



**CESR Report on the mapping of supervisory powers,
supervisory practices, administrative and
criminal sanctioning regimes of
Member States in relation to the Markets in
Financial Instruments Directive (MiFID).**

February, 2009

IMPORTANT NOTICE

In the interest of transparency and in order to inform interested parties, CESR is publishing this document relating to CESR Member's responses to a questionnaire regarding the nature and extent of powers in relation to the MiFID Directive and its implementing measures.

This document has no legal effect, nor does it present or represent any interpretation of or definitive position regarding existing laws, regulations or other forms of legislation in any jurisdiction. This document should and cannot be relied upon for any purpose other than for the purposes 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 supervisory practices or regulatory systems of any Member State.

REPORT MAPPING MIFID

TABLE OF CONTENTS

Introduction..... p 3-4

Executive Summary..... p 5-26

Part A – Generic Supervisory Landscape and Supervisory Powers..... p 27-62

Part B – Supervisory Practices.....p 63-112

Section I – Investment firm’s authorisation and monitoring.....p 63-112

Section II – Regulated markets and Multilateral Trading Facilities.....p 113-148

Part A – Authorisation, supervision of authorisation requirements and withdrawal of authorisation of regulated markets.....p 113-131

1) The processes used for authorising regulated markets.....p 113-126

2) The process used for supervising changes to regulated markets that may have an impact on the authorisation requirements.....p 126-129

3) The withdrawal of regulated markets authorisation.....p 129-131

Part B – Ongoing supervision of regulated markets..... p 131-147

Part C – Multilateral trading facilities (MTFs).....p 147-148

Section III – Cooperation and Branches..... p 149-169

1) The type of cooperation arrangements that authorities have in place.....p 149-169

2) The nature of the arrangements that are in place to supervise branches.....p 169

Section IV – Delegation of tasks of the supervisory authority to another entity..... p 170

Part C – Administrative measures and fines and criminal sanction..... p 170-208

A. Requirement for authorisation – Article 5..... p 174-180

B. Conditions for authorisation and regular review of conditions for initial authorisation – Article 9-14 and Article 16..... p 181-187

C. Ongoing obligations for Investment Firms – Article 16-24 and 25-30..... p 188-195

i) Operating conditions – General provisions and provisions to ensure investor protection – Articles 16-24.....p 188

ii) Provisions for market transparency and integrity – Articles 25-30,p 189-195

D. Regulated Markets – Article 36-40.....p 196-201

E. Criteria to determine administrative fines.....p 202

Summary table.....p 205-206

Annex.....p 207-249



Introduction

1. In December 2007 the ECOFIN Council requested a study of the differences in supervisory powers and objectives between national supervisors. In addition to this, the ECOFIN Council requested that the study should include a stock taking exercise of coherence, equivalence and actual use of powers among Member States and of the variance of sanctioning regimes. That stock-taking exercise should in particular allow one to ascertain whether such sanctioning powers had sufficiently equivalent effect.
2. Please note that the results of this mapping are based on the contributions of 28 CESR Members representing those Members who at the time of publication have fully implemented MiFID and all its implementing measures. Once Poland has fully implemented MiFID, an attachment to this report will be published showing the situation in Poland with regard to the supervisory powers, day to day application and the sanctioning regime of MiFID in Poland.¹
3. The structure of this report is divided into three sections based on the answers to a questionnaire reference (CESR /08-220) as follows:
4. **Part A** sets out the supervisory landscape for each jurisdiction and provides an overview of the extent to which CESR members have been given the necessary powers to carry out their regulatory and supervisory duties under this directive. In this discussion, reference is made to the supervisory landscape in order to avoid repetition and to facilitate the readability of the report.
5. **Part B** reflects the answers to those questions which sought to ascertain the supervisory practices that CESR members have (at the time of drafting) put into place in order to carry out their MiFID obligations.
6. **Part C** reflects the answers to those questions which sought to ascertain the nature and use of CESR member's sanctioning and enforcement powers and practices for the purposes of MiFID.
7. In order to give an overview of the European landscape, extensive use throughout this report has been made of tables to allow the reader to easily compare the similarities and differences that exist amongst the CESR Membership. In Part B, where supervisory practices amongst the membership differ to the extent that there are no or not many similarities, or where a particular supervisory practice is specific to one CESR member, this practice is set out in some detail. Throughout this document, extensive use is made of the following country codes:

¹ Relevant laws implementing all executive measures in Poland are currently in the ultimate stage of the legal implementation process. While responding to the mapping, KNF- PFSA has stated that: a. laws currently regulating the market in securities in Poland were drafted in compliance with Directive 2004/39/EC MiFID I, b. a significant number of MiFID executive measures have direct application in Poland (inter alia the Regulation 1287/2006, articles 13-15 and 28.3 of Directive 2006/73 EC) as enumerated in the PFSA communique of October 2007: www.knf.gov.pl/aktualnosci/MIFID.html and c. institutions currently in force in Poland are comparable to MiFID executive measures in most cases.

Member States	CESR Member (CA)	Abreviation	Report Country code
Austria	Financial Market Authority	FMA	AT
Belgium	Commission Bancaire, Financiere et des Assurances / Commissie voor het Bank, Financie- en Assurantiewezen	CBFA	BE
Bulgaria	Financial Supervision Commission	FSC	BG
Cyprus	Cyprus Securities and Exchanges Commission	Cysec	CY
Czech Republic	Czech National Bank	CNB	CZ
Denmark	Finanstilsynet	Finanstilsynet	DK
Estonia	Estonian Financial Supervision Authority	EFSA	EE
Finland	Raihoitustarkastus ²	Raihoitustarkastus	FI
France	Autorité des Marchés Financiers	AMF	FR
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht	BaFin	DE
Greece	Capital Market Commission	HCMC	EL
Hungary	Hungarian Financial Supervisory Authority	HFSA	HU
Ireland	Financial Regulator	FR	IE
Iceland	Financial Supervisory Authority	FME	IS
Italy	Commissione Nazionale per le Società et la Borsa	Consob	IT
Latvia	Financial and Capital Markets Commission	FCCM	LV
Lithuania	Lithuanian Securities Commission	LSC	LT
Luxembourg	Commission de Surveillance du Secteur Financier	CSSF	LU
Malta	Malta Financial Services Authority	MFSA	MT
Netherlands	Autoriteit Financiële Markten	AFM	NL
Norway	Kredittilsynet	Kredittilsynet	NO
Portugal	Comissão do Mercado de Valores Mobiliários	CMVM	PT
Romania	Romanian National Securities Commission	CNVMR	RO
Slovakia	National Bank of Slovakia	NBS	SK
Slovenia	Securities Market Agency	SMA	SI
Spain	Comision Nacional del Mercado de Valores	CNMV	ES
Sweden	Finansinspektionen	Finansinspektionen	SE
United Kingdom	Financial Services Authority	FSA	UK

² The information in this report is based on information collected during 2008. Finanssivalvonta is a new authority for supervision of Finland's financial and insurance sectors from 1st of January. It is responsible for most of the supervisory functions previously undertaken by Raihoitustarkastus and the Insurance Supervision Authority. The entities supervised by the new authority include banks, insurance and pension companies as well as other companies operating in the insurance sector, investment firms, fund management companies, Finnish Central Securities Depository and the Helsinki Stock Exchange. In addition, Finanssivalvonta supervises the reporting requirements of listed companies and securities trading.

Executive Summary

Supervisory landscape

8. There is not one supervisory framework that is dominantly applied across the Membership³ with regard to the provisions of the Markets in Financial Instruments Directive (hereafter: MiFID). Eleven Member States (**AT, CZ, DK, EE, HU, IE, IS, LV, MT, SE, SK**) have a supervisory framework in which one supervisory entity is involved, while the other sixteen Member States have a framework based on multiple supervisors. Eleven Member States (**BE, BG⁴, EL⁵, FI, IT, LT, LU, NO, RO⁶, SI and UK**) have a supervisory system in which two supervisory entities are involved as set out in Table 2, six Member States (**CY, DE, ES, FR, NL and PT**) have more than two competent entities⁷ involved as set out in Table 3.
9. In nine Member States (**BE, ES, FI, FR LU, NL, NO, PT and UK**), a Ministry or Minister is involved in certain parts of supervision as set out in Table 4.
10. Although there is no obligation or requirement in MiFID for this – the supervisory frameworks adopted by Member States are quite diverse in terms of the number and nature of the competent supervisory authorities that are involved in the authorisation and ongoing supervision process of **investment firms and credit institutions**.
11. Harmonisation with regard to the supervisory framework for authorisation and ongoing supervision of **regulated markets** and multilateral trading facilities (hereafter: **MTF's**) is far greater than the convergence of supervision by competent authorities of other entities such as investment firms and credit institutions as clearly can be seen in Table 1. This may be due to the fact that Member States had already established authorisation processes for investment firms and credit institutions with a certain competent authority before MiFID was introduced, while no such process existed for established regulated markets, nor for the newly created structure of MTF's. Moreover the nature of activities of a regulated market and MTF is similar as opposed to the variety of activities conducted by investment firms and credit institutions.

Supervisory Powers (except Regulated Markets and MTF's)

12. Members have indicated if they can exercise the individual powers required in MiFID (i) directly, (ii) in collaboration, (iii) through delegation, (iv) by application to judicial authority, or (v) that they do not have the power.
13. All MiFID powers have been assigned throughout the Membership. However, certain powers have been left with either Ministries / Ministers, the Central Banks or other Competent Authorities and have not been assigned directly to a CESR Member.
14. Cooperation with other domestic authorities is provided by the relevant national legislations and / or by way of protocols or agreements. In supervisory systems with

³ Please note that MiFID does not set out an obligation or requirement with regard to a supervisory framework.

⁴ In **BG** the competence is exercised by the CESR Member and the Central Bank for certain entities.

⁵ In **EL** the competence is exercised by the CESR Member and the Central Bank for credit institutions.

⁶ In **RO** authorisation of credit institutions falls under the responsibility of the Romanian National Bank, but where a credit institution provides investment services or performs investment activity, CNVM verifies the provisions set at Article 1, point 2 of MiFID.

⁷ as set out in Table 3.



two or more supervisory entities the relevant authorities cooperate closely and – in a few jurisdictions – cooperation is carried out on an ad hoc basis. None of the authorities has exercised any of the options to delegate administrative, preparatory or ancillary tasks.

