

A simple guide to recording and storing conversations to comply with MiFID II

■ Detangling the complexity of MiFID II
How does it impact your organisation and how can you prepare?



What is MiFID II?



The Markets in Financial Instruments Directive, commonly known as MiFID II, is due to come into force in January 2018. First introduced by the EU in response to the 2008 financial crisis, MiFID is a set of sweeping reforms for the financial industry designed to prevent history from repeating itself in the same way again.

Replacing the original Directive in January 2018, MiFID II brings changes to many areas relating to conduct of business, including far more robust rules around the recording and storing of conversations.

This easy-to-digest eGuide cuts through the jargon and highlight the key parts to help you become compliant.

What does this eGuide cover:

- Who needs to comply?
- What conversations need to be recorded?
- How do these conversations need to be stored?
- How do these recordings need to be monitored?



MiFID II

Who needs to comply?

Under today's MiFID regulations

Organisations involved directly in trading must record conversations. However, some are exempt, such as financial advisers and brokers, as long as they don't operate across borders or hold client money.



What's changing?



Under the new MiFID II regulations

Any organisation providing financial services to clients linked to 'financial instruments' will have to record and store all communications intended to lead to a transaction. Unlike the current FCA regulations, which are specific to those directly involved in financial trading, with MiFID II any organisation that's even giving advice that may lead to a trade or investment will need to comply with this rule.



MiFID II

What needs to be recorded?

Under today's MiFID regulations

The FCA mandates that fixed line and mobile calls must be recorded.

What's changing?

Under the new MiFID II regulations

The new requirements stipulate that all conversations 'that are intended to lead to a transaction' must be recorded, broadened from the previous mandate of 'client orders and transactions.' MiFID II also includes other communications such as mail, fax, email or audio recording of client orders placed during face-to-face meetings that are intended to result in a trade.

RECORDING

MiFID II

How do recordings need to be stored?

Under today's MiFID regulations

With the current rules, recordings must be kept for at least six months.

What's changing?

Under the new MiFID II regulations

With MiFID II, recordings must be stored for a minimum of five years from the date the record is created, and if requested by the competent authority for up to seven years.

All records must be kept in a 'durable medium' so that they can be effectively monitored for compliance, and in a way that allows them to be replayed or copied and ensures the original record can not be deleted or altered.

Recordings must be stored in a way that makes them accessible and readily available to the FCA on request. And organisations are required to ensure the quality, accuracy and completeness of records.



MiFID II

How do recordings need to be monitored?

Under today's MiFID regulations

Simply recording of conversations is sufficient to be compliant.



What's changing?



Under the new MiFID II regulations

To ensure compliance, organisations will need to review their records on a period basis. The monitoring is specified as 'risk-based and proportionate.' Organisations will also need to prove that the appropriate policies, procedures and management of recording rules are in place and that management have clear oversight of these.

Organisations must then periodically re-evaluate the effectiveness of their recording procedures and adopt alternative or additional measures if necessary. Where they aren't able to comply with recording policies, they need to investigate why the records were not able to be retained. Records of these investigations must also be kept for the same amount of time as the original record's retention period.





**The clock is ticking...
are you ready for MiFID II?**

Coming into force on 3rd January 2018

Get in touch today to find out more about how MiFID II is going to impact your organisation and how we can help you comply with these new regulations.