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

*The Tables were produced by the Members of CESR<sup>1</sup> within the constraints of and solely for the purposes of the CESR Review Panel process of monitoring the status of implementation of the CESR Standards for Investor Protection<sup>2</sup> and the CESR Standards for Alternative Trading Systems<sup>3</sup> in Member States.*

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

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

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

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

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

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

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

**CORRESPONDENCE TABLE ON STANDARDS FOR INVESTOR PROTECTION**  
**(REF. CESR/01-014D)**  
**PART V (STANDARDS 116 – 140 RETAIL REGIME)**

**A CONDUCT OF BUSINESS RULES FOR THE “RETAIL REGIME”****6. INDIVIDUAL DISCRETIONARY PORTFOLIO MANAGEMENT**

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

**6.1. CUSTOMER AGREEMENTS FOR DISCRETIONARY PORTFOLIO MANAGEMENT**

Standard 116	<i>Prior to the provision of any discretionary portfolio management service, a customer agreement containing the relevant provisions of the basic customer agreement mentioned above, as well as certain additional provisions specific to portfolio management must be signed between the parties.</i>		
Country	Implementing Authority(ies)	Implementing Measure <sup>4</sup>	Comments
AUSTRIA	AP	Art 13, 17 and 16 ASSA	<p>The requirement of a specific customer agreement is not regulated in the ASSA. But it is common practice that the service of portfolio management in Austria is provided only on basis of a written agreement, where the basis of the service, especially the information laid down in rule 118 are contained. The check of this agreement is a fix part of the licensing procedure, where the investment firm has to provide to the FMA standard agreements, which are checked by the FMA and the check of the agreement is also part of the on site inspections of the FMA.</p> <p>Individual Portfolio Management and the requirement of a specific customer agreement therefore is regulated to a large extent in several different provisions of the ASSA, the GTC and the GL and laid down in various documents regarding the customer relationship. There is no unified set of rules and the working-out and implementation of such a rulebook will be realized in line with the revised ISD. Therefore, the following questions regarding the implementation of standards and rules for individual discretionary portfolio management cannot be answered finally at this stage.</p>
BELGIUM	Parliament and Royal Decrees proposed by the Minister of	Art. 8, RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms	

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

	Finance CBFA circulars	on portfolio management	
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par 1 and par. 2. (The above mentioned rule states that in addition to the information in the basic customer agreement additional information must be provided in connection with portfolio management.)	Will come into force on 1 April 2004
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 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).	
FRANCE	Parliament, AMF	Article 533-10 of the MFC and article 21 of COB Regulation 96-03	A customer agreement is mandatory.
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		Article 6 of the Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003, requires for a customer agreement to be signed between the parties, containing the relevant provisions, as well as certain additional provisions specific to portfolio management.	We believe that article 6 of the Rule of the HCMC No. 16/262/6.2.2003 implements this standard. The requirements that are provided in this article are additional requirements to the basic items as provided in section 7.2. (c) of the Code of Conduct of investment services firms, that should be included in a contract of an investment services firm for the provision of portfolio management services.
ICELAND	Parliament, FME	Art. 7 para. 1 of the Act on Securities Transactions stipulates the duty of the investment firm to conclude a written agreement providing for the rights and obligations of the respective parties. Further specific demands on the provisions to be included in such an agreement have not been implemented.	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 2.2, 2.3</u> As at 26 above.	
ITALY	CONSOB	Article 23, paragraph n. 1, of Legislative decree n. 58/1998 <i>(Contracts)</i>  Article 24, of Legislative decree n. 58/1998 <i>(Management of investment portfolios)</i> ○○○ Article 30, paragraphs 1 and 2, of Consob Regulation 11522 <i>(Contracts with investors)</i>	

		See below rule 80 and 84, respectively Article 37, of Consob Regulation 11522 ( <i>Contracts with investors</i> ) See below rule 118	
LUXEMBOURG	CSSF	Where the service proposed consists in portfolio management, the contract between the parties shall, as a minimum, stipulate the investment objectives, the classes of instrument which the portfolio may contain, the manner in which the management of the portfolio will be reported to the investor, the duration of the contract, its terms of renewal and termination, together with the basis on which the professional will be remunerated. Where the professional delegates management of the portfolio to another professional, the contract shall refer to this arrangement and to the identity of the professional, the contract shall refer to this arrangement and to the identity of the professional to whom management is to be delegated (principle 5.3. of the circular CSSF 2000/15).	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A firm must conclude an agreement with a client and, in case of offering portfolio services, this agreement must contain additional provisions (art 25 Bte).	
NORWAY	Parliament ANSC	Ethical Norms article 4-4	
PORTUGAL		SC art 335	The CMVM verifies if the general contractual clauses to be adopted by the financial intermediary are complying with the regulations not only during the registration procedures, but also during the on-site supervisions.
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduc. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
SWEDEN	Finansinspektionen		See 78. 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 4.2.5R (Requirement to provide terms of business to a customer) COB 4.2.7R (Requirement to enter into a client agreement with a private customer)	COB 4.2.5R requires a firm to provide a customer with an agreement setting out the basis on which the discretionary portfolio management service is to be provided to the customer. A signed agreement is required in respect of private customers.

		COB 4.2.9R.	The agreement must be signed, or consented to in writing, by that customer. In the case of an intermediate customer, such agreement must only be provided within a reasonable period of the firm beginning to provide the portfolio management services to the customer. Certain derogations apply, including a derogation for bringing about execution-only transactions (except those in a contingent liability investment with or for a private customer).
		COB 4.2.10R (adequate detail) COB 4.2.15E (content of terms of business provided to a customer: general content) COB 4.2.16E. (content of terms of business provided to a customer: managing investments on a discretionary basis)	COB 4.2.10R provides that a firm must ensure that this agreement sets out in adequate detail the basis on which the portfolio management services are to be provided. COB 4.2.15E and 4.2.16E provide detailed non-exclusive guidance on the content of such agreements. This requirement does not apply where the client is a market counterparty.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Sections 17(1) and 23(3) of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Securities Act, Art. 37a	
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	Section 128 and Schedule No. 14 of CMA Schedule No. 14 of CMA	All contracts for portfolio management services must be made in writing or in the form of an electronic document executed by a qualified electronic signature. The mandatory layout of the contract is illustrated in Schedule No. 14 of CMA. Content requirements of portfolio management contracts: 1) Conditions for the commencement of portfolio management services. 2) Terms and conditions for the termination of portfolio management services. 3) Investment guidelines. 4) List of potential investment instruments, with special emphasis on derivative instruments. 5) Basis for the calculation of portfolio management fees, rates and billing. 6) Expense account for portfolio management services. 7) Rules on the evaluation of investment instruments. 8) Rules on performance rating. 9) Rules on lending or pledging any investment instruments of an investor which are part of his portfolio. 10) Rules on the disclosure of information to investors. 11) Specifying transmitted property.
LATVIA	Parliament	<b>Article 126(1)</b> of the Law on the Financial Instruments Market defines that, prior to commencing provision of investment services and non-core investment services, the investment services provider shall enter into an agreement in writing with a client on the provision of the investment services and non-core investment services. Article 3.3.3. of the <b>FCMC Regulations for Conducting Securities</b>	

		<b>Transactions</b> provides that, where the client's orders are submitted via phone, e-mail or other electronic means of communication, the investment service provider shall register all the information which must be contained in the order handed in paper form.	
LITHUANIA		Agreements between intermediaries and their clients shall be executed in a simple written form. The agreement of securities portfolio management shall specify the following: <ol style="list-style-type: none"> <li>1) initial composition of the securities portfolio,</li> <li>2) objectives which the client pursues,</li> <li>3) rights and duties of the intermediary stemming from the management of the portfolio,</li> <li>4) filing procedure and the contents of the securities portfolio management reports.</li> </ol> (Art. 25.1 and 25.3 of the LSM)	
MALTA	MFSA	SLC 3.06 of Part C I of the ISG	A Private Customer is defined in the ISG as “a customer who is an individual and who is not acting in the course of carrying on investment business and who has not clearly elected to be treated as a non-Private Customer”.
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 restriction.	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 43	In a contract to manage a portfolio of securities, a portfolio manager undertakes to manage a client's portfolio at the portfolio manager's discretion and within the scope and extent defined by the contract, and the client agrees to pay a fee for this service. This contract must have a written form. A portfolio manager may only be a person authorised to carry out such activities under a license. Financial firm is obliged, even without instruction from a client, to arrange the purchase and sale as well primary market acquisition of securities, with the objective of ensuring long-term professional care for clients portfolio. An Investment Firm is also obliged to provide the client with important information related to the transaction and advise him of important facts and risks associated with the transaction.
SLOVENIA	Parliament	SMA-1; A: 168	

<b>Rule 118</b>	<p><i>Instead of the items referred to in paragraph 80.e), the customer agreement must contain:</i></p> <p><i>a) the management objective(s) and any specific constraints on discretionary management,</i></p> <p><i>b) the types of financial instruments that may be included within the portfolio and the types of transactions that may be carried out in such instruments, including any related limits.</i></p> <p><i>In addition to the above, the customer agreement must contain:</i></p> <p><i>c) without prejudice of paragraph 121, the benchmark against which performance will be compared,</i></p> <p><i>d) the basis on which the instruments are to be assessed at the date of valuation,</i></p> <p><i>e) details regarding the delegation of the management function where this is permitted.</i></p>		
Country	Implementing Authority(ies)	Implementing Measure <sup>5</sup>	Comments
AUSTRIA	AP	<p>Art. 13 para 3 ASSA, Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)</p> <p>Art 13 para 4 ASSA, GL</p>	<p>Point a and b are according to Art. 13 para 3 of the ASSA a fix and inherent part of the customer agreement, which lays in combination with the GL in case of portfolio management also the advice, which gives the customer the product, which fits on his profile down. Point a and b are implemented through the ASSA.</p> <p>Point c is part of the GL which manifests the commitment to give the customer all information he needs for getting the best advice.</p> <p>Point d is part of the customer agreement.</p> <p>Point e the outsourcing of the core service is not allowed in Austria.</p> <p>At least rule 118 is fully implemented in Austria and it is as above mentioned fix part of the on site inspection through the FMA to check the customer agreements, if they are in the best interest of the customer and contain the information laid down in rule 118.</p>
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 19 (customer due diligence) and 26 (delegation), RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	For 118.(c) benchmark : CBFA Consultation document on revised rules for portfolio management.
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par. 2. (The above mentioned rule states that customer agreements on portfolio management should include the items mentioned in standard 80 a)-c) and f)-k) and the items mentioned in standard 118 a)-d).)	Will come into force on 1 April 2004 Derogation: Section 20 implements standard partly as section does not implement e).
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 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).	No precise provisions as to points c and e. 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.

<sup>5</sup> Any derogation to the application of the implementing measures should be mentioned.

FRANCE	AMF	Article 11 of COB Regulation 96-02 (on portfolio management)	The following items are not required by the COB provision: the benchmark, the basis of valuation.
GERMANY		See 116	
GREECE		Article 6 of the Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003 requires that the customer agreement contains a), b), c), d) and e).	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.2, 2.3</u> As at 26 above.	
ITALY	CONSOB	Article 37, 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 to clarify the specific obligations arising from the general principles laid down in the provisions at present in force.
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	The agreement must include: - The client's objectives - Details of any qualitative and quantitative restrictions  (art 25(3) Bte)	The rules do not include requirements concerning c, d and e.
NORWAY	Parliament ANSC	STA, section 11-2 Ethical Norms, article 4-4	
PORTUGAL		SC art. 332	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management.	
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 4.2.15E (3) & (4) (Contents of terms of business provided to a customer: general requirements) COB 4.2.16E (1) (Contents of terms of business provided to a customer: managing investments on a discretionary basis)	COB 4.2.15E(3) & (4) & 4.2.16E (1) provide that the firm's agreement with the customer should, where relevant, include some provision on: <ul style="list-style-type: none"> <li>• the customer's investment objectives;</li> <li>• any restrictions on the types of financial instrument in which</li> </ul>



			<p>the customer wishes to invest and the markets on which the customer wishes transactions to be executed, or that there are no such restrictions; and</p> <ul style="list-style-type: none"> <li>the extent of the discretion to be exercised by the firm, including any restrictions on the value of any one investment and the proportion of the portfolio which any one investment or any particular kind of investment may constitute or that there are no such restrictions.</li> </ul>
			There is no specific requirement to include a benchmark, but if the customer has agreed a benchmark, with the manager this would be included under COB 4.2.11E(1)(b).
		COB 4.2.16E(3)	The agreement should include the basis on which assets comprised in the portfolio are to be valued.
		Application of the general law doctrine of <i>delegatus non potest delegare</i> , which means that the management function cannot be delegated without authority from the customer.	There is no specific requirement to include details of delegation.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC			<p>Relevant provision (art 37a of the Securities Act) state, that broker's discretion cannot be unrestricted, but there is no detailed rule setting requirements on these restrictions.</p> <p>Delegation is generally permitted unless stated otherwise in the contract, but the broker is liable as if no delegation were in place, and he can delegate the management only to another licensed broker.</p> <p>There is no provision requiring the broker to include benchmark etc. in the contract</p>
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	
LATVIA	FCCM	<p>According to Article 6 of the <b>FCCM Regulations on Trust Operations</b>, an agreement between a trust operation provider and a client must contain at least the following:</p> <ol style="list-style-type: none"> <li>1) the nature of the services provided;</li> <li>2) rights and obligations of the parties, including a clear indication of the party bearing the market risks;</li> <li>3) the amount of the entrusted cash amounts;</li> <li>4) amounts and types of eventual investments;</li> <li>5) on whose name the acquired assets will be registered;</li> <li>6) who is the beneficiary;</li> <li>7) the procedure for informing the client about the total value of the portfolio and any changes in its value.</li> </ol>	
LITHUANIA		<p>The agreement of securities portfolio management shall specify the following:</p> <ol style="list-style-type: none"> <li>5) initial composition of the securities portfolio,</li> <li>6) objectives which the client pursues,</li> <li>7) rights and duties of the intermediary stemming</li> </ol>	

		from the management of the portfolio, 8) filing procedure and the contents of the securities portfolio management reports. (Art. 25.3 of the LSM)	
MALTA	MFSA	a) SLC3.06(a) and (n) of Part CI of the ISG b) SLC3.06(a) of Part CI of the ISG c) SLC 3.06(p) of Part C I of the ISG d) SLC 3.06(o) e) Not specifically catered for in local rules.	Re (e). However, Section 1 of Part D of the ISG contains general principles which must be observed by investment firms when outsourcing any of its functions. It is made clear that responsibility for the outsourced (delegated) functions remains with the investment firm concerned.
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 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	Act No 566/2001 on Securities and Investment Services Article 43	In a contract to manage a portfolio of securities, a portfolio manager undertakes to manage a client's portfolio at the portfolio manager's discretion and within the scope and extent defined by the contract. However, the law does not specify what the customer agreement must contain.
SLOVENIA	Parliament	SMA-1; A: 168	

<b>Rule 119</b>	<i>The contract must indicate the objectives and the level of risk agreed upon, and any particular constraints on discretionary management resulting from the customer's personal circumstances as referred to in paragraph 62 or his request to exclude certain types of investments (certain business sectors for example).</i>		
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>6</sup></b>	<b>Comments</b>
AUSTRIA	AP	Art. 13 para 3 ASSA	For the service of portfolio management the same rules apply as for the other investment services, which include that the contract must indicate the objectives and the level of risk agreed upon and any particular constraints on discretionary management resulting from the customer's personal circumstances. As above mentioned this is also a fix part of the licensing procedure and on site inspections of the FMA.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 19, RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 2° and 3°, L. 2 August 2002
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par. 2 (The abovementioned rules state that customer's agreement on portfolio management should include information on the customer's objectives and level of risk agreed upon.)	Will come into force on 1 April 2004
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for Safekeeping and Administration of Securities (including safe custody), Bookentry	

<sup>6</sup> Any derogation to the application of the implementing measures should be mentioned.

