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

IMPORTANT NOTICE

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

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

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

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

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

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

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

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

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

³ Ref. CESR/02-086b, July 2002.

CORRESPONDENCE TABLE ON STANDARDS FOR INVESTOR PROTECTION
(REF. CESR/01-014D)
PART I (STANDARDS 1 – 24 RETAIL REGIME)

A CONDUCT OF BUSINESS RULES FOR THE “RETAIL REGIME”**1. STANDARDS AND RULES OF GENERAL APPLICATION****1.1 GENERAL**

Standard 1	<i>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>		
Country	Implementing Authority(ies)	Implementing Measure ⁴	Comments
AUSTRIA	Austrian Parliament (hereinafter “AP”)	Art. 13 ASSA	An investment firm’s obligation to act honestly, fairly and professionally in the best interests of its customers and the integrity of the market is a general principle of the Austrian Securities Supervision Act (hereinafter “ASSA”) and applied common market standard. This standard is laid down in Art. 13 par 1 ASSA and does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance General note: within the areas of its competence, the CBFA may lay down regulations to supplement the legal provisions in respect of technical aspects. These regulations of the CBFA shall come into force only after their approval by the King (Art. 64 L. 2 August 2002) The CBFA may also lay down in circulars or recommendations all measures to be taken with a view to clarifying the application of legal provisions (Art. 49, § 3, L. 2 August 2002)	Art. 36, § 1, 1°, 2° and 3° L. 6 April 1995.	Art. 26, 1°, L. 2 August 2002 (to come into force later) General note: at the entry into force of the provisions of Art. 26, 27 and 28 of the L. of 2 August 2002, the corresponding provision(s) in the Law of 6 April 1995 will be repealed. General note on the entry into force of the conduct of business rules provided for in the Law of 2 August 2002. Article 28, § 2 of the Law of 2 August 2002 provides that when the King determines the date of the entry into force of the conduct of business rules contained in Articles 26 and 27 or takes steps for the implementation of those provisions, He takes account of the status of harmonization of the rules of conduct concerned within the European Community

⁴ Any derogation to the application of the implementing measures should be mentioned.

DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 3 and section 19 (The above mentioned rule requires investment firms to act honestly, fairly and professionally in accordance with the best interests of its customers and the integrity of the market.)	
FINLAND	Parliament and Rahoitustarkastus	Chapter 4, Section 1 and Chapter 4, Section 4, Paragraphs 1, 3 and 4 of the Securities Markets Act Chapter 51, Sections 3 and 4 of the Penal Code Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	
FRANCE	Parliament and AMF (COB+CMF) ⁵	Article 533-4 of the Monetary and Financial Code (MFC) and article 3-1-1 of the General Regulation (GR) of the CMF Articles 2 and 13 of Regulation 96-03 of the COB ⁶	We have retained the current wording of the ISD both in the legislative Code and in the CMF provisions. The COB provisions relate to portfolio management and also reflect the wording of the ISD but emphasise “impartiality” in addition to diligence, honesty and fairness. In addition to this COB regulation, the French association of asset management companies has developed an influential set of conduct of business rules for retail client relationships. ⁷ .
GERMANY	BaFin	Section 31 par. 1 Securities Trading Act (in the following: WpHG)	
GREECE	See Footnote ⁸	See Footnote ⁹ Section 3.2 of the Code of Conduct of Investment Services Firms (Ministerial Decision 12263/B.500/11-4-1997) The general principles of conduct are the following: a) First Principle: The firms and the associated persons will take all appropriate measures and conduct their business in an effort to protect the interests of their clients and ensure the integrity of the market. b) Second Principle: The firms and the natural and legal persons employed by them will make effective use of the resources as well as the procedures and methods necessary for conducting their business. c) Third Principle: The firms which pursuant to the law provide investment services and the natural and legal persons employed by them have the duty to obtain information regarding the financial situation, the objectives and the investment experience of their clients, in order to offer proper investment advice. d) Fourth Principle: The firms and the natural and legal persons employed by them will disclose to their clients all material infor-	

⁵ The Financial Security Act n° 2003-706 of August 1st 2003 provides for the merger of the COB and the CMF. This law has been codified into the MFC.

⁶ The main applicable texts mentioned under “Implementing measures” are hereafter enclosed in a non official English translation.

⁷ The main text in this regard is “Mandated individualised Portfolio Management Professional Ethics” (adopted by the AFG in 1997) hereafter included.

⁸ The Implementing authorities in all cases are the Hellenic Capital Market Commission for Investment Services Firms Companies and the Bank of Greece for Credit Institutions, which are providing investment services.

⁹ Except for portfolio management questions, articles are referred to the Code of Conduct for Investment Firms (Ministerial Decision 12263/b.500), which has been issued under the provisions of Law 2396/1996.

		<p>mation in the course of negotiations between them.</p> <p>e) Fifth Principle: The firms and the natural and legal persons employed by them will avoid conflicts of interest between themselves and their clients.</p> <p>f) Sixth Principle: The firms and the natural and legal persons employed by them are under the duty to ensure equal treatment of their clients.</p> <p>g) Seventh Principle: The firms and the natural and legal persons employed by them have the duty to comply with the legislation which regulates the conduct of their business, so as to protect the interests of their clients and secure the sound operation of the market.</p>	
ICELAND	Parliament	Art. 4 of the Act on Securities Transactions nr. 33/2003 (the Securities Act): “Financial undertakings must operate in accordance with proper and sound business practices and customs in securities transactions, making the credibility of the financial market and the interests of their customers their priority.”	
IRELAND	Irish Financial Services Regulatory Authority (“IFSRA”) ¹⁰	<p><u>Code of Conduct (“COC”)</u>¹¹, Sections 1.1, 1.2</p> <p>A firm shall ensure ... that it:</p> <p>1.1 acts honestly and fairly in conducting its business activities in the best interests of its clients and the integrity of the market;</p> <p>1.2 acts with due skill, care and diligence in the best interests of its clients and the integrity of the market.</p>	
ITALY	CONSOB	<p>Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i></p> <p>Article 26, paragraph n. 1, of Consob Regulation 11522 of 1 July 1998 <i>(General rules of conduct)</i></p>	
LUXEMBOURG	The Commission de Surveillance du Secteur Financier (“CSSF”).	According to article 37 of the law of 5 April 1993 on the financial sector and according to principle 1 of the circular CSSF 2000/15 of 2 August 2000 on the rules of conduct in the financial sector (hereafter the circular CSSF 2000/15), the professional shall act honestly and fairly in conducting his business activities in the best interests of his clients and the integrity of the market. The same principle is also laid down in article 28 of chapter VI on admission of securities to official stock exchange listing of the rules and regulations of the LSE and clarified and	

¹⁰ Please note that all references to “the Bank” in this document should be construed as being references to IFSRA.

¹¹ Abbreviations used:

Code of Conduct: COC

General Supervisory and Reporting Requirements: GS&RR

Books and Records Requirements: B&RR

Advertising Requirements: AR

Handbook for Investment & Stockbroking Firms: HISF

		amplified in the governing measures No 1 of the LSE chapter XI on rules of conduct.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented. Measure is uncertain: depends on outcome of deliberations with ministry of finance The Further Regulations state that investment firms must act in the interests of clients and that they must treat clients fairly, reasonably and as equally as possible. Actions may not damage the efficient, fair and orderly operation of the securities market or investor's confidence in such an operation.	Standard can be considered as not implemented, as, although there are rules concerning this subject, these appear not to have a legal base in legislation. Negotiations with the ministry of Finance are under way. Regulations do not yet state that actions must be in accordance with the integrity of the market.
NORWAY ¹²	Parliament	Securities Trading Act (STA), section 9-2	
PORTUGAL		Article 304/1 and 2 and article 305/1 of the Portuguese Securities Code.	
SPAIN	Parliament/Government/Ministry of Economy / CNMV	Law 24/1988, Securities Markets Act. Title VII "Conduct of Business Rules". Article 79 a) and c). Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping, Annex "General Code of Conduct for the Securities Markets".	
SWEDEN	Parliament	The Securities Business Act (1991:981) Chap 1 Section 7 Chap 1 Section 7 explicitly requires investment firms to act honestly, fairly and professionally and to treat their customers fairly. It is also stated that securities business shall be conducted in such manner that public confidence in the securities market is upheld	
UNITED KINGDOM ¹³	FSA	FSA Handbook Principles: Principle 1 provides that a firm must conduct its business with integrity. Principle 2 provides that a firm must conduct its business with due skill, care and diligence. Principle 5 provides that a firm must observe proper standards of market conduct. Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly.	UK complies substantially with Standard 1. Principle 6 requires "due regard" and fair treatment of customers. We believe that this accords with customers' best interests.

¹² Kredittilsynet has established a working group that will follow up the implementation of the new ISD-directives, their implementing measures and the CESR standard, covering the issue of investor protection.

The Association of Norwegian Stockbroking Companies (ANSC) has laid down rules and standard commercial terms of business. In case of breach of the rules laid down in this recommendation the firm can be subject to sanctions from the organisation, such as warning, fine or exclusion.

¹³ INTRODUCTION

These responses have been completed by the Financial Services Authority (**FSA**), which in almost every case is the implementing authority in the UK.

CYPRUS	House of Representatives	Section 40(1)(b) of the Investment Firms Laws of 2002-2003	
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The FSA Handbook contains special “light touch” regimes in relation to the undertaking of stock lending transactions and of corporate finance activities, under which some, but not all of the provisions referred to below are disapplied. These regimes, which reflect the particular characteristics of such activities, are not considered in detail below.

The various UK provisions referred to in this questionnaire generally pre-date the April 2002 CESR paper on “A European Regime of Investor Protection: The Harmonization of Conduct of Business Rules” and therefore have not been drafted with the specific intention of implementing those rules.

The responses employ certain terms that are defined in the FSA Handbook. Where relevant, a brief summary of the meaning of these defined terms is set out below. The full definitions for these terms are contained in the FSA’s Glossary of definitions, which can be accessed on the FSA’s website via the following hypertext link: http://www.fsa.gov.uk/handbook/hbk_glossary.pdf.

Term	Summary of definition
APER	The Statements of Principle and Code of Practice for Approved Persons. This is the module of the FSA Handbook that contains (and provides guidance on) the high level principles that apply to individuals who perform specified “controlled functions” within an investment firm.
COB	The FSA Conduct of Business sourcebook. This is the module of the FSA Handbook that contains the FSA’s conduct of business rules.
Direct offer financial promotion	A direct offer financial promotion includes a financial promotion that: <ul style="list-style-type: none"> • does not allow for an inter-active dialogue with the recipient (such as an advertisement in writing); • contains an offer to enter into an agreement relating to the provision of an investment service with anyone who responds to the financial promotion or an invitation to anyone who responds to the financial promotion to make an offer to enter into such an agreement; and • specifies the manner of response or includes a form in which any response is to be made (for example, by providing a tear-off slip).
DISP	Dispute Resolution: Complaints sourcebook, which is one of the modules of the FSA Handbook. Amongst other things, DISP contains the FSA’s rules and guidance relating to the handling of complaints by firms.
Financial Promotion Order	Financial Services and Markets Act 2000 (Financial Promotion) Order 2001 (SI 2001/1335). The Financial Promotion Order expands on the provisions in FSMA dealing with financial promotion (ie marketing communications connected with investment services).
FSMA	The Financial Services and Markets Act 2000. This is the principle legislation dealing with the regulation of investment firms and investment services in the United Kingdom.
FSA Handbook	The FSA’s Handbook of Rules and Guidance, which consists of a number of modules, some of which are referred to in this document. The FSA Handbook can be accessed on the FSA’s website via the following hypertext link: http://www.fsa.gov.uk/vhb/
Inter-professional business	This concept is explained in the comments on the introduction to section C below.
MAR	Market Conduct sourcebook. Amongst other things, this is the module of the FSA Handbook that contains (in chapter 3) the Inter-Professional Code, which regulates the conduct of inter-professional business.
ML	The Money Laundering sourcebook. This is the module of the FSA Handbook that sets out rules and guidance relating to measures for the prevention of money laundering. These are regulatory provisions that apply in addition to the criminal provisions under the Money Laundering Regulations 1993 (which implement the Money Laundering Directive).
Packaged product	Within the scope of the ISD, the most relevant packaged products are regulated collective investment schemes (including UCITS that have been registered for public distribution in the United Kingdom) and investment trust saving schemes (ie savings schemes relating to certain close ended listed investment companies).
PRIN	The Principles of Business. This is the module of the FSA Handbook that sets out certain high level principles, that apply to investment firms. In many cases, more detailed rules in other modules of the FSA Handbook will supplement (but not replace) one or more of these principles.
Principle	One of the high level principles in PRIN
SUP	The Supervision manual. The module of the FSA Handbook dealing with the supervision of investment firms by the FSA.
SYSC	Senior Management Arrangements, Systems and Controls. This is the module of the FSA Handbook that sets out rules and guidance on the organisation and control of the affairs of an investment firm.
TC	Training and Competence. This is the module of the FSA Handbook that sets out requirements in relation to the training and competence of certain individuals involved in the business of investment firms.

	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Sections 6 and 7 of the Code of Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47b (1) a) of the Securities Act; PART FIVE, Section 79 of the Securities Act; PART TWO, Sect. 12 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The Estonian Financial Supervision Authority (EFSA), operator of stock exchange	SMA § 85.	
HUNGARY ¹⁴	Parliament ¹⁵	(Subsection (3) of Section 111 of CMA).	All executive officers and employees of investment service providers (investment firms) and commodity exchange service providers shall proceed with the due care and professional competence that may be expected of them – in compliance with the enhanced professional requirements entailed by their position – with regard to the interests of the investment service provider or commodity exchange service provider and clients, in line with the applicable laws.
LATVIA	Parliament	Article 128 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.	
LITHUANIA	For all the items implementing authority is Lithuanian Securities Commission (hereinafter referred to as LSC)	When carrying out their activities, intermediaries must act honestly and fairly in the best interests of clients and the integrity of the market; act with due skill, care and diligence (Art. 24.3.1 and 24.3.2 of the Law on Securities Market (LSM)).	
MALTA ¹⁶	Malta Financial Services Authority ('the MFSA')	In terms of License Condition ('SLC') 3.02 of Part CI of the Investment Services Guidelines ¹⁷ ('ISG') a person granted a license under the Investment Services Act, 1994 ¹⁸ to provide investment services ('Investment Firm'), is required to act honestly, fairly and with integrity – in the best interest of its customers and of the market.	

¹⁴ For a description of the present Hungarian legal structure and the authorities having a role within the process, please see comments at the very end of this document. (Annex 2)

¹⁵ The **Hungarian implementing authorities** are the following: the **Parliament**, as **legislative body** (Acts are adopted by the Parliament), the **Government** is authorized to issue decrees, the **Ministry of Finance** is authorized to issue decrees (also detailed rules connected to the CMA), the **Hungarian Financial Supervisory Authority** is the competent financial supervisory authority, being responsible for supervision and compliance with financial rules. The present Hungarian regulation level is mainly statutory law The governing and applicable law is Act CXX of 2001 on the Capital Market (Capital Market Act - CMA).

¹⁶ The MFSA will consider the implementation of Standards/ Rules which are referred to in the correspondence tables and which are not yet catered for in local legislation or regulatory requirements within approximately eighteen months following Malta's accession to the European Union on 1st May, 2004. For the time being, the Authority has taken note of these Standards and Rules and is considering the manner in which to cater for their proper implementation in local legislation and regulations

POLAND	Parliament for enacting	There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia conduct of business rules. One of the established rules mentioned above will be the said obligation.	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	Investment firm is obliged to conduct its activities to avoid disruptions of safety of the financial market and may not be engage in any activities that could manipulate the price of securities.
SLOVENIA	<i>Parliament</i>	SECURITIES MARKET ACT-1 (Official Gazette of the Republic of Slovenia, Nos 56/99, 31/00, 52/02; hereinafter SMA -1). Chapter 7 on Prudential Rules; A: 134, P:2 A: 136 A:139, P:1 A: 247	Supervision over the regulatory provision is executed by the Securities Market Agency – either during regular supervision activities planned in advance, on special assignments or on the basis of complaints from the market. The monitoring over the compliance with the rules regulating and insuring the integrity of the market is also done by the stock exchange, members of which are the investment firms.

Standard 2			
<i>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>			
Country	Implementing Authority(ies)	Implementing Measure ¹⁹	Comments
AUSTRIA	AP	Art. 16 ASSA	Art. 16 par. 1 ASSA requires that an investment firm has to have in place and effectively use adequate resources and procedures for the proper performance of investment services. An investment firm's obligation to implement procedures necessary for proper performance is within the scope of the ASSA and applied common market standard. This standard does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, § 1, 7°, L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 20, L. 22 March 1993	Ongoing policy work within CBFA on sound practices for business continuity (draft circular to financial institutions) Work on business continuity planned in the framework of the Financial Stability Committee (see Art. 117 L. 2 August 2002)
DENMARK	Parliament	Financial Business Act, section 71, par. 1, no 5) (The above mentioned rule require investment firms to possess and employ effectively such resources and routines necessary for the activity to be carried on in a proper manner.)	Derogation: The last part of the sentence (“including back-up..”) is not explicitly stated
FINLAND	Parliament	Section 10, Paragraph 1 and Section 12, Paragraph 1 and Section 29, Paragraph 1 of the Act of Investment Firms	

¹⁷ Investment Services Guidelines (“ISG”) include Standard Licence Conditions (“SLCs”) and other general guidelines which are mandatory on Investment Firms or Investment Services License Holders (“ISLHs”).

¹⁸ Investment Services Act, 1994 is the statutory basis for the licensing and regulation of Investment Firms in Malta

¹⁹ Any derogation to the application of the implementing measures should be mentioned.

	Ministry of Finance Rahoitustarkastus	Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm Section 10 Rahoitustarkastus Standard on Risk Management and other Aspects of Internal Control in Investment Funds (4.1) (further details in Rahoitustarkastus Guideline on Risk Management and Other Aspects of Internal Control in Investment Firms 203.28).	
FRANCE	Parliament and banking authorities	Article 533-4 of the MFC and CRBF ²⁰ Regulation 97-02 (banking regulation).	CRBF 97-02 applies both to investment firms and credit institutions.
GERMANY	BaFin	Section 33 par. 1 WpHG Guideline on the details concerning the organisational duties of investment services enterprises pursuant to Section 33 paragraph (1) of the Securities Trading Act (in the following: guideline orga.), Part 2	
GREECE		Sect. 3.2.b b) Second Principle: The firms and the natural and legal persons employed by them will make effective use of the resources as well as the procedures and methods necessary for conducting their business.	
ICELAND	Parliament / FME	Art. 17. of the Act on Financial Undertakings no. 161/2002: Risk management system. "A financial undertaking must at all times have a secure risk management system for all its activities. The Financial Supervisory Authority may adopt rules on systems for management of specific exposures in the activities of a financial undertaking." FME's Directive Request no. 1/2002 on internal control and risk management expands on Art. 17. The resources and procedures necessary for proper performance of investment firms are taken into consideration during periodical on-site supervision by the FME.	The ministry of commerce is responsible for preparing bills of law proposing changes to securities regulation. In mid year 2004 the FME will present to the ministry of commerce a list of recommended changes to law it considers necessary to implement the CESR standards on investor protection. The implementation process will after that not be in the hands of the FME and therefore no estimated time of implementation can be given.
IRELAND	IFSRA	<u>General Supervisory & Reporting Requirements ("GS&RR")</u> , <u>Section 2.1,2.2,2.3</u> Firms are required to have adequate Management Resources to conduct business effectively. <u>COC, Section 1.3</u> General Principles	See HISF, GS&RR, page 3 See HISF, COC, page 3
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○○ Article 56, paragraph n. 2, of Consob Regulation 11522 <i>(Internal procedures)</i> ○○○ CONSOB COMUNICATION DI/30396 OF 21 APRIL 2000 Subject: Online trading and rules of conduct (...)	

²⁰ Banking and financial regulation committee.

		<p>- SYSTEM EFFICIENCY: intermediaries that provide online trading services must equip themselves with IT systems that will enable them, taking into account the volume of business they may be required to handle, to carry out orders given by investors promptly, as laid down in Article 26.1d) of Consob Regulation 11522/1998. Since Article 21.1d) of Legislative Decree 58/1998 requires intermediaries "<i>to have resources and procedures ... capable of ensuring the efficient provision of services</i>", it may be advisable for them to conclude agreements with Internet providers and other companies involved in the process so as to ensure the operational efficiency of the service supplied. In order to cope with outages, temporary or otherwise, the Commission recommends that intermediaries should put efficient alternative procedures in place so that investors can continue to trade. Article 30.2c) of Consob Regulation 11522/1998 requires intermediaries to specify these alternative procedures and the manner of using them in their contracts with customers.</p> <p>Moreover, every precaution must be taken to ensure that the automated systems in use guarantee the maximum confidentiality of data transmitted over the Internet.</p> <p>(...).</p>	
LUXEMBOURG	CSSF	The professional shall possess an adequate analysis capability, appropriate to his business. In particular, he shall employ sufficient numbers of appropriately qualified staff at every level of responsibility within his organisation and shall possess sufficient technical resources and an appropriate structure, including an appropriate segregation of duties, for the proper performance of his business activities (principle 3.1. of the circular CSSF 2000/15). Furthermore, authorisation of a professional of the financial sector is submitted to proof a sound administrative and accounting organisation as well as suitable procedures of internal control.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Section 17 Bte 1995: A firm must have a good accounting and effective related internal controls and a reliable recording systems for the services it has performed. Specific requirements are written down in the NR2002.	
NORWAY	Parliament	STA, section 9-1 and section 9-2	
PORTUGAL		article 305/1 of the Portuguese Securities Code; article 7/1 of CMVM Regulation 12/2000 and article 10 of CMVM Regulation 21/2000	
SPAIN	Parliament/Ministry of	Law 24/1988, Securities Markets Act. Title VII "Conduct of Busi-	

	Economy / CNMV	ness Rules". Article 79 d). Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping, Annex "General Code of Conduct for the Securities Markets". Article 3 "Resources and Capacities" CNMV Circular 3/1993 Ministerial Order of 25 October 1995 CNMV Circular 1/1998 Rule 7th	
SWEDEN	Parliament	The Securities Business Act (1991:981) Chap 1 Section 7 Chap. 1 Section 7 explicitly requires investment firms to possess and efficiently use such resources and routines as are required for the operation to be conducted in a proper manner. The last part of the sentence ("including back-up..") is not explicitly stated.	As a general comment Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	Para 4 of schedule 6 to FSMA (Adequate resources) provides that one of the threshold conditions for authorisation of a firm is that the resources of the firm must, in the opinion of the FSA, be adequate in relation to the investment services that the firm seeks to perform. COND 2.4.1 Resources must, in the opinion of the FSA, be adequate in relation to the regulated activities that the firm seeks to carry on or carries on. These include having effective means to manage risks. FSA Handbook Principle 4 (Financial prudence) provides that a firm must have adequate financial resources. SYSC 3.1.1R (Systems and Controls) provides that firms must take reasonable care to establish and maintain appropriate systems and controls given the nature, scale and complexity of business. SYSC 3.2 (Areas covered by systems and controls) incl. business continuity (at SYSC 3.2.19G). SYSC 3.2.19G states that firms should have arrangements to ensure that they can continue to function and to meet regulatory obligations in event of unforeseen interruption and update these arrangements regularly and test their effectiveness.	
CYPRUS	House of Representatives Cyprus Securities and Exchange Commission Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 40(1)(c) of the Investment Firms Laws of 2002-2003 Paragraph 8.3 of Annex 1 of the Conditions for granting an authorisation to Cypriot Investment Firms, Directive 1/2002 Section 7 and Annex 3 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) of the Securities Act; PART ONE of the Decree by the Czech Securities Commission	

		Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The EFSA, operator of stock exchange	SMA § 58; § 85. Guideline.	
HUNGARY	Parliament	Subsection (2) of Section 111 of CMA).	The chairperson and members of board of directors and of the supervisory board of an investment service provider, and all executive officers of a commodities broker shall be responsible to ensure that the investment service provider or the commodities broker has all the resources, procedures and solutions necessary for the sound and prudent management of the licensed activities, and shall be responsible for their application as well.
LATVIA	Parliament	Article 105 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 Article 107(3) 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. Article 124 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.	
LITHUANIA		In observance of prudential requirements intermediaries must have reliable administrative procedures and accounting records systems, control and safeguard arrangements for electronic data processing (Art. 24.1.1 of the LSM) When carrying out their activities, intermediaries must have and employ effectively the resources and procedures (Art. 24.3.3 of the LSM).	
MALTA	MFSA	SLC 3.07(l) of Part CI of the ISG SLC 10.01 of Part C I of the ISG	
POLAND	Council of Ministers for enacting	According to the Decree of the Council of Ministers dated April 15 th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, the IT systems processing data of the brokerage house shall be separated or secured in such a manner as to prevent unauthorized persons from accessing the data. The IT devices and systems of the brokerage house shall be secured against loss of data caused by power supply failure, other failures or interferences as well as other fortuitous events. In order to ensure continuous service and work of its IT systems, the brokerage house shall create, at least once a day, a backup copy of	Polish Securities and Exchange Commission is responsible for drafting

		<p>its database in order to enable data recovery and resumption of work of IT systems in case of failure and loss part or all data in the basic databases. (Par. 6)</p> <p>The brokerage house is also obliged to guarantee that the premises where brokerage activity is conducted are secured against uncontrolled access by unauthorized persons, the premises where service of customers of the brokerage house is conducted are separated in a manner preventing the customers of the brokerage house from uncontrolled access to the remaining premises of the brokerage house. The brokerage house is also obliged to ensure technical and organizational conditions enabling orders to be placed in a confidential manner. The brokerage house is obliged to apply organizational principles which guarantee security of customer service and of the documents and data in storage. (Par. 3.1, Par. 3.4, Par. 3.5. Par. 5.4)</p> <p>The brokerage house shall keep a procedures book, containing procedures connected with the conducted activity, which are currently in force in the brokerage house. (Par. 15)</p> <p>According to Art. 40.2 of The Law on Public Trading of Securities the entity applying for the permit for conducting brokerage activities must provide PSEC with organisational procedure, internal control procedure, protecting of confidential information procedure. Every change of those procedures must be notified to PSEC.</p>	
SLOVAKIA	MF MF FMA	Act No 566/2001 on Securities and Investment Services	In Act on Securities and Investment Services (Securities Act). This rule is one of most momentous which shall contain an application for a license to provide investment services. If the investment firm acquired a license based on false data given in the license application, the FMA shall revoke a license.
SLOVENIA	Parliament Securities Market Agency	SMA – 1 A: 89 Decision on the Personnel, Technical and Organizational Conditions for Operations with Clients and with the Assets of Clients of Investment Firm (Official Gazette of the Republic of Slovenia, No. 6/00) A: 1 A: 3 A: 4; A: 5 A: 8	See St. 1

Standard 3	<i>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>
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Country	Implementing Authority(ies)	Implementing Measure ²¹	Comments
AUSTRIA	AP	Art. 21 par 1 ASSA in connection with Art. 39 of the Austrian Banking Act (ABA) Art 16 par 1 ASSA	In course of general diligence obligations determined in the ASSA and the Austrian Banking Act (hereinafter "ABA"), the managers of an investment firm shall inform themselves about and appropriately limit the risks of banking transactions which includes that they have to ensure that co-operation partners are authorised to conduct investment services by the relevant regulator. Furthermore, it is laid down in Art 16 par 1 ASSA that a credit institute has to have in place and effectively use adequate means and procedures for the proper performance of investment services, which includes the rule 3.. This standard does not require further implementing measures.
BELGIUM	Idem	Partly covered by KYC-rules (L. 11 January 1993) and prudential requirements (Laws of 22 March 1993 and 6 April 1995) relating to reputational risk. See also the uniform letter to credit institutions of 5 February 2003 relating to the compliance function	Further measures can be taken by RD on the basis of Art. 26, 17°, L. 2 August 2002 (on the timing: see general note above)
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms.	General rule, no detailed provisions available yet The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Art. L Prohibition to provide Investment services without agreement : penal sanction	It is a duty of an investment firm to verify the capacity of its counterpart.
GERMANY	BaFin	Sections 32 and 54 Banking Act	Undertaking business with non-authorised persons or entities would be aiding and abetting
GREECE		Section 4.2 of the Code of Conduct of Investment Services Firms "4.2 For the performance of the firms' obligations arising from the first principle, the appropriate measures shall be taken so as to: c) choose persons with appropriate training, reliability, experience, professional ability and integrity for all kinds of positions in the firm, f) ensure that the firm cooperates only with other persons who fulfil the legal and substantial conditions for provision of services	

²¹ Any derogation to the application of the implementing measures should be mentioned.

		required by the firm. Indicatively, for the reception of orders for the execution of securities transactions, the firm shall cooperate only with other persons who hold the requisite license or fulfil the legal conditions of providing such services.”	
ICELAND	Parliament / FME		The ministry of commerce is responsible for preparing bills of law proposing changes to securities regulation. In mid year 2004 the FME will present to the ministry of commerce a list of recommended changes to law it considers necessary to implement the CESR standards on investor protection. The implementation process will after that not be in the hands of the FME and therefore no estimated time of implementation can be given.
IRELAND	IFSRA	<u>COC, Section 1.7</u> General Principals Investment Intermediaries Act, 1995, ("IIA"), Section 17 Register of Business Firms	IFSRA's ongoing supervisory practice is to ensure that all investment intermediaries with which a firm does business are authorised under the IIA, and are included on Registers maintained by IFSRA"
ITALY	CONSOB	Article 33, paragraph n. 1, of Consob Regulation 11522 <i>(Reception and transmission of orders)</i> ∞∞ Article 46, paragraph n. 1 and 2, of Consob Regulation 11522 <i>(Delegation of management)</i> ∞∞ Article 53, paragraph n. 1 and 2, of Consob Regulation 11522 <i>(Delegation of management)</i>	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG	CSSF	Principles 1 and 2 of the circular CSSF 2000/15. The professional shall act honestly and fairly in conducting his business activities in the best interests of his clients and the integrity of the market. The professional shall also act with due skill and diligence in the best interests of his clients and the integrity of the market. The investment firm shall thus ensure that any persons or entities with which it is undertaking authorisable investment business are authorised to conduct that business by the regulator.	
NETHERLANDS		Dutch securities law provides for similar provision (art 41 Further regulations)	
NORWAY	Parliament	STA, section 9-1 and 9-2 This rule is not implemented word by word, but STA section 9-1 par 1 requires investment firms to establish sound internal controls and administrative routines. Such systems should include assessment of counterparties.	
PORTUGAL		article 305/1 of the Portuguese Securities Code; article 46/1 of CMVM Regulation 12/2000	
SPAIN	Government/Ministry of Economy / CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. “Annex General Code of Conduct for the Securities Markets”. Article 7 “Refusal to trade and duty to refrain “	The implementing measure also mentions that the investment firms must reject deals with unauthorised intermediaries and those which they know may involve a breach of the applicable regulations.
SWEDEN	Finansinspektionen		A general obligation for an investment firm to conduct securities business in such a manner that the business can be regarded as sound is explicitly stated in The Securities Business Act (1991:981)

			Chap 1 Section 7 Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	FSA Handbook: Principle 1 provides that a firm must conduct its business with integrity. Principle 2 provides that a firm must conduct its business with due skill, care and diligence.	There is no express equivalent of this requirement. The principles referred to would only be likely to apply where the firm actually is aware that its counterparty is acting in breach of an applicable regulatory restriction.
CYPRUS	Cyprus Securities and Exchange Commission Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 4.2.4 of Annex 1 of the Conditions for granting an authorisation to Cypriot Investment Firms, Directive 1/2002 Paragraph 8 of Annex 7 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission		No specific rule.
ESTONIA		Not implemented.	
HUNGARY	Parliament	Subsection (1) of Section 91 of CMA).	The business-type performance of investment service and ancillary investment service activities as well as commodity exchange service activities shall be subject to licensing procedure by the HFSA. So investment service providers have to possess license until they wish to perform investment service and ancillary investment service activities. Exception: No license is required for such agency activities, if the agent is neither involved in handling the client's money or other assets nor underwrites any commitments on behalf of the investment firm or the commodities broker. In this case the mandator (investment firm or commodities broker) shall register the agent in question at the HFSA.
LATVIA	Parliament	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 www.fctk.lv .	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.
LITHUANIA		Only undertakings holding a licence specified under Article 21 and 23 of this Law shall have the right to provide investment services (Art. 20.1 of the LSM) The intermediary must have at least one employee holding the broker's license or a document evidencing that he has qualifications recognised by the Securities Commission (Art. 24.5 of the	

		LSM).	
MALTA			Not catered for in local legislation.
POLAND	Parliament for enacting	Art. 41 of Polish Law on Public Trading of Securities (hereinafter referred to as “Law”) which requires employing securities brokers and investment advisers by a brokerage house. There is also a general rule prohibiting using other than brokerage houses entities for providing investment services by a brokerage house. The PSEC has already prepared a draft of a new Polish Law on Public Trading of Securities prepared which includes possibility of using tied agents and banks by a brokerage house for providing investment services (all the rules concerned are similar to ones included in the current draft of a new Investment Services Directive).	Polish Securities and Exchange Commission for drafting, Adoption of the new Act implementing this standard is envisaged to take place according to the current proposal of the Financial Instruments Markets Directive, before deadline for the implementation of the FIM Directive.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	
SLOVENIA	Parliament	SMA-1; A: 108	

Standard 4	<i>An 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.</i>		
Country	Implementing Authority(ies)	Implementing Measure ²²	Comments
AUSTRIA	AP	Art. 16 par 3 ASSA	Outsourced functions retain in full responsibility and have to be provided reliably, professionally and in the customer’s best interest according to general diligence provisions laid down in the ASSA and the ABA. For this purpose, the investment firm has to implement adequate internal control procedures that are suitable to counteract violations of obligations arising under the ASSA which includes the control of outsourced functions. This standard does not require further implementing measures.
BELGIUM	Parliament CBFA circulars	Art. 36, § 1, 7°, L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 20, L. 22 March 1993 See also: CBFA circular of 10 July 2002 to securities houses on clearing on Euronext	Ongoing policy work within CBFA on sound practices for outsourcing (draft CBFA regulation and/or circular to financial institutions)
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 2, par. 1. (The above mentioned rule requires investment firms to ensure that relying on a third party to perform advice or reception/transmission ect to investors this third party should comply with the executive order.)	
FINLAND	Parliament Rahoitustarkastus	Section 16 b of the Act on Investment Firms. Rahoitustarkastus Standard on Risk Management and Other Aspects of Internal Control in Investment Firms (4.1)	
FRANCE	Parliament and banking	Articles 6-3-8 and 6-3-9 of the GR of the CMF	Under general principles the “outsourcing firm” remains respon-

²² Any derogation to the application of the implementing measures should be mentioned.

	authorities	Article 1-15 of COB Instruction of 17 December 1996	sible .In addition there is specific regulations on “custody account-keepers” (custodians). The CMF provision states that where a custodian appoints a third party “to provide it with technical resources...it shall assess the resources and procedures employed and the risks incurred. This assessment shall be available for review by the CMF.” It also states that the liability of the custodian is not affected by any such appointment. The COB provision relates to delegation of the asset management function.
GERMANY	BaFin	Section 33 par. 2 WpHG Circular on the Outsourcing of operational areas to another enterprise pursuant to section 25a (2) of the Banking Act, Sections 3, 25 et seqq.	
GREECE		Section 10.2. (j) of the Code of Conduct of Investment Services Firms (Ministerial Decision 12263/B.500/11-4-1997). General Civil Law provisions (articles 211 et seq. and article 334 of the Hellenic Civil Code) still apply. According to articles 211 et seq. as well as Article 334 of the Hellenic Civil Code for the investment services firm that outsources functions the investment services firm remains responsible.	
ICELAND	Parliament / FME	Existing laws and regulations have been construed to include such a duty when the outsourced activities are part of the activities for which a license is required.	The ministry of commerce is responsible for preparing bills of law proposing changes to securities regulation. In mid year 2004 the FME will present to the ministry of commerce a list of recommended changes to law it considers necessary to implement the CESR standards on investor protection. The implementation process will after that not be in the hands of the FME and therefore no estimated time of implementation can be given.
IRELAND	IFSRA	<u>GS&RR, Section 2.3</u> As at 2 above. Additional specific conditions imposed on a firm by firm basis	
ITALY	CONSOB BANK OF ITALY	Bank of Italy regulation of 4 August 2000 Title III – Supervision; Chapter II - Administrative and accounting procedures and internal control mechanisms Paragraph 2, n. 2.2) Internal Controls The Bank of Italy maintains the right to assess – having considered the principles of promptness, reliability and efficiency – hypothesis of delegation to third parties of the internal control function of the investment firms, after consulting the Consob on matters falling within the scope of that Authority. Paragraph 5 Delegation of business functions to third parties	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.

		<p>The investment firms – in order to carry out some non core business functions (such as data processing, market analysis, tax and financial analysis, filing and processing of paper documents etc..) – may use third-party services, considering that the investment firm’s competent bodies remain responsible for the regular execution of the delegated tasks.</p> <p style="text-align: center;">ooo</p> <p style="text-align: center;">See above also rule n. 3.</p>	
LUXEMBOURG	CSSF	<p>According to the law of 2 August 2003 entering into force on 1 October 2003 and modifying the law of 5 April 1993, certain functions may be outsourced from credit institutions, other professionals of the financial sector and CIS to communication agents to the clients, administrative agents of the financial sector and operators of computer systems and communication networks. The aforementioned activities must be performed by professionals of the financial sector who are duly authorised and under the supervision of the CSSF.</p>	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	not implemented	no legislative authority for AFM as liability of delegates is regulated in the Dutch Civil Code. We are deliberating whether a provision should be included in securities law or whether a reference would suffice.
NORWAY	Ministry of Finance	Regulation 2003/289 on outsourcing Section 2. According to this provision the investment firm retains full responsibility for the outsourced activity and must ensure that the providers of such outsourcing are able to perform these functions satisfactory.	
PORTUGAL		article 46/1 and article 48/1 of CMVM Regulation 12/2000	
SPAIN	Ministry of Economy / CNMV	CNMV Circular 1/1998, dated June 10, about Internal Control Systems, Monitoring and Assessment of risks. Rule 6 ^a	
SWEDEN	Finansinspektionen	<p>Recommendation on outsourcing, 1998-12-18</p> <p>The recommendation refers both to outsourcing of operational functions and delegation of authorisable services. The recommendation explicitly requires investment firms to retain full responsibility for the outsourced activity and to assess the ability of the provider to fulfil its obligations according to a written agreement</p>	
UNITED KINGDOM	FSA	<p>SYSC 3.2.2G provides that clear management responsibilities and reporting lines should be communicated as appropriated within the firm. SYSC 3.2.3G(2) and 3.2.4G(1) provide that a firm:</p> <ul style="list-style-type: none"> • cannot contract out of its regulatory obligations where delegating functions within the firm or outsourcing; • must assess whether the service provider is suitable to carry out the delegated function or task, taking into account the degree of responsibility involved; and <p>must put in place measures to supervise the discharge of the func-</p>	The precise meaning of outsourcing might need to be clarified to ensure consistency between CESR members' approaches. Does Standard 4 cover regulatory responsibilities only or regulatory and contractual responsibilities? SYSC 3.2 covers regulatory responsibilities only.

		tions delegated to the service provider.	
CYPRUS	<p>Cyprus Securities and Exchange Commission</p> <p>Cyprus Securities and Exchange Commission and the Central Bank of Cyprus</p> <p>Cyprus Securities and Exchange Commission</p>	<p>Paragraphs 3.8 and 4.2.4 of Annex 1 of the Conditions for granting an authorisation to Cypriot Investment Firms, Directive 1/2002</p> <p>Part IV of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003</p> <p>This is included as a condition in the licence issued to investment firms</p>	
CZECH REPUBLIC	Securities Commission		No specific rule.
ESTONIA	The EFSA.	SMA § 58; § 85. Guideline.	
HUNGARY	Parliament	Section 160 of CMA). and Subsection (7) of Section 400 of CMA.	<p>The investment firm shall be liable for ensuring that the business company performs the outsourced activities in compliance with legal requirements and with due care and attention. The investment firm shall immediately notify the HFSA if the performance of the outsourced activity violates the law or the contract. Investment service providers and commodities brokers must indicate the outsourced activities and the service provider performing such activities in the standard agreement.</p> <p>The HFSA may prohibit the outsourcing of an activity if it does not comply with the provisions of the CMA.</p>
LATVIA	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 FCMC Regulations on the Safety of Informative Systems of Financial and Capital Market Participants 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"> - 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; - 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; - determine restrictions on the disclosure of information. <p>If an IS is maintained by an external service provider, it shall en-</p>	

		sure 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.	
LITHUANIA			According to the general rules of civil law, the party which entered into agreement with a customer regarding the provision of investment services, retains responsibility for the client regardless of whether it discharges contractual obligations by itself or delegates it to the third party. Since outsourcing is possible only to the entities possessing the corresponding licence authorising to provide investment service, all the principles and rules of conduct applies to the provider of outsourcing as for any investment service provider.
MALTA	MFSA	Sections 1.01 and 1.02 of Part D of the ISG	
POLAND		There is no possibility of brokerage activities outsourcing according to Polish current and proposed regulations.	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	
SLOVENIA	Parliament	SMA-1; A: 143	Investment firms have to report to the Agency on any additional contracts made with other legal entities for accepting clients' orders. It is a part of regulation on regular reporting of investment firms. Only the acceptance of clients' orders may be outsourced, and not the execution of order itself. The investment firm is liable for any misconduct of the execution of order. If the acceptance of orders is outsourced, such orders must be given in writing, general conditions of operation must stipulate a time period in which the order is to be submitted to the head office of the investment firm and/or that office of the investment firm executing clients' orders and on addition a client must be explicitly reminded of that provision of the general conditions of operation at the time of submitting the order.

1.2. CONFLICTS OF INTEREST AND INDUCEMENTS

Standard 5	<i>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>		
Country	Implementing Authority(ies)	Implementing Measure²³	Comments
AUSTRIA	AP Austrian Financial Markets Authority (hereinafter	Art. 16 ASSA	Art. 16 par 2 ASSA states that an investment firm has to be organized in such manner that when providing investment services conflicts of interest between these legal entities and their customer

²³ Any derogation to the application of the implementing measures should be mentioned.

	“FMA”) / Austrian Federal Economic Chamber (hereinafter “AFEC”)	Standard Compliance Code for Austrian credit institutions (14.12.1999) (SCC)	or between different customers are minimized to the greatest extent possible. The prevention and avoidance of conflicts of interest is stated in the ASSA and in the standard compliance code for credit institutions (hereinafter “SCC”) - which is a self-binding rulebook established and acknowledged by all Austrian credit institutions. The obligation to establish an internal policy is implemented common market standard for credit institutions and as such reviewed by the FMA in the course of on-site-inspections and permanent supervision. The establishment of an internal independence policy is required by the FMA in course of the licensing procedure of other investment firms than credit institutions and is already reviewed by the FMA in the course of on-site-inspections and permanent supervision.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, § 1, 6° L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 79 and 127 L. 6 April 1995 Art. 20 Royal Decree 5 August 1991 on portfolio management Circular 92/4 of 14 August 1992 to banks on portfolio management	To come into effect later: Art. 26, 4° and 27 § 1, 1° and 2°, L. 2 August 2002. Further implementing measures can be taken by RD on the basis of Art. 28, § 1, 5°, L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management (2003)
DENMARK	Parliament The Ministry of Economic and Business Affairs	Financial Business Act, section 71, par 1, no 3. Executive order on Conduct of Business, section 19, par 2 (The above mentioned rules require that investment firms take all reasonable steps to ensure that conflicts of interest do not occur, and when they cannot be avoided ensure that the clients are fairly treated. Furthermore investment firms should provide proper segregation of functions).	
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 3 of the Securities Markets Act Rahoitustarkastus Guidelines On Segregation of Securities Business Functions (201.12)	
FRANCE	Parliament and AMF	Article 533-4 of the MFC, art 3-1-6 and article 3-1-7 of the GR of the CMF. Article 14 of COB Regulation 96-03 (relating to portfolio management)	The main texts applicable regarding the conflict of interest issue set out the general principle of avoidance and proper management of conflicts of interests.
GERMANY	BaFin	Section 33 par. 1 WpHG Guideline orga, Part 3.3.1.	
GREECE		Under the fifth principle as well as the sixth principle of the Code of Conduct that are more specifically described in sections 8.1. (b) and 9 of the Code of Conduct, investment services firms should take all reasonable steps to ensure the avoidance of conflict of interests situations and should ensure the equal treatment of their customers. Fifth Principle: e) Fifth Principle: Investment services firms and natural and legal persons employed by them shall avoid conflicts of interest between	

		<p>themselves and their clients.</p> <p>Sixth Principle:</p> <p>f) Sixth Principle: Investment services firms and natural and legal persons employed by them shall ensure the equal treatment of their clients.</p>	
ICELAND	Parliament and FME	<p>Art. 6 and 13 of the Securities Act: “In their activities, financial undertakings shall maintain absolute impartiality towards their customers and should always conduct their work in such manner that customers receive equal treatment with regard to information, prices and other terms of business.” “A financial undertaking must demonstrate that conflicts of interest in securities transactions are prevented by a clear separation of individual areas of operation (Chinese Walls).”</p> <p>In addition financial undertakings are requested to adopt internal rules regarding the impartiality, equal treatment and separation of various areas of operation, art. 15 of the Securities Act.</p> <p>FME’s Directive Request no. 1/2001 article 2.6: Financial undertakings have to be fully impartial towards their customers and have to show that conflicts of interest are managed with Chinese Walls.</p>	
IRELAND	IFSRA	<p><u>COC Section 1.6</u> A firm shall ensure that it makes a reasonable effort to avoid conflicts of interest and when, they cannot be avoided, ensures that its clients are fairly treated.</p> <p><u>COC, Section 22</u> A firm must take reasonable steps to ensure that neither it nor any of its officers nor employees:</p> <p>(a) offers or gives; or (b) solicits or accepts any inducement which is likely to conflict significantly with any duties of the recipient or the recipient's employer.</p> <p><u>COC, Section 23</u> A firm shall ensure that there are effective Chinese Walls in place between the different business areas of the firm,</p>	
ITALY	CONSOB BANK OF ITALY	<p>Article 21, paragraph n. 1, of Legislative decree n. 58/1998 (<i>General criteria</i>)</p> <p>°°°</p> <p>Article 27, paragraph n. 1, of Consob Regulation 11522 (<i>Conflicts of interest</i>)</p> <p>°°°</p> <p>Article 56, paragraph n. 3 and 4, of Consob Regulation 11522 (<i>Internal procedures</i>)</p> <p>°°°</p> <p>Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II –</p>	<p>Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.</p>

		<p>4. Rules relating to administrative and accounting procedures</p> <p>The service of management on a client-by-client basis of investment portfolios (hereinafter “<i>portfolio management</i>”) shall be kept separate from the other investment services and activities of the intermediary.</p> <p>The portfolio management may be provided jointly with the service of investment advice concerning financial instruments.</p> <p>For this purpose the investment firm must comply with the following rules:</p> <p>a) administrative rules:</p> <ul style="list-style-type: none"> - personnel assigned to portfolio management shall act independently and shall not have hierarchical relationships with the other sectors of activity of the investment firm; - portfolio management shall not have hierarchical relationships – especially with reference to technical, operational and decision-making autonomy - with the other sectors of activity of the investment firm, included those providing other investment services; - relationships between portfolio management and other services shall begin at the exclusive initiative and under the responsibility of the former; <p>b) accounting rules:</p> <ul style="list-style-type: none"> - the records, included electronic ones, of the portfolio management structure shall be guarded to prevent the personnel of other sectors of the intermediary from accessing; - the financial instruments’ transactions between the portfolio management sector and the other business sectors shall be displayed in specific internal records. <p>The aforementioned rules of separation shall not apply to the operational sectors of the investment firm charged solely with the contact of the customers and only if such activity is performed without discretionary powers.</p> <p>Compliance with the aforementioned rules of administrative and accounting separation does not prevent the investment firms from centralizing the administrative procedure of the general services (such as, for instance, the back office services) and the general accounting function.</p>	
LUXEMBOURG	CSSF	<p>According to principle 6.1 of the circular CSSF 2000/15 the professional shall adopt such internal structural measures and procedures as are necessary to guard against conflicts of interests. To this end, he shall, in particular, enforce a strict segregation of functional or business units where such conflicts might arise,</p>	

		and thus avoid the unnecessary circulation of information liable to give rise to conflicts of interest. Furthermore, according to the governing measure No 1 of the LSE chapter XI on rules of conduct the stock exchange member shall try to avoid conflicts of interest and, if any, to settle them fairly. It shall therefore refrain from giving priority to the own account orders to the detriment of client orders.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Measure uncertain: depending on outcome of deliberations with ministry of finance Regulations regarding conflicts of interests are present.	However, they are limited to the extent that they only oblige a firm to avoid conflicts of interest by having in place an appropriate structure. Rules are also limited to conflicts of interests as a result of the combination of a variety of activities within one group.
NORWAY	Parliament Kredittilsynet	STA, section 9-1 and 9-2. According to STA section 9-1 par 1 subpar 5 investment firms shall be structured and organised in such a way as to minimise the risk of clients' interests being prejudiced by conflicts of interests between the firm and its clients or between the firms' clients. STA section 9-2 par 6 states that investment firms shall endeavour to avoid conflicts of interest i.e. by ensuring that the customer's interests rank above the firm's interests, and that customers are treated fairly. Circular letter 1995/39 issued by Kredittilsynet regarding "Chinese Walls".	
PORTUGAL		Article 305/2 of the Portuguese Securities Code; article 33/2 and article 34 of CMVM Regulation 12/2000	
SPAIN	Parliament/Ministry of Economy / CNMV	Law 24/1988, Securities Markets Act. Title "Conduct of Business Rules". Article 79 b) f) h). Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Annex "General Code of Conduct for the Securities Markets". Articles 1 and 6 "Impartiality and Good practices" and "Conflicts of interest" respectively .	
SWEDEN	1) Parliament 2) Finansinspektionen	1) The Securities Business Act (1991:981), Chap 1 Section 7. Chap 1 Section 7 explicitly requires investment firms to avoid conflicts of interest and, if such should occur, ensure that its clients are fairly treated.) Regulation on Conduct of Business Rules (2002:7), Chap 2 Section 1-2 Chap 2 Section 1 explicitly states that an investment firm must issue instructions governing the manner in which conflicts of interest shall be handled in connection with the performance of own transactions, engagements on behalf of issuers and other customers. Chap 2 Section 2 explicitly requires investment firms to separate corporate finance operations from other operations and to issue instructions concerning the manner in which such operations shall be kept separate from other operation.	

