



# The Future Office: Brave New Hybrid World

## Contributors Copy

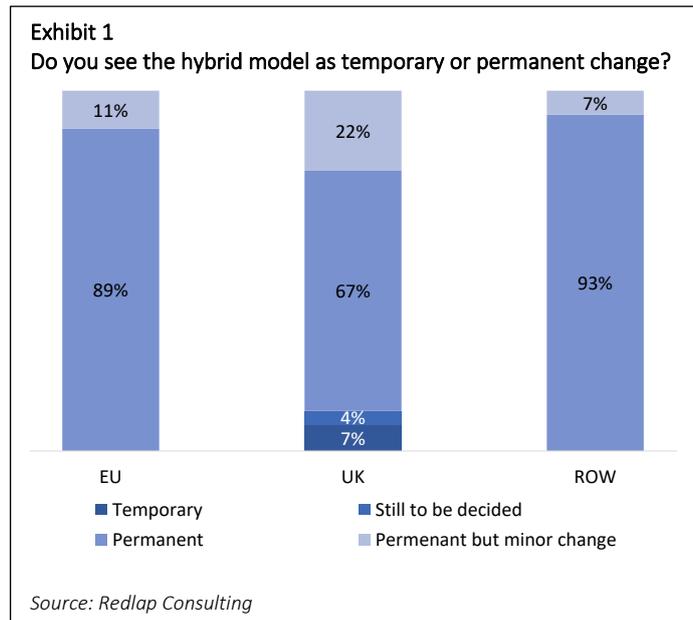
April 2022



# Getting Ready for a Brave New Hybrid World

The pandemic forced the industry to redefine the definition of the workplace with “hybrid” establishing itself as the new normal. While employers continue to endeavour to encourage staff to return to the office, flexibility and work/life balance have moved from the periphery to mainstream, resulting in changes that will permanently change the way the capital markets work. For once, the changes are not driven by regulation but by environmental and social necessity. As such, there is no specific map or deadline for firms, clients, staff or regulators to follow. The demands, rules, opportunities and challenges differ by country, firm and region, as the industry seeks to make significant structural and cultural adaptations, effectively changing the wheels on a moving juggernaut while facing the harsh realities of increased climate change and cyber resilience.

As capital markets shift away from traditional financial hubs to more virtual global networks encompassing individual homes, firms must balance the needs of the business, clients, staff and budgets - embedding evolving hybrid models into the heart of corporate culture while still encouraging greater head office collaboration. For some, this means a continuation of the last two years; for others, it is a mammoth corporate undertaking that affects every department throughout the firm. Working to an emergency was one thing, planning an integrated and competitive hybrid environment that will work five years from now is something else.



Pre Covid-19, the ability to work from home was at best ad-hoc, limited to a handful of people at any given time. Overwhelmingly, industry participants across the board see the hybrid model as permanent (see Exhibit 1). Today, a far greater proportion of teams work remotely at any one time. Expectations have changed and the impact stretches the full gamut as the lines between office space and personal space are blurring. Home is now officially also the office, requiring the corporate puzzle of procedures, policies, technology, connectivity and disaster recovery all to be taken back to the drawing board. Firms must re-evaluate how to ensure compliance with existing rules with a distributed and moving workforce, let alone attract, retain and reward talent.

Cyber security threats are increasing. From the cyber-attack experience by the New Zealand stock exchange in August 2020 to outages on main European exchanges halting trading for several hours, ensuring continuity of services whether staff are physically in a central office or working remotely has never been higher on the agenda for firms' ability to conduct business. With flexible working now the new modus operandi, the easy virtual connection of employees across multiple locations is critical. A complete rethink of current technology stacks and whether they are fit for purpose going forward is now required.

This paper explores the impact on firms, staff and regulators alike as the hybrid working environment is starting to be accepted as the norm across the globe but with more regional and local variations

than a kaleidoscope. Between late 2021 and Spring 2022, we spoke to 65 industry executives from the buy-side, sell-side, venues, vendors, policy experts and regulators across the UK, Europe (EUR) and the rest of the world (ROW) about their plans to adapt their systems, policies and procedures to suit the hybrid model, the anticipated regulatory oversight and the challenges for both companies and employees.

## Key Points

1. **89%** of EU and **93%** of rest of the world (ROW) respondents see the hybrid model as a permanent change.
2. Approximately **75%** of EU & UK respondents anticipate 3 or less days in the office vs **60%** for ROW respondents with an additional **33%** expecting on-site presence at least 4 days/week.
3. Almost **two thirds** of respondents' view flexibility as a tool to attract and retain staff.
4. Regionalisation is starting to impact UK firms – nearly a fifth see the hybrid model as a way of broadening the talent pool beyond main financial hubs.
5. **50%** of all respondents have increased security to ensure operational resilience and **50%** are focusing on improving remote access.
6. For **58%** of respondents cyber security requires constant upgrading of technology and upskilling of staff.
7. For **84%** of respondents, fixed disaster recovery sites need also to be decentralized to cater to a distributed workforce.
8. Integration and cultural adoption towards flexible working still remain a challenge for **43%** of EU and ROW and **39%** of UK respondents.
9. 60% of respondents say for both new recruits and career progression, time spent in the office is the most beneficial, supplemented by online tools.
10. Although **63%** of EU respondents say that working from home (WFH) will not impact remuneration, it is still perceived as a potential disadvantage for career progression more than half of UK and ROW participants.

