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Regarding the provisions quoted in the response below, as far as possible, hyperlinks to these provisions (in the respective language or, if available, in English) are set out in Document CESR/04-075 for each country.

IMPORTANT NOTICE

In the interest of transparency and to inform interested parties, CESR has published the following (together the “Tables”):

- *the Correspondence Tables on the CESR Standards for Investor Protection (Ref. CESR/03-416b to 423b, CESR/03-134/Country);*
- *the Correspondence Tables on the CESR Standards for Alternative Trading Systems (Ref. CESR/03-415b, CESR/03-135/Country);*
- *the Synthesis Tables (Ref. CESR/03-427b and CESR/03-432b);*
- *the List of Alternative Trading Systems currently operating in Member States¹ (Ref. CESR/03-497b);*
- *the explanatory notes and caveats attached to the Tables.*

The Tables were produced by the Members of CESR¹ within the constraints of and solely for the purposes of the CESR Review Panel process of monitoring the status of implementation of the CESR Standards for Investor Protection² and the CESR Standards for Alternative Trading Systems³ in Member States.

The Tables have no legal effect; they do not present any interpretation of, or definitive position on, existing law or regulation in any jurisdiction. The Tables should not be relied upon for any purpose other than the purpose for which they were prepared. In particular, they should not be relied upon as a substitute for, or as guidance on, any aspect of the regulatory system of any Member State or as a defence in supervisory activities or enforcement proceedings; and they cannot be used to restrict competent authorities in taking regulatory or enforcement actions.

The information set out in the Tables is the response of each Member’s self-assessment. For this reason, the content of the Tables regarding a particular Member State has been prepared solely by the relevant Member on a best-efforts basis. (In a next step, the CESR Review Panel is going to conduct a common and collective peer exercise in reviewing the responses from all Members.) In case of discrepancy between the tables containing the responses from all CESR Members and the tables containing the individual responses from a particular CESR Member, the latter should be referred to.

The Tables provide a “snap shot” and will be up-dated on a regular basis to take account of regulatory developments in Member States. Therefore, they cannot be considered as fully finalised or definitive reflections of regulatory provisions in Member States. The Tables should also be read in light of current and future developments in the formulation of the proposed Directive on Markets in Financial Instruments (“ISD2”) and the future Level 2 implementing measures, and without prejudice to the position of any Member State in those developments.

For a more detailed account of the process, methodology and first, interim results, please see the “First Interim Report” by the Review Panel (Ref. CESR/03-414b).

¹ For reasons of simplicity, the term “Member” in this context refers to all participants in the Review Panel, i.e. CESR Members, CESR Observers, and the Polish securities regulators; this applies to the term “Member State” accordingly.

² “A European Regime of Investor Protection - The Harmonization of Conduct of Business Rules” (Ref. CESR/01-014d, April 2002) and “A European Regime of Investor Protection – The Professional and the Counterparty Regimes” (Ref. CESR/02-098b, July 2002).

³ Ref. CESR/02-086b, July 2002.

CORRESPONDENCE TABLE ON STANDARDS FOR INVESTOR PROTECTION(REF. CESR/01-014D AND CESR/02-098B)

HUNGARY

A CONDUCT OF BUSINESS RULES FOR THE “RETAIL REGIME”1. STANDARDS AND RULES OF GENERAL APPLICATION1.1 GENERAL

Standard /Rule	Implementing authority(ies) ⁴	Implementing measure ⁵	Comments
<i>1. An investment firm must at all times act honestly, fairly and professionally in accordance with the best interests of its customers and the integrity of the market.</i>	Parliament	Subsection (3) of Section 111 of CMA.	All executive officers and employees of investment service providers (investment firms) and commodity exchange service providers shall proceed with the due care and professional competence that may be expected of them – in compliance with the enhanced professional requirements entailed by their position – with regard to the interests of the investment service provider or commodity exchange service provider and clients, in line with the applicable laws.

⁴ For a description of the present Hungarian legal structure and the authorities having a role within the process, please see comments at the very end of this document. (Annex 2)

⁵ Any derogation to the application of the implementing measures should be mentioned.

<p><i>2. An investment firm must have and must employ effectively the resources and procedures that are necessary for the proper performance of its business activities, including back-up procedures and systems so as to reasonably ensure that investment services can be provided without interruption.</i></p>	<p>Parliament</p>	<p>Subsection (2) of Section 111 of CMA.</p>	<p>The chairperson and members of board of directors and of the supervisory board of an investment service provider, and all executive officers of a commodities broker shall be responsible to ensure that the investment service provider or the commodities broker has all the resources, procedures and solutions necessary for the sound and prudent management of the licensed activities, and shall be responsible for their application as well.</p>
<p><i>3. An investment firm must ensure that any persons or entities with which it is undertaking authorisable investment business are authorised to conduct that business by the relevant regulator.</i></p>	<p>Parliament</p>	<p>Subsections (1) and (3) of Section 91 of CMA.</p>	<p>The business-type performance of investment service and ancillary investment service activities as well as commodity exchange service activities shall be subject to licensing procedure by the HFSA.</p> <p>So investment service providers have to possess license until they wish to perform investment service and ancillary investment service activities. Exception: No license is required for such agency activities, if the agent is neither involved in handling the client's money or other assets nor underwrites any commitments on behalf of the investment firm or the commodities broker.</p> <p>In this case the mandator (investment firm or commodities broker) shall register the agent in question at the HFSA.</p>

<p><i>4. Investment firm that outsources functions retains full responsibility for the outsourced activity and must ensure that the providers of such outsourcing are able to perform these functions reliably, professionally and in the best interests of its customers. ⁶.</i></p>	Parliament	Section 160 of CMA and Subsection (7) of Section 400 of CMA.	The investment firm shall be liable for ensuring that the business company performs the outsourced activities in compliance with legal requirements and with due care and attention. The investment firm shall immediately notify the HFSA if the performance of the outsourced activity violates the law or the contract. Investment service providers and commodities brokers must indicate the outsourced activities and the service provider performing such activities in the standard agreement. The HFSA may prohibit the outsourcing of an activity if it does not comply with the provisions of the CMA.
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1.2. CONFLICTS OF INTEREST AND INDUCEMENTS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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⁶ This standard is not intended to interfere with relevant provisions on civil liability, applicable at national level.

<p><i>5. An investment firm must take all reasonable steps to ensure that conflicts of interest between itself and its customers and between one customer and another are identified and then prevented or managed in such a way that the interests of customers are not adversely affected. For these purposes the investment firm must establish an internal independence policy, including Chinese walls as appropriate.</i></p>	<p>Parliament</p>	<p>point a) of Section 108 of CMA Subsection (1) of Section 109 of CMA Subsection (2) of Section 109 of CMA Section 69/A of Act CXII on Credit institutions and financial enterprises</p>	<p>Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities, as well as to minimize the possibility of any danger of conflicts of interest between the investment service provider or the commodities broker and their clients, or among clients, to the detriment of clients. All investment service providers shall structure their organization to contain separate divisions for the various activities internal procedures and solutions shall be ensured</p> <ul style="list-style-type: none"> a) that the various functions can operate separately, b) that access to information is allowed to authorized personnel only, c) that the heads of the divisions are not interdependent in any way or form, d) objectivity in the control procedures incorporated into operating procedures. <p>With respect to credit institutions, which also provides investment or auxiliary investment services shall establish an internal organizational, operational and procedural mechanism, within which the organizational units of financial services and investment services function as separate units. (Chinese wall rule)</p> <p>The purpose of such separation is to prevent the credit institution from influencing transactions between its customer, the various credit institution divisions, and between credit institutions and other participants.</p> <p>The internal rules and regulations shall be submitted to the HFSA.</p>
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<p>7. Where conflicts of interest cannot be reasonably avoided or managed with the internal independence policy, an investment firm must not undertake business with or on behalf of a customer where it has directly or indirectly a conflicting interest, including any such interest arising from intra-group dealings, joint provision of more than one service or other business dealings of the investment firm or any affiliated entity, unless it has previously disclosed to the customer the nature and extent of its interest, either in writing or by telephone and recorded by the firm and the customer has expressly agreed to engage in such business with the investment firm. Where possible, this disclosure must be given at the beginning of the customer relationship; otherwise it must be given prior to the customer entering into any relevant transaction.</p>	<p>Parliament HFSA</p>	<p>Subsection (1)-(2) of Section 121 of CMA Subsection (1) of Section 115 of CMA Methodological Guideline No. 2/2002 of the President of the HFSA</p>	<p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. Whenever consignments from different clients are converged, the investment service provider and the commodities broker shall afford equal treatment to all clients concerned and shall not discriminate against any one of the clients. Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, - among others - on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information. These rules are not completely equivalent, but they are still quite similar. The Methodological Guideline No. 2/2002 of the President of the HFSA deals with the organisational separation of investment services activity and financial services activity. This methodological guideline covers Chinese walls and fire walls as well. Methodological guidelines are not legally binding for supervised organizations, individuals. Their purpose is only to enhance the predictability of legal enforcement.</p>
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<p><i>6. An investment firm, its members of the board, directors, partners, employees and tied-agents may offer or receive inducements only if they can reasonably assist the firm in the provision of services to its customers. Where inducements are received disclosure of such inducements must be made to the customer.</i></p>	<p>Parliament</p>	<p>Subsection (1)-(3) of Section 113 of CMA</p>	<p>An executive employee, business representative and investment analyst of an investment firm, and their close relative</p> <ul style="list-style-type: none"> a) cannot hold any share, whether directly or indirectly, in another investment enterprise; b) cannot hold any share, whether directly or indirectly, as an executive officer in another investment enterprise; c) cannot hold any office in another investment enterprise as an executive employee, business representative or investment analyst; d) cannot hold any executive office in or be in the employment of, the issuer of listed securities, other than the securities issued by the investment enterprise and listed on the stock exchange. <p>A person employed by a credit institution that is engaged in investment services, being the director of the investment division or being vested with decision-making powers, cannot be employed in another division in the same position, and may not accept employment in another investment service provider in the same position. The above provisions of a)-d) shall apply as appropriate to such persons.</p> <p>Regarding the commodity broker an executive employee and the director of the investment division and a person vested with decision-making powers at a commodities broker cannot hold any executive position in an investment service provider or in another commodities broker and may not accept the office of director of investment services or commodity exchange services nor a position that is vested with decision-making powers.</p>
<p>8. Where inducements are permitted an investment firm must act in the best interest of the customer and inform the customer at the beginning of the relationship, which may give rise to conflicts of interest between itself and its customers, about the investment firm's policy on inducements and at least once a year in writing of the relevant details of such inducements.</p>	<p>Parliament</p>	<p>Subsection 1 of Section 115 of CMA</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract.</p>

1.3 COMPLIANCE AND CODE OF CONDUCT

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>9. An investment firm must take all reasonable measures to ensure that the firm and its members of the board, directors, partners, employees and tied-agents at all time act in accordance with the best interests of its customers and the integrity of the market by establishing and implementing adequate compliance policies and procedures, including an independent compliance function and an internal code of conduct.</i></p>	Parliament	point c)-d) of Section 108 of CMA	<p>Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities, furthermore to ensure the proper handling and administration of securities, liquid assets and exchange-traded instruments which the clients have entrusted to them, and to afford adequate protection of ownership rights; and</p> <p>to prevent the investment service provider or the commodities broker</p> <p>1) to use the securities, liquid assets and exchange-traded instruments of clients as their own in any way or form, or</p> <p>2) to use any confidential information pertaining to securities without proper authorization or for reasons other than they were intended.</p>
<p>11. The persons responsible for the compliance function must have the necessary expertise, resources, authority and must have full access to all relevant information enabling them to perform their duties. They must perform their monitoring duties independently of all persons and activities subject to their monitoring.</p>	HFSA	<p>There are no provisions for investment firms to employ an independent compliance officer responsible for the compliance function.</p>	<p>Though there are no particular provisions about compliance officers and their functions in the CMA, however Methodological Guideline No. 2/2002 of the President of HFSA covers the functions of compliance officers regarding Chinese wall rules.</p>
<p>12. A summary of the results of the monitoring must be reported to the senior management of the investment firm and to the internal or external auditors. The investment firm must report these results, together with remedies adopted, to the competent authority at least once a year.</p>	-	-	-

<p>13. An investment firm must ensure that the competent authority is informed, without undue delay, of serious breaches of the conduct of business rules. In assessing whether the breaches are serious, an investment firm must take into account the impact on regulatory goals and on the capacity to provide services, their frequency, the damages suffered by customers.</p>	<p>Parliament</p>	<p>Subsection (1) of Section 111 of CMA Subsection (4) of Section 113 of CMA Subsection (3) of Section 119 of CMA</p>	<p>The chairperson and members of the board of directors and of the supervisory board of an investment service providers, and executive officers of commodities brokers shall be responsible to ensure that the investment service provider or the commodities broker operates in compliance with the relevant legal provisions, with exchange and clearing house regulations, with the HFSA's resolutions and with internal regulations. Any person who falls within the scope of incompatibility as defined under the CMA must forthwith notify the HFSA, and shall terminate the grounds of incompatibility within ninety days. Investment service providers and commodities brokers shall notify the HFSA within two days concerning any incidence when they have refused to provide service. These rules are not completely equivalent, but the cited provisions of CMA are linked to this question.</p>
<p>14. The compliance function must:</p> <ul style="list-style-type: none"> - regularly verify the adequacy of policies and procedures to ensure compliance with the regulations on investment services; - provide advisory assistance and support to the various business areas of the investment firm on problems concerning compliance with the regulations on investment services. 	<p>-</p>	<p>There are no specific provisions about compliance officers and the nature of compliance functions according to the CMA.</p>	<p>-</p>

