

Chapter 9

Record-keeping

9.1 General rules on record-keeping

Application to a common platform firm

9.1.-2

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For a *common platform firm*:

- (1) the *MiFID Org Regulation* applies, as summarised in ■ SYSC 1 Annex 1 3.2G, ■ SYSC 1 Annex 1 3.2-AR and ■ SYSC 1 Annex 1 3.2-BR; and
- (2) the *rules and guidance* apply as set out in the table below:

Subject	Applicable rule or guidance
General requirements	SYSC 9.1.1AR
Specific requirements for insurance distribution	SYSC 9.1.2AR, SYSC 9.1.2DR
Guidance on record-keeping	SYSC 9.1.2BG, SYSC 9.1.4G, SYSC 9.1.5G, SYSC 9.1.6G, SYSC 9.1.6AG

Application to an MiFID optional exemption firm and to a third country firm

9.1.-1

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For a *MiFID optional exemption firm* and a *third country firm*:

- (1) the *rules and guidance* in this chapter apply to them as if they were *rules* or as *guidance* in accordance with ■ SYSC 1 Annex 1 3.2CR(1); and
- (2) those articles of the *MiFID Org Regulation* in ■ SYSC 1 Annex 1 2.8AR and 3.2CR apply to them as if they were *rules* or as *guidance* in accordance with ■ SYSC 1 Annex 1 3.2CR(2).

General requirements

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A *firm* (other than a *common platform firm*) must arrange for orderly records to be kept of its business and internal organisation, including all services and transactions undertaken by it, which must be sufficient to enable the *FCA* or any other relevant *competent authority* under the *UCITS Directive* to monitor the *firm's* compliance with the requirements under the *regulatory system*, and in particular to ascertain that the *firm* has complied with all obligations with respect to *clients*.

[**Note:** article 12(1)(a) of the *UCITS Directive* and article 4(1)(e) of the *UCITS implementing Directive*]

9.1.1A

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- (1) A *common platform firm* must arrange for records to be kept of all services, activities and transactions undertaken by it.

(2) The records in (1) must be sufficient to enable the *FCA* to fulfil its supervisory tasks and to perform the enforcement actions under the *regulatory system* including *MiFID*, *MiFIR* and the *Market Abuse Regulation*, and in particular to ascertain that the *common platform firm* has complied with all obligations including those with respect to *clients* or potential *clients* and to the integrity of the market.

[Note: article 16(6) of *MiFID*]

9.1.2 **R** A *common platform firm* must retain all records kept by it under this chapter in relation to its *MiFID business* for a period of at least five years.

Specific requirements for the distribution of insurance-based investment products

9.1.2A **R** A *firm* carrying on *insurance distribution activities* in relation to *insurance-based investment products* must retain its records relating to:

- (1) suitability (■ COBS 9A); and
- (2) appropriateness (■ COBS 10A),

for a period of at least five years.

9.1.2B **G**

(1) ■ COBS 9A.4 and ■ COBS 10A.7 (record keeping and retention periods for suitability and appropriateness records) reproduce certain record keeping requirements of the *IDD Regulation* (and apply these requirements to *firms* not in scope of the *IDD Regulation*). They specify information which should be recorded by *firms* carrying on *insurance distribution* in relation to *insurance-based investment products* and for how long the records must be retained.

(2) For the purposes of ■ SYSC 9.1.2AR, a *firm* will need to consider whether the requirement in article 19 of the *IDD Regulation* (or in ■ COBS 9A.4.3EU or ■ COBS 10A.7.2EU for any *firm* to whom the *IDD Regulation* is not directly applicable) means that a record needs to be retained for longer than five years.

9.1.2C **EU** 19(4)The records shall be retained in a medium that allows the storage of information in a way accessible for future reference by the competent authority. The competent authority shall be able to access them readily, to reconstitute each element in a clear and accurate manner and to identify easily any changes, corrections or other amendments, and the contents of the records prior to such modifications.

[Note: article 19(4) of the *IDD Regulation*]

9.1.2D **R** (1) ■ SYSC 9.1.2CEU applies as if it was a *rule* to *firms* doing *insurance distribution activities* to which the *IDD Regulation* does not apply, in relation to the records for an *insurance-based investment product* required in ■ COBS 9A.4 and ■ COBS 10A.7.

(2) Firms to whom (1) applies must read references in ■ SYSC 9.1.2CEU to “the competent authority” as meaning “the FCA”.

9.1.3 **R** [deleted]

Guidance on record-keeping

9.1.4 **G** Subject to any other record-keeping *rule* in the *Handbook*, the records required under the *Handbook* should be capable of being reproduced in the English language on paper. Where a *firm* is required to retain a record of a communication that was not made in the English language, it may retain it in that language. However, it should be able to provide a translation on request. If a *firm's* records relate to business carried on from an establishment in a country or territory outside the *United Kingdom*, an official language of that country or territory may be used instead of the English language.

9.1.5 **G** In relation to the retention of records for non-*MiFID business*, a *firm* should have appropriate systems and controls in place with respect to the adequacy of, access to, and the security of its records so that the *firm* may fulfil its regulatory and statutory obligations. With respect to retention periods, the general principle is that records should be retained for as long as is relevant for the purposes for which they are made.

9.1.6 **G** Schedule 1 to each module of the *Handbook* sets out a list summarising the record-keeping requirements of that module. A *common platform firm* should also refer to the record-keeping requirements in the *MiFID Org Regulation*.

9.1.6A **G** ■ SYSC 28 contains *rules* and *guidance* relating to knowledge and competence record keeping requirements in relation to *insurance distribution activities* undertaken by the *firm*.

9.1.7 **G** [deleted]



9.2 Credit institutions providing account information services or payment initiation services

- 9.2.1** **R** A *credit institution* must keep records of any *account information services* and *payment initiation services* it provides.
- 9.2.2** **R** A *UK firm* must keep the records required by **■ SYSC 9.2.1R** in respect of *account information services* and *payment initiation services* provided anywhere in the *EEA*. The records must make clear in which *EEA State* those services were provided.
- 9.2.3** **R** An *EEA firm* must keep the records required by **■ SYSC 9.2.1R** in respect of *account information services* and *payment initiation services* provided in the *UK*.
- 9.2.4** **R** The records required by **■ SYSC 9.2.1R** must be sufficient to enable the *credit institution* to provide to the *FCA*, upon request, the following information:
- (1) The number of different *payment accounts* that the *credit institution* has accessed for the purposes of providing *account information services*.
 - (2) The number of *payment service users* who have used the *account information services* provided by the *credit institution*.
 - (3) The number of different *payment accounts* that the *credit institution* has accessed for the purposes of providing *payment initiation services*.
 - (4) The number of *payment transactions* the *credit institution* has initiated when providing *payment initiation services*.
- 9.2.5** **R** The records required by **■ SYSC 9.2.1R** must be sufficient to enable the *credit institution* to provide the *FCA* with the information specified in **■ SYSC 9.2.4R** for each calendar year in the previous five years, except that there is no requirement to record this information for any period prior to 13 January 2018.
- 9.2.6** **R** (1) When keeping records in accordance with **■ SYSC 9.2.4R (1)** and **■ (3)**, *credit institutions* should count each individual *payment account* once, even where it has been accessed multiple times.

(2) When keeping records in accordance with ■ SYSC 9.2.4R (2), *credit institutions* should count each customer once (including where the customer has used the *account information services* multiple times).

9.2.7

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Credit institutions providing *account information services* and *payment initiation services* are also required to notify the FCA in accordance with ■ SUP 15.8.12R.