

Chapter 16

Reporting information to clients (non-MiFID provisions)



16.1 Application

16.1.1 **R** [deleted]

16.1.2 **R** ■ COBS 16.2 to ■ COBS 16.4 apply in relation to *designated investment business* other than *MiFID, equivalent third country or optional exemption business*.

16.2 Occasional reporting

Execution of orders other than when managing investments

16.2.1

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- (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* or *EEA 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* or *EEA 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 *EEA UCITS scheme*;
- (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.

16.3 Periodic reporting

Provision by the firm and contents

16.3.1

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- (1) If a *firm* is *managing investments* on behalf of a *client*, it must provide the *client* with a *periodic statement* in a *durable medium* unless:
- (a) such a statement is provided by another *person*; or
 - (b) all of the conditions in (1A) are satisfied.
- (1A) The conditions are that:
- (a) the *firm* provides the *client* with access to an online system which qualifies as a *durable medium*;
 - (b) the online system provides the *client* with easy access to:
 - (i) up-to-date valuations of the *client's designated investments* and *client money*; and
 - (ii) the information that would otherwise be contained in a *periodic statement*; and
 - (c) the *firm* has evidence that the *client* has accessed a valuation of their *designated investments* or *client money* at least once during the previous quarter.
- (2) If the *client* is a *retail client*, the *periodic statement* must include such of the *periodic information* (■ COBS 16 Annex 2R) as is applicable.

16.3.2

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- (1) In the case of a *retail client*, the *periodic statement* must be provided once every six *months*, except in the following cases:
- (a) if the *retail client* so requests, the *periodic statement* must be provided every three *months*;
 - (b) if the *retail client* elects to receive information about executed transactions on a transaction-by-transaction basis (■ COBS 16.3.3 R) and there are no transactions in *derivatives* or other securities giving the right to acquire or sell a *transferable security* or giving rise to a cash settlement determined by reference to transferable securities, currencies, interest rates or yields, commodities or other indices or measures, the *periodic statement* must be provided at least once every twelve *months*;
 - (c) if the agreement between a *firm* and a *retail client* for the *managing of investments* authorises a leveraged portfolio, the *periodic statement* must be provided at least once a *month*.
- (2) A *firm* must inform a *retail client* that he has the right to request the provision of a *periodic statement* every three *months*.

16.3.3 **R** (1) If the *client* elects to receive information about executed transactions on a transaction-by-transaction basis, a *firm managing investments* must provide promptly to the *client*, on the execution of a transaction, the essential information concerning that transaction in a *durable medium*.

(2) If the *client* is a *retail client*, the *firm* must send the *client* a notice confirming the transaction and containing such of the information identified in column (1) of the table in ■ COBS 16 Annex 1R as is applicable:

(a) no later than the first *business day* following that execution; or

(b) 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;

unless the confirmation would contain the same information as a confirmation that is to be promptly dispatched to the *retail client* by another *person*.

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

16.3.5 **R** For the purposes of calculating the unit price in the *trade confirmation information* or *periodic 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.

16.3.6 **R** (1) If a *firm*:

(a) *manages investments* for a *retail client*; or

(b) operates a *retail client* account that includes an uncovered open position in a contingent liability transaction,

it must report to the *retail client* any losses exceeding any predetermined threshold, agreed between it and the *retail client*.

(2) The *firm* must report:

(a) no later than the end of the *business day* in which the threshold is exceeded; or

(b) if the threshold is exceeded on a non-*business day*, the close of the next *business day*.

Contingent liability transactions

16.3.7 **R** For the purposes of this section, a contingent liability transaction is one that involves any actual or potential liability for the *client* that exceeds the cost of acquiring the instrument.

16.3.8 **R** [intentionally blank]

16.3.9

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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 *retail client* buys a number of contracts within the same series.

Periodic reporting: special situations

16.3.10 **R** A firm need not provide a *periodic statement*:

- (1) to a *client* habitually resident outside the *United Kingdom* if the *client* concerned has so requested or the *firm* has taken reasonable steps to establish that he does not wish to receive it;
- (2) in respect of a *CTF*, if the statement provided under the *CTF Regulations* contains the *periodic information*.

Record keeping: periodic reporting

16.3.11 **R** A firm must make, and retain, a copy of any *periodic statement* for a period of at least three years from the date of despatch.