## Flexibility: The New Corporate Mainstay

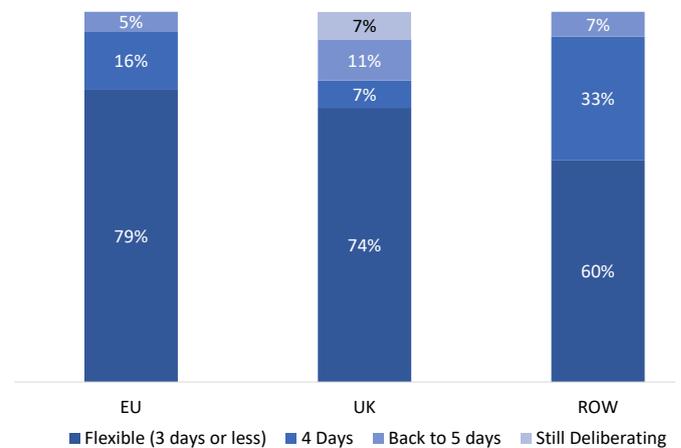
Expectations of the ability to work flexibly are high. Most respondents expect to be present three days or less in the office (see Exhibit 2). Across the globe, in one hit, the pandemic offered first the requirement, then the possibility, of a work environment that was not tethered to a physical office, and a work/life balance too attractive to subsequently abandon. Since productivity did not fall off – and was often noted to have improved – the die was cast, and the corporate argument against remote working turned to dust. It is abundantly clear that those who fail to recognize this will fail to retain talent, irrespective of location.

Salary considerations will always be a priority, but the so-called Great Resignation that started in the US now appears to be moving across Europe. Early retirement, change of industry and moves to less expensive locations are all putting pressure on the financial services industry to change. Of course, working from home for at least part of the week does not suit every employer nor employee, but there is now at the very least the discussion to be had as a standard employee demand.

### US: Rising Regionalisation

In the US, a recent survey conducted by the Partnership for New York City states that 22% of financial services companies interviewed are planning to reduce their NYC-based workforce in the next five years<sup>1</sup>. Examples of firms re-

Exhibit 2  
How is your team returning to the office?

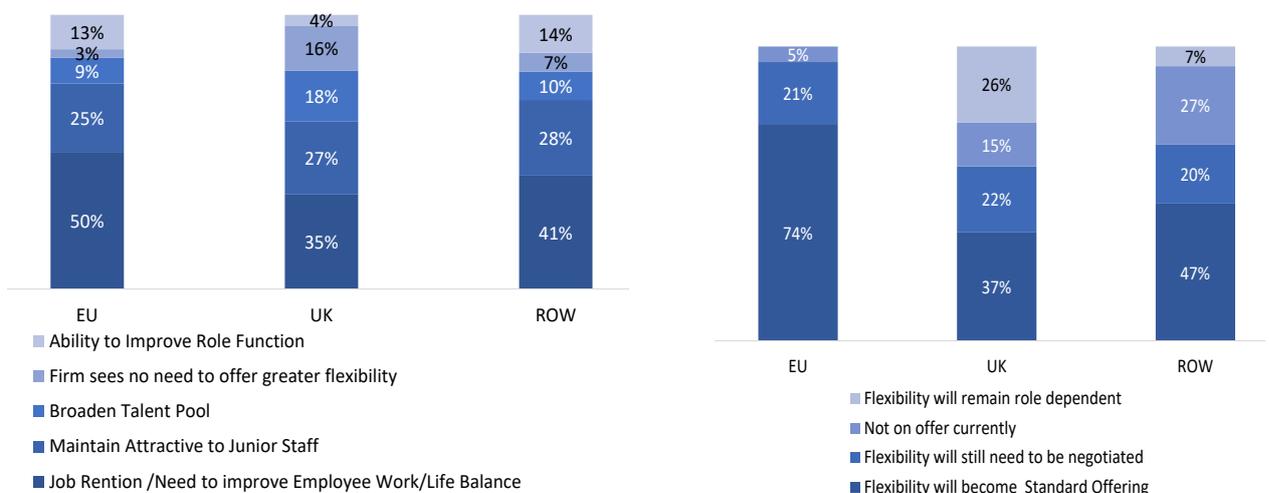


Source: Redlap Consulting

*“Staff have said to me, “My relationship with my family is now better because I have the ability to work at home, I can take my children to school, I can pick them up one day, two days a week, I can get to a sports fixture.” That’s not going to revert. That means how I manage my staff and the whole team dynamic has to change.”*

Large Global Asset Manager

Exhibits 3 and 4  
Why Offer Flexibility? / What adjustments are you making to future recruitment policies?



Source: Redlap Consulting

<sup>1</sup> <https://pfnyc.org/news/return-to-office-results-released-november/>

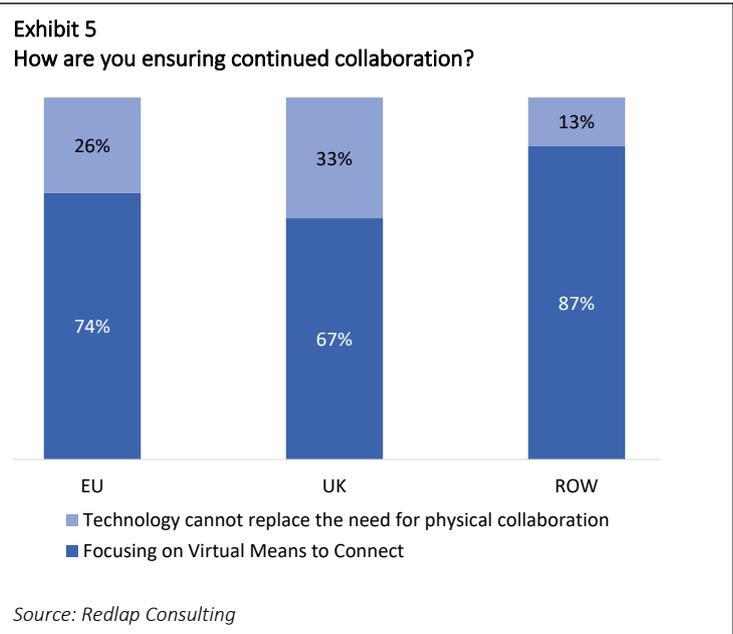
thinking their office space are multiplying - Goldman Sachs will retain its NYC office but is expanding its presence in West Palm Beach, Florida<sup>2</sup>. AllianceBernstein was one of the first companies to announce its move to Nashville<sup>3</sup>. According to the Wall Street Journal, State Street also announced to its staff they won't be returning to the NYC office which will be vacated and subleased. Staff will be given the choice to decide the proportion of office attendance and remote working they want and will be able to work either from the New Jersey or Stamford (Connecticut) offices. Only a co-working space will remain in Manhattan<sup>4</sup>.

