

Turning MiFID II into Competitive Advantage

An examination of how the challenges of MiFID II call recording can be an opportunity and how data can be harnessed for business success.





Introduction

MiFID II has been on the radar for some time, but as the deadline for implementation creeps ever closer, the industry has been rather slow to react to one of the most disruptive aspects of the legislation – the expansion of the taping regime.

Investor protection and transparency is the core aim of MiFID II, with increased investor trust the expected by-product. Although increased trust can lead to loyalty and repeat business, complying with the letter of the rules alone will not bring you a competitive advantage as improvement is expected across the industry. Firms therefore need to be looking beyond the prescribed recording element to how they can utilise the wealth of data collected on customers, competitors and internal processes to devise strategies for differentiation and, ultimately, deliver a competitive advantage.

With a year to go until firms are expected to comply with MiFID II, we are beginning to see a greater sense of urgency within the industry to seek out suitable recording solutions. This paper examines how the challenges of MiFID II call recording can become an opportunity and how the data can be harnessed for business success.



Look beyond call recording to how you can utilise data for competitive advantage





Overview of Requirements

The FCA is still consulting on the provisions for transposing MiFID II into the UK regulatory regime, with the final rules expected in early 2017. Firms will then have to comply with the changes from 3rd January 2018.

If you are reading this you will no doubt already have an awareness of the background and requirements of MiFID II. To serve as a refresher we've summed up the key points:

Why is it needed?

The original MiFID framework has been revised to strengthen investor protection and improve the functioning of financial markets in light of the financial crisis, particularly around transparency, governance and customer protection.

One of the core catalysts stems from ineffective recordkeeping of transactions and failings within the sales process, which give rise to poor outcomes, conflicts of interest and damaged consumer trust. The directive also seeks to establish more robust governance requirements in an effort to ensure that firms promote the interests of clients and the integrity of the financial markets.

Why is conversation recording central to MiFID II?

According to the Financial Ombudsman Service (FOS), the majority of complaints about investment products centre on the conversations that occurred during the product sale. An audio recording is the most accurate method to record what was discussed during a conversation. The act of recording those conversations will create a self-disciplining deterrent effect on firms and provide an undisputable record of the audit trail and conversations. In turn, this will enable firms to resolve disputes quicker and more cost-effectively and provide greater investor protection.

The conversation recording requirements are also intended to assist regulatory authorities in supervising the market by providing them access to verifiable records that can be used to "detect any behavior that may have relevance in terms of market abuse"¹ or other compliance issues.

What are the changes/requirements?

- **Industry expansion** - the new proposals broaden the scope of the existing requirements to Article 3 firms, which include financial advisory firms, corporate finance business, investment firms and discretionary investment managers;
- **Channel expansion** - although widely referred to as call recording, the scope of the requirement also includes electronic communications. It therefore covers video conferencing, fax, email, Bloomberg mail, SMS, business-to-business devices, chat, instant messaging and mobile device applications or dealing on own account;
- **Staff expansion** - MiFID II expands the requirement to record any conversations within the advice chain that lead to a trade/sale, so a greater number of staff across the firm are now included;
- **Communication expansion** – the requirements extend to any conversation that is ‘intended to lead to a transaction’ rather than the current requirement of client orders and transactions;
- **Retention expansion** – MiFID II makes it mandatory to store recordings for a minimum of five years.

The Wider Impact of MiFID II

Complying with the recording requirements is only one aspect of the regulation. Firms have a further obligation to ensure they are appropriately monitoring the capture, storage and usage of those conversations. There is also an expectation that firms use the recordings for ongoing compliance monitoring as they are deemed to be more accurate than the traditional note-form records.

Conversation recording offers many additional benefits that will assist firms with their wider MiFID II compliance. The data and management information (MI) available to firms with conversation recording systems/ processes in place can also enhance the firm’s governance, another integral part of MiFID II. Having clear oversight of the activities of the firm, through detailed and reliable MI, enables senior management to make informed business decisions and demonstrate ongoing compliance to the regulator.

MiFID II also strengthens the product governance requirements for product manufacturers and distributors, mandating that firms must have adequate controls to ensure that products are only sold to those consumers that they are suitable for. The customer segmentation data from conversation recordings can provide the necessary evidence that these requirements are being met, and provides firms with greater insight into their customer demographics, which can, in turn, be used to inform future business decisions.

