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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 III (STANDARDS 62 – 90 – RETAIL REGIME)

A CONDUCT OF BUSINESS RULES FOR THE “RETAIL REGIME”**3. THE “KNOW-YOUR-CUSTOMER STANDARD” AND THE DUTY TO CARE****3.1 INFORMATION FROM THE CUSTOMER**

Standard 62	<p><i>Prior to providing any investment service to a customer for the first time and throughout the business relationship, an investment firm must be in possession of adequate documentation on the identity of the customer, as well as the identity and legal capacity of any representative of the customer.</i></p> <p><i>In addition, prior to providing any investment service the investment firm must seek to obtain from the customer information enabling an investment firm</i></p> <p style="margin-left: 20px;"><i>a. to determine whether the investment services envisaged are appropriate for the customer⁴ and</i></p> <p style="margin-left: 20px;"><i>b. to meet any duties owing to the customer in respect of the services to be provided.</i></p>		
Country	Implementing Authority(ies)	Implementing Measure ⁵	Comments
AUSTRIA	AP AFEC	Art. 13 par 3 and Art. 17 par 1 ASSA Art. 40 ABA Art. 41 ABA Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	<p>According to Art. 13 ASSA, the investment firms have to request information from their customers with respect to their experience in or knowledge of transactions that are to be the subject matter of investment services, with respect to the objectives sought in such transactions and with respect to their financial situations to the extent necessary to safeguard the interests of the customers and shall keep records of the information pursuant to Art. 13 par 3 ASSA. This standard does not require further implementing measures.</p> <p>Investment firms shall register the identity of a customer, when entering into a permanent business relationship.</p> <p>Investment firms shall request the customer to declare whether he intends to execute the business relationship for his own account or for someone else's account. If the customer to conduct the business relationship or transaction for someone else's account, he shall inform the investment firm about the trustor's identity:</p> <p>The GL contains further regulation about rule 62 No. a and b.</p>
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	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) and the uniform letter to credit institutions of 5 February 2003 relating to the	Changes in law of 11.1.93 planned to implement the Basle KYC-paper, the revised FATF Recommendations and the second Money Laundering Directive Art. 26, 2°, L. 2 August 2002 (to come into force later)

⁴ This is not considered to be investment advice according to the definition of the paper.

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

		<p>compliance function See also the CBFA circular to financial institutions of 5 May 2000 on prudential requirements for internet financial services (nr 23) Art. 36, § 1, 4°, L. 6 April 1995 Art. 19 RD 5 August 1991 on portfolio management Civil law requirements for professional intermediaries</p>	<p>See also CBFA Consultation document on revised rules for portfolio management General note: the King may determine different rules for the application of the provisions of Art. 26 according as the investment services provided are limited to a simple transmission or execution of orders or not (art. 28, 2°, L. 2 August 2002) (to come into force later)</p>
DENMARK	<p>Parliament The Ministry of Economic and Business Affairs</p>	<p>Consolidated Act on Measures to prevent Money Laundering and Financial Terrorism section 4, par. 1, and section 6. Securities Trading, ect Consolidated Act, section 38, par 1. Financial Business Act, section 3a, par. 1, no 5. (Executive order on Conduct of Business, section 21 par 1) (The above mentioned rules states that investment firms must be in possession of information of adequate documentation on the identity of the customer, as well as the identity and legal capacity of any representative of the customer. Furthermore the investment firm must seek from customers information regarding their financial position, investment experience and objectives as regards the execution of the services requested.)</p>	
FINLAND	<p>Parliament Ministry of Interior Rahoitustarkastus</p>	<p>Chapter 4, Section 3a and Chapter 4, Section 4, Paragraph 2 of the Securities Markets Act. Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7). Section 49 of the Act on Investment Firms. Ministry of Interior Decree relating to Section 14 of the Act on Preventing and Clearing Money Laundering.</p>	
FRANCE	<p>Parliament, AMF</p>	<p>Article 533-4 of the MFC and articles 3-3-2 and 3-3-5 of the GR of the CMF Article 19 of COB Regulation 96-03</p>	<p>The wording of the both the law and the CMF provisions largely reflect the current wording of the ISD but the CMF provisions require in addition verification of the identity and capacity of the client as well as verification of the identity and capacity of the client's representatives. The CMF also requires verification of the identity of the person on whose behalf the client acts "where relevant". The COB regulations also use ISD wording, adding however that "the services provided must be adapted to the situation of the client".</p>
GERMANY	<p>BaFin</p>	<p>Sections 2 et seqq. Money Laundering Act Section 31par. 2 WpHG Guideline, Part B.2.1.</p>	<p>a) applicable only to advice (footnote doubtful)</p>
GREECE		<p>Section 6.2 of the Code of Conduct of Investment Services Firms provides for the adequate documentation on the identity of the customer prior and throughout the business relationship. According to the same section the customer information will enable investment services firms to</p> <ol style="list-style-type: none"> a. determine whether the investment services envisaged are appropriate for the customer and 	

		b. meet any duties owing to the customer in respect of the services to be provided.	
ICELAND	FME	Art. 3. and 6 of the Act on Measures to Counteract Money Laundering no. 80/1993 establishes the duty of, among others, investment firms to be in possession of adequate documentation on the identity of the customer and any representative of the customer. Art. 5 para. 1 of the Securities Act is a general know your customer rule: "A financial undertaking must gather information from its customers concerning their knowledge and experience of securities transactions and their objectives in the proposed investment, as is relevant to the services requested. Furthermore a financial undertaking must gather information from its customers on their financial situation if they have a permanent commercial relationship with the financial undertaking."	
IRELAND	IFSRA	<u>Criminal Justice Act 1994 (including Ministerial Regulations and Guidance Notes)</u> Obligations to establish the identity of clients is enshrined in this legislation. <u>COC, Section 5</u> Knowing the Client obligations	See HISF, COC, page 8
ITALY	CONSOB	Article 28, paragraph n. 1 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</i> ○○○ Article 29, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Unsuitable transactions)</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	According to principle 4 of the circular CSSF 2000/15 the professional shall seek his clients' information regarding their financial situation, investment experience and objectives as regards the services requested. Upon entering into a business relationship, the professional shall ensure that he obtains from the client information regarding the client's identity, personal or business address, legal status, legal capacity and any restrictions of an occupational or professional nature. The professional shall ensure the information referred to above is kept regularly up to date (principles 4.1. and 4.4. of the circular CSSF 2000/15). See also 65	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented The Bte specifies that a firm must take note, in the interest of the client, of their financial position, experience and investment objectives (art 24 Bte, art 28 NR) Annex 4, art 4.12 gives rules about the recording (and keeping of those recordings) of the client profile	no legislative authority for AFM The rules do not specify points a and b.
NORWAY	Kredittilsynet	STA, section 9-2 (1) nr. 4 and Regulation 1994/118 regarding action against money laundering.	

	Ministry of Finance ANSC	Gen. Business Terms Article 3, 4 and 24 Ethical Norms, article 1-1(4), 4-1(3) and 3-1(2)	
PORTUGAL		Article 304/1 and 3 of the Portuguese Securities Code	
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 4 “Information about clients”. Ministerial Order, dated 25 October 1995, Partially Implementing Royal Decree 629/1993. Section Five “Information on transactions”. Rule 9 “Identification of clients”. CNMV Circular 1/1996, dated 27 March, Governing Rules of Action, Transparency and Identification of Clients in Securities Market Transactions.	
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 seek information from its clients regarding their financial situation, experience of the securities market and their aims as regards the services requested. 2) Regulation on Conduct of Business Rules (2002:7), Chap 4. Section 1. Chap 4 Section 1 explicitly requires investment firms to document information concerning a customers identity and to the extent required to safeguard the customers interests, information concerning the customers financial situation, investment experience and the objectives of the services requested by the customer.	
UNITED KINGDOM	FSA	COB 5.2.5R: - narrower than Standard 62 - Before giving a personal recommendation to, or acting as an investment manager for, a private customer, a firm must take reasonable steps to ensure that it is in possession of sufficient personal and financial information about that customer that is relevant to the services that the firm has agreed to provide.	The United Kingdom legal and regulatory regime treats the identification of clients and their representatives as an aspect of the provisions dealing with anti-money laundering (“ AML ”) measures. See below in relation to CESR Rule 64 for more detail.
		Principle 9 (Customers: Relationship of Trust) states that a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgement.	
		COB 5.2.5 (Requirement to know your customer) COB 5.3.5R (Requirement for suitability generally)	A firm must take reasonable steps to ensure that it is in possession of sufficient personal and financial information about that customer that is relevant to the services that the firm has agreed to provide. These steps must be taken before the firm: <ul style="list-style-type: none"> • gives a personal recommendation to a private customer; or • acts as an advisory or discretionary investment manager to a private customer. The KYC and suitability requirements only apply before a personal recommendation is provided or discretionary management takes

			place. What is suitable and what appropriate may be substantially the same CESR Standard 62 applies when any investment service is provided. 62b) refers to information enabling a firm to meet any duties owing to the customer. COB 5.2.5R refers to information relevant to the services that the firm has agreed to provide. Arguably COB wording includes the substance of Standard 62b). This area is under consideration in relation to Article 18(4) of the draft ISD.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Annex 5 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) a), Section 47b (1) a) and d) of the Securities Act; PART TWO, Sect. 15 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 Czech Securities Commission prepared sample questionnaire that should help investment firm to obtain relevant information from customers. A customer is also identified according to Anti-money laundering Act 61/1996 Sb.
ESTONIA	The EFSA	SMA § 87 p 1. Guideline. The Money Laundering Prevention Act § 6 (3): Credit and financial institutions (incl. investment firms) are required to identify all persons for whom an account is opened, and representatives of such persons.	
HUNGARY	Parliament	Subsection 1 of Section 3 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 116 of CMA	Investment service providers must identify their customers (for details see comments for paragraph 63). The AML rules contain strict provisions for identifying the customer/ proxy/ representative (data and documents). The investment service provider must always check the risk taking capacity of the customer. By examining the customer's risk taking capacity, the service provider is authorised to require a written statement from the customer, concerning his overall financial situation, and confirming documents.
LATVIA	Parliament FCMC	Article 126 of the Law on Financial Instruments Market requires the investment services provider to enter into a written agreement with a client prior to commencing provision of investment services. This Article requires also the investment services provider to seek information on clients' experience and knowledge with respect to transactions to be concluded, on the objectives it pursues to achieve through relevant transactions and on the financial situation insofar as it is necessary to safeguard the client's interests. Article 3.4. of the FCMC Guidelines for the Formulation of Procedures for Identifying Clients, Unusual and Suspicious Financial Transactions defines requirements for identification of customers and actual beneficiaries.	
LITHUANIA		When carrying out their activities, intermediaries must have and employ effectively the resources and procedures; seek from	

		<p>clients information regarding their financial condition, investment experience and objectives which they pursue using investment services (Art. 24.3.3 and 24.3.4 of the LSM).</p> <p>Prior to accepting clients' orders, the financial brokerage firms shall conclude written agreements concerning the acceptance and execution of clients' orders. When concluding the agreement with the client and providing services on the basis of the agreement, financial brokerage company must take into consideration the data collected about the client and warn him/her about the peculiarities of acquisition, record – keeping, exercising of ownership rights and the risk associated with the securities that are not registered with the LSC, as well as any other increased risk or peculiarities, which are not typical for the previously provided services, transactions and securities (Paragraph 3 of Rules on Placement and execution of clients' orders).</p>	
MALTA	MFSA	<p>SLC 3.03 (c), (d), (e), (f), (g) and (h)</p> <p>Moreover the applicable Money Laundering rules on 'Identification Procedures' also apply in this case. Reference should be made to the "Prevention of Money Laundering Guidance Notes for Investment Services and Life Assurance Business".</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 conduct of business rules. The decree is going to expressly establish such an obligation and specify the scope of provided information.</p> <p>According to existing law, there is an obligation to possess by a brokerage house information concerning potential customer's financial standing if envisaged services include services related to derivatives and services related to the possibility of placing the customer in debit with this brokerage house. (Par. 6.4, Par. 33).</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</p> <p>Article 73</p>	<p>Investment firm is obliged to ask client, depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client's interest.</p>
SLOVENIA	Parliament Securities Market Agency	<p>SMA-1 A: 139, P: 3 A: 142, P:2 Decision on the Provision of Services with regard to securities A: 2</p>	

Rule 63			
The “know-your-customer” standard applies to each investment firm having a direct business relationship with the customer with respect to investment services. However, where two or more investment firms are involved in providing an investment service and each has a direct relationship with the customer, an investment firm may rely on the information received from another of such investment firms.			
Country	Implementing Authority(ies)	Implementing Measure ⁶	Comments
AUSTRIA	FMA/AFEC	Art. 21 para 1 ASSA in connection with Art. 40 and 41 ABA	The “know your customer” standard in regard of two or more involved investment firms is common market standard and applied practise. This rule does not require further implementing measures. The Austrian Legislation is even stronger than rule 63. If two investment firms provide services to the same customer, one investment firm can rely only on the information received from the other investment firm, if it has no direct contact to the client.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	No specific rules that allow firms to rely on another firm (see case law of the CBFA relating to introducing brokers, <i>Annual report CBFA 1999-2000</i> , p. 52-53)	Idem
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 Published Statement K/15/98 ("Identification of a remote customer")	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 for the second sentence	The principle is implemented.
GERMANY	BaFin	Section 31par. 2 WpHG Guideline, Part B.2. par. 2	
GREECE		Article 4 of Law 2331/95 provides that all credit and financial intermediaries are obliged to require information concerning the exact identification of the client in all commercial relations, and especially when opening an account. This requirement also applies to a third party when the transaction is carried out on his behalf. Articles 2-8 of the Decision of the Hellenic Capital Market Commission 108/27-5-97 provides for similar requirements so far as investment services firms are concerned. In addition to this, para 4 of Circular 8 of the Hellenic Capital Market Commission provides that : ‘all supervised companies by the Hellenic Capital Market Commission operating in Greece should take the necessary measures to verify the identity of the third person on behalf of whom the customer acts, particularly if the third person is a company which is not engaged in any commercial or productive activities in the country where it is located. In these cases all necessary measures shall be taken to	

⁶ Any derogation to the application of the implementing measures should be mentioned.

		<p>obtain information about the true identity of the natural persons directly or indirectly controlling these companies.’</p> <p>In addition to this, special provisions in the code of conduct of investment services firms (section 6.2. of the Code of Conduct) provide for the improvement of the ‘know your customer’ concept. According to these provisions the abovementioned companies are obliged to obtain information regarding the financial status, investment objectives and experience of their clients so as to provide proper investment services.</p> <p>Special obligations for investment services firms acting on behalf of a group of investors are imposed under the provisions of the HCMC's Decision with number 3/269/22-4-2003 'on the contents of records of Investment Services Firms and members of the ASE concerning transactions in shares on behalf of group of investors (as this decision was amended by the Decision of the HCMC with number 4/275/27.6.2003).</p>	
ICELAND	Parliament / FME	Not implemented. Both Investment Firms would have to obtain information on the customer.	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	<p><u>Money Laundering Guidance Notes</u></p> <p><u>COC, Section 5</u></p> <p>As at 62 above.</p>	
ITALY	CONSOB	<p>Article 36 of Consob Regulation 11522</p> <p><i>(Door-to-door selling)</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 to clarify:</p> <ul style="list-style-type: none"> • the specific obligations arising from the general principles laid down in the provisions at present in force and • when intermediaries can rely on information collected by other firms.
LUXEMBOURG	CSSF	<p>According to the circular LMI 94/112 on money laundering, the professional of the financial sector who delegates some technical tasks on identification of its customers, such delegation shall only be provided by the directors to a qualified professional of the financial sector. The CSSF accepts therefore only credit institutions and other professionals of the financial sector established in Luxembourg or credit institutions or other professionals of the financial sector established in another country and submitted to the supervision by the competent authority. In the latter case a written contract describing the precise delegated tasks in compliance with Luxembourg legislation must be concluded with the foreign professional.</p> <p>In general, the circular describes in a detailed way the obligations of the professionals of the financial sector to respect</p>	

		for the identification of its clients, the identification of the beneficial owner, the identification of occasional clients, the obligations of internal control of anti-money laundering obligations, the denunciation of any suspicion of money laundering and the cooperation with the competent authorities.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament Ministry of Finance/ Kredittilsynet	Any investment firm with a direct business relationship with a customer must observe STA section 9-2 par 1 subpar 4. As regards money laundering provisions, a investment firm may rely on information provided by another investment firm, cf regulation 1994/118 section 5 par 3.	
PORTUGAL			Not implemented
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 4 "Information about clients".	
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	COB 2.3 (Reliance on others) COB 2.3.3R allows a firm to obtain the information required under COB 5.2.5R from another person to the extent that the firm can show that it was reasonable for the firm to rely on information provided to it in writing by another person. COB 2.3.4E indicates that in relying on this rule, a firm should take reasonable steps to establish that the person providing the information is not connected with the firm and is competent to provide the information. COB 2.3.5(1)G indicates that a firm may generally rely on information provided to the firm in writing by an unconnected authorised person (which would include a UK established investment firm or an investment firm that has passported into the UK). COB 2.3 goes beyond the exemption provided for in CESR Rule 63, because it allows a firm to rely on information provided by somebody other than an investment firm, provided the firm can show that it was reasonable for it to do so.	The position is further complicated by COB 4.1.5R (Agent as client), which amongst other things achieves the same result as COB 2.3 by a different route. It might be implicit in CESR Rule 63 that for other purposes, a customer includes a person with whom the investment firm has an <i>indirect</i> relationship. However, under COB 4.1.5R, provided the relationship with the underlying "client" is maintained via an agent, that agent can be treated as a client unless COB 4.1.5(1)(b) applies.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 6 of Annex 5 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission		Not forbidden explicitly
ESTONIA	The EFSA	Guideline.	

HUNGARY			Investment service providers must identify their customers when entering into a business relationship or where a transaction order of HUF 2 million is given – without entering into a business relationship. Investment service providers are not allowed to rely on information received from other investment service providers.
LATVIA	Parliament FCMC	<p>Article 130 of the Law on the Financial Instruments Market defines that, before opening a financial instruments account, the investment services provider shall verify the identity of the person who wishes to open the account and shall clarify whether the financial instruments to be entered to the account shall be owned by or be in custody of such person. An account where the booked (recorded) financial instruments are financial instruments in custody of a person shall be identified as nominal account.</p> <p>Article 6 of the Law on the Prevention of Laundering of Proceeds Derived from Criminal Activity defines that no credit or financial institution shall be entitled to open an account or accept financial resources for safe custody without obtaining the following customer information:</p> <p>1) for a resident:</p> <p>a) if a legal person, the name, domicile, registration number and place of registration;</p> <p>b) if a natural person, the name, surname and identity number;</p> <p>2) for a non-resident, data from the identification certificate issued by the respective foreign country:</p> <p>a) if a legal person, the name, domicile, registration number and place of registration;</p> <p>b) if a natural person, the name, surname, date of issue, number and the issuer of the identification certificate.</p> <p>Besides Article 3.4. of the FCMC Guidelines for the Formulation of Procedures for Identifying Clients, Unusual and Suspicious Financial Transactions defines requirements for identification of customers and actual beneficiaries.</p>	The laws or FCMC regulations do not contain any specific requirements as to the rights of the investment service provider to rely on the information about the client obtained from the other investment service provider where both of those investment providers have a direct relationship with the client.
LITHUANIA		Not regulated	
MALTA	The Minister of Finance and Economic Affairs with respect to the Legal Notice / Regulations / MFSA with respect to the Prevention of Money Laundering Guidance Rules	Vide reply to (62) above. Reference should be made to the “Prevention of Money Laundering Guidance Notes for Investment Services and Life Assurance Business”.	
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish a general obligation of application the know-your-customer standard and specify the scope of obligatory obtained	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.

		information.	
SLOVAKIA			No such a provision in Slovak legislation yet.
SLOVENIA		Not implemented.	