UNITED KINGDOM	FSA	<p>FSA Handbook Principle 8 (Conflicts of interest) requires investment firms to manage conflicts of interest between the firm and its customer and between one customer and others fairly</p> <p>COB 7.1.4 indicates that any one or more of the following four 'reasonable steps' can be used to manage conflicts of interest:</p> <ul style="list-style-type: none"> • disclosure of the interest to the customer; • relying on a policy of independence; • the establishment of Chinese walls; and • declining to act for a customer. <p>Guidance is provided on the circumstances in which each of these steps is appropriate.</p>	<p>In our view, “identify” and “prevent” are implicit in “manage”. The emphasis in the FSA Handbook is to identify and make available to firms the reasonable steps that can be taken to manage customers' interests fairly.</p> <p>Work on this area is continuing in CESR, IOSCO and the EU Commission Forum Group on Analysts as well as in the FSA.</p>
		<p>COB 7.1 (Conflict of interest and material interest)</p> <p>COB 7.1.3, if a firm has:</p> <ul style="list-style-type: none"> • a material interest in a transaction to be entered into with or for a customer; • a relationship that gives rise or may give rise to a conflict of interest in relation to such a transaction; • an interest in a transaction that is or may be in conflict with the interest of any of the firm’s customers; or • customers with conflicting interests in respect of a transaction, it must not knowingly advise or deal in the exercise of a discretion in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the customer. 	
CYPRUS	House of Representatives	Section 40(1)(f) of the Investment Firms Laws 2002-2003	
	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 10 and Part I of Annex 6 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) e) of the Securities Act; PART ONE, Sect. 10 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The EFSA and the operator of stock exchange	SMA § 85. Guideline. Rules and Regulations “Membership Rules” p 7.5 provides for the investment firm’s obligation to establish Chinese wall in its internal procedure rules.	
HUNGARY	Parliament	point a) of Section 108 of CMA	Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities, as well as to minimize the possibility of any danger of conflicts of interest between the investment service provider or the commodities broker and their clients, or among clients, to the detriment of clients. All investment
		Subsection (1) of Section 109 of CMA	
		Subsection (2) of Section 109 of CMA	
		Section 69/A of Act CXII on Credit institutions and financial enterprises	

			<p>service providers shall structure their organization to contain separate divisions for the various activities internal procedures and solutions shall be ensured</p> <p>a) that the various functions can operate separately, b) that access to information is allowed to authorized personnel only, c) that the heads of the divisions are not interdependent in any way or form, d) objectivity in the control procedures incorporated into operating procedures.</p> <p>With respect to credit institutions, which also provides investment or auxiliary investment services shall establish an internal organizational, operational and procedural mechanism, within which the organizational units of financial services and investment services function as separate units. (Chinese wall rule)</p> <p>The purpose of such separation is to prevent the credit institution from influencing transactions between its customer, the various credit institution divisions, and between credit institutions and other participants.</p> <p>The internal rules and regulations shall be submitted to the HFSA.</p>
LATVIA	Parliament	Article 127 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.	
LITHUANIA		In observance of prudential requirements intermediaries must be structured in such a way as to avoid conflicts of interests between the firm and its clients or between one of its clients and another (Art. 24.1.6 of the LSM).	
MALTA	MFSA	<p>Licence Conditions 3.02 (b) and 14.03 of Part C I of the Investment Services Guidelines, require an investment firm:</p> <ul style="list-style-type: none"> - avoid conflicts of interest where this is possible and, where it is not ensuring – by way of disclosure, internal procedures or otherwise – that customers are treated fairly; - avoid conflicts of interest when aggregating an order for a client with orders for other clients or with orders for its own account. 	In practice, the internal procedures regarding the avoidance of conflicts of interests established by Licence Holders which do not deal on their own account, may or may not include the adoption of Chinese walls. However Licence Holders which deal on their own account must establish internal independence policies including Chinese walls.
POLAND	Parliament for enacting	<p>According to Art. 40.2.4 of The Law on Public Trading of Securities an entity applying for the permit for conducting brokerage activities must provide PSEC with protecting of confidential information procedure. Every change of those procedures must be notified to PSEC.</p> <p>There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia conflicts of interests. The decree will specifically regulate all the issues related to that matter.</p>	<p>Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving</p> <p>30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.</p>

SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	Article 73 of Securities Act says: An Investment Firm is obliged to use professional care in the interest of its clients when providing services, and may not give preference to trading for his own account. An investment firm is obliged to avoid conflict of interest between the investment firm and client, or between clients; if a conflict of interest cannot be avoided investment firm shall give preference to the interest of a client before its own, and where a conflicts of interest arises between clients, shall ensure equal and fair treatment for all clients.
SLOVENIA	Parliament Securities Market Agency	SMA-1 A: 140 A: 146, 147, 148, 149 A: 178 Decision on the Personnel, Technical and Organizational Conditions for Operations with Clients and with the Assets of Clients of Investment Firm A: 4, Indent 2 and 3 A:8, P:2, Indent 3 A:9	Articles 146 to 149 prescribe precise rules on the execution of client's orders, which ensure, that the order is managed in the best interest of the client and that the possible conflicts between interests of different clients are avoided. As for the Chinese walls, Article 178 includes measures designed to maintain classified information, which also include compiling a list of securities, for which the classified information has been obtained by the investment firm, and the prohibition to recommend these securities to clients or to buy/sell these securities for the account of the investment firm, an account of the stockbroker or the accounts of the persons related to the investment firm or the stockbroker.

Rule 7	<i>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.</i>		
Country	Implementing Authority(ies)	Implementing Measure ²⁴	Comments
AUSTRIA	AP	Art. 13 par 2 ASSA Art 16 par 2 ASSA	Art. 13 par 2 ASSA laid down that an investment firm endeavour to avoid conflicts of interest and ensure that in the event of unavoidable conflicts of interest the customer order is executed with due regard to the interest of the customer this includes the information of all sorts on conflicts of interest. The avoidance of conflict of interest is determined by provisions of Art 13 par 2 and 16 par 2 ASSA and can be overall assumed to be common market standard and applied practice. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 36, § 1, 6° L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 79 and 127 L. 6 April 1995	To come into effect later: Art. 26, 4° and 27 § 1, L. 2 August 2002. Further measures can be taken by Royal Decree on the basis of Art. 28, § 1, 5° L. 2 August 2002. , Art146 L. 2 August 2002 also enables the King to take measures to

²⁴ Any derogation to the application of the implementing measures should be mentioned.

			implement binding international acts
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 9, par. 1 and section 19, par. 2. (The above mentioned rules require that investment firms should previously disclose conflicts of interest to customers.)	Derogation: Section 9 and section 19 implements standard 7 partly as section 9 and 19 does not require that the information given to the customer should be in writing or tape recorded.
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 3 and Chapter 4, Section 5, Paragraph 1 of the Securities Markets Act Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7) Rahoitustarkastus Guideline on Segregation of Securities Business Functions (201.12)	No requirement to 1) prioritise the disclosure at the beginning of the customer relationship 2) agree expressly. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	No specific implementing measure identified. However, this rule should nevertheless be deemed to be implemented, as explained in the comments.	This has not been implemented per se because we require the conflict to be prevented or managed in all cases, in principle. In addition, conflicts of interests must be disclosed in certain cases: fee return agreements (in the very limited circumstances where these are allowed) must be disclosed to the customer further to article 3-3-11 of the GR of the CMF, conflicts must be disclosed to the customer to whom a portfolio management service is provided further to article 3 of COB Regulation 96-03 (as amended in November 2003), and conflicts related to the production of investment research must be disclosed in the research report further to Decision 2002-01 of the CMF.
GERMANY	Legislator / BaFin	section 33 par. 1 WpHG Guideline on the details concerning Sections 31 and 32 of the WpHG relating to the commission business, proprietary trading on behalf of a third party, and agency business of investment services institutions (in the following: guideline), Clarification in guideline Part E	No legal basis for recording requirements Proposal for amendment of law will be presented to the ministry of finance
GREECE		Section 8.2 of the Code of Conduct of Investment Services Firms 8.2 In case an act of the firm has effects detrimental to the clients' interests relating to any issue affecting the relationship between the firm and the client, the firm must, before proceeding to such action, disclose to all affected clients its intentions and the effects of its act on him, giving him at the same time the opportunity to terminate, without indemnity, their contractual relation. In such case, the effect on the client interests must be direct and substantial and such interests must be directly connected with the services provided.	
ICELAND	Parliament, FME	In art. 15 of the Act on Securities Transactions financial undertakings are required to establish their own rules concerning conflicts of interests and Chinese walls. These rules have to be confirmed by the FME. The authority has required the investment firms to inform the customer ex post of any conflicting interests. This notification then gives the customer the right to call for further rationale behind the transaction.	General clause regarding FME's Directive Requests: The FME plans to make changes to Directive Request no. 1/2001 and to issue a new directive request to fulfill its obligations to implement the CESR standards on investor protection, where this is within its authority. A first consultation paper regarding the CESR standards on investor protection was issued in October 2003. A second consultation paper will be published in the first half of

			2004. Finalized Directive Requests on investor protection are estimated to have taken effect in the third quarter of 2004. This estimated timing of implementation is made with the reservation that it is subject to the outcome of the consultation process, where among other matters, the authority of the FME to implement some of the rules may be called into question.
IRELAND	IFSRA	<p><u>COC Section 2.2</u> Terms of Business or Investment Management Agreements ... shall include at least (f) an outline of the firm's policies in relation to conflicts of interest, including that in relation to the taking of principal positions.</p> <p><u>COC, Section 13.1</u> A firm is required to make adequate disclosure of relevant material information in its dealings with clients, including but not limited to, the disclosure to a client of material interests or conflicts of interests, when recommending a transaction to a client or executing a transaction for a client.</p>	
ITALY	CONSOB	<p>Article 27, paragraph n. 2 and 3, of Consob Regulation 11522 <i>(Conflicts of interest)</i></p> <p>Article 45, paragraph n. 3 and 4, of Consob Regulation 11522 <i>(Conflicts of interest in portfolio management)</i></p>	<p>Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities. in order:</p> <ul style="list-style-type: none"> • to clarify the specific obligations arising from the general principles laid down in the provisions at present in force and • to extend to other activities the obligation whereby conflict of interests have to be disclosed in the initial contract
LUXEMBOURG	CSSF	<p>According to principle 6. of the circular CSSF 2000/15 the professional shall, in particular, refrain from recommending that a client purchase or sell a specific security where he has a conflict of interest in relation to that security, unless, according to the circumstances, he discloses his interest to the client prior to the execution of the transaction or takes appropriate action to ensure the client is fairly treated. Furthermore, pursuant to principle 6.5 of the circular CSSF 2000/15 where a conflict is unavoidable, the professional shall take all appropriate action to avoid personal gain for himself and any loss for his client or any other parties with whom he has a business relationship. Depending upon the circumstances, the professional shall decline to act.</p>	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	uncertain: depending on outcome of deliberations with ministry of finance	Regulations only state that clients must be informed about conflicts of interests. They do not oblige a firm not to undertake business for or on behalf of the client.
NORWAY	Parliament Kredittilsynet	<p>STA, section 9-1 and 9-2</p> <p>STA section 9-2 par 5 explicitly requires disclosure of any conflict of interest prior to an assignment or providing of investment service.</p>	The customer's expressly acceptance is not required by this provision. However, Kredittilsynet may issue a circular stating that expressly acceptance by the customer should be documented by the investment firm as a part of the internal routines.

PORTUGAL		Portuguese Securities Code ²⁵ Articles 309/2, 312/1/b and 347	The domestic legal framework imposes to the financial intermediary the duty to act in a transparent manner towards its clients, being compelled to disclose to them any conflicts between the clients' interests and their own, whenever it can not avoid the occurrence of a conflict (articles 309/2 and 312/1/b) of the SC). This allows the client to refuse the provision of the service, on those grounds. The CMVM's supervisory practice ensures that the financial intermediary complies with the requirements of this Rule.
SPAIN	Parliament/Ministry of Economy /CNMV	Law 24/1988, Securities Markets Act. Title "Conduct of Business Rules". Article 79 h). Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Annex "General Code of Conduct for the Securities Markets" CNMV Circular 1/1998 Rule 11 th	Article 79 h) states that "conflicts of interest" must be disclosed to the costumers.
SWEDEN	Finansinspektionen	Regulation on Conduct of Business Rules (2002:7), Chap 5 Section 2 Chap 5 Section 2 explicitly requires investment firms to disclose to their customers the existence of any conflicts of interests between the customer and the firm and, in such case, the manner in which such will be handled.	
UNITED KINGDOM	FSA	COB 7.1.4E indicates that one or more of the following four 'reasonable steps' can be used to manage conflicts of interest: <ul style="list-style-type: none"> • disclosure of the interest to the customer; • relying on a policy of independence; • the establishment of Chinese walls; and • declining to act for a customer. Guidance is provided on the circumstances in which each of these steps is appropriate. Where disclosure is used it should be made either orally or in writing before advising the customer or dealing on his/her behalf in exercise of discretion. The firm should be able to demonstrate that it has taken reasonable steps to ensure that customer does not object to the material interest or conflict. COB 4.2.15 E (13) provides that one of the matters to be provided for in an investment firm's terms of business or agreement with its customer is the manner in which the firm will ensure fair treatment, as required by COB 7.1.3, when a conflict of interest may or does arise.	We believe that COB 7.1 achieves an equivalent level of consumer protection even though it does not prioritise between use of a policy of independence, disclosure or Chinese walls in exactly the same way as the CESR Standards/Rules. COB does give guidance about the appropriate use of the four reasonable steps. In terms of disclosure, for example, COB allows oral disclosure of conflicts that do not take place by telephone. Keeping a record is implicit in the demonstration requirement placed on firms.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2.2 of Annex 6 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	Disclosure of potential conflicts of interest takes place prior to the customer entering into any relevant transaction – either generally or in relation to the relevant transaction Annex 6 of the Code of Business Conduct for Investment Firms and the Natural Persons

²⁵ The **Portuguese Securities Code** was approved by Decree-Law n° 486/99 dated 13 November, of the Ministry of Finance.
The CMVM issues the Regulations needed to implement the Law. Any further references to the Portuguese Securities Code will be mentioned as **SC**.

			employed by them, Directive 1/2003, goes to great length in providing a most detailed conflict of interest avoidance and management regime.
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47b (1) g) of the Securities Act; PART TWO, Sect. 18 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The EFSA	SMA § 87. Guideline.	
HUNGARY	Parliament HFSA	(Subsection (1)-(2) of Section 121 of CMA). (Subsection (1) of Section 115 of CMA). Methodological Guideline No. 2/2002 of the President of the HFSA	Investment service providers and commodities brokers must conclude transactions that are similar in nature in the sequence of arrival, and, if transactions are similar in nature, they shall conclude those made on behalf of clients before those made on their own account. Whenever consignments from different clients are converged, the investment service provider and the commodities broker shall afford equal treatment to all clients concerned and shall not discriminate against any one of the clients. Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, - among others - on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information. These rules are not completely equivalent, but they are still quite similar. The Methodological Guideline No. 2/2002 of the President of the HFSA deals with the organisational separation of investment services activity and financial services activity. This methodological guideline covers Chinese walls and fire walls as well. Methodological guidelines are not legally binding for supervised organizations, individuals. Their purpose is only to enhance the predictability of legal enforcement.
LATVIA	Parliament	Article 127 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.	
LITHUANIA		<p>When carrying out their activities, intermediaries must in dealings with clients, disclose to them adequately relevant material information; try to avoid conflicts of interests and, where they cannot be avoided, ensure that clients are fairly treated (24.3.5 and 24.3.6 of the LSM).</p> <p>In case where the conflict of interest arises, the member of Association must disclose the contents of the conflict for all the parties involved; the transaction due to which the conflict emerged may be concluded only if all the parties do not object.</p> <p>The member of Association or a person related to the member may not conclude a transaction on his own account, where the order of a client in respect of the same security has been received until the client's order is executed; or may conclude transaction only if it offers better conditions than the client.</p> <p>Orders received from several clients containing equal conditions must be executed following the order of reception.</p> <p>The member of Association may not conclude transaction for the client's account, where the other party to the transaction is a brokerage firm or person related to such firm, and if such transaction would not be in the interests of the client.</p> <p>(Paragraph 2, 3, 4 of Chapter 23 of Code of Ethics of Association of Financial Brokers of Lithuania (Code of Ethics)).</p>	
MALTA	MFSA	<p>Vide reply to para (5) above.</p> <p>Moreover, SLC 3.03(k), 3.05 (c) and (d) in Part CI of the ISG</p>	
POLAND	Parliament for enacting	<p>There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia conflicts of interests. The decree will specifically regulate all the issues related to that matter.</p>	<p>Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.</p>
SLOVAKIA	MF FMA	<p>Act No 566/2001 on Securities and Investment Services Article 73</p>	<p>Article 73 of Securities Act says: An Investment Firm is obliged to provide the client with important information related to the transaction and advise him of important facts and risks associated with the transaction. An investment firm is obliged to avoid conflict of interest between the investment firm and client, or between clients; if a conflict of interest cannot be avoided investment firm shall give preference to the interest of a client before its own, and where a conflicts of interest arises between clients, shall ensure equal and fair treatment for all clients.</p>
SLOVENIA	Parliament	<p>SMA-1: A: 139, P:2 A: 140 A: 145, P:1 A:147, P:4 A:148, P:2 A: 149, P:2</p>	<p>According to A:139, P:2 the investment firm must inform the client about all relevant circumstances with regard to the client's orders to buy or sell securities – that include also the disclosure of potential conflict of interests (A: 140). Articles 145, 147, 148 and 149 provide for rules for the investment firms, which must be followed when executing the clients' orders in order to minimize the conflict of interests.</p>

Standard 6	<i>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>		
Country	Implementing Authority(ies)	Implementing Measure ²⁶	Comments
AUSTRIA	AP AFEC	Art. 13 par. 4 ASSA	The disclosure of relevant general information to the customer, in concrete the provision of all relevant material information to their customers to the extent necessary to safeguard the interest of the customer, is laid down in Art. 13. par. 4 ASSA. The implementation of inducement guidelines will be implemented as market standard and interpretation guidelines to the general information duties.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, § 1, 6° L. 6 April 1995 Art. 81 L. 6 April 1995 Art. 3 and 16 Royal Decree of 5 August 1991 on portfolio management Circular 92/4 of 14 August 1992 to banks on portfolio management	To come into effect later : Art. 26, 5° L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management New rules can be enacted by the King on the basis of , L. 2 August 2002 See also: Art. Art. 26, 17° , and 146 L. 2 August 2002
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 9, par 2. (The above mentioned rule states that where inducements are received disclosure of such inducements must be made to the customer).	Derogation. Section 9, par. 2. implements standard 6 partly as section 9 only implements the last sentence in standard 6.
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 3 of the Securities Markets Act Act on Investment Firms Section 16 b Rahoitustarkastus Standard on Risk Management and Other Aspects of Internal Control in Investment Firms (4.1) Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	General rule, no detailed provisions available yet as to prohibit an investment firm from offering or receiving inducements only if they can reasonably assist the firm in the provision of services to its customers. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Articles 3-2-8, 3-3-11 and 3-3-12 of the GR of the CMF Articles 8 quarter and 8 septies of COB Regulation 96-03	These provisions do not implement the standards as such, rather they prohibit fee return agreements in most circumstances, limit the possibility of soft commissions to goods and services useful to the firm and require firms to supervise and limit gifts, etc. received by staff. With respect to portfolio management, the COB provision prohibits fee return agreements (unless the rebates are credited exclusively to the account of the customer), subjects soft commission agreements to strict rules (they must not affect best execution, must be directly useful for the customer, must be sent to the compliance department and the estimated amounts included in the annual accounts), and requires detailed disclosure of soft commission agreements in the annual management report if their total value exceeds 1% of portfolio management fees earned by the firm.

²⁶ Any derogation to the application of the implementing measures should be mentioned.

GERMANY	BaFin	Disclosure required: Guideline, Part. B.1.2. prohibition not implemented, amendment of guideline needed	
GREECE		Section 4.2 of the Code of Conduct of Investment Services Firms “4.2. For compliance with duties and obligations pursuant to the first principle, investment services firms shall take proper measures such that to ensure: (d) the continuous and regular dissemination of information to clients about important events relating to the contractually specified provision of investment services and affecting the interests of their clients.”	
ICELAND	FME		See general clause regarding FME’s Directive Requests.
IRELAND	IFSRA	<u>COC, Section 22</u> As at 5 above. <u>COC, Section 2.3 (f)</u> Investment management agreements should also contain a statement giving ... details of remuneration from another person in connection with client transactions	
ITALY	CONSOB	<p>Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○○</p> <p>Article 27, paragraph n. 2, of Consob Regulation 11522 <i>(Conflicts of interest)</i></p> <p>Article 49, paragraph n. 2, of Consob Regulation 11522 <i>(Conflicts of interest)</i> ○○○</p> <p>Article 58, paragraph n. 1, of Consob Regulation 11522 <i>(Internal code of conduct)</i> ○○○</p> <p>CONSOB RESOLUTION 14015/2003 <i>Provisions concerning requirements for the transmission of data and information and documents and records by authorized intermediaries and stockbrokers</i></p> <p>Article 2 (Italian investment firms) <i>m) Agreements with intermediaries</i> ○○○</p> <p>CONSOB RESOLUTION N. DI/99004451 OF 25 JANUARY 1999: <i>SOFT COMMISSION AGREEMENTS</i></p> <p>... omissis ...</p> <p>Asset management companies and sicavs, regarding the provision of the service of collective portfolio management, shall not transmit orders to traders with whom they reached a soft commission agreement, except as follows: - the only benefits that can be received from the aforementioned agreements be goods and services that can reasonably help managers to provide the service in favour of the managed assets on</p>	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force and, in particular, to define the scope of these provisions and extend explicitly to other services the obligations at present applying to collective asset management companies to disclose inducements.