Ultimately, it’s worth remembering that firms recording and storing conversations is not the intention of the legislation. The aim is to promote greater transparency and increased investor protection, therefore firms need to be considering whether the solution they choose enables them to achieve this objective.

Turning challenge into opportunity

The call recording requirement brings with it a plethora of challenges. If managed correctly, and with the right solution as an enabler, this challenge can soon be transformed into an opportunity, thanks to the additional benefits call recording can bring about.

You need to be considering not only whether you comply with the requirements of MiFID II, but whether the solution you have in place, or are planning on implementing, is appropriate now and adequate for the future. Below, we look at the core areas you should consider when implementing a call recording solution.

Key consideration 1: Recording retrieval



Your recordings must be easily retrievable if you are going to take advantage of the efficiency gains that this technology offers. This is only possible if your recordings are tagged with searchable data-points. You don't want your staff trawling through endless audio files for the one that resulted in a transaction, you need to be able to access this file almost instantaneously. We are still surprised by how many recording solutions do not have this basic capability.

Even if you are complying with the current taping regime, it is likely that the recording solution in place will need to be reviewed to ensure it complies with MiFID II, particularly around the storage expansion and channel expansion requirements.



Key Consideration 2: Omni-channel implementation

MiFID II doesn't just mandate call recording, it also brings all forms of electronic communication into scope, which can make it more challenging to identify the most appropriate solution and increase the complexity of the implementation process.

When looking to implement a conversation recording solution, it is important to consider the practicalities of the implementation process. With such a short timeframe remaining until firms need to comply with MiFID II, solutions with a lengthy implementation process may be ultimately unsuitable as the deadline draws nearer. Similarly, issues may arise when integrating the new system with legacy systems already in place.

Recordsure is fully customised to your business needs and offers straightforward integration with existing systems, including telephony, to deliver a conversation recording solution which not only complies with MiFID II conversation recording requirements, but also delivers enhanced MI for holistic compliance and a competitive advantage.

Face-2-face

The call recording provision has been classed as a 'minimum harmonisation' aspect of the directive, giving the FCA the latitude to expand the scope and requirements where it believes it is warranted within the UK market, rather than being constrained by the EU mandate.

However, in August 2015, the FCA confirmed that advisers will not have to record face-to-face meetings so it is doubtful that the FCA will be convinced to move too far from its opening position. The FCA also (unsuccessfully) lobbied the EU against the widening of the call recording provision so it is unlikely to look to further gold-plate from the current position. That said, there is likely to be significant lobbying from consumer groups for all client interactions to be recorded.

Although the FCA doesn't currently look like it will require all face-to-face conversations to be recorded, there are clear benefits of omni-channel capability and having an end-to-end view of all discussions with clients:

- Standardisation across all distribution channels will be more effective and efficient to review and oversee;

- Leaving face-to-face out of your monitoring will shift your primary exposure to this type of business, meaning you will need to have greater oversight on this area;
- You will be able to see the end-to-end customer journey.

Because of the benefits offered, why wouldn't you opt to record face-to-face interactions? All you need is a competitively-priced solution that can deliver against your omni-channel recording requirements.



Key Consideration 3: Gathering data and transforming it into intelligence

If your recording solution does not provide comprehensive management information (MI) around compliance, performance management and customer experience at the very least, you are missing vital intelligence that can be harnessed to deliver a competitive advantage.

Some of the valuable insights that can be gained from the raw data gathered by recording solutions include:

- Statistical data on clients' circumstances and risk appetite;
- Statistical data on client sentiment;
- Data matching against set rules i.e. whether a disclosure was advised or guaranteed, or whether MiFID II products were recommended to unsophisticated investors.

This data can be transformed into valuable insights that can be used to inform business decisions and highlight areas of emerging risk. For example, Recordsure's compliance monitoring solution transforms the raw data from your conversation recordings into information on:

- Products that are exposing your firm to high levels of risk;
- Weaknesses within your workforce, including areas where training or performance management is needed;
- Whether MiFID II and other compliance rules are being consistently adhered to;
- An understanding of the end-to-end customer journey.