Rule 64			
<i>An investment firm must obtain evidence of the identity of its customers in accordance with national laws and regulations implementing the provisions of Council Directive 91/308 on the prevention of the use of the financial system for the purpose of money laundering. Until such evidence is obtained, an investment firm must not provide any investment services to the customer concerned.</i>			
Country	Implementing Authority(ies)	Implementing Measure⁷	Comments
AUSTRIA	AP	Art. 21 par 1 ASSA in connection with Art. 40 and 41 ABA	This rule is as a matter of course implemented in the ABA. Please see 62 This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	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) and the uniform letter to credit institutions of 5 February 2003 relating to the compliance function	Changes in legislation planned to implement the Basle KYC-paper, the revised FATF Recommendations and the second Money Laundering Directive
DENMARK	Parliament	Consolidated Act on Measures to prevent Money Laundering and Financial Terrorism section 4, par. 1 and section 6. Securities Trading, ect Consolidated Act, section 38, par 1. (The above mentioned rules implements the requirements in the Council Directive 91/308)	
FINLAND	Parliament Ministry of Interior	Section 49 of the Act on Investment Firms. Ministry of Interior Decree relating to Section 14 of the Act on Preventing and Clearing Money Laundering.	
FRANCE	AMF	Article 3-3-2 of the GR of the CMF Article 18 of COB Regulation 96-03 (on portfolio management)	Article 6-3-1 of the GR of the CMF also requires verification of the identity and capacity of the client prior to the opening of a financial-instrument account (custody service).
GERMANY	BaFin	Sections 2 et seqq. of Money Laundering Act	
GREECE		According to section 10.2. (i) of the Code of Conduct of Investment Services Firms "Investment Services Firms, their employees and associates shall take all measures necessary for the prevention of money-laundering actions during the provision of investment services. Companies and covered persons shall, inter alia, comply with the provisions of Law 2331/1995 as amended."	
ICELAND	Parliament	Art. 3 of the Act on Measures to Counteract Money Laundering (nr. 80/1993). When the services provided are not permanent, such as the opening of an account or establishing a portfolio management account, the duty to obtain evidence of identity is limited to transactions of at least 15.000 Euro.	
IRELAND	IFSRA	CJA 1994 Ministerial Regulations Guidance Notes	Obligation is enshrined in primary legislation. IFSRA has not introduced similar provisions in order to avoid possible double jeopardy.
ITALY	CONSOB	Decree Law 143 of 3 May 1991	

⁷ Any derogation to the application of the implementing measures should be mentioned.

	BANK OF ITALY	Urgent provisions to limit the use of cash and bearer instruments in transactions and prevent the use of the financial system for purposes of money laundering (ratified with amendments by Law 197 of 5 July 1991 and subsequently amended by Legislative Decree 153 of 26 May 1997 Legislative decree n. 143/1991, Article 2 (<i>Identification and registration requirements</i>))	
LUXEMBOURG	CSSF	Pursuant to principle 4.1. of the circular CSSF 2000/15 upon entering into a business relationship, the professional shall ensure that he obtains from the client's identity, personal or business address, legal status, legal capacity and any restrictions of an occupational or professional nature. See also 63	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	uncertain: depending on outcome of deliberations with ministry of finance Not implemented	
NORWAY	Parliament	Regulation 1994/118 regarding action against money laundering.	
PORTUGAL		Decree-Law 325/95, December 2	
SPAIN	Ministry of Economy/ CNMV	Ministerial Order, dated 25 October 1995, Partially Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 10" Identification of clients". CNMV Circular 1/1996, dated 27 March, Governing Rules of Action, Transparency and Identification of Clients in Securities Market Transactions. Rule 14 "Identification of clients".	
SWEDEN	1) Parliament 2) Finansinspektionen 3) Finansinspektionen	1) The Act (1993:768) on Measures against Money-laundering Section 4 Section 4 explicitly requires investment firms to control the identity of persons wanting to enter into business relations with the firm. 2) Regulation on Conduct of Business Rules (2002:7), Chap 4. Chap 4 explicitly requires investment firms to document information concerning a customers identity and to the extent required to safeguard the customers interests, information concerning the customers financial situation, investment experience and the objectives of the services requested by the customer. 3) Regulation and guidelines on prevention of money-laundering (1999:8) The regulation contains additional guidelines on identity controls.	
UNITED KINGDOM	FSA UK Parliament	The Money Laundering Regulations 1993 (SI 1993/1933)	Directive 91/308 is implemented into United Kingdom law by the Money Laundering Regulations 1993. The FSA has set out a parallel set of rules in its Money Laundering Sourcebook ("ML"). ML creates a set of regulatory provisions for investment firms concerning anti money laundering issues. These apply in addition to the criminal provisions in the Money Laundering Regulations 1993. ML 3.2.2R sets out certain exemptions from the identification duty in ML 3.1.3R and certain

			cases in which evidence of identity may be regarded as sufficient. However, these are based on the provisions of the Money Laundering Regulations 1993.
		<p>ML 3.1.3R (Identification of the client – the duty) requires a firm to take reasonable steps to find out who its client is by obtaining sufficient evidence of the identity of any client who comes into contact with it to be able to show that the client is who he claims to be.</p> <p>ML 3.1.8R (Identification of the client: timing) the identification obligation must be complied with <u>as soon as reasonably practicable</u> after it has contact with a client with a view to agreeing with the client to carry out an initial transaction or reaching an understanding with the client that it may carry out future transactions.</p>	Under ML 3.1.8R, a firm can commence the provision of investment services <u>before</u> it has completed the identification checks, provided those checks are completed as soon as reasonably practicable. Even though this is in accordance with the Money Laundering Regulations 1993, and the JMSLG Guidance Notes indicate that the firm may only provide investment services before the information has been received in exceptional circumstances, this appears to be contrary to the last sentence of CESR Rule 64.
		<p>ML 3.1.4G - the FSA will have regard to the JMSLG Guidance Notes in determining whether a firm has complied with its obligation to identify the client under ML 3.1.3R.</p> <p>Paragraph 4.38 of the Joint Money Laundering Steering Group’s Guidance Notes for the Financial Sector: “Any occasion when business is conducted before satisfactory evidence of identity has been obtained must be in exceptional circumstances only and those circumstances justified with regard to the risk.”</p>	<p>ML is currently under review as part of the implementation of the 2nd Money Laundering Directive.</p> <p>ML is currently under review as part of the implementation of the 2nd Money Laundering Directive.</p>
		If the client does not supply evidence of identity as soon as reasonably practicable, the firm must discontinue the provision of any investment service and bring to an end any such understanding, unless the firm has informed the National Criminal Intelligence Service, which is the law enforcement agency with responsibility in this area.	ML 3.1.8R(2) goes further than Regulations 7(1) and (6) of the Money Laundering Regulations 1993 because the carve-out that allows the relationship to continue where NCIS has been notified is not limited to one off transactions. This is a more technical point. It appears reasonable that the relationship should not be terminated where the competent law enforcement agencies request that it continue.
CYPRUS	Cyprus Securities and Exchange Commission	Section 1.8 of the Money laundering directive	
CZECH REPUBLIC	Ministry of Finance (FAU-Financial Action Unit)	Anti-money laundering Act 61/1996 Sb., Sect. 2	
ESTONIA	The EFSA	Guideline. The Money Laundering Prevention Act § 6 (3): Credit and financial institutions (incl. investment firms) are required to identify all persons for whom an account is opened, and representatives of such persons.	
HUNGARY	Parliament	Sections 4 and 5 of Act XV of 2003 on the Prevention and Impeding of Money Laundering	The Hungarian Anti-Money Laundering provisions are fully in line with the European AML Directives (91/308/EEC and 2001/97/EC). See comments for paragraph 69.
LATVIA		See the implementing measure quoted above (item 63).	
LITHUANIA		Prior to accepting clients’ orders, the financial brokerage firms shall conclude written agreements concerning the acceptance and execution of clients’ orders (Paragraph 3 of Rules on Placement and execution of clients’ orders).	

		Credit and financial institutions must establish the identity of the customer when opening an account, accepting a deposit, providing with safe custody facilities, entering into other business relations with the customer or conducting the monetary transactions involving a sum in excess of 50,000 Litas or its equivalent in foreign currency. It shall be prohibited to conduct the monetary transactions laid down in Paragraph 1 of this Article if the customer fails to provide information, in the cases stipulated by this Law, confirming his identity, also if the information is insufficient or false (Art. 9 of the Law on Money Laundering Prevention).	
MALTA	The Minister of Finance and Economic Affairs	Clause 3 (1) (a) of the Prevention of Money Laundering Regulations 2003 requires <i>inter alia</i> an Investment Firm not to form a business relationship with any person unless the said Investment Firm: (a) maintains the following procedures established in relation to that business: (i) identification procedures in accordance with the provisions of these regulations; (ii) record –keeping procedures in accordance with the provisions of these regulations; and (iii) internal reporting procedures.	
POLAND	Parliament for the law Council of Ministers for the decree	According to Law on Preventing Using the Financial System for the Purpose of “Money Laundering” brokerage house is one of the institutions obliged to obtain evidence of its customers. (Article 2.1) According to Art. 40.2.4 of Law on Public Trading of Securities every entity wishing to become a brokerage house is obliged to provide PSEC with the procedures of preventing using financial system for the purpose of money laundering.	Polish Securities and Exchange Commission is responsible for drafting
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	In each transaction an investment firm shall require the client to document its identity; the client shall be required to comply with the request in each transaction An investment firm shall decline any transaction in which the client remains anonymous.
SLOVENIA	Securities Market Agency	Decision on the Provision of Services with regard to securities A: 2	By-laws that the Agency issued on the basis of the Securities Market Act (and also other laws, such as Investment Funds and Management Companies Act) take the requirements of money laundering prevention regulation into account.

Rule 65	<i>An investment firm must seek to obtain information on the customer’s knowledge and experience⁸ in the investment field, his investment objectives and risk profile,⁹ his financial situation/capacity and any trading restrictions applicable to the customer. The extent of the information required will vary according to the standards laid down in paragraph 62, second subparagraph.</i>
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⁸ Information on the customer’s investment knowledge and experience includes the types of services, transactions and products the customer is familiar with and his trading history, i.e. the nature, volume, frequency and timeframe of his transactions.

⁹ Information on the customer’s investment objectives and risk profile includes the temporal horizon of the customer’s future investments, as well as his preferences regarding risk-taking and recurrent income.

Country	Implementing Authority(ies)	Implementing Measure ¹⁰	Comments
AUSTRIA	AP/AFEC/FMA	Art. 13 para 3 ASSA, Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The obligation to seek information on the customer's knowledge and experience in the investment field, his investment objectives and risk profile and his financial situation/capacity is determined explicitly in the Art. 13 par 3 ASSA. Furthermore the GL gives further advice for the categorization of customers (conservative, some risk, and speculative) and some further advice to ask all information of the client. This rule does not require further implementing measures. Please see also 62.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	See St. 62	See St. 62
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 6 par. 1-2 and section 21, par. 1 (The above mentioned rules states that an investment firm must seek to obtain information on the customer's knowledge and experience in the investment field, his investment objectives and risk profile and his financial situation/capacity)	Derogation: "Trading restrictions" are not explicitly mentioned.
FINLAND	Parliament Rahoitustarkastus	Section 49 of the Act on Investment Firms. Chapter 4, Section 3a of the Securities Markets Act. Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	No detailed provisions as to obtaining information on any trading restrictions applicable to the customer. 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	Parliament, AMF	Article 533-4 of the MFC and article 3-3-5 of the GR of the CMF Article 19 of COB Regulation 96-03	The CMF provision does not say "seek to obtain" and does not refer to trading restrictions. Like the CMF provision, the wording of the COB provision is similar to that of the current ISD.
GERMANY	BaFin	Section 31par. 2 WpHG Guideline, Part B.2. et seqq.	"trading restrictions" not explicitly covered by guideline.
GREECE		According to sections 6.1, 6.2 and 9.3 of the Code of Conduct of Investment Services Firms, investment services firms are obliged to seek information on the customers' profile as well as their financial situation.	
ICELAND	FME	The general know your customer rule in Art. 5 para. 1 of the Securities Act.	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

¹⁰ Any derogation to the application of the implementing measures should be mentioned.

			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	<u>COC, Section 5.3, 5.4 and 5.5</u> As at 62 above. <u>COC, Section 1.4</u> A firm shall ensure in all transactions that it: 1.4 seeks from its clients, other than execution only clients, information regarding their financial situations, investment experience and objectives as regards the services requested.	Not applicable to execution-only business other than a margined transaction where firm can clearly demonstrate that the client was warned that investments can fall as well as rise, and client has confirmed that he/she still wishes to proceed
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> Article 28, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</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	The professional shall make such enquiries of his client as he considers necessary to ensure an appropriate service tailored to the client's circumstances. Such enquiries shall deal with the client's financial position, investment objectives (long-term / short-term, regular income requirement or none, risk profile), investment experience and expertise. The professional shall assess the degree of the client's expertise in terms of his grasp of the nature of the transactions envisaged and understanding of the risks inherent therein (principles 4.2. and 4.3. of the circular CSSF 2000/15).	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A firm must take note of financial position etc. of client (art 24 Bte)	
NORWAY	Parliament ANSC	STA section 9-2 par 1 sub 4 states that the investment firm shall ensure that it obtains necessary information on the clients' identity, financial situation and the investment experience. According to Ethical norms article 1-1 par 2 sub 4 a member company shall make sure of obtaining such information on its clients' financial status, investment experience and objectives as is relevant for the services requested. According to Ethical norms article 3-1 sub 2 brokers shall make themselves acquainted with the legislation and regulations that apply at any time to trading in financial instruments, and shall be capable of informing the client of significant regulations that apply to trading in financial instruments. Further, General business terms article 4 states among others that the client shall provide adequate and correct information on his own financial status, investment experience and objectives that are relevant to the services requested.	In one specific case Kredittilsynet has stated that an investment firm providing active management services to a pension fund, should know about any trading restrictions in force. (In this case – restrictions related to trading in derivatives according to a regulation.) The lack of knowledge about those trading restrictions was one of the reasons for revoking the investment firms' licence.

PORTUGAL		SC Art. 304/1 and 304/3	
SPAIN	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 4 “Information about clients”.	
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 seek information from its clients regarding their financial situation, experience of the securities market and their objectives as regards the services requested. 2) Regulation on Conduct of Business Rules (2002:7), Chap 4. Chap 4 explicitly requires investment firms to document information concerning a customers identity and to the extent required to safeguard the customers interests, information concerning the customers financial situation, investment experience and the objectives of the services requested by the customer.	
UNITED KINGDOM	FSA	COB 5.2.5 (Requirement to know your customer) A firm must take reasonable steps to ensure that it is in possession of sufficient personal and financial information about that customer that is relevant to the services that the firm has agreed to provide – before giving a personal recommendation to, or acting as an investment manager for, a private customer. COB 5.2.11G(1)(a) (Guidance on the collection of information about a private customer) - the information collected should, at a minimum, provide an analysis of a customer’s personal and financial circumstances leading to a clear identification of his needs and priorities so that, combined with attitude to risk, a suitable investment can be recommended. COB 4.2.15E(3) & (4)	The meaning of “The extent of the information required will vary according to the standards laid down in paragraph 62, second subparagraph” is not entirely clear. The requirements of COB 5.2.11G(1) are not as specific as the requirements in CESR Rule 65 and the corresponding footnote but, of course, the requirements in CESR Rule 65 themselves vary according to the standards in paragraph 62. Further, points like trading restrictions are addressed in COB 4.2.15E (4). Execution-only transaction exemption from personal or financial information requirements applies – see COB 5.2.2G – except where ML Sourcebook applies. See the comments on CESR Rule 118 in relation to the requirement to include details of the customer’s investment objectives and restrictions in the firm’s agreement with the customer.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Annex 5 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The disclosure of “trading restrictions” is not expressly provided for. This will be expressly provided for in the forthcoming amendments to the Code of Business Conduct of 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 47b (1) d) of the Securities Act; PART TWO, Sect. 15 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 Czech Securities Commission prepared sample questionnaire that should help investment firm to obtain relevant information from customers.
ESTONIA	The EFSA	SMA § 87 p 1. Guideline.	

HUNGARY	Parliament	Section 115 of CMA	See comments for paragraph 62. In addition to that, in case of derivative products, the service provider must examine whether the investment is appropriate regarding the customer's market knowledge and risk taking capacity. In case of options and futures the service provider must issue a risk assessment statement, which the customer must acknowledge.
LATVIA	Parliament	Article 126 of the Law on the Financial Instruments Market requires the investment services provider to seek information on clients' experience and knowledge with respect to transactions to be concluded, on the objectives it pursues to achieve through relevant transactions and on the financial situation insofar as it is necessary to safeguard the client's interests.	
LITHUANIA		When carrying out their activities, intermediaries must seek from clients information regarding their financial condition, investment experience and objectives which they pursue using investment services (Art. 24.3.4 of the LSM). In dealing with the client, the member of Association must know his needs and interests. Prior to accepting an order buy securities, the member must seek to collect following information about the client: a) investment objectives; b) previous experience gained while investing into different types of securities; c) knowledge on different types of securities; d) risk profile; e) financial capacity; f) relations with the other members of Association or other intermediaries; g) possession of inside information; h) any other information, which member considers as important in providing recommendations on investments. (Chapter 2 of Code of Ethics).	
MALTA	MFSA	Vide reply to (62) above.	
POLAND	Parliament for law Council of Ministers for decree	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. The decree is going to expressly establish such an obligation and specify the scope of obligatory obtained information.	Polish Securities and Exchange Commission is responsible for drafting and Ministry of Finance 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	Investment firm is obliged to ask client, depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client's interest
SLOVENIA		Please see under point 62 (comment on the contract to perform	

		individual types of services related to securities)	
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Rule 66			
<i>An investment firm shall be entitled to rely on the information provided by the customer, unless it is manifestly inaccurate or incomplete or the firm is aware that the information is inaccurate or incomplete. In this case paragraph 69 applies.</i>			
Country	Implementing Authority(ies)	Implementing Measure ¹¹	Comments
AUSTRIA	AP	2.2 Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	Covered by provisions stated in the ASSA an investment firm can rely on the information provided by the customer, unless it is manifestly inaccurate or incomplete or the firm is aware that the information is inaccurate or incomplete. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	See St. 62	See St. 62
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 6, par. 3 (The above mentioned rule states that investment firms shall be entitled to rely on the information provided by the customer, unless it is manifestly inaccurate or incomplete or the firm is aware that the information is inaccurate or incomplete.)	
FINLAND	Parliament Rahoitustarkastus	Section 49 of the Act on Investment Firms. Chapter 4, Section 3a of the Securities Markets Act. Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	No specific duty to check information given by the customer, unless the firm has grounds to believe that the information given is inaccurate or incomplete. 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 but existing general principle applicable	This is not explicitly implemented but is a reasonable interpretation of the existing rule.
GERMANY	BaFin	Not Implemented Amendment of guideline needed	
GREECE		According to section 10.2 (h) of the Code of Conduct of Investment Services Firms, investment services firms should ask for additional information to be provided by customers when the information already provided is not sufficient enough to allow the investment services firm to act under legal terms.	
ICELAND	FME		See general clause regarding FME's Directive Requests. The FME's directive request will in no way alter the investment firms duties based on the money laundering act.
IRELAND	IFSRA	<u>COC, Section 5</u>	

¹¹ Any derogation to the application of the implementing measures should be mentioned.

		As at 62 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> Article 29, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Unsuitable transactions)</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		No specific rules	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament	Although not expressly stated, STA section 9-2 par 1 subpar 4 is construed this way by Kredittilsynet. Could be clarified by circular letter.	
PORTUGAL		SC art 304/2	Trust in the information provided by the client embodies the resulting from the principles of good faith and loyalty, provided for in article 304/2 of the SC. The CMVM's supervisory practice ensures that the financial intermediary complies with the requirements of this Rule.
SPAIN	Government/f 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 CNMV Circular 1/1996, dated 27 March, Governing Rules of Action, Transparency and Identification of Clients in Securities Market Transactions	
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	COB 5.3.5R (Requirement for suitability generally) COB 5.3.5R(1) and (2) provide that in determining suitability, a firm must have regard to the facts disclosed by the private customer, and other relevant facts about the private customer of which the firm is, or reasonably should be, aware. This requirement would prevent the firm from relying on information provided by the private customer in the circumstances envisaged by the second part of CESR Rule 66. Again, COB 5.3 applies in relation to personal recommendations and investment management only.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 7.3 of Annex 5 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	The EFSA	Guideline. The Money Laundering Prevention Act § 10 -1,2: If, upon identification, there is good reason to suspect that a person is acting on behalf of or for the account of someone else, the credit or	

		financial institution shall obtain information as to the real identity of the person on whose behalf or for whose account the person is acting. If it is impossible to identify the person on whose behalf or for whose account another person is acting, the credit or financial institution is prohibited from carrying out the transaction. The credit or financial institution is also required to inform the Financial Intelligence Unit immediately of an expression of intention by the person to carry out a transaction or of a transaction which has already been carried out by the person.	
HUNGARY	Parliament	Subsection 3 of Section 6 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 115 of CMA	In the case of identifying the customer and the beneficial owner, if any doubt arises concerning the identity of the beneficial owner, the service provider must call upon the customer to make (repeatedly) a written statement concerning the beneficial owner. With regard to the customer's risk taking capacity the service provider is authorised to require a written statement from the customer, concerning his overall financial situation, and - if necessary - confirming documents.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.04 of Part C I of the ISG	
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	See rule 64.
SLOVENIA	Parliament	SMA-1, A: 136	According to the law, an investment firm must endeavour to acquire information from the client. And the contract must in written form.

