

The Black Hole in MiFID II Compliance

Ten years on from the start of the financial crisis and much continues to be written about the events that marked a turning point in the global economy, resulting in a renewed focus on regulation of financial markets. Fast forward and in less than 100 days from now we finally see the implementation of the regulator's response to the financial crisis - MiFID II.

How prepared is your organisation? Have you ensured sure that every aspect of communication is covered? Collaboration tools have fundamentally changed the way in which financial services do business over the past couple of years and whilst call recording for traditional telephone conversations is old news, the way in which many of your teams now communicate bring in new challenges for compliance.



TREND

Audio Conferencing is being used more than ever to remote meet with numerous parties within a transaction. Buy-side firms and independent advisers who have not had to previously record calls are struggling to see the benefit of MiFID II.

CHALLENGE

Collaboration tools are likely to be causing a black hole in compliance. Multi-channel conversations require multi-channel call recording. It seems that a complex solution would be required for compliance.

INNOVATION

A cloud-based conferencing service that enables up to 20 different participants to be recorded in separate channels, securely archived and retrievable for analysis. For the first time in conferencing, a conversation can be searched by keywords or phrases, meaning no more manual transcriptions or listening to conversations end to end.

MAKE SURE YOUR CONFERENCING DOESN'T GET LOST IN THE BLACK HOLE OF COMPLIANCE

- Check how your conference calls are currently recorded and archived.
- Opt for cloud-based solutions that require no hardware or software licensing.
- Ensure a voice analytics tool as part of the service.
- Act quickly to help your teams see immediate benefits and not get bogged down in the doom and gloom of compliance.

Recap on Regulations

MiFID II is incoming and will take full effect from the 3rd January 2018. This piece of EU legislation spearheaded by the European Securities and Markets Authority (ESMA) aims to prevent market abuse and increase transparency in the financial services sector, strengthening investor protection and re-establishing consumer trust.

ESMA's advice is simple, financial organisations operating within the European Union must employ a strict record-keeping regime in which clear archives of each client transaction should be made available for inspection upon request. For organisations in the UK that are regulated by the Financial Conduct Authority (FCA) this means all telephone conversations and electronic communications that result or intend to result in a client transaction - irrespective of the outcome - should be recorded and retained for a minimum period of five years. Note this obligation extends to all firms in a transaction chain including a third party and not just the recipient.

To avoid any potential confusion "electronic communications" is a term that acknowledges new communication technologies in addition to more established ones so organisations will be liable for logging email, SMS and even instant messaging (IM) communications now in addition to their landline & mobile calls.

Communication Trends in Financial Services

MiFID II does not introduce a mandatory requirement to voice record face-to-face meetings, but the reality is that financial service firms and their employees are rarely choosing to communicate the advice or sale of financial instruments in person. Collaborative tools such as audio conferencing is being utilised now more than ever, enhancing productivity and enabling the most complex of deals by bringing together multiple parties from around the world.

While these communication advancements are an excellent utility, they run a risk of being non-compliant in the new regulatory landscape.

Why? Most financial service firms already have procedures in place for recording and archiving all email communications and the availability of call recording solutions for fixed line, and mobile have become more commonplace. However, conference call recording has not received the same spotlight and is being overlooked by financial institutions in what we can only describe as a “black hole” in MiFID II compliance.

What Happens Now? Companies need to obtain a detailed view on what communications they are using to maintain operational efficiency and gives you the ability to add this into your data bundle around each transaction. Our findings suggest that many firms are still searching for a compliant solution if indeed they have even identified the potential need for one.

The Benefits of Conferencing Must Remain For those responsible for compliance and operations in any financial services organisation, MiFID II presents a challenge of how to facilitate and encourage compliant remote communications between staff and clients. No firm will want to do away with the operational and cost efficiencies that they enjoy from collaborative communications.

With MiFID II comes opportunity, don't get caught in the doom and gloom.

The perceived benefits of MiFID II has been a contentious subject with industry participants split over the type of impact the reforms will have. A recent poll estimated that more than one-third are not persuaded that the incoming regulation will make financial markets any more “efficient, resilient and transparent” as anticipated.¹

There exists a certain “doom and gloom” around MiFID II, particularly centred around the call recording requirement of regulation. Financial advisors have expressed deep concern labelling it a ‘step too far’ undermining the trust that clients may have for their advisor. It is important that this extra level of compliance is seen for its benefits. In other words, MiFID II should be treated as an opportunity, at an individual level, advisors will receive as much protection against themselves and their business as would the investor.

Greater transparency in the market means advisers should be able to meet their client’s objectives more effectively with investors making more informed investment decisions as a result. Together call recording for financial institutions allows the possibility to bring together and view through a single platform your firms transaction data and potentially leverage this information to gain critical insights and make informed business decisions going forward.

A factor that continues to dominate is the sheer cost attached to implementing any kind of MiFID compliant strategy. In a recent survey 89% senior staff at asset managers, brokers and banks believe the regulation is increasing costs and that compliance spend could more than double by 2020. Similarly, Article 3 firms - that is small advisory and corporate finance boutiques - have talked up their fears of the financial burden of a MiFID II taping requirement, so it is evident that this is where the current feeling around MiFID II lies. Fortunately, there are cost-effective, easy to implement solutions to call recording that will enable your firm, regardless of size, to become compliant immediately.

