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Additional Information

Level 1 Regulation
Markets in Financial Instruments Directive II (MiFID II) Directive 2014/65/EU- Investor Protection and Intermediaries

Level 2 Regulation
Regulation 2017/565 - MiFID II Delegated Regulation

Topic
Recording of telephone conversations and electronic communications

Subject Matter
Scope of the obligation to document face-to-face conversations with clients

Question

Should face-to-face conversations with clients be recorded if the client order is placed in a written form or contract signed during the meeting??

ESMA Answer

18-06-2025

Original language

Subparagraph 7 of Article 16(7) of MiFID II stipulates that when client orders are placed through channels other than telephone, they must be documented in a durable medium[1]. Subparagraph 7 mentions as examples of acceptable formats: mail, fax, email, or documentation of clients orders made at meetings and that, in particular, the content of face-to-face interactions may be recorded through written minutes or notes.

In addition, Article 76(9) of the MiFID Delegated Regulation[2] require that such records include some minimum information listed in such article.

Therefore, if a client order is placed during a face-to-face meeting and documented with a written form or contract signed during that meeting, the investment firm shall comply with Article 76(9) of the MiFID II Delegated Regulation and ensure that such written form or contract includes at least all the information listed in Article 76(9) of the MiFID II Delegated Regulation. If the written form or contract does not contain all the information specified in Article 76(9), the firm must ensure that the missing div are documented in additional records.[3]

[1] As defined in Article 4(62) of MiFID II.

[2] Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms

for the purposes of that Directive.

[3] Firms are reminded that Article 74 of MiFID II Delegated Regulation concerning record keeping requirements of client orders and decisions to deal also applies.