

Chapter 16

Reporting information to clients (non-MiFID provisions)

16.2 Occasional reporting

Execution of orders other than when managing investments

16.2.1

R

- (1) If a *firm* has carried out an order in the course of its *designated investment business* on behalf of a *client*, it must:
 - (a) promptly provide the *client*, in a *durable medium*, with the essential information concerning the execution of the order;
 - (b) in the case of a *retail client*, send the *client* a notice in a *durable medium* confirming the execution of the order and such of the *trade confirmation information* (■ COBS 16 Annex 1R) as is applicable:
 - (i) as soon as possible and no later than the *first business day* following that execution; or
 - (ii) if the confirmation is received by the *firm* from a third party, no later than the *first business day* following receipt of the confirmation from the third party; and
 - (c) supply a *client*, on request, with information about the status of his order.
- (2) Paragraph (1) does not apply to a *firm managing investments*.
- (3) Paragraph (1)(b) does not apply if the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the *client* by another *person*.
- (4) Paragraphs (1)(a) and (b) do not apply to an order executed on behalf of a *client* that relates to a bond funding a mortgage loan agreement with the *client*. The report on the transaction must be made at the same time as the terms of the mortgage loan are communicated, but no later than one month after the execution of the order.
- (5) If a *firm* carries out an order for a *retail client* relating to *units* or *shares* in a collective investment undertaking that is part of a series of orders that are executed periodically, it must:
 - (a) comply with paragraph (1)(b) in relation to that order; or
 - (b) provide the *client* at least once every six months with such of the *trade confirmation information* (■ COBS 16 Annex 1R) as is applicable in relation to each transaction in that series carried out in the relevant reporting period.
- (6) In relation to subscription and *redemption* orders for *units* in a *UCITS scheme* executed by an *authorised fund manager*, paragraphs (1), (3) and (5) of this *rule* apply as if references to:

- (a) a *client* and to a *retail client* were references to a *Unitholder* in the *scheme*; and
 - (b) *trade confirmation information* in paragraphs (1)(b) and (5)(b) were to the information in paragraph (7).
- (7) The notice referred to in paragraph (1)(b) must, where applicable, for subscription and *redemption* orders for *units* in a *UCITS scheme* executed by an *authorised fund manager*, include the following information:
- (a) the identification of the *management company*;
 - (b) the name or other designation of the *Unitholder*;
 - (c) the date and time of receipt of the order and method of payment;
 - (d) the date of execution;
 - (e) the identification of the *UCITS scheme* or;
 - (f) the nature of the order (subscription or *redemption*);
 - (g) the number of *units* involved;
 - (h) the *unit* price at which the *units* were subscribed or redeemed;
 - (i) the reference valuation date;
 - (j) the gross value of the order including charges for subscription or net amount after charges for *redemptions*; and
 - (k) the total sum of the commissions and expenses charged and where the investor so requests, an itemised breakdown.

[Note: article 24 of the *UCITS implementing Directive*]

16.2.2 G The requirement concerning orders relating to bonds funding a mortgage loan agreement is unlikely to be relevant to products in the *United Kingdom* market.

16.2.3 R For the purposes of calculating the unit price in the *trade confirmation information*, where the order is executed in tranches, the *firm* may supply the *client* with information about the price of each tranche or the average price. If the average price is provided, the *firm* must supply the *retail client* with information about the price of each tranche upon request.

16.2.3A G In determining what is essential information, a *firm* should consider including:

- (1) for transactions in a *derivative*:
 - (a) the maturity, delivery or expiry date of the derivative;
 - (b) in the case of an *option*, a reference to the last exercise date, whether it can be exercised before maturity and the strike price;
 - (c) if the transaction *closes out* an open *futures* position, all essential details required in respect of each contract comprised in the open position and each contract by which it was *closed out* and the profit or loss to the *client* arising out of *closing out* that position (a difference account);

- (2) for the exercise of an *option*:
 - (a) the date of exercise, and either the time of exercise or that the *client* will be notified of that time on request;
 - (b) whether the exercise creates a sale or purchase in the underlying asset; and
 - (c) the strike price of the *option* (for a currency *option*, the rate of exchange will be the same as the strike price) and, if applicable, the total consideration from or to the *client*; and
- (3) the fact that the transaction involves any dividend or capitalisation or other right which has been declared, but which has not been paid, allotted or otherwise become effective in respect of the *investment*, and under the terms of the transaction the benefit of which will not pass to the purchaser.

Guidance on the requirements

16.2.4 G Where a *firm* executes an order in tranches, the *firm* may, where appropriate, indicate the trading time and the execution venue in a way that is consistent with this, such as, "multiple". In accordance with the *client's best interests rule*, a *firm* should provide additional information at the *client's* request.

16.2.5 G In accordance with ■ COBS 2.4.9 R, a *firm* may dispatch a confirmation to an agent, other than the *firm* or an *associate* of the *firm*, nominated by the *client* in writing.

Special cases

16.2.6 R A *firm* need not despatch a confirmation if:

- (1) the *firm* has agreed with the *client* (in the case of a *retail client*, in writing and with the *client's* informed consent) that confirmations need not be supplied, either generally or in specified circumstances; or
- (2) the *designated investment* is a *life policy*, *stakeholder pension scheme* or a *personal pension scheme* (other than a *SIPP*); or
- (3) the *designated investment* is held within a *CTF* and the statement provided under the *CTF Regulations* includes the information that would have been contained in a confirmation under this section (other than information that has since become irrelevant).

Record keeping: occasional reporting

16.2.7 R A *firm* must retain a copy of any confirmation despatched to a *client* under this section for a period of at least three years from the date of despatch.