		<p>behalf of whom the transactions are ordered and that are really used to this purpose;</p> <ul style="list-style-type: none"> - the trader must guarantee to the portfolio manager the best execution's condition; - the portfolio manager must check that the contractual terms and procedures of the supply of the service of dealing cannot reasonably permit that the transactions carried out for the managed assets are closed to comparatively not interesting conditions; - in the transactions where the trader acts for own account, the portfolio manager must verify that the commission paid according to the terms of the agreement be sufficient to cover the value of the services that the portfolio manager can use and the price of the service of dealing itself. <p>... omissis ...</p>	
LUXEMBOURG	CSSF	<p>The professional shall lay down procedures to guard against the acceptance or solicitation by members of his staff of benefits in whatever form which, in the light of his business, are such as to give rise to the risk of a conflict of interest with respect to the professional's obligations towards his clients. Accordingly, the professional shall take such action as is appropriate to restrict the giving or receiving of gratuities or benefits in whatever form by members of staff in the course of their employment. The professional shall require disclosure of gratuities and other benefits received by members of staff of a value which exceeds a reasonable limit fixed by him (principle 6.5. of the circular CSSF 2000/15).</p>	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	<p>Not implemented</p> <p>The Further Regulations prescribe that firms must act in the interest of the client.</p>	Regulations do not contain provisions regarding inducements.
NORWAY	Parliament Kredittilsynet	<p>STA, section 9-2</p> <p>Generally inducements are considered breach of good business conduct. This is i.a. stated in circular letter 4/2000 and 10/2002, issued by Kredittilsynet.</p>	
PORTUGAL		Article 312/1/b of the Portuguese Securities Code	
SPAIN	Government/Ministry of Economy /CNMV	<p>Royal Decree 629/1993, of 3 may, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Annex "General Code of Conduct for the Securities Markets". Article 1.7 "Impartiality and Good Practices Obligatory Internal Conduct Rules</p> <p>CNMV Circular 1/1998 related to the Internal Control Unit</p>	Articles 1.7 points out that unjustified incentives can not be requested or accepted.
SWEDEN	Finansinspektionen		Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.

UNITED KINGDOM	FSA	FSA Handbook: Principle 1 provides that a firm must conduct its business with integrity. Principle 6 provides that a firm must have due regard to the interests of its customers and treat them fairly.	FSA is consulting currently on policy aspects of inducements: FSA Consultation Paper 176, Bundled Brokerage and Soft Commission Arrangements.
		COB 2.2.3R requires a firm to take reasonable steps to ensure that it, or any person acting on its behalf, does not <i>inter alia</i> offer or accept an inducement that is likely to conflict to a material extent with any duty owed to its customers or any duty owed by a recipient firm to its customers.	
		COB 2.2.5 – 2.2.7 These provisions contain specific guidance on whether the provision of inducements in connection with the sale of packaged products is acceptable.	
		COB 2.2.8 - 15 R These provisions, which relate to so-called “soft commission agreements”, set out a regime that allows investment firms to receive inducements in certain circumstances. An investment firm may accept goods and services under a soft commission agreement provided they are of direct relevance to, and used to assist in the provision of, certain specified services to the firm's customers. Disclosure on a prior and on a periodic basis: COB 2.2.8R.	See the comments below on CESR Rule 8 in relation to the disclosure of such arrangements.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(1)(k)(i) and (iii) and Paragraph 2.2(b)(i) of Annex 6 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	Commissions are disclosed in the contract of the Investment Firm with the client. No specific reference to directors, employees, etc or other kinds of inducements. This matter will be comprehensively covered in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.
	Cyprus Securities and Exchange Commission	Paragraph 5.2.4 of Annex 1 of the Conditions for granting an authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission		No specific rule.
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Subsection (1)-(3) of Section 113 of CMA	An executive employee, business representative and investment analyst of an investment firm, and their close relative <ul style="list-style-type: none"> a) cannot hold any share, whether directly or indirectly, in another investment enterprise; b) cannot hold any share, whether directly or indirectly, as an executive officer in another investment enterprise; c) cannot hold any office in another investment enterprise as an executive employee, business representative or investment analyst; d) cannot hold any executive office in or be in the employment of, the issuer of listed securities, other than the securities issued by the investment enterprise and listed on the stock exchange. A person employed by a credit institution that is engaged in investment services, being the director of the investment division or being vested with decision-making powers, cannot be employed in another division in the same position, and may not accept em-

			<p>ployment in another investment service provider in the same position. The above provisions of a)-d) shall apply as appropriate to such persons.</p> <p>Regarding the commodity broker an executive employee and the director of the investment division and a person vested with decision-making powers at a commodities broker cannot hold any executive position in an investment service provider or in another commodities broker and may not accept the office of director of investment services or commodity exchange services nor a position that is vested with decision-making powers.</p>
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.05 (c), (d) and SLC 8.07 (o) (v)(vi) of Part C I of the ISG	
POLAND	Parliament for enacting	<p>There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a possibility of using tied agent by a brokerage house. Proposed draft also establishes rules governing such an agent acting on behalf of a brokerage house.</p> <p>The current Law defines as a professional secrecy all the information using of which could harm market participants' interests (which includes also any inducements received from customer). Every person acting on behalf of a brokerage house is obliged to keep professional secrecy. Every unauthorised using of such information is investigated and punished. (Art. 4 pkt 18, Art. 159, Art. 175).</p>	<p>Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving</p> <p>In Polish law system only legal persons can provide brokerage activities and the Commercial Code specifies who is powered to act on behalf. All the general rules are applied to brokerage houses.</p>
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 71	Investment firm is obliged to formulate and follow a set of operating rules covering execution in investment instruments by members of the board of directors, the supervisory board, officers of investment firm, and employees of investment firm, in particular in order to avoid conflict with the interest of clients.
SLOVENIA		Not implemented.	The Office for Prevention of Corruption is competent to oversee practices, which might qualify as a corruption – and for filing the findings with the public prosecutor, when it is suspected that the criminal act of corruption has taken place.

Rule 8	<i>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.</i>		
Country	Implementing Authority(ies)	Implementing Measure²⁷	Comments
AUSTRIA	AP FMA/AFEC	Art. 13 par. 2 ASSA	Acting in the best interest of the customer and the avoidance of conflict of interests is determined in Art. 13 par. 2 of the ASSA. The implementation of a written policy means an innovation and will

²⁷ Any derogation to the application of the implementing measures should be mentioned.

			be adopted as market standard and as such reviewed by the FMA in the course of on-site-inspections and permanent supervision.
BELGIUM	Idem	Art. 36, § 1, 6° L. 6 April 1995 Art. 3 and 16 Royal Decree of 5 August 1991 on portfolio management Circular 92/4 of 14 August 1992 to banks on portfolio management	To come into effect later: Art. 26, 5° L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 3 of the Securities Act Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	No detailed provisions for 1) informing the customer at the beginning of the relationship 2) disclosing at least once a year in writing of the relevant details of inducements. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Article 3-3-11 of the GR of the CMF Regulation COB 96-03	This provision requires annual disclosure to the client of the amounts related to fee return agreements where these are allowed, i.e. where the firm is not the client's account-holder (custodian). COB regulation subjects soft commission agreements to strict rules (they must not affect best execution, must be directly useful for the customer, must be sent to the compliance department and the estimated amounts included in the annual accounts), and requires detailed disclosure of soft commission agreements in the annual management report if their total value exceeds 1% of portfolio management fees earned by the firm.
GERMANY	BaFin	Disclosure required: Guideline, Part. B.1.2. Periodical information not implemented, amendment of guideline needed	
GREECE		Bearing in mind that there is a direct obligation imposed to investment services firms to disseminate to their customers any information that may affect their interests (under 4.2. (d) of the Code of Conduct) we can conclude that under the same provision of the Code of Conduct, investment services firms must act in the best interests of their customers and inform them about any situation that may give rise to conflicts of interests.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	As at 6 above. <u>COC, Sections 1.5, 1.6</u> A firm shall ensure ... that it makes adequate disclosure to clients of relevant material information, including charges/commissions and ... makes a reasonable effort to avoid conflicts of interests and,	

		when they cannot be avoided, ensures that its clients are fairly treated;	
ITALY	CONSOB	<p>Article 21, paragraph n. 1, of Legislative decree n. 58/1998 (<i>General criteria</i>)</p> <p>Article 27, paragraph n. 2, of Consob Regulation 11522 (<i>Conflicts of interest</i>)</p> <p>Article 49, paragraph n. 2, of Consob Regulation 11522 (<i>Conflicts of interest</i>)</p>	<p>Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field:</p> <ul style="list-style-type: none"> to clarify the specific obligations arising from the general principles laid down in the provisions at present in force and and extend explicitly to other services the obligations at present applying to collective asset management companies to inform clients in writing, at least once a year, of the relevant details of inducements
LUXEMBOURG	CSSF	See 6	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented uncertain: depending on outcome of deliberations with ministry of finance	
NORWAY	Parliament	Not permitted	
PORTUGAL		article 312/1/b of the Portuguese Securities Code	
SPAIN	Parliament/Ministry of Economy /CNMV	Law 24/1988, Securities Markets Act. Title "Conduct of Business Rules". Article 79 h). Arts. 5.6 and 5.7 b	In more general terms, article 79 h) states that conflicts of interest must be disclosed to the costumers. Supervisory practice is to check inducements policy and, in the case of portfolio management they have to inform in writing about kick-back commissions.
SWEDEN	Finansinspektionen		Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	<p>FSA Handbook Principle 6 provides that a firm must have due regard to the interests of its customers and treat them fairly.</p> <p>COB 2.2.16 provides that an investment firm must inform the customer in writing of the existence of the soft commission agreement and the firm's (or where relevant the group's) policy in relation to soft commission. This must be done before an investment firm enters into a client agreement authorising it to deal for a customer under a soft commission agreement entered into by the firm or where it knows (or reasonably ought to know) that another member of its group has such an agreement.</p> <p>COB 2.2.18 imposes a requirement in such circumstances to provide customers with information on soft commission arrangements on an annual basis.</p>	The requirements for initial and periodic disclosure only apply in relation to customers and only apply where the soft commission regime has been triggered. For example, these requirements do not apply where an inducement is accepted in accordance with the guidance related to packaged products or otherwise where reasonable steps have been taken to ensure that the inducement will not give rise to a material conflict of interest.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part IV of Annex 4 and Paragraph 2.2 of Annex 6 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	There is no explicit obligation for investment firms to inform their customers on an annual basis. There is however a general obligation in Section 8 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive

			1/2003, for the Investment Firm to inform its customers of any changes in the information given to them at the negotiations stage. This matter will be comprehensively covered in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.
CZECH REPUBLIC	Securities Commission		No specific rule.
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Subsection 1 of Section 115 of CMA	Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA		No additional requirements to those referred to above within this section.
POLAND	Parliament for enacting	There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia conflicts of interests. The decree will specifically regulate all the issues related to that matter.	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	An Investment Firm is obliged to provide the client with important information related to the transaction and advise him of important facts and risks associated with the transaction. An investment firm is obliged to avoid conflict of interest between the investment firm and client, or between clients; if a conflict of interest cannot be avoided investment firm shall give preference to the interest of a client before its own, and where a conflicts of interest arises between clients, shall ensure equal and fair treatment for all clients. Investment firms in Slovakia are generally not use to have their own policies on inducements, which could be presented to their customers. However, all requirements as to inducements would be covered by Art. 73, of the Act No 566/2001 on Securities and Investment Services
SLOVENIA		Not implemented.	See St. 6

1.3. COMPLIANCE AND CODE OF CONDUCT

Standard 9			
<i>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>			
Country	Implementing Authority(ies)	Implementing Measure ²⁸	Comments
AUSTRIA	AP AFEC FMA	Art. 13 para 1 ASSA, Art. 82 para 5a Austrian Stock Exchange Act, 5.1 SCC, Art 16 para 1 and 3 ASSA	<p>About 900 credit institutions, providing investment services, are established on the Austrian Capital Market. In addition, only about 90 investment firms are supposed to be investment firms in the understanding of the ISD. All other firms providing investment services are supposed to be firms under the exemption of Art. 2 para 2 Directive 93/22. Generally, the 900 credit institutions have enacted meaningful and significant compliance rules, which are based on Art. 82 para 5a of the Austrian Stock Exchange Act (hereinafter, referred to as “ASEA”) in combination with the SCC. The SCC contains every aspect of compliance especially the establishment of an independent compliance function, which is responsible for the control of the compliance rules and an internal code of conduct. As laid down in Art. 13 para 3 of the ASSA, all investment firms have to act in the best interest of their clients. According to Art. 16 para 2 of the ASSA, credit institutions have to be organized in such a manner that in case of providing investment services conflicts of interest between these legal entities and their customers or between different customers are minimized to the greatest extent possible. According to Art. 16 para 3 of the ASSA (compliance organisation, internal audit, dual control) adequate internal control procedures that are suitable to counteract violations of obligations arising under ASSA have to be implemented. The sum of the regulatory rules is basis for the on site inspections of the Austrian Financial Market Authority (“FMA”) and a possible breach of these regulations is punished with a fine of up to 7.000 €.</p> <p>The 90 investment firms, which provide investment services beyond credit institutions, also have to apply the commitments as laid down in Art. 13 and. 16 para 3 of the ASSA, which is in the understanding of the FMA the need to implement compliance rules/functions adequate to their size, number of their employees, business fields and their client ship, but not summarized in a specific rule book. The above mentioned compliance rules are a requirement for obtaining a license and will be checked up during the licensing procedure and as well as during the on site inspections of the FMA. Furthermore, it should be noted that these 90 investment firms are mainly small firms with usually upon to 5 employees.</p>

²⁸ Any derogation to the application of the implementing measures should be mentioned.

			<p>To act in the customer's best interest is determined in Art 13 para 2 ASSA and is within the scope of provisions of the ASEA and in particular in point 5.1. of the SCC, which regulates the structure of the compliance organisation. It can be assumed as common market standard for credit institutions and other investment firms than credit institutions.</p> <p>In our opinion the compliance rules are established very well in Austria and rule 9 is fully implemented for all investment firms, which fulfil the above-mentioned standards.</p>
BELGIUM	Idem	<p>Art. 36, § 1, 7° L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 20, L. 22 March 1993 CBFA circulars with instructions to the credit institutions and investment firms on the role of the compliance function (circular to the credit institutions of 18 December 2001 and circular to the investment firms of 14 November 2000) See also the uniform letter to credit institutions of 5 February 2003 relating to the compliance function</p>	<p>To come into effect later: Art. 27, § 1 and § 2, L. 2 August 2002. Further implementing measures can be taken on the basis of Art. 28, § 1, 5°, L. 2 August 2002 General note on tied agents: The CBFA circular of 21 October 1993 specifies the regime for agents ("agents independents") that work exclusively for one firm; further measure for agents may be taken by RD on the basis of Art. 90 L. 22 March 1993 (for banks) and of Art. 118 L. 6 April 1995 (for investment firms. Please note that the CBFA envisages a reform of the financial intermediation (see the consultation document of 15.10.2002 on the CBFA's website)</p>
DENMARK			<p>The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard</p>
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	<p>Section 10, 12 and 16 b of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm Rahoitustarkastus Standard on Risk Management and Other Aspects of Internal Control in Investment Firms (4.1). Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).</p>	<p>The size of a firm defines the required standard for processes. In Finland the investment firms are mainly relatively small. In most of the cases the compliance function is a part of the legal department or the legal function of an investment firm. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.</p>
FRANCE	AMF	<p>Articles 3-1-1, 3-1-3 and 3-1-4 of the GR of the CMF Articles 11 and 12 of COB Regulation 96-03 (on portfolio management)</p>	<p>The texts provide explicitly for the obligation for the investment firm to have an internal compliance code and compliance officer responsible for its enforcement.</p>
GERMANY	BaFin	<p>Section 31 par. 1 WpHG Guideline orga, Part 4</p>	
GREECE		<p>An investment services firm should according to sections 4.2. (b) and 7.2.(e) of the Code of Conduct of Investment services firms ensure the adoption of internal control mechanisms (that are also verified at the authorisation stage by the HCMC according to article 4 of Law 1806/88) as well as an independent compliance function.</p>	
ICELAND	Parliament	<p>Art. 15 of the Securities Act: "A financial undertaking shall demonstrate that the provisions of Articles 6 (Impartiality and Equal</p>	

		Treatment), 13 (Separation of various areas of operation), and 14 (Transactions for own account and that of management, personnel and owners) are complied with by adopting rules to this effect, which must be approved by the FME. The rules shall provide especially for supervision of their enforcement within the financial undertaking. The rules must be accessible to customers. A financial undertaking must inform the FME of any deviation from the provision of these rules.”	
IRELAND	IFSRA	<u>GS&RR, Section 2.5</u> The firm is required to identify a compliance officer at management level with the necessary access to systems and records with responsibility for compliance with all legal and regulatory requirements and for co-operation and liaison with the relevant regulatory authorities, and who has the freedom to report to the Board of the firm (or equivalent in the case of a partnership) at all times. <u>COC, Sections 1.1, 1.2</u> As at 1 above.	Full text in HISF, GS&RR, page 4
ITALY	CONSOB BANK OF ITALY	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> °°° Article 56, paragraph n. 1 and 2, of Consob Regulation 11522 <i>(Internal procedures)</i> °°° Article 57, paragraph n. 1 of Consob Regulation 11522 <i>(Internal controls)</i> °°° Article 58, paragraph n. 1, of Consob Regulation 11522 <i>(Internal code of conduct)</i> °°° Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II - Administrative and accounting procedures and internal control mechanisms, 2. Internal Controls. The investment firms shall establish an internal control function that shall perform its activity autonomously and without having hierarchical relationships with the operational sectors of the intermediary itself; the board of directors of the investment firm shall fix precisely the tasks of such function, having regard, at least, to the following criteria: 1) the internal control function shall be in charge of verifying and ensuring compliance with the laws and regulations related to the provision of investment services, whether for own account or for customer account. The function shall especially control: - compliance with prudential regulation; - compliance with conduct of business rules to be	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.

		<p>observed in dealings with investors;</p> <ul style="list-style-type: none"> - compliance with internal procedures for the supply of investment services; - compliance with the administrative and accounting rules of separation; - fit and proper enforcement of the separation of assets rules; - fit and proper enforcement of the accounting procedures; - fit and proper enforcement of the procedures concerning the flows of information between the various sectors of the company; - the adequacy and reliability of the company's information system in relation to the services provided. <p>In particular, for the purpose of ensuring the functionality and efficiency of the general information system of the intermediary, the process relating to the production, administration and distribution of the information shall be periodically verified by the internal control bodies, especially to:</p> <ul style="list-style-type: none"> - ascertain and eliminate incidental irregularities and/or redundancies; - control the adequacy of the outputs, with reference either to quality or promptness, to the needs of the customers; - control the correspondence of the administrative and accounting procedures to the criteria of fit and proper conservation of the accountability; <p>2) if the investment firm supplies activities that involve the assumption of risks for own account, the internal control function shall have the power to verify the efficiency of the risk control system.</p> <p>The internal control function shall periodically report the results of its activity to the board of directors and the board of auditors.</p> <p>The Bank of Italy maintains the right to assess – having considered the principles of promptness, reliability and efficiency – hypothesis of delegation to third parties of the internal control function of the investment firms, after consulting the Consob on matters falling within the scope of that Authority.</p>	
LUXEMBOURG	CSSF	<p>According to the circular 2000/15 the executive management of the professional designates one of its members to be in charge of implementing the policy and rules it has established in this context and who oversees the compliance with the rules of conduct. This</p>	

		<p>member can be the same as the one designated in accordance with IML Circulars 93/101 and 93/102.</p> <p>The executive management is in charge of communicating this procedure and any change thereof to the personnel concerned.</p> <p>It will regularly organise internal audits so as to verify the compliance with the rules of conduct in accordance with IML Circular 98/143 relating to internal audit.</p>	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented.	<p>Standard can be considered as not implemented, as, although there are rules concerning this subject, these appear not to have a legal base in legislation. Negotiations with the ministry of Finance are under way.</p> <p>Although the rules implicitly state that a compliance function must be installed, there is no explicit reference.</p> <p>Also, there is no reference to acting in the interest of the integrity of the market.</p> <p>no legislative authority for AFM</p>
NORWAY	Parliament Kredittilsynet	STA, Section 9-1 par 1 subpar 2 and 5 Regulation 1997/1057 on internal controls etc.	
PORTUGAL		SC Art 304/1 and 304/5, 312/1/b CMVM Reg. n° 12/2000, articles 19, 32/a, 33/3, 36 and 37	<p>As to the means that should be used by financial intermediaries to ensure the protection of their clients' interests and the market's efficiency, Rule 9 entails some of the said means, which concern, on the one hand, to the adoption of internal policy control, which is provided for in sub-para. a), article 32 and article 36 of CMVM Regulation 12 /2000.</p> <p>The content of the intermediary rules is integrated in article 37 of the same Regulation. With regard to several financial intermediation activities, its article 19 imposes a requirement of registration of the persons who carry out functions of supervision and control, whose mission is the monitoring of compliance with applicable rules and procedures.</p>
SPAIN	Parliament/Ministry of Economy / CNMV	<p>Law 24/1988 Securities Markets Act Title VII "Conduct of Business Rules". Articles 78 c), 79 a) and 79 d).</p> <p>Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Annex "General Code of Conduct for the Securities Markets". Article 3.5 "Resources and capacities".</p> <p>CNMV Circular 1/1998, dated June 10, About Internal Control Systems, Monitoring and Assessment of risks. Rule 4^a.</p>	
SWEDEN	Finansinspektionen	<p>1) Regulation on Conduct of Business rules (2002:7), Chap 3 Section 1 (independent compliance function).</p> <p>Chap 3 Section 1 explicitly requires investment firms to have one or more compliance officers who are responsible for ensuring that employees within the firm and its board of directors are acquainted with the rules governing the conduct of the operations</p>	

		<p>as applicable from time to time.</p> <p>2) Regulation on Ethical rules for entities under supervision (1998:22) (internal code of conduct) The rules explicitly require investment firms to issue an internal code of conduct.</p>	
UNITED KINGDOM	FSA. Parliament	<p>FSA Handbook: Principle 5 provides that a firm must observe proper standards of market conduct. Principle 6 provides that a firm must have due regard to the interests of its customers and treat them fairly.</p>	<p>There is no express requirement in the FSA Handbook to maintain an “internal code of conduct”.</p>
		<p>SYSC 3.2.6R provides that firm must take reasonable care to establish and maintain effective systems and controls for compliance with applicable regulatory requirements and standards. A company acts through its directors and employees and a partnership can act through its partners or employees. The systems and controls will therefore need to relate to these individuals. SYSC 3.2.7G states that it may be appropriate to have a separate compliance function, depending on nature, scale and complexity of the business. The organisation and responsibilities of a compliance function should be documented.</p>	<p>The requirements in rule 9 are conditioned by reasonableness. FSA does not require an independent compliance function in every case in order to comply. Much depends on the nature, scale and complexity of the business in question - what is reasonable and adequate in one case might not be in another.</p>
		<p>Section 39(4) of FSMA: in determining whether an investment firm has complied with SYSC 3.2.6, anything its tied agent has done or omitted as respects business for which the investment firm has accepted responsibility will be treated as having been done or omitted by the authorised person.</p>	
CYPRUS	Cyprus Securities and Exchange Commission	Section 4(1) and paragraph 2.2 and Chapter 3 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) a) of the Securities Act; PART THREE, CHAPTER I, Section 47b (1) a) of the Securities Act	
ESTONIA	The EFSA and the operator of stock exchange.	SMA § 82. Guideline. The investment firm’s obligation to establish internal procedure rules is also provided for in the rules and regulations “Membership Rules” p 7.2.	The Minister of Finance may specify the requirements for the preparation of policies and procedures and for the contents thereof by a regulation
HUNGARY	Parliament	point c)-d) of Section 108 of CMA	Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and with the risks inherent in them, and having sufficient facilities, furthermore to ensure the proper handling and administration of securities, liquid assets and exchange-traded instruments which the clients have entrusted to them, and to afford adequate protection of ownership rights; and

			to prevent the investment service provider or the commodities broker 1) to use the securities, liquid assets and exchange-traded instruments of clients as their own in any way or form, or 2) to use any confidential information pertaining to securities without proper authorization or for reasons other than they were intended.
LATVIA	Parliament	Article 124 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.	
LITHUANIA		In observance of prudential requirements intermediaries must implement internal control and monitor personal transactions of its employees (Art. 24.1.2. of the LSM). 3. The Enterprise must draw up and approve rules on organising internal control of the Enterprise's activity describing in detail the procedure of executing the duties (obligations) of the Enterprise prescribed in the Law on Securities Market, the rules, instructions and other regulations adopted by the Securities Commission. A particular attention must be paid to the supervision of transactions with securities concluded for the account of the Enterprise and the Enterprise's employees, strict separation of the duties of persons dealing in their work with confidential information, prevention of insider trading, providing full and correct information to clients, and compliance with legal acts. 4. The Enterprise must, taking into account its organisational and management structure, scope of activity, type of transactions, degree of risk related to each field of the Enterprise's activity, have a person with appropriate qualifications appointed to be in charge of organising internal control of the Enterprise's activity, or a special department established for the purpose of organising internal control of the Enterprise's activity. (Item 3 and 4 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	
MALTA	MFSA	Response to St. 1 also refers. Furthermore, as the Regulator of investment services in Malta, the MFSA requires Investment Firms to adhere strictly to the requirements imposed under the law, the regulations and other rules in force. Every applicant for a licence will be asked (as part of the licensing process) to identify an individual ("the Compliance Officer") who will be responsible for ensuring the Investment Firm's adherence. In this regard the responsibilities of a Compliance Officer and the conditions attached to this role, are set out in Section 3.01 of Part A of the ISG.	

