

Chapter 16A

Reporting information to clients (MiFID and insurance- based investment products provisions)



16A.1 Application

- 16A.1.1 **R** This chapter applies to a *firm* in relation to:
- (1) its *MiFID, equivalent third country or optional exemption business*;
and
 - (2) carrying on *insurance distribution activities* relating to an *insurance-based investment product*.

Effect of provisions marked “UK” for third country investment firms and MiFID optional exemption firms

- 16A.1.2 **R** Provisions in this chapter marked “UK” and including a Note (**Note:**) referring to the *MiFID Org Regulation* apply in relation to *MiFID optional exemption business* as if they were *rules* (see ■ COBS 1.2.2G).

- 16A.1.2A **G** The effect of ■ GEN 2.2.22AR is that provisions in this chapter marked “UK” also apply in relation to the *equivalent business of a third country investment firm* as if they were *rules*.

- 16A.1.3 **R** [deleted]

16A.2 General client reporting and record keeping requirements

- 16A.2.1** **R** (1) A *firm* must provide a *client* with adequate reports on the service provided in a *durable medium*.
- (2) The reports must include:
- (a) periodic communications to the *client*, taking into account the type and the complexity of the *financial instruments* or *insurance-based investment products* involved and the nature of the service provided to the *client*; and
 - (b) where applicable, the costs associated with the transactions and services undertaken on behalf of the *client*.
- [Note: article 25(6) of *MIFID*, article 30(5) of the *IDD*]
- 16A.2.2** **G** A *firm* should refer to ■SYSC 3.2 (for *insurers* and *managing agents*) and ■SYSC 9 (for other *firms*) for the requirements that apply in relation to the retention of records.

16A.3 Occasional reporting: MiFID business

Execution of orders other than when undertaking portfolio management

16A.3.1 UK

59(1) Investment firms having carried out an order on behalf of a retail client or a professional client, other than for portfolio management, shall, in respect of that order:

(a) promptly provide the retail client or professional client, as applicable, in a durable medium, with the essential information concerning the execution of that order;

(b) send a notice to a retail client in a durable medium confirming execution of the order as soon as possible and no later than the first business day following execution or, where the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

Point (b) shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the client by another person.

Points (a) and (b) shall not apply where orders executed on behalf of clients relate to bonds funding mortgage loan agreements with the said clients, in which case the report on the transaction shall 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.

59(2) In addition to the requirements under paragraph 1, investment firms shall supply the client, on request, with information about the status of his order.

59(3) In the case of retail client orders relating to units or shares in a collective investment undertaking which are executed periodically, investment firms shall either take the action specified in point (b) of paragraph 1 or provide the retail client, at least once every six months, with the information listed in paragraph 4 in respect of those transactions.

59(4) The notice referred to in point (b) of paragraph 1 shall include such of the following information as is applicable and, where relevant, in accordance with the regulatory technical standards on reporting obligations adopted in accordance with Article 26 of Regulation (EU) No 600/2014:

- (a) the reporting firm identification;
- (b) the name or other designation of the retail client;
- (c) the trading day;
- (d) the trading time;
- (e) the type of the order;
- (f) the venue identification;
- (g) the instrument identification;

- (h) the buy/sell indicator;
 - (i) the nature of the order if other than buy/sell;
 - (j) the quantity;
 - (k) the unit price;
 - (l) the total consideration;
 - (m) a total sum of the commissions and expenses charged and, where the retail client so requests, an itemised breakdown including, where relevant, the amount of any mark-up or mark-down imposed where the transaction was executed by an investment firm when dealing on own account, and the investment firm owes a duty of best execution to the retail client;
 - (n) the rate of exchange obtained where the transaction involves a conversion of currency;
 - (o) the retail client's responsibilities in relation to the settlement of the transaction, including the time limit for payment or delivery as well as the appropriate account details where these details and responsibilities have not previously been notified to the retail client;
 - (p) where the retail client's counterparty was the investment firm itself or any person in the investment firm's group or another retail client of the investment firm, the fact that this was the case unless the order was executed through a trading system that facilitates anonymous trading.
- For the purposes of point (k), where the order is executed in tranches, the investment firm may supply the retail client with information about the price of each tranche or the average price. Where the average price is provided, the investment firm shall supply the retail client with information about the price of each tranche upon request.
- 59(5) The investment firm may provide the retail client with the information referred to in paragraph 4 using standard codes if it also provides an explanation of the codes used.

[Note: article 59 of the *MiFID Org Regulation*]

16A.3.2

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; and
 - (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

16A.3.3 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.