Rule 67	<i>An investment firm must take reasonable care to keep the customer profile under review, also taking into consideration the development of the relationship between the investment firm and the customer. The customer must be advised that he should inform the investment firm of any major changes affecting his investment objectives, risk profile, financial situation/capacity, trading restrictions, or the identity or capacity of his representative. Should the firm become aware of a major change in the situation previously described by the customer, it must request additional information.</i>		
Country	Implementing Authority(ies)	Implementing Measure¹²	Comments
AUSTRIA	FMA/AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	It is literally laid down in the GL that the investment firm has to inform the customer that it is also in his interest and in his obligation that he tells the investment firm changes in the information he has already given. Furthermore it is laid down that the investment firm has to actualize the customer profile if it gets to know new information.

¹² Any derogation to the application of the implementing measures should be mentioned.

			It is general common market standard that customer profiles are reviewed and adopted every three years and by reason. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	See St. 62	See St. 62
DENMARK	The Ministry of Economic and Business Affairs Danish Financial Supervisory Authority	Executive order on Conduct of Business, section 6, par 2 section 7, par. 2. Guidance on Executive order on Conduct of Business section 7, par. 2. (The above mentioned rules state that investment firms should keep the customer profile under review taking into account the information the investment firm possess on the customer. The customer should be advised that he should inform the investment firm of any changes in the information provided.)	Derogation: It is not explicitly stated that the firm should ask for additional information if it should be aware of major changes in the situations previously described by the customer. This is considered a consequence of standard 66.
FINLAND	Parliament Rahoitustarkastus	Section 49 of the Act on Investment Firms Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	Requirement to communicate with a client is an on-going process. No precise provisions on the requirement - to advise the customer to inform the investment firm of any major changes affecting his investment objectives, risk profile, financial situation/capacity, trading restrictions, or the identity or capacity of his representative. - To request additional information in case the firm becomes aware of a major change in the situation previously described by the customer. 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 3-3-6 of the GR of the CMF	The CMF provision explicitly requires the regular updating only of information on the client's financial situation, his capacity and that of his representatives.
GERMANY	BaFin	Section 31 par. 2 WpHG Guideline, Part B.2.1 par. 4	Not all details explicitly mentioned in guideline, but are practice of supervision
GREECE		According to sections 5.2 and 6.2 of the Code of Conduct of Investment Services Firms, investment services firms should keep updated information about their clients. In addition, clients should be in a position to know that their firms keep up to date information about them in their records.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 5</u> As at 62 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</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:

		Article 56, paragraph n. 2 of Consob Regulation 11522 <i>(Internal procedures)</i>	<ul style="list-style-type: none"> clarify the specific obligations arising from the general principles laid down in the provisions at present in force, and require investment firm to request customers to keep the relevant information up-to-date.
LUXEMBOURG	CSSF	The professional shall ensure the information referred to above is kept regularly up to date (principle 4.4. of the circular CSSF 2000/15) This principle implies that the customer shall inform the investment firm of any major changes.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	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.
NORWAY	Ministry of Finance	STA section 9-2 par 1 subpar 4 is construed as a continuous obligation. Regulation 1994/118 regarding action against money laundering.	
PORTUGAL		article 304/3 of the Portuguese Securities Code	
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 Ministerial Order, dated 7 October 1999. CNMV Circular 2/2000, dated 30 May about form models of standard customer agreement for discretionary and individual portfolio management and other developments of Ministerial Order, dated 7 October 1999.	Circular 2/2000 only applies to portfolio management contracts. Circular 2/200 only states the obligation to keep information about costumers updated.
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 COB 5.2.6G a firm that advises a private customer, or exercises discretion for a private customer, on a continuing basis should keep its information about that customer under regular review. A firm that acts for a private customer on an occasional basis should undertake such a review whenever the customer seeks advice	.
			There is no express requirement to advise the customer that he should inform the investment firm of any major changes affecting the matters cited. However, such a warning would assist in establishing that a firm had taken reasonable steps to ensure that it is in possession of sufficient personal and financial information about that customer.
		COB 5.2.6G, combined with the obligations in: <ul style="list-style-type: none"> COB 5.3.5R(1) and (2) to have regard to relevant facts of which the firm is, or reasonably should be, aware; and COB 5.2.5R to take reasonable steps to ensure that it is in possession of sufficient personal and financial information 	

		<p>about the customer, indicate that the firm should request additional information if it becomes aware of a major change in the situation previously described by the customer.</p> <p>There is no express equivalent of the requirement to request information if the firm becomes aware of a major change in the situation previously described by the customer. However, this may well be implicit in the rules cited here.</p> <p>Please see the comments in relation to CESR Standard 62 regarding the limited services to which COB 5.2 applies.</p>	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 11 of Annex 5 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 47b (1) a) and d) of the Securities Act; PART TWO, Sect. 15 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			Although certain KYC and Customer Due Diligence rules are in place, it is not necessary for a firm to monitor the development of the customer's profile.
LATVIA		The laws or FCMC regulations do not contain explicit requirements as to the obligation of the client to inform the investment service provider about any changes in the information provided to it previously. In compliance with Article 126(7) of the Law on the Financial Instruments Market, the investment services provider shall not be liable for the outcome resulting from the client's refusal or failure to provide information on changes in previously provided information.	
LITHUANIA		Not regulated	
MALTA			Not catered for in local legislation.
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	See rule 65
SLOVENIA	Parliament	SMA-1, A: 136	

Rule 68	<i>An investment firm must draw up and implement appropriate written internal policies and procedures to keep and update all documents required for customer identification and profile, as well as records of customer addresses and telephone/fax numbers.</i>
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Country	Implementing Authority(ies)	Implementing Measure ¹³	Comments
AUSTRIA	AP	Art 16 and 17 ASSA	Art 16 of the ASSA foresees that market intermediaries are required to have in place and effectively use adequate means and procedures for the proper performance of the investment services and as a consequence of the provision of Art 17 of ASSA to keep record and update all documents of the customer.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	See St. 62 See also Art. 36, § 1, 7°, L. 6 April 1995	See ST. 62
DENMARK	Parliament	Financial Business Act, section 71, par. 1, no 1 and no 2 (The above mentioned rules state that investment firms should have appropriate business procedures for all significant areas of activity and have internal policies on good administrative practices.)	Implemented in general terms
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 Standard on Risk Management and other Aspects of Internal Control in Investment Firms (4.1). Ministry of Interior Decree relating to Section 14 of the Act on preventing and clearing money laundering.	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	No specific implementing measure identified. However see above on customer identification and profile.	See above for records on customer identification and profile. Records on customer contact data have not been required by regulation.
GERMANY	BaFin	Sections 9 (records) and 14 (internal policies) of Money Laundering Act	
GREECE		According to section 5.3 of the Code of Conduct of Investment Services Firms “Investment Services Firms, shall issue clear written guidelines and procedures regarding the provision of investment services and ensure compliance with them by covered persons.”	
ICELAND	FME		See general clause regarding FME’s Directive Requests.
IRELAND	IFSRA	<u>GS&RR, Section 2.3</u> As at 2 above.	
ITALY	CONSOB	Article 56, paragraph n. 2 of Consob Regulation 11522 (<i>Internal procedures</i>) See above rule n. 67	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: <ul style="list-style-type: none"> • clarify the specific obligations arising from the general principles laid down in the provisions at present in force and, • require investment firm to request customers to keep the relevant information up-to-date.
LUXEMBOURG	CSSF	As the principles laid down in the circular CSSF 2000/15 must be	

¹³ Any derogation to the application of the implementing measures should be mentioned.

		implemented by the professionals by adopting an internal code of conduct, the professional shall adopt internal policies of updating.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Client records must be systematic and accessible and include client profile and agreements and documents proving the identity (annex 4, art. 4.12 NR2002)	No rules regarding updating data of clients
NORWAY	Ministry of Finance	STA section 9-1 par 1 subpar 1 and Regulation 1994/118 regarding action against money laundering.	
PORTUGAL			Not implemented
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 Ministerial Order, dated 7 October 1999. CNMV Circular 2/2000, dated 30 May about form models of standard customer agreement for discretionary and individual portfolio management and other developments of Ministerial Order, dated 7 October 1999.	
SWEDEN	Finansinspektionen	Regulation and guidelines on prevention of money-laundering (1999:8). Section 2 explicitly requires investment firms to draw up procedures for customer identification	
UNITED KINGDOM	FSA	COB 5.2.9R (and COB 5.2.5R). A firm must take reasonable steps to ensure that it is in possession of sufficient personal and financial information about the customer relevant to the services that the firm has agreed to supply. The firm must make and retain a record of a private customer's personal and financial circumstances.	COB requires firm to make and retain record of customer's personal and financial circumstances that it has obtained in satisfying COB 5.2.5R. See the comments in relation to CESR Standard 62 regarding the limited services to which COB 5.2 applies. Written internal policies and procedures on keeping & updating are not prescribed in COB but may be implicit in the substance of the COB rules.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 11 and 13 of Annex 5 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) a) of the Securities Act PART TWO, Sect. 1 and 2 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	Parliament	Section 11 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Sections 115 and 117 of CMA	The investment service provider must adopt an Internal Rule for implementing the Hungarian AML – customer identification provisions. It is not required to record the customer's telephone/fax numbers. The service provider must register all investment contracts, as specified in its Internal Rules of Business. The service provider has to require a risk assessment declaration from the customer if he intends investing in futures or options.
LATVIA	FCMC	Article 3.1. of the FCMC Regulations for Conducting Securities Transactions defines that the investment services provider may	

		start the execution of a client's order only when the order form has been filled in. See the implementing measure quoted above (item 63).	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.03 SLC 3.07	
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	In each transaction an investment firm shall require the client to document its identity; the client shall be required to comply with the request in each transaction An investment firm shall decline any transaction in which the client remains anonymous.
SLOVENIA	Parliament	SMA-1; A: 174 A: 175	

Rule 69	<i>An investment firm must warn the customer that any refusal to supply information may adversely affect the ability of the investment firm to act in the best interest of the customer. If a customer refuses to supply information the investment firm must warn him in writing that this may adversely affect the ability of the investment firm to act in his best interest.</i>		
Country	Implementing Authority(ies)	Implementing Measure¹⁴	Comments
AUSTRIA	AP/AFEC	2.2 Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The content of rule 69 is literally laid down in the GL and does not need further implementation.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	No specific rules	New rules can be enacted on the basis of Art. 26, 17° , L. 2 August 2002 See also: and 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	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	Guideline recommends an investment firm not to provide investment service in a case described in the rule. 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.
GERMANY	Legislator /BaFin	Guideline, Part B.2.1 par. 3 Amendment of guideline needed	No legal basis for written form Proposal for amendment of law will be presented to the ministry of

¹⁴ Any derogation to the application of the implementing measures should be mentioned.

			finance Not implemented beyond the application range of the money laundering act
GREECE		According to sections 7.2 (b) and 8.4, any refusal of the customer to supply information to the investment services firm can affect the firm's ability to act in the best interests of its clients. Accordingly a customer is obliged under 7.2 (b) and 8.4 to disseminate such important information to its investment services firm.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 5.5</u> As at 62 above.	Firm can only provide execution-only services if private client is unwilling or unable to provide firm with details
ITALY	CONSOB	Article 28, paragraph n. 1 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</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: <ul style="list-style-type: none"> • clarify the specific obligations arising from the general principles laid down in the provisions at present in force, and • require investment firms to inform customers that refusal to supply information might adversely affect its ability of to act in his or her best interest.
LUXEMBOURG	CSSF	The circular LMI 94/112 on money laundering requests in principle that the professional of the financial sector shall proceed to a complete identification before providing any services to the customer.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	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.
NORWAY	Parliament	Not implemented	
PORTUGAL			Not implemented
SPAIN	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 Ministerial Order, dated 7 October 1999. CNMV Circular 2/2000, dated 30 May about form models of standard customer agreement for discretionary and individual portfolio management and other developments of Ministerial Order, dated 7 October 1999.	
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	COB 5.2.7G If a private customer declines to provide relevant personal and	The substance of the provisions in COB 5.2.7G is similar to CESR Standard 69.

		financial information, a firm should not proceed to give a personal recommendation to, or act as an investment manager for, a private customer without promptly advising the customer that the lack of such information may affect adversely the quality of the services which it can provide. This provision indicates that the firm should consider providing written confirmation of that advice.	As with the other provisions in this area, the COB requirements only extend to the provision of investment management services and personal recommendations for private customers.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraphs 2 and 12 of Annex 5 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 47b (1) d) of the Securities Act PART TWO, Sect. 15 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	An investment firm is not obliged to warn customers if they refuse to supply information. It only has to record this fact and include it in its records.
ESTONIA	The EFSA	Guideline	
HUNGARY	Parliament	Subsection 6 of Section 5 of Act XV of 2003 on the Prevention and Impeding of Money Laundering; and Section 119 of the CMA	The service provider must refuse to provide investment services if the customer rejects to identify himself or the beneficial owner; or when the documents supplied are not reliable, or when the customer's risk taking capacity is proved to be unsatisfactory.
LATVIA	Parliament	Article 126 (7) of the Law on the Financial Instruments Market defines that the investment services provider shall not be liable to a client for consequences caused by the client's refusal to provide information or failure to inform of the changes in the previously provided information if the client refuses to provide the information.	The laws or FCMC regulations do not contain the provision that an investment brokerage company should warn a client in writing about the adverse effects resulting from the non-provision of information.
LITHUANIA		Not regulated	
MALTA	MFSA		There is no direct reference in Maltese Legislation which would cater for this requirement. However, in terms of SLC 3.04 Part C I of the ISG an investment firm is required <i>inter alia</i> to keep a note on file if a customer refuses to disclose to the Investment Firm all the necessary information. In this regard, the client should be required to endorse the said note.
POLAND	Parliament for enacting Council of Ministers for decree	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 <i>inter alia</i> conduct of business rules. The decree is going to expressly establish such a rule.	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	In each transaction an investment firm shall require the client to document its identity; the client shall be required to comply with the request in each transaction. Investment firm is also obliged to ask client, depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client's interest. An investment firm shall decline any transaction in which the client remains anonymous. The Ministry

			of finance may lay down by a generally applicable regulation further details concerning the rules of conduct of investment firm in relation to client.
SLOVENIA	Parliament	SMA-1; A: 134	According to the Decision on provision of services with regard to securities, the item in a contract to perform services could be that the client refuses to provide information on his educational qualifications and profession, his experience in the area of investments, financial capacity, etc.

Rule 70			
<i>The customer should not be invited not to provide information.</i>			
Country	Implementing Authority(ies)	Implementing Measure¹⁵	Comments
AUSTRIA	FMA/AFEC	2.2 Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The GL contains the recommendation to record the refusal of the customer to provide information and the investment firm has to document it, if a customer refuses the information. The documentation gives proof, why the customer refuses the information. It is general common market standard not to invite the customer not to provide information and does not require further implementing measures.
BELGIUM	Idem	No specific rules	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 Rahoitustarkastus	Chapter 4, Section 1 of the Securities Markets Act.	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		It is forbidden to open an account without providing information.	
GERMANY	BaFin	Section 31par. 2 WpHG Guideline, Part B.2.4.	
GREECE		Customers should cooperate with investment services firms and be ready to provide the appropriate information so as the investment services firms be in a position to act in the best interests of their customers. (sections 4.2 (d)-4.2(e), 6.1, 6.2, 7.2 (II) of the Code of Conduct of Investment Services Firms)	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 5.3</u> As at 62 above.	A firm must use all reasonable efforts to obtain the information
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998	Consob has already published for consultation a revision of its

¹⁵ Any derogation to the application of the implementing measures should be mentioned.

		<i>(General criteria)</i> Article 28, paragraph n. 1 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</i> See above rule 69	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	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament	The STA section 9-2 states in general that the investment firm shall carry on its activities in accordance with the rules of good business conduct. If the customer is invited by the investment firm not to provide information, Kredittilsynet would consider it as an obvious breach of the general rule of good business conduct.	
PORTUGAL		SC art 304/1	This stems from the principle of protection of legitimate interests of the client and of the "Know your Customer" principle, provided for in article 304/1 of the SC. The CMVM's supervisory practice ensures that the financial intermediary complies with the requirements of this Rule.
SPAIN		CNMV Circular 1/1996, dated 27 March, Governing Rules of Action, Transparency and Identification of Clients in Securities Market Transactions. Rule 14 "Identification of clients".	
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	Principle 1 (Integrity) & Principle 9 (Customers: Relationship of Trust) COB 5.2.5R	There is no express equivalent to this CESR Rule. If a firm were to invite the customer not to provide information, it is likely that the firm would have acted contrary to: <ul style="list-style-type: none"> • Principle 1, which provides that a firm must conduct its business with integrity; and • Principle 9, which provides that a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely on its judgement. It would also be difficult to reconcile such activity with COB 5.2.5R, which requires a firm to take reasonable steps to ensure that it is in possession of sufficient personal and financial information about the customer.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Annex 5 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 47b (1) d) of the Securities Act PART TWO, Sect. 15 of the Decree by the Czech Securities	An investment firm is obliged to demand information from customers.

		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 is no possibility for such an invitation under Hungarian law.
LATVIA		The laws or FCMC regulations do not contain a specific prohibition to invite the client not to provide information, however, according to the Law on the Financial Instruments Market, the client has the right to refuse to provide information to the investment service provider.	
LITHUANIA		Not regulated	This standard is not implemented directly, however, corresponding implication may be deduced from the duty to obtain information from the client.
MALTA			Not catered for in local legislation.
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	In each transaction an investment firm shall require the client to document its identity; the client shall be required to comply with the request in each transaction An investment firm shall decline any transaction in which the client remains anonymous.
SLOVENIA	Parliament	SMA-1 A:139, P:3	

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

Standard 72	<i>When an investment firm provides investment advice to the customer, it must have reasonable grounds to believe, in light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship, that this investment advice is suitable for him. The investment firm must communicate the reasons why the advice is considered to be in the best interest of the customers at the time the advice is given.</i>		
Country	Implementing Authority(ies)	Implementing Measure¹⁷	Comments
AUSTRIA	AP	Art. 16 para 3 ASSA, 13 para 3 ASSA, 3.1. – 3.5. Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	According to Art 13 para 3 of the ASSA the investment firm has to ask the customer about the information mentioned in rule 65. This information is documented in a customer profile. Furthermore the investment firm has to categorize the customer in a risk group. Every risk group is linked to groups of financial instruments, which can be subject of the investment advice to the customer of this specific risk group. The customer profile and the categorization in a risk group gives proof that the financial

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

¹⁷ Any derogation to the application of the implementing measures should be mentioned.

			instrument is adequate for the customer and is an information which is given to the customer in the way of the investment advice. This is a main principle of the Art 13 para ASSA and is further laid down in the GL. The obligation for an investment firm to implement adequate internal control procedures that are suitable to counteract violations of obligations arising under the ASSA, contain the obligation to provide suitable investment advices to the customer. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 36, § 1, 2°, 79 and 127, L. 6 April 1995	CBFA Consultation document on revised rules for portfolio management New rules can be enacted on the basis of Art. 146 L. 2 August 2002 and Art. 132, L. 6 April 1995
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 7, par. 1 and section 21, par. 1 (The above mentioned rules state that investment advice should be based on the information disclosed by the customer including information arising from the customer relationship).	Section 21 will come into force on 1 April 2004 Derogation: Section 7, par. 1 and section 21, par. 1 implement standard 72 partly as section 7, par 1 and section 21 par 1 do not implement the last sentence in standard 72.
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 3a and Chapter 4, Section 4, Paragraph 2 of the Securities Markets Act. Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	No precise provisions to communicate the reasons for the advice to be in the best interest of the customer. 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	Parliament, AMF	No specific implementing measure identified. However see above on existing general principle applicable.	This has not been implemented, inter alia, because advice is not (yet) a core investment service in France. Financial Security Act 2003-706 however directly regulates financial advisers for the first time and France and imposes similar requirements. Article 19 of COB Regulation 96-03 on portfolio management requires the service to be “suitable” for the client, as pointed out above.
GERMANY	BaFin	Section 32 WpHG Guideline, Part E Communication duty not implemented Amendment of guideline needed	
GREECE		According to section 6.1 of the Code of Conduct of Investment Services Firms, firms are responsible for giving investment advice to their customers which is suitable to their profile.	
ICELAND	FME	In general terms the investment firm has the duty to make the interest of the customer and the integrity of the market their priority according to art. 4 of the Act on Securities Transactions.	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	<u>COC Section 6.1</u> Having regard to (a) the relevant investment management agreement, or terms of business, (b) any relevant facts disclosed by the client and or (c) other relevant facts about the client of which the firm is or ought reasonably to be aware, a firm must take all reasonable steps to ensure that it does not give advice ... unless that advice is suitable to the client.	Suitability statement imposed on retail only intermediaries
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> Article 29, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Unsuitable transactions)</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	As the circular CSSF 2000/15 provides that the professional shall act in the best interests of his clients and as the professional shall make such enquiries of his client as he considers necessary to ensure an appropriate service tailored to the client, the investment firm thus complies with the requirements foreseen in paragraph 72.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	Rules are limited to the rule that firms must act in the interest of clients and that they must give priority to these interests over their own (art. 25(1) NR2002).
NORWAY	Parliament ANSC	STA, section 9-2 Gen. Business Terms Article 5 and 6 Ethical Norms, article 1-1 and 4-1	
PORTUGAL		SC art 304 and 312/3	The CMVM's supervisory practice ensures that the financial intermediary complies with the requirements of this Rule.
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" Ministerial Order, dated 25 October 1995. CNMV Circular 1/1996	
SWEDEN	Finansinspektionen		A bill has been presented to the Parliament. A new law on Investment advice, addressing the provisions under 72, will enter into force on 1 st of July 2004.
UNITED KINGDOM	FSA	Principle 9 (Customers: Relationship of Trust) - a firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its decisions.	The requirement to communicate the reason why the transaction is considered to be suitable for the customer only applies for certain types of transaction (for example in relation to certain