		Before a Compliance Officer is appointed, the Investment must formally propose appointment to MFSA – after having conducted its own due diligence checks. MFSA will then write to the person proposed reminding that person of the nature of the role and asking that person to confirm (in writing) his/her understanding of the requirements and their acceptance of the responsibilities attached to the Compliance role.	
POLAND	Parliament for enacting	<p>According to Art. 40.2 of The Law on Public Trading of Securities the entity applying for the permit for conducting brokerage activities must provide PSEC with organisational procedure, internal control procedure, protecting of confidential information procedure. Every change of those procedures must be notified to PSEC.</p> <p>According to the Decree of the Council of Ministers dated April 15th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, the brokerage house shall separate in its organizational structure an internal supervision unit and ensure appropriate autonomy of the said unit so as to enable it to discharge its duties properly. Where it is justified by the volume of activity conducted by the brokerage house and where it does not jeopardize the security of trading or interests of participants in trading, internal supervision may be exercised by an independent supervision inspector working alone. The brokerage house shall also keep a procedures book, containing procedures connected with the conducted activity, which are currently in force in the brokerage house. (Par. 10)</p> <p>There is also a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia all the issues related to that matter.</p>	<p>Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving</p> <p>30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.</p>
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 71	Investment firm is obliged to define in its articles of association the relations and interaction between the board of directors, the supervisory board, officers of investment firm and employees responsible for internal audit. Investment firm is obliged to formulate and follow a set of operating rules covering an effective system of internal controls adequate for the type and nature of investment services provided. Employee responsible for internal control may not be a member of the board of directors or a member of supervisory board of an investment firm.
SLOVENIA	Parliament	SMA- 1; A: 86, P: 5 A: 87, P:1 and 3 A: 111 A:177 and 178	The investment firm does not have to have a separate compliance department but is obliged to define in its general act the measures for the establishment and functioning of the system of internal controls in all areas of operation of the investment firm and measures for the establishment and functioning of an internal audit

	Securities Market Agency	Decision on the Personnel, Technical and Organizational Conditions for Operations with Clients and with the Assets of Clients of Investment Firm A: 4, Indent 1 A: 8, P:2 and 3 A: 9	with a description of its tasks, authorisations and relationship to the management board of the investment firm. Internal code of conduct must regulate all substances listed in A:9, P: 2 of the Decision.
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Rule 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.*

Country	Implementing Authority(ies)	Implementing Measure ²⁹	Comments
AUSTRIA	FMA, AFEC. AP	5.2. SCC Art. 16 para 3 ASSA	Point 5.2. of the SCC regulates the competencies of the compliance officers. These competencies are: the permanent supervision of the compliance rules, the advice of the management board for implementation questions in connection with the compliance rule book, the education of the employees in compliance. To fulfil his duties the compliance officers should have full access to all data (accounts, records, documents and personnel data) the management board has to give the compliance officer all the authority he needs to fulfil his duties; For smaller investment firms the compliance obligations are part of the internal control procedure, which are implemented through Art. 16 par 3 ASSA. The qualification of the compliance officer and his access possibility to all data he needs to fulfil his task is part of the on site inspections of the FMA, especially by smaller investment firms.
BELGIUM	Legal provisions under CBFA supervision	Idem as St. 9 See especially: nrs 5, 8 and 9 of the CBFA circulars on the compliance function.	Idem as St. 9 See especially: Art. 27, § 2, L. 2 August 2002 (to come into effect later)
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm.	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF and CRBF	Articles 2-4-16, 2-4-17, 3-1-4 and 3-1-5 of the GR of the CMF COB Instruction of 17 December 1996 following COB Regulation 96-02 establishes a model application form for authorisation which requires the applicant to describe its internal control procedures (Annex 1, III, 5, a); article 11 of COB Regulation 96-03	The rule is implemented through the GR of the CMF. Similar requirements are contained in the banking regulation on internal control (97-02), and they apply both to banks and investment firms.

²⁹ Any derogation to the application of the implementing measures should be mentioned.

		defines internal control as including compliance.	
GERMANY	BaFin	Section 33par. 1 WpHG Guideline orga, Part 4.2	Expertise and resources not explicitly mentioned in guideline, but are practice of supervision
GREECE		According to Section 5.3. of the Code of Conduct, Investment Services Firms should ensure that they possess written guidelines and procedures within the firm to ensure compliance. These written guidelines to ensure compliance include provisions about the responsible persons' qualifications and obligations to ensure compliance with firms' regulatory framework of operation.	
ICELAND	FME	Art. 6.1. of Directive Request nr. 1/2001 published by the FME. In paragraph 37 and 38 it is established that the compliance officer must have the necessary expertise, resources and authority to perform his duties. It is also stipulated that the compliance officer must be independent of the persons subject to his monitoring. In art. 6.2. of Directive Request no. 1/2001, paragraph 39 it is established that the compliance officer must have access to all information that can be relevant to his duties.	
IRELAND	IFSRA	<u>GS&RR, Section 2.5</u> As at 9 above.	
ITALY	CONSOB BANK OF ITALY	Article 57, paragraph n. 2 of Consob Regulation 11522 <i>(Internal controls)</i> ○○○ Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II - Administrative and accounting procedures and internal control mechanisms 2. Internal Controls. See above rule n. 9.	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG		No specific rules for the time being. In practice banks have compliance officers and the Luxembourg association of compliance officers is providing the relevant information to its members who have long experience in the financial sector. The CSSF intends to issue in the next coming months a circular regulating the function of compliance officers.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented uncertain: depending on outcome of deliberations with ministry of finance	Although there is a (limited) definition of “compliance officer” in the regulations, duties, activities etc., are not prescribed with respect to codes of conduct in general (there is only reference to private investments of employees).
NORWAY	Parliament	STA, section 9-1 par 1 subpar 2, 4 and 5 Regulation 1997/1057, which requires investment firms to establish internal control systems. The systems shall be independently revised at least annually.	Although not expressly stated, the compliance function must be established with sufficient competence and independence in order to meet the requirements laid down in STA section 9-1 regarding internal routines etc and the regulation on internal controls.
PORTUGAL	CMVM	Article 19 of CMVM Regulation 12/2000	
SPAIN	CNMV	CNMV Circular 1/1998, dated June 10, About Internal Control Systems, Monitoring and Assessment of risks.	
SWEDEN	Finansinspektionen	General guideline on securities business (2002:5), Chap 3	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002

		(Provisions on necessary expertise is implemented. The other provisions in rule 11 are not implemented)	with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	SYSC 3.2.7G (Compliance) states that an investment firm's compliance function should be staffed by an appropriate number of competent staff sufficiently independent to perform their duties objectively. The compliance function should be adequately resourced and should have unrestricted access to the firm's relevant records.	
CYPRUS	Cyprus Securities and Exchange Commission	Chapter 3 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	In Cyprus, the duties of compliance officer are borne by the firm's internal auditor.
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) a) of the Securities Act; PART TWO, Sect. 4 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The EFSA and the operator of stock exchange	SMA § 83. Guideline. The investment firm's obligation to maintain sufficient measures to exercise internal control is also provided for in the Rules and Regulations "Membership Rules" p 7.1.	
HUNGARY	HFSA	There are no provisions for investment firms to employ an independent compliance officer responsible for the compliance function.	Though there are no particular provisions about compliance officers and their functions in the CMA, however Methodological Guideline No. 2/2002 of the President of HFSA covers the functions of compliance officers regarding Chinese wall rules.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		6. A person in charge of organising internal control of the Enterprise's activity or the department of internal control of the Enterprise's activity shall be directly accountable to the chairman of the Enterprise's board or, where the Enterprise has no board, the head of the administration or, where the head of the administration is the person in charge of organising internal control of the Enterprise's activity, he shall be accountable to the body that has appointed him but he shall be independent when carrying out his functions. The department of internal control of the Enterprise's activity must be separated from other departments of the Enterprise. Responsibility for a proper organisation of internal control of the Enterprise's activity shall be borne by the chairman of the Enterprise's board or, where the Enterprise has no board, the head of the administration. 8. A person or the department in charge of organising internal control of the Enterprise's activity must be given access to all the documents and information kept at the Enterprise, including sound records of telephone calls by which clients' orders were placed with the Enterprise.	

		(Item 6 and 8 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	
MALTA	MFSA	Vide reply to St. 9 above	
POLAND	Council of Ministers for enacting	<p>According to the Decree of the Council of Ministers dated April 15th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, the brokerage house shall separate in its organizational structure an internal supervision unit and ensure appropriate autonomy of the said unit so as to enable it to discharge its duties properly. Where it is justified by the volume of activity conducted by the brokerage house and where it does not jeopardize the security of trading or interests of participants in trading, internal supervision may be exercised by an independent supervision inspector working alone. A supervision inspector not being a member of the management board shall be subordinate directly to the president of the management board of the brokerage house or, if such president has not been appointed, to the management board of the brokerage house. In the case of a bank conducting brokerage activity, the supervision inspector shall be subordinate directly to the person managing the bank organizational unit which conducts brokerage activities. (Par. 10.1, Par. 10.3, Par. 10.4, Par. 10.5)</p> <p>There is also a draft of a new Polish Law on Public Trading of Securities prepared under which the above mentioned decree will be changed. The changes will concern inter alia that matter.</p>	<p>Polish Securities and Exchange Commission is responsible for drafting</p> <p>30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.</p>
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	See above.
SLOVENIA	Parliament Securities Market Agency	<p>SMA-1 A:87, P:3</p> <p>Decision on Personnel, Technical and Organizational Conditions for Operations with Clients and with the Assets of Clients of Investment Firm</p> <p>A:4, Indent: 1 A: 8, P: 2; Intent 5 and 6</p>	The Agency grants the license to investment firm if among other documents the firm proves the establishment and organization of internal control and internal audit.

Rule 12	<i>A summary of the results of the monitoring must be reported to the senior management of the investment firm and to the internal or external auditors. The investment firm must report these results, together with remedies adopted, to the competent authority at least once a year.</i>		
Country	Implementing Authority(ies)	Implementing Measure³⁰	Comments
AUSTRIA	AP FMA	Art. 63 par. 4 ABA; Art. 23, 23a ASSA;	The ABA (art.636 par.4) and ASSA (art.23, 23a ASSA) state the requirement of a report - the bank supervision audit report for

³⁰ Any derogation to the application of the implementing measures should be mentioned.

	Ministry of Finance	Art. 63 par 3 ABA	credit institutions and the investment firm supervision audit report for all other investment firms – which is liable approved by a certified public accountant. These reports do not contain monitoring results in regard to the compliance function. Art 63 par 3 ABA contains the obligation for the bank auditor, that if facts are established by him, on the basis of which he judges that the functioning of credit institutions or the fulfilment of its obligation is no longer guaranteed, or that statutory or other legal provisions are violated, he shall without delay report these facts to the FMA.
BELGIUM	Idem	Idem as St. 9. See especially: nr. 4 of the CBFA circulars	To come into effect later: Art. 27, § 1 and § 2, L. 2 August 2002. Further implementing measures can be taken on the basis of Art. 28, § 1, 5°, L. 2 August 2002 CBFA may obtain such information during on site inspections and on request. The external auditor yearly reports to the CBFA on the functioning of the compliance function.
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm.	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF and CRBF	Articles 2-4-17 and 3-1-4 of the GR of the CMF	These CMF provisions do not provide for the communication of the report to the auditors. CRBF regulation 97-02 however requires that the internal control report be sent to the Banking Commission, to the board of the firm and to the external auditors.
GERMANY	BaFin	Section 33 par. 1 WpHG Guideline orga, Part 4.2 Section 36 par. 1 WpHG (annual inspection)	Limited application range (due to reference in Guideline orga. Part 4.2. to Part 3.1.)
GREECE		Section 10.2 (c) and section 10.2 (f) of the Code of Conduct. According to sections 10.2. (c) and 10.2 (f) the results of monitoring of the Investment Services Firm by an auditor should be reported to the competent authority, the HCMC. Reservation is provided with regard to information that under law provisions should be kept confidential by the firm.	
ICELAND	FME	Art. 6.2. of Directive Request no. 1/2001, paragraph 41: Compliance officer shall monitor securities transactions of management, personnel and owners and use for that purpose monthly trading reports. Art. 6.2. of Directive Request no. 1/2001, paragraph 45: The compliance officer must register any movement of employees between different areas of operation. Art. 6.2. of Directive Request no. 1/2001, paragraph 46: The	General clause regarding FME's Directive Requests: The FME plans to make changes to Directive Request no. 1/2001 and to issue a new directive request to fulfill its obligations to implement the CESR standards on investor protection, where this is within its authority. A first consultation paper regarding the CESR standards on investor protection was issued in October 2003. A second consultation paper will be published in the first half of 2004. Finalized Directive Requests on investor protection are esti-

		compliance officer must keep a register of customer complaints.	mated to have taken effect in the third quarter of 2004. This estimated timing of implementation is made with the reservation that it is subject to the outcome of the consultation process, where among other matters, the authority of the FME to implement some of the rules may be called into question.
IRELAND	IFSRA	To be implemented shortly	Under new regulations to be imposed on stockbrokers, compliance officers must prepare and submit to a compliance committee on a monthly basis a report detailing any issues that have arisen concerning the firm's legal and regulatory requirements as well as the firm's own internal policies and procedures.
ITALY	CONSOB	<p>Article 57, paragraph n. 4, 5 and 6 of Consob Regulation 11522 <i>(Internal controls)</i> ○○○</p> <p>CONSOB RESOLUTION 14015/2003 <i>Provisions concerning requirements for the transmission of data and information and documents and records by authorized intermediaries and stockbrokers</i></p> <p>Article 2 (Italian investment firms) <i>g) Annual report on the checks carried out and the annual schedule of planned checks, prepared by the head of the internal control function</i> <i>(...)</i> <i>h) Half-yearly report of the head of the internal control function concerning the outcome of complaints, any shortcomings found and the proposals for overcoming them</i> <i>(...)</i></p>	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG		No specific rule for the time being. See 11	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented uncertain: depending on outcome of deliberations with ministry of finance	
NORWAY	Kredittilsynet	Regulation 1997/1057, section 3-2 and 5-1 According to the Regulation, investment firms shall evaluate and possibly revise the internal controls accordingly at least annually. The evaluation shall be verified by an external auditor.	The investment firm is not required to report these findings to Kredittilsynet, but have to keep them for minimum three years and on request dispatch them to Kredittilsynet.
PORTUGAL			Not Implemented
SPAIN	CNMV	CNMV Circular 1/1998, dated June 10, About Internal Control Systems, Monitoring and Assessment of risks.	
SWEDEN	Finansinspektionen	Regulation on Conduct of Business rules (2002:7), Chap 3 Section 2 Reporting to the senior management is explicitly implemented. The other provisions in rule 12 are not implemented.	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	SYSC 3.2.7G & 8R (Compliance) The director or senior manager to whom the function of having	A number of ad hoc requirements to notify the FSA of specific matters are imposed under SUP 15. There is no requirement to

		responsibility for the oversight of the firm's compliance has been allocated is responsible for reporting to the investment firm's governing body in respect of their oversight of the firm's compliance. The firm's compliance function should have ultimate recourse to its governing body. SUP 15 (Notifications to the FSA).	provide annual reports on compliance monitoring but firms are to give auditors a right of access to records and documents at all times under SUP 3.6.1
CYPRUS	Cyprus Securities and Exchange Commission	Paragraphs 3.5, 3.6 and 3.7 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) a) of the Securities Act; PART TWO, Sect. 4 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	PART TWO, Sect. 4 (4) d) of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers: The compliance officer is authorised to report directly to the statutory body and supervisory body of the invest firm on significant facts relating to the performance of compliance activities, but the compliance officer does not report a summary of his results to internal or external auditors. PART TWO, Sect. 5 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers It is the duty of the internal auditor to review and evaluate the performance of compliance activities, once a year at the minimum. The investment firm also does not report these results, together with remedies adopted, to the competent authority on regular basis. The investment firm has to provide these results during the state control or on demand.
ESTONIA	The EFSA	SMA § 83 (5).	
HUNGARY			
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		10. Reports on inspections carried out and faults, mistakes and violations detected during these inspections must, on a regular basis (at least once in a quarter) or immediately, where the necessity arises, be submitted together with conclusions and proposals to the chairman of the Enterprise's board or, where there is no board, the head of the administration. (Item 10 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	At the moment, other reporting obligations (to competent authority and auditors) are provided into the new draft Rules on organising internal control of the activity of intermediaries of public trading in securities.
MALTA	MFSA	Vide reply to St. 9 above Additionally please also note that: <ul style="list-style-type: none"> SLC 1.11 of Part C I of the ISG requires an Investment Firm to submit a Certificate of Compliance, signed by an Officer of the Investment Firm to be submitted biannually. This docu- 	

		<p>ments details the extent to which the Investment Firm has complied with the Investment Services Act; the licence conditions and any recommendations or directives issued to the Investment Firm by the Malta Financial Services Authority. <i>Inter alia</i> it also provides details of any conditions which were breached by the Investment Firm during the period.</p> <ul style="list-style-type: none"> • SLC 10.32 of Part C I of the ISG requires Investment Firms to include in their annual report to members of the company, a statement regarding breaches of SLCs and/or any regulatory sanctions which occurred during the reporting period. 	
POLAND	Council of Ministers for enacting	<p>According to the Decree of the Council of Ministers dated April 15th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, at least once every 3 months, the supervision inspector shall provide the management board and the supervisory board of the brokerage house with a report on the performance of internal supervision functions. In the case of a bank conducting brokerage activity, the supervision inspector shall submit the report to the member of the bank's management board who supervises conducting brokerage activity. (Par. 10.7, Par. 10.8)</p> <p>There is also a draft of a new Polish Law on Public Trading of Securities prepared under which the above mentioned decree will be changed. The changes will concern <i>inter alia</i> that matter.</p> <p>According to the Decree of the Council of Ministers of 22 January 2002 on the Scope, Procedure, Form and Time Limits for the Provision of Information by Certain Entities Which Conduct Brokerage Activity and Keep Securities Accounts, a brokerage house shall provide the PSEC with semi-annual reports on the activity of the brokerage house and on the functioning of internal supervision. The reports on the activity and on the functioning of internal supervision shall be prepared for each half of a calendar year. The report mentioned above should in particular specify the number, subject-matter, place and dates of controls carried on by the internal supervision unit. (Par. 116)</p>	<p>Polish Securities and Exchange Commission is responsible for drafting</p> <p>30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.</p>
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 71	Article 71 of Securities Act says: The employee responsible for internal control shall notify the supervisory board and FMA, without undue delay, of any detected breach of investment firm's obligations laid down by generally applicable legislation, which may adversely affect the proper operation of the investment firm. The employee responsible for internal control shall submit to FMA, by 31 March of the calendar year, a report on its activities carried out in the previous year, on any measures adopted to correct detected shortcomings in the operation of investment firm, an a plan of its controlling activities for the current calendar year.

SLOVENIA	Parliament Securities Market Agency	SMA-1 A:191 A: 192 The Decision on the Minimum Scope and the Content of an Audit Inspection and of an Auditor's Report on an Investment Firm A:15 A:16 A:22 Sample tables for auditing are approved by the Agency for each year, and compiled by the Slovenian Audit Institute. Using the sample tables the auditor presents precise calculations, and by means of replies to questionnaires, which are part of the sample tables, he presents the fulfilment of the provisions of the individual articles of the SMA-1 and its implementing acts.	As already mentioned, the Agency grants the license to investment firm if among other documents the firm proves the establishment and organization of internal control and internal audit. The investment firm does not have to have a separate compliance department but is obliged to define in its general act the measures for the establishment and functioning of the system of internal controls in all areas of operation of the investment firm and measures for the establishment and functioning of an internal audit with a description of its tasks, authorisations and relationship to the management board of the investment firm. The external audit by the independent auditors is regulated by separate provisions, and must take place on an annual basis. According to A: 192, the Agency may require additional explanations from the external auditors with regard to the audit performed. An investment firm must publish the summary of the audited annual report with the auditor's opinion in a daily newspaper and/or specialised financial journal published at least once in a month within fifteen days of its adoption at the general meeting of shareholders and no later than six months from the end of the calendar year, and the summary of the audited consolidated annual report with the auditor's opinion no later than seven months from the end of the calendar year (A: 193 of the SMA-1) In addition, based on prior consultation with the Slovenian Auditing Institute, the Agency prescribed a detailed form and minimum extent and contents of an audit and audit report. The Decision on the Minimum Scope and the Content of an Audit Inspection and of an Auditor's Report on an Investment Firm has been issued thereof, requiring from the auditors to include in the annual audited report of the investment firm amongst other the report on compliance with the rules of conduct and the report on functioning of the internal controls. In addition, sample tables in accordance with A:22 are approved by the Agency each year, being the tool used by the auditors when auditing the investment firms.
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Rule 13	<i>An investment firm must ensure that the competent authority is informed, without undue delay, of serious breaches of the conduct of business rules. In assessing whether the breaches are serious, an investment firm must take into account the impact on regulatory goals and on the capacity to provide services, their frequency, the damages suffered by customers.</i>		
Country	Implementing Authority(ies)	Implementing Measure ³¹	Comments
AUSTRIA	FMA	The FMA recommends to investment firms to inform the FMA as competent authority.	An obligation to inform the FMA as competent authority in cases of serious breaches of the conduct business rules means an imper-

³¹ Any derogation to the application of the implementing measures should be mentioned.

			missible self incrimination and infringes substantial principles of Austrian law. Therefore the implementation of this rule as an obligation for investment firms can not be accomplished. Please see 12.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 101, 4°, L. 6 April 1995 (external auditors) Art. 74, § 2 L. 22 March 1993 (external auditors) Art. 36 Market Regulation of 27 December 1995 of the off-exchange market in linear bonds (Securities regulation fund)	To come into effect later: Art. 27, § 1 and § 2, L. 2 August 2002. Further implementing measures can be taken on the basis of Art. 26, 17° and 28, § 1, 5°, L. 2 August 2002 Information to the CBFA is indirect via external auditors
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Section 15, Paragraph 2 and Section 4, Point 2 of the Act on the Financial Supervision Authority.	The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	No specific implementing measure identified	This has not been implemented but we expect firms to inform us quickly of serious breaches.
GERMANY	Legislator	Not implemented	No legal basis Proposal for amendment of law will be presented to the ministry of finance
GREECE		According to sections 10.2. (c), 10.2. (e) and 10.2. (f) of the Code of Conduct, the investment services firms should report any breaches of conduct to the competent authority.	
ICELAND	Parliament	Art. 15 of the Securities Act: "A financial undertaking shall demonstrate that the provisions of Articles 6 (Impartiality and Equal Treatment), 13 (Separation of various areas of operation), and 14 (Transactions for own account and that of management, personnel and owners) are complied with by adopting rules to this effect, which must be approved by the FME. The rules shall provide especially for supervision of their enforcement within the financial undertaking. The rules must be accessible to customers. A financial undertaking must inform the FME of any deviation from the provision of these rules."	
IRELAND	IFSRA	<u>GS&RR, Section 1.2</u> The firm is required to be open and co-operative in its dealings with the Bank and with all other relevant supervisory authorities. This includes, but is not limited to, an obligation on the firm to notify the Bank, as soon as it becomes aware of - (i) any breaches by the firm of , inter alia, the Investment Intermediaries Act, 1995 or the Stock Exchange Act, 1995, or of any breaches of any of the Bank's requirements	See HISF, GS&RR, page 2
ITALY	CONSOB BANK OF ITALY	Article 8, paragraph n. 3, 4, 5 and 6, of Legislative decree n. 58/1998 <i>(Reporting requirements)</i>	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.