		Accounts and Portfolio Management (201.9).	
FRANCE	AMF	Article 11 of COB Regulation 96-02 Master agreements are elaborated by the French Association of Assets management. They contain an indication on the type of management chosen by the client regarding the risk.	This provision requires the express agreement of the client for leveraged transactions. No other “particular constraints” are mentioned.
GERMANY		See 116	
GREECE		Article 6 of the Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003 provides that the customer agreement indicates the objectives and the level of risk agreed upon as well as any particular constraints on discretionary management	
ICELAND	FME		See general clause regarding FME’s Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.2, 2.3</u> As at 26 above.	
ITALY	CONSOB	Article 38, of Consob Regulation 11522 <i>(Characteristics of a management account)</i> ○○○ Article 39, of Consob Regulation 11522 <i>(Categories of financial instruments)</i> ○○○ Article 40, of Consob Regulation 11522 <i>(Types of transactions)</i> ○○○ Article 41, of Consob Regulation 11522 <i>(Leverage)</i> ○○○ Article 42, of Consob Regulation 11522 <i>(Benchmarks)</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 5.4. of the circular 2000/15 the professional shall inform the client about the products and services offered and draw his attention to the risks inherent in each of these. The professional shall warn.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A portfolio agreement must include details of any qualitative and quantitative restrictions on the securities or categories of securities in which investment may be made (art 25(3) Bte)	No requirements concerning level of risk or references concerning constraints resulting from personal circumstances.
NORWAY	ANSC	Ethical Norms, article 4-4	
PORTUGAL		SC art. 332	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduct. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	

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 4.2.15E (3) & (4) (Contents of terms of business provided to a customer: general requirements) COB 4.2.16E (1) (Contents of terms of business provided to a customer: managing investments on a discretionary basis).	Please see the comments on CESR Rule 118 above. There is no express mention of “level of risk” in COB but we consider this to be an implicit part of the customer’s objectives.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(f) of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC			It is not a obligatory part of the contract, however, art 47b paragraph 1 letters a) and e) of the Securities Act oblige the broker to inform the customer in the written form on any possible risk
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	Paragraph d) of Subsection 1 of Section 119 of CMA+	See comments for paragraph 116. An investment service provider shall refuse to provide service if ... the client’s financial resources are deemed insufficient to cover exposures.
LATVIA	FCMC	According to Article 7 of the <b>FCMC Regulations on Trust Operations</b> , trust agreements may not contain any provisions that in an implied way would include consequences that may in any way be directed against a client. Where the portfolio manager undertakes not only the risk related to the trust operations but also other risks, it must be clearly stated in the agreement. As indicated above, any trust agreement must contain information on the nature of services provided.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.06(a) of Part C I of the ISG SLC 3.05(g) of Part C I of the ISG	This SLC does not specifically require the inclusion of the level of risk agreed upon, however, in terms of SLC 3.04 of Part C I of the ISG, prior to providing any service involving the provision of investment advice or discretionary portfolio management for a customer, the investment firm must obtain and record the personal and financial information necessary to make appropriate recommendations/ investment decisions to/for the client. A Client Fact Find should be used for these purposes. Appendix 12 to the ISG contains a Pro Forma Client Fact Find which may be used by investment firms. [The manner in which this standard will be implemented in its entirety is still being considered. In this regard, please refer to the explanation provided on page 1 of this document.]
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 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	Act No 566/2001 on Securities and Investment Services	As above.

	FMA	Article 43	
SLOVENIA		Please see 118 above.	

Rule 120	<p><i>If an investment firm is mandated to invest in any of the following types of instruments or to undertake any of the following types of transactions, the contract must state so explicitly and provide adequate information on the scope of the investment firm's discretionary authority regarding these instruments and transactions:</i></p> <ul style="list-style-type: none"> <li>- <i>financial instruments not traded on a regulated market,</i></li> <li>- <i>illiquid or highly volatile financial instruments,</i></li> <li>- <i>leveraged transactions,</i></li> <li>- <i>securities repurchase agreements or securities lending agreements,</i></li> <li>- <i>transactions involving credit, margin payments or deposit of collateral,</i></li> <li>- <i>transactions involving foreign exchange risk.</i></li> </ul>		
Country	Implementing Authority(ies)	Implementing Measure <sup>7</sup>	Comments
AUSTRIA	AP	Art. 13 para 4 ASS A, 4.1. b and 6 Guideline for implementation the conduct of business rules laid down in the ASSA (17.3.1998)	Especially the duty to provide adequate information about specific instruments and transactions is content of the ASSA in combination with the GL. As mentioned under rule 53/1 the GL gets even further than the CESR paper, because the investment firm has to provide the customer all information he needs to understand the specific risk of a product.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, §1, 3°, and §1, second indent, RD 5 August 1991 (explicit statement and information) Art. 22, RD 5 August 1991 (express authorization for credit) Art. 23, RD 5 August 1991 (interdiction lending) Art. 25, RD 5 August 1991 (interdiction on transactions with respect of distressed equity) Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 14° (reporting on derivatives positions), L. 2 August 2002 Consolidated approach in CBFA Consultation document on revised rules for portfolio management.
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for safekeeping and administration of Securities (including safe custody) bookentry Accounts and Portfolio Management (201.9).	General rule, detailed provisions available only on derivatives and foreign investments. 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 11 of COB Regulation 96-02	Not all of these instruments and transactions are mentioned in the COB provision: illiquid or highly volatile instruments, repos or lending agreements, transactions involving forex risk.

<sup>7</sup> Any derogation to the application of the implementing measures should be mentioned.

GERMANY		See 116	
GREECE		According to sections 6.1 and 6.2 (d) of the Code of Conduct of Investment Services Firms, an investment services firm should provide to its customers any information deemed necessary. An indication of the financial instruments or transaction that make the provision of specific information to customers is not included.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.2, 2.3</u> As at 26 above.	
ITALY	CONSOB	Article 37, paragraph n. 1 and 2 of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○○ Article 41, of Consob Regulation 11522 <i>(Leverage)</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 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented.	
NORWAY		No particular rules governing this issue	
PORTUGAL		SC art. 332	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduct. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 5.4.3R & 5.4.4E (Requirements for risk warnings) COB 4.2.15E(4), (17) and (19) COB 4.2.16E(1) and (4) COB 4.2.10R COB 5.4.3E provides that a firm must not act as a discretionary investment manager for a private customer unless it has taken reasonable steps to ensure that the private customer understands the nature of the risks involved. COB 5.4.4E lists particular requirements for the provision of risk warnings in certain cases: Warrants and derivatives; non-readily realisable investments; penny shares; securities subject to stabilisation; stock lending	The combination of COB 4.2 and 5.3 covers the majority of these requirements, although not necessary in the contract. There is nothing specific on foreign exchange risk, and some of the other requirements are addressed in a different way (e.g. instead of referring to highly volatile investments, COB refers to warrants, derivatives and penny shares).As indicated in the comments on CESR Rule 118, detailed agreement content requirements are imposed in relation to investment objectives and restrictions. COB 5.4.3R only applies where the client is a private customer.

		activity.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part III of Annex 10 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 Securities Act	In case where any additional obligations of the customer may arise the broker is obliged to have a written consent of this customer. He must inform him on any possible risk of an investment (or of a portfolio management)
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC3.06 (k),(l) and (m) of Part CI of the ISG SLC 3.06(r) of the ISG Furthermore, the investment firm may effect contracts in respect of investments which are not readily realizable, 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. In terms of SLC 3.06, where the investment firm 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 contain appropriate risk warnings. Examples of high risk investments include, warrants, options futures, rights under contracts for differences, margined transactions, investments which are not readily realizable and underwriting.	Although there is no specific mention of: - financial instruments not traded on a regulated market - securities repurchase agreements - transactions involving foreign exchange risk. The list of high risk instruments is provided by way of example and is merely indicative and not exclusive. , does require that contracts for investments in high risk instruments need to contain appropriate risk warnings.
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 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	Act No 566/2001 on Securities and Investment Services Article 43	As above.
SLOVENIA	Parliament	SMA- I; A: 169	Provisions are determined by the management contract defined above. Margin trading is not allowed, also as mentioned before, currently no organized derivative market exists.  Provisions on the method of order execution, protection of clients' interests and others apply also to the chapter on clients' assets management.

Rule 121			
<i>For information purposes with respect to the customer, the contract must indicate an appropriate benchmark, based on financial indicators produced by third parties and in common use, that is consistent with management objectives and against which the future results are to be compared. Where it is not feasible to establish such a benchmark in view of specific customer objectives, this must be stated clearly in the contract and an alternative measure of performance must be indicated.</i>			
Country	Implementing Authority(ies)	Implementing Measure <sup>8</sup>	Comments
AUSTRIA			
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	No specific rules	CBFA Consultation document on revised rules for portfolio management: proposal to transpose CESR rule.
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 Provisions of Investment Services (201.7).	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 early 2004.
FRANCE	AMF		This has not been implemented.
GERMANY		See 116	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of next year.
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<i>Not Implemented</i>	IFSRA is reviewing this Standard
ITALY	CONSOB	Article 37, paragraph n. 1 of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○○ Article 38, of Consob Regulation 11522 <i>(Characteristics of a management account)</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 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented.	
NORWAY	ANSC	Ethical Norms, article 4-4	
PORTUGAL		SC art. 332	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for Circular 2/2000 about form models of standard customer agreement for	

<sup>8</sup> Any derogation to the application of the implementing measures should be mentioned.



		discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex portfolio management	
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 4.2.15E (3) & (4) (Contents of terms of business provided to a customer: general requirements) COB 4.2.16E (1) (Contents of terms of business provided to a customer: managing investments on a discretionary basis).	See the comments on CESR Rule 118 above.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(b) of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC			No specific rule.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	Schedule No. 15 <sup>9</sup> of CMA provides specific rules for the assessment and disclosure of earnings.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	There is no requirement for a benchmark to be set for comparative purposes. However, SLC 3.06(p) stipulates that if the agreement is to include a measure of portfolio performance, the basis on which that performance is to be measured must be 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 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	Act No 566/2001 on Securities and Investment Services Article 43	As above.
SLOVENIA		If the investment firm uses benchmarks it must be defined by the contract. When supervising investment firms, the Agency checks also the contracts on management of clients' assets.	

Rule 122	<i>The contract must state whether the financial instruments are to be valued at bid/ask or offer or mid-market price, including any relevant currency exchange rates, and, where relevant, by reference to indicators such as yield curves or other pricing models or the methodology to be used to value unlisted equities.</i>		
Country	Implementing Authority(ies)	Implementing Measure <sup>10</sup>	Comments

<sup>9</sup> Schedule No. 15 of CMA is annexed to this correspondence table.

AUSTRIA	AFEC, AP	Austrian Commercial Code (383ff), General terms and obligations of Austrian Credit Institutions	The financial instruments are always valued at bid/ask price. The way of valuation is part of the contract and will also be inspected by the FMA during the on site inspections.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 7° and 16, RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management.
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par. 2. (The abovementioned rule states that the contract must include information on methods of valuation of financial instruments in the portfolio.)	
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for Safekeeping and Administration of Securities (including safe custody), Bookentry Accounts and Portfolio Management (201.9).	General rule, no detailed provisions available yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF		This has not been implemented.
GERMANY		See 116	
GREECE		Section 7.2. ( c) of the Code of Conduct of Investment Firms applies.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSR	<u>COC, Section 17</u> Table 2 of Section 17, paragraph 4, column B describes the valuation basis	See HISF, COC, pages 18 to 20
ITALY	CONSOB	ANNEX 5 of Consob Regulation 11522 REPORT ON THE SERVICE OF PORTFOLIO MANAGEMENT METHODS OF VALUING FINANCIAL INSTRUMENTS	In order to guarantee a uniform and transparent pricing of financial instruments, the relevant criteria have been established by Consob on a general basis.
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented.	
NORWAY		No particular rules governing this issue	
PORTUGAL			Not implemented
SPAIN			This standard is not implemented in the Spanish regulation
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 4.2.16E (3) (Contents of terms of business provided to a customer: managing investments on a discretionary basis) requires the contract to state the basis on which assets comprised in the portfolio are to be valued.	

<sup>10</sup> Any derogation to the application of the implementing measures should be mentioned.

CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(d) of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	Coverage is not as detailed. This 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			No specific rule.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	Schedule No. 15 of CMA provides specific rules for the assessment and disclosure of earnings.
LATVIA	FCCM	The laws or FCCM regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	There are no specific requirements as to the method of valuation of the client's portfolio.	However, SLC 3.06 of Part C I of the ISG requires the basis on which the valuation of the client's portfolio is to be made, to be disclosed 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 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	Act No 566/2001 on Securities and Investment Services Article 43	As above.
SLOVENIA		Please see 121 above.	

<b>Rule 123</b>	<i>The contract must define a specific reporting requirement in the event of losses, defined as a marked-to-market decrease in the value of the portfolio as compared to the value of the portfolio as stated in the most recent periodic report (after neutralisation of any contributions or withdrawals). The contract must set a percentage threshold and a time period to warn the customer accordingly.</i>		
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>11</sup></b>	<b>Comments</b>
AUSTRIA	AFEC, AP	Austrian Commercial Code (383ff), General terms and obligations of Austrian Credit Institutions	As mentioned under rule 60 the investment firm has a reporting commitment about the services it provides to the customer which is laid down in the Austrian Commercial Code and additional regulation is laid down in the General terms of Austrian Credit Institutions. The way of reporting and providing information to the customer while providing portfolio management is inspected by the FMA during their on site inspections.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 7°, RD 5 August 1991, (on request client only)	To come into effect later: Art. 26, 14°, L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management.
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Chapter 4, Section 4, Paragraph 1 of the Securities Markets Act.	General rule, no detailed provisions available yet.

<sup>11</sup> Any derogation to the application of the implementing measures should be mentioned.

