



*Before printing this document, please be aware of its size!*

*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 States<sup>1</sup> (Ref. CESR/03-497b);*
- *the explanatory notes and caveats attached to the Tables.*

*The Tables were produced by the Members of CESR<sup>1</sup> 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 Protection<sup>2</sup> and the CESR Standards for Alternative Trading Systems<sup>3</sup> 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).*

<sup>1</sup> 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.

<sup>2</sup> “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).

<sup>3</sup> Ref. CESR/02-086b, July 2002.

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

**LATVIA**

**A CONDUCT OF BUSINESS RULES FOR THE “RETAIL REGIME”**

**1. STANDARDS AND RULES OF GENERAL APPLICATION**

**1.1 GENERAL**

Standard /Rule	Implementing authority(ies)	Implementing measure <sup>4</sup>	Comments
<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>	Parliament	<p><b>Article 128</b> of the Law on the Financial Instruments Market requires an investment brokerage company and a credit institution (hereinafter – the investment services provider), when providing investment services, to operate with due care and diligence, providing proper and professional performance in the best interests of its clients.</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>	Parliament	<p><b>Article 105</b> of the Law on the Financial Instruments Market defines that the investment services provider may receive a licence from the FCMC if it ensures that shareholders and senior management meet "fit and proper" requirements. Pursuant to <b>Article 107(3)</b> of the Law on the Financial Instruments Market, the investment services provider shall submit to the FCMC information regarding the internal control system, the organizational chart, accounting policies and procedures, a description of the management information system, a description of the data protection system, procedures for identification of unusual and suspicious transactions, procedures for the management of financial risks to obtain the licence.</p> <p><b>Article 124</b> of the Law on the Financial Instruments Market defines that an investment brokerage company in compliance with regulatory enactments shall take security measures for processing, safekeeping and transmission of data.</p>	

<sup>4</sup> Any derogation to the application of the implementing measures should be mentioned.

<p><b><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></b></p>	<p>Parliament</p>	<p>Articles 101, 102, 103 of the Law on the Financial Instruments Market define that the investment services provider may provide investment services in Latvia after obtaining authorisation from the Financial and Capital Market Commission (hereinafter – the FCMC). These articles define also the procedure for obtaining authorisation. The FCMC places a list of the companies to which the licence is issued on its Internet home page at <a href="http://www.fktk.lv">www.fktk.lv</a>.</p>	<p><u>Comment:</u> This provision differs from the one currently in force. Until now, credit institutions also had to obtain a specific licence entitling them to provide investment services. Since 1 July 2001, three supervisory institutions have been merged into one: the Credit Institutions Supervision Department of the Bank of Latvia, the Securities Market Commission and the Insurance Supervision Inspectorate. Therefore the Law on the Financial Instruments Market eliminates the requirement for a credit institution to obtain 2 licenses. Undertakings licensed as credit institutions are entitled to provide investment services.</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.<sup>5</sup></i></p>	FCMC	<p>Currently laws and regulations do not contain provisions on outsourcing. These provisions are being drafted with the view to supplement the Law on Credit Institutions, the Law on the Financial Instruments Market and the Law on Investment Management Companies.</p> <p>However, the FCMC has already elaborated regulations dealing with outsourcing of IT functions. The <b>FCMC Regulations on the Safety of Informative Systems of Financial and Capital Market Participants</b> determine that, where outsourcing of IT functions takes place, a market participant shall, in cooperation with external providers of information technology:</p> <ul style="list-style-type: none"> <li>- determine requirements for the responsibility of persons involved, the awarding of temporary user accounts, the management change and other requirements for information system (IS) security;</li> <li>- upon attaining consent from IS resource holders, grant external service providers of information technology the right of access to IS resources only to the extent required for the performance of their duties;</li> <li>- determine restrictions on the disclosure of information.</li> </ul> <p>If an IS is maintained by an external service provider, it shall ensure the IS security at a level that is not lower than that specified by the market participant. The market participant shall inform about the external service provider in accordance with the IS security requirements.</p>	
--	------	--	--

## 1.2. CONFLICTS OF INTEREST AND INDUCEMENTS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments

<sup>5</sup> This standard is not intended to interfere with relevant provisions on civil liability, applicable at national level.

<p><b><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></b></p>	<p>Parliament</p>	<p><b>Article 127</b> of the Law on the Financial Instruments Market defines the requirements for the investment services provider to minimize the risk of conflict of interest between the investment services provider and a client, or between its clients.</p>	
<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</p>	<p><b>Article 127</b> of the Law on the Financial Instruments Market defines that in all cases where the execution of the investment services provider's order pertaining to the same financial instrument and the same type of transaction (purchase or sale) has not been commenced, the client's order shall be at all times executed prior to execution of the investment services provider's order. An investment services provider shall take all requisite and possible measures to prevent the conflict of interest which may arise in relation to the execution of a client's order, however, if the conflict of interest is inevitable, the client's orders must be executed by duly observing the client's interests, or the investment services provider shall refuse to execute the client's order.</p>	
<p><b><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></b></p>		<p>The laws or FCMC regulations do not specifically regulate this issue.</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>The laws or FCMC regulations do not specifically regulate this issue.</p>	

### **1.3 COMPLIANCE AND CODE OF CONDUCT**

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<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>	Parliament	<b>Article 124</b> of the Law on the Financial Instruments Market requires Council and Board members of the investment services provider to meet "fit and proper" requirements. The Chairman and at least one member of the Board must be competent in investment services.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
14. The compliance function must: - 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.		The laws or FCMC regulations do not specifically regulate this issue.	
<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>		The laws or FCMC regulations do not specifically regulate this issue.	