15. In a number of areas across the Membership, the ongoing supervisory powers lie mostly with the CESR Members. This is the case in the following areas: organisational requirements, conflicts of interest, conduct of business obligations when providing investment services, the obligation to execute orders on terms most preferable to clients, client order handling rules, transactions executed by eligible counterparts and obligation to uphold integrity of markets, report transactions and maintain records.
16. All CESR members, except **LU**, have the power to grant authorisation to entities for which they are responsible for. In **LU**, the authorisation is granted by the Minister of Treasury and Budget, after advice by the CESR Member. After the authorisation has been granted by the Minister, the CESR Member is the competent authority to ensure that requirements are fulfilled. Some CESR Members do not have this power in relation to all categories of entities or with regard to certain or all investment activities. In **BG, EL, FR, NL, IT, SI, and PT**, more competent authorities are involved in granting the authorisation. In **ES**, the process involves the Minister of Finance and Economy. In **IT** the CESR Member, having heard another competent authority, is competent for authorisation of investment firms, while another competent authority, having heard the CESR Member, is competent for authorisation of credit institutions.
17. All CESR Members have the power to supervise that the performance of investment services and activities as defined in Article 5(1), can not take place without prior authorisation. In **BG, CY, DE, EL, ES, FR, IT, LT, NL, PT, RO** and **SI** the supervision does not lie solely with the CESR member, but is also exercised by the Central Bank or other Competent Authorities as set out in Tables 2, 3 and 5.
18. With the exception of **ES** and **LU**, all CESR Members can refuse authorisation directly if they are not satisfied as to the suitability of the shareholders. For some jurisdictions, namely **BG, ES, IT, FR, NL** and **PT**, these powers are also exercised by other competent authorities when it concerns entities which are not supervised by these CESR Members. In **LU** the power to refuse authorisation is attributed to the Minister of Treasury and Budget acting on advice of the CESR Member.
19. In **IT** and **NL**, the power to supervise persons that acquire or sell a qualified holding in an investment firm having to notify the competent authority, is exercised by the Central Bank. The same goes for the notification related to acquisition and disposal of qualified holdings. In **NL**, all powers related to majority holdings of shareholders are exercised by the Central Bank. In **IT**, in the case of listed companies, these power are also exercised by the CESR Member.
20. All CESR members have the powers related to branches. However, **IS** does not have the power to require all investment firms with branches to report to them periodically. **CY, DE, EL, ES, RO, SK** and **UK** have the power to impose additional requirements for establishing a branch.

Supervisory practices

21. Throughout the Membership there is some convergence with regard to the supervisory practices for the authorisation of investment firms, the procedures and even the specific steps / stages of the procedures followed by the authorities. However

no convergence can be seen with regard to the practices used by the Competent Authority to assess the application (e.g. whether on site-inspections or hearings are performed etc.). In addition, there is some divergence regarding the timeframe within which authorities check the documentation for granting the authorisation. Sixteen authorities complete the check in a six month period while fourteen authorities indicated shorter timeframes and in most cases three months.

22. Moreover, authorities follow similar or even the same procedures for updating the register of investment firms upon authorisation and for consulting competent authorities of other Member States.
23. Regarding the information required by the authorities for the purposes of the authorisation procedure or of the ongoing supervision of the authorisation requirements, the general conclusion arising out of the authorities' responses is that there is convergence on the area / type /category of information required.
24. However, when it comes to the specific documents that are classified/ fall under the same area/ category of information, some divergences could be pointed out. This is to a certain extent due to the fact that some of the documents (e.g. constituting documents, extracts from the national companies' registrars) are linked to the company law of each Member State which is a legal area that is less harmonised than the securities' law.
25. The great majority of the authorities do not impose additional authorisation requirements to the ones set out in MiFID on investment firms and credit institutions creating therefore a common supervisory and regulatory landscape.
26. There is also convergence regarding the measures competent authorities may adopt if shareholders with qualifying holdings are considered prejudicial to a sound and prudent management of an investment firm.
27. The methods that competent authorities have put in place in order to monitor the compliance of investment firms with the conditions of their initial authorisation show some commonality. There is consistency in the general approach endorsed to carry out the ongoing supervisory and monitoring process of investment firms. Competent authorities however, use diverse types of documentation as part of the supervisory process. Some Members' desk-check the firms control environment, which is then used as the basis for undertaking supervisory visits where the systems and controls are then verified. The remaining Members rely on the diverse types of documentation noted above, to calibrate the supervisory approach. Despite the diversity of documents used by competent authorities, themes are apparent in the range of locally unique documents. For example, all competent authorities use financial information from financial accounts etc, despite variances in the underlying documents.
28. For the monitoring of compliance by investment firms with their obligation to perform their activities honestly, fairly and professionally in a manner which promotes the integrity of the market, authorities show a degree of convergence in their methods such as screening the investment firms' transaction reports and carrying out on-site investigations. Similar methods are used with regard to investment firms' compliance with conduct of business rules. Members use differing transaction report monitoring systems, however some of which are highly sophisticated and some of which are still in development.
29. Regarding the supervisory methods employed by the authorities, the large majority of Members endorse some risk based approach ("RBA") to supervision, even though the

extent of its application and the way the risks are calculated vary between jurisdictions. In particular, nineteen (19) Members (AT, BE, CZ, DK, EL, ES, FI, HU, IE, IS, LU, MT, NL, NO, PT, SE, SI, SK and UK) identified themselves as using a full RBA to supervision. Most Members using a RBA define “risk” as impact multiplied by probability of that risk crystallising. The UK has a very developed risk-based model that defines the supervisory approach. Under a RBA to supervision, high-risk firms are reviewed much more frequently. Seven Members (BG, DE, FR, IT, LV, LT and RO) described that they took a partial RBA. On this basis, whilst some authorities desk review all entities and activities and then carries out further or more frequent reviews for riskier firms, others more widely use the RBA to select issues and companies for review.

30. The seven (7) Members who do not use RBA (CY, EE, HU, IE, IS, LT, and MT) have a more structured approach to supervision where desk-based reviews were used as a base for on-site inspections. RBA Members stated that they would use the most appropriate supervisory tool in response to current perceived risks and that the most important risks would be reviewed more frequently.
31. For activities not considered to be a ‘high priority’ most Members adopted baseline supervision. That is, business as usual, routine supervision that could be on-site or off-site, depending on the activity being reviewed and one that takes place within the normal supervisory plan.
32. Generally, each Member has an annual supervision plan for investment firms. There is however heterogeneity in the length of time between reviewing firms. Most firms fall within one to three years, which represents a diverse practice in the oversight of firms.
33. With regard to onsite or desk-based monitoring, a clear majority of Members viewed activities as being subject to whichever supervisory tool is the most appropriate for that specific activity. Accordingly, risks can then be monitored, escalated and downgraded in a proportionate and flexible manner. A smaller number of Members specifically highlighted that accounts, audit reports and financial statements are used for off-site monitoring or desk-checking. Conversely, client categorisation, client assets, firm’s controls, organisation, policies and its procedures are predominantly reviewed on-site for those Members.
34. All CESR members would consult with other competent authorities if required.

Regulated Markets and multilateral trading facilities (MTF’s)

35. In nineteen (19) Member States CESR Member directly have the power to ensure that authorisation as a regulated market only applies to those systems which comply with the provisions of the directive: **AT, BG, CY, CZ, DK, EE, EL, ES, HU, IE, IS, IT, LT, LV, MT, RO, SE, SI and SK**. In **BE, DE, FI, FR, LU, NL, NO, PT** and **UK**, the authorisation of a regulated market does not lie solely with the CESR member.
36. In **BE, FI, FR, LU⁸, NL, NO and PT⁹** authorisation lies with a Ministry or Minister, while in the **UK** authorisation is ultimately given by HM Treasury¹⁰ on the advice of the CESR Member.

⁸ The authorisation is granted by the Minister of Treasury and Budget after advice by the CSSF.

⁹ Authorisation by the Minister of Finance upon CMVM advice.

37. In **DE**, this power is assigned to a separate supervisory authority. **DE** is the only member where these powers have been assigned to a separate authority.
38. The information on the specific procedure on the authorisation of the regulated markets differs from one jurisdiction to another. In most jurisdictions, the regulated market was authorised before MiFID came into force. Therefore, in practice there is limited experience with these procedures.
39. All Members have similar requirements to ensure that those who direct the business and operations are experienced and meet the requirements of being of sufficiently good repute, and also to ensure that the persons, who are in a position to directly exercise significant influence over the management, are suitable given the need to ensure the sound and prudent management of the regulated market.
40. There is some level of convergence regarding the required documents (questionnaires on qualifications and professional experience, fit and proper test, criminal records or sanctions, information on the financial conditions) used to verify the above requirements.
41. In twenty-five (25) Member States the CESR Member is the authority responsible for the on going supervision of a regulated market: **AT, BE, BG, CY, CZ, DK, EE, EL, ES, HU, IE, IS, IT, LT, LU, LV, MT, NL, NO, PT, RO, SE, SI, SK** and **UK**.
42. In **DE**, the ongoing supervision is also assigned to a separate authority. **DE** is the only member where these powers have been assigned to a separate authority. In **FR** and **FI**, ongoing supervision is also assigned to a separate authority.
43. In **HU**, certain powers for ongoing supervision are not regulated explicitly, while some of those are considered to be implied by other provisions.
44. All Members drew attention to the process for changes of the controlling interests of the regulated market and / or market operator. Usually, the competent authority requires approval for changes over a certain determined percentage.
45. It should be noted that there is a high level of cooperation between the authorities of all the CESR Members in respect of exchange of information when the established regulated markets intend to provide arrangements in another Member State and when an operator of a regulated market suspends or removes a financial instrument from trading.
46. All authorities directly have the power to ensure that the persons who effectively direct the business of an MTF have a sufficiently good reputation and are sufficiently experienced to ensure the sound and prudent management of the MTF as set out in Article 9(1) of the directive. The same applies when a market operator seeks authorisation to operate an MTF and the persons that effectively direct the business of the MTF are the same as those who effectively direct the business of the regulated market. In **DE** there is a “dual supervisory structure” as regards the supervisory task of BaFin and the exchange supervisory authorities. Principally, BaFin exercises the respective powers. Only in cases where the MTF – operated by the exchange operator – does not provide any other financial service, the respective powers is exercised by the exchange supervisory authorities. In **EL** and **SI** the Central Bank exercises this

¹⁰ The Director General of Fair Trading and the Competition Commission.

power regarding credit institutions providing investment services or exercising investment activities. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.