16.4 Statements of client designated investments or client money

- 16.4.1** **R** (1) A firm that holds *client designated investments* or *client money* for a *client* must send that *client* at least once a year a statement in a *durable medium* of those *designated investments* or that *client money* unless:
- (a) such a statement has been provided in a *periodic statement*; or
 - (b) the *firm*:
 - (i) provides the *client* with access to an online system, which qualifies as a *durable medium*, where up-to-date statements of a *client's designated investments* or *client money* can be easily accessed by the *client*; and
 - (ii) the *firm* has evidence that the *client* has accessed an up-to-date statement at least once during the previous quarter.
- (2) A *credit institution* need not send a statement in respect of *deposits* held by it.
- (3) This *rule* does not apply in relation to a *firm* holding *client designated investments* or *client money* under a *personal pension scheme* or a *stakeholder pension scheme*.
- (4) A *CTF* account provider holding *client designated investments* or *client money* under a *CTF* must provide a statement but need not do so more frequently than required by Regulation 10 of the *CTF Regulations*.
- 16.4.2** **R** A *firm* must include the following information in a statement of *client* assets referred to under this section:
- (1) details of all the *designated investments* or *client money* held by the *firm* for the *client* at the end of the period covered by the statement;
 - (2) the extent to which any *client designated investments* or *client money* have been the subject of *securities financing transactions*; and
 - (3) 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.
- 16.4.3** **R** In cases where the portfolio of a *client* includes the proceeds of one or more unsettled transactions, the information in a statement provided under this section 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.

16.4.4 **R** *A firm which holds designated investments or client money and is managing investments for a client may include the statement under this section in the periodic statement it provides to that client.*

16.4.5 **G** In reporting to a *client* in accordance with this section, a *firm* should consider whether to provide details of any assets loaned or charged including:

- (1) which *investments* (if any) were at the end of the relevant period loaned to any third party and which *investments* (if any) were at that date charged to secure borrowings made on behalf of the portfolio; and
- (2) the aggregate of any interest payments made and income received during the period in respect of loans or borrowings made during that period

16.4.6 **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).

16.5 Quotations for surrender values

16.5.1

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When a *long-term insurer* receives any indication that a *retail client* wishes to surrender a *life policy* which is of the type that may be traded on an existing secondary market for *life policies*, it must, before accepting a surrender, make the *policyholder* aware that he may be able to sell his *policy* instead, how he may do so and that there may be financial benefits in doing so.



16.6 Communications to clients - life insurance, long term care insurance and income withdrawals

Disclosure for life insurance contracts: information to be provided during the term of the contract

- 16.6.1** **R** (1) This section applies to a *long-term insurer*, unless, at the time of application, the *client*, other than an *EEA ECA recipient*, was *habitually resident*:
- (a) in an *EEA State* other than the *United Kingdom*; or
 - (b) outside the *EEA* and he was not present in the *United Kingdom*.
- (2) In addition, **COBS 16.6.8 R** applies to an *operator of a personal pension scheme or stakeholder pension scheme* in relation to a *retail client* who elects to make *income withdrawals*.
- 16.6.2** **R** (1) The *policyholder* must be informed if during the term of a *life policy* entered into on or after 1 July 1994 there is any change in the following information:
- (a) the *policy* conditions;
 - (b) the name of the *insurer*, its legal form or the address of its head office and, where appropriate, of the agency or branch which concluded the contract; and
 - (c) the information in (8) to (13) of **COBS 13 Annex 1** (The Solvency II Directive information) in the event of a change in the *policy* conditions or amendment of the law applicable to the contract.
- (2) A notification in (1) must be made:
- (a) in a clear and accurate manner and in writing; and
 - (b) in an official language of the *State of commitment* or in another language if the *policyholder* so requests and the law of the *State of commitment* so permits or the *policyholder* is free to choose the law applicable.
- [**Note:** article 185(5) and (6) of the *Solvency II Directive*]
- 16.6.3** **R** If a *life policy* entered into on or after 1 July 1994 provides for the payment of bonuses and the amounts of bonuses are unspecified, the *long-term insurer* must, in every calendar year except the first, either:

- (1) notify the *policyholder* in writing of the amount of any bonus which has become payable under the contract, and which has not previously been notified under this *rule*; or
- (2) give the *policyholder* in writing sufficient information to enable him to determine the amount of any such bonus.