*"We'll see people leave if we don't offer flexibility. Working in an office is expensive, with childcare and commuting costs and time."*

Mid-sized US Asset Manager

### Europe: The Fight for Talent

A flexible working environment is also a useful tool in the fight to attract talent, as salary alone may be less of a deciding factor in the competition for talent. While this matters in the bid to hire new staff since the expectations of today's juniors is high, it is arguably even more important with regard to senior and seasoned staff who have less to lose, potentially more options of where to work, and without whom there will be no training of incoming staff. Equally challenging, European cities largely lag behind London and New York City in the retention of IT staff, thereby increasing the reliance on third parties which are sometimes based outside of the EU.



In a bid to attract firms and talent, some European countries are also offering digital nomad visas to cater for the digitalization of financial services. Countries such as Portugal and more recently Spain are promoting these new types of visas for people wanting to work remotely and for which companies are based in separate countries while paying minimal tax. Citigroup recently announced the creation of a hub in Malaga specifically designed to give applicants a "differentiated entry route into investment banking" with "an attractive lifestyle-orientated proposition"<sup>5</sup>.

*"It is definitely permanent - we had five people in IT – two have to be in the office as they manage the hardware; three are software programmers who look after APIs and the database. They asked to WFH and were refused and left. We may have a high unemployment rate but tech guys can charge what they like and do what they like."*

Small EEA Asset Manager

### UK: The New City

In the UK, firms must deal with a high cost of city living, long commutes and a tight labour market, putting employers on the back foot and raising the stakes of offering a hybrid model. The recent workforce protest at the FCA illustrates the dilemma facing senior management in finding the right balance between

*"Lack of flexibility is definitely having an impact in recruitment – if we can't offer this we are losing out and that is already happening."*

UK based Sell-Side

<sup>2</sup> <https://www.barrons.com/articles/state-street-latest-to-abandon-nyc-offices-51629136169>

<sup>3</sup> <https://www.wsj.com/articles/large-new-york-money-manager-alliancebernstein-is-moving-to-nashville-1525207429>

<sup>4</sup> [https://www.wsj.com/articles/state-street-firm-behind-wall-streets-fearless-girl-statue-is-vacating-new-york-city-offices-11629106200?mod=hp\\_lista\\_pos1&adobe\\_mc=MCMID%3D05009032130842665790884212551618495467%7CMCOR\\_GID%3DCB68E4BA55144CAA0A4C98A5%2540AdobeOrg%7CTS%3D1645457489](https://www.wsj.com/articles/state-street-firm-behind-wall-streets-fearless-girl-statue-is-vacating-new-york-city-offices-11629106200?mod=hp_lista_pos1&adobe_mc=MCMID%3D05009032130842665790884212551618495467%7CMCOR_GID%3DCB68E4BA55144CAA0A4C98A5%2540AdobeOrg%7CTS%3D1645457489)

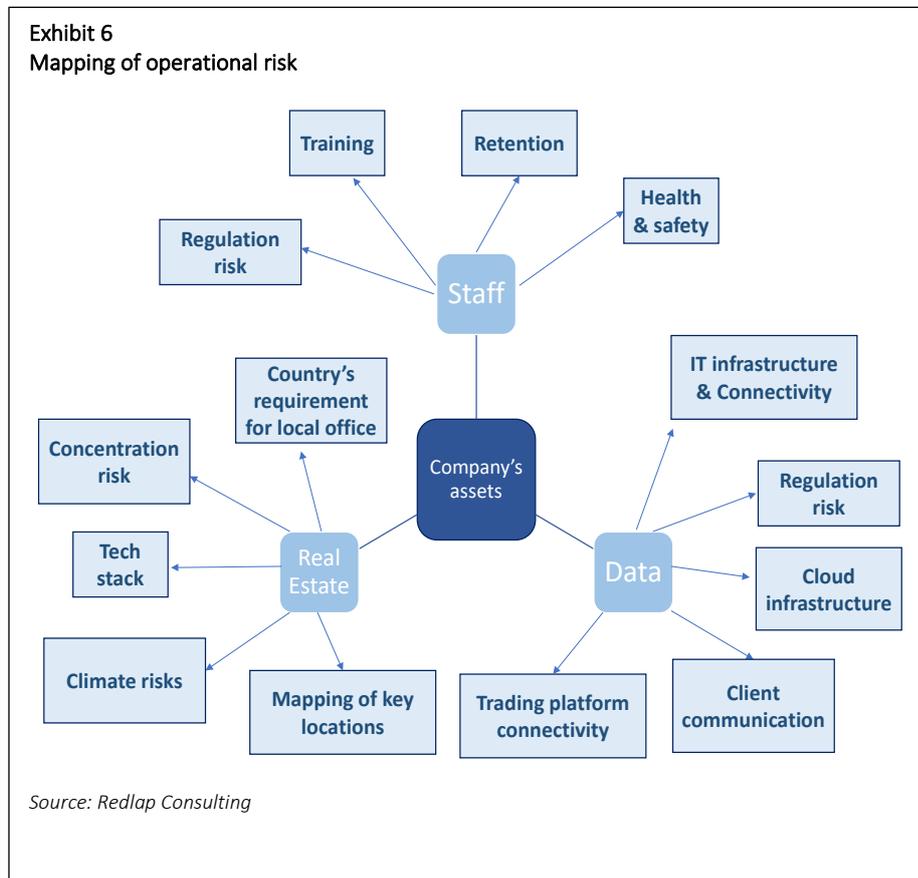
<sup>5</sup> <https://www.investinspain.org/en/news/2022/citigroup-hub-malaga>

offering a rewarding working environment with improved flexibility while maintaining in-person collaboration<sup>6</sup>.

A flexible working environment also offers an opportunity for firms to diversify their employee base and look for new talent in different geographical regions. An employee who only needs to be present a couple of times a month on-site could theoretically live anywhere, increasing the talent pool exponentially. However, a highly distributed workforce and differences in access and connectivity between the mainland and a windswept island may be restrictive for both the firm to support and for appropriate regulatory supervision.