<p><i>10. An investment firm must be able to demonstrate that it has not acted in breach of the conduct of business rules and the internal code of conduct and that its organization, policies and procedures facilitate such compliance.</i></p>	<p>Parliament</p>	<p>Subsection (1)-(3) of Section 110 of CMA</p>	<p>Investment service providers and commodities brokers shall adopt an internal control regime or create an internal control department so as to</p> <ul style="list-style-type: none"> a) enforce the relevant legal provisions, exchange and clearing house regulations, the HFSA's resolutions and regulations, and to improve efficiency in the licensed operations and to provide an adequate flow of information for management, b) control compliance with the relevant legal provisions, exchange and clearing house regulations, the HFSA's resolutions and regulations, and to reveal any departures from regulations and any discrepancies, c) permit the prevention of any unlawful or negligent conduct and to correct discrepancies. <p>The internal control regime of an investment enterprise and commodities broker shall be developed to accommodate the nature of the services they provide, the degree of scope and complexity of such services and the risks inherent in them.</p> <p>Investment firms and commodities brokers shall have at least one internal controller engaged in employment</p>
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<p>15. An investment firm must keep records relevant for the purpose of demonstrating compliance with the conduct of business rules, for a period of five years in order to enable the competent authority to verify compliance with these rules. Tape recording of orders must be kept for a period of one year.</p>	<p>Parliament</p>	<p>Section 120 of CMA</p>	<p>Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system. Investment service providers and commodities brokers shall keep separate records of transactions performed on their own account from those performed on behalf of clients. Unless otherwise prescribed by law, investment service providers and commodities brokers shall retain all of the records on their activities performed under CMA on file for <u>eight years</u> from the date of settlement or termination of the contract to which they pertain, whereas the tape recording of orders must be kept for <u>a period of six years</u>. The cited Hungarian provisions are more severe with respect to keeping records.</p>
<p>16. An investment firm must keep a register of customer complaints related to the provision of the investment services and the measures taken for their resolution and must regularly verify whether complaints are adequately processed.</p>	<p>-</p>	<p>There are no particular provisions under the CMA about handling customer complaints.</p>	<p>Nevertheless, investment service providers must regulate this issue in their general rules and conduct of business rules. Respectively the HFSA shall forward the written notices it receives as pertaining to some entity engaged in activities governed by CMA to the entity involved for further processing. This entity shall take proper action to investigate the written report received via the HFSA within thirty days, and it shall inform the client and the HFSA about the findings of its investigation. The HFSA may request submission of the documents pertaining to the case for the purpose of inspection. (Section 390/A of CMA).</p>

<p>17. An investment firm must establish a code of conduct for members of the board, directors, partners, employees and tied-agents. The code of conduct must contain:</p> <ul style="list-style-type: none"> a) the rules and procedure to meet the obligation to protect data of a confidential nature; b) the rules and procedures for carrying out personal transactions involving financial instruments; c) the rules and procedures governing the business relationship with customers in order to ensure that the persons referred to above, in particular where a conflict of interest may arise, always act in the best interests of customers, and that such persons do not take advantage of any confidential information; d) the investment firm's policy on conflicts of interest and inducements. 	Parliament	Section 114 of CMA point d) of Section 108 of CMA	<p>Investment firms are required to accomplish such an internal code of conduct, which is governing and applicable for personal transactions of the executive officers and employees of an investment enterprise. This internal code of conduct regulates those personal transactions of the individuals being related or similar to the profile of the investment enterprise, and lay down the terms and conditions and system of record-keeping of such personal transactions. The regulations shall be submitted to the HFSA.</p> <p>Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and having sufficient facilities, ... to prevent the investment service provider or the commodities broker ... to use any confidential information pertaining to securities without proper authorization or for reasons other than they were intended.</p> <p>These provisions do not cover officers of credit institutions, which provide investment services.</p>
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1.4. COLD CALLING ⁷

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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⁷ These rules are without prejudice to any provisions of EU law governing the means whereby or conditions under which an investment firm or its tied-agent may initiate unsolicited contacts with a prospective customer.

<p>18. For the purpose of protecting customers from undue pressure to enter into a contract, cold calls can only be made to potential customers in accordance with the rules set out below.</p>	-	<p>Performing cold calling activities in Hungary are not regulated under the CMA.</p> <p>However, the CMA regulates the rules and method of inspection in case of suspicion of an unlicensed investment and, ancillary investment services or commodity exchange service activities.</p>	<p>According to the provisions of Section 390 of CMA if upon learning about any unauthorized conduct of investment services, ancillary investment services, or commodity exchange services, the HFSA will call upon the person in question to produce evidence in the form of contracts, written instruments, reports, statements, and/or audit reports to clarify the situation, and may order the inspection of any venue that is suspected of sheltering such activities based on the evidence available.</p> <p>If it is determined that investment services, auxiliary investment services, commodity exchange services or other regulated activities are offered or provided without the license of the HFSA, then the HFSA have the power</p> <ul style="list-style-type: none"> a) to file charges with the competent investigation authority if there is any criminal element involved, b) to adopt a prohibitory injunction concerning the investment services, auxiliary investment services, commodity exchange services, investment fund management, exchange operations, or clearing and settlement services in question, and c) to issue a supervisory resolution, taking certain measures or impose a fine if the wrong-doer is a regulated institution under its jurisdiction.
<p>19. Cold calls may only be made by persons employed by, or appointed as tied-agent⁸ by an investment firm. Responsibility for the competence and activities of such persons rests with the firm.</p>	-	See comments for paragraph 18.	-
<p>20. An investment firm cold calling customers may do so only between the hours of 9.00 a.m. and 9.00 p.m. Monday to Saturday (local time for the customer) and excluding local national holidays.</p>	-	See comments for paragraph 18.	-

⁸ This is without prejudice to the applicability of professional requirements, imposed at national level.

21. The identity of the person making the cold call, the investment firm on whose behalf the person is acting, and the commercial purpose of the cold call must be explicitly identified at the beginning of any conversation with the consumer. The caller must also make reference to the frozen period (see par. 24) during which orders may not be executed.	-	See comments for paragraph 18.	-
22. The person making the cold call is also required to establish whether the potential customer wishes the cold call to proceed or not. An investment firm must abide by a request from the customer either to end the cold call and/or not to cold call again.	-	See comments for paragraph 18.	-
23. An investment firm must not exert undue pressure on a potential customer during the course of a cold call and must be able to demonstrate that this is not the case, for example, by recording any such telephone calls.	-	See comments for paragraph 18.	-
24. During the period for which the customer benefits from a right of withdrawal from the contract (as determined by Article 4.a of the Distance Marketing Directive), an investment firm shall not execute any customer orders in respect of financial instruments under the contract.	-	See comments for paragraph 18.	-

2. INFORMATION TO BE PROVIDED TO CUSTOMERS

2.1) BASIC REQUIREMENTS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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<p>25. An investment firm must pay due regard to the information needs of its customers and communicate information to them that is fair, clear, and not misleading.</p>	<p>Parliament Government</p>	<p>Section 115 of CMA Section 2 and 6 of Government Decree 205/1996</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers must inform their clients regarding any and all contractual fees and charges.</p> <p>Whenever business is conducted between an investment service provider, or a commodities broker, and a client exclusively by electronic means, the investment service provider, or the commodities broker must operate or contract the use of an information system so as to ensure access for the client to the information specified above.</p> <p>The details of information to be provided to customers under Section 115 of CMA have to be included in the investment service provider's internal business rules. The internal business rules must also regulate the frequency and method of information supply to customers.</p> <p>Hungarian regulation obliges investment service providers to provide every pieces information for their customers, which may affect the investment contract. Although CMA does not regulate information to be provided for the customers or the content of the investment contract in detail, this general obligation provides the basis to protect the customers and to offer them information on the basis of which they can be well informed about their investment.</p>
<p>27. The firm must ensure that information provided to customers is clear and comprehensible. The content and purpose of the information should be easily understood and key items should be given due prominence. The method of presentation of the information must not disguise, diminish or obscure important warnings or statements.</p>	<p>-</p>	<p>See comments for paragraph 25.</p>	<p>-</p>

26. An investment firm must supply its customers on a timely basis with the information that enables them to make informed investment decisions.	-	See comments for paragraph 25.	-
28. In supplying information on a timely basis the investment firm must take into consideration: a) the urgency of the situation and b) the time necessary for a customer to absorb and react to the information provided and c) the terms of business agreed with the customer.	-	See comments for paragraph 25.	-

2.2.) MARKETING COMMUNICATIONS ⁹

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
29. If an investment firm provides information in a marketing communication it must be fair, clear and not misleading.	Parliament	It is forbidden to publish misleading advertisements. Subsection 1 of Section 7 of Act LVIII of 1997 on Business Advertising Activity	<i>Misleading advertising:</i> means any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, for reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor who is engaged in the same or similar activities. (Point n) of Section 2 of Act LVIII of 1997 on Business Advertising Activity)
30. The promotional purpose of marketing communications issued by an investment firm must not be disguised.	-	See comments for paragraph 29.	-
31. The information provided by an investment firm in a marketing communication must be consistent with the information it provides to its customers in the course of the provision of the investment services.	-	-	-

⁹ This is without prejudice of EU or national provision requiring authorisation and/or other requirements affecting the provision of marketing services.

32. Any marketing communication must contain at least the information about the investment firm defined in points a) and b) of paragraph 36. In case of a cross border marketing communication, the information provided must in addition state that information about the firm can also be obtained from or through the competent authority of the Member State where the customer resides.	-	-	-
33. An investment firm must not use the name of the competent authority in such a way that would indicate endorsement or approval of its services.	Parliament	It is forbidden to publish misleading advertisements. Subsection 1 of Section 7 of Act LVIII of 1997 on Business Advertising Activity	<i>Misleading advertising:</i> means any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, for reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor who is engaged in the same or similar activities. (Point n) of Section 2 of Act LVIII of 1997 on Business Advertising Activity)
34. Where a marketing communication refers to a financial instrument or an investment service it must contain at least the information referred to in points a) and d) of paragraph 40.	-	-	-

2.3) INFORMATION ABOUT THE INVESTMENT FIRM

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<i>35. Before providing investment services an investment firm must supply adequate information about itself and the services it provides.</i>	-	See comments for paragraph 25.	Further information on the investment firm is available in its Annual Report.

<p>36. An investment firm must provide customers with the following information prior to the commencement of provision of investment services:</p> <ul style="list-style-type: none"> a) the identity of the investment firm, the (financial) group to which the investment firm belongs, its postal address and telephone number; b) the fact that the investment firm is authorised and/or registered and the name of the competent authority that has authorised and/or registered it; c) the functions that the investment firm performs so that the customer is able to assess the scope of the firm's responsibilities; d) the relevant compensation scheme(s); e) where such a procedure exists, a description of the mechanism(s) for settling disputes between the parties such as an out-of-court complaint and redress mechanism; f) an outline of the firm's policies in relation to conflicts of interest and inducements; g) the languages in which the customer can communicate with the investment firm. 	-	See comments for paragraph 25.	-
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2.4) INFORMATION ON FINANCIAL INSTRUMENTS AND INVESTMENT SERVICES

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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37. An investment firm must inform customers of the key features of investment services and financial instruments envisaged, according to the nature of such instruments and services.	-	See comments for paragraph 25.	-
40. The information provided to customers can be delivered using standard documentation but must include the following as a minimum: a) a description of the main characteristics ¹⁰ of the instrument/service, including the nature of the financial commitment, whether the instruments involved are traded on a regulated market or not and the risks involved; b) price, including commissions, fees and other charges, relating to the transaction, the instrument or service; c) arrangements for payment and performance; d) details on any cancellation rights or rights of reflection that may apply.	-	See comments for paragraph 25.	-
38. An investment firm must communicate clearly and precisely to the customer all the charges relating to the services or instruments envisaged and how the charges are calculated.	Parliament	Subsection 2 of Section 115 of CMA	Investment service providers and commodities brokers must inform their clients regarding any and all contractual fees and charges.
41. The information to be disclosed to customers on commissions, charges and fees must contain: a) the basis or amount of the charges for transactions, products or services, detailing, where appropriate, the percentage or rate applicable, the frequency with which it is applied, any maximum or fixed minimum fees and, where the commission or fee must be paid in foreign currency, the currency involved; b) if various investment firms are to be involved in a transaction or service, an estimate of the other fees that will be payable.	-	See comments for paragraph 38.	-
42. In order to give a fair and adequate description of the investment service or financial instrument, an investment firm must avoid accentuating the potential benefits of an investment service or financial instrument without also giving a fair indication of the risks.	Parliament	See comments for paragraph 38. Section 118 of CMA	Investment service providers and commodities brokers cannot propose any transaction that is deceptive in nature, and meant for speculative purposes to manipulate prices, or that is disadvantageous to the client.
43. The fair and adequate description of a compound product must contain all the relevant characteristics of the composite instruments including, for example, the different services involved, the duration of the product, whether the instrument involves credit, the interest due, etc.	-	See comments for paragraph 25.	-

¹⁰ If the customer envisages undertaking transactions in derivatives, the information provided must include an explanation of their characteristics (especially the leverage effect, the duration of the contract, the liquidity and volatility of the market), a description of their underlying parameters (e.g. equities/interest rates/currencies), and the method to be used to execute the customer's transactions (in particular, whether on a regulated market or not).