[Note: in respect of (1), article 185(5) of the *Solvency II Directive*]

16.6.3A R If a *firm* provides figures, on or after 1 January 2016, about the potential future development of bonuses under a *with-profits policy* it must inform the *policyholder* annually in writing of any differences between the actual bonuses payable to date and the figures previously provided.

[Note: article 185(5) of the *Solvency II Directive*]

16.6.4 R

- (1) When a *firm* provides information in accordance with this section, it must provide the information in a *durable medium*, unless (2) applies.
- (2) If the contract is being made by telephone, the *firm* may give the information orally to the *customer*. If the *customer* enters into the contract, a written version of the required information must be sent to the *customer* within five *business days* of the contract being entered into.

16.6.5 R Where a *life policy* is effected jointly, the information required by this section may be sent to the first named *client*.

16.6.6 R A *firm* must make an adequate record of information provided to a *customer* under this section and retain that record for a minimum period after the information is provided of five years.

Long term care insurance

16.6.7 R At each anniversary of the date on which a *long-term care insurance contract* which is based on single premium investment bonds was entered into, the *insurer* must:

- (1) provide the *retail client* with a table based on the format of ■ COBS 13 Annex 3 2.2R containing at least the current fund value and projected future *policy* values (as in column "What you might get back");
- (2) where it is the case, inform the *retail client* of the possibility that future policy values may be insufficient to fulfil the original purpose of the contract; and
- (3) inform the *retail client* how to obtain advice on *investments* in respect of *long-term care insurance contracts*, and that it is in his best interest to do so.

Income withdrawals

16.6.8

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At intervals no longer than 12 *months* from the date of an election by a *retail client* to make *income withdrawals* or one-off, ad-hoc or regular *uncrystallised funds pension lump sum payments*, the relevant *operator* of a *personal pension scheme* or *stakeholder pension scheme* must:

- (1) provide the *retail client* with such information as is necessary for the *retail client* to review the election, including where relevant the information required by ■ COBS 13 Annex 2 2.9R; and
- (2) inform the *retail client* how to obtain a *personal recommendation* relating to *advice on investments* (except *P2P agreements*) in respect of the *client's income withdrawals*, and that it would be in the *client's* best interests to do so.

16.6.9

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The information provided to the *retail client* in ■ COBS 16.6.8R(1) is likely to be sufficient for the *client* to review the election if it contains at least one of the following:

- (1) the information required by ■ COBS 13 Annex 2 2.9R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum payments*); or
- (2) the effect of any significant one-off withdrawals or payments since the previous information was provided; or
- (3) (where regular income is being taken) information about the sustainability of the *client's* income over time, which may refer to:
 - (a) the proportion of the fund remaining since outset; or
 - (b) an indication of when the fund may cease to exist; or
 - (c) the rate of withdrawals or payments relative to a sustainable rate.

Trade confirmation and periodic information

This annex forms part of ■ COBS 16.2.1 R

	General	(1) Trade confirmation information	(2) Periodic information (where trade confirma- tion information is not provided on a transac- tion by transaction ba- sis, to be provided for each transaction carried out during the re- porting period)
1.	the reporting <i>firm</i> iden- tification;	Y	
2.	the name or other des- ignation of the <i>client</i> ;	Y	
3.	the trading day;	Y	Y
4.	the trading time;	Y	Y
5.	the type of the order (for example, a limit or- der or a market order);	Y	Y
6.	the venue identi- fication;	Y	Y
7.	the instrument identi- fication;	Y	Y
7A.	the underlying instru- ment identification (Note 1);	Y	Y
7B.	the instrument type (Note 2);	Y	Y
7C.	the maturity date (Note 3);	Y	Y
7D.	the derivative type (Note 4);	Y	Y
7E.	put/call (Note 5);	Y	Y
7F.	the strike price (Note 6);	Y	Y
7G.	the price multiplier (Note 7);	Y	Y
8.	the buy/sell indicator;	Y	Y
9.	the nature of the order if other than buy/sell;	Y	Y
9A.	the counterparty;	Y	Y
10.	the quantity;	Y	Y

