

MIFID2 RECORD KEEPING REQUIREMENTS

Regulation Effective Date: January 3, 2018

THE LEGAL DIRECTIVE:

MIFID2: Markets in financial instruments directive

Each EU nation must adopt it as national law.

THE REGULATION:

MIFIR: Markets in financial investments regulation

Enforces the MIFID2 Directive, must be implemented as-is.

Has impact with these additional regulations:

MAR: Market Abuse Regulation

CSMAD: Criminal Sanctions for Market Abuse Directive

PRIIPS: Packaged Retail & Insurance Based Investment Products

UCITS 5: Undertakings for Collective Investment in Transferable Securities

AIFMD: Alternative Investment Fund Managers Directive

IDD: Insurance Distribution Directive

WHAT MUST BE ARCHIVED?



Voice, transaction & electronic communications regarding the production, sale and distribution of financial instruments.

ARCHIVED FROM WHAT?



Company equipment and personal electronic equipment approved by a firm for transactional use.

GLOBAL IMPACT

MIFID2 affects financial companies doing business in the EU and those from the rest of the world that do business in the EU.



DO YOU NEED HELP WITH MIFID2 ARCHIVING?

KSF Technologies and ASG Software Solutions have integrated our products to provide you a centralized MIFID2 content repository of record. Please request our MOBIUS + ARKIVY brochures for full details.

WHY ARCHIVE?



To preserve and make transparent financial data for investor protection and delivery to clients and regulators.

ARCHIVE ON WHAT?



A durable medium that prevents alteration. (Write Once Read Many)

ARCHIVE FOR HOW LONG?

**5-7
years**

Minimum 5 Years, Up to 7 Years

WHO DOES IT AFFECT?

PRODUCERS OF INVESTMENT PRODUCTS

Asset managers,
Banks, Insurance
Hedge Funds



PROVIDERS OF INVESTMENTS

Banks
Execution venues
(exchanges)



DISTRIBUTORS OF INVESTMENTS

Banks
Investment Advisors



"Banks" is a catch-all phrase to include Investment, Retail, Consumer, Public and Private institutions.

FOR MORE INFORMATION, CONTACT: mifid2@ksftech.com

MIFID2

RECORD KEEPING REQUIREMENTS IN DETAIL

MIFID2 IS DIRECTIVE 2014/65/EU

Hyperlink Directly to Document on
Official European Union Law Site : [MIFID2](#)



Commentary – MIFID2 works in conjunction with; MIFIR (Regulation EU No 600/2014), CSMAD (Directive 2014/57/EU) and MAR (Regulation EU No 596/2014).

RELEVANT SECTION REGARDING GENERAL RECORD KEEPING REQUIREMENTS: ARTICLE 16, SECTION 6:

6. An investment firm shall arrange for records to be kept of all services, activities and transactions undertaken by it which shall be sufficient to enable the competent authority to fulfil its supervisory tasks and to perform the enforcement actions under this Directive, Regulation (EU) No 600/2014, Directive 2014/57/EU and Regulation (EU) No 596/2014, and in particular to ascertain that the investment firm has complied with all obligations including those with respect to clients or potential clients and to the integrity of the market.

Commentary – This is not a “blanket” archive rule of ALL voice and electronic communications, only those surrounding financial transactions.

RELEVANT SECTION REGARDING ARCHIVING OF VOICE & ELECTRONIC COMMUNICATIONS: ARTICLE 16, SECTION 7:

7. Records shall include the recording of telephone conversations or electronic communications relating to, at least, transactions concluded when dealing on own account and the provision of client order services that relate to the reception, transmission and execution of client orders.

Commentary – Archiving must still be done if transactions are not concluded.

Such telephone conversations and electronic communications shall also include those that are intended to result in transactions concluded when dealing on own account or in the provision of client order services that relate to the reception, transmission and execution of client orders, even if those conversations or communications do not result in the conclusion of such transactions or in the provision of client order services.

Commentary – This section says communications on firm owned devices and those on firm approved devices must be archived.

For those purposes, an investment firm shall take all reasonable steps to record relevant telephone conversations and electronic communications, made with, sent from or received by equipment provided by the investment firm to an employee or contractor or the use of which by an employee or contractor has been accepted or permitted by the investment firm.

Commentary – Defines which mediums must be used for transactions and then archiving. Handwritten notes involving executions must also be archived.

Orders may be placed by clients through other channels, however such communications must be made in a durable medium such as mails, faxes, emails or documentation of client orders made at meetings. In particular, the content of relevant face-to-face conversations with a client may be recorded by using written minutes or notes. Such orders shall be considered equivalent to orders received by telephone.

Commentary – Records must be kept 5 to 7 years and must be reproduced to clients upon request.

The records kept in accordance with this paragraph shall be provided to the client involved upon request and shall be kept for a period of five years and, where requested by the competent authority, for a period of up to seven years.

FOR MORE INFORMATION, CONTACT:

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This document is not legal advice. It is a summary of record keeping guidelines for MIFID2. For complete guidelines on the impact of MIFID2 in your organization, contact your Legal and Compliance team.

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