

Chapter 22

Regulatory references

22.9 Records and transitionals

22.9.1

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- (1) A *firm* must arrange for orderly records to be created and kept that are sufficient to enable it to comply with the requirements of this chapter.
- (2) This *rule* only applies to records in relation to the following questions in Part One of ■ SYSC 22 Annex 1R (Template for regulatory references given by SMCR firms and disclosure requirements):
- (a) question (E) (fit and proper); and
 - (b) question (F) (disciplinary action).

22.9.2

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■ SYSC 22.9.1R does not have an express time limit for which a *firm* should retain the records as its effect is that those time limits are the same as the time limits in ■ SYSC 22 Annex 1R (Template for regulatory references given by SMCR firms and disclosure requirements).

22.9.3

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Reduction in disclosure obligations where there are limited record keeping requirements

A *firm* does not breach the requirements of this chapter by failing to include information in a reference that it would otherwise have to include if:

- (1) the reason for the omission is that the *firm* does not have the necessary records; and
- (2) neither ■ SYSC 22.9.1R nor any other requirement of or under the *regulatory system* requires the *firm* to have those records.

22.9.4

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If a *firm* is asked to give a reference in circumstances where the record keeping requirements in ■ SYSC 22.9.1R do not apply:

- (1) it is still required to give the reference;
- (2) it should give the reference based on the records it does have; and
- (3) it will not breach the requirements of this chapter by failing to include information in a reference if the reason for this is that it does not have the necessary records, as long as it is not required to have those records by some other requirement in the *Handbook* outside

this chapter or some other requirement of or under the *regulatory system*.

Effect of previous record keeping requirements

22.9.5

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- (1) ■ SYSC 22.9.1R applies to keeping records created before the date this chapter came into force as well as ones created afterwards.
- (2) A *firm* does not breach the requirements of this chapter by failing to include something in a reference or by failing to have records because it destroyed the relevant records before the date this chapter came into force in accordance with the record keeping requirements applicable to it at the time of destruction.
- (3) (1) also applies to records created before this chapter (or the relevant provision of this chapter) first applied to the *firm*.
- (4) (2) also applies if the *firm* destroyed the records before this chapter (or the relevant provision of this chapter) first applied to it.

Transitionals

22.9.6

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- If:
- (1) a *firm* (A) asks a *person* (B) who is not an *SMCR firm* for a reference;
 - (2) B then becomes an *SMCR firm*; and
 - (3) B gives the reference after it becomes an *SMCR firm*;
- the requirements in this chapter apply to B when giving the reference.

22.9.7

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If a *firm* gives a reference after it becomes an *SMCR firm*, the requirements of this chapter apply even if the matters covered by the reference occurred before then.

22.9.8

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■ SYSC 22.2.4R (Obligation to revise references) does not apply to a reference that a *firm* gave before it became an *SMCR firm*.