		COB 5.3.5R (Requirement for suitability generally) - a firm must take reasonable steps to ensure that it does not make any personal recommendation to a private customer to buy or sell a financial instrument unless the recommendation or transaction is suitable for the private customer, having regard to the facts disclosed by him and other relevant facts about the private customer of which the firm is or reasonably should be aware.	pension schemes and collective investment schemes).
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 3 of Annex 12 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The duty to communicate the reasons is not expressly provided for. This will be expressly provided for in the forthcoming amendments to the Code of Business Conduct of 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 47b (1) a) of the Securities Act Securities Act: Art. 47b sec 1 d) and sec 2	The regulation is very general.
ESTONIA	The EFSA, the operator of stock exchange	Guideline. TSE Rules and Regulations “Membership rules” p 8.8.2: Among all other options, the advice given by a member of the exchange to a client shall correspond best to the interests of the client, in view of the needs and goals of the client as known to the member.	
HUNGARY	Parliament	paragraph d of Subsection 2 of Section 81 and Section 115 of CMA point d of subsection 2 of Section 81 of CMA	The investment service provider must always assess the customer’s risk taking capacity and in the case of derivatives it has to check whether the investment is suitable for the customer – however there is no general requirement to communicate the reasons why it considers the advice to be suitable. In case of futures and options the customer has to acknowledge this by signing a separate risk assessment statement. Investment advice is a form of ancillary investment service (point d of subsection 2 of Section 81 of CMA). The general duty of care rules apply for all investment service providers, and it is not restricted to specific (ancillary) forms of investment services. Therefore the same general rules apply for assessing the customer’s position and the adequacy of the investment advice: the service provider must always assess the customer’s risk taking capacity before entering into an investment contract.
LATVIA	Parliament	There are no specific requirements as to the provision of investment advice, however, Article 128(1) of the Law on the Financial Instruments Market provides for a general duty to act in the best interests of client.	
LITHUANIA		Upon recommending to the client to buy, sell or exchange securities, the member of Association must have a reliable ground to believe, that referring to the data obtained from the client about other securities under his possession, financial situation and needs, these recommendations are suitable for him. (Paragraph 1 of Chapter 2 of Code of Ethics).	
MALTA	MFSA	Vide reply to (62) above.	However Maltese rules do not require an investment firm to

			communicate the reasons why the advice is considered to be in the best interest of the customers at the time the advice is given.
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	Investment firm is obliged to ask client, depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client's interest. Investment firm is obliged too provide the client with important information related to the transaction and advise him of important facts and risks associated with transaction
SLOVENIA		The provisions on the relationship between the investment firm and customers under the prudential rules, defined above apply.	

Standard 73			
<i>Before accepting an order an investment firm must take reasonable care to verify that the order is suitable for the customer in light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship.</i>			
Country	Implementing Authority(ies)	Implementing Measure¹⁸	Comments
AUSTRIA	AP	Art. 16 para 3 ASSA, 13 par 3 ASSA, 3.1. – 3.5. Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	Please see 72.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 36, § 1, 2° and 79	Art. 26, 1°, L. 2 August 2002 (to come into force later) CBFA Consultation document on revised rules for portfolio management New rules can be enacted on the basis of Art. 26, 17° and 146 L. 2 August 2002
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 5-7, section 13 and section 21. (The above mentioned rules states that before accepting an order an investment firm must take reasonable care to verify that the order is suitable for the customer in light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship.)	Section 21 will come into force on 1 April 2004
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	
FRANCE	AMF	Article 3-3-7 of the GR of the CMF	This provision requires the firm to “question” the client when he transmits an order that is “unusual” for him, and to execute the order only after the client has confirmed the order (“explained the

¹⁸ Any derogation to the application of the implementing measures should be mentioned.

			objectives of the transaction” through any available medium) and the firm has supplied the necessary additional information.
GERMANY	BaFin	Section 32 WpHG	Applicable only to advice Relationship between advice and “execution only” should be clarified with regard to suitability check
GREECE		According to sections 8.2 and 8.4 of the Code of Conduct of Investment Services Firms, an investment services firm must take reasonable care to inform its customers about actions to take. The general provisions of sections 4.2 d) and 4.2 e) still apply.	
ICELAND	FME		See general clause regarding FME’s Directive Requests.
IRELAND	IFSRA	COC, Section 6 Sections 6.1 to 6.3 deal with Suitability.	See HISF, COC, page 9
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> Article 29, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Unsuitable transactions)</i> See above rule n. 72	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	See 72	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament	STA section 9-2 par 1 sub 2 states that the investment firm shall in its conduct display the necessary competence, care and interest. Sub 4 states that the investment firm shall ensure that it obtains necessary information on the clients’ identity, financial situation and investment experience. Sub 5 states that the investment firm shall make adequate disclosure of relevant information in dealing with its clients. Event though rule 73 is not implemented word by word, we are of the opinion that the duties in rule 73 could be construed by the abovementioned provisions of section 9-2. STA section 9-2 par 1 subpar 2, 4, and 5.	Even though rule 73 is not implemented word by word, we are of the opinion that the duties in rule 73 could be construed by the mentioned provisions of section 9-2.
PORTUGAL		Article 304 and 326/1 b) of the Portuguese Securities Code	
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 Ministerial Order, dated 25 October 1995.	
SWEDEN	Finansinspektionen	Regulation on Conduct of Business Rules (2002:7) Chap 4 Section 1 Chap 4 explicitly requires investment firms to document information concerning a customers identity and to the extent required to safeguard the customers interests, information concerning the customers financial situation, investment experience and the objectives of the services requested by the customer.	

UNITED KINGDOM	FSA	COB 5.3.5R (Requirement for suitability generally) – suitability test based on making a personal recommendation or effecting a discretionary transaction , the firm having regard to the facts disclosed by the customer and other relevant facts about the customer of which the firm is, or reasonably should be, aware. Principle 6 (Customers’ interests) states that a firm must pay due regard to the interests of its customers and treat them fairly.	Footnote 12, which replicates paragraph 71 of the CESR Standards, indicates that this provision does not apply where the service to be provided is the pure transmission or execution of orders. See the comments on CESR Standard 72 for a discussion of the suitability obligations that apply in relation to the making of personal recommendations. The effect of CESR Rule 73, when combined with paragraph 71 of the CESR Standards in the context of a relationship that is not pure execution only, appears to be that the suitability test should apply whenever transactions are effected, regardless of whether a personal recommendation is made. There is no express equivalent of this concept in the FSA Rules – although Principle 6 may have the same effect. The issue is likely to be affected by the on-going debate over Article 18(4) – (4b) of ISD 2.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 13 of Part I of Annex 8 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 47b (1) a) of the Securities Act Securities Act: Art. 47b sec 1 d) and sec 2	The regulation is very general.
ESTONIA	The EFSA, the operator of stock exchange	Guideline. TSE Rules and Regulations “Membership rules” p 8.2.2: A member of the exchange shall act with competence and care in the best interests of its clients and the interests of the securities market as a whole.	
HUNGARY	Parliament	Sections 115 and 119 of CMA	The investment service provider must assess the customer’s risk taking capacity and it might require the customer to provide a written statement about his financial position and other supporting documents. Further to this, if the investment service provider finds that the customer’s risk taking capacity is not sufficient, it has to refuse providing the requested service to the customer.
LATVIA	Parliament	There are no specific requirements in the laws or FCMC regulations requiring the investment service provider to evaluate each client's order, however, a reference should be made again to the general duty prescribed by Article 128(1) of the Law on the Financial Instruments Market.	
LITHUANIA		When concluding the agreement with the client and providing services on the basis of the agreement, financial brokerage company must take into consideration the data collected about the client and warn him/her about the peculiarities of acquisition, record – keeping, exercising of ownership rights and the risk associated with the securities that are not registered with the LSC, as well as any other increased risk or peculiarities, which are not typical for the previously provided services, transactions and securities (Paragraph 3 of Rules on Placement and execution of	

		clients' orders).	
MALTA	MFSA	Vide reply to 40 (a). Additionally, in terms of SLC 3.03 of Part C I of the ISG an investment firm is required to act with due skill, care and diligence – and in the best interest of its customers and of the market.	
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	See above.
SLOVENIA		Please see above under 62.	Generally A: 146 of the SMA-1 applies; (2) An investment firm is obliged to execute the order in accordance with the statement of that order, given by the client.

Rule 75	<i>Where an investment firm receives an order regarding a transaction that it considers – in the light of the information disclosed to it by the customer and the information available to it, including the information arising from the customer relationship – not suitable¹⁹ for the customer, it must advise the customer accordingly and provide appropriate information on the transaction, including any necessary risk warning. The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction in writing or by telephone and recorded, and provided that such confirmation contains an explicit reference to the warning received.</i>		
Country	Implementing Authority(ies)	Implementing Measure²⁰	Comments
AUSTRIA	AP FMA/AFEC	3.5. Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	Point 3.5 lays down that an investment firm meets the obligation to give advice to the customer if it receives an order from a customer not suitable for him. It is not common market standard to let the customer confirm the transaction in writing or by telephone and recorded. It will be implemented as market standard that there must be a written documentation of the client order in form of a note for the file after a telephone call with the customer.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 73	See St. 73
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 13. (The above mentioned rules states that investment firms should when recommending or transmitting risk associated services assess whether these services are suitable for the customer)	Derogation: Section 13 implements standard 75 partly as section 13 only concerns transactions that are considered being associated with a specific risk. Section 13 does not implement the last sentence in standard 75.
FINLAND	Parliament	Chapter 4, Section 4, Paragraph 2 of the Securities Markets Act.	General rule, no detailed provisions available yet.

¹⁹ A transaction may be considered unsuitable for a customer, *inter alia*, because of the instrument involved (e.g. derivatives), because of the type of transaction (e.g. sale of options), because of the characteristics of the order (e.g. size or price specifications) or because of the frequency of the customer's trading.

²⁰ Any derogation to the application of the implementing measures should be mentioned.

	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7).	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 3-3-7 of the GR of the CMF	See above (73).
GERMANY	Legislator /BaFin	Guideline, Part B.3 par. 2 Guideline, Part B.3.3. par. 1	No legal basis for recording requirement Proposal for amendment of law will be presented to the ministry of finance
GREECE		According to section 8.4 of the Code of Conduct of Investment Services Firms, investment services firms should provide appropriate information on the transactions to their customers and advise them accordingly including any necessary risk warnings. (see also section 6.1)	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Risk disclosure requirement</u> <u>COC, Section 6</u> As at 73 above.	
ITALY	CONSOB	Article 29, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Unsuitable transactions)</i>	
LUXEMBOURG	CSSF	See 72	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament ANSC	STA section 9-2 par 1 subpar 1 and 2, which states that investment firms shall in their conduct display the necessary competence, care and interest, and execute received assignments with due care. Ethical Norms articles 4-2 and 5-1	
PORTUGAL		SC art 326/1/b	Implemented in the referred rules, although in more general terms. The CMVM's supervisory practice ensures that the financial intermediary complies with the requirements of this Rule.
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" Ministerial Order, dated 25 October 1995. CNMV Circular 1/1996	
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	Principle 6: a firm must pay due regard to the interests of its	As with CESR Standard 73, there is no express equivalent of this

		<p>customers and treat them fairly. Principle 9: requires a firm to take reasonable care to ensure the suitability of its advice and discretionary decisions.</p> <p>COB 5.3.5R (1) if a firm thinks the transaction (personal recommendation or discretionary transaction) unsuitable, it must take reasonable steps to ensure it does not make or effect it in the course of business. What constitute reasonable steps will vary greatly and depend on the needs and priorities of the private customer, the investment or service offered, the relationship between firm and private customer and whether the firm is giving a personal recommendation or acting as a discretionary investment manager: COB 5.3.4G.</p>	<p>concept in the FSA Rules. As CESR Rule 75 is extremely specific as to the action to be taken if the client wishes to proceed notwithstanding a determination that the transaction is not suitable. This is an area that is likely to be affected by the on-going debate over Article 18(4) – (4b) of ISD 2.</p>
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 13 of Part I of Annex 8 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The following are not covered “including any necessary risk warning, The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction in writing or by telephone and recorded, and provided that such confirmation contains an explicit reference to the warning received”. 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 47b (1) a) of the Securities Act Securities Act: Art. 47b sec 1 d) and sec 2	The regulation is very general.
ESTONIA	The EFSA, the operator of stock exchange	Guideline. TSE Rules and Regulations “Membership rules” p 8.4.2: A member of the exchange shall inform the client of the risks pertaining to the securities market in general and the specific investment service in particular, and have the client sign a statement to the effect that the client is aware of the general risks of participating in the securities market and the particular risks of the specific investment service.	
HUNGARY	Parliament	Sections 115 and 119 of CMA and Section 3 of Government Decree 205/1996	<p>See comments for paragraph 73. The investment service provider must provide sufficient information on the transaction together with the associated risks. A reference to the provision of this information must be included within the investment contract. The signing of the investment contract should be considered as a confirmation. In case an investment order is given by telephone, fax or electronically, the order must be recorded.</p> <p>Section 119 of CMA does not allow investment firms to enter into a contract that is not suitable for the customer. This protects the best interest of the customer, as they do not allow the provision of</p>

			such unsuitable investment services at all.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA		No direct provision is made in Maltese Legislation to cater for this requirement. Nevertheless, in terms of SLC 3.03 of Part C I of the ISG an investment firm is required to act with due skill, care and diligence – and in the best interest of its customers and of the market and in doing so is required to keep a note in the client’s file when acting on an execution only basis, that is processing a transaction in circumstances where the customer is reasonably believed not to be relying on the Investment Firm to advise him or exercise any judgement on his behalf as to the transaction’s suitability. In terms of the same licence condition, this note should also be signed by the client. Moreover SLC 3.03(e) states that the Investment Firm shall act with due skill, care and diligence – and in the best interests of its customers and of the market. Such action shall include, taking all reasonable steps to ensure that transactions are suitable for a customer, bearing in mind his objectives.
POLAND	Parliament for enacting Council of Ministers for decree	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. The decree is going to expressly establish such a rule.	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	Investment firm is obliged to ask client , depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client’s interest. Investment firm is obliged too provide the client with important information related to the transaction and advise him on important facts and risks associated with transaction
SLOVENIA		Please see above and the details on the confirmation on the receipt of client’s order defined by the Decision on the provision of services with regard to securities.	

Standard 74			
<i>An investment firm must take reasonable care to verify that the customer has sufficient financial resources to settle the proposed transaction.</i>			
Country	Implementing Authority(ies)	Implementing Measure²¹	Comments
AUSTRIA	AP	Art. 13 par 3 ASSA	At the beginning of the investment services provided by the credit institution the customer has to conclude an agreement with the

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

	Credit Institutions	Z 66 General terms and obligation of Austrian credit institutions	credit institution about opening an account. In this agreement there are laid down the credit facilities, which can be drawn on by the customer. It is common market standard that investment firms verify that the customer has sufficient financial resources to settle the proposed transaction, which is laid down in Art. 13 par 3 ASSA. This standard does not require further implementing measures. Furthermore, the investment firm has to check if the account of the customer is covered for the execution of the transaction. If not, the credit institution has the right according to Z 66 of the General terms and obligation of Austrian credit institutions to refuse to execute the transaction
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	Art. 36, § 1, 4°, L. 6 April 1995 KYC-rule (part of prudential credit risk management principles)	See St. 73
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) and Regulation on Customer Funds (201.13).	
FRANCE	AMF	Article 4-1-35 and 4-1-35-1 of the GR of the CMF	This has not been implemented as a general principle. The CMF provisions only apply to trades in cash financial instruments admitted to a regulated market and provide that where settlement is deferred beyond the normal date for payment and delivery a minimum margin amount must be deposited by the client before the order can be accepted by the firm. Clearing house rules will apply in the case of orders for derivative instruments.
GERMANY	BaFin	Guideline, Part B.3 par. 2	
GREECE		According to the third principle as well as section 6 of the Code of Conduct of investment services firms the latter are obliged to obtain information regarding the financial status of their clients. In addition, according to article 1 of Law 2843/2000 and article 1 of the Rule of the HCMC with No 2/213/28-3-2001 on the provision of credit by the ASE members and other adjustments to clients (margin account) (as this was amended by the Rule of the HCMC with No 11/215/10.5.2001) investment services firms are responsible to verify that their customers have sufficient financial resources to settle the proposed transactions. Third Principle of the Code of Conduct Third Principle c) Third Principle: Investment services firms which, pursuant to the law, provide investment services as well as natural and legal persons employed by them shall obtain information regarding the	

		financial status, investment objectives and experience of their clients so as to provide proper investment advice.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>GS&RR, Section 2.4 & Section 4</u> Section 2.4 deals with Client Credit Risk, and Section 4 deals with Customer Borrowing.	See HISF, GS&RR, pages 4 & 5
ITALY		Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○○ Article 29, paragraph n. 1 of Consob Regulation 11522 <i>(Unsuitable transactions)</i> ○○○ Article 56, paragraph n. 2 of Consob Regulation 11522 <i>(Internal procedures)</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	Pursuant to the principle 3.3. of the circular CSSF 2000/15 the professional who executes leveraged transactions must possess the appropriate resources for his type of business, in particular to ensure the monitoring and control of positions. Concerning in general the verification that the customer has sufficient financial resources to settle the proposed transaction, is a common practise principle.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Art 28 (1) and (2) NR2002 say that a firm must obtain information concerning the financial position of the clients and that a firm shall not carry out a transaction is account balances are insufficient.	
NORWAY	Parliament ANSC	STA section 9-2 (1) nr. 4 Ethical Norms, article 5-1(2)	
PORTUGAL		Article 304 and 326/2 c) of the Portuguese Securities Code	
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" Ministerial Order, dated 25 October 1995. CNMV Circular 1/1996	
SWEDEN	Finansinspektionen	Regulation on Conduct of Business Rules (2002:7) Chap 4 Section 1 Chap 4 explicitly requires investment firms to document information concerning a customers identity and to the extent required to safeguard the customers interests, information concerning the customers financial situation, investment experience and the objectives of the services requested by the customer.	
UNITED KINGDOM	FSA	Principle 2 (A firm must conduct its business with due Skill, care and diligence)	There is no precise equivalent of in the FSA Rules. If a firm were to allow settlement exposures to develop without

		Principle 6; A firm must pay due regard to the interests of its customers and treat them fairly.	ascertaining that the client has sufficient financial resources to settle the proposed transaction, it may, in significant cases, breach the principle that a firm must conduct its business with due skill, care and diligence. and treat its customers fairly..
		COB 5.2.5R (Requirement to know your customer) et seq. A firm must take reasonable steps to ensure that it is in possession of sufficient personal and financial information about the customer relevant to the services that the firm has agreed to provide – before the firm gives a personal recommendation etc..	In addition, in certain cases, the suitability requirements discussed in connection with CESR Standard 72 will apply.
		COB 7.9 (Restrictions on lending to private customers) provides that firms must not lend money or grant credit in course of or in connection with the provision of investment services without assessing private customer's financial standing based on latter's disclosure of information.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 12 of Part I of Annex 8 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 47b (1) a) of the Securities Act Securities Act: Art. 47b sec 1 d) and sec 2	
ESTONIA	The EFSA, the operator of stock exchange	Guideline. TSE Rules and Regulations “Membership rules” p 8.3.3: If a member of the exchange has reason to believe that a client is unable to perform its obligations under the agreement, the member may refuse to accept a client order or to perform a transaction, or request that the client provide a collateral.	
HUNGARY		See comments for paragraph 73.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue. This issue would completely depend on the contractual relationship between the client and the investment service provider.	
LITHUANIA		The financial brokerage firm shall make sure that securities are furnished by the moment when the right of ownership arises from the concluded transactions and money is furnished by the moment of settlement (Paragraph 38.2 of Rules on Placement and execution of clients' orders).	
MALTA	MFSA	Vide reply to (66) above.	
POLAND	Parliament for law Council of Ministers for decree	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. The decree is going to expressly establish such a rule. According to 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, the brokerage house is obliged to check whether the customer has sufficient financial resources to settle the proposed	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.

		transaction by examining this customer's account (if there is no other agreement between brokerage house and its customer). There is one exemption form that obligation which takes place when the customer's account is kept by bank. (Par. 28, Par. 30, Par. 35, Par. 47-50)	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	See above.
SLOVENIA		As concerns financial resources of clients, the law does not define those requirements. Financial resources for buying transactions and potential credit facilities are defined in so called general conditions of operation that each investment firm must provide to its customers. Those general conditions of operations are approved by the Agency.	There is a T+2 settlement period in Slovenia.