LUXEMBOURG	CSSF	Where a professional becomes aware that a member of his staff has contravened or attempted to contravene a regulation, he shall without delay take an appropriate action according to the seriousness of the offence and, where appropriate on the same basis, notify the CSSF. (principle 7.3. of the circular 2000/15)	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented uncertain: depending on outcome of deliberations with ministry of finance	
NORWAY	Parliament	STA, section 12-2 par 2, which states that investment firms shall notify Kredittilsynet immediately on circumstances arise which may entail substantial risk for the operation of the firm.	Further clarifications needed.
PORTUGAL		Article 317 of the Portuguese Securities Code	
SPAIN	CNMV	CNMV Circular 9/1989, dated December 20, about audit of <i>Sociedades de Valores</i> (Broker-dealers) and <i>Agencias de Valores</i> (Dealers). Rule 4 ^a .	Circular 9/1989 states that auditors must inform to the supervisors over the relevant weakness detected in the monitoring of the compliance of the conduct of business rules.
SWEDEN	Finansinspektionen	1) General guidelines on reporting of significant incidents (1999:7) The guidelines explicitly require investment firms to report significant incidents which may affect the market integrity. In assessing whether the incident is significant or not, the firm must take into account the risk for damages suffered by customers and the impact on vital business functions 2) General guidelines for auditors appointed by Finansinspektionen (1998:5) Finansinspektionen has the possibility to appoint an auditor in investment firms. This auditor acts as one of the firm's external auditors, but he/she has certain annual reporting obligations to Finansinspektionen. One explicit obligation is to report serious breaches of rules.	
UNITED KINGDOM	FSA	FSA Handbook: Principle 11 (relations with regulators): This principle provides that an investment firm must deal with its regulators in an open and cooperative way, and must disclose to the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice. SUP 15.3.11 & 12 (Breaches of rules and other requirements in or under the Act) SUP 15.3.11 requires a firm to notify the FSA of <i>inter alia</i> a significant breach of any FSA Rule by the firm or any of its directors, officers, employees, tied agents or "approved persons". SUP 15.3.12 provides that significance should be determined for these purposes having regard to potential financial losses to customers or to the firm, frequency of the breach, implications for the firm's systems and controls and if there were delays in identifying and rectifying the breach.	We believe that these rules substantially meet the provisions of rule 13.

CYPRUS	House of Representatives Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 15(3) of the Investment Firms Laws 2002-2003	This matter will be comprehensively covered in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.
CZECH REPUBLIC	Securities Commission		No specific rule.
ESTONIA	The EFSA.	The SMA § 83 (5).	
HUNGARY	Parliament	Subsection (1) of Section 111 of CMA Subsection (4) of Section 113 of CMA Subsection (3) of Section 119 of CMA	The chairperson and members of the board of directors and of the supervisory board of an investment service providers, and executive officers of commodities brokers shall be responsible to ensure that the investment service provider or the commodities broker operates in compliance with the relevant legal provisions, with exchange and clearing house regulations, with the HFSA's resolutions and with internal regulations. Any person who falls within the scope of incompatibility as defined under the CMA must forthwith notify the HFSA, and shall terminate the grounds of incompatibility within ninety days. Investment service providers and commodities brokers shall notify the HFSA within two days concerning any incidence when they have refused to provide service. These rules are not completely equivalent, but the cited provisions of CMA are linked to this question.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		11. The rules on organizing internal control of the Enterprise's activity drawn up by the Enterprise itself specifying the procedure of implementation of the legal acts indicated in part 7.1 and the material of inspections carried out by the department of internal control of the Enterprise's activity must be submitted to an authorized person from the Securities Commission on his/her demand. (Item 11 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	The obligation to inform the competent authority is provided into the new draft Rules on organising internal control of the activity of intermediaries of public trading in securities). At the moment, such information is usually being obtained during the routine inspections (each brokerage company is being inspected approximately once a year).
MALTA	MFSA	SLC 1.15 of Part C I of the ISG	
POLAND	Parliament for enacting	There is a draft of a new decree on the Scope, Procedure, Form and Time Limits for the Provision of Information by Certain Entities Which Conduct Brokerage Activity and Keep Securities Accounts according to which there will an obligation to inform the PSEC of any serious breaches of the conduct of business rules.	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving. 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	See upper columns.
SLOVENIA	Parliament	SMA – 1: A: 127 A:129 A:132, P:2	Investment firms are according to the law and corresponding secondary legislation obliged to notify the Agency on all financial information (capital adequacy, solvency, exposure and liquidity), but are under the existing regulation not required to report on the

		A:198	operational problems in terms of the damages suffered by customers. According to A: 127 the investment firm is also obliged to immediately report to the Agency on any inability to pay debts when due. The investment firm is also obliged to notify the Agency about the measures or proposal regarding the measures taken to ensure the minimum capital required, if, due to increased capital requirements or any other reasons, the capital of the investment firm does not reach the required minimum.
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Rule 14 <i>The compliance function must:</i> <i>- regularly verify the adequacy of policies and procedures to ensure compliance with the regulations on investment services;</i> <i>- provide advisory assistance and support to the various business areas of the investment firm on problems concerning compliance with the regulations on investment services.</i>			
Country	Implementing Authority(ies)	Implementing Measure³²	Comments
AUSTRIA	FMA, AFEC AP	5.1. SCC 5.2. SCC Art. 16 para 3 ASSA	Please see rules 9 and 14. Point 5.1 of the SCC determines in detail the function and task of a compliance function and the obligation of ongoing supervision of the observance of compliance rules. This rule is fully implemented for all investment firms through the ASSA and additional regulation in the SCC.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, § 1, 7° L. 6 April 1995 Art. 62, L. 6 April 1995 Art. 20, L. 22 March 1993 CBFA circulars on the function of compliance: definition of compliance in the CBFA circulars and nrs 1, 2, 3, 6 7	Idem as St. 9
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Act on Investment Firms Section 10 and 12 describes the principle of reliable administration. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm.	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Article 3-1-3 of the RG of the CMF	The first indent has not been explicitly implemented, this results however implicitly but quite clearly from the requirement to report annually to the AMF on compliance. In addition, the banking regulation CRBF 97-02 explicitly requires (article 6) the regular verification of the adequacy of internal control policies and procedures, and this regulation applies to both credit institutions and investment firms.
GERMANY	BaFin	Section 33par. 1 WpHG	Not all details explicitly mentioned in guideline.

³² Any derogation to the application of the implementing measures should be mentioned.

		Guideline orga, Part 4.2	Limited application range (due to reference in Guideline orga. Part 4.2. to Part 3.1.)
GREECE		According to section 10.2.(c) of the Code of Conduct of Investment Services Firms. regular and frequent control of the procedures and contracts of the firms shall take place with respect to the performance of their obligations.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>GS&RR, Section 2.5</u> As at 9 above.	
ITALY	CONSOB BANK OF ITALY	Article 57, paragraph n. 3 of Consob Regulation 11522 <i>(Internal controls)</i> ○○○ Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II - Administrative and accounting procedures and internal control mechanisms 2. Internal Controls. See above standard n. 9.	
LUXEMBOURG		No specific rules for the time being. See 11.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented Uncertain: depending on outcome of deliberations with ministry of finance	
NORWAY	Parliament Kredittilsynet	STA, section 9-1 and Regulation 1997/1057 on internal controls etc.	
PORTUGAL			Not Implemented
SPAIN	CNMV	CNMV Circular 1/1998, dated June 10, About Internal Control Systems, Monitoring and Assessment of risks. Rule 4 ^a .	Circular 1/1998 does not state explicitly that the compliance function must provide advisory assistance and support. In our supervisory practice it can be demonstrated that the compliance officer provides advisory assistance and it is in the internal code of conduct of all companies. Those internal codes are supervised by the competent authority (the CNMV).
SWEDEN	Finansinspektionen	.	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	Under SYSC 3.1.2G (2), a firm should carry out a regular review of its systems and controls (including the compliance function) to enable it to comply with its obligations to maintain appropriate systems and controls.	The advisory assistance and support role is not expressly included in the description of the responsibilities of the compliance function. However, it is implicit in the general obligation to maintain the compliance function (SYSC 3.2.6R). See also comments on standard 9, above.
CYPRUS	Cyprus Securities and Exchange Commission	Chapter 3 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	

CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a (1) a) of the Securities Act; PART TWO, Sect. 4 and 5 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	Monitoring, reviewing and evaluating of the system of policies and procedures is performed by the internal auditor.
ESTONIA	The EFSA, operator of stock exchange	SMA § 83.	
HUNGARY		There are no specific provisions about compliance officers and the nature of compliance functions according to the CMA.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		The functions of a person or the department in charge of organising internal control of the Enterprise's activity shall be the following: 7.1. monitor the Enterprise's compliance with the Law on Public Trading in Securities of the Republic of Lithuania, other laws of the Republic of Lithuania, the rules, instructions, resolutions and other regulations adopted by the Securities Commission as well as with rules on organizing internal control of the Enterprise's activity adopted by the Enterprise itself; 7.6. Provide consultations to the employees on issues concerning the legal acts regulating the Enterprise's activity. 7.7. draw and submit to the chairman of the board or, where there is no board, the head of the administration conclusions on compliance of the Enterprise with the legal acts together with proposals on how to improve the situation. (Item 7.1, 7.6 and 7.7 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	
MALTA	MFSA	Vide reply to St. 9 above.	
POLAND	Council of Ministers for enacting	According to the Decree of the Council of Ministers dated April 15 th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, the tasks of the internal supervision unit shall include: 1) supervising the flow of confidential information and information constituting professional secrets, and securing access to such information; 2) taking actions preventing employees of the brokerage house from benefiting from confidential information and information constituting professional secrets; 3) supervising the observance of rules of procedure in order to prevent introduction into financial trading of property values coming from illegal or non-disclosed sources;	Polish Securities and Exchange Commission is responsible for drafting

		<p>4) examining the conformity of activity of the brokerage house and actions taken within the framework of such activity by employees of the brokerage house with the provisions of law, internal by-laws of the brokerage house, regulations of the companies operating the exchange and over-the-counter market, regulations of the National Deposit of Securities, Joint-stock Company, regulations of other clearing houses in which the brokerage house is a participant and regulations of the commercial chamber referred to in Article 51 of the Act if the brokerage house is a member of the said chamber;</p> <p>5) conducting regular controls within the scope referred to in items 1-4;</p> <p>6) examining customer complaints and motions. (Par. 10.2)</p> <p>There is also a draft of a new Polish Law on Public Trading of Securities prepared under which the above mentioned decree will be changed. The changes will concern inter alia that matter.</p>	30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	See above.
SLOVENIA		See under point 12 above.	

Standard 10			
<i>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>			
Country	Implementing Authority(ies)	Implementing Measure³³	Comments
AUSTRIA	AP AFEC/FMA	Art. 63 para 4 ABA; Art 23, 23a ASSA;	<p>Please see the report mentioned upon in point 12, where a certified public accountant has to approve the compliance with the in the ASSA laid down conduct of business rules.</p> <p>The external auditor occupies a very important supervision function of investment firms. Once a year every investment firm has to demonstrate the external auditor that it has not acted in breach of the conduct of business rules. Concerning this matter the investment firm has to transmit a report to the FMA, as laid down for credit institutions in the Austrian Banking Act and for other investment firms in the ASSA. Rule 10 does not require the demonstration of the compliance directly to the authority. In our opinion the demonstration to the external auditor and the subsequent transmission of the report to the authority is sufficient to fulfil Standard 10.</p> <p>The compliance with regulations regarding the conduct of busi-</p>

³³ Any derogation to the application of the implementing measures should be mentioned.

			ness rules is covered by provisions of the SCC and it is reviewed by the FMA in course of on-site-inspections, which safeguards compliance of the investment firms sufficiently. This standard does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 36, § 1, 7° and 62 L. 6 April 1995	New rules can be enacted on the basis of Art. 26, 17° , L. 2 August 2002. See also: Art. 146 L. 2 August 2002
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm.	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	GR of the CMF (chapter II)	CMF regulation makes compulsory for an investment services providers to have in place all procedures and means that give the capacity to comply with the regulation The AMF can sanction failure to comply with its regulations but the AMF must demonstrate this failure.
GERMANY	BaFin	Section 33par. 1 WpHG Guideline orga, Part 4	If this rule means a reversal of the burden of proof, it is not implemented.
GREECE		According to Sections 10.2.(d), 10.2. (e), 10.2.(f) and 10,2, (k) of the Code of Conduct of Investment Services Firms, investment services firms should be able to demonstrate that they have not acted in breach of the conduct of business rules.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>GS&RR, Section 2.3</u> As at 2 above. <u>COC, Section 1.7</u> A firm shall ensure ... that it complies with the letter and spirit of all regulatory requirements applicable to the conduct of its business activities	
ITALY	CONSOB BANK OF ITALY	Article 23, paragraph n. 6, of Legislative decree n. 58/1998 <i>(Contracts)</i> ○○○ Article 56, paragraph n. 2, of Consob Regulation 11522 <i>(Internal procedures)</i> ○○○ Article 58, paragraph n. 1, of Consob Regulation 11522 <i>(Internal code of conduct)</i> Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II - Administrative and accounting	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.

		<p>procedures and internal control mechanisms</p> <p>2. Internal Controls. See above standard n. 9.</p>	
LUXEMBOURG	CSSF	The management shall ensure that all members of staff concerned are informed of these procedures together with any subsequent changes thereto.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented uncertain: depending on outcome of deliberations with ministry of finance	
NORWAY	Parliament Kredittilsynet	STA , section 9-1(1) nr. 2 and 5 and Regulation 1997/1057, section 3-1	
PORTUGAL		SC Art 304, 305 and 314/2	Implemented through article 305 of the SC. On issues of civil accountability, article 314/2 of the SC establishes an inversion of the burden of proof whenever damages are caused to clients. Hence, further to the duty of appreciation of the conduct of the financial intermediary in pursuance of high standards of increasing demand (article 305/1 of the SC), for accountability purposes, it is incumbent on the intermediary to demonstrate that it acted without guilt, and not on the client, as required in general terms. Within the scope of supervisory actions, the intermediary must demonstrate that it is acting in accordance with the applicable rules of conduct (e.g. that it delivered to its client a document on general investment risks or that a price list was made available prior to the provision of the service).
SPAIN	Government/Ministry of Economy / CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Article 6 “Record of Transactions”. Ministerial Order 25 October 1995	
SWEDEN	Finansinspektionen	General guidelines on management and internal control (1999:12) The guidelines explicitly require investment firms to establish policies and procedures to ensure that the business is carried on in accordance with law and regulations	
UNITED KINGDOM	FSA	SYSC 3.2.20R (Records) requires a firm to take reasonable care to make and retain adequate records of matters and dealings (including accounting records) which are the subject of requirements and standards under the regulatory system, which is broadly defined to include the conduct of business rules).	There is no requirement to be able to demonstrate compliance with the firm’s internal code of conduct, because there is no requirement to maintain such a code. This general record keeping requirement is supplemented by numerous specific record-keeping requirements, which are listed in COB Schedule 1.
		SYSC 3.2.6R (Compliance) requires a firm to take reasonable care to establish and maintain effective systems and controls for compliance with applicable regulatory requirements and standards.	There is no reversal of the burden of proof.
CYPRUS	Cyprus Securities and Exchange Commission	Paragraphs 2.2, 2.3 and 3.6 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47c (2) of the Securities Act	There is an investigative principle in this sector which means that

			the burden of proof lies on the Czech Securities Commission.
ESTONIA	The EFSA, operator of stock exchange	SMA § 58; § 85.	
HUNGARY	Parliament	Subsection (1)-(3) of Section 110 of CMA	Investment service providers and commodities brokers shall adopt an internal control regime or create an internal control department so as to a) enforce the relevant legal provisions, exchange and clearing house regulations, the HFSA's resolutions and regulations, and to improve efficiency in the licensed operations and to provide an adequate flow of information for management, b) control compliance with the relevant legal provisions, exchange and clearing house regulations, the HFSA's resolutions and regulations, and to reveal any departures from regulations and any discrepancies, c) permit the prevention of any unlawful or negligent conduct and to correct discrepancies. The internal control regime of an investment enterprise and commodities broker shall be developed to accommodate the nature of the services they provide, the degree of scope and complexity of such services and the risks inherent in them. Investment firms and commodities brokers shall have at least one internal controller engaged in employment
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		In observance of prudential requirements intermediaries must: have reliable administrative procedures and accounting records systems, control and safeguard arrangements for electronic data processing; retain documents of executed transactions for periods not shorter than 10 years since the day of the transactions' execution, where other laws do not provide for longer periods; (Art. 24.1.1 and 24.1.5 of the LSM)	
MALTA	MFSA	Vide reply to R. 12 above. Additionally, at least on an annual basis, the MFSA conducts compliance visits at the offices of Investment Firms with purpose of verifying compliance with the various applicable rules and requirements. In this regard SLC 1.10 of Part CI of the ISG requires an Investment Firm to co-operate fully with any inspection or other enquiry, or compliance testing carried out by the MFSA, or any inspector acting on its behalf.	
POLAND	Parliament for enacting	There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning conduct of business rules. The decree will provide inter alia that a brokerage house is obliged to establish internal code of conduct and make some other arrangements facilitating compliance with these rules. There are no drafts of this decree yet. There is also an obligation of providing the PSEC with all the internal procedures and regulations of the brokerage house as well as	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.

		with all their changes. (Art.40.2, Art. 48 of the Law on Public Trading of Securities).	
SLOVAKIA	MF FMA		
SLOVENIA	Parliament Securities Market Agency	A: 187 A:191 and 192 The Decision on the Minimum Scope and the Content of an Audit Inspection and of an Auditor's Report on an Investment Firm A:15 A:16 A:22	

Rule 15			
<i>An investment firm must keep records relevant for the purpose of demonstrating compliance with the conduct of business rules, for a period of five years in order to enable the competent authority to verify compliance with these rules. Tape recording of orders must be kept for a period of one year.</i>			
Country	Implementing Authority(ies)	Implementing Measure³⁴	Comments
AUSTRIA	AP	Art 17 ASSA	Art 17 ASSA regulates records and archiving requirements. These records must be kept at least six years, which is even stronger than rule 15. Rule 15 is for this reason fully implemented.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 28-29 Royal Decree of 31 March 2003 on the reporting of transactions in financial instruments and on the keeping of relevant data. Art. 7 Law of 11 January 1993 on the prevention of money laundering Circular to the financial institutions of the CBFA on the prevention of money laundering (3 May 1999) Euronext Rule Book (rule B9203 on voice recording) j° Art. 36, § 1, 3°, L. 6 April 1995	Additional rules may be adopted by Royal Decree on the basis of Art. 26, 17° and 146 L. 2 August 2002 See also: Art. 26, 10°, L. 2 August 2002 (to come into effect later)
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	No explicit requirements for tape recording. In practise all the investment firms keep a record of telephone orders on a magnetic tape or on an equivalent medium. In Finland approximately 70 % of orders made by non-professional investors are given through the internet service of investment firms. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Article 7-1-7 of the RG of the CMF and implementing Decisions	These Decisions provide for keeping of records for either five years

³⁴ Any derogation to the application of the implementing measures should be mentioned.

		99-05 and 99-06	(trades) or six months (orders, and specific type of telephone conversations).
GERMANY	Legislator /BaFin	Not implemented	No legal basis for recording requirements Proposal for amendment of law will be presented to the ministry of finance.
GREECE		Record-keeping obligations are imposed to investment services firms. More specifically article 8 of Law 2396/96 imposes an obligation of record keeping to investment services firms for a period of five years. □he obligation of tape recording of orders for one year period is not provided into the Hellenic Legislation. However, in practice most of the investment services firms are recording their transactions.	
ICELAND	Parliament / FME		The ministry of commerce is responsible for preparing bills of law proposing changes to securities regulation. In mid year 2004 the FME will present to the ministry of commerce a list of recommended changes to law it considers necessary to implement the CCSR standards on investor protection. The implementation process will after that not be in the hands of the FME and therefore no estimated time of implementation can be given.
IRELAND	IFSRA	<u>Books & Records Requirements (“B&RR”)</u> , Section 1.1 A firm shall retain, in a readily accessible form, for a period of at least six years, a full record of each transaction entered into by it (whether on its own behalf or on behalf of clients), of all investment advice given to clients and all records required to demonstrate compliance with the provisions of this Handbook. <u>B&RR Section 5.3</u> In any case where a firm records a telephone conversation it shall maintain such tape recording for a period of at least six months	See HISF, B&RR, page 2 The next revision of the Handbook’s B&RR will extend the period to 1 year.
ITALY	CONSOB	Article 56, paragraph n. 2, of Consob Regulation 11522 <i>(Internal procedures)</i> Article 69, paragraph n. 2, of Consob Regulation 11522 <i>(Conservation of records and documents)</i>	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field in order to: clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG	CSSF	According to the general principle laid down in article 11 of the commercial code, the documents and must be kept for 10 years. Furthermore, according to the circular CSSF 99/7 on reporting requirements, the investment firms shall keep for 5 years any documents relating to transactions. Whith regard to tape recording of orders, there are no specific rules.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A securities firm must keep all information relating to its activities for at least 5 years (art. 30 Bte)	The rules do not refer to tape recordings.
NORWAY	Parliament Kredittilsynet	STA, section 9-7 Regulation 1996/948 and 1996/950 and 1997/1057 which all lay down reporting and recordkeeping obligations.	
PORTUGAL		SC art. 307 and 308	The tape recording of orders is considered as a register related

			with the securities operations and therefore must be kept for at least five years, according to art. 308/1 of the SC.
SPAIN	Ministry of Economy / CNMV	Ministerial Order 25 October 1995 Article 11 th CNMV Circular 3/1993, Dated 29 December, Regarding the Record of Transactions and Order Support Archive. Rule 2.5 “Order Support Archive” and Rule 4 ^a “Keeping the record of transactions and generating computer files”.	An investment firm must keep tape recordings for a period of three months. Only in case of a customer claim, the tapes have to be kept as long as the process continues.
SWEDEN	Finansinspektionen	Regulation on Conduct of Business rules (2002:7), Chap 6, Section 10. The first sentence is not totally implemented. There is an explicit obligation to keep records of business engagements (no time-limit) Regulation on Conduct of Business rules (2002:7), Chap 6, Section 10 Chap 6 Section 10 explicitly requires tape recording of orders to be kept for a period of one year.	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	SYSC 3.2.20R (Records) requires a firm to take reasonable care to make and retain adequate records of matters and dealings (including accounting records) which are the subject of requirements and standards under the regulatory system, which is broadly defined to include the conduct of business rules).	This general principle in SYSC 3.2.21G is supplemented by specific provisions on the retention of records in relation to the individual record keeping requirements referred to above. The FSA's approach is therefore targeted. The length of the document retention requirements and the date from which the retention requirement is calculated varies depending on the nature of the records in question. There are, for example, a number of requirements that are for 3 years, although some of these only start to run from the end of the relationship.
		SYSC 3.2.21G states that the general principle that records should be retained for a s long as is relevant for the purposes for which they are made.	
		SYSC Schedule 1 states that records should be retained for an adequate period of time.	
		SYSC 3.1.1 & 3.1.2 (Systems and controls) SYSC 3.1.1R requires a firm to take reasonable care to establish and maintain such systems and controls as are appropriate to its business. SYSC 3.1.2 G indicates that one of the factors to be taken into account in determining the nature and extent of the systems and controls a firm will need to maintain under the above rule is the volume and size of its transactions.	
		COB 7.12 (Customer order and execution records) requires a firm to ensure by the maintenance of appropriate procedures that it promptly records adequate information in relation to the receipt and execution of client orders and the execution of own account orders. COB 7.12.11R provides that these records should be retained for at least 3 years.	
CYPRUS	House of Representatives Cyprus Securities and Ex-	Section 36 of the Investment Firms Laws of 2002 – 2003 Part IV of Annex 8 of the Code of Business Conduct for Investment	

	change Commission and the Central Bank of Cyprus Cyprus Securities and Exchange Commission	Firms and the Natural Persons employed by them, Directive 1/2003 Sections 4(1), 6(1) and 13 of the Directive on Books and Records to be kept by the Cyprus Investment Firms	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47c (2) of the Securities Act; PART ONE, Sect. 2 (2) d) h) of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	The time period is different: 10 years.
ESTONIA	The EFSA, operator of stock exchange	SMA § 90. Guideline. Rules and Regulations “Membership Rules” p 7.8.1: A member of the exchange shall retain the documents that were the basis for providing investment services and making securities transactions for a period of ten years after the provision of the service or performance of the transaction. The exchange also recommends that its members keep, during the same period, recordings of telephone conversations that served as the basis for investment services and securities transactions.	Registered information shall be preserved for at least seven years.
HUNGARY	Parliament	Section 120 of CMA	Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system. Investment service providers and commodities brokers shall keep separate records of transactions performed on their own account from those performed on behalf of clients. Unless otherwise prescribed by law, investment service providers and commodities brokers shall retain all of the records on their activities performed under CMA on file for <u>eight years</u> from the date of settlement or termination of the contract to which they pertain, whereas the tape recording of orders must be kept for a <u>period of six years</u> . The cited Hungarian provisions are more severe with respect to keeping records.
LATVIA	Parliament	Article 124 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.	
LITHUANIA		In observance of prudential requirements intermediaries must retain documents of executed transactions for periods not shorter than 10 years since the day of the transactions’ execution, where other laws do not provide for longer periods; (Art. 24.1.5 of the LSM). The financial brokerage firm shall keep evidence related to the documents furnished in a non-written form registered following the procedure provided for in these Rules for a term no shorter than 10 years from the receipt date (Item 35 of Rules on placement	

		and execution of clients' orders)	
MALTA	MFSA	SLC 3.06 (h) of Part CI of the ISG	
POLAND	Council of Ministers for enacting	According to Par. 59 of the Decree of the Council of Ministers dated September the 3 rd , 2002, in the matter of the procedures and the conditions to conduct operations for brokerage houses, banks conducting brokerage activities and banks keeping securities accounts, there is an obligations of keeping all the data related to services provided to clients for a period of five years (including tape recording of orders).	Polish Securities and Exchange Commission is responsible for drafting
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services The requirement is stipulated in the article 73 paragraph 12 of the Act 566/2001 and Article 6 paragraph. 1 letter b) of the Act No. 367/2000 on Protection of Legalisation of Incomes from Criminal Activities.	The actual time period for record-keeping is 10 years. Act No 483/2001 on banks in article 42 states a different time period, of 5 years for banks to keep records, but in case of records related to banks' operations on capital markets Act No 566/2001 on Securities and Investment Services is applied.
SLOVENIA	Parliament Securities Market Agency	SMA – 1: A: 171 Decision on the Provision of Services with regard to Securities A: 14	