	Parliament		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 early 2004.
FRANCE	AMF	Article 2-4 of the COB Instruction of 17 December 1996	This provision does not state that losses are necessarily calculated with respect to the most recent periodic report. Where the defined level of losses is reached, the client must be informed "without delay" A regular reporting is mandatory.
GERMANY		See 116	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<i>Not Implemented</i>	IFSRA is reviewing this Standard
ITALY	CONSOB	Article 28, paragraph n. 4 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	In the event of a significant loss arising as a result of investments made on behalf of the client under a discretionary mandate, the professional shall inform the client promptly of the status of his portfolio. Where the client enters in a "hold-mail" arrangement with a financial sector professional, the applicable significant loss sustained in the context of a discretionary portfolio management mandate (principle 5.10. of the circular CSSF 200/15).	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	uncertain: depending on outcome of Not implemented	
NORWAY	Parliament	STA, section 9-2	
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/CNMV	Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 8.2 (Periodic statements) sets out requirements for periodic reporting, but there is no specific requirement to notify losses between periodic reports.	

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	Parliament	Art 47b para. 1 letter e) of the Securities Act	There is no specific requirement. However, it would be considered to be contrary to professional care duty not to report losses etc.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	
LATVIA	FCMC	As explained above (item 118), the agreement between the provider of the trust operation and the client shall contain the procedure for informing client about the total value of the portfolio and any changes in its value. However, the FCMC Regulations do not require setting of a specific percentage threshold and time period.	
LITHUANIA		Not regulated	
MALTA	MFSA	Not reflected in local rules	
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 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	Act No 566/2001 on Securities and Investment Services Article 43	As above.
SLOVENIA		Please see 121 above.	

<b>Rule 124</b>			
<i>If the contract provides for a variable management fee based on the performance of the management service, the method of calculation must be clearly defined in the contract.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>12</sup></b>	<b>Comments</b>
AUSTRIA	AP, AFEC	Art. 13 para 4 ASSA, ACC, General terms and obligations of Austrian Credit Institutions	The information about fees, provisions, is contained in every contract. This commitment is part of the general information duties an investment firm has to fulfil. The commission scheme is part of the on site inspections of the FMA, where the FMA checks if the commission scheme is in the best interest of the customer and if there are no potential conflicts within the commission scheme.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 10°, and Art. 15, RD 5 August 1991	CBFA Consultation document on revised rules for portfolio management
DENMARK	The Ministry of Economic and Business Affairs	Executive order on Conduct of Business, section 20, par. 1, no 11. (The above mentioned rule states that the contract should include information on the methods of calculation of all types of fees.)	
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provisions of Investment Services (201.7).	

<sup>12</sup> Any derogation to the application of the implementing measures should be mentioned.

FRANCE	AMF	Articles 11 and 22 of COB Regulation 96-03	These provisions do not specifically address performance-based fees. A working group is currently implementing this provision.
GERMANY		See 116	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
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 23, paragraph n. 2, of Legislative decree n. 58/1998 <i>(Contracts)</i> ○○○ Article 28, paragraph n. 2 of Consob Regulation 11522 <i>(Communication of information between intermediaries and investors)</i> Article 30, paragraph n. 2 f) of Consob Regulation 11522 <i>(Contracts with investors)</i>  ANNEX 3 of Consob Regulation 11522 THE GENERAL RISKS OF INVESTMENTS IN FINANCIAL INSTRUMENTS PART "A" MEASURING THE RISK OF AN INVESTMENT IN FINANCIAL INSTRUMENTS 4.2) Commissions and other charges	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 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	An agreement stipulates the types of costs that the client will be charged and the method by which the said costs are to be calculated (art 25(2)d Bte.	
NORWAY	Parliament	STA, section 11-2 (1) nr.4	
PORTUGAL		SC Art. 7, 312/1/d and 332/2/h) CMVM Reg 12/2000 art 44	The criterion used to calculate the fees (fixed, variable or mixed) owed to the financial intermediary must be mentioned in the portfolio management contract article 332/2/h of the SC. Both the criterion used in the calculation of variable fees relating to the profitability of the portfolio as well as the method used in calculating the value of the portfolio itself, must be clear and objective (article 7 of the SC). Article 312/1/d of the SC applies to all the financial intermediation activities and obliges the intermediary to disclose adequate information on the price of the service to be rendered. Regarding the prior registration which is covered by obligatory general contractual clauses in management portfolio contracts, the CMVM controls the clarity and transparency of the method used to calculate the variable fees relating to the profitability of the portfolio so as to allow investors to easily control the correct application of the fees. In certain

			situations, the CMVM has requested that alterations be made to the contractual clauses as the latter did not meet the necessary clarity requirements (in other cases the CMVM has declined the registration of the progressive variable fees (by platforms) when it has considered them excessive. During the CMVM's supervisory actions, it has verified whether the correct application of fees are being performed by the IFs and also whether the transparency of the respective calculation criteria are being used.
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduct. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	The terms for describing the management fee are similar for mix and variable fees.
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 4.2.15E (6) (Contents of terms of business provided to a customer: general requirements) provides that the agreement with the customer must set out details of the basis of calculation of any payment for services payable by the customer.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(g) of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC		Art 37 para. 1 of the Civil Code	(the contract would be invalid under general contract law provisions without clear calculation of the fee)
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	No specific reference is made to performance fees in the ISG. However, SLC 3.06(b) in Part C I requires the contract to include the basis of calculation and payment (and the frequency thereof) of <b>any</b> fees payable by the client to the investment firm for services rendered.	Although the above condition is not specific, however it captures the requirement of this standard as it requires the disclosure of <u>any</u> fee.
POLAND	Parliament for the law Council of Ministers for the	There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of	Polish Securities and Exchange Commission is responsible for drafting and the Council of Ministers for approving

	decree	Ministers the decree concerning inter alia conduct of business rules. The decree is going to expressly establish such obligations.	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 43	
SLOVENIA		Please see 121 above.	

Rule 125	<p><i>The contract must provide:</i></p> <ul style="list-style-type: none"> <li>- <i>that the customer may terminate the agreement with immediate effect, subject only to the completion of all transactions already commenced and the time necessary to liquidate the portfolio where this is required by the customer;</i></li> <li>- <i>that the investment firm may terminate the agreement subject to a two-week notice, provided however that where the portfolio cannot be liquidated (where required by the customer) within this timeframe, the agreement may be extended for the necessary additional period, and provided that where the customer so agrees after being informed of the firm's intention to terminate, the agreement may be terminated in the timeframe agreed between the parties.</i></li> </ul> <p><i>In both cases, the termination must take place on terms that are fair and reasonable for both parties.</i></p>		
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Country	Implementing Authority(ies)	Implementing Measure <sup>13</sup>	Comments
AUSTRIA			
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 9, 1°, RD 5 August 1991 (customer – immediate effect) Art. 9, 2°, RD 5 August 1991 (investment firm – 7 days notice) Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 1 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).	Currently the customer's period of notice may not exceed 5 business days and an investment firm must give at least one month's notice. 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 12 of COB Regulation 96-03	
GERMANY		See 116	
GREECE		Section 7.2. (c) of the Code of Conduct applies.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	Partly Implemented only COC, Section 2.7, page 7	IFSRA is reviewing this Standard
ITALY	CONSOB	Under article 1727 of the Civil Code, withdrawal from open-term contracts is conditional upon an adequate advance notice; fixed-term contracts can be unilaterally terminated before their	

<sup>13</sup> Any derogation to the application of the implementing measures should be mentioned.



		<p>expiration only because of a true and just cause. However, the time and modalities of the withdrawal have to allow the customer to arrange the reallocation of his or her assets to another intermediary.</p> <p style="text-align: center;">ooo</p> <p style="text-align: center;">Article 37, paragraph n.1 and 3 of Consob Regulation 11522 (Contracts with investors)</p>	
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	The rules only state that the agreement stipulates the circumstances under which the agreement will be terminated, the circumstances under which it may be dissolved and the manner in which any current transactions are to be settled on or after the date of termination.
NORWAY	Parliament	STA, section 11-2	
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/CNMV	<p>Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 5. Unilateral termination by the customer</p> <p>Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management</p>	
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 4.2.15E (23) and (24) (Contents of terms of business provided to a customer: general requirements)</p> <p>Principle 6 (Customers' interests)</p>	<p>There is not an exact equivalent of CESR Rule 125 in the FSA Handbook. The agreement between the customer and the firm should include details of how the terms of business may be terminated and the way in which transactions in progress are to be dealt with upon termination. It is not uncommon for investment managers to agree that their clients may terminate contracts upon immediate notice.</p> <p>In certain cases there are commercial reasons to agree longer notices periods (for example, management agreements for investment trusts and agreements entered into in connection with the disposal of asset management companies).</p>
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(h) and (i) of Part III of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	The notice for termination by the Investment Firm is normally two weeks. It is permitted for the period to be different (i.e. shorter). This is allowed only if it has been expressly stated in the agreement or agreed to by the customer in writing.
CZECH REPUBLIC	Parliament	Art. 37b para. 1 letter a) of the Securities Code and Art 56 para 3 letter e), f) of the Civil Code	The broker cannot terminate the contract if it would harm the interests of the customer (in any other way that a common

			termination of the contract does). Fair and reasonable terms are always required.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	- In terms of SLC 3.06(j) of Part C I of the ISG, the agreement must include arrangements for bringing the arrangement to an end. - These requirements are not reflected in our rules	There is no specific reference to termination with immediate effect.
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 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	Act No 566/2001 on Securities and Investment Services Article 43	A portfolio management contract may be terminated. Unless a termination notice has been agreed upon, the contract may be terminated with effect from the end of the second month following the delivery of a termination notice.
SLOVENIA		Defined by individual contract. Generally the provisions of the Contract law apply in any case where the contract between a firm and a client is involved and if a situation of any misunderstanding or conflict in their relationship occurs.	

<b>Standard 117</b>			
<i>Where the conditions for delegating management of the portfolio are met and the contract allows the investment firm to delegate this function, the contract must state that the delegator retains full responsibility for the protection of the customer's interests.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>14</sup></b>	<b>Comments</b>
AUSTRIA	AP	Art 16 para 3 ASSA	In Austria the outsourcing of the core service to a not licensed investment firm is not possible. If the investment firm does outsource some supporting functions, the third party has to be part of the control system, which is required under Art. 16 para 3 ASSA and the investment firm retain full responsibility for the protection of customer interests.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	No specific rule	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Section 16 b of the Act on Investment Firms. Rahoitustarkastus Guideline on Practices to be applied in the	

<sup>14</sup> Any derogation to the application of the implementing measures should be mentioned.

		Provisions of Investment Services (201.7). Rahoitustarkastus Standard on Risk Management and other Aspect of Internal Control in Investment Funds (4.1).	
FRANCE	AMF	Article 1-15 of the COB Instruction	Delegator remains responsible
GERMANY		See 116	
GREECE		General Civil Law provisions apply. See also under standard 4. In addition, please note that the delegation of management should be authorised by the Hellenic Capital Market Commission, under the provisions of law 2396/96.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	Specific Requirement Imposed on Firms	These set out the minimum requirements imposed. IFSRA has the power to impose additional specific requirements as necessary on a case by case basis
ITALY	CONSOB	Article 37, paragraph n.1 d) of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○ Article 46, paragraph n.1, 2 and 3 a) and c) of Consob Regulation 11522 <i>(Delegation of management)</i>	
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	Outsourcing is not delegated.
NORWAY	Parliament	Regulation 2003/289 on out-sourcing of tasks from investment firms.  The regulation governs the out-sourcing of tasks from investment firms. Investment firms are required to have written contracts governing the out-sourcing, and have also to notify its customers. It is clearly stated in the regulation that the responsibility rests with the investment firm, and the investment firms are also required to include this in the contract governing the out-sourcing.	
PORTUGAL		CMVM Reg. 12/2000 article 45 ss.	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 5. Unilateral termination by the customer  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management	
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	SYSC 3.2.4G (Organisation)	FSA Handbook states that a firm cannot contract out of regulatory obligations when delegating them.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Part IV of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Art 375 of the Commercial Code, Art. 37b para. 1 letter a) of the Securities Code	the full responsibility of the broker is applied on basis of the law, even without a provision in the contract
ESTONIA			
HUNGARY	Parliament	Section 130 of CMA Section 332 of the Civil Code	A portfolio manager shall be allowed to transfer portfolio management contracts only to an organization that is licensed to engage in portfolio management. The transfer of portfolio management contracts shall be governed by the provisions of the Civil Code on assumption of debt: “If a person agrees with an obligor to assume his debts, he shall request approval from the obligee; and if the obligee refuses to grant such approval, he shall make arrangements to enable the obligor to perform at maturity. If the obligee approves the assumption of debt, the person assuming the debt shall subrogate the obligor.”
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not directly regulated	According to the general rules of civil law, the party which entered into agreement with a customer regarding the portfolio management, retains responsibility for the client regardless of whether it discharges contractual obligations by itself or delegates it to the third party.
MALTA	MFSA	Section 1 of Part D of the ISG contains general principles which must be observed by investment firms when outsourcing any of its functions. It is made clear that responsibility for the outsourced (delegated) functions remains with the investment firm concerned	However, there is no specific requirement for this to be included in the customer agreement.
POLAND		There is no such possibility in the Polish system.	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article 43	A portfolio manager may only be a person authorised to carry out such activities under a license from FMA.
SLOVENIA		Delegation is allowed for accepting orders from clients to buy/sell securities (so called contractual partners of investment firms) and the transactions are executed by investment firms.	

Rule 126	<i>If an investment firm is mandated to delegate management of any or all of the customer’s assets, this must be stated in the contract and adequate information must be supplied in this regard, both to the customer and to the competent authority. The contract must also provide that the customer will be informed prior to any significant</i>
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<i>change regarding delegation of portfolio management.</i>			
Country	Implementing Authority(ies)	Implementing Measure <sup>15</sup>	Comments
AUSTRIA	AP	ASSA, general licence obligation (Art 20 ASSA)	If an investment firm does outsource the portfolio management to another investment firm, this investment firm has to fulfil the service on basis of their own license. So this investment firm has to fulfil all duties like the other one.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 26 RD 5 August 1991 (prior authorization of the customer) Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Section 16 b of the Act on Investment Firms. Rahoitustarkastus Guideline on Practices to be applied in the Provisions of Investment Services (201.7).	No precise provisions on informing the customers. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying provisions concerning the conduct of business rules is under discussion in that project. The consultation paper is scheduled to be sent out for consultation in early 2004.
FRANCE	AMF	Article 11 of COB Regulation 96-02 and article 1-15 of the COB Instruction	Prior agreement of the customer is required. The regulator is informed.
GERMANY		Section 45 of Circular on the Outsourcing of operational areas to another enterprise pursuant to section 25a (2) of the Banking Act Regarding contractual duties see 116	
GREECE		General Civil Law provisions apply. See also under standard 4.	
ICELAND	Parliament, FME		Requiring that information be given to the competent authority regarding delegation of management may not be authorised without a change of law, in which case the general clause on FME's list that will be presented and introduced to the ministry of commerce applies: 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. Regarding the information to be stated in the customer agreement: See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 2.2, 2.3</u> As at 26 above.	