## Remapping Operational Risk

Firms have re-mapped how they think about operational risk to understand what and where their key assets are and how to mitigate any possible risks (see Exhibit 6).



*"I think certain roles wouldn't if they have asked in the past, been allowed to work from home or remotely. And I think that was just more a cultural thing than somebody specifically reviewing their controls. It was always feasible."*

Small UK Asset Manager

*"There is no longer any local access - it is all now via VPN. It's the same as governance, all centrally controlled. We have enhanced processes and limited access, checked local broadband resilience – it's all about making sure the tech we have is robust enough to rely on but that the processes around this are sufficient as well."*

Small UK Asset Manager

*"Our infrastructure has been continually upgraded during and post the pandemic - we all virtually remote in with double access passwords and spyware checks. I am as comfortable if not more so at home."*

Small UK Asset Manager

For most firms, the controls have long been set up to enable working from home, so that no huge infrastructure changes are required. Instead, the focus has been on improving remote access, in particular for front office teams which historically have been office-based. Likewise, resiliency and disruption planning has been at the forefront since the financial crisis of 2008. With a flexible working environment becoming mainstream, the exception will be the norm and available across the board, requiring a more robust structure and set of guidelines.

<sup>6</sup> <https://www.ft.com/content/8840e3f6-5bc3-4f34-aa23-a570ac7741b8>

Although most firms say the controls to allow for home working were already in place prior to the pandemic, only 26% are making no new adjustments, while for the majority, long-term operational resilience is being re-assessed and overhauled, with increases in security, remote access and cloud computing (see Exhibit 7). There are multiple areas of focus to ensure resilience, cyber security, disaster recovery and compliance.

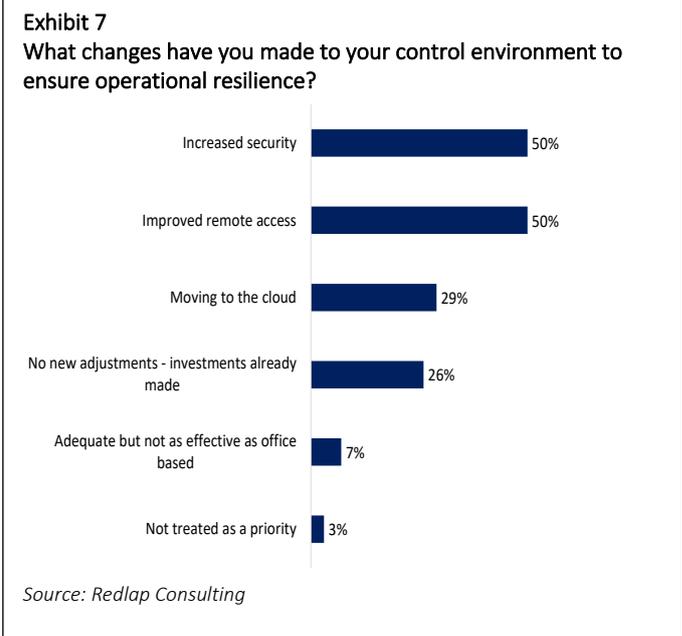
**Resilience & Security**

Ensuring the day-to-day resilience of technology with a large part of the working staff working partly from home, partly in the office, broadens the remit of the IT departments. In addition to systems being operational, accessible and secure, fair access and connectivity are now greater considerations. WiFi issues must at least be minimized for dealers running portfolios worth billions, with easy identification and transfers of orders and partials that may be mid-flight. All this requires stringent applications, robust business continuity drills, clean hand-off protocols and the constant search for gaps by deliberately breaking things to test for gaps.

Cybersecurity is being taken to a whole new level after recent events in the Ukraine. While IT security and more specifically cybersecurity is the protection of electronic assets used to store and transmit information from infrastructure to applications, networks and cloud, – the increased risk of cyberwarfare is placing the concern that confidential data is protected from unauthorized access at the top of every regulator and CEO’s agenda.

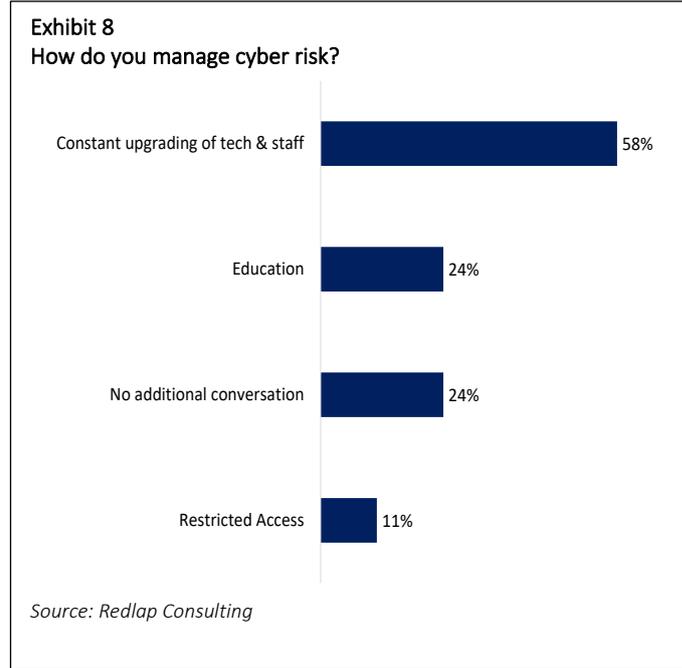
Firms commonly offer two options: the use of Citrix appears to be widely adopted to remote into central systems or the use of VPN connectivity. 82% of respondents are tackling cyber risk by upgrading and educating staff, while only 11% doing so by restricting access, preferring to enhance processes linked to central controls and an ability to monitor and shut things down immediately (see Exhibit 8). On permanent high alert and under constant attack from bad actors, IT departments now have both broader technological arenas to manage and must navigate less familiar with the equipment and setup of an individual’s home compared with company equipment in the same building.

