

CALL RECORDING & COMPLIANCE OFFICER CONFIDENCE

LEE ROBERTSON, OF ADAM PHONES, DISCUSSES THE OPTIONS FOR THE CALL RECORDING TECHNOLOGY NECESSARY TO BE COMPLIANT UNDER THE UPCOMING MIFID II REGULATIONS



With the release of the final policy statement, firms now have a full understanding of how the Financial Conduct Authority (FCA) will implement Mifid II. This has resulted in a notable increase in activity within firms looking to implement the necessary technology ahead of the 3 January 2018 deadline.

Regarding call recording – or ‘taping’ as it is referred to in the FCA documentation – there are highly prescriptive guidelines around the recording of calls to and from mobile and desk phones (including internal calls). Now that the rules have been finalised by the FCA, firms have all the information they need to act and start the evaluation and implementation process.

ENSURING YOUR CALL RECORDING SOLUTION IS TECHNOLOGICALLY FIT FOR COMPLIANCE

In previous contributions, we covered what it means to be compliant in a mobile world, and the choice of whether you record at the application layer (on-device) or within the infrastructure of the mobile network itself. The risks associated with on-device recording are well documented:

- Application installation & updates required
- Incompatibility with certain devices (especially iOS)
- Reliance on data connectivity to transmit recordings
- Necessity for end user training
- Ability to circumvent the solution and make non-compliant calls (perhaps the largest risk of all)

By recording at the network infrastructure level, all of these risks and complexities are removed; you can use any device (or blend of devices), you don't need to rely on the data network, you don't have to train your end users and you are always compliant with every call made and received. Ultimately, a network level solution will enable you to make a call in a compliant world tomorrow in the same way you make a call today, and it's this level of confidence that compliance officers seek.

You must also evaluate all electronic communications from your mobile devices to ensure compliance guidelines are met – not just voice calls and SMS. The potential risks

are significant given the growing number of instant messaging (IM) applications. There has been reference in the market to solutions claiming to capture IM; however, this is a broad claim that should be approached with caution. Governments have used policy to try and enforce technology firms to grant access to end-to-end encrypted IM platforms in the interests of national security – and this approach casts huge doubt over whether any recording solution can capture IM data accurately and completely. Our advice is to prevent access to anything you cannot capture with 100% certainty; this means utilising IT policy via your chosen mobile device management solution to revoke access to, among others, WhatsApp, iMessage, Google Hangouts, Viber, Facebook and Slack. This approach will demonstrate that you have worked to close every potential communications loophole.

In relation to fixed line call recording, the choice is a very similar one – rather than hosted versus ‘on-device’, we would view it as hosted versus ‘on-premise’. Those looking at on-premise solutions are likely to attract larger upfront implementation costs, specifically for hardware and installation. As with any on-site solution, the list of limitations is very similar – you'll need to allocate space in your comms room or rack, and this may mean fewer resilience options in terms of power, cooling and connectivity compared to a hosted solution. Add to this the cost for ongoing maintenance, physical storage limits and the need for closer monitoring, and the on-premise model becomes increasingly undesirable.

In contrast, a hosted model offers the ultimate flexibility; depending on the solution implemented, for which significant supplier and solution due diligence is advised – an increasing focus for investors. The hosted model provides resiliency within the design of the solution, especially with more advanced versions. Upfront implementation costs are typically avoided, and ongoing maintenance should be non-existent – and of course, the hosted model will allow for unlimited growth potential.

FROM DESK PHONE TO MOBILE PHONE – THE CALL RECORDING UTOPIA

As laid out under the FCA Consultation Paper CP16/29, the requirements for ‘taping’ calls (both mobile and fixed



line) are the same: record all calls (internal and external) relating to the 'reception, transmission and execution of orders' and 'periodically monitor the records'. We also know from this consultation paper that the records storage duration remains at a minimum of five years, as initially envisaged under Mifid II. This high quantity of data required points firms in the direction of hosted solutions and hosted archiving.

Firms must consider how they will store and process a potentially large volume of data from a variety of mobile and desk phone sources, while also taking into account any requirements the compliance team has for reviewing that data. Ideally all data will be fed into a single repository, be it SMS, mobile or desk phone calls. As with accessing any large quantity of data, it is imperative that retrieving specific information is easy, efficient and cost effective, especially in response to a regulators request to provide it. Therefore, the portal for accessing data needs advanced keyword search facilities with the potential for voice transcription. Reviewing the data would be enhanced by the ability to 'tag' calls and for the reviewer to add supplementary notes or commentary to a call recording timeline – enabling an accurate picture of correspondence to be swiftly built. It may also be necessary to adjust the playback speed of a recording, especially where ambient noise could impact the interpretation of what was said – this is especially true for mobile recordings, where the participants of at

“
OUR ADVICE IS TO PREVENT
ACCESS TO ANYTHING YOU
CANNOT CAPTURE WITH
100% CERTAINTY
”

least one side of the call could be outdoors. By housing all the data in one place, and providing the compliance officer with a toolkit of features that make reviewing calls simpler and quicker to action, the risk to the firm is reduced.

Looking at the technical footprint of archiving solutions we again see, much like the technologies of mobile and fixed line call recording themselves, a choice between on-premise and cloud. While there are companies still making use of on-site archiving solutions, we envisage a move to hosted archiving as the de facto standard in the medium term; driving down ongoing maintenance costs to help offset some of the cost of new technology requirements that Mifid II will introduce.

THE THREE PILLARS OF CALL RECORDING – TECHNOLOGY, REGULATION AND INVESTOR CONFIDENCE

When we speak to clients, prospects and partners about mobile and fixed line call recording, the conversation always covers the same three bases or 'pillars'. The first two are somewhat obvious – the features and benefits of the solution you're proposing and why you believe it's the right one for their business, and the specifics of how your solution will meet the requirements of Mifid II. As we have already covered the technology in this report, we can move on to ensuring the features of your chosen call recording solution relate back to the regulation:

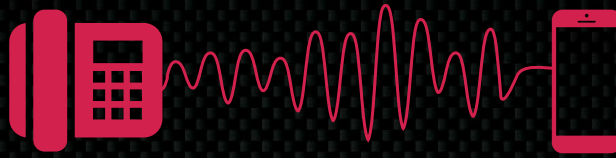
- Storage – as referenced in Article 16 (7) – needs to be immutable, resilient and retained for a minimum of five years
- Recordings – as referenced in the FCA Consultation Paper CP16/29, internal calls and all calls relating to 'reception, transmission and execution of orders' must be recorded
- Reporting and monitoring – as referenced in the FCA Consultation Paper CP16/29, firms must periodically monitor the records; this ensures compliance with the wider regulatory requirements of 16 (7) and Recital 57 of Mifid II. The monitoring is detailed as being 'risk-based and proportionate'

Firms should also remain aware that homeworkers need to be recorded, preferably within the same solution, and are bound by all of the same guidelines.

The final 'pillar' is investor confidence in the technology solutions implemented or proposed. As referenced earlier, supplier due diligence and the vendor selection process should be rigorous for all firms. This is an increasing focus for investors, and we are frequently asked to detail our solution architecture, infrastructure providers, business continuity options and solution accreditations (especially BS10008 for call recording, to ensure that data captured can be admissible in a court of law).

If the solution you're choosing or recommending meets the three pillars of technological suitability for the business, delivers on the Mifid II regulation, and succeeds in providing your investors with the confidence they seek, you will have chosen the right call recording solution. ■

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