<sup>15</sup> Any derogation to the application of the implementing measures should be mentioned.

ITALY	CONSOB	<p>Article 37, paragraph n.1, d) of Consob Regulation 11522 <i>(Contracts with investors)</i> ○○</p> <p>Article 46, paragraph n.4 of Consob Regulation 11522 <i>(Delegation of management)</i> ○○</p> <p><u>CONSOB RESOLUTION 14015/2003</u> <i>Provisions concerning requirements for the transmission of data and information and documents and records by authorized intermediaries and stockbrokers</i></p> <p>Article 2 (Italian investment firms)</p> <p><i>D) Management mandates</i> Italian investment firms that provide the service of portfolio management on an individual basis shall transmit, within 30 days of the end of each quarter, information on the management mandates granted to third parties and those received from third parties, using the forms contained in Annex 3. ... omissis ...</p> <p>Article 3 (Italian banks) ... omissis ... <i>h) Management mandates</i> Italian banks that provide the service of portfolio management on an individual basis shall transmit, within 30 days of the end of each quarter, information on the management mandates granted to third parties and those received from third parties, using the forms contained in Annex 3. ... omissis ...</p>	
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	no legislative authority for AFM
NORWAY		Regulation 2003/289. Both customers and Kredittilsynet shall be notified prior to any delegation of tasks.	
PORTUGAL		SC art. 332/2/e CMVM Reg. 12/2000 Art 48/1/d and 48/2	
SPAIN	Ministry of Economy/CNMV	<p>Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 5. Unilateral termination by the customer</p> <p>Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management</p>	
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>General law doctrine of <i>delegatus non potest delegare</i>, which means that the management function cannot be delegated without authority.</p> <p>Principle 11 (Relations with regulators) provides that a firm must disclose the FSA appropriately anything relating to the firm of which the FSA would reasonably expect notice.</p> <p>SUP 15.3.8G(1)(e) (Communication with the FSA in accordance with Principle 11) states that the FSA should be notified of a material outsourcing arrangement (i.e., an arrangement of such importance that weakness, or failure, of the services would cause serious doubt upon the firm's continuing satisfaction of the threshold conditions for authorisation), rather than every case of delegation of management.</p> <p>COB 4.2.15E (8) sets out requirement on a firm, as an investment manager, to make some provision for information to the customer. The provision does not address delegation of management as a matter to be mentioned in the terms/agreement.</p>	<p>There is only an outsourcing if the services are customised. The SUP requirements would only be likely to apply in relatively extreme cases of delegation of investment advice.</p> <p>There is no requirement for the contract to provide that the customer will be informed prior to any significant change regarding delegation of portfolio management.</p>
CYPRUS	<p>House of Representatives</p> <p>Cyprus Securities and Exchange Commission</p> <p>Cyprus Securities and Exchange Commission and the Central Bank of Cyprus</p>	<p>Section 15(1) of the Investment Firms Laws of 2002-2003</p> <p>Paragraph 4.2.4 of Annex 1 of the Conditions for granting an authorisation to Cypriot Investment Firms, Directive 1/2003</p> <p>Paragraphs 1 and 2 of Part IV of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003</p>	
CZECH REPUBLIC			No specific rule.
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	<p>See comments for paragraph 117.</p> <p>Schedule No. 13 of CMA</p> <p>Subsection (2) of Section 130 of CMA, Subsection (1) of Section 332 of the Civil Code</p>	<p>Content requirements of the procedural regulations of investment fund managers and portfolio managers</p> <ol style="list-style-type: none"> <li>1) Rules on the evaluation of assets.</li> <li>2) Rules on risk management principles.</li> <li>3) Rules on the principles of transfer or delegation of activities.</li> <li>4) Rules on the means and frequency of disclosure of information to investors.</li> <li>5) Principles and rules on performance rating.</li> <li>6) Requirements for the training of employees.</li> <li>7) Rules on investments by executive officers and employees.</li> <li>8) Rules on diversification and spreading.</li> </ol> <p>According to Subsection (2) of Section 130 of the CMA, the rules of "assumption of debts" of the Civil Code (Sections 332 and 333)</p>

			should be applied for the transfer of portfolio management activity. Subsection (1) of Section 332 of the Civil Code states that "if a person agrees with an obligor to assume his debts, he shall <u>request approval</u> from the obligee...". This means that Hungarian provisions are stricter as they do not only require prior notification, but they require prior approval for the transfer of portfolio management activity.
LATVIA	FCMC	According to Article 13.7. of the <b>FCMC Regulations on Trust Operations</b> , it is prohibited to delegate the management of the client's portfolio to third persons except where such delegation has been explicitly stipulated in the agreement between the portfolio manager and the client.	
LITHUANIA		Not regulated	
MALTA	MFSA	There is no such specific requirement in local rules.	
POLAND		There is no such possibility in the Polish system.	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Articles 43,41,39,36,31	As above.
SLOVENIA		Please see 117 above.	

<b>Rule 127</b>	<i>An investment firm may delegate the portfolio management function to another investment firm only if such delegatee firm is authorised in its home country to provide portfolio management services on an individual basis and is qualified and capable of undertaking the function in question. The mandate shall not prevent the effectiveness of supervision over the delegator, and in particular, it must not prevent the delegator from acting in the best interests of its customers. In no case the investment firm may delegate its functions to the extent that it becomes a letter box entity. Furthermore, it may so delegate to a non-EEA investment firm so authorised in its home country only if an appropriate formal arrangement between regulators enables them to exchange material information concerning both cross-border delegations and the delegatee.</i>		
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>16</sup></b>	<b>Comments</b>
AUSTRIA	AP	ASSA, general licence obligation (Art 20 ASSA)	Please see rules 117 and 126
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 26 RD 5 August 1991 (delegatee must be authorized) Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management (proposal to transpose CESR rules) Ongoing policy work within CBFA on sound practices for relying on third parties (draft regulation and/or circular to financial institutions).
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Parliament Rahoitustarkastus	Section 16 b of the Act on Investment Firms. Rahoitustarkastus Standard on Risk Management and other Aspect of Internal Control in Investment Funds (4.1).	General rule, no detailed provisions. 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.

<sup>16</sup> Any derogation to the application of the implementing measures should be mentioned.



FRANCE	AMF	Article 1-15 of the COB Instruction	This provision allows delegation to a non-EEA firm where no MOU on information sharing exists provided that the delegatee accepts in the delegation agreement to be audited.
GERMANY	BaFin	Sections 12 et seqq., 22 et seqq., 33 et seqq. and 46 of Circular on the Outsourcing of operational areas to another enterprise pursuant to section 25a (2) of the Banking Act	
GREECE		General Civil Law provisions apply. See also under standard 4.	
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	Specific Requirement Imposed on Firms	
ITALY	CONSOB	Article 46, paragraph n.1, 2 and 3 d) of Consob Regulation 11522 ( <i>Delegation of management</i> )	
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	no legislative authority for AFM
NORWAY	Parliament	Regulation 2003/289 section 6 par 1), which explicitly states that the delegate must be authorised to provide portfolio management services.	
PORTUGAL		CMVM Reg. 12/2000 Art. 46	
SPAIN		Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management	
SWEDEN	Finansinspektionen	Recommendation on outsourcing, 1998-12-18 The recommendation refers both to outsourcing of operational functions and delegation of authorisable services. The recommendation explicitly requires investment firms to retain full responsibility for the outsourced activity and to assess the ability of the provider to fulfill its obligations according to a written agreement. The delegation may not be contrary to the law. Authorisable business may only be provided by authorised entities. The last sentence in rule 127 ("Furthermore..") is not explicitly implemented	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.
UNITED KINGDOM	FSA	SYSC 3.2.3G and 3.2.4G (organisation) Section 45(1)(b) of FSMA Principle 11 (Relations with regulators) SUP 15.3.8G(1)(e) SYSC 3.2.4G specifies that a delegator firm cannot contract out of its regulatory obligations so a mandate would not relieve the delegator from its obligations under FSA Principles and rules to conduct its business with integrity and in the interests of customers, treating the latter fairly.	The FSA would not normally regard a "letter box entity" as carrying on regulated activities in the UK, and section 45(1)(b) of FSMA would empower us to remove the firm's authorisation. As stated in the comments on CESR Rule 126, the FSA would expect to be notified of material outsourcing arrangements. When notified of a material delegation of management, the FSA would expect to take action if this prevented effective supervision (including if there were no arrangements for exchange of information with the local regulator). If CESR Rule 127 was to be implemented via level 2, the requirement regarding no delegation to firms in non-EEA States might be difficult to implement because of the doctrine of unauthorised sub-delegation. Furthermore, such a restriction would severely limit the ability of firms to offer management services in relation to a global range of investments. It is not uncommon for a manager to delegate specific portions of global portfolios to overseas managers. Such

			delegations would not necessarily need to be brought to the attention of the FSA. As mentioned above, many delegations of discretionary management functions would fall outside of the definition of a material outsourcing. However, delegations resulting in a firm becoming a letterbox entity would involve a material outsourcing.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part IV of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Parliament	Art 45 and Art. 37b para. 1 letter a) of the Securities Code	Management can be delegated only on a licensed entity, delegating entity is all the time required to act in the best interest of the customer, therefore it has to supervise the performance of the delegatee (Unless it affects the functioning of the Czech broker, no reporting obligation to the Commission is imposed)
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 117.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	No specific reference in local rules	However, the outsourcing principles referred to in Section 1 of Part D of the ISG would apply. These place certain responsibilities on the firm outsourcing any of its services, including responsibility to ensure the outsourced function is carried out at a proper standard and that the service-provider is competent to provide the service in question. Moreover, the delegator retains responsibility for the functions delegated. MFSA is currently in the process of drafting Passporting Regulations and Guidelines which implement the relative requirements of the Investment Services Directive of the EU. Once finalised, these guidelines will come into force upon accession to the EU. These draft Regulations provide for the procedure whereby investment firms based in EU and EEA Member States can provide investment services, including discretionary portfolio management, in Malta under the freedom to provide services in terms of the Investment Services Directive.
POLAND		There is no such possibility in the Polish system.	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Articles 43,41,39,36,31	Delegation of the portfolio management function to another investment firm is not specified or refer to by the legislative directly. However, it could be specify by the client in the contract on management of a portfolio of securities. The delegatee firm must be authorised in its home country to provide portfolio management services on an individual basis and must be qualified and capable of undertaking the function in question.
SLOVENIA		Not implemented.	A client signs a contract on asset management with the investment

			firm which than manage the assets and is not in a position to delegate asset management to any other investment firm. Only in case of acceptance of orders to buy/sell securities those orders may be accepted with legal entities that are considered as contractual partners of investment firm, but the orders are then actually executed by the licensed investment firm. Also all those partners have to be reported to the Agency.
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Rule 128	<p><i>The delegation agreement, in writing:</i></p> <p><i>a) must be revocable with immediate effect by the delegator;</i></p> <p><i>b) must provide for sufficient notice to be given to the delegator by the delegatee of termination of the agreement;</i></p> <p><i>c) must be in conformity with the indications contained in the customer agreement with the delegator;</i></p> <p><i>d) must require, where the execution of transactions is not subject to the prior consent of the delegator, the delegatee to observe the investment guidelines, including investment allocation criteria, laid down from time to time by the delegator;</i></p> <p><i>e) must be formulated so as to avoid conflicts of interest between the delegator and the delegatee;</i></p> <p><i>f) must provide for the delegator to receive a continuous flow of information on the transactions carried out by the delegatee permitting it to monitor effectively at any time the activity of the delegatee and to reconstruct the assets under management belonging to each customer of the delegator.</i></p>		
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Country	Implementing Authority(ies)	Implementing Measure <sup>17</sup>	Comments
AUSTRIA	AP	ASSA, general licence obligation (Art 20 ASSA)	Please see rules 117 and 126
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	According to the RD of 5 August 1992 a specific agreement needs to specify the respective rights and obligations in case of delegation	Ongoing policy work within CBFA on sound practices for relying on third parties (draft regulation and/or circular to financial institutions). CBFA Consultation document on revised rules for portfolio management (proposal to transpose CESR rule 128)
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 Standard on Risk Management and other Aspect of Internal Control in Investment Funds (4.1).	No precise provisions as to points c, d, e and f. 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 1-15 of the COB Instruction	This provision requires fundamentally the same arrangements as those stated in the CESR rule. This provision is currently in a process of being fully implemented
GERMANY	Legislator / BaFin	See 127 Regarding contractual duties see 116	No legal basis for written form Proposal for amendment of law will be presented to the ministry of finance
GREECE		General Civil Law provisions apply. See also under standard 4.	

<sup>17</sup> Any derogation to the application of the implementing measures should be mentioned.

ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	Specific Requirement Imposed on Firms	These set out the minimum requirements imposed. IFSRA has the power to impose additional specific requirements as necessary on a case by case basis
ITALY	CONSOB	Article 46, paragraph n. 3 of Consob Regulation 11522 <i>(Delegation of management)</i>	
LUXEMBOURG	CSSF	See 116	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY	Parliament	Regulation 2003/289 section 7, which has the same content as rule 128.	
PORTUGAL		CMVM Reg. 12/2000 art. 46 ss.	
SPAIN		Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management	
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	SYSC 3.2 (Organisation)	A firm cannot contract out of its regulatory responsibilities (SYSC 3.2.4G), a firm would need to comply with (c) and (d) to meet its own responsibilities. SYSC 3.2 also states that: -the extent and limits of delegation should be made clear to all concerned - there should be arrangements to supervise and monitor discharge of the delegated functions and tasks, and to follow up any concerns that arise - a delegating firm should take steps to obtain sufficient information from the contractors to assess the impact of outsourcing on its systems and controls. There is no specific provision in the FSA Rules dealing with points (a), (b) and (e).
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 3 of Part IV of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	Point d) will be 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	Parliament	Art. 37b para. 1 letter a) of the Securities Code	Definitely there must be conformity, or it would be breach of duty under civil law and a delict punishable by the Commission. Other requirement are mostly covered by the professional care duty, but not by any particular provision.
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 117.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	

LITHUANIA		Not regulated	
MALTA	MFSA	Not reflected in local legislation.	As indicated above, Section 1 of Part D of the ISG provides general guidelines for outsourcing of any the investment firm's functions to third parties.
POLAND		There is no such possibility in the Polish system.	
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Articles 43,41,39,36,31	Current legislation does not stipulate the delegation agreement requirements in details.
SLOVENIA		Not implemented.	

