



Navigating MiFID III

Voice Recording, Retention & Surveillance Readiness



A Kerv briefing for compliance, surveillance and communications infrastructure leads

What "MiFID III" actually is

"MiFID III" is shorthand, not a new directive in its own right. It refers to the 2024 review package that amended the existing framework:

- Regulation (EU) 2024/791 amending MiFIR (commonly "MiFIR II")
- Directive (EU) 2024/790 amending Directive 2014/65/EU (commonly "MiFID III")

Both entered into force on 28 March 2024, with MiFIR II directly applicable and MiFID III requiring Member State transposition [Algoodbody](#). The transposition deadline for MiFID III was 29 September 2025.

A number of Level 2 measures (delegated acts, RTSs) are still being finalised, which is why the practical impact is landing through 2026. ESMA's position, set out in its October 2025 statement, is that firms are expected to comply with the revised provisions unless otherwise specified.



What has not changed.

The core voice and electronic communications recording obligation Article 16(7) of MiFID II has not been materially rewritten by the 2024 review. The UK equivalent, FCA SYSC 10A, likewise remains in force. That means:

- The 5-year minimum retention period remains the baseline. Under Article 25 of MiFIR, investment firms must keep order and transaction records at the disposal of the competent authority for five years.
- The obligation to record communications "intended to result in a transaction" is unchanged.
- The obligation to prevent staff from using unrecorded private equipment is unchanged.

Be cautious of vendor marketing claiming MiFID III introduces wholesale new voice recording rules. It doesn't. What it does do is change the environment around those recordings transaction reporting granularity, surveillance expectations, channel coverage scrutiny, and AI-supported monitoring expectations.

What is changing and why it matters for voice & comms estates

Transaction reporting granularity (RTS 22 & RTS 24)

- The amendments to Articles 25 and 26 of MiFIR are driving revisions to RTS 22 (transaction reporting) and RTS 24 (order book data). Key practical changes: JSON is proposed as the standard format for order book data keeping and transmission, replacing XML TRAction.
- New transaction and execution identifiers are being introduced, including TVTIC, TIC for off-venue transactions, and the INTC identifier for aggregate orders TRAction.

The planned go-live of the amended reporting and register is scheduled for 1 April 2026.

Why this matters for voice recording

Transaction reports need to be reconcilable against the underlying communications that generated them. Richer transaction metadata means the CDR-to-comms reconciliation chain becomes the weakest link if it doesn't carry matching identifiers.



Surveillance and active monitoring posture

The regulatory tone has shifted from "keep the recordings" to "demonstrably monitor them." MiFID III elevates the importance of sales and advisory conversations, demanding clearer disclosures and compliance across voice, messaging and digital platforms, with higher expectations for AI use in surveillance.

ESMA has also signalled direct enforcement interest: an EU-wide Common Supervisory Action will specifically examine conflicts of interest and their monitoring in the marketing of financial products.

Broader communications channel scope

Regulators continue to make clear that the channel-agnostic principle of Article 16(7) applies to everything mobile voice, Teams, SMS, WhatsApp, collaboration tools. Article 16 requires firms to preserve records of all services, activities and transactions, including telephone conversations, email, chat and mobile messaging.

Off-channel comms enforcement pressure is no longer theoretical — it's one of the defining supervisory themes of this regulatory cycle.

Retail conduct PFOF ban, KIDs, suitability

Not directly a recording matter, but worth flagging because it drives demand for evidence: stricter suitability and appropriateness assessments aim to match clients with suitable products and reduce mis-selling risks. That evidence increasingly comes from recorded client interactions, which is why surveillance-quality transcription and intent detection become in-scope for firms that historically kept tapes "just in case."

UK divergence what UK firms need to track separately

For our UK-domiciled customers, the EU changes are informative but not binding. The UK is moving on its own path:

- The FCA's DP24/2 is evaluating whether to extend transaction reporting to UK AIFMs and UCITS managers for their MiFID-scope activities.
- The FCA is rationalising SYSC 3 and SYSC 10 rules to reduce length and complexity, with the consultation closing 2 February 2026.
- UK firms continue to report under the onshored UK MiFIR until new FCA rules are finalised.
- Practical implication for dual-regulated groups: firms with both EU and UK entities now face genuine divergence risk in their centralised reporting and surveillance frameworks. A single compliance architecture that served both regimes post-Brexit will not survive the 2026/27 horizon without careful re-platforming.