The key to successfully implementing a new recording solution is maximising the benefits it offers in relation to the cost of implementation and any on-going fees. This requires thorough due diligence prior to purchase to ensure that the chosen solution meets your company's needs and that it will deliver the greatest value for money. Ongoing monitoring is also important to ensure that it continues to meet the standards required for call recording and that the MI provided is being used to deliver both the right client outcomes and greater transparency.



Key Consideration 4: Using the data for competitive advantage

It's not enough to collect and analyse the data provided by your recording provider. To achieve the greatest returns, it must be acted upon to bring about better client outcomes, greater efficiencies and more effective compliance.

However, recording for MiFID II compliance shouldn't be the sole reason firms look to implement a call recording solution. The FCA expects firms subject to the call recording requirements to utilise the data provided to monitor for emerging risks and trends, and react appropriately to address them. The audio recordings also enable more effective dispute resolution, with FOS identifying that the majority of complaints about investments are centred on the conversations that occurred during the product sale. Much of the reasoning behind the MiFID II call recording requirements is to ensure firms have a clear audit trail of the intention and understanding of both the adviser and the client. The FOS asserts that this is particularly useful in cases of mis-selling. However, the majority of advised transactions take place face-to-face, leaving significant gaps in the audit trail if any complaints were to arise from those transactions.

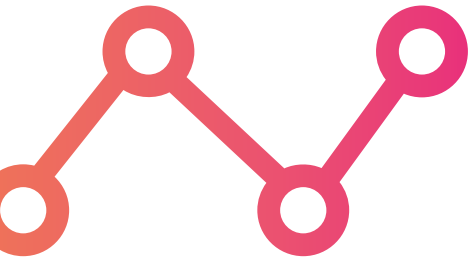
There is also an expectation, from the regulator, that all firms which come under the conversation recording requirements of MiFID II will also use the wealth of data provided as part of their on-going compliance monitoring and risk management processes. The benefits of utilising this data for wider compliance include:

- Improved controls, processes and governance, resulting in a lower risk of mis-selling, fewer complaints and an improved relationship with the FCA;
- Improved efficiencies within systems and processes, resulting in cost savings across the work force and technology infrastructure;
- Greater customer insights, which, if used to drive positive change across the company, can lead to increased transparency, an improved culture and better product design and distribution.

However, there is a widening skills gap within traditional compliance roles for comprehensive data analytics expertise. More and more, these skills are becoming vitally important for compliance professionals who are expected to analyse greater volumes of data and identify trends, weaknesses and areas of non-compliance in order to fulfil the demands of their role. If you select Recordsure as your conversation recording partner our expert data scientists will work closely with you through the implementation process to ensure that the system meets your exact data needs and that your compliance function has the requisite knowledge to make best use of the data produced by the Recordsure system.

Whatever stage you're at with your call recording arrangements, from having a fully-implemented solution to researching the most appropriate option, the key consideration should be how adequately the solution meets the needs of your operation. This isn't just how well it meets the requirements of MiFID II, but also how it is able to meet wider compliance and data requirements.

There is often a temptation to opt for the cheapest, minimal call recording solution. While this route may reduce the impact of implementing a solution on pre-defined budgets, the limited scope of these solutions mean that firms don't realise the true benefits of conversation recording and may face increased compliance costs as a result.



Why is Recordsure the solution?

Recordsure's compliance monitoring solution offers all the benefits of secure and compliant conversation recording, with enhanced MI that can be harnessed to deliver significant business benefits.

Unlike many conversation recording solutions, which often only offer the ability to record mobile and land-line telephone calls, Recordsure has the capability to record face-to-face meetings and electronic communications too, enabling you to build a complete picture of your operation and the end-to-end customer journey. This information is always at your fingertips, as Recordsure securely stores all records and enables easy search and retrieval of the data.

Built with compliance in mind, Recordsure is backed by the knowledge of [compliance and conduct risk experts, TCC](#), and is designed to ensure that all the outputs are relevant, comprehensive and contribute to better business practices. This partnership is key to helping our clients make the most of the MI to detect emerging risks, remediate customers in the event of poor outcomes and improve systems and controls. It has also been designed to meet the requirements of MiFID II, making it an ideal solution for firms that need to comply with the new directive.