In Europe, as in the US, broader attention has been given to the role of technology providers in financial services. According to the European regulator, these new business models may not be fully covered by existing regulations, which could introduce systemic risks in the financial system



*“We have a playbook for a cyber-attack with an action plan which is regularly tested, and you need to move quickly. Recently we have been contacted by three counterparties who have had a cyber breach and it was surprising how little they knew what to do.”*

Large UK Asset Manager



and create supervisory challenges with the majority of technology providers based outside of the Europe Union.

Despite the ongoing efforts, warnings were made in Europe that large parts of the financial industry remained poorly covered to face system disruption and cyber-attacks<sup>7</sup>. In February 2021, the European Commission requested the European Supervisory Authorities (ESAs) analyse and provide recommendations notably on the fragmentation of financial services value chain and the growth of digital published. In their report, the ESAs noted the increasing reliance of capital markets on third party providers via outsourcing arrangements with a difficulty from national regulators to supervise and assess the risks of the entire value chain. The UK has also warned market participants about the significant rise in outsourcing arrangements and the risk this can represent to capital markets<sup>8</sup>, and has given guidance that firms operating a hybrid model must have considered cyber, security and data risks, particularly as staff may transport sensitive material more frequently in this type of working environment<sup>9</sup>.

In the US, the SEC is also proposing new rules for investment companies to ensure preparedness against possible cyber threats to maintain a high level of investors protection as well as orderly markets<sup>10</sup>. The new rules require fund managers to define and introduce cybersecurity policies, describing cyber risks that could harm clients. Companies will also have to disclose significant cybersecurity threats and face new record-keeping requirements. The regulators themselves are also addressing the need to improve system safeguards. Rostin Behnam of the CFTC recently noted plans to accelerate migration to cloud technologies to more effectivity store, analyse and act on market activity recognizing the need to proactively address existing enforcement in these times of “transformative change” for the industry.<sup>11</sup> While the move to working from home during the pandemic highlighted the benefits and resiliency of electronic trading, more recent events have also highlighted the risks of continued voice trading. The London Metal Exchange recently halted trading of nickel for a week and cancelled a series of trades due to high market volatility which is resulting in a review by the FCA and Bank of England<sup>12</sup>. Ironically calls to address this may inadvertently aid the shift to virtual working through greater use of Blockchain in capital markets<sup>13</sup>. Previously considered on the fringes, greater use of Digital Ledger Technology could potentially reduce systemic risk, increase surety of settlement and improve the provision of margin – further lowering unnecessary operational risk in an increasingly virtual world.

*“The whole firm is on high alert regarding cyber risk. There has been a lot of attacks in the country the last couple of months and we are constantly reminded about this from IT-security. Some functionalities have been switched off and we have had to reapply for some WFH use of some systems.”*

Mid-sized EEA Asset Manager

<sup>7</sup>[https://www.esma.europa.eu/sites/default/files/library/esa\\_2022\\_01\\_esa\\_final\\_report\\_on\\_digital\\_finance.pdf](https://www.esma.europa.eu/sites/default/files/library/esa_2022_01_esa_final_report_on_digital_finance.pdf)

<sup>8</sup><https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/letter/2022/january/uk-deposit-takers-2022-priorities.pdf?la=en&hash=C4AF2E8171C532EF391CF8378BEB4E94B7738BE5>

<sup>9</sup><https://www.fca.org.uk/firms/remote-hybrid-working-expectations>

<sup>10</sup>[https://www.sec.gov/news/press-release/2022-20?utm\\_medium=email&utm\\_source=govdelivery%20](https://www.sec.gov/news/press-release/2022-20?utm_medium=email&utm_source=govdelivery%20)

<sup>11</sup><https://www.cftc.gov/PressRoom/SpeechesTestimony/opabehnam22>

<sup>12</sup><https://www.fca.org.uk/news/statements/uk-financial-regulation-authorities-london-metal-exchange-lme-clear>

<sup>13</sup><https://www.ft.com/content/b0917d6b-69bc-4d48-ac21-33993bda8043?desktop=true&segmentId=7c8f09b9-9b61-4fbb-9430-9208a9e233c8#myft:notification:daily-email:content>

## Disaster Recovery

Two things have changed with regard to disaster recovery sites. First, the pandemic – and the possibility of another similar situation in the future – ruled out people working in close proximity as a viable alternative; and second, the distribution of people possibly lessens the chance of everyone being affected at the same time. Consequently, 84% of respondents do not plan to use a disaster recovery site in the event of another pandemic or similar (see Exhibit 9).

However, backup sites will be required, but may also be more distributed. Climate change, for example, may take a front seat here. In California, the electricity company implements rolling blackouts to reduce the possibility of wildfires being started during periods of high wind. Hurricanes, earthquakes, tornadoes, floods and other extreme weather are set to create havoc and may impact individuals' homes. It is unlikely a company can tell its staff where to live but there may be limitations on provisions for some areas, and increasingly firms mention universal battery packs as a way to circumvent any power cut. As highlighted in our prior Plato paper "From Fixed to Fluid", 42% of respondents<sup>14</sup> have introduced a rotation system to ensure constant coverage at home or in the office. In the event of a local disaster, however, the option of going back to the office may not physically be possible, requiring immediate transfer of business and/or personnel.

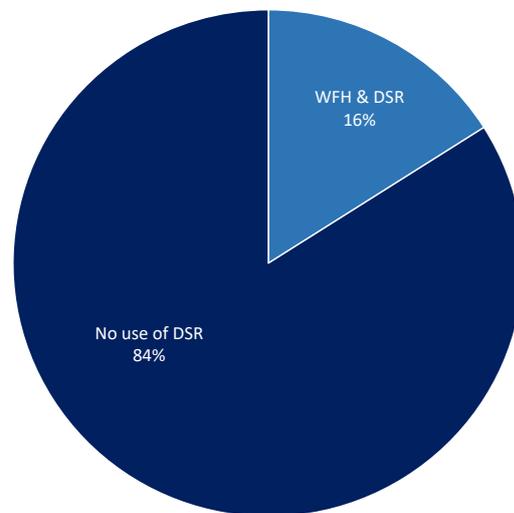
### Compliance: Big Brother or Trust ?

The regulatory onus may be on firms to demonstrate how the processes put in place are sufficiently robust and that flexible working is not being abused, but the determination of how to enforce this outside the company walls will be ongoing.