47. All authorities directly have the power to ensure that market operators operating an MTF establish and maintain effective arrangements and procedures, relevant to the MTF, for the regular monitoring of the compliance by their users with its rules.
48. Twenty two (22) authorities stated that they would use the same processes for monitoring that MTF's meet their MiFID obligations as those used for monitoring that investment firms meet their MiFID obligations. Seven (7) Members (**DE, EL, FR, IT, LU, PT** and **UK**) have MTF's in their jurisdictions.
49. All authorities have all the powers necessary to conduct ongoing supervision of MTF's. This is one of few areas where that is the case.
50. In **SI**, this power is exercised in collaboration with the Central Bank. In **DE** the Exchange Supervisory Authority is the direct competent authority with regard to MTF's operated by a stock exchange operator, not providing any other financial service.

Cooperation and branches

51. In case of Member States where there are different competent authorities under MiFID, cooperation between these authorities is necessary for the proper application of MiFID. Even in the cases where there is one single authority under MiFID, cooperation with other domestic supervisors has been provided by law and/or by bilateral protocols, agreements or covenants that have been enforced before the transposition of the MiFID.
52. All CESR Members cooperate with supervisory authorities of other Member States whenever necessary for the purpose of carrying out the duties under the directive making use of their powers as set out in the directive or in national law. All CESR Members render assistance to competent authorities of other Member States. All CESR Members exchange information and cooperate in any investigation or supervisory activities. A high number of CESR Members have indicated that Memoranda of Understandings (MoU) – bilateral and multilateral – or other type of cooperation agreements provide for the general framework of international cooperation, including cooperation with third countries. Some CESR Members have signed (or they are in the process of signing) agreements with a view to better organising the supervision of securities on their respective marketplaces.
53. Cooperation between CESR Members is mostly based on the CESR Multilateral Memorandum of Understanding (MMoU) of 1999. All CESR Members have joined the CESR Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance of Securities Activities, which provides the framework of exchange of information and cooperation in surveillance related issues for CESR Members. Conversely cooperation with third countries where a bilateral agreement has not been signed, the exchange of information might fall within the scope of the IOSCO Multilateral Memorandum of Understanding (MMoU) concerning consultation and cooperation and the exchange of information as far as the concerned Member State is a signatory. The majority of CESR Members also concluded cooperation agreements providing for the exchange of information with third country authorities.

54. A small number of CESR Members pointed out that cooperation is only possible on the basis of a formal cooperation agreement, on the other hand some other CESR Members expressly stated that cooperation is also possible on an ad hoc basis without having a formal cooperation agreement, however this is subject to certain criteria (such as same level of confidentiality, secrecy rules, mutuality, justified need, etc.).
55. When receiving a request with respect to an on the spot verification or an investigation. All CESR Members have the power to carry out verifications or investigations. The majority of CESR Members allow the requesting authority to carry out the verification or investigation or allow auditors or experts to carry out the verification or investigation.
56. All CESR Members only use confidential information received under the directive during the course of their duties. Many CESR Members have indicated that they have dedicated departments dealing with cooperation issues and the related coordination work within their authorities.
57. In most CESR Members the process for considering the adequacy of the administrative structure and financial situation of the investment firm, which intends to establish a branch in another Member State, does not differ from the general authorisation process, however the internal procedures and the information taken into account may vary.
58. CESR Members follow the CESR Protocol on the supervision of branches under MiFID and any agreements concluded with other CESR Members when supervising branches from other Member States.
59. All CESR Members require that any investment firm wishing to establish a branch within the territory of another Member State first notifies and provides them with the required information.

Administrative measures and criminal sanctions

60. The equivalent powers of supervisors when enforcing against those who infringe EU legislation is considered by CESR as a precondition to a credible EU supervisory system and fundamental to a credible system of maintaining sound financial markets in which those who participate in it have confidence. At the same time such equivalence in enforcement and sanctioning powers protects European financial markets from regulatory arbitrage.
61. Further to the December 2007 Council conclusions CESR sets out below the results of an extensive fact finding exercise by CESR of its Members in respect of the administrative measures and criminal sanctions available to the competent supervisory authorities for the purposes of both encouraging compliance with MiFID and adequately enforcing infringements by those investment firms, credit institutions, regulated markets and their operators, and all individuals regulated by MiFID who do not abide by their MiFID obligations.
62. The tables prepared are of a fact-finding nature. They present the sanctioning powers that Members have against those who have contravened the provisions of MiFID. The measures and sanctions have been grouped into five areas on the basis of the MiFID articles they are related to.
63. MiFID (like the rest of the FSAP directives in the securities sector) does not set a finite list of those measures and sanctions that Members States need to ensure that those

enforcing MiFID need to have at their disposal, but sets out the obligation to ensure that the measures are appropriate as set out in Article 51(1), meaning that Member States need to ensure that these measures are effective, proportionate and dissuasive. As such, it is up to each Member State to exercise its judgement in relation to what appropriate means, and each has the discretion to for example decide on the amount of fines and the types of administrative measures applicable for each MiFID provision that is infringed.

64. Member States also have the discretion to impose criminal sanctions for infringements of MiFID. For this reason, CESR Members were also asked to describe the criteria used to determine the amount of administrative fines.
65. As can be seen in Part C of this report, the exercise undertaken by the Review Panel of CESR shows that there are differences in respect of the administrative measures and criminal sanctions that can be imposed in cases of infringements of MiFID. These differences are predominantly due to the fact that Member States' legal systems differ across the EU and that Member States have the discretion to decide on the types of administrative measures applicable in cases of infringement of MiFID. The division of responsibilities between competent authorities in each Member State, in relation to the investigation of cases and subsequent enforcement activity also varies as explained in Part C of this report.
66. MiFID does not contain any definition with regard to an administrative measure and a criminal sanction as the notions of administrative measures and criminal sanctions depend on the national law of each Member State. Therefore, the following paragraphs do not intend to provide legal definitions of the relevant measures and sanctions, nor to define the scope of national measures and sanctions. However, in order to facilitate the understanding of the use of these terms in the report, CESR adopted a pragmatic approach on this issue by distinguishing between on the one hand administrative measures and administrative fines, and on the other hand criminal sanctions such as imprisonment and criminal fines. Although not all of the following applies throughout the Membership as a whole, it was deemed necessary for the purpose of this report to explain in more detail the terminology used.
67. First is set out what for the purpose of this report has to be understood as being an administrative measure. This will be explained by making a differentiation between restorative and / or punitive administrative measures. Via this differentiation we set out what, for the purpose of this report, is referred to as administrative fines. Secondly, the criminal sanctions are explained in more detail.
68. The power to impose administrative measures lies with the administrative competent bodies. Administrative measures can be restorative or punitive in nature.¹¹ Restorative administrative measures are used by issuing orders or injunctions¹² to elicit immediate compliance in order to restore the situation to the one that existed before the infringement occurred and to prevent continuation of the infringement. To ensure compliance the restorative administrative measure will be used in combination with a

¹¹ E.g legislation in LU does not make a distinction between the two types of (restorative and punitive) administrative fines as described in this paragraph.

¹² issued by the authority in question or by Judicial Authorities under the terms of the relevant jurisdiction. Note that there is no consistency in the current legal framework as regards the use of the term "injunction" in terms of who (namely a court of law or an administrative authority) can impose such an administrative measure. As such the use of this term in this section of the report is to be understood as something that can be imposed by both a Court of law or an administrative authority.

“non compliance penalty.” This gives the infringer a financial incentive to correct his illegal behaviour. These administrative orders for restoration / injunctions may also be combined with an obligation to pay an administrative fine for infringement of a legal provision.

69. This other type of administrative pecuniary measure that can be imposed is punitive in nature - and is only imposed once after the infringement has occurred. Only these punitive administrative fines will for the purpose of this report be referred to as administrative fines.
70. Criminal sanctions can be either criminal fines or imprisonment and are in almost all Member States imposed by the Judicial Authorities.¹³ Criminal sanctions mainly serve the following purposes: punishment and deterrence in order to punish the guilty individual or the management of the investment firm for the infringement in question and deterring the offender from repeating the offences. For the purpose of this report criminal fines and imprisonment will be referred to as criminal sanctions.
71. The division of responsibilities between competent authorities in each Member State, in relation to the investigation of cases and subsequent enforcement activity is at the Member States discretion as well.
72. Several Members (**DK** and **UK**) use a system of unlimited administrative fines. Several Members (**CZ, DE, DK, FI, IS** and **NO**) use a system of unlimited criminal fines.

Overall picture

73. Administrative measures are more common throughout the Membership than criminal sanctions. All jurisdictions may impose **administrative measures** for violations of any of the provisions in MiFID as set out in the Summary Table 1 – Administrative measures throughout the Membership.
74. Twenty-three jurisdictions (23) (**AT, BG, CY, CZ, DE, DK, EL, ES, HU, IE, IS, IT, LT, LU, LV, MT, NL, PT, RO, SE, SI** and **SK**) may impose **administrative fines** for infringement of any of the provisions in MiFID, while four jurisdictions (4) (**BE, FI, FR** and **UK**) do not impose administrative fines for violation of all provisions of the Directive, but only impose administrative fines for violation of some provisions as set out in the Summary Table 1 – Administrative measures and fines throughout the Membership. Only **NO** does not impose administrative fines for violation of all provisions of MiFID.
75. All jurisdictions except **AT, EE, ES, PT, RO, SE** and **SI** can impose **criminal sanctions** with regard to specific provisions of MiFID as set out in the Summary Table 2 – Criminal sanctions throughout the Membership.
76. For **unauthorised provision of services** administrative measures are available for all Members and criminal sanctions for all Members except six (**AT, ES, PT, RO, SI** and **SE**).¹⁴ However, as only half of the jurisdictions or less may impose criminal sanctions for violation of the other provisions of the directive, we note more divergence as set out in the Summary Table 2 – Criminal sanctions throughout the Membership.

¹³ In **IR** (for summary proceedings) and the **UK** the competent authorities can themselves impose criminal sanctions. In **AT, EE, ES, PT, RO, SE** and **SI** criminal sanctions with regard to MiFID provisions are not available at all.

¹⁴ Infringement of Article 5(1) MiFID.