<p>44. The information on financial instruments and investment services must not state or imply that the performance of services or of the investment is guaranteed unless there is a legally enforceable arrangement to meet in full an investor's claim under the guarantee. Sufficient detail about the guarantor and the guarantee must be provided to enable the investor to make a fair assessment of the guarantee.</p>	-	See comments for paragraph 25.	-
<p>45. When information provided refers to a particular tax treatment the investment firm must advise the customer that the tax treatment depends on his personal situation and is subject to change and that he may wish to obtain independent tax advice.</p>	-	See comments for paragraph 25.	-
<p><i>39. If information provided by an investment firm refers either to the past performance or to a forecast of the future performance of a financial instrument or investment service, this information must be relevant to the instrument or service being promoted and the source of the information must be stated.</i></p>	-	See comments for paragraph 25.	-
<p>46. If a reference to historical performance of investment services or financial instruments is made, it must be clearly expressed that the figures refer to the past, and that they may not constitute reliable guidance as to the performance of these services and instruments in the future.</p>	-	See comments for paragraph 25.	-

<p>47. The use of simulated returns is prohibited. If the information refers to actual returns based on past performance:</p> <ul style="list-style-type: none"> a) the reference period must be stated and must not be less than one year; b) where returns relate to more than one year, they must either be reduced to a compound annual rate or stated separately as annual returns; c) where a compound annual return is presented for more than one year, a reference period of five years must be used provided the relevant data are available. If the relevant data are not available over a reference period of five years (e.g. because the financial instrument or the investment portfolio has not existed for such a period), the returns may be measured from the issue date or the date on which the portfolio was established; d) where a benchmark is used to compare returns, it must be identified and its reference period must be relevant, clear and sufficient to provide a fair and balanced indication of performance of the investment service or financial instrument being promoted; e) if the return figures are not denominated in local currency, the currency used must be stated and reference shall be made to the currency risk for the return in local currency; f) the information for the comparison should be based on net performances or if it is based on gross performances commissions, fees or other charges have to be disclosed. 	-	See comments for paragraph 25.	-
<p>48. The relevant provisions on actual returns shall apply to the method of calculating and presenting any future returns. Information on estimated future returns must state that these future returns are forecasts. Such forecasts must in turn be based on objective, realistic assumptions of investment returns.</p>	-	See comments for paragraph 25.	-
<p>49. Any estimate, forecast or promise contained in the information on financial instruments and investment services must be clearly expressed, must state the assumptions on which it is based, must be relevant and must not mislead the customer.</p>	-	See comments for paragraph 25.	-
<p>50. If information provided contains comparisons, the requirement of being fair, clear and not misleading means that the comparisons must:</p> <ul style="list-style-type: none"> a) be based either on data from attributed sources or disclosed assumptions; b) be presented in a fair and balanced way; c) take reasonable steps not to omit any fact that is material to the comparison. 	-	See comments for paragraph 25.	-

2.5) RISK WARNINGS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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<p><i>51. An investment firm must provide its customers with risk statements that warn of the risks associated with financial instruments and transactions having regard to the customer's knowledge, experience, investment objectives and risk profile.</i></p>	<p>Parliament</p>	<p>Subsections 3-5 of Section 115 of CMA Subsections 1-2 of Section 116 of CMA</p>	<p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The risk assessment statement shall indicate the risk to which the client is exposed due to the nature of the futures and options transaction, as opposed to that of a spot transaction.</p> <p>Investment service providers and commodities brokers shall be compelled to check the financial reserves of their clients in terms of exposures.</p> <p>When checking the financial background of clients in relation to exposures, the investment service provider, or the commodities broker shall be entitled to request their clients to supply written information concerning their financial resources, and may demand</p> <ul style="list-style-type: none"> a) to substantiate said financial information with documents, b) additional security apart from the one stipulated in the standard service agreement, and c) to disclose any relationship with investment service providers or commodities brokers.
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<p>53. An investment firm must provide its customers with risk warnings as appropriate. Instances where the type of instrument or transaction envisaged makes specific risk warnings necessary include:</p> <ul style="list-style-type: none"> - financial instruments not traded on a regulated market; - transactions in illiquid financial instruments; - leveraged transactions; - financial instruments subject to high volatility in normal market conditions; - securities repurchase agreements or securities lending agreements; - transactions which involve credit, margin payments or the deposit of collateral; - transactions involving foreign exchange risk. 	-	See comments for paragraph 51.	-
<p>53. The investment firm must also, where necessary, inform the customer of risks associated with:</p> <ol style="list-style-type: none"> a) clearing house protections (e.g. that although the performance of a transaction is sometimes ‘guaranteed’ by the exchange or clearing house this guarantee will not necessarily protect the customer in the event of default by the investment firm or another counterparty); b) suspension of trading or listing (e.g. that under certain trading conditions it may be impossible to liquidate a position); c) insolvency (e.g. that in the event of default of an investment firm involved with the customer’s transaction, positions may be liquidated automatically and actual assets lodged as collateral may be irrecoverable). 	-	See comments for paragraph 51.	-
<p><i>52. Risk warnings must be given due prominence. They must not be concealed or masked in any way by the wording, design or format of the information provided.</i></p>	-	See comments for paragraph 51.	-
<p>54. Risk warnings about derivatives must disclose that the instrument can be subject to sudden and sharp falls in value. Where the investor may not only lose his entire investment but may also be required to pay more later, he must also be warned about this fact and the possible obligation to provide extra funding.</p>	-	See comments for paragraph 51.	-

2.6. CUSTOMER REPORTING

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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<p><i>55. An investment firm must ensure that a customer is provided promptly with the essential information concerning the execution of his order.</i></p>	<p>Parliament Government</p>	<p>Subsection 3 of Section 117 of CMA Subsection 2 of Section 140 of CMA Subsection 1 of Section 142 of CMA points 40 and 102 of Subsection 1 of Section 5 of CMA Subsection 7 of Section 15 of Government Decree No. 284/2001</p>	<p>Investment service providers and commodities brokers shall forthwith notify their clients by the procedure stipulated in the internal business rules concerning any transaction they have concluded on their behalf. If expressly requested by a client, the investment service provider or the commodities broker shall be required to notify the client when his offer is accepted, and the terms under which accepted.</p> <p>A securities account shall be deemed operative when the underlying securities account contract is executed. A securities account contract is to stipulate the securities intermediary's commitment to the administration of securities owned by the other party (the account holder) under the securities account as contracted, to execute the account holder's legitimate instructions, and to keep the account holder informed concerning all transactions to and from the account, as well as on the balance of the account.</p> <p>The securities intermediary shall record all transactions to and from a securities account in a statement and shall send this confirmation to the account holder as stipulated in the standard service agreement. The securities intermediary shall supply an account statement indicating the transactions in the securities account whenever one is requested by the account holder.</p> <p>'securities account' means a set of records on dematerialised securities and other related rights maintained on behalf of the owner of the securities.</p> <p>'client account' means an account operated on behalf of a client, serving exclusively for carrying out settlements connected with investment services and commodity exchange services, and payments based on the liabilities embodied in securities.</p> <p>The account leader shall inform the client account holder (customer) whenever a transaction is executed by sending a (balance) statement. The statement shall include all information for identifying the transactions.</p>
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<p>58. No later than the first business day following the execution of the transaction or receipt of confirmation of execution by a third party, an investment firm must send to the customer¹¹, by fax, mail or electronic means (provided the firm reasonably believes that the customer can store it on a permanent medium), a contract note or confirmation notice which includes the following information:</p> <ul style="list-style-type: none"> a) the name of the firm; b) the name of the customer account; c) the time of execution, if available, or a statement that the time of execution will be supplied on request; d) date of execution; e) the type of transaction; e.g. buy, sell, subscription etc.; f) the market on which the transaction was carried out or the fact that it was carried out off-market; g) the financial instrument and the quantities involved in the transaction; h) the unit price applied and the total consideration; i) whether the customer's counterparty was the investment firm itself or any related party; j) the commissions and expenses charged; k) the time limit and procedure for the settlement of the transaction, e.g. details (name and number) of the bank account and securities account. <p>If a transaction is not executed within one business day of receipt of the customer order, an investment firm must send a written confirmation of the order to the customer. The confirmation notice must include customer order details, date and time of reception and, where applicable, date and time of transmission.</p>	-	See comments for paragraph 55.	-
<p>59. The investment firm must notify the customer immediately if it refuses to accept or transmit an order. The firm must inform customers as soon as possible if it is unable to transmit their orders.</p>	-	See comments for paragraph 55.	-

¹¹ The reference to “send to the customer” includes to a tied-agent, other than the firm, nominated by the customer in writing.

<p>56. Where an investment firm has control of, or is holding assets belonging to a customer, it must arrange for proper identification and regular confirmation of such assets to the customer.</p>	Parliament	Subsection 1-2 of Section 120 of CMA	<p>Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system.</p> <p>Investment service providers and commodities brokers shall keep separate records of transactions performed on their own account from those performed on behalf of clients.</p> <p>Also see comments for paragraph 55.</p>
<p>60. An investment firm must send to its customer at least once a year or as often as agreed with the customer a statement of all assets held in custody on behalf of each customer. The statement must also:</p> <ul style="list-style-type: none"> a) identify assets which have been pledged to the firm or any third parties as collateral; b) identify assets which have been lent; c) clearly and consistently show movement of assets based on either trade date or settlement date. 	-	See comments for paragraph 55.	-
<p>57. An investment firm that operates customer accounts, which include uncovered open positions, must provide regular statements of such positions.</p>	-	-	-
<p>61. Where an account includes uncovered open positions¹², an investment firm must send to its customer a monthly statement, which includes the following:</p> <ul style="list-style-type: none"> a) information about the options contract, e.g. market price, date of exercise, exercise price, as well as any incidental costs connected with the exercise; b) each payment made by the customer as a result of the margin requirements in respect of the open positions and the amount of the unrealised profit or loss attributable to open positions; c) the resulting profit or loss arising from positions closed during the period. 	-	-	-

¹² Examples of uncovered open positions include:

- (1) short positions on cash instruments;
- (2) selling a call option on an investment not held in the portfolio;
- (3) unsettled sales of call options on currency in amounts greater than the portfolio's holding of that currency in cash or in readily realisable securities denominated in that currency;
- (4) transactions having the effect of 'selling' an index to an amount greater than the portfolio's holdings of designated investments included in that index.

3. THE “KNOW-YOUR-CUSTOMER STANDARD” AND THE DUTY TO CARE

3.1 INFORMATION FROM THE CUSTOMER

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>62. Prior to providing any investment service to a customer for the first time and throughout the business relationship, an investment firm must be in possession of adequate documentation on the identity of the customer, as well as the identity and legal capacity of any representative of the customer.</i></p> <p><i>In addition, prior to providing any investment service the investment firm must seek to obtain from the customer information enabling an investment firm</i></p> <ul style="list-style-type: none"> <i>a. to determine whether the investment services envisaged are appropriate for the customer¹³ and</i> <i>b. to meet any duties owing to the customer in respect of the services to be provided.</i> 	Parliament	<p>Subsection 1 of Section 3 of Act XV of 2003 on the Prevention and Impeding of Money Laundering;</p> <p>and</p> <p>Section 116 of CMA</p>	<p>Investment service providers must identify their customers (for details see comments for paragraph 63). The AML rules contain strict provisions for identifying the customer/ proxy/ representative (data and documents). The investment service provider must always check the risk taking capacity of the customer. By examining the customer’s risk taking capacity, the service provider is authorised to require a written statement from the customer, concerning his overall financial situation, and confirming documents.</p>
<p>63. The “know-your-customer” standard applies to each investment firm having a direct business relationship with the customer with respect to investment services. However, where two or more investment firms are involved in providing an investment service and each has a direct relationship with the customer, an investment firm may rely on the information received from another of such investment firms.</p>	-	-	<p>Investment service providers must identify their customers when entering into a business relationship or where a transaction order of HUF 2 million is given – without entering into a business relationship. Investment service providers are not allowed to rely on information received from other investment service providers.</p>

¹³ This is not considered to be investment advice according to the definition of the paper.

<p>64. An investment firm must obtain evidence of the identity of its customers in accordance with national laws and regulations implementing the provisions of Council Directive 91/308 on the prevention of the use of the financial system for the purpose of money laundering. Until such evidence is obtained, an investment firm must not provide any investment services to the customer concerned.</p>	<p>Parliament</p>	<p>Sections 4 and 5 of Act XV of 2003 on the Prevention and Impeding of Money Laundering</p>	<p>The Hungarian Anti-Money Laundering provisions are fully in line with the European AML Directives (91/308/EEC and 2001/97/EC). See comments for paragraph 69.</p>
<p>65. An investment firm must seek to obtain information on the customer's knowledge and experience¹⁴ in the investment field, his investment objectives and risk profile,¹⁵ his financial situation/capacity and any trading restrictions applicable to the customer. The extent of the information required will vary according to the standards laid down in paragraph 62, second subparagraph.</p>	<p>Parliament</p>	<p>Section 115 of CMA</p>	<p>See comments for paragraph 62. In addition to that, in case of derivative products, the service provider must examine whether the investment is appropriate regarding the customer's market knowledge and risk taking capacity. In case of options and futures the service provider must issue a risk assessment statement, which the customer must acknowledge.</p>
<p>66. An investment firm shall be entitled to rely on the information provided by the customer, unless it is manifestly inaccurate or incomplete or the firm is aware that the information is inaccurate or incomplete. In this case paragraph 69 applies.</p>	<p>Parliament</p>	<p>Subsection 3 of Section 6 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 115 of CMA</p>	<p>In the case of identifying the customer and the beneficial owner, if any doubt arises concerning the identity of the beneficial owner, the service provider must call upon the customer to make (repeatedly) a written statement concerning the beneficial owner. With regard to the customer's risk taking capacity the service provider is authorised to require a written statement from the customer, concerning his overall financial situation, and - if necessary - confirming documents.</p>

¹⁴ Information on the customer's investment knowledge and experience includes the types of services, transactions and products the customer is familiar with and his trading history, i.e. the nature, volume, frequency and timeframe of his transactions.

¹⁵ Information on the customer's investment objectives and risk profile includes the temporal horizon of the customer's future investments, as well as his preferences regarding risk-taking and recurrent income.