<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><b>Article 124</b> of the Law on the Financial Instruments Market defines that an investment brokerage company shall keep supporting documents related to transactions in financial instruments for 10 years and follow other requirements regarding completion and safekeeping of supporting documents set out in regulations of the FCMC and the Law on Accounting.</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>Parliament</p>	<p>Currently the laws or FCMC regulations do not require explicitly the registration of customer complaints. However, Article 120 of the Law on the Financial Instruments Market requires that, prior to entering into an agreement on provision of investment services and non-core investment services, the investment services provider is obliged to inform the client of procedures for out-of-court settlement of complaints and disputes arising from this agreement.</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"> <li>a) the rules and procedure to meet the obligation to protect data of a confidential nature;</li> <li>b) the rules and procedures for carrying out personal transactions involving financial instruments;</li> <li>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;</li> <li>d) the investment firm's policy on conflicts of interest and inducements.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

#### 1.4. COLD CALLING<sup>6</sup>

<sup>6</sup> 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.

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<i>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.</i>		The laws or FCMC regulations do not specifically regulate this issue. Cold-calling is either not used at all or is of minor importance in Latvia.	
19. Cold calls may only be made by persons employed by, or appointed as tied-agent <sup>7</sup> by an investment firm. Responsibility for the competence and activities of such persons rests with the firm.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	

## **2. INFORMATION TO BE PROVIDED TO CUSTOMERS**

### **2.1) BASIC REQUIREMENTS**

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments

<sup>7</sup> This is without prejudice to the applicability of professional requirements, imposed at national level.



<p><i>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.</i></p>	<p>Parliament</p>	<p><b>Article 126</b> of the Law on the Financial Instruments Market requires that, prior to entering into an agreement on provision of investment services and non-core investment services, the investment services provider is obliged to disclose full information pertaining to the particular service and related financial risks to the client.</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.

Parliament

**Article 128** of the Law on the Financial Instruments Market requires the investment services provider to operate with due care and diligence, providing proper and professional performance in the best interests of its clients, agreements may not contain any provisions that are directed against a client, etc.

<b>26. An investment firm must supply its customers on a timely basis with the information that enables them to make informed investment decisions.</b>	Parliament	<b>Article 126</b> of the Law on the Financial Instruments Market requires that the investment services provider shall continue rendering of the information without any special request from the client during the whole process of the investment service provision if the relevant information changes or is updated..	
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.		The laws or FCMC regulations do not specifically regulate this issue.	

## 2.2.) MARKETING COMMUNICATIONS <sup>8</sup>

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<b>29. If an investment firm provides information in a marketing communication it must be fair, clear and not misleading.</b>	Parliament	Currently there are no specific rules regarding the marketing communications made by investment brokerage companies. According to Article 88(2) of the Law on the Financial Instruments Market, dissemination of false or misleading information is deemed to constitute market manipulation. Besides a marketing communication issued by investment brokerage companies must comply with the general rules defined by the Law on Advertising.	
<b>30. The promotional purpose of marketing communications issued by an investment firm must not be disguised.</b>		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	

<sup>8</sup> 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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	

### 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>	Parliament	<b>Article 126</b> of the Law on the Financial Instruments Market requires the investment services provider to disclose full information pertaining to the particular service and related financial risks to the client prior to entering into an agreement on provision of investment services and non-core investment services.	

<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"> <li>a) the identity of the investment firm, the (financial) group to which the investment firm belongs, its postal address and telephone number;</li> <li>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;</li> <li>c) the functions that the investment firm performs so that the customer is able to assess the scope of the firm's responsibilities;</li> <li>d) the relevant compensation scheme(s);</li> <li>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;</li> <li>f) an outline of the firm's policies in relation to conflicts of interest and inducements;</li> <li>g) the languages in which the customer can communicate with the investment firm.</li> </ul>	<p>FCMC Parliament</p>	<p>Article 2.2. of the <b>FCMC Regulations for Conducting the Securities Transactions</b> establishes minimum information requirements and provisions to be included in agreements between investment service providers and clients.</p> <p><b>Article 126</b> of the Law on the Financial Instruments Market requires that the information regarding the out-of-court complaint and redress mechanism must be disclosed to the clients prior to entering into an agreement on provision of investment services and non-core investment services, the investment services provider is obliged to inform the client of procedures for out-of-court settlement of complaints and disputes arising from this agreement.</p>	<p>The <b>FCMC Regulations for Conducting Securities Transactions</b> apply to transactions in all financial instruments.</p>
---	----------------------------	--	---