Range of administrative and criminal fines

77. In terms of the range of administrative fines that can be imposed, there is no convergence between the jurisdictions with a huge spectrum of ranges varying on the administrative side from the lowest maximum amount of administrative fines in **LU** of € 12,500 to the highest maximum amount of administrative fines in **SE** of € 5,352,990 and unlimited administrative fines in **DK** and the **UK**.
78. On the criminal side the range varies from the lowest maximum amount of criminal fines in **BG** of € 5,000 to the highest maximum amount of criminal fines in **EE** of € 16,129,032 and unlimited criminal fines in **CZ, DE, DK, FI, IS, NO** and **UK**.
79. That such a huge variance in range of administrative and criminal fines exists throughout the Membership may be due to the fact that according to the provisions of MiFID, Member States have the discretion to decide on the amount of fines applicable in cases of infringement of MiFID.

Range of imprisonment period

80. Criminal sanctions may include imprisonment which generally ranges from a maximum of 4 months in **DK** to a maximum of 10 years in **IR** and **BG**, depending on the infringement as discussed more fully in Part C of this report.
81. The ability to imprison individuals for the infringement of MiFID provisions is more prolific with regards to the unauthorised provision of investment services and activities than for the infringement of any other MiFID provision.

Types of administrative measures

82. There are different types of administrative measures available to authorities in the event of MiFID infringements. As a generalisation, those that are most commonly available for **MiFID as a whole** are:

Type of administrative measures	Number of jurisdictions	Member States
Orders by competent authority or injunction by judicial authority to cease unauthorised activities	21	AT, BE, BG, CZ, DK, DE, EE, EL, ES, HU, IE, IT, LV, LU, MT, NO, PT, RO, SK, SE and UK
Revocation of license or withdrawal of authorisation	25	AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, HU, IE, IT, LV, LT, LU, MT, NL, NO, PT, RO, SK, SI and UK
Issuance of a public warning or statement	20	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, HU, LV, LT, LU, MT, NO, NL, PT, RO and UK

83. However, also many other types of administrative measures are available.
84. More specifically, the administrative **measures most commonly available** for the unauthorised provision of investment services and activities (Article 5 of MiFID) are:

Type of administrative measures	Number of jurisdictions	Member States
Withdrawal of the licence in	20	BE, CY, DE, DK, FI, EE, EL, HU, IS, IT, LV,



case the unauthorised service is carried out by a licensed entity		LT, LU, MT, NL, NO, PT, RO, SK and UK
Issue of orders or injunctions to cease illegal activity	21	AT, BE, BG, CZ, DE, DK, EE, EL, ES, HU, IE, IT, LU, LV, MT, NO, PT, RO, SE, SK and UK
Issuance of a public warning, statement or reprimands	19	AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, IE, LT, LU, MT, NL, NO, PT, RO and UK

85. The **range of administrative measures** available across the Members in connection with violations of Articles 9 to 14 and 16 to 24 of MiFID is wider. In addition to the said measures, contemplated by the large majority of the jurisdictions¹⁵, other widespread measures are:

Type of administrative measures	Number of jurisdictions	Member States
Prohibition to directors of managing the firm and / or the appointment of provisional administrators / government supervisors / special auditors / conservators	18	AT, BE, BG, DE, EE, EL, ES, FR, HU, IE, IT, LT, LU, LV, NO, PT, SE and UK
Suspension / prohibition of exercising voting rights in case managers or qualifying shareholders do not fulfil good repute requirements or fail to comply with notification duties	21	AT, BE, BG, CY, CZ, DE, DK, EL, FI, IS, IT, LU, LV, MT, NO, PT, RO, SE, SI, SK and UK

86. In addition to the above, more **specific administrative measures** are applied by a large number of jurisdictions in case of violations of Articles 25 to 30 and Articles 36 to 40 to ensure market transparency and integrity, such as:

Type of administrative measures	Number of jurisdictions	Member States
Orders prohibiting / suspending market trading or banning transactions	8	BG, CZ, ES, IS, IT, LU, SK and UK
Suspension or removal of financial instruments from trading	13	BG, CZ, EE, EL, ES, FR, HU, IS, IT, LU, SI, SK and UK

87. Therefore, for the unauthorised provision of investment services by investment firms (infringement of Article 5), the majority of Members provide for both administrative measures, administrative fines and criminal sanctions. However, for infringement of the other provisions of MiFID, the majority of Members can only impose administrative measures and administrative fines.

88. Though for infringement of some provisions half of the Members can impose criminal sanctions. For the infringement of other provisions only a minority of Members can impose criminal sanctions as set out in the Summary Table 2 – Criminal sanctions throughout the Membership.

Criteria used to determine administrative fines

89. CESR Members were asked to identify the criteria they use to determine the amount of administrative fines imposed for MiFID infringements.
90. Overall the majority of Members use all criteria mentioned in the Table below. Two Members use a system of unlimited administrative fines (**DK** and **UK**). This system differs between Members but in general the amount imposed depends on the blameworthiness of the infringement which is decided depending on the seriousness of the breach, extent of damage and the degree of intent.
91. The financial status of the offender is taken into account. Therefore the common criteria between Member States who use unlimited administrative fines and Members who do not, are: seriousness of the breach, extent of damage, degree of intent and financial status.



Table showing criteria used to determine the amount of administrative fines

MS	Seriousness of the breach	Willingness of cooperation	Compliance history	Financial health	Extent of damage / harm	Impact on market / investors	Profits derived	Degree of intent / fault	Precedents for similar cases	Other
Austria	X				X	X		X		
Belgium	X	X	X	X		X			X	
Bulgaria	X	X	X	X	X		X	X		X
Cyprus	X	X	X	X	X	X	X	X	X	
Czech Republic	X	X	X	X	X	X	X	X	X	
Denmark	X			X	X			X		
Estonia	X	X	X		X	X		X	X	X
Finland	X			X	X			X		
France	X						X			
Germany	X	X	X	X	X	X	X	X	X	X
Greece	X	X	X		X	X	X		X	X
Hungary	X	X	X		X	X	X	X	X	X
Iceland	X	X	X		X	X		X	X	X
Ireland	X	X	X	X	X	X	X	X	X	X
Italy	X	X		X	X	X	X	X		
Latvia	X	X			X			X	X	
Lithuania	X	X	X		X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X	X	X	X	X
Malta	X	X	X	X	X	X	X	X	X	X
Netherlands	X	X	X			X			X	X
Norway	X			X	X	X	X	X	X	
Portugal	X	X	X	X	X	X	X	X		X
Romania	X				X	X			X	
Slovakia	X	X	X	X	X	X			X	
Slovenia	X	X	X	X	X	X	X	X	X	
Spain	X	X	X		X	X	X	X		X
Sweden	X	X	X	X	X	X	X	X	X	
UK	X	X	X	X	X	X	X	X	X	X

Summary Tables

Summary Table 1 Administrative measures and fines throughout the Membership

Administrative measures for infringements of:	Number of jurisdictions	Member States
Article 5 – Requirement for authorisation	28	All Members
Articles 9 to 14 and Article 16 – Conditions for authorisation, regular review of conditions for initial authorisation	28	All Members
Articles 16 to 24 – Operating conditions for investment firms – General provisions and provisions to ensure investor protection	28	All Members
Articles 25 to 30 – Operating conditions for investment firms – Market transparency and integrity	28	All Members
Articles 36 to 40 – Regulated Markets	26	All Members except FI and FR

Administrative fines for infringements of:	Number of jurisdictions	Member States
Article 5 – Requirement for authorisation	23	All Members except BE , FI , FR , NO and UK
Articles 9 to 14 and Article 16 – Conditions for authorisation, regular review of conditions for initial authorisation	26	All Members except FI and NO
Articles 16 to 24 – Operating conditions for investment firms – General provisions and provisions to ensure investor protection	26	All Members except FI and NO
Articles 25 to 30 – Operating conditions for investment firms – Market transparency and integrity	27	All Members except NO
Articles 36 to 40 – Regulated Markets	24	All Members except FI , FR , NO and UK

Summary Table 2 Criminal sanctions throughout the Membership

Criminal fines and / or imprisonment infringements of:	Number of jurisdictions	Member States
Article 5 – Requirement for authorisation	22	All Members except AT, ES, PT, RO, SI and SE
Articles 9 to 14 and Article 16 – Conditions for authorisation, regular review of conditions for initial authorisation	13	BE, CY, DK, FI (no imprisonment), FR, IS, IT, LU, MT, NL, NO, SK and UK
Articles 16 to 24 – Operating conditions for investment firms – General provisions and provisions to ensure investor protection	10	CY, DK (no imprisonment), FI (no imprisonment), FR, IT, MT, NL, NO, SK and UK
Articles 25 to 30 – Operating conditions for investment firms – Market transparency and integrity	9	CY, DK (no imprisonment), FI (no imprisonment), FR, IT, MT, NL, NO and SK
Articles 36 to 40 – Regulated Markets	15	BE, CY, DK (no imprisonment), FI, FR (no imprisonment), IS, IT, LT, LU, LV, MT, NL, NO, SK and UK

Summary table showing Members' ability to impose administrative measures and criminal sanctions in relation to all MiFID provisions.

Member State	Administrative measures										Criminal sanctions										
	Can impose admin measures					Can impose administrative fines					Can impose criminal fines					Can imprison					
	5	9 -14 and 16	16 ~ 24	25 ~ 30	36 ~ 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16 ~ 24	25- 30	36- 40	
Austria	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID										
Belgium	X	X	X	X	X	NO	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Bulgaria	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Cyprus	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Czech Republic	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Denmark	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	
Estonia	X	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to the rest of MiFID									
Finland	X	X	X	X	NO	NO	NO	NO	X	NO	X	X	X	X	X	X	NO	NO	NO	X	
France	X	X	X	X	NO	NO	X	X	X	NO	X	X	X	X	NO	X	X	X	X	NO	
Germany	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Greece	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Hungary	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Iceland	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Ireland	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Italy	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Latvia	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	X	X	NO	NO	NO	X	
Lithuania	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	X	X	NO	NO	NO	X	
Luxembourg	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Malta	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	



Member State	Administrative measures										Criminal sanctions									
	Can impose admin measures					Can impose administrative fines					Can impose criminal fines					Can imprison				
	5	9 -14 and 16	16 ~ 24	25 ~ 30	36 ~ 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16 ~ 24	25- 30	36- 40
Netherlands	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Norway	X	X	X	X	X	NO	NO	NO	NO	NO	X	X	X	X	X	X	X	X	X	X
Portugal	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID									
Romania	X	X	X	X	X	X	X	X	X	X										
Slovakia	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Slovenia	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID									
Spain	X	X	X	X	X	X	X	X	X	X										
Sweden	X	X	X	X	X	X	X	X	X	X										
UK	X	X	X	X	X	NO	X	X	X	NO	X	X	X	NO	X	X	X	X	NO	X