## 6.2 PERIODIC INFORMATION

<b>Standard 129</b>			
<i>An investment firm must send periodic statements to its portfolio management customers so as to enable them to assess the performance of the service.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>18</sup></b>	<b>Comments</b>
AUSTRIA	AFEC	Austrian Commercial Code (383ff), General terms and obligations of Austrian Credit Institutions	As mentioned under rule 123 the investment firm has to report on the basis of the General terms of Austrian credit institutions. This commitment includes the sending of periodic statements so as to enable the client to assess the performance. This is also part of the on site inspections of the Austrian FMA.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 8° and 16 RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreement for Safekeeping and Administration of Securities (including safecustody), Bookentry Accounts and Portfolio Management (201.9)	
FRANCE	AMF	Article 23 of COB Regulation 96-03	See following items
GERMANY	BaFin	Not implemented Guideline for portfolio management will be drafted	
GREECE		Article 7 of the Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003 provides that investment services firms send periodic statements to their customers.	We believe that article 7 of the Rule mentioned in our initial response implements the relevant standard.
ICELAND	Parliament	Art. 7. para. 2 of the Securities act: "If a financial undertaking provides asset management, it must send its customers a summary twice each year with information on how the customer's assets have been used since the previous summary was issued, current assets and estimated value of the assets on the date of the summary. A financial undertaking must always provide its customers with such a summary without delay if a customer so requests."	
IRELAND	IFSRA	COC, Section 17	

<sup>18</sup> Any derogation to the application of the implementing measures should be mentioned.

		As at 26 above.	
ITALY	CONSOB	Article 62, paragraph n. 2 of Consob Regulation 11522 <i>(Periodic reports)</i>	
LUXEMBOURG	CSSF	The circular CSSF 2000/15 sets the general principle 5.9. that the professional shall forward the effective state of affairs of the portfolio without undue delay and at reasonable intervals according to the nature of the investments concerned. This principle is very broadly written so that the requirements foreseen in principles 129. - 134. can be considered as being covered.	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A firm that carries out portfolio management shall provide each client with whom it has concluded a portfolio mgt agreement a statement that provides true, fair and complete information about the composition of the portfolio managed, at least once a quarter (art. 35(1) NR2002).	
NORWAY	Parliament	No rules governing this issue	
PORTUGAL		CMVM Reg. 12/2000 art. 71	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 3. Information about conflict of interest  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
SWEDEN	Finansinspektionen	Regulation on Conduct of Business rules (2002:7), Chap 5 Section 5 Chap 5 Section 5 explicitly requires investment firms to provide a customer with statements of accounts which show the customers holding of financial instruments and funds.	General reporting obligation towards all customers, not only portfolio management customers
UNITED KINGDOM	FSA	Principle 7: A firm must pay due regard to the information needs of its clients and communicate to them in a way that is fair, clear and not misleading. COB 8.2.4 (Requirement for a periodic statement) a firm must, promptly and at suitable intervals, provide the customer with a written statement containing adequate information on the value and composition of the customer's account and portfolio with the firm, as at the end of the period covered by the statement.	Firms are obliged to send out statements about the value and composition of the customer's portfolio at suitable intervals. There are limited derogations from COB 8.2.4R. One example is where the periodic statement would duplicate a statement to be provided by someone else.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part V of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Sect. 16 (2) e) 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.	The SMA § 87 p 5. Guideline.	

HUNGARY	Parliament	Section 132 of CMA	Clients shall be informed on a regular basis concerning the market value of the investment instruments in their portfolios. The detailed rules of evaluation shall be laid down in the regulations for the valuation of assets drawn up as illustrated in Schedule No. 13. See comments for paragraph 126.
LATVIA	FCMC	According to Article 6 of the <b>FCMC Regulations on Trust Operations</b> , an agreement between a trust operation provider and a client must contain the procedure for informing the client about the total value of the portfolio and any changes in its value.	
LITHUANIA		The trustee must, under the terms and procedure agreed in the agreement, to submit the trustor and beneficiary the statement on his/her activities. Where the term for statement has not been established, the statement must be submitted once a year. The owner shall have the right to control the activity of the trustee at any time (Paragraph 4 of Art. 6.963 of Civil Code).	Whereas investment portfolio is being managed under the trust, general rules of Civil code regarding trust shell apply.
MALTA	MFSA	SLC 3.05(j) of Part C I of the ISG SLC 8.02 of Part C I of the ISG	
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 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	Act No 566/2001 on Securities and Investment Services Article 73	According to the Act on Securities and Investment services, Article 73 “ An investment firm is obliged to report to the client without undue delay any transaction concluded on his behalf “
SLOVENIA	Parliament	SMA-1; A: 170	

Rule 130	<p><i>Periodic statements for portfolio management customers must contain:</i></p> <ul style="list-style-type: none"> <li><i>a) a statement of the contents and valuation of the portfolio, including details of each investment held, its market value and the performance of the portfolio and the cash balance, at the beginning and at the end of the reporting period;</i></li> <li><i>b) a management report on the strategy implemented (to be provided at least yearly);</i></li> <li><i>c) the total amount of fees and charges incurred during the period and an indication of their nature;</i></li> <li><i>d) information on any remuneration received from a third party and details of its calculation basis;</i></li> <li><i>e) the total amount of dividends, interest and other payments received during the period.</i></li> </ul>		
Country	Implementing Authority(ies)	Implementing Measure <sup>19</sup>	Comments
AUSTRIA		Art 13 para 4 ASSA, Austrian Commercial Code (383ff), General terms and obligations of Austrian Credit Institutions	Most of the required content of the periodic information is standard information, which is normally sent to the customer. The concrete design of the reports varies from investment firm to investment firm. The report has at least to contain every information that the client knows like i.e. the performance, the cost etc. This is as above mentioned also part of the on site inspections of the MF FMA.

<sup>19</sup> Any derogation to the application of the implementing measures should be mentioned.

BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8 and 16 RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management (especially annual management report; details of calculation of incentives (hard and soft commissions) received by the firm)
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)	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 23 of COB Regulation 96-03 and article 2-4 of the COB Instruction	These provisions require quarterly statements and half-yearly management reports. They do not address the issue of fees and charges in detail, nor do they mention remuneration received from a third party, but the COB working party mentioned published a report on these issues in October 2002.
GERMANY	BaFin	See 129	
GREECE		According to article 7 of the Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003, periodic statements for portfolio management customers must contain: a) "Actual portfolio (initial portfolio plus additional deposits minus additional withdrawals). b) Complete data in volume and value of the transactions corresponding to the previous month (deposits of funds and other element of the portfolio). c) Residual balance of each element of the portfolio at the last day of the month to which the information refers (date of reference). d) The acquisition price per unit and the current price per unit of each element. Current price means the official market closing price in the date of reference. e) The global acquisition price and the global current price of each element in the date of reference. f) The global acquisition price and the global current price of the portfolio in the date of reference. When the management includes derivative products, the information must provide a clear image to the customer of his/her risk positions, in case of price fluctuations beyond certain market conditions."	
ICELAND	FME		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 17</u> As at 26 above.	
ITALY	CONSOB	Article 62, paragraph n. 2 of Consob Regulation 11522 <i>(Periodic reports)</i> See above above rule 129  ANNEX 5 of Consob Regulation 11522 REPORT ON THE SERVICE OF PORTFOLIO MANAGEMENT The report on the service of portfolio management is to consist of a summary table, a statement of cash movements, a statement of movements in financial instruments, a valuation of the portfolio belonging to the investor at the end of the reference period and a statement of the financing provided. Amounts may be expressed either in lire or euros. A complete version of this Annex is available, also in English, on Consob we site (www.consob.it)  As regards inducements, see also the implementing measures referred to under rules 6 and 8	Consob has published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field in order to: <ul style="list-style-type: none"> <li>• clarify the specific obligations arising from the general principles laid down in the provisions at present in force and</li> <li>• require investment firms to provide their customers, in the periodic statements, with information concerning any remuneration received from a third party and details of its calculation basis.</li> </ul>
LUXEMBOURG	CSSF	See 129	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Statement must include: <ul style="list-style-type: none"> <li>- details of market value and composition, including breakdown by type of instrument</li> <li>- analysis of changes in asses components</li> <li>- calculation of realised and unrealised losses/gains</li> <li>- method of valuation</li> <li>- management and other costs</li> </ul> (Art 35 NR2002)	Rules lack management report on strategy, information from a third party and payments received.
NORWAY		No rules governing this issue	
PORTUGAL		CMVM Reg. 12/2000 art. 71	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 3. Information about conflict of interest  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of	

		action for portfolio management. Annex	
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 8.2.4, 8.2.10 – 8.2.13 (Periodic statements) COB 4.2.13R (Amendment of terms of business) COB 4.2.16E (Content of terms of business provided to a customer: managing investments on a discretionary basis)	Firms are obliged to provide the information as at the end of the period concerned and to give particulars of discretionary transactions carried out on behalf of that customer during the period, dividends and other income, as well as fees etc chargeable in the same statement. For example, 130 a) is covered in COB 8.2.11E 1 and 2 while 130 c) & d) are covered by COB 8.2.12E 3. There is no specific obligation to cover investment strategy or to provide periodic reports on it. The extent of the firm's discretion (which will contemplate the strategy to be employed) and whether specific performance measures are to be used should be the subject of express terms in the contract with the customer. Firms may not alter those terms (including the extent of the discretion/strategy) without the agreement of the customer or providing 10 business days' notice.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraphs 2 and 3 of Part V of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Sect. 16 (2) e) 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	No specific rule as for portfolio management at a time. It will be a part of new regulation. (under preparation).
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	See Schedule No. 15 of CMA in Annex.	
LATVIA		The laws or FCMC regulations do not specifically regulate requirements as to the content of statements. According to Article 2 of the <b>FCMC Regulations on Trust Operations</b> , the portfolio manager (credit institution or investment brokerage company) must have procedures for issuance of statements.	
LITHUANIA		Not regulated	
MALTA	MFSA	a) SLC 8.03(a) and (b) of Part C I of the Investment Services Guidelines b) This is not required by local regulations. c) SLC 8.03(f) of Part CI of the ISG d) As above e) SLC 8.03(e) (f)	
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 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	Act No 566/2001 on Securities and Investment Services Articles 43,73	Current legislation does not specify requirements for periodic statements for portfolio management specifically. General provisions of the Act No 566/2001 on Securities and Investment Services regarding statements and information requirements for investment firms towards their customers do apply for.
SLOVENIA	Securities Market Agency	Decision on the Provision of Services with regard to Securities, A: 8	According to the said Decision (A: 8), a statement of the balance in the dematerialised securities account of the client as at the last day of the period to which the report refers and the activity in this account during the period must be attached to the report.

<b>Rule 131</b>			
<i>If the basis for valuing any of the assets in the portfolio has changed with respect to the methods described in the portfolio management agreement, these changes must be indicated in the statement along with their impact on profits and/or losses.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>20</sup></b>	<b>Comments</b>
AUSTRIA	Please see 122.	Please see 122.	Please see 122.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 8° and 16 RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Agreements for Safekeeping and Administration of Securities (including safe custody), Bookentry Accounts and Portfolio Management (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	No specific implementing measure identified.	This is not explicitly required.
GERMANY		See 129	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 17</u> As at 26 above.	
ITALY	CONSOB	ANNEX 5 of Consob Regulation 11522 REPORT ON THE SERVICE OF PORTFOLIO MANAGEMENT METHODS OF VALUING FINANCIAL INSTRUMENTS  See above rule 122	In order to guarantee a uniform and transparent pricing of financial instruments, the relevant criteria have been established by Consob on a general basis.

<sup>20</sup> Any derogation to the application of the implementing measures should be mentioned.

LUXEMBOURG	CSSF	See 129	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	Rules are limited to statement which method of valuation is used.
NORWAY		No rules governing this issue	
PORTUGAL			Not implemented
SPAIN	Ministry of Economy/CNMV	Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 8.2.11E 2 (Periodic Statements – General information) COB 2.1.3 (Fair, clear and not misleading communications)	Firms are required to include a statement in the periodic statement that the basis for valuing has changed if it has changed. If necessary to ensure that the periodic statement is fair, clear and not misleading, an indication should be included of the impacts of the change on the portfolio valuation.  There is no specific obligation to state the impact under the valuation statements in 8.2
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 4 of Part V of Annex 10 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 as for portfolio management
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 116.	For changing the valuation method, the contract must be amended first.
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 8.03(c) of Part CI of the ISG	
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 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	Act No 566/2001 on Securities and Investment Services Articles 43,73	As at St. 130
SLOVENIA		It is the subject of management contract signed between the client and the firm.	

Rule 132			
<i>Periodic statements must include full information on any remuneration received by the investment firm or the manager from a third party that is attributable to services performed for the customer by the manager of the portfolio.</i>			
Country	Implementing Authority(ies)	Implementing Measure <sup>21</sup>	Comments
AUSTRIA			
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 8, 10° and 16, 5° RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	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.	This is not mentioned in the relevant provisions, but see the above remark on the COB working party.
GERMANY		See 129	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 17</u> As at 26 above.	
ITALY	CONSOB	Article 62, paragraph n. 2 of Consob Regulation 11522 <i>(Periodic reports)</i> See above above rule 129  ANNEX 5 of Consob Regulation 11522 REPORT ON THE SERVICE OF PORTFOLIO MANAGEMENT See above above rule 130.  As regards inducements, see also the implementing measures referred to under rules 6 and 8	Consob has published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field in order to: <ul style="list-style-type: none"> <li>• clarify the specific obligations arising from the general principles laid down in the provisions at present in force and</li> <li>• require investment firms to provide their customers, in the periodic statements, with information concerning any remuneration received from a third party and details of its calculation basis</li> </ul>
LUXEMBOURG	CSSF	See 129	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		No rules governing this issue	
PORTUGAL			Not implemented

<sup>21</sup> Any derogation to the application of the implementing measures should be mentioned.

SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 3. Information about conflict of interest  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 8.2.12E (3) (Periodic statements – additional information required for a discretionary managed portfolio) COB 2.2.18 (Periodic disclosure – soft commission arrangements)	Periodic statements must include information about commission or fees (or services) received from third parties in connection with transactions etc carried out for the portfolio, if not previously notified to the customer in writing. Further disclosures are required on a periodic basis in relation to soft commission arrangements.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2(e) of Part V of Annex 10 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 as for portfolio management
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	See Schedule No. 15 of CMA in Annex.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	See reply to St. 130 (d) above	
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 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	Act No 566/2001 on Securities and Investment Services Articles 43,73	As at St. 130
SLOVENIA		It is the subject of management contract signed between the client and the firm.	

Rule 133			
<i>In case the customer has elected – in derogation to rule 58 - not to receive information on each transaction in due course carried out by the portfolio manager, the periodic statement containing details of each transaction must be provided at least every three months. Where the details of each transaction are notified after each transaction to the customer, the periodic statement may be provided only every six months.</i>			
Country	Implementing Authority(ies)	Implementing Measure <sup>22</sup>	Comments
AUSTRIA			
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 16 and 13, 1° RD 5 August 1991 (6 months – regulation does not provide a derogation concerning the transaction statements) Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 13°, (transaction statements) L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management (proposes reporting frequency of 3 months)
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	No specific implementing measure identified.	There is no requirement to report every transaction to the customer. The periodic statement is quarterly but it is not required to include every transaction; the client may however require this information according to article 2-4 of the COB Instruction.
GERMANY		See 129	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	Parliament /FME		The ministry of commerce is responsible for preparing bills of law proposing changes to securities regulation. In mid year 2004 the FME will present to the ministry of commerce a list of recommended changes to law it considers necessary to implement the CESR standards on investor protection. The implementation process will after that not be in the hands of the FME and therefore no estimated time of implementation can be given.
IRELAND	IFSRA	<u>COC, Section 17</u> As at 26 above.	
ITALY	CONSOB	Article 62, paragraph n. 2 of Consob Regulation 11522 <i>(Periodic reports)</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 introduce the possibility for investment firms to send the statements every six months where the customers has elected to receive information on each transaction.
LUXEMBOURG	CSSF	See 129	

<sup>22</sup> Any derogation to the application of the implementing measures should be mentioned.

NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	Rules do state that: If the client notifies the manager that he does not wish to receive the statement, then the client must have been made aware of the risk that a reduction in the amount of information provided entails.
NORWAY		No rules governing this issue	
PORTUGAL		CMVM Reg. 12/2000 art 71	During on-site supervisions upon financial intermediaries that perform individual portfolio management, the CMVM confirms if the financial intermediary sends a statement of movements to its clients at least once a month. If procedures are not in compliance with the existing rules, the CMVM stipulates the necessary corrections. The same procedure is applied when the CMVM has to register the general clauses of the portfolio management contracts.
SPAIN	Ministry of Economy/CNMV	Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 8.1.6R (3) & 8.1.7R (Exceptions to the requirement to despatch a confirmation) COB 8.2.4R (Requirement for a periodic statement), COB 8.2.10E (2) (Periodic statements – timing and content)	Specific agreement is needed from the customer if transaction confirmations are not to be provided. Periodic statements must be sent at suitable intervals, subject to a normal minimum of six-monthly intervals if transaction confirmations are not sent. In these circumstances the periodic statement must include all the information which would have been included in the transaction confirmations. There is no provision referring to three monthly intervals. There are also freedoms for the customer to agree a longer period – up to 12 months.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 2 of Part V of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Sect. 16 (2) e) 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	Subsection 2 of Section 133 of CMA	The portfolio manager shall send written statements to clients quarterly or more frequently, unless prescribed by law to the contrary.
LATVIA		The laws or FCMC regulations do not specifically regulate this	



		issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	In terms of SLC 3.05(j) of Part C I of the ISG, a periodic statement must be issued to clients on a six monthly basis.	Local rules do not distinguish between a situation where the investor is advised of each and every transaction and where the customer has agreed with the investment firm that confirmations need not be supplied for every transaction.
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 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	Act No 566/2001 on Securities and Investment Services Articles 43,73	As above.
SLOVENIA		Please see point 129 (at least once in three months period)	

<b>Rule 134</b>			
<i>Where the contract authorises a leveraged portfolio, the customer must receive a periodic statement at least once a month, including an assessment of the risks.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>23</sup></b>	<b>Comments</b>
AUSTRIA			
BELGIUM	Parliament and Royal Decrees proposed by the Minster of Finance CBFA circulars	Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management : recommends in such case a reporting frequency of at least 3 months frequency instead of general rule of 6 months	CBFA Consultation document on revised rules for portfolio management : proposes at least monthly reporting
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	Article 23 of COB Regulation 96-03 and article 2-4 of the COB Instruction	Cf. the remarks made in the “customer reporting” section above.
GERMANY		See 129	
GREECE		According to article 7 of Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003, Investment services firms have the obligation to send to their customers in the first ten days of each month a periodic portfolio statement. Additionally when the portfolio management provided by the Investment services firm includes derivative products, the information must provide a clear image to the customers of their risk positions, in case of price fluctuations beyond certain market conditions.	

<sup>23</sup> Any derogation to the application of the implementing measures should be mentioned.

ICELAND	Parliament/FME		See the general clause on FME's list that will be presented and introduced to the ministry of commerce.
IRELAND			
ITALY	CONSOB	Article 62, paragraph n. 2 of Consob Regulation 11522 <i>(Periodic reports)</i> See above rule 133	Consob has already published for consultation a revision of its regulation n. 11522 of 1 July 1998 on investment services in the securities field to implement this rule.
LUXEMBOURG	CSSF	See 129	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	If the client takes positions that involve financial liabilities, the firm shall provide a position statement at least once a month (art 36 NR2002)	Rules are limited to "financial liabilities". Do not contain requirements for the assessments of the risks.
NORWAY		No rules governing this issue	
PORTUGAL		CMVM Reg. 12/2000 art. 71	
SPAIN			This standard is not implemented in the Spanish regulation
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 – communications with clients. COB 8.2.10(2)(c), 8.2.12, 8.2.13 Periodic statements COB 5.4.3 (Requirement for risk warnings) COB 5.4.6C E COB 5 Annex 1.	Firms are required to take steps to ensure that a customer understands the risks involved in derivatives before carrying out transactions of that sort. Appropriate risk warning statements must be given and in many cases written confirmation of understanding is required. Periodic statements are required to include information about loans and interest, and security provided to others. Periodic statements are required monthly for uncovered open positions in contingent liability investments only.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Section 19(3) 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 as for portfolio management at a time. It will be a part of new regulation. (under preparation).
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 133.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA		This is not reflected in local rules.	
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 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	Act No 566/2001 on Securities and Investment Services	As above.

	FMA	Articles 43,73	
SLOVENIA		Not implemented.	

### 6.3. MANAGEMENT REQUIREMENTS

Standard 135	<i>An investment firm must take all reasonable steps necessary to ensure the independence of the portfolio management function and mitigate the risk of customers' interests being harmed by any conflict of interest, in particular by providing for the strict separation of functions within the investment firm and its group.</i>		
Country	Implementing Authority(ies)	Implementing Measure <sup>24</sup>	Comments
AUSTRIA	AP	Art 13 and 16 ASSA	This standard is fulfilled through the general requirements of an investment firm to avoid conflicts of interests. The investment firm has to implement an organisation which supports the prevention of conflicts of interest. These requirements are laid down in Art. 13 and 16 of the ASSA.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, §1, 6°; 62 and 79, §1, L 6 April 1995 Art. 20 RD 5 August 1991 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 1° and 4°, and Art 27, § 1, 2°, L 2 August 2002 New rules can be implemented on the basis of Art. 28, § 1, 5° L. 2 August 2002 CBFA Consultation document on revised rules for portfolio management
DENMARK	Parliament  Danish Financial Supervisory Authority	Financial Business Act, section 71, par. 1, no 3, section 72, par 1 no 2  Guidance for investment companies on Financial Business Act, section 15. (The abovementioned rules states that investment firms should organise and structure the business in such a way as to minimise the risk of conflicts of interest and provide the necessary segregation of functions.)	The regulation applies to all types of segregation of functions and not specifically to portfolio management.
FINLAND	Parliament Rahoitustarkastus	Chapter 4, Section 4, Paragraph 3 of the Securities Markets Act. Rahoitustarkastus Guideline on Practices to be applied in the Provisions of Investment Services (201.7). Rahoitustarkastus Guideline on Segregation of Securities Business Functions (201.12).	
FRANCE	Parliament, AMF	Article 533-11 of the MFC Articles 2 and 3 of COB Regulation 96-03	The legislative provision refers to the shareholders and senior management of the investment firm; it does not refer to the separation of functions. The COB provisions require the separation of functions and business lines.
GERMANY	BaFin	Section 33par. 1 WpHG Guideline orga, Part 3.3.1.	
GREECE		Article 2 par. 3 of Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003 provides as follows:	

<sup>24</sup> Any derogation to the application of the implementing measures should be mentioned.

		<p>“The Investment Services Company Firm ensures the autonomy of management and the confidentiality of its investment decisions, in particular among the group of companies to which it belongs, establishing rules to avoid conflict of interests and adopting measures for the settlement of those questions that may arise during the exercise of its activities.</p>	
ICELAND	Parliament, FME	<p>Art. 13 of the Securities act: “A financial undertaking must demonstrate that conflicts of interest in securities transactions are prevented by a clear separation of individual areas of operation (Chinese walls).</p> <p>Art. 2 of Directive Request nr. 1/2001 stipulates that the function of portfolio management should be separated from other functions by Chinese walls.</p>	
IRELAND	IFSRA	<p><u>GS&amp;RR, Sections 2.1 to 2.7</u> Section 2 deals with Management of the Business</p>	See HISF, GS&RR, page 3
ITALY	CONSOB	<p>Article 21, paragraph n. 1, c) of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○○</p> <p>Article 27, paragraph n. 1, of Consob Regulation 11522 <i>(Conflicts of interest)</i> ○○○</p> <p>Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II – 4. Rules relating to administrative and accounting procedures The service of management on a client-by-client basis of investment portfolios (hereinafter “<i>portfolio management</i>”) shall be kept separate from the other investment services and activities of the intermediary.</p> <p>The portfolio management may be provided jointly with the service of investment advice concerning financial instruments.</p> <p>For this purpose the investment firm must comply with the following rules:</p> <p>a) administrative rules: - personnel assigned to portfolio management shall act independently and shall not have hierarchical relationships with the other sectors of activity of the investment firm; - portfolio management shall not have hierarchical relationships – especially with reference to technical, operational and decision-making autonomy - with the other sectors of activity of the investment firm, included those providing other investment services; - relationships between portfolio management and other services shall begin at the exclusive initiative and under the responsibility</p>	

		<p>of the former;</p> <p>b) accounting rules:</p> <ul style="list-style-type: none"> <li>- the records, included electronic ones, of the portfolio management structure shall be guarded to prevent the personnel of other sectors of the intermediary from accessing;</li> <li>- the financial instruments' transactions between the portfolio management sector and the other business sectors shall be displayed in specific internal records.</li> </ul> <p>The aforementioned rules of separation shall not apply to the operational sectors of the investment firm charged solely with the contact of the customers and only if such activity is performed without discretionary powers.</p> <p>Compliance with the aforementioned rules of administrative and accounting separation does not prevent the investment firms from centralizing the administrative procedure of the general services (such as, for instance, the back office services) and the general accounting function.</p>	
LUXEMBOURG	CSSF	<p>According to the general principle 6.1. of the circular CSSF 2000/15 the professional shall adopt such internal structural measures and procedures as are necessary to guard against conflicts of interest. To this end, he shall, in particular, enforce a strict segregation of functional or business units where such conflicts might arise, and thus avoid the unnecessary circulation of information liable to give rise to conflicts of interest.</p> <p>All the principles laid down in the circular CSSF 2000/15 as they are described before in this questionnaire, are also applicable to the portfolio managers. There are no more specific rules of conduct for the portfolio managers.</p>	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	<p>A firm shall be so structured that it avoids the risk of the interests of its clients being prejudiced through conflicts of interests between the firm and its clients (art 15 Bte)</p> <p>A firm shall make such arrangements in respect of the securities and monies of clients that the rights of those clients are adequately protected. (art 12 NR2002).</p> <p>In case of a combination of activities all measures should be taken in order to operate independently in the market. Measures should be taken as regards physical separation of activities (art 19 NR2002)</p>	
NORWAY	Parliament	<p>In addition to the general provision in STA section 9-1 and 9-2 the circular letter 1995/39 on "Chinese walls" states the duty to</p>	

		ensure the independence of the portfolio management function, especially related to physical partition and professional secrecy. The organisation of activities in general, including policies and procedures must seek to ensure the independence of the portfolio management function.	
PORTUGAL		SC art. 304 ss.	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 3. Information about conflict of interest	
SWEDEN	1)Parliament 2)Finansinspektionen	1) The Securities Business Act (1991:981), Chap 1 Section 7. Chap 1 Section 7 explicitly requires investment firms to avoid conflicts of interest and, if such should occur, ensure that their clients are fairly treated.  2) Regulation on Conduct of Business rules (2002:7), Chap 2 Section 1-2. Chap 2 Section 1 explicitly states that an investment firm must issue instructions governing the manner in which conflicts of interest shall be handled in connection with the performance of own transactions, engagements on behalf of issuers and other customers. Chap 2 Section 2 explicitly requires investment firms to separate corporate finance operations from other operations and to issue instructions concerning the manner in which such operations shall be kept separate from other operation.	
UNITED KINGDOM	FSA	Principle 8 (Conflicts of interest)	Principle 8 requires investment firms to manage conflicts of interest between the firm and its customer and between one customer and others fairly. .
		COB 7.1 (Conflict of interest and material interest) COB 7.1.3: if a firm has: <ul style="list-style-type: none"> <li>• a material interest in a transaction to be entered into with or for a customer;</li> <li>• a relationship that gives rise or may give rise to a conflict of interest in relation to such a transaction;</li> <li>• an interest in a transaction that is or may be in conflict with the interest of any of the firm’s customers; or</li> <li>• customers with conflicting interests in respect of a transaction,</li> </ul> it must not knowingly deal in the exercise of a discretion in relation to that transaction unless it takes reasonable steps to ensure fair treatment for the customer.	COB 7.1 does not expressly require the segregation of functions in the same way as the CESR Standards/Rules. There is, therefore, no strict requirement for the segregation of the portfolio management function. However, most firms do separate it to ensure compliance with FSA Rules and to protect themselves from civil and criminal claims under the general law (eg in relation to insider dealing, market abuse and breach of fiduciary duty). COB rules do not contain the same emphasis on the separation of functions apparent in CESR Standard 135.