**2.4) INFORMATION ON FINANCIAL INSTRUMENTS AND INVESTMENT SERVICES**

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
----------------	-----------------------------	----------------------	----------

<p><b>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.</b></p>		See the answer to item 35.	
<p>40. The information provided to customers can be delivered using standard documentation but must include the following as a minimum:</p> <ul style="list-style-type: none"> <li>a) a description of the main characteristics <sup>9</sup> 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;</li> <li>b) price, including commissions, fees and other charges, relating to the transaction, the instrument or service;</li> <li>c) arrangements for payment and performance;</li> <li>d) details on any cancellation rights or rights of reflection that may apply.</li> </ul>		See the answer to items 35 and 36.	
<p><b>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.</b></p>	FCMC	Articles 2.2.3 and 2.2.9 of the FCMC Regulations for Conducting Securities Transactions require that all charges must be communicated to clients while entering into an agreement and the agreement must contain information regarding the procedure how the changes in charges will be communicated to the clients. Neither laws nor FCMC regulations contain the requirement to disclose to clients the information how the charges are calculated.	
<p>41. The information to be disclosed to customers on commissions, charges and fees must contain:</p> <ul style="list-style-type: none"> <li>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;</li> <li>b) if various investment firms are to be involved in a transaction or service, an estimate of the other fees that will be payable.</li> </ul>		The laws or FCMC regulations do not specifically regulate this issue.	
<p>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.</p>		The laws or FCMC regulations do not specifically regulate this issue.	
<p>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.</p>		The laws or FCMC regulations do not specifically regulate this issue.	

<sup>9</sup> 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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p><b><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></b></p>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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"> <li>a) the reference period must be stated and must not be less than one year;</li> <li>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;</li> <li>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;</li> <li>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;</li> <li>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;</li> <li>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.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
50. If information provided contains comparisons, the requirement of being fair, clear and not misleading means that the comparisons must: <ul style="list-style-type: none"> <li>a) be based either on data from attributed sources or disclosed assumptions;</li> <li>b) be presented in a fair and balanced way;</li> <li>c) take reasonable steps not to omit any fact that is material to the comparison.</li> </ul>		The laws or FCMC regulations do not specifically regulate this issue.	

## 2.5) RISK WARNINGS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<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>	Parliament	<b>Article 126</b> of the Law on the Financial Instruments Market requires that, prior to entering into an agreement on provision of investment services and non-core investment services, the investment services provider is obliged to disclose full information pertaining to the particular service and related financial risks to the client.	



<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"> <li>- financial instruments not traded on a regulated market;</li> <li>- transactions in illiquid financial instruments;</li> <li>- leveraged transactions;</li> <li>- financial instruments subject to high volatility in normal market conditions;</li> <li>- securities repurchase agreements or securities lending agreements;</li> <li>- transactions which involve credit, margin payments or the deposit of collateral;</li> <li>- transactions involving foreign exchange risk.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p>53. The investment firm must also, where necessary, inform the customer of risks associated with:</p> <ol style="list-style-type: none"> <li>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);</li> <li>b) suspension of trading or listing (e.g. that under certain trading conditions it may be impossible to liquidate a position);</li> <li>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).</li> </ol>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p><b><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></b></p>	<p>FCMC</p>	<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

## 2.6. CUSTOMER REPORTING

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<p><b>55. An investment firm must ensure that a customer is provided promptly with the essential information concerning the execution of his order.</b></p>	FCMC	<p>Articles 2.2.2 and 2.2.4 of the <b>FCMC Regulations for Conducting Securities Transactions</b> define that agreements between investment service providers and clients must contain information concerning procedures for transmitting to the client information regarding securities transactions and servicing of securities accounts, including the means of information transmission and frequency of transmission and duties of the investment service provider in case of securities events.</p>	
<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 customer<sup>10</sup>, 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"> <li>a) the name of the firm;</li> <li>b) the name of the customer account;</li> <li>c) the time of execution, if available, or a statement that the time of execution will be supplied on request;</li> <li>d) date of execution;</li> <li>e) the type of transaction; e.g. buy, sell, subscription etc.;</li> <li>f) the market on which the transaction was carried out or the fact that it was carried out off-market;</li> <li>g) the financial instrument and the quantities involved in the transaction;</li> <li>h) the unit price applied and the total consideration;</li> <li>i) whether the customer's counterparty was the investment firm itself or any related party;</li> <li>j) the commissions and expenses charged;</li> <li>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.</li> </ul> <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>	FCMC	<p>The laws and regulations currently in force do not contain the requirement to inform the client immediately or no later than the next business day in order not to augment securities transactions costs. Both parties are free to choose the regime for supplying the client with the information regarding executed transactions. Timing and means of communication shall be specified in an agreement. Moreover, Article 4.2. of the <b>FCMC Regulations for Conducting Securities Transactions</b> provides that information regarding the execution of a transaction must be provided to the client immediately upon his request.</p>	
<p>59. The investment firm must notify the customer immediately if it refuses to accept or transmit an order. The firm must inform customers</p>	FCMC	See the answer to the item above.	

