

MIFID

List of Minimum Records required by Article 51(3) of EC Directive 2006/73/EC and Regulation 40(5) of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. 60 of 2007)

Regulation 33(1)(g) of the European Communities (Markets in Financial Instruments) Regulations 2007 (**the Regulations**) establishes that investment firms and credit institutions shall arrange for records to be kept of all services and transactions undertaken by them which shall be sufficient to enable the Financial Regulator to monitor compliance with the requirements under the Regulations, and in particular to ascertain that the investment firm or credit institution has complied with all obligations with respect to clients or potential clients.

Regulation 40(5) of the Regulations requires the Financial Regulator to draw up and maintain a list of the minimum records that investment firms and credit institutions are required to keep under the Regulations and any other measures implementing the MiFID Directive into Irish law including the European Commission Regulation (EC) 1287/2006.

The Committee of European Securities Regulators (**CESR**) has issued a recommendation to its members with the content of the list of minimum records that must be drawn up. This list is being issued by the Financial Regulator based on the CESR list.

This list is without prejudice to other record keeping obligations arising from other legislation.

This list of minimum records is non-exhaustive and should not be understood as a limitation of the scope of the records that might have to be maintained to comply with obligations under the Regulations. Compliance with the list does not provide investment firms or credit institutions with a safe-harbour from the general record-keeping provisions in the Regulations. So, for example, records will be generated by the review by senior management of the effectiveness of policies, arrangements and procedures as required under Regulation 37(4).

The list does not refer to or include any of the policies that investment firms or credit institutions do need to maintain, and may need to maintain, pursuant to the Regulations. CESR is of the opinion, and the Financial Regulator agrees, that all such policies need to be kept in writing.

The Financial Regulator may, from time to time, add to this list other record keeping obligations under MiFID that it deems appropriate. Investment firms and credit institutions should compile their own list of what records they may need to maintain considering the nature, the scale, and the complexity of their operations.

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List of Minimum Records¹

No.	Type of record	Indicative contents of record	Indicative time at which record be created
1.	Identity and categorisation of each client	The identity of each client and sufficient information to support categorisation as a retail client, professional client and/or eligible counterparty	When the client relationship begins or upon re-categorisation, including as a result of any review
2.	Client agreement	Records provided for under Regulation 100 ² .	Before providing services to a new client for the first time
3.	Client details (Regulation 76(3))	The information about the client's or potential client's knowledge and experience, financial situation and investment objectives, relevant to the specific product or service, obtained by the investment firm or credit institution in complying with its obligation under Regulation 76(3)	On giving advice or being appointed as a portfolio manager
4.	Client details (Regulation 76(4))	The information about the client's or potential client's knowledge and experience, relevant to the specific product or service, obtained by the firm in complying with its obligation under Regulation 76(4)	Upon providing the relevant service
5.	Records required under Regulation 112(1)	The information required under Regulation 112(1)	Such records should be kept for the period required by Regulation 112(1)
6.	Aggregated transaction that includes two or more client orders, or one or more client orders and an own account order	Identity of each client; whether transaction is in whole or in part for discretionary managed investment portfolio and any relevant proportions as well as the intended basis of allocation	On executing an aggregated transaction and before the transaction is executed when the intended basis of allocation is contemplated
7.	Allocation of an	The date and time of allocation;	Date on which the

¹ This list is not exhaustive of the obligation on record-keeping set out in the Regulations.

² A reference to a Regulation is to a Regulation of the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. 60 of 2007).

No.	Type of record	Indicative contents of record	Indicative time at which record be created
	aggregated transaction that includes the execution of a client order	relevant financial instrument; identity of each client and the amount allocated to each client	transaction is allocated
8.	Re-allocation	The basis and reason for any reallocation	At the time of the re-allocation
9.	Order received or arising or decision to deal taken in providing the service of portfolio management	The records provided for under Article 7 of Commission Regulation (EC) 1287/2006. Investment firms or credit institutions may wish to consider the date and hour that the order was sent by the investment firm or credit institution for execution	Immediately after receipt of the order or after taking the decision
10.	Orders executed on behalf of clients	Records provided for under Article 8(1) of Commission Regulation (EC) 1287/2006	At the time of the execution of the order
11.	Transactions effected for own account	The records provided for under Article 8(1) of Commission Regulation (EC) 1287/2006	Immediately after the transaction is carried out
12.	Transmission of order received by an investment firm or credit institution	The records provided for under Article 7 and Article 8(2) of Commission Regulation (EC) 1287/2006	Immediately after transmission of the order and immediately after receiving the confirmation that an order has been executed
13.	Periodic statements to clients	Information to evidence the content and the sending of the periodic statement to the client in respect of services provided, either as a copy, or in a manner that would enable reconstruction	On date on which it is sent
14.	Client financial instruments held by an investment firm or credit institution	The records required under Regulations 33(1)(h) and under paragraphs (a) and (b) of Regulation 160(2)	On commencement of the holding
15.	Client financial instruments available for, and subject to, stock lending activities	The identity of client financial instruments that are available to be lent, and those which have been lent as well as information to evidence client consent (note also the requirements under Regulation 33(1)(h) and Regulation 162(3) where applicable)	On such assets being made available for lending and on such assets being lent
16.	Client funds	Sufficient records to show and explain	As soon as monies

No.	Type of record	Indicative contents of record	Indicative time at which record be created
		the transactions of the investment firm or credit institution, and commitments under Article 8 of Commission Regulation (EC) 1287/2006 (note also the requirements under Regulation 33(1)(i) and paragraphs (a) and (b) of Regulation 160(2))	received and paid out
17.	Marketing communications (except in oral forms)	Sample of each marketing communication addressed by the investment firm or credit institution to retail clients or potential retail clients	At the time the investment firm or credit institution first issues the marketing communication
18.	Investment research	Each item of investment research, in accordance with Regulation 151, issued by an investment firm or credit institution in writing	At the time the investment firm or credit institution first issues the item of investment research
19.	The business and internal organisation of an investment firm or credit institution	Records provided for under Regulation 34	On the business and organisation being established or amended
20.	Compliance procedures	The essential compliance procedures of the investment firm or credit institution under Regulation 34	On the procedures being established or amended (in respect of each version the period in Regulation 40 shall commence on the date on which the relevant version is amended)
21.	Services or activities giving rise to detrimental conflict of interest	The services or activities under Regulation 75(8)	At the time the conflict of interest is identified
22.	Compliance reports	Each compliance report to senior management, under Regulations 35(3) and 37(5)	At time of the relevant report
23.	Risk management reports	Each risk management report to senior management under Regulations 36(2) and 37(5)	At time of the relevant report
24.	Internal audit reports	Each internal audit report to senior management, under Regulations 37(2) and 37(5)	At the time of the relevant report
25.	Complaints records	Each complaint referred to Regulation 38 received	On receipt of complaint
26.	Complaints handling	The measures taken for the resolution of each such complaint, according to Regulation 38	As measures are taken

No.	Type of record	Indicative contents of record	Indicative time at which record be created
27.	Records of prices quoted by systematic internalisers	The quoted prices under paragraph (b) of Article 24 of Commission Regulation (EC) 1287/2006	As prices are quoted
28.	Records of personal transactions	The information required under Regulation 39(3)	As notifications of personal transactions are received by the firm or when the firm identifies them
29.	Record of the information disclosed to clients regarding inducements	The information disclosed to clients under Regulation 78	As the information is disclosed
30.	Investment advice to retail clients	(i) The fact that investment advice was rendered and (ii) the financial instrument that was recommended	Upon providing investment advice

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