Rule 16	<i>An investment firm must keep a register of customer complaints related to the provision of the investment services and the measures taken for their resolution and must regularly verify whether complaints are adequately processed.</i>		
Country	Implementing Authority(ies)	Implementing Measure³⁵	Comments
AUSTRIA	AP FMA/AFEC	Art. 16 ASSA 5.2. SCC	Art. 16 ASSA lays down that an investment firm has to have in place and effectively use adequate means and procedures for the proper performance which contains the obligation to have a register of customer complaints. Above that, the requirement of having a complaint management is also content of the SCC. It is one of the tasks of the compliance officer that the investment firm implements a complaint management and that customer complaints will be solved in the best interest of the customer. The complaint management contains, that the compliance officer has to organize measures for the resolution of a customer complaint and has to care that the complaint is adequately processed. Furthermore the complaint management is part of the on site inspections and the licensing procedure by the FMA for all investment firms.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See R. 14	Obligation on complaints register is contained in Art. 27, § 2, 4° L. 2 August 2002 (to come into force later)

³⁵ Any derogation to the application of the implementing measures should be mentioned.

DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm.	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF		This is not an explicit requirement.
GERMANY	BaFin	Guideline orga, Part 2.2	Not all details explicitly mentioned in guideline, but are practice of supervision
GREECE		According to 7.2 (e) of the Code of Conduct of Investment Services Firms, there is an obligation imposed to investment services firms to ensure the existence of procedures and relevant departments within the firm for the reception of investor complaints. From this provision the obligation to firms to keep a register of investors' complaints is imposed.	
ICELAND	FME	Art. 6.2. paragraph 46 of Directive Request nr. 1/2001 published by the FME: The compliance officer must keep a register of customer complaints.	
IRELAND	IFSRA	<u>COC, Section 19.1</u> A firm shall be required to maintain a file of all written complaints received against it, including a record of their response and the action, if any, taken as a result of the complaint.	
ITALY	CONSOB	Article 59 of Consob Regulation 11522 <i>(Complaints)</i>	
LUXEMBOURG	CSSF	The circular LMI 95/118 on customer complaints requires that the credit institutions and the other professionals of the financial sector shall dispose of precise internal structures and instructions for the receipt and treatment of customer complaints. There is however no specific legal requirement that an investment firm must keep a register of customer complaints.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Investment firms must keep a systematic and orderly complaints administration (annex 4, 4.14 NR 2002)	Rules do not explicitly impose regular verification of the processing of complaints. However, in practice it is enforced that firms must ensure that complaints are handled satisfactorily.
NORWAY	Parliament	No such obligation	
PORTUGAL		CMVM Regulation 12/2000 – art. 35	No specific rule applies to the monitoring of compliance of these duties of financial intermediaries. There are proceedings of general control for all the duties of financial intermediaries. Issues on investors' complaints are fully provided for in article 35 of CMVM Regulation 12/2000. Within the scope of supervisory actions carried out to financial intermediaries it is evaluated whether the intermediary rules and internal proceedings are indeed complied with or not.

SPAIN	Parliament/	Law 44/2002, of 22 November, Implementing Measures that Reform the Financial System. Article 29 “Department of Customer Service and Client Ombudsman “	
SWEDEN	Finansinspektionen	General guidelines on customer’s complaints (2002:23). Section 9 explicitly requires investment firms to register customer complaints and to assess and verify that complaints are adequately handled	
UNITED KINGDOM	FSA	DISP 1.5.1R & 1.5.2G (Making and retaining records of complaints) DISP 1.5.1R requires firms to make and retain records of complaints. DISP 1.5.2G: such records should include any correspondence between the firm and the complainant, including details of any redress offered by the firm.	
		DISP 1.2.1 requires a firm to have in place and operate appropriate and effective internal complaint handling procedures for handling any expression of dissatisfaction received from or on behalf of complainants.	
		SYSC 3.1.1R and 3.1.2(2)G (Systems and Controls) SYSC 3.1.1R requires a firm to take reasonable care to establish and maintain such systems and controls as are appropriate to its business. SYSC 3.1.2(2)G provides that a firm should carry out a regular review of its systems and controls to enable it to comply with its obligation to maintain appropriate systems and controls.	
		DISP 1.5.4R (Reporting complaints to the FSA) Firms are required to provide a standard form report to FSA on complaints and complaints-handling twice per year. This report includes details of the time taken to close complaints.	
CYPRUS	Cyprus Securities and Exchange Commission	Paragraph 5.2.6 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47b (1) a) of the Securities Act; PART TWO, Sect. 12 (1) c) and (4) of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	Verification is made by the compliance and also by the internal auditor according to: PART TWO, Sect. 4 and 5 of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		There are no particular provisions under the CMA about handling customer complaints.	Nevertheless, investment service providers must regulate this issue in their general rules and conduct of business rules. Respectively the HFSA shall forward the written notices it receives as pertaining to some entity engaged in activities governed by CMA to the entity involved for further processing. This entity shall take proper action to investigate the written report received via the HFSA within thirty days, and it shall inform the client and the HFSA about the findings of its investigation.

			The HFSA may request submission of the documents pertaining to the case for the purpose of inspection. (Section 390/A of CMA).
LATVIA	Parliament	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.	
LITHUANIA		The functions of a person or the department in charge of organizing internal control of the Enterprise's activity shall be the following: analyse complaints of the Enterprise's clients about the Enterprise's activity; Reports on inspections carried out and faults, mistakes and violations detected during these inspections must, on a regular basis (at least once in a quarter) or immediately, where the necessity arises, be submitted together with conclusions and proposals to the chairman of the Enterprise's board or, where there is no board, the head of the administration. (Item 7.5 and 10 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	The corresponding standard has been envisaged in the draft rules on organising internal control.
MALTA	MFSA	SLC 3.07(I) requires an Investment Firm to set up a 'Complaints Register' within which the Investment Firm is to record every complaint and the action taken in its regard. Moreover in terms of section (4) of Part C I of the Investment Services Guidelines of the ISG, an Investment Firm is required to process complaints.	Although there is no specific requirement stipulating that a firm must regularly verify whether complaints are adequately processed, the procedure stipulated by our guidelines regarding the processing of complaints obliges a firm to deal with complaints within specified time-frames. Furthermore, in practice, during regular compliance visits effected at our Licence Holders, checks are made as to whether that Licence Holder is regularly verifying whether complaints are adequately processed. If it is found that this is not the case, the firm is required to process complaints adequately.
POLAND	Council of Ministers for enacting	According to the Decree of the Council of Ministers dated April 15 th 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, the brokerage house shall keep a complaints register containing information about all complaints concerning the activity of the brokerage house filed during a given calendar year. The data shall be entered in the complaints register immediately after the complaint is filed. (Par. 12)	Polish Securities and Exchange Commission is responsible for drafting
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services	
SLOVENIA		Not implemented.	It is not formally defined by the law or by-laws. Investment firms' clients regularly report their complaints to the Agency and on the

			basis of complaints the Agency in some cases initiates inspection of investment firms' operations.
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Rule 17	<i>An investment firm must establish a code of conduct for members of the board, directors, partners, employees and tied-agents. The code of conduct must contain:</i> a) <i>the rules and procedure to meet the obligation to protect data of a confidential nature;</i> b) <i>the rules and procedures for carrying out personal transactions involving financial instruments;</i> c) <i>the rules and procedures governing the business relationship with customers in order to ensure that the persons referred to above, in particular where a conflict of interest may arise, always act in the best interests of customers, and that such persons do not take advantage of any confidential information;</i> d) <i>the investment firm's policy on conflicts of interest and inducements.</i>		
Country	Implementing Authority(ies)	Implementing Measure ³⁶	Comments
AUSTRIA	AP AFEC AFEC	Art 16 and 18 ASSA, SCC and the Directive for Personal Transactions of Bank Employees.	The content of this standard is implemented as market standard.
BELGIUM	Idem	Art. 36, § 1, 7° L. 6 April 1995 Art. 62 L. 2 August 2002	To come into effect later: Art. 27, § 1 L 2 August 2002 Further implementing measures can be taken on the basis of Art. 28, § 1, 5°, L. 2 August 2002
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Ministry of Finance Rahoitustarkastus	Section 10 and 12 of the Act on Investment Firms. Section 10 of the Decree of the Ministry of Finance on the Contents of the Application for Authorisation of an Investment Firm. Rahoitustarkastus Guideline on Segregation of Securities Business Functions (201.12) Rahoitustarkastus Standard on Risk Management and Other Aspects of Internal Control in Investment Firms (4.1).	
FRANCE	AMF	Articles 533-4 and 533-6 of the MFC, Articles 3-1-1, 3-1-3, 3-1-6, 3-1-7, 3-2-2 and following of the GR of the CMF	The items listed are provided for mainly in the GR of the CMF. In addition similar rules for certain items can also be found in the banking regulations
GERMANY	BaFin	Section 33par. 1 WpHG Guideline orga, Part 2.2 Amendment of guideline needed	
GREECE		Section 5.3 of the Code of Conduct of Investment Services Firms, requires that Investment Services Firms shall issue clear written guidelines and procedures regarding the provision of investment services and ensure compliance with them by associated persons. The Code of Conduct of Investment Services Firms (sections 4.2. (d), 7.2. (d), 8.1. (a), 8.3. (b) (c), 8.4., and 9.2. of the Code of Conduct of Investment Services Firms) provides about these individual obligations that are imposed to members of the firms.	

³⁶ Any derogation to the application of the implementing measures should be mentioned.

ICELAND	FME	<p>a) According to art. 58 of the Act on Financial Undertakings no. 161/2002, the board of directors of a financial undertaking, managing directors, auditors, personnel and any persons undertaking tasks on behalf of the undertaking shall be bound by an obligation of confidentiality concerning any information of which they may become aware in the course of their duties concerning business dealings or private concerns of its customers, unless obliged by law to provide information. There is however no duty to establish a code of conduct except regarding information that could have impact on the price of securities issued by the financial undertaking (art. 51 of the Securities Act) and as regards the board, see art. 54, paragraph 2 of the Act on Financial Undertakings. There it is stipulated that the board of directors of a Financial undertaking must establish a code of conduct on among other things the obligation to protect information regarding individual clients. The content of these rules is further described in Directive Request no. 1/2003 issued by the FME in July 2003.</p> <p>b) Art. 15 of the Securities act stipulates that a financial undertaking must adopt rules concerning the securities transactions of management (including board of directors), personnel, owners of qualifying holdings and persons with financial links to these same parties. The content of these rules is further specified in Directive Request no. 1/2001 issued by the FME.</p> <p>c. Art. 54, paragraph 2 stipulates that the board of directors of a financial undertaking must establish a code of conduct on among other things the handling of information on individual customers by the board, and the implementation of rules on handling business dealings with board members. This is further expanded by the Directive Request no. 1/2003 issued by the FME.</p> <p>Art. 6 of the Securities act stipulates that financial undertakings shall maintain absolute impartiality towards their customers and should always conduct their work in such manner that customers receive equal treatment with regard to information, prices and other terms of business. Art. 15 of the Securities act calls for rules of the financial undertaking that expand on this. The Directive Request no. 1/2001 further states that the personal transactions of employees shall in no way be contrary to the interests of the customer. The rules of the directive request concerning the personal transactions of employees should be interpreted with this main goal in mind.</p> <p>d) Art. 15. of the Securities Act establishes the duty of the financial undertaking to issue rules concerning among other things the impartiality and equal treatment of customers and the separation of various areas of operation. The Directive Request no. 1/2001 further expands on this duty.</p>	<p>d) As concerns the investment firms policy on inducements: The FME plans to make changes to Directive Request no. 1/2001 to fulfill its obligations to implement the CESR standards on investor protection, where this is within its authority and where this falls within the scope of the D.R. 1/2001. A consultation paper with the proposed changes will be published in January 2004. Finalised changes should have taken effect in April 2004.</p>
IRELAND	IFSRA	<p><u>B&RR Section 1.3</u> A firm must have adequate procedures for the maintenance, security, privacy and preservations of records, working papers and</p>	<p>See HISF, B&RR, page 2 See HISF, COC, page 23</p>

		<p>other documents of title belonging to the firm or its clients so that they are reasonably safeguarded against loss, unauthorised access, alteration or destruction.</p> <p><u>COC, Section 1.7</u> As at 10 above.</p> <p><u>COC, Section 20.1&20.2</u> <u>COC, Section 14.1, 14.2, 14.3, 14.4, 14.5</u> <u>COC, Section 1.6</u> As at 8 above.</p>	And COC Section 14, page 16
ITALY	CONSOB	Article 58, paragraph n. 1, of Consob Regulation 11522 (<i>Internal code of conduct</i>)	<p>Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field in order:</p> <ul style="list-style-type: none"> • to clarify the specific obligations arising from the general principles laid down in the provisions at present in force and • require that the internal code of conduct contains explicit reference to the firm's policy on conflict of interests and inducements.
LUXEMBOURG	CSSF	<p>Principle 1 and 2 of the circular CSSF 2000/15</p> <p>Principle 1: duty to act honestly and fairly in conducting his business activities in the best interests of his clients and the integrity of the market</p> <p>Principle 2: duty to act with due skill, care and diligence</p>	Investment firms are under the obligation of confidentiality by the general principles of professional secrecy and protection of personal data of clients. The requirements of honesty, fairness, due skill and diligence imply that the members of the board, directors, partners, employees, and tied agents of investment firms shall comply with the rules laid down in principle 17
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	<p>Not implemented.</p> <p>Regulations impose codes for dealing with price-sensitive information or other confidential market information and private investment transactions. (art 22, 23 NR 2002). Also rules regarding the handling of client information</p> <p>uncertain: depending on outcome of deliberations with ministry of finance</p>	<p>Standard can be considered as not implemented, as, although there are rules concerning this subject, these appear not to have a legal base in legislation. Negotiations with the ministry of Finance are under way.</p> <p>Although there are rules with regard to CESR standard 17, a code of conduct is not in all instances imposed:</p> <p>Dutch rules lack the obligation for a code of conduct with regard to the handling of confidential information</p>
NORWAY	Parliament	STA , section 9-1 and 9-2	
PORTUGAL		CMVM Regulation n° 12/2000 – art 37 SC art 316	This Rule is set forth in article 316 of the SC, which states that financial intermediaries are required to put in place internal rules that provide for the codes of conduct to be complied with, within the course of their activity. Article 37 of CMVM Regulation 12/2000 defines the minimum content of the said rules.
SPAIN	Government/ Ministry of Economy / CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Article 3 « Internal Rules of Conduct” CNMV Circular 1/1998, dated June 10, About Internal Control Systems, Monitoring and Assessment of risks	
SWEDEN	Finansinspektionen	<p>General guideline on ethical rules (1998:22).</p> <p>The requirement for a code of conduct only includes employees.</p> <p>Section 3 requires the code of conduct to contain</p> <p>a) not implemented</p>	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start

		<p>b) explicitly implemented c) not implemented d) explicitly implemented (excluding inducements).</p>	during 2004.
UNITED KINGDOM	FSA	Please see comments in standards 9 & 10.	There is no express equivalent to this requirement. The FSA sets a requirement for a compliance manual in a firm's application for Part IV permission but the requirement is not absolute. The FSA may decide whether or not to make this requirement from case-to-case.
		<p>Principle 1 (Integrity) Principle 2 (Skill, care and due diligence) Obligations of confidentiality are generally imposed on investment firms under the general legal principles relating to the protection of confidential information. These requirements are reflected in Principle 1, which requires a firm to conduct its business with integrity and Principle 2, which requires a firm to conduct its business with due skill, care and diligence.</p>	
		SYSC 3.2.6R (Compliance) requires a firm to take reasonable care to establish and maintain effective systems and controls for compliance with applicable regulatory requirements and standards.	
		<p>APER 2.1.2 (Statements of Principle) Individuals who are subject to the FSA's approved persons regime are subject to a requirement in APER 2.1.2 to act with integrity and due skill, care and diligence in carrying out their "controlled functions". Principle 1 and Principle 2 APER 4.1.10E (Statement of principle 1) indicates that deliberately misusing the confidential information will be a breach of this requirement.</p>	APER does not apply to all employees and is a code imposed by the FSA.
		<p>COB 7.13.4R (Restrictions on personal account dealing) and 7.13.7E (Reasonable steps) Firms should ensure that restrictions on personal account dealing are included in a notice that forms part of the contract of employment or contract for services of all person acting as employees or whose services are placed at the disposal of the firm.</p>	
		SYSC 3.2.6R (Compliance) requires a firm to take reasonable care to establish and maintain effective systems and controls for compliance with applicable regulatory requirements and standards.	See the comments on CESR Standard 5 and Rule 7 in relation to the FSA requirements concerning conflicts of interest and the comments on CESR Standard 6 and Rule 8 in relation to the FSA requirements concerning inducements. There are no express equivalents to these requirements.
CYPRUS	Cyprus Securities and Exchange Commission	Paragraphs 5.2.1, 5.2.3, 5.2.4 and 5.2.5 of Annex 1 of the Conditions for Granting an Authorisation to Cypriot Investment Firms, Directive 1/2002	The Directive does not cover the policy on inducements (item d). This matter will be comprehensively covered in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.

CZECH REPUBLIC	Securities Commission	PART THREE, CHAPTER I, Section 47a and 47b of the Securities Act	No specific rule that the code of conduct must contain the rules and procedure to meet the obligation to protect data of confidential nature.
ESTONIA	The EFSA, operator of stock exchange	SMA § 82. Rules and Regulations “Membership Rules” p 7.2 provides for the investment firm’s obligation to establish internal procedure rules regulating the activities of its executives and employees, which correspond to the specific nature of its business operations and organisational structure and regulate the exchange of information pertaining to securities and securities transactions between its employees and structural units.	The Minister of Finance may specify the requirements for the preparation of policies and procedures and for the contents thereof by a regulation.
HUNGARY	Parliament	Section 114 of CMA point d) of Section 108 of CMA	Investment firms are required to accomplish such an internal code of conduct, which is governing and applicable for personal transactions of the executive officers and employees of an investment enterprise. This internal code of conduct regulates those personal transactions of the individuals being related or similar to the profile of the investment enterprise, and lay down the terms and conditions and system of record-keeping of such personal transactions. The regulations shall be submitted to the HFSA. Investment service providers and commodities brokers shall develop and operate an organization, and shall adopt operating, procedural and recording systems, featuring a construction consistent with the nature of the activities and having sufficient facilities, ... to prevent the investment service provider or the commodities broker ... to use any confidential information pertaining to securities without proper authorization or for reasons other than they were intended. These provisions do not cover officers of credit institutions, which provide investment services.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Current and previous managers and employees of the intermediary must keep information, which they have received in the course of their duties confidential and may not use it for personal benefit or for the benefit of others (Art. 24.5 of the LSM). In observance of prudential requirements intermediaries must be structured in such a way as to avoid conflicts of interests between the firm and its clients or between one of its clients and another (Art. 24.1.6 of the LSM). The functions of a person or the department in charge of organizing internal control of the Enterprise's activity shall be the following: 7.3. develop a plan of inspections of the Enterprise's activity and securities transactions of the Enterprise's managers and employees; 7.4. carry out inspections of the Enterprise's activity and securities transactions of the Enterprise's managers and employees on a regular basis; (Item 7.3 and 7.4 of Rules on organising internal control of the activity of intermediaries of public trading in securities).	The LSM lays down the general obligation regarding the conflict management; the duty to establish internal procedures concerning this obligation is not elaborated.