Where customers should start a readiness checklist

Based on the above, these are the questions compliance and comms-infrastructure leads should be asking now:

Recording completeness

- Are all client-facing channels (Teams, mobile, turret, chat, SMS, video) captured with evidence of capture, not just capture-by-assumption?
- Can we prove, for any given trade, which communications preceded it not just that some recording exists somewhere?

Metadata lineage

- Do our voice recordings carry the identifiers (LEI, client ID, instrument, timestamp granularity) needed to reconcile against the revised RTS 22 transaction reports?
- Can we produce a chain-of-custody for any recording from endpoint to archive that would survive a regulator data request?

Retention & integrity

- Are we meeting the 5-year retention with tamper-evident storage?
- Do we have provable deletion / retention schedules that align to GDPR Article 17 and MiFID 5-year minimums simultaneously?

Active surveillance

- Can we evidence risk-based monitoring, not just sampling? What coverage percentage? What false-positive profile?

- Do our surveillance models actually process voice, or do they only process the transcript and if the transcript is wrong, what's the fallback?

Cross-border architecture

- If we're EU+UK, do our surveillance and reporting pipelines assume a single ruleset, and where is the divergence risk?

Where Guardian fits

Guardian is built around the three failure modes we've seen most often in T1 compliance environments, which map directly onto the MiFID III readiness checklist above:

CDR reconciliation and chain-of-custody. Guardian's core is the reconciliation between telephony CDRs and archived recordings. As transaction reporting metadata under RTS 22 gets richer, the reconciliation task gets harder, not easier and firms relying on periodic spreadsheet reviews will not meet a regulator's definition of "all reasonable steps." Guardian gives customers an auditable, continuous assurance layer that the recording estate is actually doing what the policy says it does.

Transcription and surveillance readiness. Guardian's transcription pipeline is designed to produce surveillance-grade output meaning the transcripts, diarisation and metadata are usable as the input to monitoring models, not just as a searchable corpus. For customers moving from "we have recordings" to "we can demonstrate active monitoring," this is the missing layer.

Migration and legacy estate integrity. Guardian Assure addresses the specific risk of legacy recorder migrations (NICE, Verint, NTR and similar) where tapes move but assurance doesn't. Given the enforcement tone heading into 2026, any customer mid-migration without a demonstrable integrity story is exposed.

Recommended next steps for customers

- Carry out a formal review of your recording systems, using the checklist in Section 5, focusing only on the communication channels and trading activities that are currently covered by the relevant regulations (MiFID II Article 16(7) and FCA SYSC 10A).
- Map your current transaction reporting metadata against the draft RTS 22/24 fields to identify reconciliation gaps before the April 2026 go-live.
- Review your dual-regulation architecture (EU + UK) for divergence risk and decide your strategic posture single stack with switchable rules, or bifurcated.

Key references used within this document

- Regulation (EU) 2024/791 (MiFIR II)
- Directive (EU) 2024/790 (MiFID III)
- MiFID II Article 16(7); MiFIR Articles 25 & 26
- FCA Handbook SYSC 10A
- ESMA consultation & final report on RTS 22 / RTS 24 (October 2024 / 2025)
- ESMA statements on MiFID III/MiFIR II transition, 27 March 2024 and 10 October 2025
- FCA DP24/2
- Steel-eye
- [PwC Legal](#)
- [Norton Rose Fulbright](#)
- [European Securities and Markets Authority](#)
- [TM Group](#)
- [Asctechnologies](#)
- [Smash](#)
- [Buzzacott](#)

Get ahead and stay ahead with Kerv

Get in touch with Kerv to book your Guardian Assure review, particularly if you have any legacy recorder migration in flight, or a migration that has been completed within the last 24 months.

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