<p>67. An investment firm must take reasonable care to keep the customer profile under review, also taking into consideration the development of the relationship between the investment firm and the customer. The customer must be advised that he should inform the investment firm of any major changes affecting his investment objectives, risk profile, financial situation/capacity, trading restrictions, or the identity or capacity of his representative. Should the firm become aware of a major change in the situation previously described by the customer, it must request additional information.</p>	-	-	<p>Although certain KYC and Customer Due Diligence rules are in place, it is not necessary for a firm to monitor the development of the customer's profile.</p>
<p>68. An investment firm must draw up and implement appropriate written internal policies and procedures to keep and update all documents required for customer identification and profile, as well as records of customer addresses and telephone/fax numbers.</p>	Parliament	<p>Section 11 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Sections 115 and 117 of CMA</p>	<p>The investment service provider must adopt an Internal Rule for implementing the Hungarian AML – customer identification provisions. It is not required to record the customer's telephone/fax numbers. The service provider must register all investment contracts, as specified in its Internal Rules of Business. The service provider has to require a risk assessment declaration from the customer if he intends investing in futures or options.</p>
<p>69. An investment firm must warn the customer that any refusal to supply information may adversely affect the ability of the investment firm to act in the best interest of the customer. If a customer refuses to supply information the investment firm must warn him in writing that this may adversely affect the ability of the investment firm to act in his best interest.</p>	Parliament	<p>Subsection 6 of Section 5 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 119 of the CMA</p>	<p>The service provider must refuse to provide investment services if the customer rejects to identify himself or the beneficial owner; or when the documents supplied are not reliable, or when the customer's risk taking capacity is proved to be unsatisfactory.</p>
<p>70. The customer should not be invited not to provide information.</p>	-	-	<p>There is no possibility for such an invitation under Hungarian law.</p>

3.2 THE INVESTMENT FIRM'S DUTY TO CARE FOR THE CUSTOMER ¹⁶

¹⁶ After having obtained the information from the customer according to chapter 3.1., the extent of an investment firm's duty to care for the customer depends on the nature of the investment service to be provided: where the service to be provided is a full hand-holding service of transmission or execution of order par. 72-76 apply; where the service to be provided is the pure transmission or execution of orders (This implies that no investment advice is provided and that suitability will not be tested on a transaction-by-transaction-basis) par. 74, 76 and 77 apply.

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>72. When an investment firm provides investment advice to the customer, it must have reasonable grounds to believe, in light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship, that this investment advice is suitable for him. The investment firm must communicate the reasons why the advice is considered to be in the best interest of the customers at the time the advice is given.</i></p>	Parliament	<p>paragraph d of Subsection 2 of Section 81 and Section 115 of CMA</p> <p>point d of subsection 2 of Section 81 of CMA</p>	<p>The investment service provider must always assess the customer's risk taking capacity and in the case of derivatives it has to check whether the investment is suitable for the customer – however there is no general requirement to communicate the reasons why it considers the advice to be suitable. In case of futures and options the customer has to acknowledge this by signing a separate risk assessment statement.</p> <p>Investment advice is a form of ancillary investment service (point d of subsection 2 of Section 81 of CMA). The general duty of care rules apply for all investment service providers, and it is not restricted to specific (ancillary) forms of investment services. Therefore the same general rules apply for assessing the customer's position and the adequacy of the investment advice: the service provider must always assess the customer's risk taking capacity before entering into an investment contract.</p>

<p>73. Before accepting an order an investment firm must take reasonable care to verify that the order is suitable for the customer in light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship.</p>	Parliament	Sections 115 and 119 of CMA	The investment service provider must assess the customer's risk taking capacity and it might require the customer to provide a written statement about his financial position and other supporting documents. Further to this, if the investment service provider finds that the customer's risk taking capacity is not sufficient, it has to refuse providing the requested service to the customer.
<p>75. Where an investment firm receives an order regarding a transaction that it considers – in the light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship – not suitable¹⁷ for the customer, it must advise the customer accordingly and provide appropriate information on the transaction, including any necessary risk warning. The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction in writing or by telephone and recorded, and provided that such confirmation contains an explicit reference to the warning received.</p>	Parliament	Sections 115 and 119 of CMA and Section 3 of Government Decree 205/1996	<p>See comments for paragraph 73. The investment service provider must provide sufficient information on the transaction together with the associated risks. A reference to the provision of this information must be included within the investment contract. The signing of the investment contract should be considered as a confirmation. In case an investment order is given by telephone, fax or electronically, the order must be recorded.</p> <p>Section 119 of CMA does not allow investment firms to enter into a contract that is not suitable for the customer. This protects the best interest of the customer, as they do not allow the provision of such unsuitable investment services at all.</p>
<p>74. An investment firm must take reasonable care to verify that the customer has sufficient financial resources to settle the proposed transaction.</p>	-	See comments for paragraph 73.	-
<p>76. An investment firm may accept an order without having taken reasonable steps to verify the immediate availability of the funds (securities) necessary for carrying out the related purchase (sale) only if an adequate credit facility has been agreed on beforehand.</p>	-	See comments for paragraph 73.	-

¹⁷ A transaction may be considered unsuitable for a customer, *inter alia*, because of the instrument involved (e.g. derivatives), because of the type of transaction (e.g. sale of options), because of the characteristics of the order (e.g. size or price specifications) or because of the frequency of the customer's trading.

<p>77. Where the service to be provided is the pure transmission or execution of orders (either through a special distribution channel, in individual cases or generally) the customer must be made aware of this fact prior to the transaction taking place for the first time. On the basis of the information obtained from the customer on opening the account, the investment firm will define an appropriate service including investment parameters, i.e. types of instruments, types of transactions and types of orders, and inform the customer accordingly. Where the investment firm receives an order regarding a transaction, which is not in line with the defined investment parameters, it must warn the customer accordingly and provide appropriate information on the transaction, including any necessary risk warning(s). The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction in writing or by telephone and recorded, and provided that such confirmation contains an explicit reference to the warning received.</p>	<p>Parliament</p>	<p>Sections 116 and 119 of CMA</p>	<p>Before signing an investment contract, the investment service provider must always inform the customer about the risks associated with the specific investment product, no matter whether investment advice is provided or only the pure transmission or execution of orders take place. Under recent Hungarian rules investment service providers are not obliged to define appropriate investment parameters as defined in the first column. The general obligation to assess the customer's risk taking capacity means that the service provider must check the appropriateness of the specific investment (order) and if he finds that it is not appropriate for the customer he must refuse signing the investment contract. Concerning confirmation see comments for paragraph 75.</p>
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4. CUSTOMER AGREEMENTS

4.1) BASIC CUSTOMER AGREEMENT

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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<p><i>78. Prior to providing any investment service, an investment firm must enter into a signed written agreement with the customer setting out the rights and obligations of the parties, a description of the services to be provided, and all other items of information necessary for the proper understanding and performance of the agreement.</i></p>	<p>Parliament Government</p>	<p>Section 115 of CMA Section 2, 6 and Subsection 3 of Section 15 of Government Decree 205/1996</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers must inform their clients regarding any and all contractual fees and charges.</p> <p>Whenever business is conducted between an investment service provider, or a commodities broker, and a client exclusively by electronic means, the investment service provider, or the commodities broker must operate or contract the use of an information system so as to ensure access for the client to the information specified above.</p> <p>The details of information to be provided to customers under Section 115 of CMA have to be included in the investment service provider's internal business rules. The internal business rules must also regulate the frequency and method of information supply to customers.</p> <p>Investment firms have to send model investment contracts for the HFSA for approval</p>
<p><i>79. The customer agreement must be clear and easily understandable by the customer.</i></p>	<p>-</p>	<p>-</p>	<p>-</p>

<p>80. The customer agreement must contain the following items as a minimum:</p> <ul style="list-style-type: none"> a) the identity, postal address and telephone number of each of the parties; b) the names of any persons authorised to represent the customer for the purposes of the agreement, in particular the names of the natural persons authorised to represent the customer who is a legal entity; c) the investment firm's general terms of business for investment services and any particular terms agreed between the parties concerning, e.g. margin requirements or potential obligations where securities may be purchased on credit d) a general description of the investment services, including custody, offered by the investment firm and the types of financial instruments to which such services relate; e) the types of orders and instructions that the customer may place with the investment firm, the medium/media for sending them (e.g. by telephone, E-mail or post) and the alternative medium to be used when normal media are unavailable; f) the information to be given by the investment firm to the customer regarding the performance of services including the medium/media for sending the information and the type, frequency and rapidity of the information to be given e.g. regarding order execution or portfolio evaluation; g) details of the investment firm's fees and prices for investment services, including information on how they are to be calculated, the frequency with which they are to be charged and the manner of payment; h) the name of the competent authority which has authorised the investment firm; i) the law applicable to the contract, as ascertained to the best of the knowledge of the firm or as agreed between the parties; j) the duration of the agreement and the procedures for amending, renewing, terminating or withdrawing from it; k) where such a procedure exists, a description of the mechanism for settling disputes between the parties such as an out-of-court complaint and redress mechanism; l) the actions that the investment firm shall or may take in the event the customer does not honour his obligations (e. g. payment of money due to the investment firm), in particular whether the investment firm is allowed to dispose of any of the customer's assets, the timeframe for doing so and the information to be given to the customer in such circumstances; m) the languages in which the customer can communicate with the investment firm. 	-	See comments for paragraph 78.	-
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81. Rather than containing all the above items itself, the contract may refer to other documents containing certain of them, e.g. the general terms of business, the types of investment services offered, the types of orders and information to be sent by the parties and the fee schedule, provided that all the contractual documents so referred to are provided to the customer prior to the signing of the contract.	-	See comments for paragraph 78.	-
82. Where a custody service related to the other services provided by the firm to the customer is provided, either directly by the investment firm party to the contract with the customer or indirectly by another investment firm, the contract must contain at least a brief indication of the rights and obligations of the parties, including the provisions relating to the exercise of voting rights attaching to the securities held.	-	-	There are no provisions that the contract should cover such details, however the CMA regulates custody services, voting rights and nominees.
83. The contract must state that any modification of the agreement by the investment firm, e.g. regarding fees, requires the prior notification of the customer, and the contract must provide a sufficient opportunity for the customer to terminate the agreement.	Parliament Government	Section 240 of the Civil Code Section 4 of Government Decree No 205/1996	The CMA does not provide that the contract should cover such details, however civil law rules regulate the modification and termination of contracts. Subsection 1 of Section 240 of the Civil Code explicitly says that the contract can only be modified by the joint agreement of the parties, however the contract must not necessarily state this. According to Section 4 of Government Decree No 205/1996 the Internal Code of Conduct must include the conditions for modifying and terminating investment contracts.
84. A copy of the agreement signed by the customer (and any related contractual documents) must be kept by the investment firm for the duration of the customer relationship and for at least five years after the end of the relationship; a copy must be provided to the customer immediately after signing, and at any time subsequently on request.	Parliament	Subsection 3 of Section 120 of CMA	A copy of the agreement – together with all the registers connected to its activities - must be kept by the investment service provider for at least 8 years after the end of the customer relationship.

4.2) CUSTOMER AGREEMENT INVOLVING TRADING IN DERIVATIVES

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>85. Prior to providing the services of reception/transmission and/or execution of orders involving derivatives, a customer agreement containing the relevant provisions of the basic customer agreement as well as certain additional provisions specific to trading in derivatives must be signed between the parties.</i></p>	-	See comments for paragraph 78. point 18 of Subsection 1 of Section 5 of CMA	'Investor' means any person who has entered into a contract with an investment service provider, investment fund manager, commodities broker or another investor to invest and risk his own money and/or other assets, or that of others, for the purpose of making a profit subject to developments in the capital market or the stock exchange.
<p>86. In addition to the relevant items of the basic customer agreement, where the firm provides services involving derivatives, the customer agreement must contain:</p> <ul style="list-style-type: none"> - the type(s) of instruments and transactions envisaged, - the obligations of the investment firm with respect to the transactions envisaged, in particular its reporting and notice obligations to the customer, - the obligations of the customer with respect to the transactions envisaged, in particular his financial commitments toward the investment firm and the time allowed for honouring such commitments, - an appropriate warning calling to the customer's attention the risks involved in the transactions envisaged. 	Parliament	Subsection 3-5 of Section 115 of CMA	<p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The risk assessment statement shall indicate the risk to which the client is exposed due to the nature of the futures and options transaction, as opposed to that of a spot transaction.</p>

<p>87. The contract must mention the types of transactions envisaged, in particular whether the customer intends to undertake transactions giving rise to contingent liabilities, the types of instruments envisaged, in particular whether they are traded on a regulated market or not, and it must refer to the documentation on such instruments provided by the investment firm to the customer for information purposes.</p>	Parliament	Subsection 1 of Section 115 of CMA	<p>See comments for paragraph 86.</p> <p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p>
<p>88. The contract must provide for the immediate confirmation of derivatives transactions and the immediate notice to the customer of his payment obligations as they arise, as well as the procedures to be used for such confirmation and notice.</p>	-	See comments for paragraph 87.	-
<p>89. The contract, or the documentation referred to in the contract, must provide adequate information on any margin requirements or similar obligations, regardless of the source of such rules and requirements, e.g. an exchange or clearing house, or the investment firm itself. This document must indicate how margin will be calculated and charged, the assets (cash, securities, etc.) accepted as margin, the frequency of margin calls and the timetable for the delivery or payment of margin by the customer to the investment firm. The contract must require immediate notification to the customer of any change in margin rules.</p>	-	See comments for paragraph 87.	-
<p>90. The warning given to the customer should reflect the transactions envisaged, in particular where potential losses may exceed the amounts invested, as well as the experience, knowledge and financial situation/capacity of the customer or type of customer involved, and should be given due prominence in the contract.</p>	-	See comments for paragraph 87.	-

5.- DEALING REQUIREMENTS

5.1) RECEPTION AND TRANSMISSION OF CUSTOMER ORDERS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>91. An investment firm must record and process customer orders in accordance with the customer's instructions and in such a way as to facilitate best execution.</i></p>	<p>Parliament</p>	<p>Sections 108 and 115 of CMA</p>	<p>Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities to minimize the possibility of any danger of conflicts of interest between the investment service provider or the commodities broker and their clients, or among clients, to the detriment of clients;</p> <ul style="list-style-type: none"> - investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract, - investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.

