Chapter 18

Specialist Regimes

Record keeping: client orders and transactions

1		Application			
1.1	R	This section applies to:			
		(1)		a *firm* in respect of non-*MiFID* business related to commodity derivative instruments;	
		(2)		a *small authorised UK AIFM* and a *residual CIS operator*;	
		(3)		an *OPS firm* when it carries on business which is not *MiFID or equivalent third country business*; and	
		(4)		an *authorised professional firm* with respect to activities other than *non-mainstream regulated activities*.	
1.2	G	In accordance with COBS 18.5.3R(1), references to *client* in relation to a *small authorised UK AIFM* or a *residual CIS operator* are to be construed as references to any *fund* in respect of which the *firm* is acting or intends to act.			
2		Record keeping of client orders and decisions to deal			
2.1	R	(1)		A *firm* must immediately make a record of the details in (2), to the extent they are applicable to the order or decision to deal in question, in relation to:	
			(a)	every order received from a *client*;	
			(b)	every decision to deal taken in providing the service of *portfolio management*; and	
			(c)	for a *small authorised UK AIFM* and *residual CIS operator*, every decision to deal taken in managing *financial instruments* held for or within a *fund*.	
		(2)		The details referred to in (1) are:	
			(a)	the name or other designation of the *client*;	
			(b)	the name or other designation of any relevant *person* acting on behalf of the *client*;	
			(c)	the details specified in points (3), (4), and in points (5) to (8), of the table in 4.1;	
			(d)	the nature of the order if other than buy or sell;	
			(e)	the type of the order;	
			(f)	any other details, conditions and particular instructions from the *client* that specify how the order must be carried out; and	
			(g)	the date and exact time of the receipt of the order, or of the decision to deal by the *firm*.	
3		Record-keeping of transactions			
3.1	R	Immediately after executing a *client* order, or, in the case of *firms* that transmit orders to another *person* for *execution*, immediately after receiving confirmation that an order has been *executed*, *firms* must record the following details of the transaction in question:			
		(1)		the name or other designation of the *client*;	
		(2)		the details specified in points (1) to (10) of the table in 4.1R;	

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			(3)		the total price, being the product of the unit price and the quantity;
			(4)		the nature of the transaction if other than buy or sell; and
			(5)		the natural person who *executed* the transaction or who is responsible for the *execution*.
3.2	R		If a *firm* transmits an order to another *person* for *execution*, the *firm* must immediately record the following details after making the transmission:		
			(1)		the name or other designation of the *client* whose order has been transmitted;
			(2)		the name or other designation of the *person* to whom the order was transmitted;
			(3)		the terms of the order transmitted; and
			(4)		the date and exact time of transmission.
4		Details to be recorded			
4.1	R		(1)	Trading day	The trading day on which the transaction was executed.
			(2)	Trading time	The time at which the transaction was executed, reported in the local time of the *competent authority* to which the transaction will be reported, and the basis in which the transaction is reported expressed as Co-ordinated Universal Time (UTC) +/- hours.
			(3)	Buy/sell indicator	Identifies whether the transaction was a buy or sell from the perspective of the reporting *firm* or, in the case of a report to a *client*, of the *client*.
			(4)	Instrument identification	This must consist of:
					a unique code to be decided by the *competent authority* (if any) to which the report is made identifying the *financial instrument* which is the subject of the transaction; and
					if the *financial instrument* in question does not have a unique identification code, the name of the instrument or, in the case of a *derivative* contract, the characteristics of the contract.
			(5)	Unit price	The price per *security* or *derivative* contract excluding *commission* and (where relevant) accrued interest. In the case of a debt instrument, the price may be expressed either in terms of currency or as a percentage.
			(6)	Price notation	The currency in which the price is expressed. If, in the case of a bond or other form of securitised debt the price is expressed as a percentage, that percentage must be included.
			(7)	Quantity	The number of units of the *financial instruments*, the nominal value of bonds, or the number of *derivative* contracts included in the transaction.
			(8)	Quantity notation	An indication as to whether the quantity is the number of units of *financial instruments*, the nominal value of bonds or the number of *derivative* contracts.
			(9)	Counterparty	Identification of the counterparty to the transaction.
					(a) Where the counterparty is an *investment firm*, that identification must consist of a unique code for that

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			firm, to be determined by the *competent authority* (if any) to which the report is made; where the counterparty is a *regulated market*, an *MTF* or an entity acting as its central counterparty, the unique harmonised identification code for that market, *MTF* or entity acting as central counterparty, as specified in the list published by the *competent authority* of the home Member State of that entity.
		(b)	Where the counterparty is not an *investment firm*, a *regulated market*, an *MTF* or an entity acting as central counterparty, it should be identified as 'customer/client' of the *investment firm* which executed the transaction.
	(10)	Venue identification	Identification of the venue where the transaction was executed.
			That identification must consist of: where the venue is a *trading venue*, its unique harmonised identification code; otherwise, the code 'OTC'.