<sup>10</sup> The reference to “send to the customer” includes to a tied-agent, other than the firm, nominated by the customer in writing.

<p>as soon as possible if it is unable to transmit their orders.</p> <p><b>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.</b></p>	<p>Parliament FCMC</p>	<p><b>Article 2.2.2</b> of the FCMC Regulations for Conducting Securities Transactions requires that an agreement between an investment service provider and a client must define kinds, means and time limits for the transfer and receipt of information concerning servicing of securities accounts and securities transactions, as well as a procedure for authorisation. <b>Article 4</b> of the FCMC Regulations on the Performance of Trust Operations defines that the accounting system of a credit institution shall have separate accounting of trust operations, ensuring the accounting of property owned by clients in a separate (trust) balance sheet, broken down by clients and types of assets under management. <b>Article 130(4)</b> of the Law on the Financial Instruments Market defines that the investment services provider is entitled to open a nominal account, if the person for whom the account is being opened acts pursuant to regulatory enactments whose requirements with respect to client identification are not less stringent than the requirements prescribed by regulatory enactments of the Republic of Latvia. Article 130 (5) of the above-mentioned law defines that the investment services provider shall provide a client with information about transactions and balances of its accounts as often as stated in the agreement or upon request of the client.</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"> <li>a) identify assets which have been pledged to the firm or any third parties as collateral;</li> <li>b) identify assets which have been lent;</li> <li>c) clearly and consistently show movement of assets based on either trade date or settlement date.</li> </ul>	<p>Parliament</p>	<p>Pursuant to <b>Article 130 (5)</b> of the Law on the Financial Instruments Market, the investment services provider shall provide a client with information about transactions and balances of its accounts as often as stated in the agreement or upon request of the client. This article also defines what kind of data shall be included in these accounts.</p>	
<p><b>57. An investment firm that operates customer accounts, which include uncovered open positions, must provide regular statements of such positions.</b></p>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p>61. Where an account includes uncovered open positions<sup>11</sup>, an investment firm must send to its customer a monthly statement, which includes the following:</p>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

<sup>11</sup> Examples of uncovered open positions include:

<p>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;</p> <p>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;</p> <p>c) the resulting profit or loss arising from positions closed during the period.</p>			
---	--	--	--

<p><b>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.</b></p> <p><b>In addition, prior to providing any investment service the investment firm must seek to obtain from the customer information enabling an investment firm</b></p> <p><b>a. to determine whether the investment services envisaged are appropriate for the customer<sup>12</sup> and</b></p> <p><b>b. to meet any duties owing to the customer in respect of the services to be provided.</b></p>	<p>Parliament FCMC</p>	<p><b>Article 126</b> of the Law on Financial Instruments Market requires the investment services provider to enter into a written agreement with a client prior to commencing provision of investment services. This Article requires also the investment services provider to seek information on clients' experience and knowledge with respect to transactions to be concluded, on the objectives it pursues to achieve through relevant transactions and on the financial situation insofar as it is necessary to safeguard the client's interests.</p> <p>Article 3.4. of the <b>FCMC Guidelines for the Formulation of Procedures for Identifying Clients, Unusual and Suspicious Financial Transactions</b> defines requirements for identification of customers and actual beneficiaries.</p>	
--	----------------------------	--	--

### 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>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>Parliament FCMC</p>	<p><b>Article 130</b> of the Law on the Financial Instruments Market defines that, before opening a financial instruments account, the investment services provider shall verify the identity of the person who wishes to open the account and shall clarify whether the financial instruments to be entered to the account shall be owned by or be in custody of such person. An account where the booked (recorded) financial instruments are</p>	<p>The laws or FCMC regulations do not contain any specific requirements as to the rights of the investment service provider to rely on the information about the client obtained from the other investment service provider where both of those investment providers have a direct relationship with the client.</p>

(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.

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

		<p>financial instruments in custody of a person shall be identified as nominal account.</p> <p>Article 6 of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity defines that no credit or financial institution shall be entitled to open an account or accept financial resources for safe custody without obtaining the following customer information:</p> <p>1) for a resident:</p> <p>a) if a legal person, the name, domicile, registration number and place of registration;</p> <p>b) if a natural person, the name, surname and identity number;</p> <p>2) for a non-resident, data from the identification certificate issued by the respective foreign country:</p> <p>a) if a legal person, the name, domicile, registration number and place of registration;</p> <p>b) if a natural person, the name, surname, date of issue, number and the issuer of the identification certificate.</p> <p>Besides Article 3.4. of the <b>FCMC Guidelines for the Formulation of Procedures for Identifying Clients, Unusual and Suspicious Financial Transactions</b> defines requirements for identification of customers and actual beneficiaries.</p>	
<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>See the implementing measure quoted above (item 63).</p>	