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The Compliant Audio Conferencing Solution

- An audio conference solution that enables **up to *100 participants** to meet remotely from any device, anywhere in the world.
- **Call recording** can be applied to the account as standard practice, with no extra cost involved.
- **Digital transcriptions** available within 10 minutes of call finishing.
- **Voice analytics** enabling a keyword or topic search, voiding the requirement for manual listening of every conversation.
- **Secure Archiving** with indexing and protected retrieval rights.
- **No hardware purchase required.**
- **No software license required.**
- **Cloud based solution** means it is immediately scalable.
- Either pence per minute or channel-based pricing.

Speakserve enables financial organisations – specifically ‘buy-side’ and Article 3 firms who might fear the financial implications - to utilise conference call services with the highest quality voice recording, so that you can spot potential policy violations and uphold the record-keeping MiFID II requires.

Our cloud based conferencing technology also means instant scalability to your operations meaning there is no process required for installing software in-house or hardware cost leaving you free to focus on what’s important – the business side.

To be MiFID II compliant records of all conference conversations need to be stored in a format that does not allow the original to be altered or deleted, but readily available and searchable on request. Speakserve enables every call to be archived, indexed and downloaded to your environment or stored within our secure online portal for which we can provide protected retrieval rights for designated users.

In some instances, regulations require written minutes or notes which can drain resources and slow down operational efficiency. Speakserve call recordings can be transcribed in close to real-time with industry leading accuracy and are available within minutes of the call taking place, providing an unrivalled insight into the content of conversations.

MiFID II states that all voice recordings must be ‘searchable’ to enable reconstruction of client conversations upon the request of regulators. Speakserve’s cutting edge analytics technology turns multi-channel audio streams into searchable data, enabling you to search, analyse and index each conversation for keywords and topics keeping your conference meetings fully compliant. Being able to pinpoint exactly where a word or phrase is used in a conversation saves compliance teams a huge amount of time listening to recorded conversations or manually working through transcriptions. The solution goes one step further than other compliance tools, enabling you to reap some benefit from such a business analytics tool.

What happens if you don’t comply?

90% of buy side firms believe they are at risk of non-compliance come the January 2018 deadline, a recent survey has found³, while an overwhelming majority (54%) of senior financial services professional’s report being unsure of whether they will meet MiFID II compliance. The overall picture presents an industry that appears to be overstretched and underprepared for the incoming regulation despite a one-year delay and the fact there are less than 100 days until it springs in to full effect. Even more alarming is almost three quarters (73%) of Risk & Compliance managers in the financial sector admit to not knowing the financial implications for not complying, with 17% also stating they have no knowledge that their company could receive a cease and desist order.

So, what happens if you don’t comply? While the FCA have no intention of taking enforcement action against firms for not meeting all the requirements straight away, there is a need for them to have taken sufficient steps in what Mark Steward, FCA’s head of enforcement describes as a “genuine attempt to be ready”⁴. The heavy fines and penalties inflicted on financial services firms following MiFID I was no secret and the expectation is that this will continue with MiFID II where key obligations are “deliberately flouted”. **In fact, companies could be fined up to 5m euros or 10% of their annual turnover.** Luckily compliant call recording is easily attainable with a solutions provider like Speakserve. We are already helping buy-side firms to prepare, providing conference call services that are built with MiFID II compliance in mind, ensuring productivity and continued agility in a deal driven environment.

It's Time to Act



MiFID II is set to impact three times as many financial firms than its predecessor with the FCA expected to be capturing as many as 35 million transaction reports per day. From asset managers and traders to brokers and banks, the regulation which seeks to increase transparency in financial markets will have a widespread impact and the time for your firm to act is now.

For buy-side firms and boutique investment banks, it is well known that implementing a variety of solutions to make all communications compliant is going to be tricky, particularly with the time constraints in mind. To avoid hefty fines in January, you must have made a good attempt at a compliant solution for all forms of communication. Opt for easy to implement solutions that aren't going to require expertise in-house, integrating existing hardware and software will be an unnecessary drain on resources when a cloud-based, pay as you go solution is all that is required.

Speakserve is a leading provider of professional conference call and collaboration services to financial organisations and we possess a growing portfolio of financial services clients, whom we have helped to become MiFID II compliant with their conference call recording, archiving and analysis. We understand technical requirements can differ from business to business, and because our technology is built in-house we can happily customise our compliant audio conferencing solution to meet your requirements.

Allow us to demonstrate how we can provide you with a compliant solution, not only for your conference calls but as a tool that is available to analyse every call recording by uploading any MP3 or .wav file to our call portal. Speak to one of our experts today to find out how we can help you with a hassle free, cost-effective solution that will revolutionise your conference calls.

References:

1. [Financial Technologies Forum](#)
2. [The Trade – MiFID II Blog](#)
3. [JWG Blog and Survey Results](#)
4. [Money Marketing – Report on Enforcement Stance](#)



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