

**Spotlight Review**

# Examining remote working risks in FICC markets

July 2020



## About FMSB

FICC Markets Standards Board Limited (FMSB) is a private sector, market-led organisation created as a result of the recommendations in the Fair and Effective Markets Review (FEMR) Final Report in 2015. One of the central recommendations of FEMR was that participants in the wholesale fixed income, currencies and commodities (FICC) markets should take more responsibility for raising standards of behaviour and improving the quality, clarity and market-wide understanding of FICC trading practices. Producing guidelines, practical case studies and other materials that promote the delivery of transparent, fair and effective trading practices will help increase trust in wholesale FICC markets.

FMSB brings together people at the most senior levels from a broad cross-section of global and domestic market participants and end-users.

In specialist committees, sub-committees and working groups, industry experts debate issues and develop FMSB Standards and Statements of Good Practice and undertake Spotlight Reviews that are made available to the global community of FICC market participants and regulatory authorities.

## Spotlight Reviews

Spotlight Reviews encompass a broad range of publications used by FMSB to illuminate important emerging issues in FICC markets. Drawing on the insight of members and industry experts, they provide a way for FMSB to surface challenges market participants face and may inform topics for future work. Spotlight Reviews will often include references to existing law, regulation and business practices. However, they do not set or define any new precedents or standards of business practice applicable to market participants.

## Background

The effects of the ongoing COVID-19 pandemic have been acutely felt by individuals, businesses, governments and public services, and economies across the world. As each country prepared its response to managing the outbreak and began closing borders and imposing restrictions on free movement, financial services organisations had to adapt quickly to new working practices with little time to test their systems and procedures. This marked the beginning of a widespread and prolonged period of remote working, a practice that for front office staff in many financial institutions was not previously permitted.

In light of the new operating environment resulting from these restrictions, FMSB members formed a working group to share conduct and other business practice risks arising from remote working. It was agreed that the focus of the group would be on developing resources to help firms across the market assess their individual risks and to plan appropriate responses. Recognising the rapidly changing circumstances as the pandemic progressed, it was agreed that the group would develop and publish a risk register for open access to all market participants. Given the evolving backdrop, the risk register may see a number of iterations as circumstances change and the profile of risks and potential mitigating actions evolve.

## Working group approach to building collective understanding

The Remote Working Risks & Controls Group was established to harness the diversity of FMSB member firms and other interested parties to pool experiences and share observations of risk. Following its first meeting on 6 May 2020, the group worked together to deliver its goal to identify and capture the wide range of risks resulting from the new operating environment.

It became apparent in the early stages of this dialogue that while there were some common themes, each firm was facing a different set of challenges unique to their organisation. There was perceived to be a benefit for firms in understanding the non-commercial challenges that each other were facing and building a collective industry-wide knowledge and understanding of these new challenges, with a focus on where these risks impact the fairness and effectiveness of wholesale FICC markets.

It is important that the risks that arise from remote working should be reviewed against the backdrop of government and regulatory materials as well as existing standards and good practice statements including those published by FMSB. Links to a number of relevant global regulatory publications and FMSB materials are set out in 'Useful resources' below.

This Spotlight Review provides a first iteration of the risk register.<sup>1</sup> While many of the risks are not novel, the likelihood of such risks materialising and their potential impact may be heightened in the context of widespread and prolonged remote working. An example of this highlighted by the FCA relates to the identification and handling of inside information. While the risks associated with the misuse of inside information are pre-existing, the nature of what constitutes inside information may alter in the context of the pandemic.

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<sup>1</sup> The risk register is available on the FMSB's website at [fmsb.com/wp-content/uploads/2020/07/risk-register-examining-remote-working-risks-in-ficc-markets.xlsx](https://fmsb.com/wp-content/uploads/2020/07/risk-register-examining-remote-working-risks-in-ficc-markets.xlsx).

Some of the risks captured in the register may also predominantly derive from, or have been exacerbated by, the distressed market conditions associated with the pandemic as opposed to being a product of the remote working environment. Examples of this would include the increase in transactions and corresponding challenges in identifying suspicious trades or the uptick in capital raising and the higher volumes of inside information associated with such activity. The risk register seeks to pool these new and heightened risks that firms have identified as being associated with the pandemic and resulting operating environment. For each of the identified risks, the register sets out corresponding example controls and mitigation measures.

The response to the pandemic and the need for remote working remains fluid and varies by jurisdiction. Firms have applied different approaches to remote working, leveraged new technologies and tools and many are likely to adopt a staggered return to the office environment. This risk matrix should be useful as firms seek to take stock of the situation and plan how they may wish to adapt their governance and control arrangements as requirements for remote working continue to evolve. Furthermore, it can also be used as a tool that senior managers can draw upon when considering how the pandemic and continued remote working arrangements could impact their role and approach to discharging their regulatory responsibilities.

## A logical structure for the risk register

To support firms in their remote working risk assessments this Spotlight Review proposes nine thematic risk categories.