16A.3.4 G In accordance with ■ COBS 2.4.9R, a *firm* may dispatch confirmation to an agent, other than the *firm* or an associate of the *firm*, nominated by the *client* in writing.

Reporting obligations in respect of eligible counterparties

16A.3.5 UK 61 The requirements in articles 46 to 51 and 59 do not apply to services provided to eligible counterparties.
[Note: article 61 of the *MiFID Org Regulation*]

16A.4 Periodic reporting

Provision by a firm and contents: MiFID business

16A.4.1 UK

60(1) Investments firms which provide the service of portfolio management to retail clients or professional clients shall provide each such client with a periodic statement in a durable medium of the portfolio management activities carried out on behalf of that client unless such a statement is provided by another person.

60(2) The periodic statement required under paragraph 1 shall provide a fair and balanced review of the activities undertaken and of the performance of the portfolio during the reporting period and shall include, where relevant, the following information to retail clients:

- (a) the name of the investment firm;
- (b) the name or other designation of the client's account;
- (c) a statement of the contents and the valuation of the portfolio, including details of each financial instrument held, its market value, or fair value if market value is unavailable and the cash balance at the beginning and at the end of the reporting period, and the performance of the portfolio during the reporting period;
- (d) the total amount of fees and charges incurred during the reporting period, itemising at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;
- (e) a comparison of performance during the period covered by the statement with the investment performance benchmark (if any) agreed between the investment firm and the client;
- (f) the total amount of dividends, interest and other payments received during the reporting period in relation to the client's portfolio;
- (g) information about other corporate actions giving rights in relation to financial instruments held in the portfolio;
- (h) for each transaction executed during the period, the information referred to in Article 59(4)(c) to (l) where relevant, unless the client elects to receive information about executed transactions on a transaction-by-transaction basis, in which case paragraph 4 of this Article shall apply.

60(3) The periodic statement referred to in paragraph 1 shall be provided to retail clients once every three months, except in the following cases:

- (a) where the investment firm provides its retail clients with access to an online system, which qualifies as a durable medium, where up-to-date valuations of the client's portfolio can be accessed and where the client can easily access the information required by Article 63(2) and the firm has

evidence that the client has accessed a valuation of their portfolio at least once during the relevant quarter;

(b) in cases where paragraph 4 applies, the periodic statement must be provided at least once every 12 months;

(c) where the agreement between an investment firm and a retail client for a portfolio management service authorises a leveraged portfolio, the periodic statement must be provided at least once a month.

The exception provided for in point (b) shall not apply in the case of transactions in financial instruments covered by Article 2(1)(24)(c) of Regulation (EU) No 600/2014 or paragraphs 4 to 11 of Part 1 of Schedule 2 to the Regulated Activities Order.

60(4) Investment firms, in cases where the retail client elects to receive information about executed transactions on a transaction-by-transaction basis, shall provide promptly to the retail client, on the execution of a transaction by the portfolio manager, the essential information concerning that transaction in a durable medium.

The investment firm shall send the retail client a notice confirming the transaction and containing the information referred to in Article 59(4) no later than the first business day following that execution or, where the confirmation is received by the investment firm from a third party, no later than the first business day following receipt of the confirmation from the third party.

The second subparagraph shall not apply where the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the retail client by another person.

[Note: article 60 of the *MiFID Org Regulation*]

16A.4.2

G

In accordance with ■ **COBS 2.4.9R**, a *firm* may dispatch a *periodic statement* (as required by article 60(1) of the *MiFID Org Regulation*, see ■ **COBS 16A.4.1UK**) to an agent, other than the *firm* or an associate of the *firm*, nominated by the *client* in writing.

Provision by a firm and contents: insurance-based investment products

16A.4.2A

R

- (1) Without prejudice to ■ **COBS 13.1.2R**, ■ **COBS 13.3.2R**, ■ **COBS 14.2.11R**, ■ **COBS 14.2.5R**, ■ **COBS 14.2.7R**, ■ **COBS 16.6.3R**, ■ **COBS 16.6.3AR** and ■ **COBS 20.4.7R**, and ■ **COBS 13 Annexes 1 and 2**, in relation to an *insurance-based investment product*, a *firm* must provide the *client* with a periodic report, on a *durable medium*, of the services provided to and transactions undertaken on behalf of the *client*.
- (2) The periodic report required (1) must provide a fair and balanced review of the services provided to and transactions undertaken on behalf of that *client* during the reporting period and must include, where relevant, the total costs associated with these services and transactions, and the value of each underlying investment asset.
- (3) The periodic report required under (1) must be provided at least annually.