Rule 76			
<i>An investment firm may accept an order without having taken reasonable steps to verify the immediate availability of the funds (securities) necessary for carrying out the related purchase (sale) only if an adequate credit facility has been agreed on beforehand.</i>			
Country	Implementing Authority(ies)	Implementing Measure²²	Comments
AUSTRIA	Credit Institutions	Z 66 General terms and obligation of Austrian credit institutions	Please see 74.
BELGIUM	Royal Decree	No specific rules	New rules can be enacted on the basis of Art. 26, 17° and 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	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7) and Regulation on Customer Funds (201.13).	No provisions on derogation from the main principle available. 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 or banking authorities	No specific implementing measure identified.	This has not been explicitly implemented; see above.
GERMANY	BaFin	Guideline, Part B.3 par. 2	Credit facility not explicitly mentioned in guideline, but is practice of supervision
GREECE		Sections 4.3, 6.2, 7.2 (c) (hh) ensure that an investment services firm can accept an order if adequate credit facility has been agreed on beforehand. See also standard 74. In addition, according to article 2 of the Rule of the HCMC with No 2/213/28-3-2001 an investment services firm should carry on the related purchase on the account of its client only if enough credit facility has been agreed on beforehand. Such an agreement is for example a special agreement between the	

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

		firm and its client for the provision of margin under a special margin agreement. The details of this contract are provided in article 4 of the abovementioned rule of the HCMC. In addition, according to article 15 para. 15 of Law 3632/28 short sales are prohibited, unless special conditions are fulfilled, as those more specifically defined in the Rule of the HCMC for short sales.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>GS&RR, Section 2.4 and 4</u> As at 74 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</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	See 74	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament Kredittilsynet	In addition to STA section 9-2, we should mention section 8-7 which states that "an investment firm may only mediate the sale of financial instruments not owned by the client provided the client has access to the financial instruments and the firm is assured of punctual delivery in the agreed date".	This provision should be construed as a duty to verify the immediate availability of the funds necessary for carrying out the related purchase (sale).
PORTUGAL		SC arts 306/3 and 5 and art 326/2 c)	Financial intermediaries can only accept orders from their clients that do not provision accounts neither of cash nor of securities, for the purpose of settlement of transactions, should they be authorised to grant credit and if they hold, for that purpose, a contract with the client or, if a third intermediary has entered into a contract with the client. In any other situations, the financial intermediary cannot allow clients not to have their accounts duly provisioned for settlement purposes- once that could endanger the principle of segregation of assets between clients (article 306/3 and 5 of the SC). The CMVM has been acting in pursuance of this understanding, when, within the scope of supervisory actions, it identifies situations where accounts of clients lack provision for the purpose of settlement of transactions, without being demonstrated that an adequate contract of granting of credit is in place.
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 Ministerial Order, dated 25 October 1995. CNMV Circular 1/1996	
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	Please see the response in relation to CESR Standard 74. Note COB 7.9 requires an assessment of a private customer's financial standing before granting the latter credit.	See the response in relation to CESR Standard 74.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 12 of Part 1 of Annex 8 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	This is covered by approximation and will be expressly 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 47b (1) a) of the Securities Act	
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 73.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		The financial brokerage firm shall make sure that securities are furnished by the moment when the right of ownership arises from the concluded transactions and money is furnished by the moment of settlement (Paragraph 38.2 of Rules on Placement and execution of clients' orders).	
MALTA			Not catered for in local legislation.
POLAND	Council of Ministers for enacting	According to 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, the brokerage house is allowed to accept the order without appropriate funds on the customer's account, when such a procedure is set out in the contract being the base of providing services for that customer. (Par. 28)	Polish Securities and Exchange Commission is responsible for drafting,
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 73	See above.
SLOVENIA		Please see 75 above.	

Rule 77	<p><i>Where the service to be provided is the pure transmission or execution of orders (either through a special distribution channel, in individual cases or generally) the customer must be made aware of this fact prior to the transaction taking place for the first time. On the basis of the information obtained from the customer on opening the account, the investment firm will define an appropriate service including investment parameters, i.e. types of instruments, types of transactions and types of orders, and inform the customer accordingly. Where the investment firm receives an order regarding a transaction, which is not in line with the defined investment parameters, it must warn the customer accordingly and provide appropriate information on the transaction, including any necessary risk warning(s). The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction in writing or by telephone and recorded, and provided that such confirmation contains an explicit reference to the warning received.</i></p>		
Country	Implementing Authority(ies)	Implementing Measure ²³	Comments
AUSTRIA	AFEC, FMA	4.e Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	<p>The GL deals with the specific kind of business – the execution only business. It gives a definition for the execution only business and lays down the rights and duties of the investment firm in connection with this kind of business. This standard is in general common market standard. This standard does not require further implementing measures.</p> <p>Not implemented in Austria is the written or given confirmation (by telephone and/or taped) of an order, which does not meet his risk profile. This adoptions in regard to “execution only”- business will be implemented in line with the revised ISD.</p>
BELGIUM	Parliament and Royal Decrees proposed by the Minster of Finance	<p>Art. 36, § 1, 4° and 5°, L. 6 April 1995 are limited to clients that were given advice by the firm</p> <p>Art. 36, § 1, 2° (duty to care), L. 6 April 1995</p> <p>See also: the CBFA circular to financial institutions of 5 May 2000 on prudential requirements for internet financial services (nr 25): a firm needs to satisfy itself – when entering into business relationship – that the internet remote services offered (all or some of them) are consistent with the client’s profile (e.g. knowledge of and experience with the investment business, financial background, objectives pursued)</p>	<p>Art. 26, 1°, L. 2 August 2002 (to come into force later)</p> <p>New rules can be enacted on the basis of Art. 26, 17° and 146 L. 2 August 2002idem</p> <p>General note: The King may determine different rules for the application of the provisions of Art. 26 according as the investment services provided are limited to a simple transmission or execution of orders or not (art. 28, 2°, L. 2 August 2002) (to come into force later)</p>
DENMARK	The Ministry of Economic and Business Affairs	<p>Executive order on Conduct of Business, section 21, par 2 and par 3.</p> <p>(The above mentioned rule states that investment firms can provide services to customers without applying a suitability test to each transaction. On the basis of the information obtained from the customer on opening the account, the investment firm can instead define appropriate services instruments etc. Where the investment firm receives an order regarding a transaction, which is not in line with the defined investment parameters, it must warn the customer. The investment firm may transmit or execute the order only if the customer nonetheless confirms his intention to proceed with the transaction.)</p>	<p>Will come into force on 1 April 2004</p> <p>Derogation: It is not required that the information given to the customer should be in writing or tape-recorded.</p>
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 2 of the Securities Markets Act	The current regime on execution-only business is not compatible with the rule, but it is broadly in line with the ongoing ISD2

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

			discussions.
FRANCE	Parliament, AMF	No specific implementing measure identified.	There is no explicit execution-only service in France, which is not considered compliant with the law transposing the ISD in France
GERMANY	Legislator / BaFin	Guideline, Part B.2.6. Amendment of guideline needed	No legal basis for recording requirement Proposal for amendment of law will be presented to the ministry of finance
GREECE		Sections 4.2. (d) (e) and 6.1. of the Code of Conduct apply.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.2</u> As at 26 above	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> Article 29, paragraph n. 1 and 3 of Consob Regulation 11522 <i>(Unsuitable transactions)</i> ○○ Article 30, paragraph n. 1 of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○○ CONSOB COMUNICATION DI/30396 OF 21 APRIL 2000	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	See 53	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	In the client agreement a firm and a client agree on the services to be rendered. This rule has not been written down in regulations in its entirety, but most of it is enforced in practice	A firm does not unilaterally determine services to be provided. No specific rules are provided for cases where clients deviate from the advice of a firm. However, in practice a firm may allow a client to deviate from its advice, but should demonstrate that the client is doing so and that the firm does not deviate from the customer-care provisions.
NORWAY	Parliament	No such provision.	
PORTUGAL			Not implemented
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" Ministerial Order, dated 25 October 1995. CNMV Circular 1/1996	
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		Principle 2 (Skill, care and diligence) provides that a firm must conduct its business with due skill, care and diligence. Principle 6 (Customers' interests) provides that a firm must pay	There are no directly equivalent requirements under the FSA Handbook. COB 3.9.12R provides that a direct offer financial promotion relating to an execution-only dealing service must in particular, if

		<p>due regard to the interests of its customers and treat them fairly.</p> <p>COB 3.9.12R (Execution-only dealing services) see comments column.</p> <p>COB 4.2.5R (1), 4.2.9R (1), 4.2.10R and 4.2.15E (4) & (5) (Terms of business and client agreements with customers)</p> <p>COB 5.3.5R</p> <p>COB 4.2 sets out terms of business requirements and the need for adequate detail. There should be some provision on investment objectives, the service(s) to be provided by the firm and on restrictions, if any, on types of investment. Execution-only transactions and direct offer fin proms are exceptions, however, to the terms of business requirement and to KYC requirements (save where ML sourcebook applies).</p> <p>Under COB 5.3.5R, a firm must take reasonable steps to ensure that it does not in the course of designated investment business make a personal recommendation or effect a discretionary transaction unless these are suitable. Equally, when making a personal recommendation or effecting a discretionary transaction, the firm must take reasonable steps to ensure that the private customer understands the nature of the risks involved: COB 5.4.3R.</p>	<p>it is the case, contain a clear statement that:</p> <ul style="list-style-type: none"> • The firm's procedures are such that there may be a delay in the execution of a customer order, including the reason for and the normal maximum extent of any delay; and • Customer orders may on occasion be aggregated (in which case additional disclosure requirements apply).
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus		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	PART THREE, CHAPTER I, Section 47b (1) a) of the Securities Act	
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Sections 116 and 119 of CMA	Before signing an investment contract, the investment service provider must always inform the customer about the risks associated with the specific investment product, no matter whether investment advice is provided or only the pure transmission or execution of orders take place. Under recent Hungarian rules investment service providers are not obliged to define appropriate investment parameters as defined in the first column. The general obligation to assess the customer's risk taking capacity means that the service provider must check the appropriateness of the specific investment (order) and if he finds that it is not appropriate for the customer he must refuse signing the investment contract. Concerning confirmation see comments for paragraph 75.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA		Other than as described above, no additional directly relevant

			regulations are imposed.
POLAND	Parliament for law Council of Ministers for decree	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. The decree is going to expressly establish such obligations.	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		Investment firm is obliged to ask client, depending on the type and range of services requested by the client, for the information about his financial position, experience with investing in financial instruments, and the objectives the client seeks to achieve through the requested service, and to provide investment services with respect to the determined level of professional knowledge and experience of the client served in the client's interest. Investment firm is obliged too provide the client with important information related to the transaction and advise him on important facts and risks associated with transaction
SLOVENIA		The rule on clients' orders applies. They must be executed as they are set, but the investment firm must warn client on any specialities in the order. After warning and consultation given, the investment firm must confirm any acceptance of the order, in written form.	

4. CUSTOMER AGREEMENTS

4.1) BASIC CUSTOMER AGREEMENT

Standard 78	<i>Prior to providing any investment service, an investment firm must enter into a signed written agreement with the customer setting out the rights and obligations of the parties, a description of the services to be provided, and all other items of information necessary for the proper understanding and performance of the agreement.</i>		
Country	Implementing Authority(ies)	Implementing Measure ²⁴	Comments
AUSTRIA	AP/AFEC	Art. 17 para 3 lit. 2 ASSA B 1 Z 3 GTC	The demand for a signed written agreement between the customer and the investment firm is captured by provisions of the ASSA and especially the GTC. The investment firm has to hand out the customer according to Art 17 para 3 lit. 2 a copy of the complete customer contract. This standard does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	RD of 5.8. 1991 on portfolio management and investment advice and CBFA circular of 14 August 1992 to banks and investment firms on portfolio management See also: nrs 116, 118 and 119 RD 25 November 1991 on foreign exchange and deposit broking (art. 7)	CBFA Consultation document on revised rules for portfolio management Further measures can be taken on the basis of Art. 26, 17°, L. 2 August 2002 See also: Art. 146 L. 2 August 2002
DENMARK	The Ministry of Economic	Executive order on Conduct of Business, section 4 and section 20,	Section 21 will come into force on 1 April 2004

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

	and Business Affairs	par 1. (The above mentioned rules state that prior to providing any investment service, an investment firm must enter into a signed written agreement with the customer setting out the rights and obligations of the parties, a description of the services to be provided, and all other items of information necessary for the proper understanding and performance of the agreement.)	
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 2, Paragraph 1 of the Securities Markets Act. Rahoitustarkastus Regulation on Customer Funds (201.13). Rahoitustarkastus Guideline on Agreements for safekeeping and administration of Securities (including safecustody) Bookentry Accounts and Portfolio Management (201.9).	
FRANCE	Parliament, AMF	Article 533-10 of the MFC, Articles 2-4-12 and 2-4-13 of the RG of the CMF Article 11 of COB Regulation 96-02 (on portfolio management)	The statutory provision relates to portfolio management. The CMF provisions relate to other investment services (transmission/reception and execution of orders) as well as custody. Where the client is another regulated institution no written agreement is required for transmission/reception and execution of orders. The COB provision determines the minimum contents of the portfolio management agreement.
GERMANY	Legislator	Not implemented	No legal basis for governing civil law agreements (freedom of contract principle) and written form Proposal for amendment of law will be presented to the ministry of finance
GREECE		Section 7.2 of the Code of Conduct of Investment Services Firms requires investment services firms prior to providing any investment service, to enter into a signed written agreement with the customer setting out the rights and obligations of the parties, a description of the services to be provided, and all other items of information necessary for the proper understanding and performance of the agreement.	
ICELAND	Parliament / FME	The duty to enter into a signed written agreement with the customer is restricted to services involving a permanent commercial relationship, art. 7, paragraph 1.	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 2</u> As at 26 above.	Terms of business & Investment Agreement
ITALY	CONSOB	Article 23, paragraph n. 1, of Legislative decree n. 58/1998 <i>(Contracts)</i> Article 30 of Consob Regulation 11522 <i>(Contracts with investors)</i>	
LUXEMBOURG	CSSF	According to principle 1.1 of the circular CSSF 2000/15 the	

		professional shall ensure that client transactions are executed on the basis of clearly-defined contractual provisions.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A client agreement should be concluded with all clients (art 25 Bte, art 27 NR2002)	
NORWAY	Parliament	STA, section 11-2 Investment firms are required to provide the customer with commercial terms in connection with the establishment of a business relationship. The commercial terms shall at least regulate the matters listed in the section.	A signed agreement is not required.
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/ CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Article 14 "Standard contracts" and article 15 "Delivery of contractual documentation". Ministerial Order, dated 25 October 1995, Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation" and Rule 8 "Standard contract".	
SWEDEN	Finansinspektionen		No rules on customer agreements are implemented in regulation and general guidelines. The Swedish Securities Dealers Association has issued a Standard Agreement, used by most members. This Standard agreement contains most of the provisions in part 4 of the CESR-Standards. 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	COB 4.25R (Accepting Customers); - a firm must provide a customer with its terms of business before conducting any designated investment business with or for a specific private customer. An intermediate customer must be provided with terms of business within a reasonable period of the firm beginning to conduct designated investment business with or for him. A signed written agreement in not required.; COB 4.2.7 (Requirement to enter into a client agreement with a private customer). - where the firm intends to conduct with or for a private customer portfolio management, derivatives business or stock lending. Here a signed customer agreement is required. The agreement is signed by the client or consented to by the client in writing. There are exceptions to the terms of business and client agreement requirements. These are set out at COB 4.2.9R and include execution-only transactions and direct offer financial promotions..	The FSA's approach to the provision of adequate terms of business and entering customer agreements reflects the differing needs of customers who transact business essentially as purchasers of packaged products for which a full customer agreement model would not be appropriate and for example customers of investment firms for the purpose of portfolio management, derivatives and stock lending for which a signed customer agreement is needed. The structure of the FSA's rules also reflect the practical consideration that when a firm has first contact with a customer it may not be able to ascertain precisely what services it will provide or the customers needs and objectives. Accordingly certain requirements as to the delivery of appropriate information, for example as to the risk profile of certain kinds of investments or information about how or what basis the firm will deliver services. This structural point is illustrated in the location of rules about the provision of information in both COB

			4.2 (Accepting customers) and COB 5 (Advising and selling). A similar approach applies in the case of custody services (COB 9).
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Sections 17(1) and 18 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Section 28-38 Securities Act (SA)	There is no general rule, but regulation specific to each type of contract imposes written form on most of major contracts related to securities
ESTONIA	The EFSA, the operator of stock exchange	Guideline. TSE Rules and Regulations “Membership Rules” p 8.2.4: Any relationships between a member of the exchange and its clients arising from the provision of investment services shall be regulated by written agreements.	
HUNGARY	Parliament Government	Section 115 of CMA Section 2, 6 and Subsection 3 of Section 15 of Government Decree 205/1996	Investment service providers and commodities brokers shall inform their clients, prior to entering into a contract concerning the services they provide as licensed, on the current prices of investment instruments and/or exchange-traded instruments, on previous changes in such prices, on the marketability of the instruments, on public information, on the risks involved, on the investor protection scheme if any, and shall supply all other information that may be of consequence regarding the conclusion and settlement of the contract. Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information. Investment service providers and commodities brokers must inform their clients regarding any and all contractual fees and charges. Whenever business is conducted between an investment service provider, or a commodities broker, and a client exclusively by electronic means, the investment service provider, or the commodities broker must operate or contract the use of an information system so as to ensure access for the client to the information specified above. The details of information to be provided to customers under Section 115 of CMA have to be included in the investment service provider’s internal business rules. The internal business rules must also regulate the frequency and method of information supply to customers. Investment firms have to send model investment contracts for the HFSA for approval
LATVIA	Parliament	Article 126 of the Law on the Financial Instruments Market requires the investment services provider to enter into a written agreement with a client prior to commencing provision of investment services.	
LITHUANIA		Agreements between intermediaries and their clients shall be executed in a simple written form (Art. 25.1 of the LSM).	

