

Chapter 2

Conduct of business

2.3 Recording and retention of telephone calls and electronic communications

Recording and retention of telephone calls and electronic communications

- 2.3.1** **R** This section applies to telephone calls and *electronic communications* between the *firm* and a *customer* made for the purposes of, or in connection with, a *regulated claims management activity* carried on by the *firm* ("relevant communications").
- 2.3.2** **R** *Firms* must record all telephone calls and retain all other relevant communications.
- 2.3.3** **G** The requirement to record and retain all relevant communications applies to incoming and outgoing calls, text messages, emails, and other *electronic communications* between the *firm* (or a *person* acting for the *firm*) and a *customer*, including calls and communications relating to complaints about the *firm*.
- 2.3.4** **R** A *firm* must take all reasonable steps to prevent an *employee* or contractor from making, sending, or receiving relevant communications:
- (1) on equipment owned by a *person* other than the *firm*; and
 - (2) which the *firm* is unable to record or retain.
- 2.3.5** **R** A *firm* must notify a *customer* at the start of each telephone call (including a call made by voice telephony via the internet) that the call will be recorded.
- Retention period**
- 2.3.6** **R** The *firm* must retain telephone call recordings (including recordings of calls made by voice telephony via the internet) for a minimum of 12 *months*, from the latest of:
- the *customer* withdrawing or deciding not to pursue the *claim*;
 - the settlement of the *claim*;

the conclusion of any legal proceedings commenced in connection with the *claim*;

- (4) the conclusion of the handling of any complaint made by the *customer* to or about the *firm*, including the handling of the complaint by an alternative dispute resolution scheme (such as the *Financial Ombudsman Service*);
- (5) the termination of the agreement between the *firm* and the *customer*; and
- (6) the date of the *firm's* last contact (by whatever method) with the *customer*.

2.3.7

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- (1) For the purposes of ■ CMCOB 2.3.6R(2), a *claim* is settled when the *customer* receives compensation, damages or redress in respect of the *claim*.
- (2) The effect of ■ CMCOB 2.3.6R is that where, for example, the only contact with the *customer* is a telephone call made with a view to selling the *firm's* services, but the *customer* does not engage the *firm*, the *firm* is required to keep a record of that call for at least 12 *months*. (*Firms* are reminded that, in relation to cold calling by telephone, the Privacy and Electronic Communications (EC Directive) Regulations 2003 prohibit unsolicited calls for the purposes of direct marketing in relation to *claims management services* without the consent of the subscriber of the line being called (regulation 21A).)
- (3) The effect of ■ CMCOB 2.3.6R(4) is as follows. Where the *firm* would otherwise become entitled to cease to keep the record absent that provision but at that time there is a complaint that has been made and not concluded, the *firm* must retain that record for a minimum of twelve *months* from the point at which the complaint has been concluded.