

Chapter 18

Specialist Regimes

Record keeping: client orders and transactions

1	Application	
1.1	R	<p>This section applies to:</p> <ul style="list-style-type: none"> (1) a <i>firm</i> in respect of non-MiFID business related to commodity derivative instruments; (2) a <i>small authorised UK AIFM</i> and a <i>residual CIS operator</i>; (3) an <i>OPS firm</i> when it carries on business which is not <i>MiFID</i> or <i>equivalent third country business</i>; and (4) an <i>authorised professional firm</i> with respect to activities other than <i>non-mainstream regulated activities</i>.
1.2	G	In accordance with COBS 18.5.3R(1), references to <i>client</i> in relation to a <i>small authorised UK AIFM</i> or a <i>residual CIS operator</i> are to be construed as references to any <i>fund</i> in respect of which the <i>firm</i> is acting or intends to act.
2	Record keeping of client orders and decisions to deal	
2.1	R	<ul style="list-style-type: none"> (1) A <i>firm</i> 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: <ul style="list-style-type: none"> (a) every order received from a <i>client</i>; (b) every decision to deal taken in providing the service of <i>portfolio management</i>; and (c) for a <i>small authorised UK AIFM</i> and <i>residual CIS operator</i>, every decision to deal taken in managing <i>financial instruments</i> held for or within a <i>fund</i>. (2) The details referred to in (1) are: <ul style="list-style-type: none"> (a) the name or other designation of the <i>client</i>; (b) the name or other designation of any relevant <i>person</i> acting on behalf of the <i>client</i>; (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 <i>client</i> 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 <i>firm</i>.
3	Record-keeping of transactions	
3.1	R	<p>Immediately after executing a <i>client</i> order, or, in the case of <i>firms</i> that transmit orders to another <i>person</i> for <i>execution</i>, immediately after receiving confirmation that an order has been <i>executed</i>, <i>firms</i> must record the following details of the transaction in question:</p> <ul style="list-style-type: none"> (1) the name or other designation of the <i>client</i>; (2) the details specified in points (1) to (10) of the table in 4.1R;

		(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 <i>executed</i> the transaction or who is responsible for the <i>execution</i> .
3.2	R			If a <i>firm</i> transmits an order to another <i>person</i> for <i>execution</i> , the <i>firm</i> must immediately record the following details after making the transmission:
		(1)		the name or other designation of the <i>client</i> whose order has been transmitted;
		(2)		the name or other designation of the <i>person</i> 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 <i>competent authority</i> 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 <i>firm</i> or, in the case of a report to a <i>client</i> , of the <i>client</i> .
		(4)	Instrument identification	This must consist of: a unique code to be decided by the <i>competent authority</i> (if any) to which the report is made identifying the <i>financial instrument</i> which is the subject of the transaction; and if the <i>financial instrument</i> in question does not have a unique identification code, the name of the instrument or, in the case of a <i>derivative</i> contract, the characteristics of the contract.
		(5)	Unit price	The price per <i>security</i> or <i>derivative</i> contract excluding <i>commission</i> 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 <i>financial instruments</i> , the nominal value of bonds, or the number of <i>derivative</i> contracts included in the transaction.
		(8)	Quantity notation	An indication as to whether the quantity is the number of units of <i>financial instruments</i> , the nominal value of bonds or the number of <i>derivative</i> contracts.
		(9)	Counterparty	Identification of the counterparty to the transaction. (a) Where the counterparty is an <i>investment firm</i> , that identification must consist of a unique code for that

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