<p>65. An investment firm must seek to obtain information on the customer's knowledge and experience<sup>13</sup> in the investment field, his investment objectives and risk profile,<sup>14</sup> 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><b>Article 126</b> of the Law on the Financial Instruments Market requires the investment services provider to seek information on clients' experience and knowledge with respect to transactions to be concluded, on the objectives it pursues to achieve through relevant transactions and on the financial situation insofar as it is necessary to safeguard the client's interests.</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>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>The laws or FCMC regulations do not contain explicit requirements as to the obligation of the client to inform the investment service provider about any changes in the information provided to it previously. In compliance with Article 126(7) of the Law on the Financial Instruments Market, the investment services provider shall not be liable for the outcome resulting from the client's refusal or failure to provide information on changes in previously provided information.</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>	<p>FCMC</p>	<p><b>Article 3.1.</b> of the FCMC Regulations for Conducting Securities Transactions defines that the investment services provider may start the execution of a client's order only when the order form has been filled in. See the implementing measure quoted above (item 63).</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>	<p>Parliament</p>	<p><b>Article 126 (7)</b> of the Law on the Financial Instruments Market defines that the investment services provider shall not be liable to a client for consequences caused by the client's refusal to provide information or failure to inform of the changes in the previously provided information if the client refuses to provide the information.</p>	<p>The laws or FCMC regulations do not contain the provision that an investment brokerage company should warn a client in writing about the adverse effects resulting from the non-provision of information.</p>

<sup>13</sup> 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.

<sup>14</sup> 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.

70. The customer should not be invited not to provide information.		The laws or FCMC regulations do not contain a specific prohibition to invite the client not to provide information, however, according to the Law on the Financial Instruments Market, the client has the right to refuse to provide information to the investment service provider.	
--	--	--	--

### 3.2 THE INVESTMENT FIRM'S DUTY TO CARE FOR THE CUSTOMER <sup>15</sup>

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<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>	Parliament	There are no specific requirements as to the provision of investment advice, however, Article 128(1) of the Law on the Financial Instruments Market provides for a general duty to act in the best interests of client.	
<i>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.</i>	Parliament	There are no specific requirements in the laws or FCMC regulations requiring the investment service provider to evaluate each client's order, however, a reference should be made again to the general duty prescribed by Article 128(1) of the Law on the Financial Instruments Market.	

<sup>15</sup> 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.

<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 suitable<sup>16</sup> 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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p><b><i>74. An investment firm must take reasonable care to verify that the customer has sufficient financial resources to settle the proposed transaction.</i></b></p>		<p>The laws or FCMC regulations do not specifically regulate this issue. This issue would completely depend on the contractual relationship between the client and the investment service provider.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

<sup>16</sup> 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>The laws or FCMC regulations do not specifically regulate this issue.</p>	
--	--	--	--

#### 4. CUSTOMER AGREEMENTS

##### 4.1) BASIC CUSTOMER AGREEMENT

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<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>	Parliament	<p><b>Article 126</b> of the Law on the Financial Instruments Market requires the investment services provider to enter into a written agreement with a client prior to commencing provision of investment services.</p>	
<p><i>79. The customer agreement must be clear and easily understandable by the customer.</i></p>	Parliament	<p><b>Article 128</b> of the Law on the Financial Instruments Market stipulates that the customer agreement shall not contain disguised clauses that are counter to customer interests.</p>	

<p>80. The customer agreement must contain the following items as a minimum:</p> <ul style="list-style-type: none"> <li>a) the identity, postal address and telephone number of each of the parties;</li> <li>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;</li> <li>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</li> <li>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;</li> <li>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;</li> <li>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;</li> <li>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;</li> <li>h) the name of the competent authority which has authorised the investment firm;</li> <li>i) the law applicable to the contract, as ascertained to the best of the knowledge of the firm or as agreed between the parties;</li> <li>j) the duration of the agreement and the procedures for amending, renewing, terminating or withdrawing from it;</li> <li>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;</li> <li>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;</li> <li>m) the languages in which the customer can communicate with the investment firm.</li> </ul>	<p>FCMC</p>	<p>According to Article 2.2. of the <b>FCMC Regulations for Conducting Securities Transactions</b>, agreements between investment service providers and clients must contain at least the following information:</p> <ul style="list-style-type: none"> <li>1) the identification data of the contracting parties;</li> <li>2) procedures for transmitting to the client information regarding securities transactions and servicing of securities accounts, including the means of information transmission and frequency of transmission;</li> <li>3) the settlement of payments for services provided;</li> <li>4) duties of the investment service provider in case of securities events;</li> <li>5) rights and duties of the service provider;</li> <li>6) rights and duties of the client;</li> <li>7) procedures for informing the client regarding any changes with respect to commissions, fees and other charges;</li> <li>8) a reference to the dispute settlement mechanism.</li> </ul> <p>Where the client is a legal person, the samples of signatures of all persons authorised to submit the order to the investment service provider must be attached to the agreement.</p>	
---	-------------	---	--