Key to table above:
Yellow = administrative measure
Green = criminal sanction
Grey = not applied for MiFID

Table showing the ranges with regard to a) lowest maximum amount of fines and shortest term of imprisonment; b) highest maximum amount / longest maximum term and c) lowest minimum amount / shortest minimum term applicable throughout the Membership

Article			ADMINISTRATIVE FINES (in €)	Member State	CRIMINAL SANCTIONS			
					Imprisonment	Member State	Criminal fines (in €)	Member State
5.1	Requirement for authorisation	a) Lowest maximum amount fine / shortest maximum term applicable	€12,500	LU	4 months	DK	€5,000	BG
		b) Highest maximum amount / longest maximum term	€5,352,990	SE	10 years	EE	€16,129,032	IE
			Unlimited	DK			Unlimited	CZ, DE, DK, FI, IS, NO, UK
		c) Lowest minimum amount fine / shortest minimum term	€84	IS	8 days	LU	€40	HU
		Number of Members that can impose fine / sanction	22 Members can impose administrative fines	6 Members (BE, EE, FI, FR, NO, UK) can <u>not</u> impose administrative fines	21 Members can imprison	7 Members (AT, EE, ES, PT, RO, SE and SI) can <u>not</u> imprison	22 Members can impose criminal fines	6 Members (AT, ES, PT, RO, SE and SI) can <u>not</u> impose criminal fines

Article			ADMINISTRATIVE FINES (in €)	Member State	CRIMINAL SANCTIONS			
					Imprisonment	Member State	Criminal fines (in €)	Member State
9-14 and 16	Conditions for authorisation, regular review of conditions for initial authorisation	a) Lowest maximum amount fine / shortest maximum term applicable	€12,500	LU	4 months	DK	€7,500	UK
		b) Highest maximum amount / longest maximum term	€5,352,990	SE	8 years	SK	€1,6,129,032	EE
		c) Lowest minimum amount fine / shortest minimum term	€84	IS	8 days	LU	€50	BE
		Number of Members that can impose fine / sanction	26 Members can impose administrative fines	2 Members (FI and NO) can <u>not</u> impose administrative fines	12 Members can imprison	16 (AT, BG, CZ, DE, EE, ES, EL, FI, HU, IE, LV, LT, PT, RO, SE and SI) can <u>not</u> imprison	14 Members can impose criminal fines	14 Members (AT, BG, CZ, DE, EL, ES, HU, IE, LT, LV, PT, RO, SE, SI) can <u>not</u> impose criminal fines
16-24	Operating conditions	a) Lowest maximum	€5,000	BG	3 months	SK and UK	€6,360	UK

Article			ADMINISTRATIVE FINES (in €)	Member State	CRIMINAL SANCTIONS			
					Imprisonment	Member State	Criminal fines (in €)	Member State
	for investment firms – General provisions and provisions to ensure investor protection	amount fine / shortest maximum term applicable						
		b) Highest maximum amount / longest maximum term	€5,352,990 unlimited	SE DK, NO	8 years	SK and IT	unlimited	DK, FI and NO
		c) Lowest minimum amount fine / shortest minimum term	€84	IS	3 months	UK	€166	SK
		Number of Members that can impose fine / sanction	26 Members can impose administrative fines	2 Members (FI and NO) can <u>not</u> impose administrative fines	8 Members can imprison	(CY, FR, IT, LU, MT, NL, NO, SK and UK)	10 Members can impose criminal fines	(CY, DK, FI, FR, IT, MT, NL, NO, SK and UK)
25-30	Operating conditions for investment firms – Market transparency	a) Lowest maximum amount fine / shortest maximum term applicable	€1,000 for individuals	FI	6 months	SK and IT	€6,360	UK



Article		ADMINISTRATIVE FINES (in €)	Member State	CRIMINAL SANCTIONS				
				Imprisonment	Member State	Criminal fines (in €)	Member State	
	and integrity	b) Highest maximum amount / longest maximum term	€5,352,990 unlimited	SE DK and UK	8 years	SK and IT	unlimited	DK, FI and NO
		c) Lowest minimum amount fine / shortest minimum term	€50	FI	3 months	IT	€166	SK
		Number of Members that can impose fine / sanction	27 Members can impose administrative fines	1 Members (NO) can <u>not</u> impose administrative fines	7 Members can imprison	(CY, FR, IT, MT, NL, NO and SK)	10 Members can impose criminal fines	(CY, DK, FI, FR, IT, MT, NL, NO, SK and UK)
36-40	Regulated markets	a) Lowest maximum amount fine / shortest maximum term applicable	€12,500	LU	1 year	BE, FI, NO	€6,360	UK
		b) Highest maximum amount / longest maximum	unlimited	DK and UK	8 years	SK and IT	€10,000,000 unlimited	FR DK, FI, IS and NO

Article		ADMINISTRATIVE FINES (in €)	Member State	CRIMINAL SANCTIONS			
				Imprisonment	Member State	Criminal fines (in €)	Member State
	term						
	c) Lowest minimum amount fine / shortest minimum term	€84	IS	8 days	LU	€50	BE
	Number of Members that can impose fine / sanction	24 Members can impose administrative fines	4 Members (FI, FR, NO and UK) can <u>not</u> impose administrative fines	13 Members can imprison	15 Members (AT, BG, CZ, DE, DK, EE, EL, ES, FR, HU, IE, PT, RO, SI, SE) can <u>not</u> impose criminal sanctions	15 Members can impose criminal fines	13 Members (AT, BG, CZ, DE, EE, EL, ES, HU, IE, PT, RO, SE and SI) can <u>not</u> impose criminal fines

Part A – Generic Supervisory Landscape and Supervisory Powers

1) Generic – Supervisory Landscape

92. This section of Part A of the report, starts with a general overview of the supervisory landscape in the different Member States, which has been divided into three categories to show:
- 1) which Member States have one entity responsible for all aspects of MiFID;
 - 2) which Member States have a supervisory framework in which responsibility for MiFID has been allocated to two entities; and
 - 3) which Member States have a supervisory framework in which responsibility for MiFID has been allocated to more than two entities.
93. The general overview takes into account the granting and withdrawal of authorisation as well as the ongoing supervision of the following:
- a) Investment firms;
 - b) Credit institutions providing investment services;
 - c) Regulated markets; and
 - d) Multilateral Trading Facilities (“MTF’s”)
94. The aforementioned information is grouped into a number of different tables depending on the number of entities that have been appointed to deal with different aspects of MiFID. Table 1 shows the overall picture of the number and nature of the entities in each Member State. More detailed information can be found in Table 2 with regard to those Member States operating a dual system of entities and in Table 3 with regard to those Member States operating a system of three entities.
95. Table 4 gives a separate overview of the Member States in which a Minister or a Ministry is involved irrespective of the number of entities involved in that States’ MiFID supervisory structure. Table 5 gives information regarding the nature of the cooperation between different entities in each Member State in carrying out their MiFID supervisory and regulatory duties.

A supervisory structure with one entity

96. A supervisory structure with one entity means that the Member State has appointed one entity to carry out each of the duties provided for under the different provisions of the directive. Please refer to Table 1.
97. Eleven (11) Member States have a supervisory structure where a single entity is responsible for carrying out all the duties provided for in the directive: **AT, CZ¹⁶, DK, EE, HU, IE, IS, LV, MT, SK¹⁷** and **SE**.

¹⁶ Please note that in **CZ** the Central Bank is the competent authority.

¹⁷ Please note that in **SK** the Central Bank is the competent authority.

A supervisory structure of 2 entities

98. A supervisory structure of 2 entities means that two entities are responsible for carrying out the duties provided for in the directive. Such entity can be either a competent authority or a Central Bank, a Ministry or Minister etc. Please refer to Table 2 and Table 5.
99. Eleven (11) Members have a supervisory structure where two entities are responsible for carrying out the duties provided for in the directive: **BE, BG¹⁸, EL¹⁹, FI, IT, LT, LU, NO²⁰, RO, SI** and **UK** as set out in Table 2.

A supervisory structure of 3 entities

100. Six (6) Member States have designated three entities to carry out the duties provided for in the directive: **CY, DE²¹, ES, FR, NL** and **PT**. Please refer to Table 3.

Competent Ministries or Ministers

101. For further clarity an additional table has been provided that indicates in which Member State a Ministry or Minister is involved in the authorisation process for investment firms and / or credit institutions providing investment services. Nine (9) Member States have designated a Minister or Ministry to carry out certain duties provided for in the directive: **BE, ES, FI, FR, LU²², NL, NO, PT** and **UK**. Please refer to Table 4.

¹⁸ In **BG** the competence for granting authorisation is exercised by the CESR Member and the Central Bank for credit institutions.

¹⁹ In **EL** the competence is exercised by the CESR Member and the Central Bank.

²⁰ In **NO** the competence is exercised by the CESR Member and the Ministry of Finance for authorisation of (market operators of) regulated markets.

²¹ In **DE** the Exchange Supervisory Authority is the direct competent authority with regard to MTF's operated by a stock exchange operator, not providing any other financial service.

²² In **LU**, the authorisation of investment firms, credit institutions, operators of regulated markets and regulated markets is granted / withdrawn by the Minister of Treasury and Budget, acting on advice of the CSSF

Table 1. MiFID Regulatory Framework

	INVESTMENT FIRMS								CREDIT INSTITUTIONS								REGULATED MARKETS							
	Authorisation / withdrawal				Ongoing supervision				Authorisation / withdrawal				Ongoing supervision				Authorisation / withdrawal				Ongoing supervision			
	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA
AT	X				X				X				X				X				X			
BE	X				X				X				X						X ²³		X			
BG	X				X				X	X ²⁴			X				X				X			
CY	X				X					X		X ²⁵		X		X ²⁶	X				X			
CZ	X				X				X				X				X				X			
DE	X				X				X				X	X					X ²⁷					X
DK	X				X				X				X				X				X			
EE	X				X				X				X				X				X			
EL	X				X					X			X	X			X				X			
ES	X		X		X					X			X	X			X				X			
FI	X				X				X				X						X ²⁸		X			
FR	X ²⁹	X ³⁰			X ³¹	X			X	X ³²				X					X ³³		X	X		
HU	X				X				X				X				X				X			
IE	X				X				X				X				X				X			
IS	X				X				X				X				X				X			
IT	X				X	X				X			X	X			X				X			

²³ Minister of Finance acting upon advice of CBFA who is competent to ensure that the regulated market meets the initial authorisation requirements.

²⁴ Central Bank needs to take into account the binding opinion of the CA (FSC).