[Note: article 18 of the *IDD Regulation*]

Additional reporting obligations for portfolio management or contingent liability transactions

16A.4.3 UK

62(1) Investment firms providing the service of portfolio management to a retail client must inform the client where the overall value of the portfolio, as evaluated at the beginning of each reporting period, depreciates by 10% and thereafter at multiples of 10%, no later than the end of the business day in which the threshold is exceeded or, in a case where the threshold is exceeded on a non-business day, the close of the next business day.

62(2) Investment firms that hold a retail client account that includes positions in leveraged financial instruments or contingent liability transactions shall inform the client, where the initial value of each instrument depreciates by 10% and thereafter at multiples of 10%. Reporting under this paragraph should be on an instrument-by-instrument basis, unless otherwise agreed with the client, and shall take place no later than the end of the business day in which the threshold is exceeded or, in a case where the threshold is exceeded on a non-business day, the close of the next business day.

[Note: article 62 of the *MiFID Org Regulation*]

16A.4.4 G

For the purposes of this section, a contingent liability transaction should be understood as being a transaction that involves any actual or potential liability for the client that exceeds the cost of acquiring the instrument.

[Note: recital 96 to the *MiFID Org Regulation*]

Guidance on contingent liability transactions

16A.4.5 G

When providing a *periodic statement* to a *retail client*, a *firm* should consider whether to include:

- (1) the *collateral* value in respect of any contingent liability transaction in the *client's* portfolio during the relevant period; and
- (2) *option* account valuations in respect of each open *option* written by the *client* in the *client's* portfolio at the end of the relevant period; stating:
 - (a) the *share*, *future*, index or other *investment* involved;
 - (b) the trade price and date for the opening transaction, unless the valuation statement follows the statement for the period in which the option was opened;
 - (c) the market price of the contract; and
 - (d) the exercise price of the contract.
- (3) *Option* account valuations may show an average trade price and market price in respect of an *option* series if the *client* buys a number of contracts within the same series.

16A.5 Statements of client financial instruments or client funds

16A.5.1 UK

63(1) Investment firms that hold client financial instruments or client funds shall send at least on a quarterly basis, to each client for whom they hold financial instruments or funds, a statement in a durable medium of those financial instruments or funds unless such a statement has been provided in any other periodic statement. Upon client request, firms shall provide such statement more frequently at a commercial cost.

The first subparagraph shall not apply to a credit institution that is a CRR firm as defined in Article 4(1)(2A) of Regulation (EU) No 575/2013 of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms in respect of deposits within the meaning of Article 2(1)(23A) of Regulation (EU) No 600/2014 held by that institution.

63(2) The statement of client assets referred to in paragraph 1 shall include the following information:

- (a) details of all the financial instruments or funds held by the investment firm for the client at the end of the period covered by the statement;
- (b) the extent to which any client financial instruments or client funds have been the subject of securities financing transactions;
- (c) the extent of any benefit that has accrued to the client by virtue of participation in any securities financing transactions, and the basis on which that benefit has accrued;
- (d) a clear indication of the assets or funds which are subject to the rules of the UK law on markets in financial instruments and those that are not, such as those that are subject to Title Transfer Collateral Agreement;
- (e) a clear indication of which assets are affected by some peculiarities in their ownership status, for instance due to a security interest;
- (f) the market or estimated value, when the market value is not available, of the financial instruments included in the statement with a clear indication of the fact that the absence of a market price is likely to be indicative of a lack of liquidity. The evaluation of the estimated value shall be performed by the firm on a best effort basis.

In cases where the portfolio of a client includes the proceeds of one or more unsettled transactions, the information referred to in point (a) may be based either on the trade date or the settlement date, provided that the same basis is applied consistently to all such information in the statement.

The periodic statement of client assets referred to in paragraph 1 shall not be provided where the investment firm provides its clients with access to an online system, which qualifies as a durable medium, where up-to-date statements of client's financial instruments or funds can be easily accessed by the client and the firm has evidence that the client has accessed this statement at least once during the relevant quarter.

63(3) Investment firms which hold financial instruments or funds and which carry out the service of portfolio management for a client may include the statement of client assets referred to in paragraph 1 in the periodic statement it provides to that client pursuant to Article 60(1).

[**Note:** article 63 of the *MiFID Org Regulation*]

16A.5.2

G

Firms subject to either or both the *custody chapter* and the *client money* chapter are reminded of the reporting obligations to clients in ■ **CASS 9.2** (Prime broker's daily report to clients) and ■ **CASS 9.5** (Reporting to clients on request).