<p>93. An investment firm must ensure that, prior to their transmission for execution, orders given by customers are clear and precise and include the following:</p> <ul style="list-style-type: none"> a) the name of the customer and of any person acting on his behalf, b) the date and time of the order, c) the financial instrument to be traded, d) the size of the order, e) the nature of the order, e.g., subscription, buy, sell, exercise etc., f) any other relevant details and particular instructions from the customer for the order to be properly transmitted and executed, e.g. limit orders, validity period and market of execution; g) the account for which the order has to be executed. 	<p>HFSA BSE</p>	<p>Methodological Guideline No. 1/2003 of the President of the HFSA Code of Trading of the Budapest Stock Exchange</p>	<p>Under Hungarian law there is no regulation listing the minimum requirements concerning the orders. According to the Methodological Guideline No. 1/2003 of the President of the HFSA – legally not binding – orders must include at least the name of the customer, the exact date and time of the order, the financial instrument to be traded, the size of the order, the nature of the order, and the requirements of the customer regarding to the price and the method of execution.</p> <p>According to the Code of Trading of the BSE the order given by the investment service provider to the electronic trading book is a unilateral statement of the intention to engage in a deal which has – as a minimum – shall contain the following fundamental data:</p> <ul style="list-style-type: none"> - name of the exchange product - name of the security board, - an indication of order direction, - an indication of quantity, - in fill minimum orders, an indication of the minimum fill quantity, - an indication of price, - indication of trigger price in “stop limit” and “stop market” orders, - order method, - order class, - order maturity, - trading account ID, - direction of a position in the derivative section, - the “purge on logoff” setting in the derivative section. <p>The customer has to give such kind of orders to the providers, which are suitable to identify the orders given by the providers to the trading book.</p> <p>(Section 8.1.2. of the Code of Trading of the Budapest Stock Exchange)</p>
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<p>94. An investment firm must record orders immediately, documenting and verifying all relevant items of proper execution.</p>	<p>Parliament HFSA</p>	<p>Sections 119 and 120 of CMA Methodological Guideline No. 1/2003 of the President of the HFSA</p>	<p>According to the Act on the capital market investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system. Investment service providers and commodities brokers shall keep separate records of transactions performed on their own account from those performed on behalf of clients. Unless otherwise prescribed by law, investment service providers and commodities brokers shall retain all of the records on their activities performed under the Act on the Capital market on file for eight years from the date of settlement or termination of the contract to which they pertain. Investment service providers and commodities brokers can refuse to provide service in some listed cases, otherwise they are obliged to accept the orders. Methodological Guideline No. 1/2003 of the President of the HFSA deals with this uniform registration system. This document shows the “best practice” of order registration including all the relevant requirements for the whole documentation of orders.</p>
<p>95. An investment firm must keep a record of telephone orders on magnetic tape or an equivalent medium. Investment firms must duly inform the customer that the conversation will be recorded.</p>	<p>Parliament</p>	<p>Section 3 of Government Decree No. 205/1995</p>	<p>The investment firm must keep the record of telephone orders on magnetic tape or an equivalent medium as long as the contract based on this order is still not in written form. After the signing of the contract the telephone order doesn't have to be kept any more, but all the relevant order details (date, time, direction, size, other requirements) remain accessible in the uniform order registration system.</p>
<p>96. Before transmitting orders on behalf of several beneficiaries on an aggregated basis, an investment firm must pre-assign such orders in order to ensure that they can identify and match the orders with the relevant customer at any time.</p>	<p>Parliament</p>	<p>Section 121 of CMA</p>	<p>An investment service provider and a commodities broker may engage a third party in a consignment solely to the extent necessary to protect the client from sustaining any losses. The investment service providers are the members of the stock (and commodity) exchange, they are allowed and obliged to execute the orders of clients, the transmission of orders are exceptional.</p>
<p>97. An investment firm must transmit orders promptly and sequentially and must take all reasonable care to transmit orders in a way to facilitate their best execution, taking into account all relevant details of the process of transmission, e.g. the size and characteristics of the order.</p>	<p>-</p>	<p>See comments for paragraph 96.</p>	<p>-</p>

<p><i>92. An investment firm must ensure that the firm and its members of the board, directors, partners, employees and tied-agents do not use the information they possess on customers orders to the disadvantage of customers' interest.</i></p>	<p>Parliament</p>	<p>Sections 108 and 109 of CMA</p>	<p>Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and records systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities to prevent the investment service provider or the commodities broker</p> <ul style="list-style-type: none"> - to use the securities, liquid assets and exchange-traded instruments of clients as their own in any way or form, or - to use any confidential information pertaining to securities without proper authorization or for reasons other than they were intended. <p>Investment service providers shall structure their organization to contain separate divisions for the various activities arranged under a scheme</p> <ul style="list-style-type: none"> a) to ensure a proper environment for the various divisions to operate independently and to appraise its activities, b) to reduce the possibility of misuse of any information accessed through internal administrative channels, c) to reduce the eventuality of any corruption among personnel, d) to strengthen the control procedures incorporated into operating procedures. <p>To achieve these objectives the divisional structure and the related internal procedures and solutions shall be arranged to ensure</p> <ul style="list-style-type: none"> a) that the various functions can operate separately, b) that access to information is allowed to authorized personnel only, c) that the heads of the divisions are not interdependent in any way or form, d) objectivity in the control procedures incorporated into operating procedures.
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<p>98. An investment firm must take all reasonable steps to refrain from transmitting orders for its own account or the account of its members of the board, directors, partners, employees and tied-agents before those of customers in identical or better conditions than the latter (“front running”).</p>	<p>Parliament</p>	<p>Section 121 of CMA</p>	<p>Investment service providers and commodities brokers may accept consignments in respect of listed securities, exclusive of government securities, and other exchange-traded instruments only for trading on the exchange, and may engage in dealing for their own account – with some exception - only if transacted on the exchange.</p> <p>Investment service providers and commodities brokers may engage in the trading of listed securities, other than government securities, and exchange-traded instruments only in the capacity of intermediaries subject to consignment contract with the client. If specifically requested by a client, the investment service provider shall enter into a consignment contract in respect of government securities as well.</p> <p>When trading on the exchange, an investment service provider or a commodities broker may enter into a sales contract with the client for its own account in the absence of an appropriate counter-offer, only if permitted by the exchange's regulations.</p> <p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.</p> <p>Insider information – among others - shall mean information which has not been made public relating to the securities market, such as any plans to acquire participating interest in a public limited liability company, conclusion of agency contract, preliminary decision concerning sale or purchase, change in exchange rate affecting Hungarian forint and other currencies, syndicate agreement among owners, voting arrangements, which, if it were made public, would be likely to have a significant effect on the value or price of the securities or exchange-traded instruments in question.</p> <p>Under Hungarian law “front running” can be considered as a special kind of insider cases.</p>
<p>99. An investment firm, which aggregates orders, must pre-assign such orders prior to transmitting them.</p>	<p>-</p>	<p>See comments for paragraph 96.</p>	<p>-</p>
<p>100. An investment firm may transmit orders for its own account and for its customers account on an aggregated basis when it is clearly in accordance with the best interest of the customer and provided that the best execution standard is respected.</p>	<p>-</p>	<p>See comments for paragraph 96.</p>	<p>-</p>

101. In the case of orders in connection with public offers of securities, an investment firm may transmit such orders provided that they offer the relevant prospectus to the customer or informs the customer where it is available.	-	See comments for paragraph 96.	-
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5.2) EXECUTION OF ORDERS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
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<p><i>102. An investment firm must take all care to obtain the best possible result for the customer with reference to price, costs born by the customer, size, nature of the transactions, time of reception of order, speed and likelihood of execution and trading venue taking into account the state of the relevant market(s). The relevant market(s) shall be deemed to be the market(s) offering the most favourable trading conditions also in terms of transparency, liquidity and clearing and settlement arrangements in connection with the envisaged transaction. If the investment firm executes in another trading venue, it must be able to demonstrate to the customer that this was done in accordance with his best interest.</i></p>	<p>Parliament</p>	<p>Subsection 3 of Section 111 of CMA Section 121 of CMA</p>	<p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments. Whenever consignments from different clients are converged, the investment service provider and the commodities broker shall afford equal treatment to all clients concerned and shall not discriminate against any one of the clients. Any and all extra margin achieved when the investment service provider or the commodities broker is able to conclude a transaction at a price better than what is stipulated in the contract shall be paid out to the client. Any contract to the contrary shall be null and void.</p> <p>Within Hungary there aren't alternative relevant markets to execute the orders. At the moment we don't have any other regulated market or MTF than the BSE (basically for securities and currencies) and the BCE (for commodity derivatives).</p>
<p>104. An investment firm acting as principal in relation to a customer order must inform the customer accordingly beforehand and must be in a position to justify the price at which the transaction is executed, with reference to the prices and volumes in the relevant market(s), where appropriate, or the presumed value determined on the basis of objective elements, e.g. mark-to-market.</p>	<p>-</p>	<p>-</p>	<p>There are no specific rules on this issue, but investment firms are responsible for the proper and prudent execution of orders, and – as intermediating participants of the deals – they have to serve the best interest of their customers.</p>

<p>105. An investment firm must take all reasonable steps to refrain from executing orders for its own account or the account of its members of the board, directors, partners, employees and tied-agents before those of customers in identical or better conditions than the latter (“front running”).</p>		<p>Section 121 of CMA</p>	<p>Investment service providers and commodities brokers may accept consignments in respect of listed securities, exclusive of government securities, and other exchange-traded instruments only for trading on the exchange, and may engage in dealing for their own account – with some exception - only if transacted on the exchange.</p> <p>Investment service providers and commodities brokers may engage in the trading of listed securities, other than government securities, and exchange-traded instruments only in the capacity of intermediaries subject to consignment contract with the client. If specifically requested by a client, the investment service provider shall enter into a consignment contract in respect of government securities as well.</p> <p>When trading on the exchange, an investment service provider or a commodities broker may enter into a sales contract with the client for its own account in the absence of an appropriate counter-offer, only if permitted by the exchange's regulations.</p> <p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.</p> <p>Insider information – among others - shall mean information which has not been made public relating to the securities market, such as any plans to acquire participating interest in a public limited liability company, conclusion of agency contract, preliminary decision concerning sale or purchase, change in exchange rate affecting Hungarian forint and other currencies, syndicate agreement among owners, voting arrangements, which, if it were made public, would be likely to have a significant effect on the value or price of the securities or exchange-traded instruments in question.</p> <p>Under Hungarian law “front running” can</p>
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<p>103. An investment firm must ensure that orders are executed in accordance with the instructions from the customer.</p>	Parliament	Section 205 of the Civil Code Section 277 of the Civil Code	Every contract has to be executed according to its content. Contracts are determined by the mutual and joint accord of the contracting parties.
<p>106. An investment firm must execute orders promptly and sequentially, unless the characteristics of the order and/or prevailing market conditions make this impossible or require otherwise in the interest of the customer.</p>	Parliament	Section 121 of CMA	Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.
<p>107. Customer orders may be matched internally only if such offsetting is clearly in accordance with the best interest of the customers involved and provided that the best execution standard is respected.</p>	-	See comments for paragraph 105.	-
<p>108. If an investment firm aggregates orders, it must pre-assign such orders prior to executing them.</p>	Parliament	Section 121 of CMA	Under a consignment contract, the investment service provider or the commodities broker may conclude the transaction for its own account, or converged with other transaction or broken up into segments, only upon the client's express consent.
<p>109. The price received or paid by the customer shall be identified separately from the fees and costs to the customer.</p>	-	-	There are no such Hungarian provisions.

<p>110. An investment firm must inform customers of relevant risks or impediments for the proper execution of the orders. If, due to market conditions, or for any other reason, an order cannot be executed according to the instructions given by the customer, an investment firm must ensure that the customer is duly informed as soon as possible.</p>	<p>Parliament</p>	<p>Section 115 of CMA</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information. Investment service providers and commodities brokers must inform their clients regarding any and all contractual fees and charges.</p>
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5.3) POST- EXECUTION OF ORDERS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>111. An investment firm must ensure the proper and speedy recording, allocation and distribution of executed transactions.</i></p>	<p>Parliament</p>	<p>Subsection 3 of Section 111 of CMA</p>	<p>All executive officers and employees of investment service providers and commodities brokers shall, at all times, act in a professional and workmanlike manner, and shall handle their assigned duties with due care and attention as it is appropriate to best represent the interests of the investment service provider or the commodities broker and that of the clients, in due compliance with the relevant legal regulation.</p>

113. An investment firm must record the essential elements of transactions, including those carried out for its own account, immediately after their execution. An investment firm must record in an analogous manner the orders they give and the transactions they carry out for the purpose of remedying errors made in recording, transmitting or executing orders.	Parliament	Subsection 1 of Section 120 of CMA	Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system.
114. An investment firm must ensure that once a transaction is executed it is promptly allocated to the account of the relevant customer(s).	HFSA	Methodological Guideline No. 1/2003 of the President of the HFSA	The allocation of the executed transactions must be terminated without delay but not later than the end of the trading day.
<i>112. Where orders for own and customer accounts have been aggregated, the investment firm must not allocate the related trades in any way that is detrimental to any customer. If such an aggregated order is only partially executed, allocation to customers must take priority over allocation to the investment firm.</i>	Parliament	Subsection 2 of Section 120 of CMA	Investment service providers and commodities brokers shall keep separate records of transactions performed on their own account from those performed on behalf of clients.
115. Where an order has been executed in several tranches, the investment firm must inform the customer about the price of execution of each tranche, unless the customer requests an average price. If customer orders have been aggregated and such an aggregated order has been partially executed, the investment firm must allocate the related trade on a proportional basis, unless the firm has a different allocation policy and the customers involved have been informed accordingly prior to the execution. An investment firm must have procedures in place to prevent that reallocation of principal transactions executed along with customers transactions on an aggregated basis give unfair preference to the investment firm or to any of its customers for whom it deals.	Parliament	Subsections (4) and (5) of Section 121 of CMA	Under a consignment contract, the investment service provider or the commodities broker may conclude the transaction for its own account, or converged with other transaction or broken up into segments, only upon the client's express consent. Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.

6. INDIVIDUAL DISCRETIONARY PORTFOLIO MANAGEMENT

In addition to the foregoing standards and rules, additional provisions apply to the service of individual portfolio management.