With the increasing cost of regulation in the post-crisis world, it's essential that compliance solutions deliver a return on investment. Recordsure meets this need by delivering efficiency savings across the advice process and the wider business, and reducing the overall volume of complaints and redress, the benefits of which far outweigh the initial costs.

How can Recordsure help you comply with MiFID II?

MiFID II is a wide-ranging piece of legislation and, undoubtedly, will require firms to make a number of significant changes to core areas of their operation in order to be fully compliant.

The core aims of MiFID II - increased transparency, increased investor protection and trust - also signal the potential direction of travel for future regulatory initiatives within this market. If this regulatory focus does continue following the implementation of MiFID II, having a compliance solution already in place to meet expectation in these areas will stand you in good stead to navigate future regulatory change.

Recordsure can assist firms with their MiFID II preparation and compliance in several ways, with support tailored to each firm's unique business model and strategy.

1

MiFID II Health Check

Prior to undertaking any significant compliance or business changes, such as implementing a conversation recording system, it is important to thoroughly understand the health of the business and the current reality of the situation the solution is aiming to fix. This can identify any weaknesses or areas of improvement that, once addressed, will lead to more successful implementation and compliance. A health check can also be a vital tool in assessing your progress towards meeting the requirements of MiFID II.

A MiFID II Health Check from Recordsure is carried out in conjunction with TCC's MiFID II experts and will focus on a review of your sales and advice process, oversight and governance. It will identify your progress towards MiFID II compliance and provide guidance on the key risks and any necessary remedial actions.

Undertaking this check prior to implementation of the Recordsure system also enables our experts to ensure your firm is in the optimal position to get the best out of the solution and ensure successful implementation.

2

Conversation Recording

Conversation recording is a key element of MiFID II compliance. There are many solutions available to capture telephone calls, which offer basic compliance with MiFID II requirements.

The Recordsure difference is in enabling you to capture all interactions, whether they take place electronically, face-to-face or via the telephone. This omni-channel approach enables all interactions along the customer journey to be recorded in a secure and verifiable format, supported by comprehensive data tagging to enable easy search and retrieval of recordings, particularly those relating to transaction requests.

3

Data Analysis

MI is key to ongoing compliance. Recordsure's comprehensive processes ensure that all recordings are tagged, segmented and classified to deliver valuable MI with the necessary depth and range to enable senior management to make informed business decisions, pinpoint key trends and identify emerging risks.

The types of data available to firms via their Recordsure dashboard include:

- Customer segmentation data, including key demographic information and risk appetite;
- Sentiment analysis, not only of customers' perceptions of the firm itself, but also its competitors;
- Data matching against set rules i.e. whether a disclosure was advised or a guarantee given or whether MiFID II restricted products were recommended to unsophisticated investors.

Depending on the firm's needs, Recordsure then turns this data into valuable MI, such as:

- Highlighting those products and trends that are exposing the firm to risk;
- Workforce trends which may suggest the need for improved training and competency or performance management;
- Whether MiFID II, and other compliance rules, are being adhered to;
- A thorough understanding of the end-to-end customer journey

The collaborative approach offered by the Recordsure solution enables you to shape the system to your specific data needs, delivering greater returns and business benefits. This also enables you to gain a competitive advantage by delivering an enhanced customer experience and improving efficiencies across the compliance and advice process.

With the backing of compliance experts [ICC](#), we ensure you are getting the most out of the data provided by the system and can advise and guide you to more effective MiFID II compliance.



Take advantage of Recordsure today

If you're looking for a conversation recording solution that meets the requirements of MiFID II, the additional benefits offered by Recordsure offer significant value for money, which far outweigh the initial costs.

Our tailored approach provides you with a solution which, not only meets MiFID II requirements for conversation recording, but also gathers and reports on the MI most valuable to senior management. Having access to this level of data and acting upon the insights it provides will inform decision-making and can lead to a competitive advantage.

To explore how Recordsure could help you, speak to one of our experts today.

E: info@recordsure.com

T: +44 (0)203 772 7272

Recordsure Ltd

6th Floor
10 Lower Thames Street
London EC3R 6EN

T +44 (0)203 772 7272
E info@recordsure.com
W www.recordsure.com