		<p>COB 7.1.4 indicates that any one or more of the following four 'reasonable steps' can be used to manage conflicts of interest:</p> <ul style="list-style-type: none"> <li>• disclosure of the interest to the customer;</li> <li>• relying on a policy of independence;</li> <li>• the establishment of Chinese walls; and</li> <li>• declining to act for a customer.</li> </ul>	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1 of Part II of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Sect. 10 (4) of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers Sect. 47a (1) e) and sect. 47b (1) g) of the Securities Act	
ESTONIA	The EFSA	Guideline	
HUNGARY	Parliament	Paragraph b) of Subsection 1 of Section 101 of CMA Schedule No. 12 of CMA Section 135 of CMA	<p>Applicants for licensing portfolio management activities must have...</p> <p>operating regulations prepared as in the layout illustrated in Schedule No. 12:</p> <p>“Content requirements of the operating regulations of institutions providing investment fund management and portfolio management services</p> <ol style="list-style-type: none"> <li>1) Rules for the prevention and handling of any conflict of interest.</li> <li>2) With the exception set out in Section 135, rules for separating portfolio management from all other activities in which the portfolio manager is engaged.</li> <li>3) Rules for separating the functions of the front office and that of the back office.</li> <li>4) Rules conferring decision-making authority within the organization.</li> <li>5) Rules for retaining data files.</li> <li>6) Rules of confidentiality.</li> <li>7) Rules on communication facilities provided to investors by which to reach the portfolio manager or the investment fund manager.” The portfolio manager - not including investment fund managers - must have an administration and management system to distinctly separate portfolio management operations from all aspects of the other business activities in which the portfolio manager is engaged. This obligation shall not apply to the asset management services provided to the Voluntary Mutual Insurance Fund and to private pension funds.</li> </ol>
LATVIA	Parliament	<b>Article 127(2)(3)</b> of the Law on the Financial Instruments Market	

		sets requirements for preventing any conflict of interest. That includes a requirement for the investment services provider to establish a separate structure for individual management of clients' financial instruments, execution or submission for execution of orders related thereto.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.02(b) of Part C I of the ISG SLC 3.02(m)	There is no reference in local rules to the provision for the strict separation of functions within the investment firm and its group. In the local context, most of investment firms providing portfolio management services are small companies which do not form part of a group.
POLAND	Council of Ministers for enacting	The Decree of Council of Ministers dated April the 15 <sup>th</sup> 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, determines the organisational requirements that brokerage house has to meet in order to ensure the independence of the portfolio management functions. The decree mentioned above requires conducting an offering activity at different organizational unit than the activity of portfolio management. (Par. 3., Par. 3.2, Par. 3.3) According to Art. 40.2 of the Law on Public Trading of Securities entity applying for the permit for providing brokerage activities is obliged to provide PSEC with the organisational structure and all adequate internal procedures. Every change of procedures mentioned above has to be notified to PSEC. There is also a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning conduct of business rules. The decree is going to expressly establish such obligations. There are no drafts of this decree yet	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 FMA	Act No 566/2001 on Securities and Investment Services Article ,73	An investment firm is obliged to keep money and securities entrusted by clients in bank accounts and owners accounts separately from bank accounts and owners accounts in which it keeps money and securities constituting its asset. On top of that an investment firm must take all reasonable steps to refrain from executing orders for its own account before those of customers and avoid conflicts of interests between the investment firm and its clients.
SLOVENIA	Parliament	SMA-1; A: 173  Decision on the Provision of Services... A: 10	Management board members of investment firms are responsible for compliance with this requirement; SMA-1; A: 87 1) Management board members of an investment firm are obliged to ensure that the investment firm operates in accordance with the rules on risk management and prudential rules as set forth in both this Act and the regulations issued on the basis thereof, or with other laws regulating the operations of a investment firm and the regulations issued on the basis thereof. (2) Management board members of an investment firm are obliged



			<p>to closely monitor the risks to which the operations of the investment firm are exposed, and adopt adequate measures designed to manage the said risks.</p> <p>(3) Management board members are obliged to facilitate the setting-up of both an internal control system in all the areas of the investment firm's operations and an internal audit, and to ensure their operation pursuant to this Act and the regulations issued on the basis thereof.</p> <p>(4) Management board members of an investment firm are obliged to ensure that the investment firm keeps its accounting books, other records and business documents, compiles bookkeeping documents, assesses bookkeeping items, compiles financial statements, and reports to the Agency in accordance with this Act and the regulations issued on the basis hereof.</p>
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<b>Rule 138</b>			
<i>The structure of the investment firm, its policies and procedures must seek to ensure the independence of the portfolio management function.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>25</sup></b>	<b>Comments</b>
AUSTRIA	AP, AFEC	Art 16 ASSA, Art 82 para 5a ASEA, SCC,	The portfolio management function is part of the compliance organisation of a credit institutions and it is compulsory to define it as area of confidentiality. So this is - in connection with the reason mentioned under rule 135 - sufficient to fulfil rule 138. Furthermore the compliance organisation of the investment firm is part of the on site inspections of the FMA, which checks if there are potential conflicts of interest between the different services of the investment firm.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, § 1, 7 <sup>o</sup> , Art. 62 and 79, §1, L 6 April 1995 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	See St. 135
DENMARK	Parliament  Danish Financial Supervisory Authority	Financial Business Act, section 70, par 1, no 3  Guidance for investment companies on Financial Business Act, section 15. (The above mentioned rules states that investment firms should provide for the necessary segregation of functions)	The regulation applies to all types of segregation of functions and not specifically to portfolio management.
FINLAND	Rahoitustarkastus	Rahoitustarkastus Guideline on Segregation of Securities Business Functions (201.12).	
FRANCE	Parliament, AMF	Article 533-11 of the MFC Article 3 of COB Regulation 96-03	The legislative provision requires the “autonomy of decision” of the portfolio management function but it does not refer to “structure, policies and procedures”. The COB provision requires the structural separation of functions and business lines.
GERMANY	BaFin	Section 33par. 1 WpHG	

<sup>25</sup> Any derogation to the application of the implementing measures should be mentioned.

		Guideline orga, Part 3.3.1.	
GREECE		Article 2 par. 3 of Decision of the Hellenic Capital Market Commission no 16/262/6-2-2003 provides as follows: “The Investment Services Firm ensures the autonomy of management and the confidentiality of its investment decisions, in particular among the group of companies to which it belongs, establishing rules to avoid conflict of interests and adopting measures for the settlement of those questions that may arise during the exercise of its activities.”	
ICELAND	FME	Art. 2 of Directive Request nr. 1/2001.	
IRELAND	IFSRA	<u>GS&amp;RR, Section 2</u> As at 135 above.	
ITALY	CONSOB	Article 21 of legislative decree 58/1998 General criteria ○○ Article 26 of Consob Regulation 11522/98 ( <i>General rules of conduct</i> )  Article 56, paragraph n. 3 and 4, of Consob Regulation 11522 ( <i>Internal procedures</i> ) ○○ Bank of Italy regulation of 4 august 2000 Title III – Supervision; Chapter II – 4. Rules relating to administrative and accounting procedures  The service of management on a client-by-client basis of investment portfolios (hereinafter “ <i>portfolio management</i> ”) shall be kept separate from the other investment services and activities of the intermediary.  The portfolio management may be provided jointly with the service of investment advice concerning financial instruments.  For this purpose the investment firm must comply with the following rules: (...). See above rule 135.	
LUXEMBOURG	CSSF		As at St. 135
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A firm shall be so structured that it avoids the risk of the interests of its clients being prejudiced through conflicts of interests between the firm and its clients (art 15 Bte)  In case of a combination of activities all measures should be taken in order to operate independently in the market. Measures should be taken as regards physical separation of activities (art 19 NR2002)	
NORWAY		In addition to the general provision in STA section 9-1 and 9-2 the	

		circular letter 1995/39 on “Chinese walls” states the duty to ensure the independence of the portfolio management function, especially related to physical partition and professional secrecy. The organisation of activities in general, including policies and procedures must seek to ensure the independence of the portfolio management function.	
PORTUGAL		SC arts 304, 305 307 CMVM Reg. 12/2000 arts. 13/4, 20, 32/c and 33	This standard is already implemented through the mentioned rules. The Portuguese legal framework considers the general duty for investment firms to separate each of their financial activities. The existing rules are applicable to all financial activities, thus including portfolio management on behalf of a third party. During on-site supervisions, the CMVM confirms if the financial intermediary is acting accordingly, mainly on issues related with the necessary separation of human resources, materials and technical support. If procedures are not in compliance with the existing rules, the CMVM stipulates the necessary corrections, verifying afterwards if the instructions given were implemented.
SPAIN	Ministry of Economy/CNMV	Law 24/1988 Security Market Act, article 83.	
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 7.1 (Conflict of interest and material interest).	Please see the comments above in relation to CCSR standard 135. COB rules do not contain the same emphasis on a policy of independence in management apparent in CCSR rule 138.
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraph 1(d) of Part II of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
CZECH REPUBLIC	Securities Commission	Sect. 10 (4) of the Decree by the Czech Securities Commission Stipulating Detailed Organisation Rules for the Internal Operations of Brokerage Houses and Detailed Rules for the Conduct of Brokerage Houses in Relation to Consumers	
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 135.	
LATVIA	Parliament	<b>Article 128(3)(4)</b> of the Law on the Financial Instruments Market defines that the investment services provider shall ensure that decisions on individual management of clients’ financial instruments and investment consulting be made only by persons duly authorised by the investment services provider to perform such activities. For these purposes the investment services provider is entitled to authorise only persons having appropriate education and experience, and who are competent in the field of investment services.	

LITHUANIA		Not regulated	
MALTA	MFSA	This is not reflected in local rules	
POLAND	Council of Ministers for enacting	The Decree of Council of Ministers dated April the 15 <sup>th</sup> 2002 on Determining the Technical and Organizational Conditions Required of Certain Entities to Conduct Brokerage Activity and of Banks to Keep Securities Accounts, determines the organisational requirements that brokerage house has to meet in order to ensure the independence of the portfolio management functions. The decree mentioned above requires conducting an offering activity at different organizational unit than the activity of portfolio management. (Par. 3., Par. 3.2, Par. 3.3) According to Art. 40.2 oh The Law on Public Trading of Securities entity applying for the permit for providing brokerage activities is obliged to provide PSEC with the organisational structure and all adequate internal procedures. Every change of procedures mentioned above has to be notified to PSEC.	Polish Securities and Exchange Commission is responsible for drafting,
SLOVAKIA	MF FMA	Act No 566/2001 on Securities and Investment Services Article ,73	As above.
SLOVENIA	Securities Market Agency	Please see above- additionally according to the Decision on personnel, technical, organizational conditions... A: 8: In addition to the provisions referred above which refer where relevant to the organization of the operations of an organizational unit of a bank which performs services related to securities (Investment banking sector), a bank must also set out in a general act: - the relationship between the investment banking sector and the other internal organizational units of the bank which carry out banking and other financial services, including a description of the responsibilities and authorizations of the employee managing the operations of the investment banking sector in relations with the other bodies of the bank, the functional and physical separation of the investment banking sector and the employees in this sector in order to limit conflict of interest between clients, the investment banking sector and the employees and to protect confidential data.	-

<b>Standard 136</b>	<i>An investment firm must define investment strategies for its portfolio management services and carry out transactions in accordance with such strategies, taking into account the terms of the customer agreement.</i>		
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>26</sup></b>	<b>Comments</b>
AUSTRIA	AP	Art 13 para 3 and 4 ASSA	The investment firm defines general investment strategies, which investment strategies are part of the customer agreement. The customer has to find out together with the investment firm by giving information about his risk profile which investment

<sup>26</sup> Any derogation to the application of the implementing measures should be mentioned.

			strategy is best for him. The FMA controls during the on site inspections if the concrete customer portfolio fits together with the investment strategy.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36, §1, 2°, L 6 April 1995 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard
FINLAND	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.	This is not explicitly required except for private equity portfolios (article 1-14 of the COB Instruction).
GERMANY	BaFin	Not implemented See 129	
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CCSR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	FME		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 CCSR standards on investor protection, where this is within its authority. A first consultation paper regarding the CCSR 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>GS&amp;RR, Section 2</u> As at 135 above.	
ITALY	CONSOB	Article 43, paragraph n. 1 and 2, of Consob Regulation 11522 <i>(Supply of the service)</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	(please refer above)	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	No explicit references to strategies.

NORWAY		STA section 9-1	
PORTUGAL		SC arts. 304, 332 e 335	During on-site supervisions, the CMVM will confirm if the financial intermediary has the capacity to define his own strategies and to act accordingly. The CMVM also confirms if the investment strategies adopted are adequate to investors and also if those strategies are in accordance with the contracts signed with the clients.
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduct. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	
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 4.2.15E (3) & (4) (Contents of terms of business provided to a customer: general requirements) COB 4.2.16E (1) (Contents of terms of business provided to a customer: managing investments on a discretionary basis) Principle 2 (Skill, care and diligence) COB 4.2.15E(3) & (4) & 4.2.16E (1) provide that the firm's agreement with the customer should, where relevant, include some provision on: <ul style="list-style-type: none"> <li>• the customer's investment objectives;</li> <li>• any restrictions on the types of financial instrument in which the customer wishes to invest and the markets on which the customer wishes transactions to be executed, or that there are no such restrictions; and</li> <li>• the extent of the discretion to be exercised by the firm, including any restrictions on the value of any one investment and the proportion of the portfolio which any one investment or any particular kind of investment may constitute or that there are no such restrictions.</li> </ul>	Where a firm fails to comply with the restrictions set out in its agreement, it will potentially breach Principle 2, which requires firms to conduct their business with due skill, care and diligence. A firm is not required to document its investment methodologies.
CYPRUS	Cyprus Securities and Exchange Commission	Paragraph 2.3.2E of Annex 1 of the Conditions for granting Authorisation to Cypriot Investment Firms, Directive 1/2002	
CZECH REPUBLIC	Securities Commission		No specific rule as for portfolio management
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	Subsection 1 of Section 125 of CMA	Portfolio managers shall, at all times, proceed in the client's best interest in compliance with legal provisions and with their own

			internal regulations, and as stipulated in the portfolio management contract. See comments for paragraph 135.
LATVIA	FCMC	According to Article 2 of the <b>FCMC Regulations of Trust Operations</b> , an investment service provider shall draft and adopt policies and procedures clearly defining the nature of the portfolio management operations, the procedure for carrying out transactions related to the portfolio management, for record keeping and issuance of statements to clients.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC3.03(d) (e) and (f) The above would imply that local investment firms are bound to define investment strategies for each individual customer.	
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 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	Act No 566/2001 on Securities and Investment Services Article 43 ,73	As above.
SLOVENIA		Please see under the 118 on management contract.	

<b>Rule 139</b>			
<i>The investment firm must maintain records of its investment strategies, as well as the analyses and forecasts underlying them.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>27</sup></b>	<b>Comments</b>
AUSTRIA	AP	Art 17 para 1 and 3ASSA	As mentioned under rule 136 the investment strategies are part of the customer agreement. According to Art 17 para 3 the investment firm has to provide the customer with a copy of the complete customer contract. The investment firm has to keep record the order and the customer instructions.
BELGIUM	Parliament and Royal Decrees proposed by the Minster of Finance CBFA circulars	No specific rule	CBFA Consultation document on revised rules for portfolio management (proposal to transpose this CESR rule)
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	No specific implementing measure identified.	This is not explicitly required.
GERMANY	BaFin	Not implemented	No legal basis for recording requirements

<sup>27</sup> Any derogation to the application of the implementing measures should be mentioned.

		See 129	Proposal for amendment of law will be presented to the ministry of finance
GREECE			An Internal Working Group of Experts has been established within the Hellenic Capital Market Commission aiming at preparing the remaining additional regulations for the full implementation of CESR Standards on Investor Protection. We expect the final outcome of this work to be available at the beginning of 2004.
ICELAND	FME		See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>B&amp;RR General Principles 1.1</u> A firm shall retain ..... A full record of all transactions entered into by it (whether on its own behalf or on behalf of clients), of all investment advice and all records required to demonstrate compliance with the provisions of this Handbook.	
ITALY	CONSOB	Article 43, paragraph n. 1, of Consob Regulation 11522 <i>(Supply of the service)</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	(please refer above)	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	Not implemented	
NORWAY		No particular rule	
PORTUGAL		SC art 305/2	
SPAIN	Ministry of Economy/CNMV		This standard is not implemented in the Spanish regulation
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 4.2.14R	Firms are required to make a record of each agreement they enter into with a customer in relation to the provision of investment services. As indicated in the comments on CESR Standard 136, these agreements should include details of investment objectives and restrictions.
			There is no specific requirement under the Handbook to retain records of the analyses and forecasts underlying investment strategies. This requirement may be difficult to impose in practice as investment strategies are often imposed on the investment manager by the customer, rather than being devised by the investment manager.
CYPRUS	Cyprus Securities and Exchange Commission	Sections 4(1), 6(1) and 13 of the Directive on Books and Records to be kept by the Cyprus Investment Firms	
CZECH REPUBLIC	Securities Commission		No specific rule as for portfolio management



ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	See Schedule No. 15 of CMA in Annex.	
LATVIA		The laws or FCMC regulations do not specifically regulate this issue.	
LITHUANIA		Not regulated	
MALTA	MFSA	This is not reflected in local rules.	
POLAND	Council of Ministers for enacting	<p>According to the Decree of the Council of Ministers dated September the 3<sup>rd</sup>, 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 brokerage house conducts the activity of portfolio management it shall store and archive for at least the period of five years, the documents relating the that activity, without limitation, contract, authorizations, orders and analyses. (Par. 59.2)</p> <p>There is also a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of Ministers the decree concerning inter alia 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		
SLOVENIA		Please see under the 135 on the records that must be kept by investment firms.	