6.1. CUSTOMER AGREEMENTS FOR DISCRETIONARY PORTFOLIO MANAGEMENT

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>116. Prior to the provision of any discretionary portfolio management service, a customer agreement containing the relevant provisions of the basic customer agreement mentioned above, as well as certain additional provisions specific to portfolio management must be signed between the parties.</i></p>	Parliament	Section 128 and Schedule No. 14 of CMA Schedule No. 14 of CMA	<p>All contracts for portfolio management services must be made in writing or in the form of an electronic document executed by a qualified electronic signature. The mandatory layout of the contract is illustrated in Schedule No. 14 of CMA: Content requirements of portfolio management contracts:</p> <ol style="list-style-type: none"> 1) Conditions for the commencement of portfolio management services. 2) Terms and conditions for the termination of portfolio management services. 3) Investment guidelines. 4) List of potential investment instruments, with special emphasis on derivative instruments. 5) Basis for the calculation of portfolio management fees, rates and billing. 6) Expense account for portfolio management services. 7) Rules on the evaluation of investment instruments. 8) Rules on performance rating. 9) Rules on lending or pledging any investment instruments of an investor which are part of his portfolio. 10) Rules on the disclosure of information to investors. 11) Specifying transmitted property.

<p>118. Instead of the items referred to in paragraph 80.e) , the customer agreement must contain:</p> <ul style="list-style-type: none"> a) the management objective(s) and any specific constraints on discretionary management, b) the types of financial instruments that may be included within the portfolio and the types of transactions that may be carried out in such instruments, including any related limits. <p>In addition to the above, the customer agreement must contain:</p> <ul style="list-style-type: none"> c) without prejudice of paragraph 121, the benchmark against which performance will be compared, d) the basis on which the instruments are to be assessed at the date of valuation, e) details regarding the delegation of the management function where this is permitted. 	-	See comments for paragraph 116.	-
<p>119. The contract must indicate the objectives and the level of risk agreed upon, and any particular constraints on discretionary management resulting from the customer's personal circumstances as referred to in paragraph 62 or his request to exclude certain types of investments (certain business sectors for example).</p>	Parliament	Paragraph d) of Subsection 1 of Section 119 of CMA	See comments for paragraph 116. An investment service provider shall refuse to provide service if ... the client's financial resources are deemed insufficient to cover exposures.
<p>120. If an investment firm is mandated to invest in any of the following types of instruments or to undertake any of the following types of transactions, the contract must state so explicitly and provide adequate information on the scope of the investment firm's discretionary authority regarding these instruments and transactions:</p> <ul style="list-style-type: none"> - financial instruments not traded on a regulated market, - illiquid or highly volatile financial instruments, - leveraged transactions, - securities repurchase agreements or securities lending agreements, - transactions involving credit, margin payments or deposit of collateral, - transactions involving foreign exchange risk. 	-	See comments for paragraph 116.	-
<p>121. For information purposes with respect to the customer, the contract must indicate an appropriate benchmark, based on financial indicators produced by third parties and in common use, that is consistent with management objectives and against which the future results are to be compared. Where it is not feasible to establish such a benchmark in view of specific customer objectives, this must be stated clearly in the contract and an alternative measure of performance must be indicated.</p>	-	See comments for paragraph 116.	Schedule No. 15 ¹⁸ of CMA provides specific rules for the assessment and disclosure of earnings.

¹⁸ Schedule No. 15 of CMA is annexed to this correspondence table.

<p>122. The contract must state whether the financial instruments are to be valued at bid/ask or offer or mid-market price, including any relevant currency exchange rates, and, where relevant, by reference to indicators such as yield curves or other pricing models or the methodology to be used to value unlisted equities.</p>	-	See comments for paragraph 116.	Schedule No. 15 of CMA provides specific rules for the assessment and disclosure of earnings.
<p>123. The contract must define a specific reporting requirement in the event of losses, defined as a marked-to-market decrease in the value of the portfolio as compared to the value of the portfolio as stated in the most recent periodic report (after neutralisation of any contributions or withdrawals). The contract must set a percentage threshold and a time period to warn the customer accordingly.</p>	-	See comments for paragraph 116.	-
<p>124. If the contract provides for a variable management fee based on the performance of the management service, the method of calculation must be clearly defined in the contract.</p>	-	See comments for paragraph 116.	-
<p>125. The contract must provide:</p> <ul style="list-style-type: none"> - that the customer may terminate the agreement with immediate effect, subject only to the completion of all transactions already commenced and the time necessary to liquidate the portfolio where this is required by the customer; - that the investment firm may terminate the agreement subject to a two-week notice, provided however that where the portfolio cannot be liquidated (where required by the customer) within this timeframe, the agreement may be extended for the necessary additional period, and provided that where the customer so agrees after being informed of the firm's intention to terminate, the agreement may be terminated in the timeframe agreed between the parties. <p>In both cases, the termination must take place on terms that are fair and reasonable for both parties.</p>	-	See comments for paragraph 116.	-

<p><i>117. Where the conditions for delegating management of the portfolio are met and the contract allows the investment firm to delegate this function, the contract must state that the delegator retains full responsibility for the protection of the customer's interests.</i></p>	<p>Parliament</p>	<p>Section 130 of CMA Section 332 of the Civil Code</p>	<p>A portfolio manager shall be allowed to transfer portfolio management contracts only to an organization that is licensed to engage in portfolio management. The transfer of portfolio management contracts shall be governed by the provisions of the Civil Code on assumption of debt: "If a person agrees with an obligor to assume his debts, he shall request approval from the obligee; and if the obligee refuses to grant such approval, he shall make arrangements to enable the obligor to perform at maturity. If the obligee approves the assumption of debt, the person assuming the debt shall subrogate the obligor."</p>
<p>126. If an investment firm is mandated to delegate management of any or all of the customer's assets, this must be stated in the contract and adequate information must be supplied in this regard, both to the customer and to the competent authority. The contract must also provide that the customer will be informed prior to any significant change regarding delegation of portfolio management.</p>	<p>Parliament</p>	<p>See comments for paragraph 117. Schedule No. 13 of CMA Subsection (2) of Section 130 of CMA, Subsection (1) of Section 332 of the Civil Code</p>	<p>Content requirements of the procedural regulations of investment fund managers and portfolio managers</p> <ol style="list-style-type: none"> 1) Rules on the evaluation of assets. 2) Rules on risk management principles. 3) Rules on the principles of transfer or delegation of activities. 4) Rules on the means and frequency of disclosure of information to investors. 5) Principles and rules on performance rating. 6) Requirements for the training of employees. 7) Rules on investments by executive officers and employees. 8) Rules on diversification and spreading. <p>According to Subsection (2) of Section 130 of the CMA, the rules of "assumption of debts" of the Civil Code (Sections 332 and 333) should be applied for the transfer of portfolio management activity. Subsection (1) of Section 332 of the Civil Code states that "if a person agrees with an obligor to assume his debts, he shall request approval from the obligee...". This means that Hungarian provisions are stricter as they do not only require prior notification, but they require prior approval for the transfer of portfolio management activity.</p>

<p>127. An investment firm may delegate the portfolio management function to another investment firm only if such delegatee firm is authorised in its home country to provide portfolio management services on an individual basis and is qualified and capable of undertaking the function in question. The mandate shall not prevent the effectiveness of supervision over the delegator, and in particular, it must not prevent the delegator from acting in the best interests of its customers. In no case the investment firm may delegate its functions to the extent that it becomes a letter box entity. Furthermore, it may so delegate to a non-EEA investment firm so authorised in its home country only if an appropriate formal arrangement between regulators enables them to exchange material information concerning both cross-border delegations and the delegatee.</p>	-	See comments for paragraph 117.	-
<p>128. The delegation agreement, in writing:</p> <ul style="list-style-type: none"> a) must be revocable with immediate effect by the delegator; b) must provide for sufficient notice to be given to the delegator by the delegatee of termination of the agreement; c) must be in conformity with the indications contained in the customer agreement with the delegator; d) must require, where the execution of transactions is not subject to the prior consent of the delegator, the delegatee to observe the investment guidelines, including investment allocation criteria, laid down from time to time by the delegator; e) must be formulated so as to avoid conflicts of interest between the delegator and the delegatee; f) must provide for the delegator to receive a continuous flow of information on the transactions carried out by the delegatee permitting it to monitor effectively at any time the activity of the delegatee and to reconstruct the assets under management belonging to each customer of the delegator. 	-	See comments for paragraph 117.	-

6.2 PERIODIC INFORMATION

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<i>129. An investment firm must send periodic statements to its portfolio management customers so as to enable them to assess the performance of the service.</i>	Parliament	Section 132 of CMA	Clients shall be informed on a regular basis concerning the market value of the investment instruments in their portfolios. The detailed rules of evaluation shall be laid down in the regulations for the valuation of assets drawn up as illustrated in Schedule No. 13. See comments for paragraph 126.
130. Periodic statements for portfolio management customers must contain: a) a statement of the contents and valuation of the portfolio, including details of each investment held, its market value and the performance of the portfolio and the cash balance, at the beginning and at the end of the reporting period; b) a management report on the strategy implemented (to be provided at least yearly); c) the total amount of fees and charges incurred during the period and an indication of their nature; d) information on any remuneration received from a third party and details of its calculation basis; e) the total amount of dividends, interest and other payments received during the period.	Parliament	See Schedule No. 15 of CMA in Annex.	-
131. If the basis for valuing any of the assets in the portfolio has changed with respect to the methods described in the portfolio management agreement, these changes must be indicated in the statement along with their impact on profits and/or losses.	-	See comments for paragraph 116.	For changing the valuation method, the contract must be amended first.
132. Periodic statements must include full information on any remuneration received by the investment firm or the manager from a third party that is attributable to services performed for the customer by the manager of the portfolio.	Parliament	See Schedule No. 15 of CMA in Annex.	-
133. In case the customer has elected – in derogation to rule 58 - not to receive information on each transaction in due course carried out by the portfolio manager, the periodic statement containing details of each transaction must be provided at least every three months. Where the details of each transaction are notified after each transaction to the customer, the periodic statement may be provided only every six months.	Parliament	Subsection 2 of Section 133 of CMA	The portfolio manager shall send written statements to clients quarterly or more frequently, unless prescribed by law to the contrary.
134. Where the contract authorises a leveraged portfolio, the customer must receive a periodic statement at least once a month, including an assessment of the risks.	-	See comments for paragraph 133.	-

6.3. MANAGEMENT REQUIREMENTS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><i>135. An investment firm must take all reasonable steps necessary to ensure the independence of the portfolio management function and mitigate the risk of customers' interests being harmed by any conflict of interest, in particular by providing for the strict separation of functions within the investment firm and its group.</i></p>	Parliament	<p>Paragraph b) of Subsection 1 of Section 101 of CMA (Schedule No. 12 of CMA) Section 135 of CMA</p>	<p>Applicants for licensing portfolio management activities must have... operating regulations prepared as in the layout illustrated in Schedule No. 12 : “Content requirements of the operating regulations of institutions providing investment fund management and portfolio management services 1) Rules for the prevention and handling of any conflict of interest. 2) With the exception set out in Section 135, rules for separating portfolio management from all other activities in which the portfolio manager is engaged. 3) Rules for separating the functions of the front office and that of the back office. 4) Rules conferring decision-making authority within the organization. 5) Rules for retaining data files. 6) Rules of confidentiality. 7) Rules on communication facilities provided to investors by which to reach the portfolio manager or the investment fund manager.” The portfolio manager - not including investment fund managers - must have an administration and management system to distinctly separate portfolio management operations from all aspects of the other business activities in which the portfolio manager is engaged. This obligation shall not apply to the asset management services provided to the Voluntary Mutual Insurance Fund and to private pension funds.</p>
<p>138. The structure of the investment firm, its policies and procedures must seek to ensure the independence of the portfolio management function.</p>	-	See comments for paragraph 135.	-

<p>136. An investment firm must define investment strategies for its portfolio management services and carry out transactions in accordance with such strategies, taking into account the terms of the customer agreement.</p>	Parliament	Subsection 1 of Section 125 of CMA	<p>Portfolio managers shall, at all times, proceed in the client's best interest in compliance with legal provisions and with their own internal regulations, and as stipulated in the portfolio management contract.</p> <p>See comments for paragraph 135.</p>
<p>139. The investment firm must maintain records of its investment strategies, as well as the analyses and forecasts underlying them.</p>	Parliament	See Schedule No. 15 of CMA in Annex.	-
<p>137. The transactions carried out by the portfolio manager, both individually and as a whole, must be exclusively motivated by the interests of the customer and in accordance with agreed management objectives.</p>	-	See comments for paragraph 136.	-
<p>140. The investment firm must ensure that its orders are executed as efficiently as possible and in particular that:</p> <ul style="list-style-type: none"> a) orders issued are immediately recorded by the firm; b) transactions executed are recorded and the portfolios affected are adjusted as quickly as possible; c) the portfolios affected and the relevant amounts are determined, or objectively determinable, no later than the time at which the order is issued and cannot be changed, except for the purposes of rectifying an error, after the execution of the order, regardless of whether the order relates to one or more accounts. 	Parliament	Subsection 1 of Section 120 of CMA	<p>Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system.</p>

B. CONDUCT OF BUSINESS RULES FOR THE “PROFESSIONAL REGIME”

1. STANDARDS OF GENERAL APPLICATION

1.1 GENERAL

Standard	Implementing authority(ies)	Implementing measure	Comments
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<p><i>1. An investment firm must at all times act honestly, fairly and professionally in accordance with the best interests of its customers and the integrity of the market.</i></p>	<p>Parliament</p>	<p>Subsection 7 Section 115 of CMA</p>	<p>All other rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.</p> <p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>(Subsection 1, 3-4 of Section 115 of CMA)</p> <p>The above provisions do not bind the investment service providers and commodities brokers if their client is an professional investor.</p>
<p><i>2. An investment firm must have and must employ effectively the resources and procedures that are necessary for the proper performance of its business activities, including back-up procedures and systems so as to reasonably ensure that investment services can be provided without interruption.</i></p>	<p>-</p>	<p>See comments for paragraph 1.</p>	<p>-</p>

<i>3. An investment firm must ensure that any persons or entities with which it is undertaking authorisable investment business are authorised to conduct that business by the relevant regulator.</i>	-	See comments for paragraph 1.	-
<i>4. Investment firm that outsources functions retains full responsibility for the outsourced activity and must ensure that the providers of such outsourcing are able to perform these functions reliably, professionally and in the best interests of its customers.¹⁹</i>	-	See comments for paragraph 1.	-

1.2. CONFLICTS OF INTEREST AND INDUCEMENTS

Standard	Implementing authority(ies)	Implementing measure	Comments
<i>5. An investment firm must take all reasonable steps to ensure that conflicts of interest between itself and its customers and between one customer and another are identified and then prevented or managed in such a way that the interests of customers are not adversely affected. For these purposes the investment firm must establish an internal independence policy, including Chinese walls as appropriate. Where conflicts of interest cannot be reasonably avoided or managed with the internal independence policy, the conflict of interest must be disclosed to the customer.</i>	-	See comments for paragraph 1.	-
<i>6. An investment firm, its members of the board, directors, partners, employees and tied-agents may offer or receive inducements only if they can reasonably assist the firm in the provision of services to its customers. Where inducements are received disclosure of such inducements must be made to the customer on his request.</i>	-	See comments for paragraph 1.	-

1.3 COMPLIANCE AND CODE OF CONDUCT

¹⁹ This standard is not intended to interfere with relevant provisions on civil liability, applicable at national level.