<p><b>Control limitations</b></p> <p>Identifying suspicious trading activity</p> <p>Inappropriate communication channels</p> <p>Co-location control</p>	<p><b>Execution risks</b></p> <p>Trader profiteering</p> <p>Inconsistent or impacted trader risk appetite</p> <p>Displaced traders</p> <p>Loss of connectivity</p> <p>Macro latency</p> <p>Micro latency</p>	<p><b>Governance</b></p> <p>Governance of policy/procedure breaches, waivers and changes</p> <p>Running blindfolded</p> <p>Slow remote governance</p> <p>Unplanned key manager risks</p> <p>Planned appointment key manager risks</p>	<p><b>Heightened cyber risks</b></p> <p>Denial of service attacks</p> <p>End user cyber risks</p>	<p><b>Staff treatment &amp; productivity</b></p> <p>Placing staff at increased risk of infection</p> <p>Pressure to return to offices</p> <p>Unsuitable home office environment</p> <p>Issues with recruitment, staff screening and onboarding</p> <p>Poor support or training for sales &amp; trading</p> <p>Staff burnout</p> <p>Flagging mistakes/errors</p> <p>Mental health deterioration</p>
<p><b>Sales lifecycle</b></p> <p>Tying clients</p> <p>Customer complaints</p> <p>Deterioration in client communications</p>	<p><b>Sharing of confidential information</b></p> <p>Use of personal e-mail and storing confidential data on personal IT equipment</p> <p>Non-private / shared remote working space</p> <p>Confidential information held in hard copy printed form</p> <p>Higher volumes of inside information</p> <p>Introduction of new technology applications</p> <p>New types of inside information</p>	<p><b>Third party risk</b></p> <p>Operational and reputational exposure to critical service providers (CSPs)</p> <p>Offshore/outsource impact</p> <p>Loss of third party staff services</p>	<p><b>Threats to market effectiveness</b></p> <p>Increased reliance on critical technology</p> <p>Key/critical personnel risk</p> <p>Reduced internal information sharing &amp; competitiveness</p> <p>Reduced innovation</p>	<p>Substance abuse/addiction</p> <p>Victims of domestic abuse</p> <p>Staff retention</p> <p>Waning staff engagement</p> <p>Training effectiveness</p> <p>Fragmented culture driving deterioration in decision making and behaviour</p> <p>Cultural leakage</p>

In considering these and other risks, firms are reminded that the risk register and this cover note do not constitute advice or guidance and are not intended to be a comprehensive

assessment of all potential risks nor do they consider the full range of potential responses to each risk.

Individual firms should consider the specific risks which impact their business and the full range of potential actions that they could take in mitigation taking into account the context of the nature, scale and operational structure of their own organisations. Such actions should take into account any relevant new guidance issued by regulators. Any individual risk may warrant a range of measures, many of which may be relying on, or adapting, pre-existing controls including, for example:

#### **First line of defence**

- Periodic operational reviews to promote an up-to-date understanding of the risk profile
- Use of new information gathering using staff surveys or enhanced monitoring tools
- Review of operating policies, procedures and guidelines
- Communications on the issue to individual staff members
- Communications to line managers, team leaders and senior management
- Communications to customers
- Communications to supervisors
- Changes to management information and reporting
- Training and development

#### **Second and third lines of defence**

- Review of policies relevant to the risk
- Changes to oversight and testing by compliance
- Changes to operational risk assessments
- Changes to schedule and approach of internal audit reviews
- Changes to monitoring and surveillance

The FMSB working group may decide to issue subsequent iterations of this register when it considers there are substantive changes that would be helpful to share. This may include, for example, when:

- a vaccine is widely available; and/or
- government, regulator and market responses are updated significantly.

Longer term, FMSB members may consider whether this topic may benefit from further consideration, and whether in due course FMSB Standards or Statements of Good Practice would be of value.

## Useful resources

To be helpful to the reader this Spotlight Review includes the following useful resources available at the time of writing. The list is not intended to be comprehensive or complete and readers are advised to stay apprised of developments.

### FMSB publications

**‘Surveillance Core Principles for FICC Market Participants: Statement of Good Practice for Surveillance in Foreign Exchange Markets’**, December 2016: [fmsb.com/wp-content/uploads/2017/01/16-12-08-SoGP\\_Surveillance-in-FX-Markets\\_FINAL.pdf](https://www.fmsb.com/wp-content/uploads/2017/01/16-12-08-SoGP_Surveillance-in-FX-Markets_FINAL.pdf)

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**‘Statement of Good Practice for FICC Market Participants: Conduct Training’**, December 2016: [fmsb.com/wp-content/uploads/2017/01/16-12-08-SoGP-Conduct-Training\\_FINAL.pdf](https://www.fmsb.com/wp-content/uploads/2017/01/16-12-08-SoGP-Conduct-Training_FINAL.pdf)

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**‘Monitoring of written electronic communications Statement of Good Practice for FICC Market Participants’**, September 2017: [fmsb.com/wp-content/uploads/2017/09/FMSB-SGP-Monitoring-of-written-E-comms-Final.pdf](https://www.fmsb.com/wp-content/uploads/2017/09/FMSB-SGP-Monitoring-of-written-E-comms-Final.pdf)