MALTA	MFSA	<p>SLC 3.06 requires that:</p> <p>“An investment firm shall conduct its business with each customer by means of a written agreement which shall set out the basis on which its services are to be provided...” Q80(g) – SLC 3.06(b) requires the agreement to include: “in respect of any charges payable by the customer to the <i>Investment firm</i>: -</p> <ul style="list-style-type: none"> • the basis of calculation. In this regard the <i>Investment firm</i> shall give customers at least one month’s notice of any proposed increase in the charges; • the basis of payment (deduction or billing etc.). In this regard the <i>Investment firm</i> shall make no deduction from income or capital belonging to a customer in respect of its charges unless it has given notice to the customer; • the frequency of payment; and • whether or not any fees payable are supplementary to or abated by any remuneration receivable by the <i>Investment firm</i> in connection with transactions effected by the <i>Investment firm</i> with or for the customer;” <p>Q80(h) – SLC 3.06(c) requires the agreement to include “the fact that the <i>Investment firm</i> is regulated in the conduct of its Investment Services business by the MFSA;”</p> <p>Q80(j) – SLC3.06 (j) requires the agreement to include “arrangements for bringing the agreement to an end”.</p>	<p>No customer agreement is required for: -</p> <ol style="list-style-type: none"> i. the issue of any tipsheet, broker’s circular or other investment publication; ii. a contract entered into by the Manager of a Collective Investment Scheme as Principal to sell or purchase units in that Scheme; iii. advising on, dealing as Representative in, and arranging transactions in units in a Collective Investment Scheme or in an LLTCI where the customer’s requirements are reasonably believed by the <i>Investment firm</i> to be confined to Collective Investment Scheme units or an LLTCI, as long as there is no element of discretionary management by the <i>Investment firm</i>; and iv. deals effected or arranged on behalf of an execution-only customer (where the customer is reasonably believed not to be relying on the <i>Investment firm</i> to advise him or exercise any judgement on his behalf as to the transaction’s suitability); Provided that the <i>Investment firm</i> obtains the customer’s written confirmation outlining the services being sought from the <i>Investment firm</i>. 80(I) – There is no formal requirement in this regard. However, in practice the agreement would indicate that the agreement is subject to Maltese law. <p>Q80(j) – The duration of the agreement and the procedures for amending the document are not specifically catered for.</p> <p>Q80(k) – Section 4, Part CI of the ISG specifies the requirements applicable in relation to client’s complaints and the procedures to be followed in this regard. There is no specific rule requiring such disclosure to be made in the client agreement.</p>
POLAND	Parliament for the law Council of Ministers for decree	<p>According to the existing law there always must be signed an agreement between brokerage house and it’s client, which establish all the rights and obligations of it’s sides. This rule is also expressed in the Decree of the Council of Ministers dated September the3rd, 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. The mentioned above agreement must be concluded in a written or electronic form. (Art. 34 and Art. 7a The Law on Public Trading of Securities).</p> <p>There are also some specific restrictions concerning the scope of brokerage house’s regulations being the part of an agreement with the client, established in the Decree of the Council of Ministers dated September the3rd, 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. (Par. 3, Par. 4, Par. 5, Par. 6, Par. 7)</p>	<p>Polish Securities and Exchange Commission is responsible for drafting,</p>

SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services and Commercial Code	Each agreement signed with the customer must be in line with the relevant provisions of the Commercial Code and the Securities Act
SLOVENIA	Parliament	SMA-1; A: 141	For the detailed content of the contract, please see under point 62.

Standard 79			
<i>The customer agreement must be clear and easily understandable by the customer.</i>			
Country	Implementing Authority(ies)	Implementing Measure²⁵	Comments
AUSTRIA	AP/AFEC	Art. 17 para 3 lit. 4 ASSA B 1 Z 3 GTC	The investment firm has to provide all relevant material information in a way to safeguard every time the interest of the customers, which includes that a customer agreement must be clear and easily understandable by the customer. This standard is covered by provisions of the ASSA and the GTC. This standard does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78	See St. 78
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 1 and Chapter 4, Section 4, Paragraph 2 of the Securities Markets Act.	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	General principle make compulsory to apply CMF and COB specific regulation on agreement through a clear and easily understandable document.	
GERMANY		See 78	
GREECE		Section 7.2 (c), of the Code of Conduct of Investment Services Firms, requires among others, that investment services firms conclude with clients a detailed contract agreement, which clearly states clients duties and obligations against the Company and the agreed upon limitations of Company liability against the investment services provided to clients.	
ICELAND	Parliament, FME		As regards the customer agreements that the investment firm is required to conclude with the customer under current law (those involving a permanent commercial relationship) the general

²⁵ Any derogation to the application of the implementing measures should be mentioned.

			<p>clause regarding the FME directive requests applies: 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> <p>As regards other customer agreements the general clause regarding FME's list that will be presented and introduced to the ministry of commerce applies.</p>
IRELAND	IFSRA	<u>COC, Section 2</u> As at 26 above.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</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	As the circular CSSF 2000/15 requires that the professional shall act in the best interest of the clients, the customer agreement must by itself be clear and easily understandable.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	There are no rules concerning the form of the agreement.
NORWAY	Parliament	STA section 11-2 cf section 9-2 par 1 subpar 5, implies that all information shall be clear and easily understood by the customer.	
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/ CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping. Article 14 "Standard contracts" and article 15 "Delivery of contractual documentation". Ministerial Order, dated 25 October 1995, Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation" and Rule 8 "Standard contract".	
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	Principle 7 A firm must pay due regard to the information needs of	Principle 7 and COB 2.1.3 are the main provisions in relation to

		its clients, and communicate information to them in a way that is clear, fair and not misleading. COB 2.1.3 When a firm communicates information to a customer, the firm must take reasonable steps to communicate in a way that is clear, fair and not misleading.	CESR Standard 79. Also, COB 4.2.7R (2) requires a firm to take reasonable care to ensure that the private customer has had a proper opportunity to consider the terms.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 17(2) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission Parliament	Section 47b Stockbrokers' Rules of Conduct in Relation to Clients of SA Section 12 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 (SDO)	
ESTONIA	The EFSA	Guideline.	
HUNGARY			
LATVIA	Parliament	Article 128 of the Law on the Financial Instruments Market stipulates that the customer agreement shall not contain disguised clauses that are counter to customer interests.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.06 SLC 9.01	
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish such a requirement.	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	
SLOVENIA	Parliament	See St. 78	

Rule 80	<p><i>The customer agreement must contain the following items as a minimum:</i></p> <ul style="list-style-type: none"> <i>a) the identity, postal address and telephone number of each of the parties;</i> <i>b) the names of any persons authorised to represent the customer for the purposes of the agreement, in particular the names of the natural persons authorised to represent the customer who is a legal entity;</i> <i>c) the investment firm's general terms of business for investment services and any particular terms agreed between the parties concerning, e.g. margin requirements or potential obligations where securities may be purchased on credit;;</i> <i>d) a general description of the investment services, including custody, offered by the investment firm and the types of financial instruments to which such services relate;</i> <i>e) the types of orders and instructions that the customer may place with the investment firm, the medium/media for sending them (e.g. by telephone, E-mail or post) and the alternative medium to be used when normal media are unavailable;</i> <i>f) the information to be given by the investment firm to the customer regarding the performance of services including the medium/media for sending the information and the type, frequency and rapidity of the information to be given e.g. regarding order execution or portfolio evaluation;</i> <i>g) details of the investment firm's fees and prices for investment services, including information on how they are to be calculated, the frequency with which they are to be charged and the manner of payment;</i> <i>h) the name of the competent authority which has authorised the investment firm;</i> <i>i) the law applicable to the contract, as ascertained to the best of the knowledge of the firm or as agreed between the parties;</i> <i>j) the duration of the agreement and the procedures for amending, renewing, terminating or withdrawing from it;</i> <i>k) where such a procedure exists, a description of the mechanism for settling disputes between the parties such as an out-of-court complaint and redress mechanism;</i> <i>l) the actions that the investment firm shall or may take in the event the customer does not honour his obligations (e. g. payment of money due to the investment firm), in particular whether the investment firm is allowed to dispose of any of the customer's assets, the timeframe for doing so and the information to be given to the customer in such circumstances;</i> <i>m) the languages in which the customer can communicate with the investment firm.</i>
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Country	Implementing Authority(ies)	Implementing Measure ²⁶	Comments
AUSTRIA	AP	a)	a) The information obligations under this rule are covered by provisions of the GTC and the items are contained in several different documents and guidelines.
	Credit institutions	b) Z 31, 32 General terms and obligation of Austrian credit institutions	b) Z 31 power to draw from an account, Z 32 signatory power
	Credit institutions	c) Z 74 General terms and obligation of Austrian credit institutions	c) Z 74 Future and options trading
	Credit institutions	d) Z 69 General terms and obligation of Austrian credit institutions	d) Z 69 safe custody
	Credit institutions	e) Z 3 General terms and obligation of Austrian credit institutions	e) Z3 issues of statements
	Credit institutions	f) Z 16, 17 General terms and obligation of Austrian credit institutions	f) Z 16 Argumentation, Z 17 communication of missing information
	Credit institutions	g) Z 43, 44, 45, 46 General terms and obligation of Austrian credit institutions	g) Z 43 Fees, amount of fees, change of fees

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

	FMA/AAFEC Credit institutions Credit institutions Credit institutions	i) Z 20 General terms and obligation of Austrian credit institutions j) Z 22, 23 General terms and obligation of Austrian credit institutions l) 23, 24, 10, 11, 12, 13 General terms and obligation of Austrian credit institutions	h) This rule is not common standard and will be implemented as market standard and interpretation guidelines to the general information duties. i) Z 20 law applicable j) Z 22 and 23 Cancellation l) cancellation and the Z 10 ff obligation to co-operate and responsibility of the client For all investment firms which are no credit institutions the obligation to work with customers on basis of General terms and obligation will be implemented as market standard.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St.78	See St. 78
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20. (The above mentioned rules states that customer agreements must contain the items in a)-c) and f)-k))	Will come into force on 1 April 2004. Derogation: Section 20 implements standard 80 partly as section 20 does not implement d) and e) in standard 80.
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 2, Paragraph 2 of the Securities Markets Act. Rahoitustarkastus Guideline on Agreements for Safekeeping and Administration of Securities (including safe custody), Bookentry Accounts and Portfolio Management (201.9).	General rule, no precise provisions on points a)-k). Depends on the type of agreement, see Rahoitustarkastus 201.9 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	CMF Decision 98-28	Most but not all of these items are required by the CMF Decision. The following items are mandatory: identity of the parties, identity of any representative of the client, the services and instruments covered, the types of orders to be addressed to the firm and how they are to be sent, the content of trade confirmations and how they are to be sent to the client, details of fees and charges, the period of validity of the agreement. This Decision also requires the agreement to mention the time period for challenging the terms of execution of a trade, and the name of the third-party custodian where applicable. Where the agreement covers clearing services, it must specify the terms and conditions for depositing and calling margin as well as the situations and conditions in which the firm can liquidate positions and sell financial instruments deposited as margin.
GERMANY		See 78	
GREECE		Section 7.2 (c) (e) of the Code of Conduct of Investment Services Firms. As far as points a) b) h) i) and m) these are the minimum elements of a contract according to Civil Law provisions (Hellenic Civil Code) and accepted case Law in the area.	

ICELAND	Parliament, FME		Same comment applies as under item 79.
IRELAND	IFSRA	<u>COC, Section 2</u> As at 26 above.	
ITALY	CONSOB	Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○○ CONSOB COMUNICATION DI/30396 OF 21 APRIL 2000 CONCLUSION OF CONTRACTS: as the law stands today, contracts for the provision of investment services must normally be concluded in writing and may therefore be concluded over the Internet only where it is possible to use digital signatures as provided for in Presidential Decree 513 of 10 November 1997 implementing Article 15.2 of Law 59 of 15 March 1997. The same holds for all other matters that the law requires to be reduced to writing.	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field which specifies in detail the information to be provided in the contract.
LUXEMBOURG	CSSF	There are no legal specific provisions but as the principle 1.1 according to which the professional shall ensure that client transactions are executed on the basis of clearly-defined contractual provisions is very broadly written, the details listed under paragraph 80 have to be included in the contract in order to fulfil the requirement of being clearly-defined.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	These requirements are listed in art 27 NR2002	
NORWAY	Parliament	STA, section 11-2. The section lays down minimum requirements regarding the business terms of the investment firm. The recommendation of ANSC is however more detailed, and covers all but letter h of rule 80.	
PORTUGAL		Article 39 CMVM Regulation 12/2000	
SPAIN	Ministry of Economy/ CNMV	Royal Decree 629/1993, of 3 May, Governing Rules of Action in the Securities Markets and Obligatory Record-Keeping Ministerial Order, dated 25 October 1995, Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation". Ministerial Order 7 October 1999 CNMV Circular 2/2000, dated 30 May about form models of standard customer agreement for discretionary and individual portfolio management and other developments of Ministerial Order, dated 7 October 1999. Mercantile Law	Ministerial Order, dated 25 October 1995, states that contractual documents must include the following four points: a) The parties which are bound by them. b) The set of obligations to which the parties bind themselves. c) The description and, where appropriate, frequency of the investment firm's fees. d) The information which the firm must send to its client, the frequency and form of transmission. Circular 2/2000 only applies to portfolio management contracts.
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>COB 4.2.5 (Requirement to provide a terms of business to a customer)</p> <p>COB 4.2.7 (Requirement to enter into a client agreement with a private customer)</p> <p>COB 4.2.10 (Adequate detail for terms of business)</p> <p>COB 4.2.15 (Content of terms of business – general)</p> <p>COB 4.2.16 (Content of terms of business provided to a customer: managing investments on a discretionary basis);</p> <p>COB 5.5.3 (Information to be disclosed).</p>	<p>Given the comments on Standard 78, above, the limited requirement in for terms of business (ToB) to take the form of a client agreement under COB 4.2.7R and the scope allowed for parties to agree terms between themselves (COB 4.2.11E (1)(b)), COB 4.2 and COB 5.5 meet Standard 80 as follows:</p> <p>80 a) – COB 5.5.3R and COB 5.5.5E require the firm to disclose these details in any written communication. The customer must sign or consent in writing to the agreement. The customer's postal address and telephone number are not specified expressly but COB 4.2.10R requires a firm to set out adequate detail of the basis for conducting business.</p> <p>80 b) – a firm may treat an agent as the customer if the firm is aware that the agent is acting as an agent for a client in respect of the investment business. The firm can, however, agree in writing with the agent to treat the customer as the customer: COB 4.1.5R.</p> <p>80 c) – general terms are covered in COB 4.2.15E; margin requirements – before conducting a transaction with or for the customer, the firm must <i>notify</i> the customer of various points (COB 7.10.4G); granting credit - on the basis of prior written consent given by the customer for the credit in full knowledge of any resulting interest and fees (COB 7.9.3R).</p> <p>80 d) –covered in COB 4.2.15E (4) and (5), addressing restrictions or lack of restrictions on investments and the services to be provided, respectively.</p> <p>80 e) – see COB 4.2.15E (4) on types of investments that may be made; there is no requirement to explain means of communication. COB 1.8 deals with electronic communication and contingency arrangements- if a firm communicates electronically, it must be able to demonstrate that a customer wishes to communicate electronically.</p> <p>80 f) – COB 4.2.15E (5) covers terms on services the firm will provide; COB 4.2.16E (2) covers periodic statements provision (incl. frequency and whether statements will some form of performance measurement), valuation basis. The medium is not addressed but see comments on 80 e), above.</p> <p>80 g) – COB 4.2.15E (6) covers terms on payments for services, incl. where appropriate, the basis of calculation, frequency and manner of payment/collection.</p> <p>80 h) – COB 4.2.15E (2) covers firm's statutory status disclosure, including the name of the competent authority.</p> <p>80 I) – this is not covered under COB 4.2.15E</p> <p>80 j) – COB 4.2.13R covers amendment; COB 4.2.15E (1) covers commencement, (10) right of withdrawal and (23) covers termination of terms. Duration covered in (23) as part of</p>

			<p>termination, e.g., at an agreed time or on occurrence of an event.</p> <p>80 k) – COB 4.2.15E (21): terms of business to cover complaints procedure and out-of-court redress via Financial Ombudsman Service.</p> <p>80 l) – these requirements are addressed in COB 4.2.15E (20) and COB 7.8.3R, the latter on the right to realise a private customer's assets.</p> <p>80 m) – this is not covered expressly and is likely to be a matter of contract.</p>
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(1) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission Parliament	Sec. 47b (e) SA and sec. 12 - 16 of the SDO	broker is required to inform his customers on all important aspects of the transaction, namely on the risks involved. Cases mentioned under letters c) – k) would be considered as important aspects of the transaction, but need not necessarily by part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 78.	
LATVIA	FCCM	<p>According to Article 2.2. of the FCCM Regulations for Conducting Securities Transactions, agreements between investment service providers and clients must contain at least the following information:</p> <ol style="list-style-type: none"> 1) the identification data of the contracting parties; 2) procedures for transmitting to the client information regarding securities transactions and servicing of securities accounts, including the means of information transmission and frequency of transmission; 3) the settlement of payments for services provided; 4) duties of the investment service provider in case of securities events; 5) rights and duties of the service provider; 6) rights and duties of the client; 7) procedures for informing the client regarding any changes with respect to commissions, fees and other charges; 8) a reference to the dispute settlement mechanism. <p>Where the client is a legal person, the samples of signatures of all persons authorised to submit the order to the investment service provider must be attached to the agreement.</p>	
LITHUANIA		Not specifically regulated	The general rules of the Civil Code providing the requirements for the mandate agreement apply to the agreement between the investment firm and the customer.
MALTA	MFSA	<p>SLC 3.06 (a) to (r)</p> <p>Q80(c) – SLC 3.06(d), (e), (f), (h), (i), (j). These relate to general terms of business. SLC 3.06 (l), (m), (n), (o), (p), (q), (r) relate to specific circumstances such as margin transactions, discretionary</p>	Q80 a) & b) - While there are no formal requirements in this regard, such details are in practice included in the agreement.

		<p>portfolio and high risk investments.</p> <p>Q80(d) – SLC 3.06 (a) requires that the agreement includes statements on “the nature of the services to be provided by the <i>Investment firm</i>, including, where appropriate, the customer’s investment objectives and any restrictions on investments or markets in which funds may be invested;”.</p> <p>Q80(e) – SLC 3.06 (d) requires details on the way in which instructions may be given by the customer for a transaction to be specified in the agreement.</p> <p>Q80(f) – SLC 3.06 (o) / (p) require the agreement to include: “the frequency with which the customer is to be supplied with a statement of the money and the investments comprising the portfolio and a valuation thereof (this should be at least once every six months) and what the basis of valuation is to be;” and “if the agreement is to include a measure of portfolio performance, the basis on which that performance is to be measured;”</p>	
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish such a requirement.	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 and Commercial Code	According to the Slovak legislation the customer agreement must contain all of the items stated in the rule 80 on the left, and does fully comply with the minimal requirement
SLOVENIA		Please see under 62 and 78. Detailed information on clients are kept also under the requirements of A: 172 of the SMA-1 (Record of clients) and the Decision on the provision of services with regard to securities (A: 9)	

Rule 81	<i>Rather than containing all the above items itself, the contract may refer to other documents containing certain of them, e.g. the general terms of business, the types of investment services offered, the types of orders and information to be sent by the parties and the fee schedule, provided that all the contractual documents so referred to are provided to the customer prior to the signing of the contract.</i>		
Country	Implementing Authority(ies)	Implementing Measure²⁷	Comments
AUSTRIA	AFEC, Credit Institutions;	Please see 80.	This rule does not require further implementing measures. Please see 80.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78	See St. 78
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 4, par 2. (The above mentioned rule states that contract can refer to separate documents i.e. terms of business.)	

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

FINLAND	Rahoitustarkastus	No provisions available.	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	CMF provisions	The CMF provisions are understood in this way.
GERMANY		See 78	
GREECE		What is mentioned under section 7.2 (c) of the Code of Conduct of Investment Services Firms is an indicative list. In many cases a contract between an investment services firm and its customers may include the information mentioned under standard 81. This list of course contains the minimum that should be included within a contract.	
ICELAND	Parliament, FME		Same comment applies as under item 79.
IRELAND	IFSRA	<u>COC, Section 2</u> As at 26 above.	
ITALY			In any case these contractual documents form part of the contract.
LUXEMBOURG	CSSF	See 80	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	No legislative authority for AFM with regard to the method of the agreement. In the rules there are no requirements or possibilities for references.
NORWAY			A contract signed by both parties is not required, consequently there is no provision in law covering this matter.
PORTUGAL		Contract definition	
SPAIN	Ministry of Economy/ CNMV	Ministerial Order, dated 25 October 1995, Partially Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation".	
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	COB 4.2.12 R(firm's terms of business may comprise more than one document). – a firm's terms of business provided to a customer may comprise more than one document provided it is clear that collectively they constitute the terms of business and that this does not diminish the significance of any information the firm must give the customer or the ease with which this can be understood.. A firm must provide terms of business before conducting investment business with or for a private customer: COB 4.2.5R. When the terms take the form of a client agreement, the firm must give the private customer proper opportunity to consider the terms before the agreement can be entered into: COB 4.2.7R.	

CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(q) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Upon sec. 12 (7) of the SDO should the general terms have to be changed the expressed prior consent of a client is necessary. The condition upon which a customer has to express his consent with the change must be stated in the contract.	
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 78.	
LATVIA		A reference to other documents in the contract or supplementing of the contract with annexes is not prohibited.	
LITHUANIA		Not regulated	
MALTA			There is no specific condition in this regard. However, in practice it is accepted that certain information which is not included in the agreement per se is attached or provided to clients under separate form. For example, this is most commonly done in relation to charges, where a sheet specifying the <i>investment firm's</i> charges is usually attached to the agreement rather than details included in the agreement.
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish such a requirement.	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 and Commercial Code	Agreement with the customer shall be governed by the provisions of the Commercial Code and the Securities Act
SLOVENIA		Please see R. 80	

Rule 82	<i>Where a custody service related to the other services provided by the firm to the customer is provided, either directly by the investment firm party to the contract with the customer or indirectly by another investment firm, the contract must contain at least a brief indication of the rights and obligations of the parties, including the provisions relating to the exercise of voting rights attaching to the securities held.</i>		
Country	Implementing Authority(ies)	Implementing Measure²⁸	Comments
AUSTRIA	AFEC, Credit Institutions;	Z 69 – 72 General terms and obligation of Austrian Credit Institutions;	It is determined in provisions of the GTC that the contract must contain brief indication of the rights and obligations of the parties. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78	See St. 78
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par 1 no 7 (The above mentioned rule states that the contract must include terms for custody.)	Will come into force on 1 April 2004

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

FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for Safekeeping and Administration of Securities (including safecustody), Bookentry Accounts and Portfolio Management (201.9).	No precise provisions concerning the voting rights. 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	Decision 98-28 of the CMF	Where the agreement covers custody, it must specify how information on client assets and movements in those assets will be supplied to the client. CMF provisions do not explicitly require information on the exercise of voting rights in the customer agreement. Article 6-3-3 of the GR of the CMF states however that “the custody account-keeper shall...do its utmost to facilitate the exercise of rights pertaining to financial instruments in its custody”, which goes beyond but necessarily includes information rights.
GERMANY		See 78	
GREECE		Section 7.2 (c). (ff), (jj) of the Code of Conduct of Investment Services Firms provides, in the case of custody service, for an indication of the rights and obligations of the parties, as well as an indication of the firm’s obligations with respect to the exercise of all kinds of rights arising from the assets of the client during the period which they will be in the possession of the firm (e.g. collection of dividends or interest and exercise of voting rights).	
ICELAND	FME		See general clause regarding FME’s Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.3</u> As at 26 above.	
ITALY	CONSOB	Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</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 which specifies in detail the information to be provided in the contract.
LUXEMBOURG	CSSF	See 80	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Asset separation rules are implemented. They include the provision that separate agreements must be concluded by the firm where assets are held and the client (art 12 and further NR2002)	Agreements not taken up in the client agreement itself.
NORWAY	ANSC	According to Gen. business terms art 16, separate contracts should be entered into if custody services are to be provided. There is no standard recommendation on this issue.	
PORTUGAL		Article 343 of the Portuguese Securities Code	
SPAIN		Corporate Law	
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>COB 9.1.49 (Custody; client agreement) Before a firm provides safe custody services to a client the firm must notify the client as to the appropriate terms and conditions which apply to this service including, where applicable, notification of terms of business dealing with exercising voting rights.</p> <p>COB 9.1.69 (custodian agreement) Before a firm holds a safe custody investment for or on behalf of a client with a custodian, it must agree in writing appropriate terms and conditions with the custodian – including the claiming and receiving of entitlements accruing to the client.</p>	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(n) and (p) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Sec. 34 - 36 of the SA,	<p>This issue is a part of general contract law and regulations on validity of contracts.</p> <p>Also the necessity of such indication is implied in general requirements on information provided to customers stated in sec. 16 of the SDO.</p> <p>Exercise of voting rights must be expressed or by reference to the type of the contract (some types of custody provided in the SA cover such rights, some do not).</p>
ESTONIA	The EFSA	Guideline.	
HUNGARY			There are no provisions that the contract should cover such details, however the CMA regulates custody services, voting rights and nominees.
LATVIA		The laws or FCMC regulations do not contain any specific requirements for rights and obligations of parties in case of a custody agreement in general or exercise of voting rights in particular. However, without a written authorisation, a custodian would not be entitled to exercise voting rights attached to the financial instruments in custody.	
LITHUANIA		Not regulated	
MALTA	The Minister of Finance and Economic Affairs with respect to the Legal Notice / Regulations / MFSA with respect to the ISG		The rights and obligations are contained in Sections 6 and 7 of the ISG which relate to “Clients’ Money” and “Customers’ Assets” and the Investment Services Act (Control of Assets) Regulations, 1998. An exercise is currently being conducted with the aim to set up a standard set of disclosure requirements for the client agreement which would apply in the case of custody/ nominee services. The proposed rules would cater for areas like voting rights.
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish such a requirement.	Polish Securities and Exchange Commission is responsible for drafting 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF	Act No 566/2001 on Securities and Investment Services and	Agreement with the customer shall be governed by the provisions

	FMA	Commercial Code	of the Commercial Code and the Securities Act.
SLOVENIA		Custodian services have been introduced for investment funds by the newly accepted Investment Funds and Management Companies Act (in force from January 2003).	

Rule 83			
<i>The contract must state that any modification of the agreement by the investment firm, e.g. regarding fees, requires the prior notification of the customer, and the contract must provide a sufficient opportunity for the customer to terminate the agreement.</i>			
Country	Implementing Authority(ies)	Implementing Measure²⁹	Comments
AUSTRIA	AFEC, Credit Institutions;	Z 43 – 45 General terms and obligation of Austrian Credit Institutions;	Please see 78 and 80 lit. g
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78	See St. 78
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. According to Executive order on Conduct of Business, section 4, par. 3 and 4 the investment firm must not have a random access to modify the agreement regarding fees etc.
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for safekeeping and administration of Securities (including safe custody) Bookentry Accounts and Portfolio Management (201.9).	Depends on the type of agreement
FRANCE	AMF	No specific implementing measure identified.	This has not been implemented.
GERMANY		See 78	
GREECE		Section 7.2 (c).(nn) of the Code of Conduct of Investment Services Firms provides the right of the customer and the investment services firm to terminate the contract. Section 8.2 of the same Conduct requires that investment services firms prior of taking actions, regarding the provision of services agreed upon that might have a negative effect on the customers' interests, should inform customers of their intentions providing them at the same time the right to terminate at no cost the Firm-Customer contractual agreement.	
ICELAND	Parliament, FME	The customer must be notified of any changes in the fee schedule with reasonable notice (art. 5. para. 2 of the Securities act).	Same comment applies as under item 79.
IRELAND	IFSRA	<u>COC, Section 2.5</u> As at 26 above.	
ITALY	CONSOB	Article 30, paragraph n. 2 of Consob Regulation 11522 (<i>Contracts with investors</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 which specifies in detail the information to be provided in the contract.

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

LUXEMBOURG	CSSF	See 80	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament	STA, section 11-2 Any changes to the commercial terms have to be presented to the customer.	According un-codified contract law, which also applies to this type of agreements, changes of contractual terms may only be done with the prior consent of the counterparty.
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 25 October 1995, Partially Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation".	
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	COB 4.2.13R (Amendment of terms of business) provides for a prior notification period of at least ten business days unless this is impracticable - if terms of business allow a firm to amend the terms. There must be a statement in the terms of business/client agreement that the customer may terminate the terms of business by written notice to the firm and when this may take effect: COB 4.2.15E (23) (b).	There are certain exemptions from the requirement for the firm to provide terms of business or a customer agreement. Also, the requirement in COB 4.2.15E (23) (b) to set out certain information relating to the termination method is not linked to the provisions concerning unilateral amendment of the client contract in the same way as the CESR rule.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 20(2) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Upon sec. 12 (7) of the SDO should the general terms have to be changed the expressed prior consent of a client is necessary. The condition upon which a customer has to express his consent with the change must be stated in the contract.	
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament Government	Section 240 of the Civil Code Section 4 of Government Decree No 205/1996	The CMA does not provide that the contract should cover such details, however civil law rules regulate the modification and termination of contracts. Subsection 1 of Section 240 of the Civil Code explicitly says that the contract can only be modified by the joint agreement of the parties, however the contract must not necessarily state this. According to Section 4 of Government Decree No 205/1996 the Internal Code of Conduct must include the conditions for modifying and terminating investment contracts.
LATVIA	FCMC	As quoted above (item 80), the agreement between the investment service provider and the client must contain the procedure for informing the client regarding any changes with respect to	

		commissions, fees and other charges.	
LITHUANIA		Not regulated	
MALTA	MFSA	With regards to charges, SLC 3.06 (b) requires <i>Investment firms</i> to give customers at least one month's advance notice of any proposed increase in fees. As to termination, SLC3.06(j) requires that the client agreement specifies "the arrangements for bringing the agreement to an end".	No specific requirement included regarding the modification of the agreement.
POLAND	Parliament for the law Council of Ministers for enacting	There is a general rule that every modification of concluded contract must be notified to the other side of it in a way in which the contract was concluded (Civil Code provisions). According to 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 all the brokerage house's regulations being the part of contracts with clients must specify procedures and the conditions of terminating the contract. Every change of such regulations must be done in a way which guaranty for the client the possibility of terminating the contract if he doesn't agree for the change. (Par. 3.2.15, Par. 9).	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services and Commercial Code	Agreement with the customer shall be governed by the provisions of the Commercial Code and the Securities Act
SLOVENIA		Defined in general conditions of operation that deals with the relationship between the investment firm and clients. Each changes of general conditions of operations as well as price lists of investment firms must be sent to the Agency for approval. Clients have to be notified of the changes. Article 89 of the Dematerialized Securities Act	The Government gives it consent after the Agency approves the rate of charges (Price list). When investment firms report to the Agency on their General Conditions of Operation and their own price list of charges to the customers the Agency is in a position to demand their changes in case the price list (the charges for investment firms' clients) are not in accordance with the price list of the Central Securities Clearing Company. And also after investment firms notify their clients on the changes of General Conditions of Operation and their price lists they give the clients opportunity to react in a few days after the receipt (they are able to terminate the agreement with the investment firm) otherwise it is understood that they agree with the changes. Please see the Decision on the reporting of investment firms (Article 9). As regards supervision over investment firms, general provisions in the Securities Market Act apply.

Rule 84			
<i>A copy of the agreement signed by the customer (and any related contractual documents) must be kept by the investment firm for the duration of the customer relationship and for at least five years after the end of the relationship; a copy must be provided to the customer immediately after signing, and at any time subsequently on request.</i>			
Country	Implementing Authority(ies)	Implementing Measure ³⁰	Comments
AUSTRIA	AP	Art. 17 ASSA	This rule is more severe determined in the ASSA. Article 17 ASSA obliges the investment firm to keep record of all customer based documents for at least six years. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78	See St. 78
DENMARK	Parliament	Securities Trading, ect Consolidated Act, section 38, par 2. Act on Accounting, section 10. (The above mentioned rules state that customer agreements should be kept by the investment firm 5 years after the end of the customer relationship.)	
FINLAND	Rahoitustarkastus	No provisions available.	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 ³¹ .	This has not been implemented in financial regulations but the application of general contract law would cause firms to keep contracts for more than five years.
GERMANY		See 78	
GREECE		Any related contractual document should be kept by the investment services firm for a five year period according to article 8 of Law 2396/ 96 and the decision of the HCMC no 6160/96.	
ICELAND	Parliament, FME		Same comment applies as under item 79.
IRELAND	IFSRA	<u>B&RR, Section 5</u> Sections 5.1 & 5.2 deal with Client Records.5.1	Six years is prescribed in HISF, B&RR, page 6
ITALY	CONSOB	Article 23, paragraph n. 1, of Legislative decree n. 58/1998 <i>(Contracts)</i> ○○○ Article 30, paragraph n. 1 of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○○ Article 69, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Conservation of records and documents)</i> ○○○	

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

³¹ This should nevertheless be considered as fully implemented, as explained in the comments section.

		Article 28, paragraph n. 5 of Consob Regulation 11522 (Communication of information between intermediaries and investors)	
LUXEMBOURG	CSSF	According article 39 (6) of the law of 5 April 1993 on the financial sector the professional of the financial sector shall keep any documents relevant for money laundering issues for at least 5 years. Furthermore, according the general principle laid down in article 11 of the commercial code, the documents must be kept for 10 years.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented NR2002 states that agreements must be filed in a systematic and accessible manner (annex 4 art 4.12 NR2002)	However, no legislative authority for AFM
NORWAY	Kredittilsynet	STA, section 11-2 and Regulation 1996/950 regarding investment firms obligation to keep information regarding executed orders (10 years) A copy of the commercial terms has to be given to the customer or made available on the Internet. The investment firms are obliged to keep records of their orders, and have to keep the records for at least 10 years.	
PORTUGAL		Article 308 of the Portuguese Securities Code	
SPAIN	Ministry of Economy/ CNMV	Ministerial Order, dated 25 October 1995, Partially Implementing Royal Decree 629/1993. Section Five "Information on transactions". Rule 7 "Delivery of contractual documentation".	
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	Principle 1: a firm must conduct its business with integrity Principle 7: a firm must pay due regard to the information needs of its clients and communicate information to them in a way that is fair, clear and not misleading. COB 4.2.14 (Record of terms of business). a firm must make a record of each terms of business it provides to a customer, and any amendment to them, as soon as the terms come into force..	The retention period is in most cases 3 not 5 years. (COB 4.2.14R.) There is no express requirement to provide copies to the customer, either on signing or on request. But there is a requirement to provide the ToB before conducting investment business with or for the customer (unless the customer has made an oral offer to enter into an investment agreement relating to an ISA ...: COB 4.2.5R (1 and (2). It is therefore implicit in these rules that a copy of a client agreement, in signed form, should be provided to the customer.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 20(1) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament Securities Commission	Art 3 of the Money Laundering Act Art 2 of the SDO	
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Subsection 3 of Section 120 of CMA	A copy of the agreement – together with all the registers connected to its activities - must be kept by the investment service provider for at least 8 years after the end of the customer relationship.

LATVIA	FCCM	<p>According to Article 2.4 of the FCCM Regulations for Conducting Securities Transactions, an agreement in paper form between an investment service provider and a client with original signatures shall be done in at least 2 copies, one for each party.</p> <p>An investment services provider shall maintain and store contracts signed electronically in such a manner as ensures that the investment services provider may at any time ascertain whether the contract with the particular client has been concluded and familiarize itself with its contents and that the client may at any time familiarize itself with the contents of the contract in the same manner in which the contract was concluded.</p> <p>Contracts must be maintained for 10 years after the day the contract has expired or has been terminated.</p>	
LITHUANIA		<p>Agreements, certificates, notes concerning tasks and services must be maintained for 10 years after the execution (Item 125 of the Order of the Archive Department under the Government of the Republic of Lithuania Concerning the Terms of Maintenance of General Documents).</p>	
MALTA	MFSA	<p>SLC 3.06 (h) SLC10.22</p>	<p>Although a customers' accounting records are required to be maintained for a minimum period of 10 years, there is no specific requirement regarding the retention of a copy of the client agreement form. There is also no specific requirement that a copy of the agreement must be provided to customer immediately after signing and at any time subsequently upon request.</p>
POLAND	Council of Ministers for enacting	<p>According to the Decree of the Council of Ministers dated September the 3rd, 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, the brokerage house is obliged to keep all the documents connected with providing services for the period of 5 years. The rule mentioned above covers inter alia documents of agreements with client and this period starts with the end of relationship. (Par. 59).</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 conduct of business rules. The said obligation is going to be one of the expressly established rules.</p>	<p>Polish Securities and Exchange Commission is responsible for drafting and Ministry of Finance 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	<p>Act No 566/2001 on Securities and Investment Services and Commercial Code</p>	<p>Agreement with the customer shall be governed by the provisions of the Commercial Code and of Securities Act .</p>
SLOVENIA		<p>According to the amended Decision on provision of services with regard to securities (A: 14), an investment firm must store the documents provided for in the named Decision for at least 10 years after the end of the financial year in which the business event demonstrated by the document was concluded, and records</p>	

for the last ten completed financial years.

4.2) CUSTOMER AGREEMENT INVOLVING TRADING IN DERIVATIVES

Standard 85			
<i>Prior to providing the services of reception/transmission and/or execution of orders involving derivatives, a customer agreement containing the relevant provisions of the basic customer agreement as well as certain additional provisions specific to trading in derivatives must be signed between the parties.</i>			
Country	Implementing Authority(ies)	Implementing Measure ³²	Comments
AUSTRIA	AFEC	Special terms and conditions for future and options trading with securities of Austrian Credit Institutions, Z 74 General terms and obligations of Austrian Credit Institutions;	Additional provisions specific to trading in derivatives to the basic customer agreement are covered by provisions of the guidelines for the practical exercise of conduct of business rules and the “Special terms and conditions for future and options trading with securities of Austrian Credit institutes”. This standard does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 78 See also: the obligation to conclude a written agreement for derivatives contracts provided for in the Euronext Rule Book, rule B-9202 j° Art. 36, § 1, 3°, L. 6 April 1995 The rules of the clearing house of Euronext Brussels also impose on clearing members clearing Euronext Brussels derivatives to conclude a written agreement with their clients (Clearnet rule 3.4.2.3. of title III)	See St. 78
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 2, Paragraph 1 of the Securities Markets Act. Rahoitustarkastus Guidelines 201.13. Rahoitustarkastus Guideline on Practices to be applied in the Provision of Investment Services (201.7)	
FRANCE	AMF	CMF Decision 98-28 COB decision 99-04 on trading in derivative in regulated market law 1885.	No specific content requirements are established for agreements involving the trading of derivatives. See above for CMF Decision 98-28 which also applies here.
GERMANY		See 78	
GREECE		Art. 14 of Law 2533/97 as well as the Decision of the HCMC no 5/196/28-7-00 provide about it. According to article 14 of Law 2533/97 an investment services firm is obliged to sign a contract with its customer about the provided services. In addition according to section 7.2. (c) of the Code of Conduct of investment services firms the contract between the investment services firm and its customer should include all the items referred to under section 7.2. (c) of the Code of Conduct.	
ICELAND	FME		General clause regarding FME’s Directive Requests: The FME plans to make changes to Directive Request no. 1/2001

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

			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	<u>COC, Section 2.4</u> As at 26 above; Risk Disclosure Req	
ITALY	CONSOB	Article 23, paragraph n. 1, of Legislative decree n. 58/1998 <i>(Contracts)</i> ○○○ Article 30, paragraph n. 1 of Consob Regulation 11522 <i>(Contracts with investors)</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 which specifies in detail the information to be provided in the contract.
LUXEMBOURG	CSSF	Where a client wished to invest in products which may carry a high level of risk such as derivatives or other leveraged instruments, the professional shall seek to understand the client's specific investment objectives and shall convey to the clients, where applicable and prior to the execution of any transaction, all material information relevant to an understanding of the proposed transaction and shall inform the client of the risks inherent herein, by obtaining the client's formal acceptance evidenced by his signature on a written warning notice (principle 5.5. of the circular CSSF 2000/15). Furthermore, as there are no specific provisions concerning services relating to orders involving derivatives, the principle 1.1. of the circular CSSF 2000/15 providing that the professional shall ensure that client transactions are executed on the basis of clearly-defined contractual provisions is also applicable. Client transactions relating to derivatives must thus be executed on the basis of clearly-defined contractual provisions.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	No additional requirements are implemented regarding derivatives. However, it is clear that risks etc. concerning all securities must be indicated.	
NORWAY	Parliament	STA, section 11-2	No particular rules concerning the contents of agreements concerning derivatives.
PORTUGAL		SC arts 312 and 321 CMVM Reg. 5/2000, art. 15°	Partially implemented through article 321 of the SC and article 15 of Regulation 5/2000. The later imposes that a written contract is signed, prior to commencement of provision of the service of reception and execution of orders over derivative financial instruments. The same article also establishes the minimum content.
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options	

		Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standards contracts which include these provisions.	
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	COB 4.2.7 (Requirements to enter into a client agreement with a private customer). requires a two-way customer agreement in the case of a <i>contingent liability transaction</i> . COB 4.2.10 (Adequate detail) a firm must ensure that its terms of business, including client agreements, set out adequate detail of the basis for conducting business. COB 4.2.15 (Content of terms of business: general requirements).	Please see response to CESR Standard 80, above.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 17(1) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament Securities Commission	Art 47b para. 1 letter e) of the SA Sec. 16 of the SDO	Upon these provisions an investment firm is generally obliged to inform fully about all possible risks related to provision of particular services. This would be highly relevant in the case of trading with derivatives. This information need not, however, be part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 78. point 18 of Subsection 1 of Section 5 of CMA	'Investor' means any person who has entered into a contract with an investment service provider, investment fund manager, commodities broker or another investor to invest and risk his own money and/or other assets, or that of others, for the purpose of making a profit subject to developments in the capital market or the stock exchange.
LATVIA		The laws or FCMC regulations do not contain specific requirements as to the agreements involving derivatives. All general requirements regarding the agreement on the investment service provision apply. Besides, currently there are no publicly (exchange) traded derivatives in Latvia.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.06 specifies additional requirements in relation to certain instruments. In this regard, SLC 3.06 specifies that "Where the <i>Investment firm</i> has the power to make investments in higher risk investments on behalf of a Private Customer, the agreement shall specifically state that such transactions are permitted and shall set out the limits as to the categories of investment or as to the maximum financial commitment allowed. The agreement shall also	

		<p>contain the appropriate risk warnings. Examples of such higher risk investments are:-</p> <ul style="list-style-type: none"> • warrants, options, futures, rights under contracts for differences; • other margined transactions; • investments which are not readily realisable; and the underwriting of instruments.” <p>In the case of margined transactions, SLC 3/06 also requires the following:</p> <p>k. “Where a Investment <i>firm</i> may effect margined transactions on behalf of a Private Customer, the agreement shall also include:</p> <p>l. a warning that the customer may, in certain circumstances, be required to provide additional money by way of margin;</p> <p>m. a statement of when deposit or margin (including the initial and variation margin) may be required and the <i>Investment firm’s</i> rights on failure to pay; also a warning that failure to meet margin calls may lead to closing-out without reference to the customer;</p> <p>a statement of the circumstances in which the Investment <i>firm</i> may close-out a position without reference to the customer.”</p>	
POLAND	Council of Ministers for enacting	According to 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, in case the provision of brokerage services as to derivative rights is connected with the obligation for the client of putting a collateral deposit, then the provision of such service requires the conclusion between the brokerage house and the client of an agreement in this respect. (Par. 4.1)	Polish Securities and Exchange Commission is responsible for drafting,
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services and Commercial Code	Relevant provisions of the basic customer agreement based on current securities and investment services law and Commercial Code are normally applied for. Additional provisions specific to trading in derivatives have not been specified by the legislation yet.
SLOVENIA		Not implemented.	Currently no organized derivative market exists in Slovenia. The law provides that each person that intends to organize derivative trading must obtain the Agency’s license for it. The same applies for notification of any new derivative product introduction on the market.