Standard	Implementing authority(ies)	Implementing measure	Comments
<p><i>7. An investment firm must take all reasonable measures to ensure that the firm and its members of the board, directors, partners, employees and tied-agents at all time act in accordance with the best interests of its customers and the integrity of the market by establishing and implementing adequate compliance policies and procedures, including an independent compliance function and an internal code of conduct..</i></p>	-	See comments for paragraph 1.	-
<p><i>8. An investment firm must be able to demonstrate that it has not acted in breach of the conduct of business rules and the internal code of conduct and that its organization, policies and procedures facilitate such compliance.</i></p>	-	See comments for paragraph 1.	-
<p><i>9. The persons responsible for the compliance function must have the necessary expertise, resources, authority and must have full access to all relevant information enabling them to perform their duties. They must perform their monitoring duties independently of all persons and activities subject to their monitoring.</i></p>	-	See comments for paragraph 1.	-
<p><i>10. A summary of the results of the monitoring must be reported to the senior management of the investment firm and to the internal or external auditors. The investment firm must report these results, together with remedies adopted, to the competent authority at least once a year.</i></p>	-	See comments for paragraph 1.	-
<p><i>11. An investment firm must ensure that the competent authority is informed, without undue delay, of serious breaches of the conduct of business rules. In assessing whether the breaches are serious, an investment firm must take into account the impact on regulatory goals and on the capacity to provide services, their frequency, the damages suffered by customers.</i></p>	-	See comments for paragraph 1.	-
<p><i>12. The compliance function must:</i> - <i>regularly verify the adequacy of policies and procedures to ensure compliance with the regulations on investment services;</i> - <i>provide advisory assistance and support to the various business areas of the investment firm on problems concerning compliance with the regulations on investment services.</i></p>	-	See comments for paragraph 1.	-

<p><i>13. An investment firm must keep records relevant for the purpose of demonstrating compliance with the conduct of business rules, for a period of five years in order to enable the competent authority to verify compliance with these rules. Tape recording of orders must be kept for a period of one year.</i></p>	-	See comments for paragraph 1.	-
<p><i>14. An investment firm must keep a register of customer complaints related to the provision of the investment services and the measures taken for their resolution and must regularly verify whether complaints are adequately processed.</i></p>	-	See comments for paragraph 1.	-
<p><i>15. An investment firm must establish a code of conduct for members of the board, directors, partners, employees and tied-agents. The code of conduct must contain:</i></p> <p><i>a) The rules and procedure to meet the obligation to protect data of a confidential nature;</i></p> <p><i>b) the rules and procedures for carrying out personal transactions involving financial instruments;</i></p> <p><i>c) the rules and procedures governing the business relationship with customers in order to ensure that the persons referred to above, in particular where a conflict of interest may arise, always act in the best interests of customers, and that such persons do not take advantage of any confidential information;</i></p> <p><i>d) the investment firm's policy on conflicts of interest and inducements.</i></p>	-	See comments for paragraph 1.	-

2. INFORMATION TO BE PROVIDED TO CUSTOMERS

Standard	Implementing authority(ies)	Implementing measure	Comments
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<p><i>16. An investment firm must pay due regard to the information needs of its customers and communicate information to them that is fair, clear, and not misleading.</i></p>	<p>Parliament</p>	<p>Subsection 1, 3-4 of Section 115 of CMA Subsection 7 Section 115 of CMA</p>	<p>All other rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.</p> <p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The above provisions do not bind the investment service providers and commodities brokers if their client is an professional investor.</p>
<p><i>17. If an investment firm provides information in a marketing communications it must be fair, clear and not misleading.</i></p>	<p>Parliament</p>	<p>It is forbidden to publish misleading advertisements. Subsection 1 of Section 7 of Act LVIII of 1997 on Business Advertising Activity</p>	<p><i>Misleading advertising:</i> means any advertising which in any way, including its presentation, deceives or is likely to deceive the persons to whom it is addressed or whom it reaches and which, for reason of its deceptive nature, is likely to affect their economic behaviour or which, for those reasons, injures or is likely to injure a competitor who is engaged in the same or similar activities. (Point n) of Section 2 of Act LVIII of 1997 on Business Advertising Activity)</p>

<i>18. An investment firm must ensure that a customer is provided promptly with the essential information concerning the execution of his order.</i>	Parliament	Subsection (3) of Section 117 of the CMA	Subsection (3) of Section 117 of the CMA states that "Investment service providers and commodities brokers shall forthwith notify their clients ... concerning any transaction they have concluded/executed on their behalf".
<i>19. Where an investment firm has control of, or is holding assets belonging to a customer, it must arrange for proper identification and regular confirmation of such assets to the customer.</i>	-	See comments for paragraph 16.	-
<i>20. An investment firm that operates customer accounts, which include uncovered open positions, must provide regular statements of such positions.</i>	-	-	-

3. THE "KNOW-YOUR-CUSTOMER STANDARD" AND THE DUTY TO CARE

Standard	Implementing authority(ies)	Implementing measure	Comments
<i>21. Prior to providing any investment service to a customer for the first time and throughout the business relationship, an investment firm must be in possession of adequate documentation of the identity of the customer, as well as the identity and legal capacity of any representative of the customer. In addition, prior to providing any investment service the investment firm must seek to obtain from the customer information enabling an investment firm a) to determine whether the investment services envisaged are appropriate for the customer and b) to meet any duties owing to the customer in respect of the services to be provided.</i>	Parliament	Section 3 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 116 of CMA	See comments for paragraph 62. In case the customer is a financial service provider providing financial services in the Hungarian Republic (professional), the investment service provider does not need to identify the financial service provider itself (however the representative must still be identified). Investment service providers can only take orders from foreign undertakings, if they qualify as financial service providers and they identify their customer.

<p><i>22. When an investment firm provides investment advice to the customer, it must have reasonable grounds to believe, in light of the information disclosed to it by the customer and the information available to it, including the information from the customer relationship, that this investment advice is suitable for him.</i></p>	<p>Parliament</p>	<p>Subsection 1, 3-4 of Section 115 of CMA Subsection 7 Section 115 of CMA</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The above provisions do not bind the investment service providers and commodities brokers if their client is an professional investor.</p> <p>Also see comments for paragraph 72 at the 'retail part'.</p>
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4. CUSTOMER AGREEMENTS

Standard	Implementing authority(ies)	Implementing measure	Comments
<p><i>23. Prior to providing any investment service, an investment firm must enter into a signed written agreement with the customer setting out the rights and obligations of the parties.</i></p>	<p>Parliament</p>	<p>Subsection 1, 3-4 of Section 115 of CMA Subsection 7 Section 115 of CMA</p>	<p>Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.</p> <p>Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The above provisions do not bind the investment service providers and commodities brokers if their client is a professional investor.</p> <p>Section 115 is mainly relevant concerning information to be provided to the customer prior to entering into a contract. However to give this information the parties have to enter into a contract, which is explicitly stated in Section 115. Subsection (7) of Section 115 only exempts from giving the necessary information to the professional investor prior to entering into a contract but it does not exempt from the obligation to enter into a contract.</p>

5.- DEALING REQUIREMENTS

5.1) RECEPTION AND TRANSMISSION OF CUSTOMER ORDERS

Standard	Implementing authority(ies)	Implementing measure	Comments
<p>24. <i>An investment firm must record and process customer orders in accordance with the customer's instructions and in such a way as to facilitate best execution.</i></p>	<p>Parliament</p>	<p>Section 108 and Subsection 1, 3-4 of Section 115 of CMA Subsection 7 Section 115 of CMA</p>	<p>- Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities to minimize the possibility of any danger of conflicts of interest between the investment service provider or the commodities broker and their clients, or among clients, to the detriment of clients;</p> <p>- investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract,</p> <p>- investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure.</p> <p>- When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client.</p> <p>The provisions of the last three indents of the above column do not bind investment service providers and commodities brokers if their client is a professional investor.</p> <p>All other rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.</p>

<i>25. An investment firm must ensure that the firm and its members of the board, directors, partners, employees and tied-agents do not use the information they possess on customers orders to the disadvantage of customers' interest.</i>	-	See comments for paragraph 24.	-
<i>26. An investment firm must record orders immediately, documenting and verifying all relevant items of proper execution.</i>	-	See comments for paragraph 24.	-
<i>27. An investment firm must keep a record of telephone orders on magnetic tape or an equivalent medium. Investment firms must duly inform the customer that the conversation will be recorded.</i>	Government	Section 3 of Government Decree No. 205/1995	Section 3 of Government Decree No. 205/1995 states that "The investment firm must keep the record of telephone orders on magnetic tape or an equivalent medium as long as the contract based on this order is still not in written form. After the signing of the contract the telephone order does not have to be kept any more, but all the relevant order details (date, time, direction, size, other requirements) remain accessible in the uniform order registration system."

5.2) EXECUTION OF ORDERS

Standard	Implementing authority(ies)	Implementing measure	Comments
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<p><i>28. An investment firm must take all care to obtain the best possible result for the customer with reference to price, costs born by the customer, size, nature of the transactions, time of reception of order, speed and likelihood of execution and trading venue taking into account the state of the relevant market(s). The relevant market(s) shall be deemed to be the market(s) offering the most favourable trading conditions also in terms of transparency, liquidity and clearing and settlement arrangements in connection with the envisaged transaction. If the investment firm executes in another trading venue, it must be able to demonstrate to the customer that this was done in accordance with his best interest.</i></p>	<p>Parliament</p>	<p>Subsection 3 of Section 111 of CMA Section 121 of CMA</p>	<p>All rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.</p> <p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.</p> <p>Whenever consignments from different clients are converged, the investment service provider and the commodities broker shall afford equal treatment to all clients concerned and shall not discriminate against any one of the clients.</p> <p>Any and all extra margin achieved when the investment service provider or the commodities broker is able to conclude a transaction at a price better than what is stipulated in the contract shall be paid to the client. Any contract to the contrary shall be null and void.</p>
<p><i>29. An investment firm acting as principal in relation to a customer order must inform the customer accordingly beforehand and must be in a position to justify the price at which the transaction is executed, with reference to the prices and volumes in the relevant market(s), where appropriate, or the presumed value determined on the basis of objective elements, e.g. mark-to-market.</i></p>	<p>-</p>	<p>See comments for paragraph 28.</p>	<p>-</p>
<p><i>30. An investment firm must ensure that orders are executed in accordance with the instructions from the customer.</i></p>	<p>-</p>	<p>See comments for paragraph 28.</p>	<p>-</p>

<p><i>31. An investment firm takes reasonable steps to refrain from executing orders for its own account or the account of its members of the board, directors, partners, employees and tied-agents before those of customers in identical or better conditions than the latter (“front running”).</i></p>	<p>Parliament</p>	<p>Section 121 of CMA</p>	<p>Investment service providers and commodities brokers may accept consignments in respect of listed securities, exclusive of government securities, and other exchange-traded instruments only for trading on the exchange, and may engage in dealing for their own account – with some exception - only if transacted on the exchange.</p> <p>Investment service providers and commodities brokers may engage in the trading of listed securities, other than government securities, and exchange-traded instruments only in the capacity of intermediaries subject to consignment contract with the client. If specifically requested by a client, the investment service provider shall enter into a consignment contract in respect of government securities as well.</p> <p>When trading on the exchange, an investment service provider or a commodities broker may enter into a sales contract with the client for its own account in the absence of an appropriate counter-offer, only if permitted by the exchange's regulations.</p> <p>Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. The requirement to complete transactions in the sequence of arrival shall not apply to transactions in which the client waives his rights and instructs the service provider to carry out the transaction in consecutive segments.</p> <p>Insider information – among others - shall mean information which has not been made public relating to the securities market, such as any plans to acquire participating interest in a public limited liability company, conclusion of agency contract, preliminary decision concerning sale or purchase, change in exchange rate affecting Hungarian forint and other currencies, syndicate agreement among owners, voting arrangements, which, if it were made public, would be likely to have a significant effect on the value or price of the securities or exchange-traded instruments in question.</p> <p>Under Hungarian law “front running” can be considered as a special kind of insider cases.</p>
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5.3) POST- EXECUTION OF ORDERS

Standard	Implementing authority(ies)	Implementing measure	Comments
<i>32. An investment firm must ensure the proper and speedy recording, allocation and distribution of executed transactions.</i>	-	-	All rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.
<i>33. Where orders for own and customers accounts have been aggregated, the investment firm must not allocate the related trades in any way that is detrimental to any customer. If such an aggregated order is only partially executed, allocation to customers must take priority over allocation to the investment firm.</i>	-	See comments for paragraph 32.	-

6. INDIVIDUAL DISCRETIONARY PORTFOLIO MANAGEMENT

In addition to the foregoing standards and rules, additional provisions apply to the service of individual portfolio management.