²⁵ ASDCS. ASDCS is the competent authority with regard to co-operative credit institutions as well.

²⁶ ASDCS. ASDCS is the competent authority with regard to co-operative credit institutions as well.

²⁷ Exchange Supervisory Authority

²⁸ Prior to the authorisation a statement of Rahoitustarkus on the application is requested.

²⁹ Only with regard to portfolio management firms.

³⁰ CECEI

³¹ Except with regard to investment services provided by credit institutions.

³² with regard to all investment services provided by credit institutions.

³³ Ministry of Economy on a proposal of AMF

	INVESTMENT FIRMS								CREDIT INSTITUTIONS								REGULATED MARKETS								
	Authorisation / withdrawal				Ongoing supervision				Authorisation / withdrawal				Ongoing supervision				Authorisation / withdrawal				Ongoing supervision				
	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	CA	CB	MF	OA	
LT	X				X					X ³⁴				X				X				X			
LU				X ³⁵	X							X ³⁶	X							X ³⁷	X				
LV	X				X				X				X				X				X				
MT	X				X				X				X				X				X				
NL	X				X	X				X			X	X			X		X		X				
NO	X				X				X				X						X		X				
PT	X	X			X				X	X			X				X		X ³⁸		X				
RO	X				X					X				X			X				X				
SE	X				X				X				X				X				X				
SI	X				X					X				X			X				X				
SK	X				X				X				X				X				X				
UK	X				X				X				X						X		X				

In Table 1 the following abbreviations are used.

- CA = Competent Authority (who is a CESR member)
- CB = Central Bank
- MF = Ministry of Finance
- OA = Other Authority

³⁴ Prior to authorisation LSC assesses if the credit institution is able to provide investment services.

³⁵ Minister of Treasury and Budget, acting on advice of the CSSF

³⁶ Minister of Treasury and Budget, acting on advice of the CSSF

³⁷ Minister of Treasury and Budget, acting on advice of the CSSF

³⁸ In PT the authorisation of a regulated market is decided by order of the Finance Minister upon CMVM advice. Transactions made on specific derivatives markets should be allowed also by the Minister of the respective sector after consultation with CMVM and Banco de Portugal.

MULTILATERAL TRADING FACILITIES (MTF's)								
	Authorisation / withdrawal				Ongoing supervision			
	CA	CB	MF	OA	CA	CB	MF	OA
BE	X				X			
DE	X			X ³⁹	X			X ⁴⁰
EL	X	X			X			
FR		X ⁴¹						
IT	X				X			
LU	X		X ⁴²		X			
PT	X				X			
UK	X				X			

³⁹ Exchange Supervisory Authority

⁴⁰ Exchange Supervisory Authority

⁴¹ Comité des établissements de crédit et des entreprises d'investissement (CECEI)

⁴² In **LU** the CSSF is competent except for investment firms wishing to operate an MTF in LU where the competence lies with the Minister of Treasury and Budget.

Table 2. A supervisory framework of 2 entities

102. The following eleven (11) Members have two entities, where competence is split between either the competent authority and the Central Bank or either the competent authority and a Ministry or Minister for certain powers: **BE, BG, EL, FI, IT, LT, LU, NO, SI** and **UK** as explained in detail below.

Table 2 A supervisory framework of two entities	
BE	<p>CFBA:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide investment services - ongoing supervision (market operators) regulated markets - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services <p>CBFA acts in collaboration with the Securities Regulation Fund (Fonds des rentes/Rentefonds) (market operator of the market of the government's bonds) to exercise its supervisory powers in relation with the transactions of sale/purchase executed in bonds, strips en treasury certificates. The Securities Regulation Fund acts on behalf of CBFA. CBFA holds ultimate responsibility for enforcement</p> <p>Minister of Finance:⁴³</p> <ul style="list-style-type: none"> - authorisation / withdrawal (market operators) regulated markets after advice of CBFA - initial authorisation requirements / withdrawal (market operators) regulated markets after advice of CBFA
BG	<p>FSC:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms providing investment services and performing investment activities - ongoing supervision credit institutions providing investment services and performing investment activities. - authorisation / withdrawal credit institutions providing investment services and performing investment activities (see task Bulgarian National Bank as well) <p>Bulgarian National Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal credit institutions providing investment services and performing investment activities after taking into consideration the binding⁴⁴ opinion of FSC.
EL	<p>HCMC:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms providing investment services. - supervision investment firms and credit institutions with regard to their compliance with conduct of business rules. With respect to the conduct of business rules for investment firms and credit institutions HCMC cooperates

⁴³ Minister of Finance.

⁴⁴ If FSC opposes to the authorisation, the Central Bank must refuse to grant authorisation. If FSC requests withdrawal of the authorisation, the Central Bank is obliged to withdraw authorisation as well.

Table 2 A supervisory framework of two entities	
	<p>with the Bank of Greece in order to accomplish their supervisory tasks.</p> <p>Bank of Greece:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision credit institutions providing investment services
FI	<p>Rahoitustarkastus:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms - ongoing supervision regulated markets <p>Ministry of Finance: authorisation / withdrawal of regulated markets (operators) prior to which authorisation a statement of Rahoitustarkastus on the application is requested.</p>
IT	<p>Consob:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment intermediaries (SIMs) – having heard the Bank of Italy; - ongoing supervision investment intermediaries (SIMs) and credit institutions with regard to transparent and proper conduct in the provision of investment services and activities⁴⁵ - on going supervision on markets and market operators with regard to transparency, orderly conduct of trading and protection of investors <p>Bank of Italy:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services or activities – having heard Consob⁴⁶ - ongoing supervision investment intermediaries (SIMs) and credit institutions with regard to risk containment, financial stability, sound and prudent management⁴⁷ - opening of branches abroad - authorisation of persons wishing to direct the business or acquire shareholdings in investment firms - supervision of business continuity and outsourcing (the latter in collaboration with Consob). - supervision risk management - supervision internal audit
LT	<p>LSC:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide and providing investment services - ongoing supervision credit institutions intending to provide and providing investment services and carrying out investment activities <p>Bank of Lithuania</p>

⁴⁵ Including supervision on internal controls, compliance function, internal dealings, conflicts of interest, recordkeeping, inducements, information to clients, conduct of business, best execution and client order handling, pre- and post- trade disclosure, tied agents.

⁴⁶ In connection with the authorisation of MTF's.

⁴⁷ (including supervision on capital adequacy, (sub-)deposit of clients' assets, senior management, administrative and accounting organisation).

Table 2 A supervisory framework of two entities	
	<ul style="list-style-type: none"> - authorisation / withdrawal credit institutions intending to provide and providing investment services and carrying out investment activities after taking into account the binding opinion of LSC. Prior to authorisation LSC assesses if the credit institution is able to provide investment services.
LU	<p>CSSF:</p> <ul style="list-style-type: none"> - advises Minister of Treasury and Budget on authorisation investment firms - advises Minister of Treasury and Budget on authorisation credit institutions - advises Minister of Treasury and Budget on authorisation (operators of) regulated markets - ongoing supervision investment firms - ongoing supervision credit institutions - ongoing supervision (operators of) regulated markets <p>Minister of Treasury and Budget:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms, acting on advice of the CSSF - authorisation / withdrawal credit institutions, acting on advice of the CSSF - authorisation / withdrawal (operators) regulated markets, acting on advice of the CSSF
NO	<p>Kredittilsynet</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms - authorisation / withdrawal and ongoing supervision credit institutions - ongoing supervision regulated markets, clearing houses and CSD's <p>Ministry of Finance</p> <ul style="list-style-type: none"> - authorisation / withdrawal authorisation regulated markets, CSD's and clearing houses – acting upon prior advice by Kredittilsynet
RO	<p>CNVMR</p> <p>-regulates everything other than the authorisation and capital adequacy requirements of credit institutions</p> <p>-implementation and supervision of compliance by all intermediaries providing investment services in Romania including credit institutions with rules of conduct</p> <p>National Bank of Romania</p> <p>-authorisation and capital adequacy requirements of credit institutions; verification of the fit and proper rules applying to managers and administrators of credit institutions during the authorisation process.</p>
SI	<p>SMA:</p> <ul style="list-style-type: none"> - authorisation and ongoing supervision investment firms intending to provide investment services and activities (including investment firms from other member states and investment firms from third countries) - authorisation regulated market operators to operate regulated markets - authorisation management investment firms and regulated markets (operator) - authorisation for acquiring qualifying holdings in investment firms / regulated markets (operator) - monitoring if before mentioned persons are in compliance with legislation <p>SMA is obliged to inform the Bank of Slovenia about supervision with regard to</p>

Table 2 A supervisory framework of two entities	
	<p>banks intending to provide investment services and activities.</p> <p>Bank of Slovenia:</p> <ul style="list-style-type: none"> - authorisation and ongoing supervision credit institutions intending to provide investment services and activities (including banks from other member states and banks from third countries). According to a MoU the Bank of Slovenia may - during the authorisation process - ask SMA for an opinion with regard to a banks suitability to provide investment services and activities - authorisation management credit institutions - authorisation for acquiring qualifying holdings in credit institutions
UK	<p>Authorisation of regulated market operators to operate regulated markets</p> <p>FSA where the FSA considers that an applicant satisfies the recognition requirements and in the case of an application to become a UK RIE, the MiFID implementing requirements, and that the Treasury has had an opportunity to consider any reports from the Director General of Fair Trading and the Competition Commission, the FSA will then seek the Treasury's approval, under section 307 of the Act (Recognition orders: role of the Treasury), to the making of a recognition order.</p> <p>HMT</p> <ul style="list-style-type: none"> - under section 307 of the Act, the Treasury will have to follow the advice of the Director General of Fair Trading or the Competition Commission as appropriate unless it considers that there are exceptional circumstances for not doing so. The Treasury will therefore ordinarily give its approval to the making of a recognition order if the applicant's regulatory provisions are not considered to have a significantly adverse effect on competition or, if they are considered to have that effect, the effect is justified. It will ordinarily refuse its approval if the applicant's regulatory provisions are considered to have any significantly adverse effect on competition and that effect is not considered to be justified

Table 3. A supervisory framework of three entities

103. The following five (5) Member States have a supervisory structure composed of three entities: **CY**⁴⁸, **DE**, **ES**, **NL** and **FR**, as explained in detail below.