<p>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.</p>		<p>A reference to other documents in the contract, or supplementing of the contract with annexes is not prohibited.</p>	
<p>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.</p>		<p>The laws or FCMC regulations do not contain any specific requirements for rights and obligations of parties in case of a custody agreement in general or exercise of voting rights in particular. However, without a written authorisation, a custodian would not be entitled to exercise voting rights attached to the financial instruments in custody.</p>	
<p>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.</p>	FCMC	<p>As quoted above (item 80), the agreement between the investment service provider and the client must contain the procedure for informing the client regarding any changes with respect to commissions, fees and other charges.</p>	
<p>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.</p>	FCMC	<p>According to Article 2.4 of the <b>FCMC Regulations for Conducting Securities Transactions</b>, an agreement in paper form between an investment service provider and a client with original signatures shall be done in at least 2 copies, one for each party.</p> <p>An investment services provider shall maintain and store contracts signed electronically in such a manner as ensures that the investment services provider may at any time ascertain whether the contract with the particular client has been concluded and familiarize itself with its contents and that the client may at any time familiarize itself with the contents of the contract in the same manner in which the contract was concluded.</p> <p>Contracts must be maintained for 10 years after the day the contract has expired or has been terminated.</p>	

**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>		<p>The laws or FCMC regulations do not contain specific requirements as to the agreements involving derivatives. All general requirements regarding the agreement on the investment service provision apply. Besides, currently there are no publicly (exchange) traded derivatives in Latvia.</p>	
<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"> <li>- the type(s) of instruments and transactions envisaged,</li> <li>- the obligations of the investment firm with respect to the transactions envisaged, in particular its reporting and notice obligations to the customer,</li> <li>- 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,</li> <li>- an appropriate warning calling to the customer's attention the risks involved in the transactions envisaged.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

## 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>FCMC</p>	<p>According to Article 3.1 of the <b>FCMC Regulations for Conducting Securities Transactions</b>, an investment service provider may start the execution of a client's order only when the order form has been filled in.</p>	

<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> <ol style="list-style-type: none"> <li>a) the name of the customer and of any person acting on his behalf,</li> <li>b) the date and time of the order,</li> <li>c) the financial instrument to be traded,</li> <li>d) the size of the order,</li> <li>e) the nature of the order, e.g., subscription, buy, sell, exercise etc.,</li> <li>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;</li> <li>g) the account for which the order has to be executed.</li> </ol>	FCMC	<p>According to Article 3.4 of the <b>FCMC Regulations for Conducting Securities Transactions</b>, the order form must contain at least the following data:</p> <ol style="list-style-type: none"> <li>1) the client's identification data;</li> <li>2) the type of security;</li> <li>3) the type of the transaction (buying, selling, pledging, deregistration etc.);</li> <li>4) number of securities;</li> <li>5) price or mechanism for its determination (market price, the admissible interval, etc.);</li> <li>6) the time period for which the order is valid;</li> <li>7) the relevant market (central market, continuous trade for fixed price; continuous trade for variable price; all market segments, etc.);</li> <li>8) the timing (year, months, day, hour and minutes) and the means of its submission;</li> <li>9) the securities account number and current account number of the client submitting the order;</li> <li>10) the account number of the person receiving the securities;</li> <li>11) the signature of the client, where the order form has been filled in by the client in writing.</li> </ol>	
<p>94. An investment firm must record orders immediately, documenting and verifying all relevant items of proper execution.</p>	FCMC	<p><b>According to Article 3.8 of the FCMC Regulations for Conducting Securities Transactions</b>, all orders, notwithstanding the way they were submitted, must be registered in a register held by the investment service provider.</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>	FCMC	<p>Article 3.3. of the <b>FCMC Regulations for Conducting Securities Transactions</b> provides that where the client's orders are submitted via phone, e-mail or other electronic means of communication, the investment service provider shall register all the information which must be contained in the order handed in paper form.</p> <p>For the registration procedure see the answer to item 91.</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>	FCMC RSE	<p>As indicated in item 94, the register held by the investment service provider must contain data on each individual order.</p> <p>Besides, transmission of orders on an aggregated basis to the Riga Stock Exchange is prohibited according to Article 13 of the <b>RSE Enforcement Note on Trading and Quotation</b>.</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.	Parliament	<b>Article 128</b> of the Law on the Financial Instruments Market requires the investment services provider, when providing investment services, to operate with due care and diligence, providing proper and professional performance in the best interests of its clients.	
<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>	Parliament	<b>Article 128</b> of the Law on the Financial Instruments Market requires the investment services provider, when providing investment services, to operate with due care and diligence, providing proper and professional performance in the best interests of its clients. Besides <b>Article 85</b> of the Law on the Financial Instruments Market qualifies information obtained while transmitting and/or executing client's orders as insider information.	
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").	Parliament	<b>Article 127</b> of the Law on the Financial Instruments Market prescribes that in all cases where the execution of the investment services provider's order pertaining to the same financial instrument and the same type of transaction (purchase or sale) has not been commenced, the client's order shall be at all times executed prior to execution of the investment services provider's order.	
99. An investment firm, which aggregates orders, must pre-assign such orders prior to transmitting them.	FMC	As indicated above, aggregation is prohibited. See the answer to item 96.	
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.		As indicated above, aggregation is prohibited. See the answer to item 96.	
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.		The laws or FCMC regulations do not specifically regulate requirements as to orders in connection with public offers.	