<b>Standard 137</b>			
<i>The transactions carried out by the portfolio manager, both individually and as a whole, must be exclusively motivated by the interests of the customer and in accordance with agreed management objectives.</i>			
<b>Country</b>	<b>Implementing Authority(ies)</b>	<b>Implementing Measure<sup>28</sup></b>	<b>Comments</b>
AUSTRIA	AP	Art 13ASSA, Art 14 ASSA	As a main principle the investment firm has to act always in the best interest of the customer, which also applies for the service of portfolio management. Furthermore it is part of the compliance organisation to assure the independence of the portfolio management. Art 14 of the ASSA forbids moreover front running, parallel running, scalping and pushing.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 36 and 79, §1, L 6 April 1995 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 1°, L 2 August 2002 CBFA Consultation document on revised rules for portfolio management
DENMARK			The Ministry of Economic and Business Affairs is the competent Authority for deciding on the further implementation. The Danish Financial Supervisory Authority has approached the Ministry of Economics and Business Affairs in that regard

<sup>28</sup> Any derogation to the application of the implementing measures should be mentioned.

FINLAND	Parliament	Chapter 4, Section 4, Paragraph 1 of the Securities Markets Act.	
FRANCE	AMF	Article 2 of COB Regulation 96-03	
GERMANY	BaFin	Guideline Part B.3. par. 2 Guideline Part B.3.3. par. 1 (analogous application for portfolio management)	
GREECE		Section 8.4. of the Code of Conduct applies.	
ICELAND	Parliament / FME	Art. 4 of the Act on Securities Transactions nr. 33/2003 (the Securities Act): "Financial undertakings must operate in accordance with proper and sound business practices and customs in securities transactions, making the credibility of the financial market and the interests of their customers their priority."	See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 7</u> As at 91 above. <u>COC Section 6</u> As at 73 above	
ITALY	CONSOB	Article 21, paragraph n. 1, a) and c) of Legislative decree n. 58/1998 <i>(General criteria)</i> ○○ Article 26, paragraph n.1, a) of Consob Regulation 11522/98 <i>(General rules of conduct)</i>  Article 43, paragraph n. 2, of Consob Regulation 11522 <i>(Supply of the service)</i>	
LUXEMBOURG	CSSF	(please refer above)	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	A securities firm shall act in the interests of the clients (art 25 NR2002)  The client agreement forms the sole basis for the services provided. This agreement includes restrictions.	No explicit references to management objectives
NORWAY		STA section 9-2, according to which investment firms shall promote the best interest of the clients.	In our legislation this duty will be interpreted as the same duty as the wording of standard 137. In other words: if an investment firm do not carry out transactions, both individually and as a whole, just exclusively motivated by the interests of the customer and in accordance with agreed management objectives, Kredittilsynet will consider it as a breach of STA section 9-2.
PORTUGAL		SC art. 304 ss.	
SPAIN	Ministry of Economy/CNMV	Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management: Art 2. Principles and duties of General conduct. Art 4. Customer Agreement for portfolio management  Circular 2/2000 about form models of standard customer agreement for discretionary and individual portfolio management and other development of Ministerial Order, dated 7 October 1999, implementing the General Code of Conduct and rules of action for portfolio management. Annex	

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>Principle 2 (Due skill, care and diligence)</p> <p>Principle 6 (due regard to customers' interests) provides that a firm must pay due regard to the interests of its customers and treat them fairly.</p> <p>Principle 8 (conflicts of interest)</p> <p>COB 7.1 (conflicts of interest and material interest)</p> <p>COB4.2.15E (3) (Contents of terms of business provided to a customer: general requirements)</p>	<p>As discussed in the comments on CESR Standard 135, Principle and COB 7.1 impose detailed obligations on firms in relation to the management of conflicts of interest.</p> <p>As discussed in the comments on CESR Standard 136, a firm's agreement with its customer relating to portfolio management services should include a provision dealing with the customer's investment objectives. Failure to comply with such a provision may result in a breach of Principle 2, which requires a firm to conduct its business with due skill, care and diligence.</p> <p>See also the requirements relating to "suitability" discussed above in the comments relating to CESR Standard 72. There is no express "exclusively motivated" provision in the FSA Handbook. While such an obligation is an element of the implied duties of a fiduciary, such duties can be modified as a matter of contract law (although any such provisions would need to be consistent with the firm's regulatory obligations)</p>
CYPRUS	<p>Cyprus Securities and Exchange Commission</p> <p>Cyprus Securities and Exchange Commission and the Central Bank of Cyprus</p>	<p>Paragraph 2.3.2E of Annex 1 of the Conditions for granting Authorisation to Cypriot Investment Firms, Directive 1/2002</p> <p>Paragraph 1 of Part I and Part II of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003</p>	
CZECH REPUBLIC	Securities Commission	Sect. 47b (1) a) of the Securities Act	No specific rule as for portfolio management
ESTONIA	The EFSA.	Guideline.	
HUNGARY		See comments for paragraph 136.	
LATVIA	FMC	According to Article 8 of the <b>FMC Regulations on Trust Operations</b> , a trust agreement concluded between a portfolio manager and a client shall contain a clause that the portfolio manager has to act as a careful owner.	
LITHUANIA		Not regulated	
MALTA	MFSA	SLC 3.02 of Part I of the ISG Moreover, SLC 3.03 requires the investment firm to act with due skill, care and diligence – and in the best interests of the customers and of the market. In particular, in terms of SLC 3.03(e) the investment firm is bound to take all reasonable steps to ensure that transactions are suitable for a customer, bearing in mind his objectives.	
POLAND	Parliament for the law Council of Ministers for the	There is a draft of a new Polish Law on Public Trading of Securities prepared which includes a delegation for issuing by Council of	Polish Securities and Exchange Commission is responsible for drafting and Ministry of Finance for approving

	decree	Ministers the decree concerning inter alia conduct of business rules. The decree is going to expressly establish such obligations.	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 Articles ,43,73	Financial firm is obliged, even without instruction from a client, to arrange the purchase and sale as well primary market acquisition of securities, with the objective of ensuring long-term professional care for client's portfolio. An Investment Firm is obliged to provide the client with important information related to the transaction and advise him of important facts and risks associated with the transaction.
SLOVENIA		According to A: 168 the provisions of A: 147, P:4 of the SMA-1 apply also to portfolio management: (4) An investment firm is not allowed to buy and/or sell securities on the organised market for its own account or for the accounts of those employed with the investment firm if, as a result of this, it would not be able to execute a client's concurrent order to buy and/or sell or if such an order could only be executed under conditions less favourable for the client.	

<b>Rule 140</b>	<i>The investment firm must ensure that its orders are executed as efficiently as possible and in particular that:</i> <i>a) orders issued are immediately recorded by the firm;</i> <i>b) transactions executed are recorded and the portfolios affected are adjusted as quickly as possible;</i> <i>c) the portfolios affected and the relevant amounts are determined, or objectively determinable, no later than the time at which the order is issued and cannot be changed, except for the purposes of rectifying an error, after the execution of the order, regardless of whether the order relates to one or more accounts.</i>		
Country	Implementing Authority(ies)	Implementing Measure <sup>29</sup>	Comments
AUSTRIA	AP	Art 17 ASSA	Point a and b are literally laid down in Art 17 para 1 ASSA. Point c is warranted by the mainly in Austria (90% of all credit institutions use it) used GEOS-system.
BELGIUM	Parliament and Royal Decrees proposed by the Minister of Finance CBFA circulars	Art. 62 L 6 April 1995 Circular 92/4 of 14 August 1992 to banks and investment firms on portfolio management	To come into effect later: Art. 26, 9° (aggregated orders), Art. 26, 10° (record keeping orders), Art. 26, 13° (transaction statements) L 2 August 2002 CBFA Consultation document on revised rules for portfolio management
DENMARK	Parliament  Danish Financial Supervisory Authority	Financial Business Act, section 71, par. 1, no 1 and no 2  Guidance for investment companies on Financial Business Act, section 15. (The above mentioned rules state that investment firms should have internal business procedures on recording an allocation of orders)	Implemented in general terms
FINLAND	Parliament Rahoitustarkastus	Rahoitustarkastus Guideline on Practices to be applied in the Provisions of Investment Services (201.7).	No detailed provisions as to points b and c yet. The Rahoitustarkastus regulations and guidelines are currently under general restructuring and revision. The need for specifying

<sup>29</sup> Any derogation to the application of the implementing measures should be mentioned.

			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.	These requirements are implicit in the content of the programme of operations of the firm (cf. article 1-14 of the COB Instruction).
GERMANY		a.) Section 34 WpHG b.) Section 34 WpHG, Guideline Part B.3.6.1. c.) Guideline Part B.3.5. (Guideline with analogous application for portfolio management)	
GREECE		Section 9.1. of the Code of Conduct applies.	
ICELAND	FME	Not implemented	See general clause regarding FME's Directive Requests.
IRELAND	IFSRA	<u>COC, Section 7</u> As at 91 above. <u>COC, Section 15</u> As at 97 above. <u>B&amp;RR General Principles 1.1</u> As at 139 above	
ITALY	CONSOB	Article 43, paragraph n. 3 and 4, of Consob Regulation 11522 <i>(Supply of the service)</i> ○○○ Article 63, paragraph n.1, 2 and 3 of Consob Regulation 11522 <i>(Recording of orders and 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	(please refer above)	
NETHERLANDS	Ministry of Finance or AFM: deliberations are pending	a) Orders must be recorded without delay upon receipt of the order (annex 4, art. 4.15(2) NR2002) b) Data on orders must be recorded immediately when an order is executed (annex 4, art. 4.15 (3) NR2002) c) Procedures must be in place for the primary recording of orders, including all amendments to existing orders in the order records, on consecutively pre-numbered order tickets. All details of the order concerned, including the client for whom the order was placed, shall be recorded immediately.	Rules do not explicitly state that orders can only be changed for purposes of rectifying an error.
NORWAY		STA section 9-2	
PORTUGAL		SC arts. 304 and 307	
SPAIN	Ministry of Economy/CNMV	Circular 3/1993 dated 29 December regarding the record of transactions and order support archive. Art 2 Order Support archive. Art 3 General rules regarding the record of transactions.	
SWEDEN	Finansinspektionen	Regulation on Conduct of Business Rules (2002:7), Chap 6 Dealing requirements. Section 1 and 5 Chap 6 Section 1 explicitly requires investment firms to document orders Chap 6 Section 5 explicitly requires the recording and allocation as soon as possible. Rule 140 c) is not explicitly implemented.	Finansinspektionen follows a timetable for gradual implementation of the standards and rules. The first step was taken during 2002 with the implementation of some of the rules and the next step is due during 2004 when additional standards and rules will be implemented. The final step towards full implementation will start during 2004.

UNITED KINGDOM	FSA	COB 7.6 (Timely execution) requires the execution of a current customer order as soon as reasonably practicable unless the firm has taken reasonable steps to ensure that postponing the execution of that order is in the best interests of the customer.	The definition of a “current customer order” includes a decision by a portfolio manager to trade immediately or a decision by an investment manager to trade following the fulfilment of a condition, once that condition has been fulfilled.
		COB 7.12.3R (Record keeping requirement) provides that a firm must ensure by the establishment and maintenance of appropriate procedures that it promptly records adequate information in relation to its decision to execute orders when it acts as a portfolio manager. COB 7.12.6E (1) (Minimum content of customer order and execution records)	
		COB 7.12.3R (Record keeping requirement) also provides that a firm must ensure by the establishment and maintenance of appropriate procedures that it promptly records adequate information in relation to the execution of orders that it has decided to effect when acting as a portfolio manager. COB 7.12.6E (2) & (3) (Minimum content of customer order and execution records)	
		COB 7.7.5R and 7.7.6E (Requirement for timely allocation) COB 7.7.5R provides that where a firm has aggregated a customer order with the orders of other customers and part or all of the aggregated order has been filled, it must promptly allocate the designated investments concerned. COB 7.7.6E indicates that depending on the circumstances, such allocation must take place between one to five business days after the transaction takes place. COB 7.7.11R allows scope for revising an allocation of an aggregated order where an error is identified in either the intended basis of allocation or the actual allocation.	
CYPRUS	Cyprus Securities and Exchange Commission and the Central Bank of Cyprus	Paragraphs 4 – 7 of Part III of Annex 8 and Part V of Annex 10 of the Code of Business Conduct for Investment Firms and the Natural Persons employed by them, Directive 1/2003	
	Cyprus Securities and Exchange Commission	Paragraph 2.3.2A of Annex 1 of the Conditions for granting Authorisation to Cypriot Investment Firms, Directive 1/2002	
	Cyprus Securities and Exchange Commission	Sections 6(7) and 8(2)(a) and Paragraph 2.3 of Part III of Annex 1 of the Directive on Books and Records to be kept by the Cyprus Investment Firms	
CZECH REPUBLIC	Securities Commission	Ad a) Sect. 47 of the Securities Act	No specific rule as for portfolio management
ESTONIA	The EFSA.	Guideline.	
HUNGARY	Parliament	Subsection 1 of Section 120 of CMA	Investment service providers and commodities brokers shall keep records of all dealings on their own account, agency contracts and consignments in sequence, in a uniform system.
LATVIA	Parliament	<b>Article 125</b> of the Law on the Financial Instruments Market defines that the investment services provider shall be responsible	

		for immediate recording of transactions in financial instruments and entering of financial instruments acquired as a result of such transactions to clients' financial instruments accounts. Rights to financial instruments shall be vested in the acquirer from the time when financial instruments are entered to the acquirer's financial instruments account. The proof of the fact that financial instruments are owned by a person shall be a book entry in its financial instruments account.	
LITHUANIA		Not regulated	
MALTA	MFSA	(a) SLC 10.21 Part C1 of the ISG, (b) SLC 3.03(a), SLC 10.21(b) (c) SLC 10.21 (c)	Our rules do not make reference to "immediate" recording of orders by the investment firm.  However, the ISG do not impose a time limit within which the records relating to the customers' accounts should be updated following the execution of an order.
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 obligations.	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	
SLOVENIA		Please see the definitions above.	