

MiFID II & GDPR

Critical Stats, Dates & Call Recording Implications





Industries Covered

Financial Services - investment firms, trading venues, data reporting service providers, & third-country firms providing investment services

All industries which process personal data

Conditions for Recording

You must record:
Internal calls and electronic communications "intended to result in transactions"

Reception, transmission and execution of client orders
If there is an indication of market abuse behavior present

Transmission of an order to a broker
Discussions around prices, solicitations, bids and/or offers
Dispute resolution evidence

You can only record when:

The people involved in the call have given consent to be recorded
Recording is necessary for the fulfilment of a contract

Recording is necessary for fulfilling a legal requirement

Recording is necessary to protect the interests of one or more participants

Recording is in the public interest, or necessary for the exercise of official authority

Recording is in the legitimate interests of the recorder

Recording Requirements

RECORD every call that leads to a transaction
RETRIEVE – give customers access to recordings when requested

META DATA – make it easy to search for specific recordings

AUDIT TRAIL – track and timestamp when recordings are accessed, played, downloaded

STORAGE – securely store recordings for 5 years (7 upon FCA request)

GDPR Article 30 requires controllers, processors, and their representatives (where applicable) to maintain records of their data processing activities [including recorded phone transactions]

Records [including calls] kept under Article 30 shall be available to supervisory authorities upon their request

Customer Access to Voice Recordings

Customers must be given access upon request.

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Recording Retention Mandate

5 years

Recordings should not be stored indefinitely. Time limits for erasure should be established.

Securing Recorded Calls

Recordings must be stored in full encryption

Audio recordings must have certain safeguards to protect privacy, such as file encryption

Additional Reading

[MiFID II Call Recording Regulations from ESMA \(pg. 35-42\)](#)

[GDPR: The Contact Centre Conundrum \(GDPR Report\)](#)

Learn more about

ORECX COMPLIANCE RECORDING

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Open Source Recording