## 5.2) EXECUTION OF ORDERS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<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>	Parliament	<p><b>Article 128</b> of the Law on the Financial Instruments Market defines that the investment services provider, when providing investment services, is obliged to operate with due care and diligence, providing proper and professional performance in the best interests of its clients.</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>	FCMC	<p>According to Article 3.1. of the <b>FCMC Regulations for Conducting Securities Transactions</b>, the investment services provider may start the execution of a client's order only when the order form has been filled in. In compliance with Article 3.4 of the above-mentioned regulations, the order form must contain a price or mechanism for its determination (market price, the admissible interval, etc.).</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>	Parliament	<p><b>Article 127</b> of the Law on the Financial Instruments Market defines that in all cases where the execution of the investment services provider's order pertaining to the same financial instrument and the same type of transaction (purchase or sale) has not been commenced, the client's order shall be at all times executed prior to execution of the investment services provider's order.</p>	
<p><i>103. An investment firm must ensure that orders are executed in accordance with the instructions from the customer.</i></p>	Parliament	<p><b>Article 128</b> of the Law on the Financial Instruments Market prescribes that the execution of a client's order may not be delayed, and it shall be executed immediately, except in cases provided for by law, according to the client's instructions as to the time or price of the execution of the order.</p>	
<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	<p><b>Article 128</b> of the Law on the Financial Instruments Market defines that the execution of a client's order may not be delayed, and it shall be executed immediately, except in cases provided for by law, according to the client's instructions as to the time or price of the execution of the order.</p>	
<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>	FCMC	<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	



108. If an investment firm aggregates orders, it must pre-assign such orders prior to executing them.	FCMC RSE	As mentioned above (in item 96), investment service providers may not aggregate orders prior to entering them in the automated trading system of the Riga Stock Exchange.	
109. The price received or paid by the customer shall be identified separately from the fees and costs to the customer.	FCMC	The laws or FCMC regulations do not specifically regulate this issue. However, in practice statements of account always contain the price received or paid by the customer, indicated separately from the fees and costs to the customer.	
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.	FCMC	The laws or FCMC regulations do not specifically regulate this issue.	

### 5.3) POST- EXECUTION OF ORDERS

Standard /Rule	Implementing authority(ies)	Implementing measure	Comments
<i>111. An investment firm must ensure the proper and speedy recording, allocation and distribution of executed transactions.</i>	Parliament	<b>Article 125(4)</b> of the Law on the Financial Instruments Market requires that executed transactions be registered and relevant entries in customers' accounts be made immediately.	
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.	FCMC	According to Article 38 of the <b>FCMC Regulations for Conducting Securities Transactions</b> , all orders for transactions shall be entered into a special register.	

114. An investment firm must ensure that once a transaction is executed it is promptly allocated to the account of the relevant customer(s).	Parliament	<b>Article 125(4)</b> of the Law on the Financial Instruments Market requires that executed transactions be registered and relevant entries in customers' accounts be made immediately.	
<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>	FCMC, RSE	As mentioned above (in item 96), investment service providers may not aggregate orders prior to entering them in the automated trading system of the Riga Stock Exchange.	
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.	FCMC	According to Article 2.2.2. of the <b>FCMC Regulations for Conducting Securities Transactions</b> , the receipt and transmission of information related to servicing of clients' accounts and securities transactions, means and timing of provision of such information shall be mentioned in the agreement between the client and investment services provider.	

## **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**

<b>Standard /Rule</b>	<b>Implementing authority(ies)</b>	<b>Implementing measure</b>	<b>Comments</b>
-----------------------	------------------------------------	-----------------------------	-----------------

<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>	<p>Parliament</p>	<p><b>Article 126(1)</b> of the Law on the Financial Instruments Market defines that, prior to commencing provision of investment services and non-core investment services, the investment services provider shall enter into an agreement in writing with a client on the provision of the investment services and non-core investment services. Article 3.3.3. of the <b>FCMC Regulations for Conducting Securities Transactions</b> provides that, where the client's orders are submitted via phone, e-mail or other electronic means of communication, the investment service provider shall register all the information which must be contained in the order handed in paper form.</p>	
<p>118. Instead of the items referred to in paragraph 80.e) , the customer agreement must contain:</p> <ul style="list-style-type: none"> <li>a) the management objective(s) and any specific constraints on discretionary management,</li> <li>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.</li> </ul> <p>In addition to the above, the customer agreement must contain:</p> <ul style="list-style-type: none"> <li>c) without prejudice of paragraph 121, the benchmark against which performance will be compared,</li> <li>d) the basis on which the instruments are to be assessed at the date of valuation,</li> <li>e) details regarding the delegation of the management function where this is permitted.</li> </ul>	<p>FCMC</p>	<p>According to Article 6 of the <b>FCMC Regulations on Trust Operations</b>, an agreement between a trust operation provider and a client must contain at least the following:</p> <ol style="list-style-type: none"> <li>1) the nature of the services provided;</li> <li>2) rights and obligations of the parties, including a clear indication of the party bearing the market risks;</li> <li>3) the amount of the entrusted cash amounts;</li> <li>4) amounts and types of eventual investments;</li> <li>5) on whose name the acquired assets will be registered;</li> <li>6) who is the beneficiary;</li> <li>7) the procedure for informing the client about the total value of the portfolio and any changes in its value.</li> </ol>	

