Chapter 9

Record-keeping
9.1 General rules on record-keeping

Application to a common platform firm

9.1.-2 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:

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<tr>
<th>Subject</th>
<th>Applicable rule or guidance</th>
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<td>General requirements</td>
<td>SYSC 9.1.1AR</td>
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<tr>
<td>Specific requirements for insurance distribution</td>
<td>SYSC 9.1.2AR, SYSC 9.1.2DR</td>
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Application to an MiFID optional exemption firm and to a third country firm

9.1.-1 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

9.1 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 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 (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.4.3UK or COBS 10A.7.2UK for any firm to whom the IDD Regulation does not apply) means that a record needs to be retained for longer than five years.

9.1.2C UK 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 Financial Conduct Authority. The Financial Conduct 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 9.1.2CUK 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) [deleted]

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]