Some firms have decided to integrate compliance training as part of employees' annual objectives and review. Heads of trading desk as well as compliance departments have increased their monitoring of communication tools such as IB, Teams or Zoom chats, which can end up being a gargantuan task for a global head of dealing managing multiple teams. Some companies have cameras on their staff's monitors to act as both a deterrent and a record. But listening to a problematic call on a trading desk is not possible with remote working,

Exhibit 9

What are your firm's plans in another lockdown?



Source: Redlap Consulting

*"We have a DSR but I can see that going - the investment is on home set ups now and that's where we will send people going forward".*

Large Global Asset Manager

*"The DR policy is now WFH - the amount of money we were spending on a DR site we can invest internally - it has been the easiest transition ever."*

Small US Asset Manager

*"There is greater compliance scrutiny in terms of making sure everything is recorded on the proper channels - BBG and Teams, I check in daily with the team but you have to trust your staff - if they were going to do something they would find a way, WFH doesn't really alter that - you need to make sure you have the right people working for you."*

Small US Asset Manager

<sup>14</sup> [https://platopartnership.com/wp-content/uploads/2022/01/From\\_Fixed\\_To\\_Fluid\\_January\\_2022.docx.pdf](https://platopartnership.com/wp-content/uploads/2022/01/From_Fixed_To_Fluid_January_2022.docx.pdf)

putting the emphasis on other ways beyond simple trust that the firm has done everything possible to ensure good business practices.

Beyond the firm’s code of conduct and policies and procedures, broader questions emanate from geographical distribution. For example, if an employee works for a UK company but lives on or moves to the Continent, it must be re-assessed whether the UK or EU rulebooks apply, and which client base can be serviced from where.

### Developing a Hybrid Culture

A hybrid working environment requires a change in corporate culture so that flexible working is embraced rather than just accepted. This will take time. For the firm, the corporate culture must be maintained, insurance considered, and the value of hybrid working assessed. There are obvious concerns that, apart from training issues, remote working will distance employees from the corporate culture which will ultimately negatively impact branding, company loyalty and corporate cohesion. However, a global initiative to launch a 4-day working week<sup>15</sup> is set to launch a trial period in the UK in June 2022, with similar pilot schemes in the US, Canada, Australia and New Zealand, constituting a major step in rethinking the approach to the work environment.

As the demarcation between home and the office blurs into permanence, the relationship between the employee and the firm is factually changing. The workplace has long been considered the pivot around which people organize themselves and – for many – the office is an extension of their social life. The water cooler and an after-hour drink serve as connectors to peers, while the office provides an obvious place for impromptu huddles and consultation. Learning to replicate this or manage to achieve similar results in a different way will take focus, because although the pandemic removed any desire to gather, it was never anticipated to be a permanent state – until now.

Staff often need help to deal with burnout caused by the stress of the pandemic, excessive online presence, isolation and a ten-foot commute to the office, most of which will not change. Now, in addition, the regulator has a right to call, the firm may encroach more on the office at home, and the edges of privacy are being stepped on, requiring new boundaries and clear policies. It has always primarily been an employee’s decision where and with whom to live and when to move, and the distance from the office has been a personal decision. It is a different issue if the firm has a stake in the connectivity and technology, or there is house-sharing with employees of competitor firms and privacy cannot be assured. Trust, training, and know-your-employee are important, but each side must know it is protected.

*“We need to better utilise virtual engagement. We set this up at my previous firm; everyone had a big TV screen as a whiteboard to go through routine tasks and monitor project progress to optimise time spent at home as well as time spent in the office.”*

Large US asset manager

*“New employees are definitely asking about flexibility – it is firmly becoming a selection criteria. We are now competing with the likes of Google and need to remain competitive on the benefits we offer if we want to attract talent.”*

Small EEA Asset Manager

*“We provided an allowance to make sure that everyone had two providers and was on different networks to ensure back up. We are improving security by moving as much as we can to the cloud and installing firewalls with blockchain encryption.”*