<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>	FCMC	<p>According to Article 7 of the <b>FCMC Regulations on Trust Operations</b>, trust agreements may not contain any provisions that in an implied way would include consequences that may in any way be directed against a client. Where the portfolio manager undertakes not only the risk related to the trust operations but also other risks, it must be clearly stated in the agreement.</p> <p>As indicated above, any trust agreement must contain information on the nature of services provided.</p>	
<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"> <li>- financial instruments not traded on a regulated market,</li> <li>- illiquid or highly volatile financial instruments,</li> <li>- leveraged transactions,</li> <li>- securities repurchase agreements or securities lending agreements,</li> <li>- transactions involving credit, margin payments or deposit of collateral,</li> <li>- transactions involving foreign exchange risk.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<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>	FCMC	<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

<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>	FCMC	As explained above (item 118), the agreement between the provider of the trust operation and the client shall contain the procedure for informing client about the total value of the portfolio and any changes in its value. However, the FCMC Regulations do not require setting of a specific percentage threshold and time period.	
<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>		The laws or FCMC regulations do not specifically regulate this issue.	
<p>125. The contract must provide:</p> <ul style="list-style-type: none"> <li>- 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;</li> <li>- 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.</li> </ul> <p>In both cases, the termination must take place on terms that are fair and reasonable for both parties.</p>		The laws or FCMC regulations do not specifically regulate this issue.	
<p><b><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></b></p>		The laws or FCMC regulations do not specifically regulate this issue.	
<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>	FCMC	According to Article 13.7. of the <b>FCMC Regulations on Trust Operations</b> , it is prohibited to delegate the management of the client's portfolio to third persons except where such delegation has been explicitly stipulated in the agreement between the portfolio manager and the client.	

<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>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	
<p>128. The delegation agreement, in writing:</p> <ul style="list-style-type: none"> <li>a) must be revocable with immediate effect by the delegator;</li> <li>b) must provide for sufficient notice to be given to the delegator by the delegatee of termination of the agreement;</li> <li>c) must be in conformity with the indications contained in the customer agreement with the delegator;</li> <li>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;</li> <li>e) must be formulated so as to avoid conflicts of interest between the delegator and the delegatee;</li> <li>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.</li> </ul>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	

**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>	FCMC	According to Article 6 of the <b>FCMC Regulations on Trust Operations</b> , an agreement between a trust operation provider and a client must contain the procedure for informing the client about the total value of the portfolio and any changes in its value.	
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.		The laws or FCMC regulations do not specifically regulate requirements as to the content of statements. According to Article 2 of the <b>FCMC Regulations on Trust Operations</b> , the portfolio manager (credit institution or investment brokerage company) must have procedures for issuance of statements.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	
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.		The laws or FCMC regulations do not specifically regulate this issue.	

### 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><b>Article 127(2)(3)</b> of the Law on the Financial Instruments Market sets requirements for preventing any conflict of interest. That includes a requirement for the investment services provider to establish a separate structure for individual management of clients' financial instruments, execution or submission for execution of orders related thereto.</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>	Parliament	<p><b>Article 128(3)(4)</b> of the Law on the Financial Instruments Market defines that the investment services provider shall ensure that decisions on individual management of clients' financial instruments and investment consulting be made only by persons duly authorised by the investment services provider to perform such activities. For these purposes the investment services provider is entitled to authorise only persons having appropriate education and experience, and who are competent in the field of investment services.</p>	
<p><i>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.</i></p>	FCMC	<p>According to Article 2 of the <b>FCMC Regulations of Trust Operations</b>, an investment service provider shall draft and adopt policies and procedures clearly defining the nature of the portfolio management operations, the procedure for carrying out transactions related to the portfolio management, for record keeping and issuance of statements to clients.</p>	
<p>139. The investment firm must maintain records of its investment strategies, as well as the analyses and forecasts underlying them.</p>		<p>The laws or FCMC regulations do not specifically regulate this issue.</p>	



<p>137. <i>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.</i></p>	FCMC	<p>According to Article 8 of the <b>FCMC Regulations on Trust Operations</b>, a trust agreement concluded between a portfolio manager and a client shall contain a clause that the portfolio manager has to act as a careful owner.</p>	
<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"> <li>a) orders issued are immediately recorded by the firm;</li> <li>b) transactions executed are recorded and the portfolios affected are adjusted as quickly as possible;</li> <li>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.</li> </ul>	Parliament	<p><b>Article 125</b> of the Law on the Financial Instruments Market defines that the investment services provider shall be responsible for immediate recording of transactions in financial instruments and entering of financial instruments acquired as a result of such transactions to clients' financial instruments accounts. Rights to financial instruments shall be vested in the acquirer from the time when financial instruments are entered to the acquirer's financial instruments account. The proof of the fact that financial instruments are owned by a person shall be a book entry in its financial instruments account.</p>	