Chapter 9

Record-keeping
9.1 General rules on record-keeping

Application to a common platform firm

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:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Applicable rule or guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>General requirements</td>
<td>SYSC 9.1.1AR</td>
</tr>
<tr>
<td>Specific requirements for insurance distribution</td>
<td>SYSC 9.1.2AR, SYSC 9.1.2DR</td>
</tr>
</tbody>
</table>

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

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

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]

(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  
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  
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  
(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  
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  
(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 A credit institution must keep records of any account information services and payment initiation services it provides.

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