

# Article 51(3) of the MiFID Implementing Directive- List of Minimum Records

**Note:** This is the list of record-keeping requirements in the FSA Handbook modules which has been produced to satisfy the requirement under Article 51(3) of the MiFID Implementing Directive. Article 51(3) requires us to create a list of minimum records which must be kept by investment firms under MiFID and its implementing measures. Firms should note that the details of the requirements are contained in the Handbook rules referred to. The list itself contains no substantive requirements.

As we set out in CP06/19, in the long term we may decide to fulfil this obligation through our existing practice of maintaining a list of explicit record-keeping requirements, within the schedules to the Handbook modules. However, CESR issued a consultation paper in October 2006 and we are awaiting their recommendations before finalising our proposal.

## List of Minimum Records required under MiFID and Implementing Measures (FSA Rules)

Handbook reference and relevant MiFID references	Subject of record	Contents of record	When record must be made	Retention period
<b>SYSC</b>				
SYSC 9.1.1R Art. 13(6) MiFID and Art 5(1)(f) MiFID Implementing Directive	Record-keeping requirement	A firm's business and internal organisation, including all services and transactions	Ongoing	5 years
SYSC 10.1.6R Art. 13(6) MiFID and Art. 23 MiFID Implementing Directive	Conflict of interest	Details of the kinds of services and activities carried out by the firm in which a conflict has arisen or may arise	Ongoing	5 years

Handbook reference and relevant MiFID references	Subject of record	Contents of record	When record must be made	Retention period
<b>COBS</b>				
COBS 2.3.17R(1) Art.19(1) MiFID and Art.26 MiFID Implementing Directive	Fee, commission or non-monetary benefit under COBS 2.3.1R(2)	Each fee, commission or non-monetary benefit	When benefit is given	5 years
COBS 3.8.2R(1) Art.19(3) MiFID and Art.29 MiFID Implementing Directive	Standard form notice to clients and agreements under COBS 3	Each standard form notice and agreement	From when standard form is first used	Relevant period from when the firm ceases to carry on business with clients under that standard form (COBS 3.8.2R (3))
COBS 3.8.2R(2) Art.19(3) MiFID and Art. 28 MiFID Implementing Directive	Client categorisation	Client categorisation and supporting information, evidence of dispatch to client of any notice (the notice itself where this differs from standard form) and a copy of any agreement entered into	From time of categorisation	From when the firm ceases to carry on business with or for that client: Indefinitely (pension transfer, pension opt-out or FSAVC) 5 years (life policy or pension contract) 5 years (MiFID business or the equivalent business of a third country investment firm). 3 years (any other case)
COBS 5.8.1R Art.19(3) MiFID and Art. 29(8) MiFID Implementing Directive	Financial promotion	Financial promotions communicated or approved	When communicated or approved	See COBS 5.8.1R (3)
COBS 9.1.4R Art.19(1) MiFID and (7) Art.39 MiFID Implementing Directive	Client agreements	Documents setting out rights and obligations between the firm and the client	From date of agreement	From whichever is the longer of 5 years or the duration of the relationship with the client. Records relating to a pension transfer, pension opt-out or FSAVC must be retained indefinitely.
COBS 12.7.4R(3) Art.13(2) MiFID and Art.12 (2)c) MiFID Implementing Directive	Personal transaction	Details of the personal transaction notified to the firm	From date of notification	5 years

Handbook reference and relevant MiFID references	Subject of record	Contents of record	When record must be made	Retention period
<b>COBS</b>				
COBS 17.2.7R Art.19(8) MiFID and Art. 40 MiFID Implementing Directive	Confirmation to clients	Copy of a confirmation	From date of despatch to client	5 years (MiFID business or the equivalent business of a third country investment firm) 3 years (Other business)
COBS 17.3.10R Art.19(8) MiFID and Art. 41 MiFID Implementing Directive	Periodic Statements	A copy of a periodic statement sent to a client	From date of despatch to client	5 years (MiFID business or the equivalent business of a third country investment firm) 3 years (Other business)
<b>CASS</b>				
CASS 6.4.5R Art.19(2) MiFID	Securities financing transactions	Details of the client on whose instructions the use of financial instruments has been effected and the number	When a firm uses financial instruments in accordance with CASS 6.4	5 years
CASS 6.5.1R Art. 13(7) and (8) MiFID and Art. 16(1)(a) MiFID Implementing Directive	Safeguarding of client assets	Records and accounts to enable the firm to distinguish financial instruments held for one client from those held for another and the firm's own	Ongoing	5 years
CASS 6.5.2R Art. 13(7) and (8) MiFID and Art. 16(1)(b) MiFID Implementing Directive	Safeguarding of client assets	As above	As above	5 years
<b>SUP</b>				
SUP 17.4.6 Art.25(2) MiFID	Data retention	Data relating to transactions in financial instruments, including the identity of the client and information required under the money laundering directive	Ongoing	5 years
<b>DISP</b>				
DISP 1.5.1R Art. 13(2) MiFID and Art.10 MiFID Implementing Directive	Complaints	Details of each complaint received by a firm and the measures taken for its resolution	Ongoing	5 years (MiFID business) 3 years (Other business)

## List of Minimum Records under MiFID and Implementing Measures (the MiFID Regulation)

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
<b>COBS</b>				
COBS 12.5.1EU Art.13(6) MiFID and Art:7 MiFID Regulation	Client orders	Details of orders received from clients or decisions to deal	Immediately on reception of order from client or the decision to deal	5 years
COBS 12.5.2EU Art.13(6) MiFID and Art.8 MiFID Regulation	Client orders	Details of orders executed for clients	Immediately after executing a client order or receiving confirmation that an order has been executed	5 years
COBS 12.5.3EU Art.13(6) MiFID and Art.8 MiFID Regulation	Client orders	Details of orders transmitted for execution	Immediately after transmitting the order for execution	5 years
<b>MAR</b>				
MAR 6.7.2(b)EU Art.27(1) MiFID and Art.24 MiFID Regulation	Systematic internalisers	Records of its quoted prices	Ongoing	12 months or such period as appropriate