	General	(1) Trade confirmation information	(2) Periodic information (where trade confirmation information is not provided on a transaction by transaction basis, to be provided for each transaction carried out during the reporting period)
10A.	the quantity notation (Note 8);	Y	Y
11.	the unit price;	Y	Y
12.	the total consideration;	Y	Y
13.	a total sum of the commissions and expenses charged (for a <i>collective investment scheme operator</i> , initial charges may be disclosed in cash or percentage terms)and, where the <i>retail client</i> so requests, an itemised breakdown, including, where relevant, the amount of any <i>mark-up or mark-down</i> imposed by the <i>firm</i> or its <i>associate</i> where the <i>firm</i> or <i>associate</i> acted as <i>principal</i> in <i>executing</i> the transaction, and the <i>firm</i> owes a duty of best execution to the <i>client</i> ;	Y	Y
14.	the rate of exchange obtained where the transaction involves a conversion of currency;	Y	Y
15.	[intentionally blank]		
16.	[intentionally blank]		
17.	the <i>client's</i> 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 <i>client</i> ;	Y	
18.	if the <i>client's</i> counterparty was the <i>firm</i> itself or any person in the <i>firm's group</i> or another <i>client</i> of the <i>firm</i> , the	Y	

	General	(1) Trade confirmation information	(2) Periodic information (where trade confirmation information is not provided on a transaction by transaction basis, to be provided for each transaction carried out during the reporting period)
19.	fact that this was the case unless the order was <i>executed</i> through a trading system that facilitates anonymous trading. the transaction reference number (Note 9); and	Y	Y
20.	the customer / client identification (Note 10).	Y	Y

A *firm* may provide the *client* with the information referred to in this Annex using standard codes if it also provides an explanation of the codes used.

Firms are reminded that COBS 16.2.1R only requires a *retail client* to be provided with the *trade confirmation information* that applies to them. Where a piece of information is not applicable to the circumstances of a particular trade, the *firm* is not required to report that information to the *client* or to include the field on the confirmation.

The following Notes explain certain of the information requirements in the table above.

Note 1 This is the instrument identification applicable to the security that is the underlying asset in a derivative contract.

Note 2 This is the harmonised classification of the instrument that is the subject of the transaction (e.g. equity, bond). This item is only required when an explanation of the instrument type has not been provided in relation to the instrument identification in line 7.

Note 3 This is the maturity date of a bond or other form of securitised debt, or the exercise date/maturity date of a derivative contract. Where the derivative type is spread bet on an equity option or contract for difference on an equity option, the expiry of the option must be indicated.

Note 4 This is the harmonised description of the derivative type (e.g. option, future, contract for difference, complex derivative, warrant, spread bet, credit default swap or other swap).

Note 5 This is only relevant when the instrument is an option, warrant, spread bet on an equity option or contract for difference on an equity option. Where the instrument is a spread bet on an equity option or a contract for difference on an equity option this field should be used to indicate the put/call status of the equity option.

Note 6 This is only relevant when the instrument is an option, warrant, spread bet on an equity option or contract for difference on an equity option. Where the instrument is a spread bet on an equity option or a contract for difference on an equity option this field should be used to indicate the strike price of the equity option.

Note 7 This is the number of units of the instrument in question which are contained in a trading lot; for example, the number of derivatives or securities represented by one contract.

	General	(1) Trade confirmation information	(2) Periodic information (where trade confirmation information is not provided on a transaction by transaction basis, to be provided for each transaction carried out during the reporting period)
Note 8	This should be used to indicate whether the quantity is the number of units of the instrument, the nominal value of bonds, or the number of derivative contracts.		
Note 9	This should be the unique identification number for the transaction provided by the <i>firm</i> .		
Note 10	This is the identity of the <i>client</i> or customer on whose behalf the <i>firm</i> was acting.		

Information to be included in a periodic report

This annex forms part of ■ COBS 16.3.1 R.

Periodic information (all cases)	
1.	the name of the <i>firm</i> ;
2.	the name or other designation of the <i>retail client's</i> account;
3.	a statement of the contents and the valuation of the portfolio, including details of: <ul style="list-style-type: none"> (a) each <i>designated investment</i> held, its market value or fair value if market value is unavailable; (b) the cash balance at the beginning and at the end of the reporting period; and (c) the performance of the portfolio during the reporting period;
4.	the total amount of <i>fees</i> and charges incurred during the reporting period, itemising at least total management <i>fees</i> and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;
5.	a comparison of performance during the period covered by the statement with the investment performance benchmark (if any) agreed between the <i>firm</i> and the <i>client</i> ;
6.	the total amount of dividends, interest and other payments received during the reporting period in relation to the <i>client's</i> portfolio; and
7.	information about other corporate actions giving rights in relation to <i>designated investments</i> held in the portfolio.