Standard	Implementing authority(ies)	Implementing measure	Comments
<i>34. Prior to the provision of any discretionary portfolio management service, a customer agreement containing the relevant provisions of the basic customer agreement mentioned above, as well as certain additional provisions specific to portfolio management must be signed between the parties.</i>	-	-	All rules, regulations and comments - which were presented at the presentation of the retail regime - should be applied for the “professional regime”.
<i>35. An investment firm must take all reasonable steps necessary to ensure the independence of the portfolio management function and mitigate the risk of customers’ interests being harmed by any conflict of interest, in particular by providing for the strict separation of functions within the investment firm and its group.</i>	-	See comments for paragraph 34.	-
<i>36. An investment firm must send periodic statements to its portfolio management customers so as to enable them to assess the performance of the service.</i>	-	See comments for paragraph 34.	-

<p><i>37. The investment firm must ensure that its orders are executed as efficiently as possible and in particular that:</i></p> <ul style="list-style-type: none"> <i>a) orders issued are immediately recorded by the firm;</i> <i>b) transactions executed are recorded and the portfolios affected are adjusted as quickly as possible;</i> <i>c) the portfolios affected and the relevant amounts are determined, or objectively determinable, no later than the time at which the order is issued and cannot be changed, except for the purposes of rectifying an error, after the execution of the order, regardless of whether the order relates to one or more accounts.</i> 	-	See comments for paragraph 34.	-
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C. CORE STANDARDS FOR THE “COUNTERPARTY RELATIONSHIP”

1. The “counterparty relationship”

Standard	Implementing authority(ies)	Implementing measure	Comments
<p>A « counterparty relationship » is typical of trading between investment firms and banks within themselves or with other entities which are not holding themselves out as providers of investment services but are market participants directly active in the financial market for proprietary trading. It is characterised by the absence of a “client relationship” (i.e. without any provision of service). In particular, it covers the following situations:</p> <ul style="list-style-type: none"> - transactions executed in regulated markets or other trading venues (which do not give rise to any provision of investment service to the customer) between any member admitted to trade in these markets; - transactions executed directly (over-the-counter) between investment firms or credit institutions, authorised to provide the service of dealing, and dealing either as principal or as agent; - transactions executed directly (over-the-counter) between investment firms or credit institutions and other authorised or regulated financial intermediaries, including non-ISD firms, such as commodity dealers, insurance companies, but not including collective investment schemes and management companies of such schemes, pension funds and management companies of such funds. 	-	<p>There is an overlap between the Hungarian “professional regime” and the “counterparty regime” as defined by CESR standards. See comments for paragraph 10 a) of Part D (Criteria for defining professional investors)</p>	-
<p>CESR Members are free to allow companies to be treated as “counterparties” and to define the appropriate quantitative thresholds. In case of cross-border business, if the company is located in a jurisdiction where the “counterparty regime” is not applicable to companies, the professional regime will apply to that relationship.</p>	-	-	-
<p>Transactions entered into by these entities and effected through the offices of an authorised intermediary would be, by default, subject to the « professional regime ». Only those transactions undertaken by these entities for which they are direct “counterparties” and for which a specific choice to enter into a “counterparty relationship” has been made, are liable to operate subject to such a regime.</p>	-	-	-

The entities meeting one of the above mentioned criteria and willing to enter into a « counterparty relationship » have to reciprocally confirm in the contract that the transaction is executed under a « counterparty relationship ». This confirmation may be given in master agreements, where applicable to a series of transactions of the same nature.	-	-	-
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1. The “counterparty regime”

Standard	Implementing authority(ies)	Implementing measure	Comments
<i>The firm must at all times act honestly, fairly and professionally in accordance with the integrity of the market.</i>	-	See comments for paragraph 1 (‘retail regime’)	-
<i>The firm must have and must employ effectively the resources and procedures that are necessary for the proper performance of its business activities.</i>	-	See comments for paragraph 2 (‘retail regime’)	-
<i>The firm must establish an independent compliance function, aimed at ensuring that its directors, partners, employees and agents behave in accordance with the integrity of the market.</i>	-	See comments for paragraph 7 (‘retail regime’)	-
<i>Executive directors/senior management must take reasonable measures to ensure that the firm establishes and implements adequate compliance policies and procedures.</i>	-	See comments for paragraph 9 (‘retail regime’)	-
<i>The firm must be able to demonstrate that it has not acted in breach of standards of market integrity and that its organisation, policies and procedures facilitate such compliance.</i>	-	See comments for paragraph 10 (‘retail regime’)	-
<i>The firm must keep records of all transactions executed for a period of five years.</i>	-	See comments for paragraph 15 (‘retail regime’)	-
<i>The firm must keep record of telephone conversations concerning the transactions executed on a counterparty relationship.</i>	-	See comments for paragraph 75 (‘retail regime’)	-

<i>The firm must adopt and take all reasonable steps to ensure compliance with an appropriate internal code of conduct.</i>	-	See comments for paragraph 9 ('retail regime')	-
<i>The information provided in a marketing communications must be clear and not misleading.</i>	-	See comments for paragraph 29 ('retail regime')	-

D. CRITERIA FOR DEFINING PROFESSIONAL INVESTORS

Professional investors are those who may be deemed to possess the experience, knowledge and expertise to make their own investment decisions and properly assess the risks they incur.

1. Categories of investors who are considered to be professionals

Standard	Implementing authority(ies)	Implementing measure	Comments
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<p>10. a) Entities which are required to be authorised or regulated to operate in the financial markets.</p> <p>The list below should be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a European Directive, entities authorised or regulated by a Member State without reference to a European Directive, and entities authorised or regulated by a non-Member State:</p> <ul style="list-style-type: none"> • Credit institutions • Investment firms • Other authorised or regulated financial institutions • Insurance companies • Collective investment schemes and management companies of such schemes • Pension funds and management companies of such funds <p>Commodity dealers.</p>	Parliament	point 53 of Subsection 1 of Section 5 of CMA	'institutional investor' means - credit institutions, investment enterprises, investment funds, investment fund managers, venture capital companies, venture capital funds, insurance institutions, the Voluntary Mutual Insurance Fund, private pension funds, the National Health Insurance Fund, and the National Pension Insurance Administration, - all non-residents who can be regarded as such under their national laws.
<p>b) Large companies ⁽²⁰⁾ and other institutional investors:</p> <ul style="list-style-type: none"> • large companies and partnerships meeting two of the following size requirements on a company basis: <ul style="list-style-type: none"> • balance sheet total : EUR 20.000.000, • net turnover : EUR 40.000.000, • own funds: EUR 2.000.000. • Other institutional investors whose corporate purpose is to invest in financial instruments. 	-	See comments for paragraph 10 a).	-
<p>National and regional governments, Central Banks, international and supranational institutions such as the World Bank, the IMF, the ECB, the EIB and other similar international organisations.</p>	-	See comments for paragraph 10 a).	-

⁽²⁰⁾ Whilst CESR acknowledges that issuers of listed financial instruments, i.e. entities whose securities (equity instruments or other) are traded on a regulated market (within the meaning of article 1.13 of the ISD), should be treated as professional investors, Members are free to implement the categorisation of these issuers in line with the thresholds applicable to large companies and partnerships.

<p>11. The entities mentioned in §10 are considered to be professionals. They must however be allowed to request non-professional treatment and investment firms may agree to provide a higher level of protection. Where the customer of an investment firm is a company or a partnership referred to in §10, the investment firm must inform it prior to any provision of services that, on the basis of the information available to the firm, the customer is deemed to be professional investor, and will be treated as such unless the firm and the customer agree otherwise. The firm must also inform the customer that he can request a variation of the terms of the agreement in order to secure a higher degree of protection.</p>	-	-	-
<p>12. It is the responsibility of the client considered to be a professional investor to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.</p>	-	-	-
<p>13. This higher level of protection will be provided when an investor who is considered to be a professional enters into a written agreement with the investment firm to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime. Such agreement should specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.</p>	-	-	-

2. Categories of investors who may be treated as professionals on request

2.1. Identification criteria

Standard	Implementing authority(ies)	Implementing measure	Comments
<p>14. The members of CESR consider that investors other than those mentioned in § 10, including public sector bodies ⁽²¹⁾ and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules. Investment firms should therefore be allowed to treat any of the above investors as professionals provided the relevant criteria and procedure mentioned below are fulfilled. These investors should not, however, be presumed to possess market knowledge and experience comparable to that of the categories listed in §10.</p>	-	-	-
<p>15. Any such waiver of the protection afforded by the standard conduct of business regime shall be considered valid only if an adequate assessment of the expertise, experience and knowledge of the client, undertaken by the investment firm, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making his own investment decisions and understanding the risks involved.</p> <p>The fitness test applied to managers and directors of entities licensed under European Directives in the financial field could be regarded as an example of the assessment of expertise and knowledge. In the case of small entities, the person subject to the above assessment should be the person authorised to carry out transactions on behalf of the entity.</p>	-	-	-
<p>16. In the course of the above assessment, as a minimum, two of the following criteria should be satisfied:</p> <ul style="list-style-type: none"> • The investor has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters; • The size of the investor's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds 0,5 million Euro; <p>The investor works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.</p>	-	-	-

⁽²¹⁾ It should be noted that public sector bodies are subject to specific regulations that might prevent them from entering into certain types of transactions or opting for the professional conduct of business regime.

2.2. Procedure

Standard	Implementing authority(ies)	Implementing measure	Comments
<p>17. The investors defined above may waive the benefit of the detailed rules of conduct only where the following procedure is followed:</p> <p>a) they must state in writing to the investment firm that they wish to be treated as a professional investor, either generally or in respect of a particular investment service or transaction, or type of transaction or product;</p> <p>b) the investment firm must give them a clear written warning of the protections and investor compensation rights they may lose;</p> <p>c) they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.</p>	-	-	-
<p>18. Before deciding to accept any request for waiver, investment firms must be required to take all reasonable steps to ensure that the client requesting to be treated as a professional investor meets the relevant requirements stated in Section II.1 above.</p> <p>However, if investors have already been categorised as professionals under parameters and procedures similar to those above, it is not intended that their relationships with investment firms should be affected by any new rules adopted pursuant to this paper.</p>	-	-	-
<p>19. Firms must implement appropriate written internal policies and procedures to categorise investors.</p> <p>Professional investors are responsible for keeping the firm informed about any change, which could affect their current categorisation. Should the investment firm become aware however that the investor no longer fulfils the initial conditions, which made him eligible for a professional treatment, the investment firm must take appropriate action.</p>	-	-	-

ANNEX 1

Schedule No. 15 to Act CXX of 2001

Rules and principles for the assessment and disclosure of earnings achieved in a portfolio managed by a portfolio manager, an investment fund manager, or a service provider managing the assets of the Voluntary Mutual Insurance Fund or private pension funds under contract

The documents prepared under this Schedule shall not serve to substitute for the reports, which are to be prepared by institutions providing portfolio management and investment fund management services in order to enable their clients to comply with their reporting obligations.

The objective of the internal regulations on return assessment, disclosure and publication is to assure the investor that the information on earnings is complete and correct. Compliance with these provisions and the uniformity of the yield calculation methods serve the purpose of making the performance of the various portfolios - including the investment funds and the assets of the Voluntary Mutual Insurance Fund and of the private pension funds - as comparable as possible.

1) All data and information, which are necessary to demonstrate to results achieved in a portfolio and to perform the prescribed calculations must be compiled and kept on file.

2) All source information for portfolio assessment and the methods employed must be made available to the investors.

3) All portfolios must be evaluated at least monthly.

4) Portfolios must be evaluated on a market value basis.

5) For the evaluation of interest-bearing bonds and all other instruments on which any interest is paid the amount of interest accrued for a given period must be taken into consideration.

6) Yields from moneys and other similar instruments must be included in total earnings.

7) Yields shall be computed on each trading day.

8) Unless otherwise prescribed by legal regulation, the yield of portfolios shall be calculated on a capital-weighted monthly average or time-weighted daily average.

9) Return must be assessed on the whole, including any and all capital gains and profits, if realised or not.

10) The earnings of the various periods must be shown in a geometrical sequence.

11) The return achieved in periods of less than one year cannot be computed on an annual basis.

12) Every yield figure must have an indication as to which period it pertains.

13) The costs and expenses of trading shall not be included when rating the efficiency of management.

14) Non-refundable withholding tax on dividends, interest income and capital gains must be deducted from the yield amount. Withholding tax that can be refunded shall be taken into consideration.

15) It shall be indicated whether the yield calculated is net or gross, namely, whether it includes the fees paid by the investor to the portfolio manager or to its affiliated company.

16) Any fact and additional information that may be of importance for making an informed judgement of a portfolio's performance, or to offer an explanation for the yield calculated shall also be indicated.

17) In terms of efficiency rating, any diversification of capital or use of derivative instruments, and the extent of such, shall be demonstrated in a yield calculation so as to permit the identification of risks.

18) Where a reference index has been made part of a portfolio, in line with the underlying investment policy, the yield of such a reference index is to be shown for the same period or periods to which the yield of a portfolio pertains using the same yield calculation methods.

19) When rating the efficiency of an investment fund manager or portfolio manager, the yield figures shall cover the past five years or, if less than five years, the full period of their activities, broken down by calendar year.

ANNEX 2

The **Hungarian implementing authorities are the** following: the **Parliament**, as **legislative body** (Acts are adopted by the Parliament), the **Government** is authorized to issue decrees, the **Ministry of Finance** is authorized to issue decrees (also detailed rules connected to the CMA), the **Hungarian Financial Supervisory Authority** is the competent financial supervisory authority, being responsible for supervision and compliance with financial rules. The present Hungarian regulation level is mainly statutory law. The governing and applicable law is Act CXX of 2001 on the Capital Market (Capital Market Act - CMA).