

Telephone and Communications Recording

H2 2023

1.1 General

- a) Westpac Europe GmbH (“WEG”) may, without using a warning tone, record conversations made by telephone between itself and each client. In addition, WEG may use any recordings so made as evidence within a legal dispute or an investigation by any governmental authority. In general, the records of all communications made with the respective client may be kept by WEG for a period of five years. If required by a competent authority, such records may be retained for a period of up to seven years. Within the relevant retention period and upon request by the respective client, WEG will make available a copy of such records to the such client.
- b) As per the provisions of the German Banking Act (“Kreditwesengesetz”) and the German Securities Trading Act (“Wertpapierhandelsgesetz”), WEG is under an obligation to record telephone conversations and electronic communications (for instance communications per e-mail) with its clients (and their agents) in cases where the respective communication involves the provision of investment services and relates to the receipt, transmission and execution of client orders. The aforesaid obligation also extends to cases where the respective communication does not lead to WEG and the client entering into a specific transaction for the provision of investment services.
- c) In addition, the Minimum Requirements for Risk Management (“Rundschreiben 10/2021 (BA) - Mindestanforderungen an das Risikomanagement – MaRisk”) published by the Federal Financial Supervisory Authority (“Bundesanstalt für Finanzdienstleistungsaufsicht”) require in their General Part 6 (AT 6) that business, control and monitoring documents must be kept for a period of five years.
- d) Moreover, reference is also made to the agreement signed in 1993 by the German Federal Bank (Bundesbank) and certain organisations of the German banking industry, which laid the cornerstone for the subsequent practice adopted by the German banking industry of recording telephone conversations relating to trading with currencies, cash investments, derivatives, securities and commodities.
- e) Recordings are made in order to resolve unclarities. Such unclarities may, for instance, arise with respect to: (i) whether and, if so, under which terms WEG and a specific client have concluded an agreement; (ii) under which terms an order has been placed by a client and whether such order has been executed by WEG as per the client’s instructions. Against this background, recordings of communications are to the benefit of both WEG and its clients, and further contribute to greater legal certainty and transparency.
- f) WEG urges its clients to inform all their employees and agents involved in concluding any business with WEG by using telephone communication, that such communication will be recorded and the records will be kept as outlined above.
- g) Should a client or its agent not agree to the aforementioned recording and retention of records, WEG’s investment services cannot be provided to such client by means of telephone or electronic communication.

1.2 Conversation notes

WEG is required, in the case of personal conversations with clients relating to investment services, to record in a durable medium notes of the conversation which include at least (i) date and time of the meeting; (ii) location of the meeting; (iii) identity of the attendees; (iv) initiator of the meeting, and (v) relevant information about the order including the price, volume, type of order and when it shall be transmitted or executed.