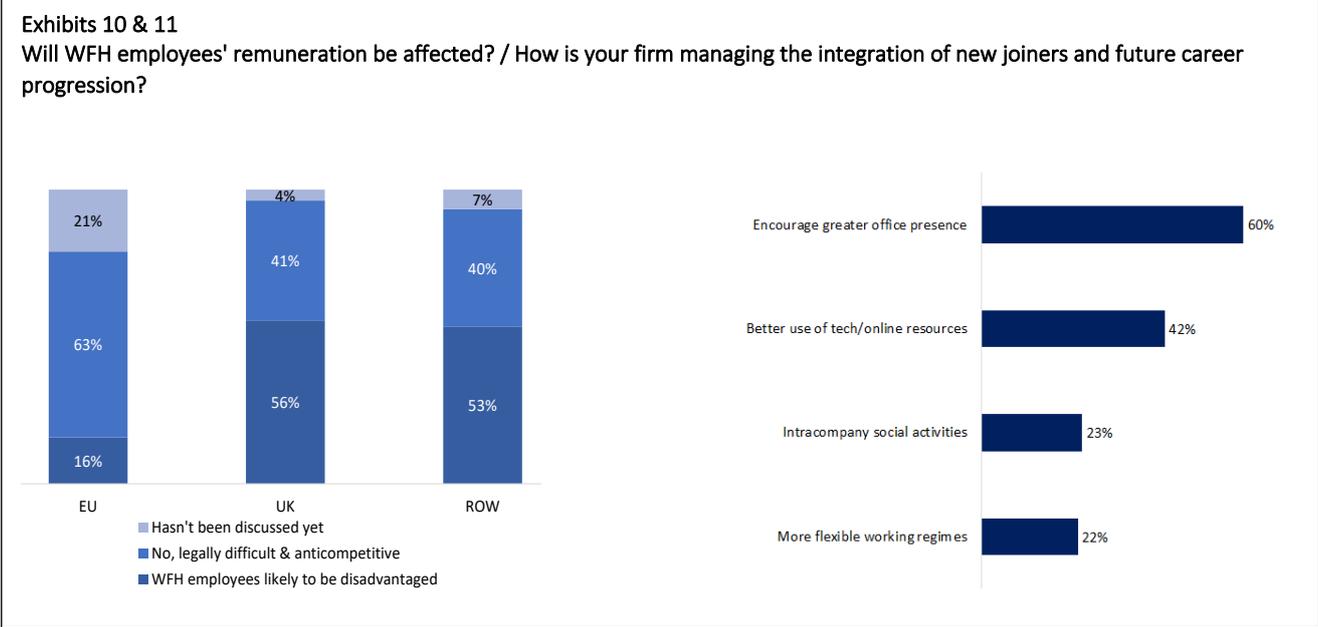
Large US asset manager

*“My partner works for another firm, and we have both had to sign NDAs”*

UK based Sell Side

<sup>15</sup> <https://www.4dayweek.com/>

The high-ticket culture change is the assurance and insurance that an employee out of sight is treated equally to one in the office. This stretches from business practices to the most basic comfort levels of office furniture at home. It will take training and monitoring for portfolio managers to avoid a perhaps natural tendency to default order flow to traders on-site.



While some corporate executives may view working from home as the exception rather than the rule<sup>16</sup>, the pandemic has by and large enabled staff to prove that remote client service is of equal value as office-based service. While firms in Europe cite anti-competition laws to protect staff who work from home, a majority of respondents in the UK and ROW say that extra-office staff are likely to be disadvantaged (see Exhibit 10). Equally important is the promise of career progression and promotion for both existing staff and new recruits, whether seasoned or not. Across the board, firms are encouraging a greater office presence so that staff can be mentored coupled with a lesser focus on on-line resources (see Exhibit 11). The perception is that there is still nothing that quite beats learning from your colleague who sits next to you. Time will tell whether this is merely a cultural shift as some firms noted the benefit in training globally using zoom.

*“Training via Zoom has opened up a whole new opportunity for staff education – we can now link junior staff globally with in-house experts which would not have been feasible previously. There are benefits from the casual conversation with the colleague sitting next to you but in raising educational training – zoom now has its place*

UK based Global Buy-Side

<sup>16</sup> <https://www.cnbc.com/2021/04/07/jamie-dimon-letter-how-remote-work-will-change-jpmorgan.html>

## Regulators Step Up Around the Globe

While regulators are concerned about the continuity of well-functioning markets, operational resilience and cyber-security, the onus on individual firms to ensure compliance. It will take time for regulators and firms worldwide to be on an even footing; in today's age of widespread social media and a generation used to freely sharing across multiple applications, there are inherent difficulties in collating and controlling information without the office walls.

European firms arguably had a head start because of changes to organizational requirements due to MiFID II regulations<sup>17</sup> and been better prepared to shift their operations virtually. From January 2018, for example, internal telephone conversations as well as electronic communications that intended to result in transactions or relating to the reception and transmission of an order must be recorded<sup>18</sup>. Conversely, in the US a bulge bracket bank was fined by both the SEC and CFTC for failing to record offline conversations<sup>19</sup>; employees as well as senior managers used personal devices to communicate via text, WhatsApp and email about sensitive business matters.

In every corner of financial services, regulations are being overhauled:

- **The European Union** is accelerating regulation regarding operational resilience with the Digital Operational Resilience Act (DORA)<sup>20</sup>, published in September 2020 as part of the European Commission's Digital Finance Strategy<sup>21</sup>. In response to the EC's Call for Advice on Digital Finance in February 2021, the European Digital Finance Review<sup>22</sup> issued in February 2022 proposes a holistic approach, stronger protection and supervision, and convergence of services, effective supervision.
- **In the UK**, the FCA has updated its hybrid working guidance<sup>23</sup>. Firms must prove that the decentralized nature of the business does not impact their operations, robustness of the systems and controls in place, nor the governance and oversight of senior managers. Any significant change in the manner a firm operates may require the FCA to be notified first.
- **In the US**, the SEC is proposing cybersecurity risk management rules<sup>24</sup>. Commissioner Crenshaw noted the increasing frequency and sophistication of cyberattacks is ensuring cybersecurity is "one of the biggest challenges facing market participants today». The new rules propose an 8-K filing

*"Obviously at the moment, we are still in a situation where there's a huge amount of uncertainty as to what is going to happen. So I think there's still quite a lot of that to play out. There's going to be a hybrid world, this would have to be a central assumption."*

Regulator

*"There is a lot of talk coming from the SEC on cyber. I think both regulators and firms are only really beginning to understand the risks here, so I expect this area to grow. It's requiring constant upgrading of tech and staff but also the need for greater education."*

US policy consultant

*"I don't think there is a big difference in terms of monitoring staff in an office vs monitoring staff at home. It's naive to think that you cannot do anything that is not good when you are in the office."*

Regulator

<sup>17</sup> <https://www.esma.europa.eu/policy-rules/mifid-ii-and-mifir>

<sup>18</sup> [https://www.esma.europa.eu/sites/default/files/library/esma35-43-349\\_mifid\\_ii\\_qas\\_on\\_investor\\_protection\\_topics.pdf](https://www.esma.europa.eu/sites/default/files/library/esma35-43-349_mifid_ii_qas_on_investor_protection_topics.pdf)

<sup>19</sup> [https://www.sec.gov/news/press-release/2021-](https://www.sec.gov/news/press-release/2021-262#:~:text=SEC.gov%20%7C%20JPMorgan%20Admits%20to,Penalty%20to%20Resolve%20SEC%20Charges)

[262#:~:text=SEC.gov%20%7C%20JPMorgan%20Admits%20to,Penalty%20to%20Resolve%20SEC%20Charges](https://www.sec.gov/news/press-release/2021-262#:~:text=SEC.gov%20%7C%20JPMorgan%20Admits%20to,Penalty%20to%20Resolve%20SEC%20Charges)

<sup>20</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020PC0595>

<sup>21</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/digital-finance\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/digital-finance_en)

<sup>22</sup> <https://www.esma.europa.eu/press-news/esma-news/esas-recommend-actions-ensure-eu%E2%80%99s-regulatory-and-supervisory-framework-remains>

<sup>23</sup> <https://www.fca.org.uk/firms/remote-hybrid-working-expectations#revisions>

<sup>24</sup> [https://www.sec.gov/news/press-release/2022-20?utm\\_medium=email&utm\\_source=govdelivery%20](https://www.sec.gov/news/press-release/2022-20?utm_medium=email&utm_source=govdelivery%20)

requirement for any material cyber-intrusion, continuing periodic reporting on previously disclosed incidents, and disclosure of related policies and procedures<sup>25</sup>.

