



Market Watch 68

Newsletters

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Newsletter on market conduct and transaction reporting issues.

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About this edition

In this Market Watch we discuss web-based trading platforms, which are widely used for Rates and Fixed Income products and share our concerns about gaps in users' surveillance of web-based platform activity.

In Market Watch issues [48 \[1\]](#), [50 \[2\]](#), and [56 \[3\]](#), we shared some observations from our suspicious transaction reporting (STR) and suspicious transaction and order reporting (STOR) supervisory visits. Previous topics have included record keeping, market abuse surveillance and the use of market abuse risk assessments. We explained that surveillance appeared to be less developed for some asset classes, making it possible that firms were not identifying instances of potential market abuse. We continue to visit firms and trading venues to assess their market abuse surveillance arrangements. We are now returning to these topics to address what we perceive as a growing area of risk.

We are concerned that requirements for market abuse surveillance are still not being fully met, 5 years after the introduction of the Market Abuse Regulation (MAR) in 2016.

Monitoring gaps in fixed income and rates markets

We have observed wholesale brokers (operators) introducing types of electronic trading platforms to increase access to liquidity and efficacy in trade execution. There is a growing use of periodic, continuous, and dark liquidity, via web-based user interface (UI) portals, matching sessions and 'pop-ups'. For some Rates and Fixed Income products, these platforms now supplement traditional services in a hybrid broking model, working alongside central limit order book (CLOB) style platforms, within an Organised Trading Facility (OTF) or Multilateral Trading Facility (MTF).

Many electronic execution platforms (whether part of the systems of a regulated market, MTF, OTF or Systematic Internaliser) require formal connection and interface with a user's trading systems. This means that order and trade messages are systematically recorded. However, some platforms' connectivity is made via web-based UIs where direct connection to users' trading systems is not required and users, to our knowledge, have been unable to establish one.

Trade details for trades executed on web-based platforms are generally recorded in users' trade booking systems. However, users do not always systematically record the related order messages that precede execution, and those orders which do not result in a trade (including cancellations and amendments). Capturing and monitoring orders, as well as trades, is necessary to effectively and consistently identify potential market abuse.

Market abuse surveillance

Article 16(2) of UK MAR requires persons professionally arranging or executing transactions to establish and maintain effective arrangements, systems and procedures for detecting and reporting potential market abuse.

We are concerned that users of web-based platforms may not be able to monitor all their orders to detect potential market abuse. Orders are a critical component in effective monitoring for some types of actual or attempted market manipulation, eg, layering and spoofing as well as cross venue and product manipulation where users have a unique line of sight of their own trader activity. If firms do not capture all unexecuted orders, they may fail to identify this activity.

Data challenges

We have observed a common theme for users of web-based platforms. Most users note initial challenges in getting useable data in a format suitable for surveillance. We have seen a small number of users employing tactical solutions, but this remains a significant gap in many users' market abuse surveillance.

Compliance awareness

We have found users' Compliance / Surveillance teams have varying levels of knowledge about their firm's use of web-based platforms and associated surveillance gaps. Some have taken steps to understand the quantity of activity happening on those platforms and have ensured both order and trade data is captured for surveillance purposes. However, some Compliance / Surveillance teams are unaware of the platforms used by their front office staff or lack knowledge of the quantity of business undertaken on them, along with the associated market abuse risks.

We have also seen significant disparity in the steps users take where they have identified a gap in data capture. This ranges from taking no action, to considering the offboarding of platforms where they are unable to get the necessary data.

Market abuse risk assessments

Many firms undertake market abuse risk assessments to assure themselves that they have appropriately assessed and managed all market abuse risks facing the business. We have observed some firms which appear to have undertaken an extensive and detailed risk assessment. However, these assessments often do not include business entered on web-based platforms, particularly orders which are deleted or otherwise do not result in a trade. Where Compliance / Surveillance is unaware of the different platforms used, or how much of their firm's business is placed on such platforms, we question whether the firm has properly assessed the market abuse risks facing its business, and subsequently whether it has appropriate surveillance in place.

Record keeping

Where users are not capturing all trade and order data, it is likely these firms will not be meeting Article 25(1) of UK MiFIR order handling and record keeping requirements. These require investment firms to keep data relating to all orders and transactions for 5 years. As well as limiting a firm's ability to monitor its own activity, failing to capture and record this data may also affect our ability to monitor the market.

Firms that are unable to provide accurate records of when an order was placed on a platform, may be unable to respond satisfactorily to our regulatory enquiries.

Onboarding governance

We have seen firms using web-based trading platforms before completing formal new business procedures. We have also seen instances where there is a lack of specific governance for onboarding these platforms.

We found firms with formal procedures and good governance for onboarding new platforms are better able to ensure they capture and monitor all relevant trade and order data. Those that make the ability to retrieve this data a prerequisite to onboarding platforms reduced the risk that they will fail to meet regulatory obligations. This was not the case with all firms.

When onboarding new platforms, firms should consider how they will meet their market abuse surveillance and record keeping obligations. Failure to do so may leave the firm in breach of its regulatory obligations under UK MAR.

Firm rationales for failings

As discussed in [Market Watch 56 \[3\]](#), we continue to observe firms using questionable rationales to justify their potential failure to meet their obligations under UK MAR.

For example, some firms consider that their own failings can be excused by a perception that some of their peers are failing in the same way. We reiterate that our previous acknowledgement that industry in general faces specific challenges will not lead to us accepting failure to comply with UK MAR because other firms are in a similar position. Also, where we have not published Enforcement action on particular failings, firms should not assume we will not take appropriate Enforcement

action. We decide how we resolve failures to comply with UK MAR based on a number of factors. Many of these factors will vary between firms, even apparently similar firms within the same industry peer group.

Operators of web-based platforms

We remind operators of trading venues of their obligations to undertake effective monitoring to prevent, identify and report potential market abuse. These operators may also want to consider how they can help users to meet their own regulatory obligations for orders and transactions. This includes providing them with data in a usable format. Failing to do so may prevent clients from trading on these venues.

We also remind operators of trading venues of their obligations to maintain order data according to the standards and formats prescribed in Annex I of the [UK version of RTS 24](#) [4], pursuant to Article 25 of UK MiFIR. Operators must also supply such data when we request it.

Next steps for firms and operators of web-based platforms

Firms should consider our comments in this Market Watch and take steps to ensure that they are monitoring all orders and transactions to detect and report potential market abuse. We will continue to visit firms and venues to assess their STOR arrangements, systems and procedures, and work to ensure firms and venues consistently meet their regulatory obligations.

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