Table 3 A supervisory framework of three entities	
CY	<p>CySEC:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide investment services - authorisation / withdrawal and ongoing supervision regulated markets <p>Central Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision credit institutions (banks) which through their banking license (unless restricted) may provide investment services <p>ASDCS (Authority for the Supervision and Development of Cooperative Societies)</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision cooperative credit institutions intending to provide investment service
DE	<p>BaFin:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision⁴⁹ investment firms - compliance of credit institutions and financial services providers⁵⁰ - has to cooperate with the Exchange Supervisory Authorities ('ESA') of the States ("Länder") with regard to MTF's operated by a stock exchange operator. <p>Bundesbank</p> <ul style="list-style-type: none"> - with regard to ongoing supervision of institutions Bundesbank has to cooperate with BaFin <p>Exchange Supervisory Authorities ⁵¹:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision regulated markets - extensive rights of inspection (demanding information from trading participants / issuers; are entitled to enter their premises during working hours) <p>BaFin and the Exchange Supervisory Authorities exchange relevant information on an ongoing basis.</p>
ES	<p>CNMV:</p> <ul style="list-style-type: none"> - ongoing supervision investment firms

⁴⁸ In **CY** credit institutions comprise credit institutions (banks) and co-operative credit institutions. The Central Bank of Cyprus supervises credit institutions and ASDCS supervises the cooperative credit institutions.

⁴⁹ monitors with regard to ongoing supervision: operating conditions, conduct of business obligations, transparency requirements, enforcement actions and co-operation with authorities of other member states or 3rd countries

⁵⁰ with regard to solvency and orderly conduct of their (senior management and) business operations.

⁵¹ of the States ("Länder").



Table 3 A supervisory framework of three entities	
	<ul style="list-style-type: none"> - ongoing supervision of credit institutions intending to provide investment services. <p>Bank of Spain:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services - prior to authorisation CNMV has to advise the Bank of Spain <p>Ministry of Economy and Finance:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms – subject to a previous proposal from CNMV – except with regard to only-investment advice firms or individuals who are directly authorised by CNMV. - has a role imposing sanctions (see Part C)
FR	<p>AMF:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision portfolio management firms - authorisation / withdrawal investment service providers (ISP's⁵²) with regard to credit institutions is shared with CECEI of the Central Bank - authorisation of regulated market shared with the Central Bank and Ministry of finance - ongoing supervision regulated market (operators) - <p>Central Bank⁵³ split into:</p> <p>a) French Banking Commission:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment services with regard to prudential supervision with regard to credit institutions - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services. With respect to the conduct of business rules the supervision by the French Banking Commission is conducted in collaboration with AMF. <p>b) CECEI:</p> <ul style="list-style-type: none"> - authorisation investment service providers (ISP's) with regard to credit institutions⁵⁴ – prior to which AMF is officially consulted for approval for investment services of portfolio management and investment advice <p>Ministry of Economy</p> <ul style="list-style-type: none"> - authorisation regulated market (operators) on a proposal of AMF
NL	<p>AFM:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms

⁵² ISP's are investment service providers including portfolio management firms and credit institutions authorised to provide investment services.

⁵³ In **FR** the Central Bank has two departments that are responsible for the various aspects of MiFID as set out in the table above.

⁵⁴ to provide the following investment services: receipt, transmission and execution of orders, own account trading, portfolio management, investment advice, underwriting investment, operating a MTF.

Table 3 A supervisory framework of three entities	
	<ul style="list-style-type: none"> - ongoing supervision investment firms and credit institutions with regard to market conduct <p>Dutch Central Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal credit institutions - ongoing supervision investment firms and credit institutions with regard to prudential supervision <p>Ministry of Finance</p> <ul style="list-style-type: none"> - authorisation / withdrawal authorisation regulated market acting upon prior advice by AFM
PT	<p>CMVM:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide investment services - authorisation investments firms who only operate a MTF - authorisation investment firms who are not allowed to provide any investment service except reception and transmission of orders and providing investment advice in financial instruments. <p>Portuguese Central Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firm intending to provide investment services (Article 7 and 8) - authorisation withdrawal credit institutions intending to provide investment services, the Portuguese Central Bank shall – before deciding – request CMVM to provide information on the suitability of the shareholders and the withdrawal of authorisation of a credit institution. - fit and proper requirements management body (Article 9) - fit and proper requirements shareholders with qualifying holdings (Article 10) capital requirements (Article 12) <p>Ministry of Finance:</p> <ul style="list-style-type: none"> - authorisation (market operator) regulated market on a proposal of CMVM - authorisation (with the Minister of the respective sector) to carry out transactions on a regulated market or MTF on derivative contracts related to commodities / climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics, preceded by an opinion by CMVM and the Portuguese Central Bank.

Table 4 A supervisory framework involving Competent Ministries/ Minister

104. The following nine (9) Members have a supervisory structure with either a Minister or Ministry that is involved within the supervisory framework: **BE, ES, FI, FR, LU, NL, NO, PT** and **UK**.
105. In **BE**⁵⁵, **FI** and **NO** the Ministry of Finance has the authority to grant authorisation to operate a regulated market.
106. In **ES** the Ministry of Economy and Finance – acting only upon prior advice by CNMV – authorises all investment firms, except with regard to financial advisory firms for which CNMV is the competent authority. The Ministry of Economy and Finance has a role imposing sanctions as well (see Part C).
107. In **FR** there is a shared competence on investment services providers and regulated markets between AMF and the Central Bank (split between the French Banking Commission and CECEI⁵⁶). In addition, the recognition of a regulated market is decided by order of the Minister of Economy on a proposal by AMF.
108. In **LU**, the authorisation of investment firms, credit institutions, (operators of) regulated markets is granted / withdrawn by the Minister of Treasury and Budget, acting on advice of the CSSF as explained in detail below.
109. In **PT** the authorisation of a regulated market is decided by order of the Finance Minister upon CMVM advice. Transactions made on specific derivatives markets should be allowed also by the Minister of the respective sector after consultation with CMVM and the Portuguese Central Bank.
110. In the **UK** HM Treasury has the binding power to refuse authorisation regulated market.

Table 4 - A supervisory framework with Ministry/Minister	
BE	<p>CFBA:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide investment services - ongoing supervision (market operators) regulated markets - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services <p>CBFA acts in collaboration with the Securities Regulation Fund (Fonds des rentes/Rentefonds) (market operator of the market of the government's bonds) to exercise its supervisory powers in relation with the transactions of sale/purchase executed in bonds, strips en treasury certificates. The Securities Regulation Fund acts on behalf of CBFA. CBFA holds ultimate responsibility for enforcement</p>

⁵⁵ In **BE**, the Minister of Finance has the authority to grant authorisation to regulated markets and to market operators after advice of CBFA.

⁵⁶ CECEI is the competent authority with regard to all ISP's except portfolio management firms (e.g. credit institutions)

Table 4 - A supervisory framework with Ministry/Minister	
	<p>Ministry of Finance:⁵⁷</p> <ul style="list-style-type: none"> - authorisation / withdrawal (market operators) regulated markets after advice of CBFA - initial authorisation requirements / withdrawal (market operators) regulated markets after advice of CBFA
ES	<p>CNMV:</p> <ul style="list-style-type: none"> - ongoing supervision investment firms - ongoing supervision of credit institutions intending to provide investment services <p>Bank of Spain:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision credit institutions intending to provide investment services - prior to authorisation CNMV has to advise the Bank of Spain <p>Ministry of Economy and Finance:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms – subject to a previous proposal from CNMV – except with regard to only-investment advice firms or individuals who are directly authorised by CNMV. - has a role imposing sanctions (see Part C)
FI	<p>Rahoitustarkastus:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms <p>Ministry of Finance:</p> <ul style="list-style-type: none"> - authorisation / withdrawal of regulated markets (operators) prior to which authorisation a statement of Rahoitustarkastus on the application is requested.
FR	<p>AMF:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision portfolio management firms - authorisation / withdrawal investment service providers (ISP's⁵⁸) with regard to credit institutions is shared with CECEI of the Central Bank - authorisation of regulated market shared with the Central Bank and Ministry of finance - ongoing supervision regulated market (operators) - <p>Central Bank⁵⁹ split into:</p> <p>a) French Banking Commission:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment services with regard to prudential supervision with regard to credit institutions - authorisation / withdrawal and ongoing supervision credit institutions

⁵⁷ Minister of Finance.

⁵⁸ ISP's are investment service providers including portfolio management firms and credit institutions authorised to provide investment services.

⁵⁹ In **FR** two departments of the Central Bank are responsible for the various aspects of MiFID as follows:



Table 4 - A supervisory framework with Ministry/Minister	
	<p>intending to provide investment services. With respect to the conduct of business rules the supervision by the French Banking Commission is conducted in collaboration with AMF.</p> <p>b) CECEI (Comité des établissements de crédit et des entreprises d'investissement) for :</p> <ul style="list-style-type: none"> - authorisation investment service providers (ISP's) with regard to credit institutions⁶⁰ – prior to which AMF is officially consulted for approval for investment services of portfolio management and investment advice <p>Ministry of Economy</p> <ul style="list-style-type: none"> - authorisation regulated market (operators) on a proposal of AMF
LU	<p>CSSF:</p> <ul style="list-style-type: none"> - advises Minister of Treasury and Budget on authorisation / withdrawal investment firms - advises Minister of Treasury and Budget on authorisation / withdrawal credit institutions - advises Minister of Treasury and Budget on authorisation / withdrawal (operators of) regulated markets - ongoing supervision investment firms - ongoing supervision credit institutions - ongoing supervision (operators of) regulated markets <p>Minister of Treasury and Budget:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms, acting on advice of the CSSF - authorisation / withdrawal credit institutions, acting on advice of the CSSF - authorisation / withdrawal (operators) regulated markets, acting on advice of the CSSF
NL	<p>AFM:</p> <ul style="list-style-type: none"> - authorisation / withdrawal investment firms - ongoing supervision investment firms and credit institutions with regard to market conduct <p>Dutch Central Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal credit institutions - ongoing supervision investment firms and credit institutions with regard to prudential supervision <p>Ministry of Finance</p> <ul style="list-style-type: none"> - authorisation / withdrawal authorisation regulated market acting upon prior advice by AFM
NO	<p>Kredittilsynet</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms - authorisation / withdrawal and ongoing supervision credit institutions - ongoing supervision regulated markets, clearing houses and CSD's

⁶⁰ to provide the following investment services: receipt, transmission and execution of orders, own account trading, portfolio management, investment advice, underwriting investment, operating a MTF.