The SEC is also adapting its rulebook to respond to the increase in remote working by modernizing its electronic record-keeping requirements for broker-dealers<sup>26</sup> for the first time since 1997. A proposed audit-trail alternative will allow “the recreation of an original record if it is altered, over-written, or erased” giving broker-dealers greater flexibility in how record keeping systems are designed to keep up with technology innovation. The new SEC’s chairman, Gary Gensler, has made no secret of looking for an overhaul of how financial services are supervised, and a clear focus on investor protection suggests further prescriptive regulation in favour of retail investors versus wholesale banks. As ever, the devil will be in the detail.

- **In Asia**, the Hong Kong Market Authority published a consultation in December 2021 on operation resilience<sup>27</sup> requiring
  - The establishment of mechanisms to determine operational resilience parameters e.g. the identification of critical functions, tolerance levels and plausible scenarios
  - Mapping interconnections and interdependencies underlying critical activities and what risks may affect them
  - Risk management policies and frameworks to be defined, and
  - Scenario-testing to ascertain if a firm is still able to deliver on critical operations amid disruption
- **In Australia**, ASIC engaged with companies early on in the pandemic to understand what types of processes were implemented to ensure the effectiveness of business continuity and supervision arrangements<sup>28</sup>. They issued a series of guidance documents and published on their website the result of their discussions with market participants including good practices in relation to cybersecurity<sup>29</sup> noting the increase in cyber threats during the pandemic. Data and cyber resilience capabilities including staff training and awareness were highlighted as a key part of ASIC’s Corporate Plan 2021-25<sup>30</sup>.

ASIC surveyed a number of market liquidity providers in May 2021. While nearly half of the respondents had undertaken comprehensive cyber security training in the last year, ASIC also noted less than half of the respondents followed the ISO/IEC Information Security Management standard ISO27001<sup>31</sup> to protect information assets as recommended<sup>32</sup>. ASIC also suggested respondents consider the Essential Eight Maturity Model from the Australian Cyber Security Centre’s Strategies to Mitigate Cyber Security Incidents<sup>33</sup>. ASIC importantly highlighted the need for greater transparency regarding cyber attacks with the majority of firms not reporting the attack to any authority indicating that the industry is unlikely to appreciate the true extent of cyber attacks.

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<sup>25</sup> [https://www.sec.gov/news/statement/crenshaw-statement-cybersecurity-030922?utm\\_medium=email&utm\\_source=qovdelivery](https://www.sec.gov/news/statement/crenshaw-statement-cybersecurity-030922?utm_medium=email&utm_source=qovdelivery)

<sup>26</sup> <https://www.sec.gov/news/press-release/2021-240>

<sup>27</sup> [https://www.hkma.gov.hk/media/SPM\\_module\\_OR-2\\_Consultation\\_\(20211222\).pdf](https://www.hkma.gov.hk/media/SPM_module_OR-2_Consultation_(20211222).pdf)

<sup>28</sup> <https://asic.gov.au/regulatory-resources/markets/market-supervision/operational-resilience-of-market-intermediaries-during-the-covid-19-pandemic/>

<sup>29</sup> <https://asic.gov.au/regulatory-resources/digital-transformation/cyber-resilience/cyber-resilience-good-practices/>

<sup>30</sup> <https://asic.gov.au/about-asic/corporate-publications/asic-corporate-plan/>

<sup>31</sup> <https://www.iso.org/isoiec-27001-information-security.html>

<sup>32</sup> <https://asic.gov.au/about-asic/news-centre/articles/cyber-risk-are-registered-liquidators-ready-to-respond/>

<sup>33</sup> <https://www.cyber.gov.au/acsc/view-all-content/publications/essential-eight-maturity-model>

## Future-proofing Hybrid Models

It will take time for firms to determine a new working environment which balances what is best for both the business and the employees, how the different worlds now fit together, to ensure that on-site and off-site employees are equal, and to determine what is a reasonable corporate policy and what not. Business continuity and client service are paramount, and every firm will face more vigorous questions about the hybrid working environment, technology stacks, connectivity and mitigation plans along with rising regulatory scrutiny in relation to cyber risk.

There remain many challenges and unknowns. For example, the FCA requires continued access to a firm's site, records and employees as well as the ability to visit any location "*where work is performed, business is carried out and employees are based (including residential addresses) for any regulatory purposes*". This could prove geographically challenging and potentially raises privacy issues.

In Europe, as in the US, broader attention has been given to the role of technology providers in financial services. While acknowledging the importance and benefits of innovation, regulators are increasingly wary of technological developments given the reliance on third parties for services including data analytics and risk management, resulting in a more fragmented and non-integrated value chains. According to both the US and European regulators, these new business models may not be fully covered by existing regulations, which could introduce systemic risks in the financial system and create supervisory challenges, in particular with the rise in Digital Assets. That said, the industry has managed well under the pressure of the pandemic and the need to adapt as the situation evolved. Now, flexibility will become fully integrated in firms' modus operandi and this is putting pressure on almost every part of the firm at once. While challenging, the situation Covid-19 and WFH created may also lead to wider adoption of new technologies such as Blockchain to address these new risks.

Theoretically, remote working makes geography irrelevant, and it should not matter where an individual lives. Yet, the employee's tether to and reliance on the firm mean that elements from climate change to local network providers matter far more than ever before. Future-proofing the hybrid model will be a work in progress for some time as firms test out and adapt policies and procedures. Regulators will continue to review the resilience of financial services and ensure the rulebooks follow the latest technology developments. The challenge for firms, staff and regulators will be, of course, to find the right balance, and this will differ across the industry spectrum as well across the regions.

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