Rule 86

In addition to the relevant items of the basic customer agreement, where the firm provides services involving derivatives, the customer agreement must contain:

Country	Implementing Authority(ies)	Implementing Measure ³³	Comments
			<ul style="list-style-type: none"> - <i>the type(s) of instruments and transactions envisaged,</i> - <i>the obligations of the investment firm with respect to the transactions envisaged, in particular its reporting and notice obligations to the customer,</i> - <i>the obligations of the customer with respect to the transactions envisaged, in particular his financial commitments toward the investment firm and the time allowed for honouring such commitments,</i> - <i>an appropriate warning calling to the customer's attention the risks involved in the transactions envisaged.</i>
AUSTRIA	AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The obligatory addition of relevant items to the basic customer agreement is captured by provisions of the GTC and the GL.. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 85	See St. 78
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	No provisions available.	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	CMF Decision 98-28	Decision 98-28 provides that, where the client will be trading in futures and options, the customer agreement must specify: <ul style="list-style-type: none"> - the procedures for calling initial margin and maintenance margin, - the situations and conditions in which the firm can liquidate positions and sell financial instruments deposited as margin by the client.
GERMANY		See 78	
GREECE		sections 6.1. and 7.2 (c) of the code applies in combination with article 14 of Law 2533/97. Among the services provided by the investment services firm derivatives products are also included.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.3(b), (g), (i) and 2.4</u> As at 26 above; Risk Disclosure Requirement	
ITALY	CONSOB	Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</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 which specifies in detail the information to be provided in the contract.
LUXEMBOURG	CSSF	There are no specific legal provisions but as principle 1.1. according to which the professional shall ensure that client transactions are executed on the basis of clearly-defined contractual provisions of the circular CSSF 2000/15 is very	

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

		broadly written, the details contained in 86 – 90 shall be included in the customer agreement concerning services relating to orders involving derivatives.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	not implemented	No additional requirements for derivatives
NORWAY	Parliament	STA, section 11-2 According to recommendation to commercial terms issued by ANSC, separate agreements should be entered into for assignments concerning derivatives.	
PORTUGAL		SC art 312/1/a REG 12/2000 art 39/1(b), d), and e). REG 5/2000 Art. 15/1.	.
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standards contracts which include these provisions.	
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	COB 4.2.10 (Adequate detail in terms of business); COB 4.2.15 (Content of terms of business – general) COB 5.4.3 and 5.4.6 (requirement for risk warnings and risk warnings in respect of warrants and derivatives) COB 5 Annex 1 (Warrants and derivatives risk warning notice) COB 7.10 (Margin requirements)	Please see comments about the structure of COB made in response to CESR Standard 78, above. Types of instruments and transactions: COB 4.2.15E (4) refers to any restrictions on types of investments and markets on which transactions are to be executed – it's exclusive rather than inclusive; Obligations, reporting and notice: COB 4.2.15E (5) requires some provision on services the firm will provide; COB 4.2.10R requires firms to give adequate detail of basis of business conduct – reporting obligation implicit in this – and information on the period of account for which statements of the portfolio are to be provided: COB 4.2.15E (8). Terms of business/client agreements are to provide for arrangements for accounting to a customer for any transaction executed on his behalf: COB 4.2.15E (9). Financial commitments: payment for services – COB 4.2.15E (6); realisation of private customer's assets COB 4.2.15E (20) & COB 7.8.3R. Risk warning – COB 4.2.15E (16) firm may <i>choose</i> to include risk warning in terms of business/client agreement.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(2) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Art 47b para. 1 letter e) of the SA	In addition to above mentioned general obligation to inform

	Securities Commission	Sec. 16 of the SDO	customers about risks there are some particular duties to inform customers about - the possibility that more obligations may arise from a transaction - the delay in a settlement of a transaction - all new relevant facts that could have a impact on a transaction This information need not, however, be part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Subsection 3-5 of Section 115 of CMA	Investment service providers and commodities brokers, prior to entering into a contract involving derivative instruments, must investigate whether the offered investment instruments, exchange-traded instruments, transaction type, investment construction is feasible in terms of the client's knowledge of the market and his financial situation with regard to such exposure. When accepting an instruction for futures or option transactions, the investment service provider and the commodities broker shall issue a risk assessment statement and shall have it signed by the client in acknowledgement, or obtain some other form of verification from the client. The risk assessment statement shall indicate the risk to which the client is exposed due to the nature of the futures and options transaction, as opposed to that of a spot transaction.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	Vide reply to St. 85.	Investment firms effecting transactions in derivatives also usually make use of documentation used by foreign brokers for such purposes. This is done in view that the local investment firms would usually effect the transactions through the foreign broker and not directly themselves.
POLAND	Council of Ministers for enacting	Par. 3.2 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	Polish Securities and Exchange Commission is responsible for drafting
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services and Commercial Code.	A warning calling to the customer's attention the risks involved specifically in derivatives transaction is not a direct requirement of the basic customer agreement. However, obligation to the investment firm to warn the customer about the risk involved in a transaction is dealt with in the Act No 566/2001 on Securities and Investment Services, Article 73 on Rules of Conduct of a investment firm to its clients and should not necessarily be a part of a basic customer agreement
SLOVENIA		Not implemented.	

Rule 87	<i>The contract must mention the types of transactions envisaged, in particular whether the customer intends to undertake transactions giving rise to contingent liabilities, the types of instruments envisaged, in particular whether they are traded on a regulated market or not, and it must refer to the documentation on such instruments provided by the investment firm to the customer for information purposes.</i>
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Country	Implementing Authority(ies)	Implementing Measure ³⁴	Comments
AUSTRIA	AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	It is within the scope of the GTC and the GL that the contract must mention the types of transactions envisaged. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 85	See St. 78
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	No provisions available.	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	CMF Decision 98-28	See above. As pointed out above in the section on risk warnings, standardised brochure must be sent to customers who envisage trading in derivatives.
GERMANY		See 78	
GREECE		Sections 6.1 and 7.2 (c) of the code applies in combination with article 14 of Law 2533/97. Among the services provided by the investment services firm derivatives products are also included. According to article 14 of Law 2533/97 an investment services firm is obliged to sign a contract with its customer about the provided services. In addition according to section 7.2. (c) of the Code of Conduct of investment services firms the contract between the investment services firm and its customer should include all the items referred to under section 7.2. (c) of the Code of Conduct.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.3(d), (e), (j)</u> As at 26 above. <u>COC, Section 11.1, 11.2</u> As at 26 above.	
ITALY	CONSOB	Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</i> See above rule 86	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field which specifies in detail the information to be provided in the contract
LUXEMBOURG	CSSF	See 86	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		Kredittilsynet could deem a lack of written agreements with retail customers' trading in derivatives as a breach of good business	

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

		conduct, cf STA section 9-2.	
PORTUGAL		CMVM Reg. 12/2000 Art. 39	
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standard contracts which include these provisions.	
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	COB 4.2.10 (adequate detail in terms of business) requires a firm to give adequate detail of the basis for conducting investment business with the customer. COB 4.2.15 E (4) (Content of terms of business – general). requires the firm to make provision in its terms of business/client agreements on any restrictions on types of investment and markets on which to execute transaction OR to provide that there are no such restrictions.. In relation to contingent liability transactions, the terms of business/client agreement can allow the giving of risk warnings in the terms of business: COB 4.2.15E (16).	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(1) and Parts III and IV of Annex 4 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament Securities Commission	Art 47b para. 1 letter e) of the SA Sec. 16 of the SDO	This information need not, however, be part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY	Parliament	Subsection 1 of Section 115 of CMA	See comments for paragraph 86. 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 <u>marketability of the instruments</u> , on public information, on the <u>risks involved</u> , on the <u>investor protection scheme</u> if any, and shall supply <u>all other information that may be of consequence regarding the conclusion and settlement of the contract</u> . Investment service providers and commodities brokers shall include a clause in their contracts verifying receipt of said notifications and information.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	

LITHUANIA		Not regulated	
MALTA	MFSA	Vide reply to Q86. SLC 3.06 also requires that “Where the <i>Investment firm</i> may affect contracts in respect of investments which are not readily realisable, the customer agreement shall contain a warning that there is no recognised market for such investments and that it may be difficult to deal in, value, or obtain information about such investments.”	
POLAND	Parliament for the law Council of Ministers for the decree	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. The decree is going to expressly establish such a requirement.	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 and Commercial Code.	See answer to the rule 80 above.
SLOVENIA		Not implemented.	

Rule 88			
<i>The contract must provide for the immediate confirmation of derivatives transactions and the immediate notice to the customer of his payment obligations as they arise, as well as the procedures to be used for such confirmation and notice.</i>			
Country	Implementing Authority(ies)	Implementing Measure³⁵	Comments
AUSTRIA	AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The obligation under this rule is within the scope of the GTC and the guidelines for the practically exercise of conduct of business rules. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minster of Finance	See St. 85	See St. 78
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	No provisions available	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	CMF Decision 98-28	See above, and the section on customer reporting.
GERMANY		See 78	
GREECE		Sections 6.1. and 7.2 (c) of the code applies in combination with article 14 of Law 2533/97. Among the services provided by the investment services firm derivatives products are also included.	
ICELAND	FME		See general clause regarding FME’s Directive Requests.

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

IRELAND	IFSRA	<u>COC Section 11.8</u> Firms shall ensure that confirmation notes are issued to clients immediately at the address notified, and in any case no later than two business days following the date of execution of the transaction.	
ITALY	CONSOB	Article 61, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Information on transactions)</i> Article 56, paragraph n. 2 of Consob Regulation 11522 <i>(Internal procedures)</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 timing of the information concerning the execution of orders.
LUXEMBOURG	CSSF	See 86	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		No such rule	
PORTUGAL		CMVM Reg. 12/2000 Artt. 40 e 41	The carrying out of transactions on derivatives must be reported to clients on the same day. If the defence of the client's interests so justifies, transactions must be reported with an inferior extension of time limits in relation to the realization of the transaction.
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standards contracts which include these provisions.	
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	COB 8.1.3 (requirement to confirm a transaction) COB 8.1.15E 10 (total consideration and date on which it is due) COB 8.1.18 (Content of confirmation of a transaction relating to a derivative) COB7.10.3 (Provision of margin by a private customer) and 7.10.4.	The points in CESR Standard 88 are not raised expressly, but the FSA rules may impose a direct regulatory requirement that transactions are confirmed promptly – this is actionable under section 150 of the FSMA. Prompt despatch of transaction confirmation is required under COB 8.1.3R . COB 7.10.4 provides <i>by way of guidance</i> that a firm should before conducting a transaction with a private customer notify the customer of circumstances in which the customer may be required to pay margin.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(2)(c) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The last point (“as well as the procedures to be used for such confirmation and notice”) is not covered by the Code of Business Conduct. 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	Parliament	Art 47b para. 1 letter e) of the SA	This information need not, however, be part of the contract.

	Securities Commission	Sec. 16 of the SDO Securities Act: 47b sec 1 e)	
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 87.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA		No specific rule in this regard. The ISG contains a general section relating to the dispatch and contents of contract notes. The section however does not specifically caters for contract notes in relation to derivative instruments.
POLAND	Council of Ministers for enacting	According to 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, the brokerage house's regulations which are the part of the contract must determine inter alia procedure for notification by the brokerage house of the need to meet obligation arising out of position taken on derivative rights or the procedure for the customer to obtain information about the need to meet that obligation. (Par. 4.2.13). 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. The said obligation is going to be one of the expressly established rules.	Polish Securities and Exchange Commission is responsible for drafting and Ministry of Finance for approving 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004. 30 September 2003 draft approved by the Council of Ministers whilst its entry into force envisaged for 1 May 2004.
SLOVAKIA	MF FMA		Not specify trading in derivatives, all agreement with client shall be governed by the provisions of the Commercial Code and the Securities Act .
SLOVENIA		Not implemented.	

Rule 89	<i>The contract, or the documentation referred to in the contract, must provide adequate information on any margin requirements or similar obligations, regardless of the source of such rules and requirements, e.g. an exchange or clearing house, or the investment firm itself. This document must indicate how margin will be calculated and charged, the assets (cash, securities, etc.) accepted as margin, the frequency of margin calls and the timetable for the delivery or payment of margin by the customer to the investment firm. The contract must require immediate notification to the customer of any change in margin rules.</i>		
Country	Implementing Authority(ies)	Implementing Measure³⁶	Comments
AUSTRIA	AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	It is determined in the GTC and the guidelines for the practically exercise of conduct of business rules that the contract, or the documentation referred to in the contract, must provide adequate information on any margin requirements or similar obligations.

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

			This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 85	See St. 78
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	No provisions available.	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	CMF Decision 98-28	See above
GERMANY		See 78	
GREECE		Sections 6.1 and 7.2 (c) of the code applies in combination with article 14 of Law 2533/97. Among the services provided by the investment services firm derivatives products are also included. The rule of the HCMC with No 2/213/28-3-2001 as this was subsequently amended provides about the details of contracts for the opening of margin accounts by the clients of investment services firms for the conclusion of transactions both in the ASE and the Athens Derivatives Exchange. Under article 4 of the abovementioned decision all the requirements mentioned in under standard 89 should be mentioned in the contract between the client and the firm providing the margin.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC Section 2.3 (e) (g)</u> Investment management agreements must contain (a) a statement of the basis on which the client will incur any contingent liability, including margin requirements, such as rights to fund margin calls and maximum limits placed on such funding (g) where margined transactions are to be entered into, the maximum account or percentage to be so invested.	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> °°° Article 28, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</i> Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</i> °°° ANNEX 3 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 which specifies in detail the information to be provided in the contract

		THE GENERAL RISKS OF INVESTMENTS IN FINANCIAL INSTRUMENTS PART "B" THE RISKINESS OF INVESTMENTS IN DERIVATIVE FINANCIAL INSTRUMENTS	
		See above: rule 54.	
LUXEMBOURG	CSSF	See 86	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		No rule governing this issue	
PORTUGAL		Article 41 of Regulation 12/2000.	
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standard contracts which include these provisions.	
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	COB 7.10.3 (Provision of margin by a private customer) COB 7.10.4 (Guidance on the provision of margin by a private customer). . Notifying customer of margin requirements and the form in which it may be provided.	The form in which the margin may be provided – COB 7.10.4G (2) Circumstances in which customer may be required to provide any margin – COB 7.10.4 G (1). Change in margin rules: general provision at COB 4.2.13R: 10 business days' notice to customer before conducting business on amended terms. COB 7.10.3 does not stipulate that information about margin must be included in the customer agreement – but it is information that should be provided before the firm conducts any transaction with or a client. Minimum margin for an on-exchange transaction in a contingent liability investment is an amount or value equal to margin requirements of the relevant exchange or clearing house. COB 7.1.3R (2).
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Sections 18(2)(d) and 20(2) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament Securities Commission	Art 47b para. 1 letter e) of the SA Sec. 16 of the SDO	This information need not, however, be part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 87.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	

LITHUANIA		Not regulated	
MALTA	MFSA	Vide reply to St. 86.	
POLAND	Council of Ministers for enacting	<p>According to the Decree of the Council of Ministers dated September the 3rd, 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, the brokerage house's regulations which are the part of the contract must determine inter alia:</p> <ul style="list-style-type: none"> - methods of determining the amount of the margin and the procedure for notifying customers of any changes of that amount; - methods and procedure for paying the margin and supplementing it; - procedure for making a call, by the brokerage house, to supplement the margin up to the level specified in the contract or in separate provisions, or the procedure for notifying the customer of the need to supplement the margin. <p>(Par. 4.2.10-12).</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 conduct of business rules. The said obligation is going to be one of the expressly established rules.</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		Not specify trading in derivatives, all agreement with client shall be governed by the provisions of the Commercial Code and of the Securities Act.
SLOVENIA		Not implemented.	

Rule 90	<i>The warning given to the customer should reflect the transactions envisaged, in particular where potential losses may exceed the amounts invested, as well as the experience, knowledge and financial situation/capacity of the customer or type of customer involved, and should be given due prominence in the contract.</i>		
Country	Implementing Authority(ies)	Implementing Measure³⁷	Comments
AUSTRIA	AFEC	Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	The obligation to give the customer adequate risk warnings is stated in the GTC and the GL. This rule does not require further implementing measures.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance	See St. 85 See also: the risk disclosure memorandum for derivatives contracts (Information memorandum drafted by Euronext and approved by the CBFA) (Euronext Rule Book, B-9.2 j° Art. 36, § 1, 3° L. 6 April 1995)	See St. 78
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish

³⁷ Any derogation to the application of the implementing measures should be mentioned.

			Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	No provisions available.	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 3-3-5 of the GR of the CMF	As pointed out above in the section on risk warnings, standardised brochure must be sent to customers who envisage trading in derivatives.
GERMANY		See 78	
GREECE		Sections 6.1 and 7.2 (c) of the code applies in combination with article 14 of Law 2533/97. Among the services provided by the investment services firm derivatives products are also included.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.4</u> As at 26 above; Risk Disclosure Req	
ITALY	CONSOB	Article 21, paragraph n. 1, of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○ Article 28, paragraphs nn. 2, 3 and 4 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</i> Article 30, paragraph n. 2 of Consob Regulation 11522 <i>(Contracts with investors)</i> See above rule 89 ○○ ANNEX 3 of Consob Regulation 11522 THE GENERAL RISKS OF INVESTMENTS IN FINANCIAL INSTRUMENTS PART "B" THE RISKINESS OF INVESTMENTS IN DERIVATIVE FINANCIAL INSTRUMENTS See above: rule 54.	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	See 86	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		No rule governing this issue	
PORTUGAL		CMVM Reg. 12/2000 art 39/1/a	
SPAIN	Government/CNMV	RD 1814/1991 on regulations concerning Futures and Options Official Markets MEFF, the Spanish Official Exchange for Financial Futures and Options, uses standardised contracts which include these provisions.	
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	COB 4.2.15 (16) (Content of terms of business – customers understanding of risk) COB 5.4.3 (requirements for risk warnings) COB 5.4.6 (Risk warnings in respect of warrants and derivatives) COB 5 Annex 1 (Warrants and derivatives risk notice) see paragraph 8 (Contingent liability investment transactions).	The standard refers to the need for the “warning” to be tailored to the type of customer, the amount at stake etc. –the <i>general</i> requirement in COB 5.4.3 is that the firm should take reasonable steps to ensure that the customer understands the nature of the risks involved. The warning is spelled out at COB 5 Annex 1 – it may be given in the contract or elsewhere: COB 4.2.15E.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 18(2)(f) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament Securities Commission	Art 47b para. 1 letter e) of the SA Sec. 16 of the SDO	Information on any such possible losses must be presented in written form, however, it need not be part of the contract.
ESTONIA	The EFSA	Guideline.	
HUNGARY		See comments for paragraph 87.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.06 requires the disclosure of the appropriate risk warnings in the client agreement form.	
POLAND	Council of Ministers 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. The decree is going to expressly establish such provisions.	Polish Securities and Exchange Commission is responsible for drafting and Ministry of Finance 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		Not specify trading in derivatives, all agreement with client shall be governed by the provisions of the Commercial Code and of the Securities Act
SLOVENIA		Not implemented.	