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**‘Front Office Supervision Statement of Good Practice for FICC Market Participants’**, September 2017: [fmsb.com/wp-content/uploads/2017/09/FMSB-SGP-Front-Office-Supervision-Final.pdf](https://www.fmsb.com/wp-content/uploads/2017/09/FMSB-SGP-Front-Office-Supervision-Final.pdf)

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**‘Suspicious Transaction and Order Reporting Statement of Good Practice for FICC Market Participants’**, January 2019: [fmsb.com/wp-content/uploads/2019/01/Suspicious-Transaction-and-Order-Reporting-Statement-of-Good-Practice-for-FICC-Market-Participants.pdf](https://www.fmsb.com/wp-content/uploads/2019/01/Suspicious-Transaction-and-Order-Reporting-Statement-of-Good-Practice-for-FICC-Market-Participants.pdf)

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**‘Conduct Risk in Market Transactions Statement of Good Practice’**, March 2019: [fmsb.com/wp-content/uploads/2019/03/Statement-of-Good-Practice-Conduct-Risk-in-Market-Transactions\\_V15.pdf](https://www.fmsb.com/wp-content/uploads/2019/03/Statement-of-Good-Practice-Conduct-Risk-in-Market-Transactions_V15.pdf)

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**‘Information & Confidentiality for the Fixed Income and Commodities markets Statement of Good Practice’**, October 2019: [fmsb.com/wp-content/uploads/2019/10/Information-Confidentiality-SGP\\_V6.4-FINAL.pdf](https://www.fmsb.com/wp-content/uploads/2019/10/Information-Confidentiality-SGP_V6.4-FINAL.pdf)

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**‘Conflicts of Interest Statement of Good Practice’**, October 2019: [fmsb.com/wp-content/uploads/2019/10/Conflicts-of-Interest-SoGP\\_Final.pdf](https://www.fmsb.com/wp-content/uploads/2019/10/Conflicts-of-Interest-SoGP_Final.pdf)

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### Regulatory materials

*UK – from the Financial Conduct Authority*

**‘FCA seeks views on extending the implementation deadlines for the Certification Regime and Conduct Rules’**, 17 July 2020: [www.fca.org.uk/news/press-releases/fca-seeks-views-extending-implementation-deadlines-certification-regime-conduct-rules](https://www.fca.org.uk/news/press-releases/fca-seeks-views-extending-implementation-deadlines-certification-regime-conduct-rules)

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**‘Market Watch 59: Newsletter on market conduct and transaction reporting issues’**, April 2019: [www.fca.org.uk/publication/newsletters/market-watch-59.pdf](https://www.fca.org.uk/publication/newsletters/market-watch-59.pdf)

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**'Statement on Covid-19 (coronavirus)'**, 4 March 2020:  
[www.fca.org.uk/news/statements/covid-19-coronavirus](http://www.fca.org.uk/news/statements/covid-19-coronavirus)

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**Dear CEO letter 'Ensuring fair treatment of corporate customers preparing to raise equity finance'**, 28 April 2020: [www.fca.org.uk/publication/correspondence/dear-ceo-ensuring-fair-treatment-corporate-customers-preparing-raise-equity-finance.pdf](http://www.fca.org.uk/publication/correspondence/dear-ceo-ensuring-fair-treatment-corporate-customers-preparing-raise-equity-finance.pdf)

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**'Market Watch 63: Newsletter on market conduct and transaction reporting issues'**, May 2020: [www.fca.org.uk/publication/newsletters/market-watch-63.pdf](http://www.fca.org.uk/publication/newsletters/market-watch-63.pdf)

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**'Conduct, culture and Covid-19'**, 10 June 2020: [www.fca.org.uk/insight/conduct-culture-and-covid-19](http://www.fca.org.uk/insight/conduct-culture-and-covid-19)

### *European*

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**'ESMA clarifies position on call taping under MiFID II'**, 20 March 2020:  
[www.esma.europa.eu/press-news/esma-news/esma-clarifies-position-call-taping-under-mifid-ii](http://www.esma.europa.eu/press-news/esma-news/esma-clarifies-position-call-taping-under-mifid-ii)

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**'Market activities continuity during the Covid-19 pandemic: the AMF states its expectations'**, 2 April 2020: [www.amf-france.org/en/news-publications/news/market-activities-continuity-during-covid-19-pandemic-amf-states-its-expectations](http://www.amf-france.org/en/news-publications/news/market-activities-continuity-during-covid-19-pandemic-amf-states-its-expectations)

### *US*

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**FINRA Regulatory Notice 20/08 'Business Continuity Planning: Pandemic-Related Business Continuity Planning, Guidance and Regulatory Relief'**, 9 March 2020:  
[www.finra.org/sites/default/files/2020-03/Regulatory-Notice-20-08.pdf](http://www.finra.org/sites/default/files/2020-03/Regulatory-Notice-20-08.pdf)

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**'SEC Coronavirus (COVID-19) Response'**, modified 13 July 2020: [www.sec.gov/sec-coronavirus-covid-19-response](http://www.sec.gov/sec-coronavirus-covid-19-response)