MALTA	MFSA	SLC 3.07 of Part C I of the ISG Moreover, Section 9 of Part C I of the ISG prescribes rules relative to 'Staff Dealing'. In general an Investment Firm is responsible to ensure that staff dealing does not lead to abuse. The detailed staff dealing procedures prescribed by this section of the ISG have been attached as Appendix 2 to this document for ease of reference.	17(a) is not specifically provided for in the Investment Firm's regulatory requirements although Investment Firms are required to respect the confidentiality provisions laid out on Section 26 of the ISA, as well as the applicable requirements of the Data Protection Act.
POLAND	Parliament for the law Council of Ministers for the decree	According to Art. 40.2 of The Law on Public Trading of Securities the entity applying for the permit for conducting brokerage activities must provide PSEC with organisational procedure, internal control procedure, protecting of confidential information procedure. Every change of those procedures must be notified to PSEC. There is a draft of a new Polish Law on Public Trading of Securities prepared which introduces an obligation for a brokerage house to establish rules and procedures for carrying out personal transactions involving financial instruments by all the employees (including members of the board and the directors). There is also a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia conflicts of interests. The decree will specifically regulate all the issues related to that matter by providing inter alia an obligation of establishing appropriate procedures.	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 71	Article 71 of Securities Act says: Investment firm is obliged to formulate and follow a set of operating rules covering execution in investment instruments by members of the board of directors, the supervisory board, officers of investment firm, and employees of investment firm, in particular in order to avoid conflict with the interest of clients. The organisation structure and system of management of investment firm and must ensure proper and safe performance of investment services specified in its license to provide investment services.
SLOVENIA	Parliament Securities Market Agency	SMA-1 A: 87 A: 147, P: 4 A: 148, P: 2; A: 149: P:2 A: 177 A: 178 Decision on Personnel, Technical, Organizational Conditions for Operations with Clients and with the Assets of Clients of Investment Firm A: 8, P:2 A: 9	As concerns general conditions of operation each investment firm is obliged to stipulate general conditions of the provision of services with regard to securities (general conditions of operation) according to A: 137 and A: 138 of the SMA-1 They must, for each of the services with regard to securities provided by the investment firm, involve the following: <ol style="list-style-type: none">1. provisions regulating the mutual rights and obligations of investment firms and their clients;2. a description of the risks pertaining to investments in securities. An investment firm is obliged, at each premises where its clients are serviced, to enable easy access to the general conditions of operation and price list. Prior to accepting the first client's order to buy or sell securities

			<p>and/or an order to transfer dematerialised securities between clients' accounts and/or prior to entering into another agreement on services investment firm is obliged to deliver to the client a copy of the general conditions of operation.</p> <p>Some rules mentioned in the standard are determined by the law (SMA-1) and are not subject of internal code of conduct of investment firm. Internal code of conduct must be compiled in accordance with the A:9 of the Decision on Personnel, Technical,...</p>
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1.4. COLD CALLING ³⁷

Standard 18			
<i>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>			
Country	Implementing Authority(ies)	Implementing Measure ³⁸	Comments
AUSTRIA	AP	Art. 12 par. 3 ASSA Art. 107 Telecommunication law (hereinafter TCL)	Cold calling activities are prohibited in Art. 12 par. 3 ASSA. Therefore, the implementation of Standard/Rules 18. – 24. can not be accomplished. Art. 107 TCL adopted in August 2003 lays down nearly the same regulation as Art. 12 par. 3 ASSA and foresees a much higher penalty for cold calling.
BELGIUM	Parliament	The RD n° 71 of 30 November 1939 and the MD of 15 April 1953 forbid door-to-door selling of financial instruments and UCITS (art. 22, §2, RD 4 March 1991). Prudential policy recommends intermediaries also to abstain from other cold calling techniques (e.g. CBFA Circular 1/93 regarding the promotion of UCITS).	The transposition of the Distance Marketing Directive into Belgian law will offer an opportunity to update (door-to-door selling) or complete (other types of cold calling) the Belgian regulation in this respect. Planned implementation of the Distance Marketing Directive: October 2004
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Derogation The rule mentioned contains a prohibition on cold calling in general. Only exception is when the approach is concerning the sale of books, papers, insurances, and rescuing services. (Consumer contracts act section 2 par. 2 (1-5) The Minister of Justice has appointed a working party that has to draft a proposal which will implement the Directive 2002/65/ EC into Danish law. The draft is expected to be presented to Parliament March 2004.
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	General rule, no precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Di-

³⁷ 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.

³⁸ Any derogation to the application of the implementing measures should be mentioned.

			<p>rective 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation.</p> <p>Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Ra-hoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.</p>
FRANCE			
GERMANY	Legislator / BaFin	<p>Cold Calling is prohibited competition law General order pursuant to Section 36 b (1) and (2) of the WpHG concerning advertising by means of cold calling</p>	
GREECE		<p>According to section 4.5 of the Code of Conduct of Investment Services Firms, "The direct advertisement (eg. personal visit, telephone communication) of services of the firm to the client is prohibited in case the client has stated his objection to it".</p>	
ICELAND	FME		<p>General clause regarding FME's Directive Requests: The FME plans to make changes to Directive Request no. 1/2001 and to issue a new directive request to fulfill its obligations to implement the CESR standards on investor protection, where this is within its authority. A first consultation paper regarding the CESR standards on investor protection was issued in October 2003. A second consultation paper will be published in the first half of 2004. Finalized Directive Requests on investor protection are estimated to have taken effect in the third quarter of 2004. This estimated timing of implementation is made with the reservation that it is subject to the outcome of the consultation process, where among other matters, the authority of the FME to implement some of the rules may be called into question.</p>
IRELAND	IFSRA	<p><u>COC, Section 4.2</u> A firm shall not, and shall ensure that no officer or employee of the firm shall, exert undue pressure or undue influence on a client in order to induce him : (a) to exercise, or refrain from exercising, any right conferred by an investment instrument; or (b) otherwise enter into a transaction of any kind.</p>	
ITALY	CONSOB	<p>Article 30 of Legislative decree n. 58/1998 <i>Door-to-door selling</i></p> <p>Article 32 of Legislative decree n. 58/1998 (Telemarketing of investment services and financial instruments)</p>	<p>Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.</p>
LUXEMBOURG	CSSF	<p>According to principle 1 of the circular CSSF 2000/15 the professional shall act honestly and fairly in conducting his business activities in the best interests of his clients and the integrity of the market. The professional shall thus also respect the principles of</p>	<p>According to the law of 16 July 1987 door to door selling ("col-portage") of transferable securities is prohibited. The legislator does however not give any definition of the notion of cold calling. Nevertheless, in our opinion, it should be considered at least as a</p>

		18 – 24.	form of selling outside the established offices called by the applicable law “démarchage” (French notion of which the legislator does not give a definition) so that the measures in relation to contracts concluded in accordance with this form of selling according to the above mentioned Luxembourg law are applicable. More precisely, the consumer may within a delay of 7 days of its command/order or within 15 of the reception of the goods/transferable securities give up its commitment. Any clause providing that there will be no right of renunciations for the client, is void. The detailed principles as described in paragraphs 19 to 24 are not as such applicable in Luxembourg legislation.
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	art 26 NR 2002 Under Dutch law cold calling is prohibited at all times.	
NORWAY	Parliament Ministry of Finance/ Kredittilsynet	Rule 18 may be implemented as an additional provision in the general rule of conduct in the STA, section 9-2.	Act of 14 April 2000 No 31 relating to the processing of personal data, section 26, the King may prescribe regulations regarding a central marketing exclusion register with further rules governing the register. Such a register is established.
PORTUGAL		Article 322 of the Portuguese Securities Code.	
SPAIN			This standard is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities
SWEDEN	Parliament		The implementation of the Distance Marketing Directive is currently being prepared in the Ministry of Justice
UNITED KINGDOM	FSA	COB 3 (Financial Promotion)	Please see further below
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	There are no concrete rules for cold calling. It can be provided only by a firm that has a licence granted by the Securities Commission and a licensed firm is always obliged to act by cold calling with due care.	The Czech Securities Commission prepared and published a document called Cold Calling that provides investors with information how to act in case of receiving cold call. This document contains also several recommendations, warnings for investors and examples of cold call.
ESTONIA			
HUNGARY		Performing cold calling activities in Hungary are not regulated under the CMA. However, the CMA regulates the rules and method of inspection in case of suspicion of an unlicensed investment and, ancillary investment services or commodity exchange service activities.	According to the provisions of Section 390 of CMA if upon learning about any unauthorized conduct of investment services, ancillary investment services, or commodity exchange services, the HFSA will call upon the person in question to produce evidence in the form of contracts, written instruments, reports, statements, and/or audit reports to clarify the situation, and may order the inspection of any venue that is suspected of sheltering such activities based on the evidence available. If it is determined that investment services, auxiliary investment services, commodity exchange services or other regulated activities are offered or provided without the license of the HFSA, then the HFSA have the power

			<p>a) to file charges with the competent investigation authority if there is any criminal element involved,</p> <p>b) to adopt a prohibitory injunction concerning the investment services, auxiliary investment services, commodity exchange services, investment fund management, exchange operations, or clearing and settlement services in question, and</p> <p>c) to issue a supervisory resolution, taking certain measures or impose a fine if the wrong-doer is a regulated institution under its jurisdiction.</p>
LATVIA		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.	
LITHUANIA			Cold calls are not separately regulated – some of the general regulations of the advertising, established in the Law on Advertising, apply to cold calls as well.
MALTA	MFSA		
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	Regulations focused on financial market neither define nor refer to „Cold calling”. The only applicable piece of legislation is the Act no 147/2001 on Advertising, Article 3, paragraph 6) which prohibits use of automatic telephone systems, telefax or e-mail without previous content of the user of the system, who is a recipient of an advertisement.
SLOVENIA	Securities Market Agency	Decision on Advertising with Regard to Securities and Services Related to Securities	<p>Cold calling as defined in points 18 to 24 of this table is not defined by the law. Each advertising performed by investment firms and addressed to clients (buying and selling certain securities, offering certain services...) must be reported to the Agency under the provision on advertising.</p> <p>As SMA –I requires that prior to accepting the first individual client’s order to buy or sell securities, the investment firm has to enter into general stockbroking agreement with the said client in writing, it is impossible to conclude a contract solely based on the cold calls made by the investment firm.</p> <p>Cold calling in other areas of marketing is regulated by the Act on Costumer Protection, but the area of financial services is specifically excluded – providing for a possibility to regulate it differently.</p>

Rule 19	<i>Cold calls may only be made by persons employed by, or appointed as tied-agent³⁹ by an investment firm. Responsibility for the competence and activities of such persons rests with the firm.</i>		
Country	Implementing Authority(ies)	Implementing Measure⁴⁰	Comments

³⁹ This is without prejudice to the applicability of professional requirements, imposed at national level.

AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Parliament	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques (e.g. CBFA Circular 1/93 regarding the promotion of UCITS). Moreover, general principles of civil and commercial law and the CBFA-circular 93/5 (tied agents) provide that a firm is responsible for the activities of their tied agents	To be updated and completed when transposing the Distance Marketing Directive. Please note that the CBFA and the Insurance Supervisory Board (OCA) envisage a reform of the financial intermediation (see the consultation document of 15.10.2002 on the CBFA's website)
DENMARK	Parliament	Consumer contracts act section 2, par. 1	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law it is currently out for consultation. Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.
FRANCE	Parliament	Financial Security Act of July 2003, articles 50 to 57 codified under MFC Articles L.341-3 and L.341-4.	This new law, besides merging the CMF and the COB, also completely reforms the law on "solicitation" which is broader than "cold calling". Implementing legislation for the new statutory provisions is awaited.
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	Parliament	Art. 3 of the Act on Financial Undertakings stipulates that the reception and transmission of instruction from customers concerning financial instruments can only be performed by an authorised securities company.	
IRELAND	IFSRA	<u>Advertising Requirements ("AR"), Section 21.4</u> The caller must immediately identify himself by name and the firm on whose behalf he is calling; disclose to the potential <i>private client</i> , the source of the business lead supporting the call; and establish if the existing or potential private client wishes the call to proceed;	See HISF, AR, page 12
ITALY	CONSOB	Article 31, paragraph n. 3, of Legislative decree n. 58/1998 <i>(Financial salesmen)</i> ○○○ Article 36, paragraph n. 1, of Consob Regulation 11522 <i>(Door-to-door selling)</i> ○○○ Article 76, of Consob Regulation 11522	

⁴⁰ Any derogation to the application of the implementing measures should be mentioned.

		<i>(Financial salesmen)</i>	
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	(see under 18)
NORWAY	Ministry of Finance/ Kredittilsynet	Cold calling concerning financial instruments is considered activities that require license according to the STA, cf STA section 7-1. Thus may only licensed investment firms and their cooperating entities conduct cold calling.	The definition of cooperating entities, cf STA section 7-1 par 3 subpar 3 which implements the corresponding rule in ISD, may encompass more than “tied-agent”.
PORTUGAL		SC arts. 292 and 324 CMVM Reg. 12/2000, Arts. 50 and article 50-A CMVM Reg. 21/2000 Art. 10	
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		See 18
UNITED KINGDOM	Parliament/ FSA	Section 21 of FSMA (Restriction on Financial Promotion) The Financial Promotion Order (esp Article 16(2) (Exempt Persons) in relation to tied agents). Section 39(4) of FSMA (Exemption of appointed representatives) TC in relation to the competence of employees (including individuals employed by tied agents).	No person other than an authorised person (including employees of authorised persons) can make a cold call unless an exemption in the Financial Promotion Order applies. (Under section 21(2)(b) of FSMA it is possible for someone who is not an investment firm to make a financial promotion, provided that the content of the financial promotion is approved by an authorised person. However, under COB 3.12.2R, an authorised person cannot approve a real time financial promotion.)
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	There are no concrete rules for cold calling. It can be provided only by a firm that has a licence granted by the Securities Commission and a licensed firm is always obliged to act by cold calling with due care.	Responsibility for the competence and activities of employees of a licensed firm rests with the firm.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.07 <i>inter alia</i> requires an Investment Firm to have proper procedures and controls to ensure that staff and representatives (including staff involved in cold calling): (a) are adequately supervised and are not allowed to act beyond their levels of competence; (b) are aware of and comply with the act the applicable licence conditions in this regard. In terms of the same licence condition, Investment Firms are also required to maintain adequate records of the training, experience and qualifications of staff and representatives, showing the catego-	It is to be noted that only persons employed by, or appointed as tied agent by an investment firm, are permitted to make cold calls – otherwise, people who are not employed with a licensed entity and who engage in cold calling are deemed as arranging a deal and seen as carrying out a licensable activity without the required licence.

		ries of business each person is competent to conduct.	
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	

Rule 20			
<i>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.</i>			
Country	Implementing Authority(ies)	Implementing Measure⁴¹	Comments
AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Parliament	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques.	To be updated and completed when transposing the Distance Marketing Directive
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation. Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.
FRANCE	Parliament/AMF	Civil code Article 9 on the respect of privacy	This has not been implemented specifically in financial law
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>AR, Section 21.3</u> Such permitted calls may only be made between 9.00 a.m. and 9.00 p.m. Monday to Friday (excluding Bank Holidays), unless requested by the existing or potential private client.	
ITALY	CONSOB		Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to implement this rule in detail
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM:		(see under 18)

⁴¹ Any derogation to the application of the implementing measures should be mentioned.

	deliberations are pending		
NORWAY	Parliament/Ministry of Finance	No such rule	Rule 20 may be implemented in a regulation provided that the legal is established, see our comments to rule 18.
PORTUGAL			Not Implemented
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		See 18
UNITED KINGDOM	FSA	COB 3.8.22R (6)(a) and 3.8.23G. Firm must take reasonable steps to ensure that an individual making a real time financial promotion on the firm's behalf does not communicate at an unsocial hour, unless customer has agreed previously. Unsocial hour 'usually means' Sunday or before before 9AM and after 9PM and other days/times that firm knows customer would not wish to be called.	COB allows a little more scope for the customer's view of the situation and his/her agreement/disagreement. Please see further 22, below.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraphs 1 and 2 of Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	There is no such a concrete rule for cold calling.	
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.07 (d) of Part C I of the ISG	
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	

Rule 21	<i>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.</i>		
Country	Implementing Authority(ies)	Implementing Measure⁴²	Comments
AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Idem	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques.	To be updated and completed when transposing the Distance Marketing Directive.
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance mar-

⁴² Any derogation to the application of the implementing measures should be mentioned.

			<p>keting of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation.</p> <p>Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.</p>
FRANCE	Parliament/AMF	FMC Article 341-8 and 341.16	Art 341-8 requires the professional license to be presented to the solicited person in certain circumstance. Art 341-16 provides for a 14 day withdrawal period for the solicited customer.
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	FME		See general clause regarding FME's Directive Requests
IRELAND	IFSRA	<u>AR, Section 21.4 (a)</u> As at 19 above.	
ITALY	CONSOB	<p>Article 36, paragraph n. 1, of Consob Regulation 11522 <i>(Door-to-door selling)</i></p> <p>Article 30, paragraph n. 6, of Legislative decree n. 58/1998 <i>(Door-to-door selling)</i></p> <p>Article 96, paragraph n. 1, 3 and 4 of Consob Regulation 11522 <i>(Rules of presentation and conduct towards investors)</i></p>	
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending		(see under 18)
NORWAY	Ministry of Finance/ Kredittilsynet	No such rule	Rule 20 may be implemented in a regulation provided that the legal is established, see our comments to rule 18.
PORTUGAL		SC arts. 305/1 and 322/2 CMVM Reg. Art. 50/c	
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		See 18
UNITED KINGDOM	FSA	COB 3.8.22R (3) covers the requirements of the first sentence (identity and purpose) though expressed in terms of the firm taking reasonable steps.	There is no requirement to mention the 'frozen period'.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The existence of a frozen period is not expressly provided for. This matter will be expressly provided for in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.
CZECH REPUBLIC	Securities Commission	There is no such a concrete rule for cold calling.	Document called Call Calling, prepared by the Czech Securities

			Commission, includes recommendation concerning this kind of information which should be given to a customer by a reputable firm.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	Wide reply to 20 above	
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	

Rule 22	<i>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.</i>		
Country	Implementing Authority(ies)	Implementing Measure⁴³	Comments
AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Idem	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques.	To be updated and completed when transposing the Distance Marketing Directive
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation. Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.
FRANCE	Parliament/AMF	Civil Code article 9 on the respect of privacy	
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>AR, Section 21.4 (c)</u> As at 19 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998	Consob has already published for consultation a revision of its

⁴³ Any derogation to the application of the implementing measures should be mentioned.

		(General criteria) Article 74 of Consob Regulation 11522 (Limits on the use of means of distance communications)	regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	uncertain: depending on outcome of deliberations with ministry of finance	(see under 18)
NORWAY	Ministry of Finance/ Kredittilsynet	No such rule	Rule 20 may be implemented in a regulation provided that the legal is established, see our comments to rule 18.
PORTUGAL		SC art. 304/2	
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		.See 18
UNITED KINGDOM	FSA	COB 3.8.22R (4) A firm must take reasonable steps to ensure that an individual who makes a real-time financial promotion on the firm's behalf - checks that the recipient wishes him to proceed and - terminates the communication if the recipient does not wish him to proceed.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Act No. 40/1995 on Advertising Regulation Sec. 2 (1) Prohibited is d) disguised advertising. By such advertising is understood advertising by which it is difficult to distinguish whether it is advertising, as it is not market as advertising, e) unsolicited advertising, if it requires expenses of the addressee or if it disturbs the addressee. (5) Advertising distributed together with other announcement must be conspicuously disclosed and in a reasonable manner detached from the other announcement.	
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Advertising by telephone, fax and electronic mail may only be supplied with the advertising consumer's concurrence or per his request. It shall be prohibited to directly supply advertising to a specific person if this person's disagreement has been clearly stated. (Article 13 of the Law on Advertising)	
MALTA	MFSA	Vide reply to 20 above	

		Moreover, see SLC 3.07 (e)	
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	

Rule 23			
<i>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.</i>			
Country	Implementing Authority(ies)	Implementing Measure⁴⁴	Comments
AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Idem	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques.	To be updated and completed when transposing the Distance Marketing Directive
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation. Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.
FRANCE	Parliament/AMF	.Art 341-16 FMC	This has not been implemented as such. However, Article 341-16 prohibits taking order for 48hour period after customer has been solicited It would be legally difficult to allow or require investment firms to record telephone conversations with their clients for the purposes of demonstrating that solicitation did not involve undue pressure.
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 4.2</u> As at 18 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 (General criteria) ○○○ Article 56, paragraph n. 2, of Consob Regulation 11522	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to clarify the specific obligations arising from the general principles laid down in the provisions at present in force..

⁴⁴ Any derogation to the application of the implementing measures should be mentioned.

		<i>(Internal procedures)</i>	
		Article 74 of Consob Regulation 11522 <i>(Limits on the use of means of distance communications)</i>	
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending		(see under 18)
NORWAY	Ministry of Finance/ Kredittilsynet	No such rule	Rule 20 may be implemented in a regulation provided that the legal is established; see our comments to rule 18.
PORTUGAL			Not implemented
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		See 18
UNITED KINGDOM	FSA	Principle 1 provides that a firm must conduct its business with integrity. Principle 2 provides that a firm must conduct its business with due skill, care and diligence. Principle 6 provides that a firm must pay due regard to the interests of its customers and treat them fairly. COB 3.8.22R(1): A firm must take reasonable steps to ensure that individual making the promotion does so in a way that is clear, fair and not misleading. COB 3.8.25G and SYSC 3.2.20R: A firm must take reasonable care to make and retain certain records. These should include copies of any scripts used.	The FSA rules in this area do not involve a reversal of the burden of proof, nor do the record keeping requirements extend as far as this rule.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part III of Annex 2 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	There is no such a concrete rule for cold calling.	
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	Vide replies to 20 / 21 above	
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	

Rule 24	<i>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.</i>
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Country	Implementing Authority(ies)	Implementing Measure ⁴⁵	Comments
AUSTRIA	Please see 18.	Please see 18.	Please see 18.
BELGIUM	Idem	See under 18: door-to-door selling is forbidden; prudential policy recommends intermediaries also to abstain from other cold calling techniques.	To be updated and completed when transposing the Distance Marketing Directive
DENMARK	Parliament	Consumer contracts act section 2, par. 1.	Please see the answer to question 18
FINLAND	Parliament Rahoitustarkastus	Chapter 2, Section 1 and Chapter 4, Section 1 of the Securities Markets Act.	No precise provisions on cold calling. The Ministry of Justice is currently preparing the implementation of the Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC. The deadline for the Ministry Working Group is December 31, 2003. The memo of the Working Group is written in a form of a draft law and it is currently out for consultation. Detailed requirements for investment services providers are to be considered with the general restructuring and revision of the Rahoitustarkastus regulations and guidelines. The consultation paper is scheduled to be sent out in early 2004.
FRANCE	Parliament/AMF		The implementation of this rule is in process within transposition of the DMD
GERMANY		See 18	See 18
GREECE		See standard 18 above.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA		
ITALY	CONSOB	Article 30, paragraph n. 6, of Legislative decree n. 58/1998 <i>(Door-to-door selling)</i>	
LUXEMBOURG		see 18	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending		(see under 18)
NORWAY	Ministry of Finance/ Kredittilsynet	No such rule	Rule 20 may be implemented in a regulation provided that the legal is established, see our comments to rule 18.
PORTUGAL		Article 322 of the Portuguese Securities	
SPAIN			This rule is not implemented in the Spanish regulation. Nevertheless this practice is not usual in the Registered Entities.
SWEDEN	Parliament		See 18
UNITED KINGDOM	FSA/ Parliament	No implementing measure. There is nothing in COB that corresponds to this. However, the cross-reference (article 4a of the DMD) does not appear to be correct (the right of withdrawal under the DMD being conferred by article 6(1)). Further clarification is required.	We believe that this rule would be contrary to the Distance Marketing Directive (Directive 2002/65/EC) ("DMD"). Recital 13 to the DMD states "Member States should not be able to adopt provisions other than those laid down in this Directive in the fields it harmonises, unless otherwise specifically indicated in it." There is nothing in the DMD equivalent to this rule, nor anything indicating that this rule can be adopted. Articles 6(1), final sub-

⁴⁵ Any derogation to the application of the implementing measures should be mentioned.

			paragraph, 7(1) and 7(3) expressly contemplate performance of a contract (attracting the right to withdraw) before the withdrawal period has expired. (If the reference to "right of withdrawal" does not include those contracts and services included in article 6(2) and 6(3) of the DMD (which logic would suggest), even if there is no express provision in COB covering standard 24, the circumstances it describes would seem most unlikely to apply. The circumstance in which customer orders might be received during a withdrawal period would most likely be in respect of shares and units in collective investment schemes, which are expressly excluded from the right of withdrawal in the DMD under article 6(2)(a).)
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus		The existence of a frozen period is not expressly provided for. This matter will be expressly provided for in the forthcoming amendments to the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003, which are expected to be issued by the end of the first quarter of 2004.
CZECH REPUBLIC	Securities Commission	There is no such a concrete rule for cold calling.	Document called Cold Calling, prepared by the Czech Securities Commission, includes the definition of "cool-out period". The document also demonstrates how a reputable firm should act in the best interest of its potential customers during and after this period.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 18.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA			Not specifically catered for in local regulatory requirements for Investment Firms.
POLAND		The PSEC is now discussing possible method and form for the implementation of the mentioned standard.	
SLOVAKIA		Not implemented	
SLOVENIA		Not implemented.	