributions.

It is clear that the approaches to returning to the office differ between member firms, and even more so between different jurisdictions. Members have overwhelmingly tried to be sympathetic to staff needs and have instituted only voluntary return to the office policies in most cases, but as one Member noted, it is a very fine balance between becoming a number of dispersed individuals instead of an organisation with a connected and coordinated value set.

These voluntary return to the office policies have presented member firms with an additional challenge: junior staff have been found to be far more likely to return to offices when compared with their senior colleagues, which carries a risk that those more senior staff may be less likely to be physically present in the office to provide on-site guidance, mentoring and oversight. Separately, one Member noted that senior members of staff are able to leverage their many years of experience and work just as efficiently from any location, whilst still managing the day to day operations, including mentoring junior team members from afar.

At the time of writing, additional concerns have been raised by European governments at the prospect of a second wave of COVID-19 cases. This may present firms with a challenge on their future control agenda, as even if staff are able to return in 2021, firms must be resilient in the face of any additional pandemic waves. As time progresses, should a number of further waves occur, it will become less likely that regulators will be understanding of breaches, as they will expect firms to prepare for subsequent waves with the learnings from 2020.

## Conclusion

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The regulatory risks faced by Members continue to be significant and the expectations from regulators remain equally high. The challenges raised by the COVID-19 pandemic have highlighted stress points in the regulatory framework which were already being faced by Compliance Officers. These include the need for enhanced data and data analysis, improved surveillance and supervision tools and maintaining effective skill sets to cover a wider business landscape.

The recent remote working experience has accelerated the use of new communication channels including videoconferencing, which will now require a regulatory solution and the need to pre-empt the next stage in the development of those channels. The parallel growth in e-trading is likely to cause Compliance to give increased focus to a digital trading environment along with the skill sets within Compliance to manage the associated risks.

At the same time, the economic environment ahead will increase the potential for conduct and compliance risks to customer outcomes, whilst firms themselves will need to reduce costs and will therefore look to remove duplication across the 3 Lines of Defence. In turn this will require improved communication and connectivity between the 3 Lines of Defence, with the need to reduce information asymmetry between the control functions.

The role of Compliance within the 3 Lines of Defence is continuing to evolve, with monitoring, testing and surveillance becoming increasingly important to consistently assess the regulatory temperature and outcomes of the firm. This will drive higher expectations from regulators about the breadth and quality of the output from Compliance testing and surveillance, as well as raise the bar on horizon scanning for forward-looking regulatory risks.

Finally, we note that just as Compliance has been adapting to remote working, so too have regulators. On-site inspections are, for the time being, on hold. The regulators we spoke with were also clear that they do not intend to dictate how firms should operate, but require assurance that they have conducted their own risk assessments and put in place suitable solutions. Members will therefore need to consider how they can demonstrate the robustness of their processes and strategies for remote Compliance to a remote supervision team.

Overall, the next stage of development for Compliance is likely to include a more data-led analysis of business outcomes as a whole with senior Compliance specialists able to devote more time to exception analysis and root cause assessment. At the same time, Compliance will continue to play an increasingly important role in reflecting the spirit of regulatory expectations to Business leads and assessing the effectiveness of management judgements and strategy against those expectations.

## Notes

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## Acknowledgements and Contacts

We are grateful to AFME Compliance Committee members who contributed their time and thoughts in producing this report. The Committee comprises EMEA heads of compliance from AFME members. Our European Compliance work programme focuses on influencing the European regulatory environment to foster a culture of integrity and effective conduct regulation.

The data in this report comes from interviews with 15 of those Members, representing a variety of geographical locations and business models.

[www.afme.eu/Divisions-and-committees/Compliance](http://www.afme.eu/Divisions-and-committees/Compliance)

We are also grateful for the input of several key European regulators who agreed to be interviewed for this report.

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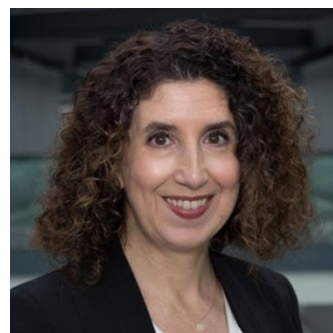
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