Table 4 - A supervisory framework with Ministry/Minister	
	<p>Ministry of Finance</p> <ul style="list-style-type: none"> - authorisation / withdrawal authorisation regulated markets, CSD's and clearing houses – acting upon prior advice by Kredittilsynet
PT	<p>CMVM:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firms intending to provide investment services - authorisation /withdrawal and ongoing supervision investments firms who only operate a MTF - authorisation /withdrawal and ongoing supervision investment firms who are not allowed to provide any investment service except reception and transmission of orders and providing investment advice in financial instruments. <p>Portuguese Central Bank:</p> <ul style="list-style-type: none"> - authorisation / withdrawal and ongoing supervision investment firm intending to provide investment services (Article 7 and 8) - authorisation withdrawal and ongoing supervision credit institutions intending to provide investment services, the Portuguese Central Bank shall – before deciding – request CMVM to provide information on the suitability of the shareholders and the withdrawal of authorisation of a credit institution. - fit and proper requirements management body (Article 9) - fit and proper requirements shareholders with qualifying holdings (Article 10) capital requirements (Article 12) <p>Ministry of Finance:</p> <ul style="list-style-type: none"> - authorisation (market operator) regulated market on a proposal acting on advice of CMVM - authorisation (with the Minister of the respective sector) to carry out transactions on a regulated market or MTF on derivative contracts related to commodities / climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics, preceded by an opinion by CMVM and Banco de Portugal.
UK	<p>Authorisation of regulated market operators to operate regulated markets:</p> <p>FSA where the FSA considers that an applicant satisfies the recognition requirements and in the case of an application to become a UK RIE, the MiFID implementing requirements, and that the Treasury has had an opportunity to consider any reports from the Director General of Fair Trading and the Competition Commission, the FSA will then seek the Treasury's approval, under section 307 of the Act (Recognition orders: role of the Treasury), to the making of a recognition order.</p> <p>HMT under section 307 of the Act, the Treasury will have to follow the advice of the Director General of Fair Trading or the Competition Commission as appropriate unless it considers that there are exceptional circumstances for not doing so. The Treasury will therefore ordinarily give its approval to the making of a recognition order if the applicant's regulatory provisions are not considered to have a significantly adverse effect on competition or, if they are considered to have that effect, the effect is</p>

	Table 4 ~ A supervisory framework with Ministry/Minister
	justified. It will ordinarily refuse its approval if the applicant's regulatory provisions are considered to have any significantly adverse effect on competition and that effect is not considered to be justified

Table 5. Cooperation with different entities in the exercise of specific powers

111. Table 5 shows how certain entities in the Member States cooperate between themselves in discharging their responsibilities under MiFID

Table 5. Cooperation with different entities in the exercise of specific powers

	Cooperation between entities where there is a supervisory structure of more than one entity in place	Provisions for which these authorities cooperate to take enforcement decisions
BE	<p>CBFA cooperates in collaboration with the Securities Regulation Fund⁶¹ for transactions of sale / purchase executed in bonds, strips and treasury certificates. The Securities Regulation Fund acts on behalf of CBFA. CBFA holds ultimate responsibility for enforcement.</p> <p>CBFA cooperates with the Minister of Finance with regard to authorisation / withdrawal (market operators) regulated markets after advice of CBFA.⁶²</p>	<p>Article 19, 21, 22 and 25 of the Directive</p> <p>Article 36, 37, 38 and 39 of the Directive</p>
BG	<p>FSC cooperates with the National Bank with regard to:</p> <ul style="list-style-type: none"> - granting / withdrawal authorisation credit institutions to provide investment services and carry out investment activities 	<p>Article 7, 8, 13 and 50(2)(i) of the Directive.</p>
CY	<p>CYSEC cooperates with other competent authorities in the financial sector, namely the Central Bank of Cyprus the Authority for the Supervision and Development of Cooperative Societies and the insurance companies control service</p>	<p>Article 23(3), 25(3), 26(2) and 50 of the Directive</p>
DE	<p>BaFin cooperates with the Bundesbank.</p> <p>BaFin in collaboration with the Exchange Supervisory Authorities ('ESA') of the States ("Länder").</p>	<p>Article 7, 8, 12, 16 II and 17 of the Directive.</p> <p>Article 50 II, 25-30 with regard to MTF's operated by a stock exchange operator, 36-40 of the Directive.</p>

⁶¹ *Fonds des Rentés / Rentefonds*

⁶² The final decision to grant authorisation to regulated markets and market operators is taken by the Minister of Finance upon advice of CBFA.



	Cooperation between entities where there is a supervisory structure of more than one entity in place	Provisions for which these authorities cooperate to take enforcement decisions
EL	<p>HCMC is the competent authority for:</p> <ul style="list-style-type: none"> - authorisation and supervision investment firms providing investment services; - supervision investment firms and credit institutions with regard to compliance with the Code of Conduct; - cooperates with Bank of Greece in order to accomplish their supervisory tasks . <p>Bank of Greece is the competent authority for:</p> <ul style="list-style-type: none"> - authorisation and supervision of credit institutions providing investment services 	Articles 11, 12-14, 18 and 23 of the Directive.
ES	<p>CNMV cooperates with the Ministry of Economy with regard to imposing penalties on very serious infringements.</p> <p>Bank of Spain has certain enforcement powers on matters related to the Directive with respect to the credit institutions.</p>	Article 13 of the Directive
FI	Rahoitustarkastus cooperates with the Ministry of Finance with regard to the authorisation of the regulated markets (operators).	Article 36 of the Directive
FR	AMF cooperates closely with Bank of France (split into: CECEI and the French Banking Commission of the Central Bank).	Article 5(1), 7-14, 16 -17, 31-32, 36-40, 51, 55, 57 and 58 of the Directive
IT	Consob cooperates with the Bank of Italy.	Article 5(1), 7(2), 10, 13, 16, 17 of the Directive
LT	LSC cooperates closely with the Bank of Lithuania with regard to the authorisation of credit institutions.	Article 5, 7-9, 10, 13 of the Directive
NO	Kredittilsynet cooperates with the licencing authority, the Ministry of Finance with regard to regulated markets CSDs and clearing houses. The power to supervise that the initial requirements are met rests with the Ministry. However, Kredittilsynet has the power to supervise that those entities fulfill their obligations at an on-going basis.	Article 36 of the Directive
NL	AFM cooperates with the Dutch Central	Article 5(1), 9, 10(1), 10(3), 10(5), 10(6),



	Cooperation between entities where there is a supervisory structure of more than one entity in place	Provisions for which these authorities cooperate to take enforcement decisions
	Bank.	11, 12, 14, 16, 50, 51, 55, 57 of the Directive.
PT	CMVM cooperates with the Portuguese Central Bank: <ul style="list-style-type: none"> - authorisation and withdrawal of investment firm (Article 7 and 8) - fit and proper requirements of the management body (Article 9) - fit and proper requirements of the shareholders that have qualifying holdings (Article 10) - capital requirements (Article 12) 	Article 7, 8, 9, 10, 12 of the Directive
RO	CNVM in collaboration with the National Bank of Romania.	Article 10,19,21,22 and 25 of the Directive
SI	Agency cooperates with the Bank of Slovenia with regard to authorisation and supervision over banks performing investment services and activities.	Articles 5, 7, 8, 9, 10, 13 of the Directive

2. Supervisory powers

112. This section of Part A of the report sets out the findings in relation to those questions which sought to ascertain the nature of the powers that the competent authorities have been given in order to discharge their MiFID responsibilities, and how the exercise of these powers works in practice.
113. In this section, CESR members indicated whether the powers specified by MiFID are exercised:
- Directly by the CESR member;
 - Directly, by another authority (a non CESR member);
 - In collaboration with other authorities or entities;
 - With application by the CESR member to a judicial authority; or
 - No authority exercises the power.

Authorisation of investment activities

Authorisation

114. All authorities, except **LU**, directly have the power to grant authorisation to entities for which they are responsible. In **LU**, the authorisation is granted by the Minister of Treasury and Budget, acting only upon prior advice by the CSSF.
115. Some authorities do not have the power to authorise in relation to all categories of entities or with regard to all investment activities. For a more precise description of which authorities have which competences with regard to authorisation we refer to the previous section concerning the supervisory landscape. In **ES**, the authorisation process involves the Minister Economy and Finance as described in Table 4. In **BG, EL, IT, LT, PT** and **SI**, two competent authorities are involved in granting the authorisation as described in Table 2. In **CY**, 3 competent authorities are involved as shown in Table 3.

Supervisory practices (day to day application)

116. All authorities directly have the power to supervise that the performance of investment services and activities as defined in Article 5(1) cannot take place without prior authorisation in respect to entities for which they are responsible. Some authorities in **LT, FR** and **SI** do not directly have this power in relation to all categories of entities. For a more precise description we refer to the previous section concerning the supervisory landscape. See Table 2 for the further details of **LT** and **SI** and Table 3 for the situation in **FR**.
117. All authorities directly have the power to require that investment firms for which they are responsible provide them with all information as set out in Article 7(2) to satisfy that the investment firm has established all the necessary arrangements to meet its obligations. In **BG, LT, FR**, and **SI** this power is exercised by the Central Bank with regard to certain activities or entities. In



BG and **LT** this power is exercised by the Central Bank with regard to credit institutions. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **EL** and **SI** this power is exercised by the CESR Member in case of investment firms and by the Central Bank in case of credit institutions providing investment services.

Shareholders and members with majority holdings

118. All authorities, except **ES** and **LU**, have the power to ensure that they do not authorise the performance of investment services by investment firms for which they are responsible unless they have been informed of the identities of the shareholders or Members, whether direct or indirect, natural or legal persons that have qualified holdings and the amounts of those holdings; and to refuse authorisation if, taking into account the need to ensure the sound and prudent management of an investment firm, the suitability of the shareholders or Members that have qualified holdings is not satisfactory (article 10-1). In respect to certain activities, subjects or entities this power is exercised by the Central Bank in **BG, FR, IT, LT, NL** and **PT**. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **ES** CNMV verifies previously all the MiFID requirements (including shareholders and members with major holdings). In **LU**, the authorisation is granted by the Minister of Treasury and Budget after advice by the CSSF.
119. All authorities, except **ES** and **LU**, directly have the power to refuse authorisation if, taking into account the need to ensure the sound and prudent management of an investment firm, they are not satisfied as to the suitability of the shareholders or members that have qualified holdings in respect to entities for which they are responsible. In **BG, ES, FR, IT, LT, NL** and **PT** the non CESR member (banking supervisory authority) is responsible for the refusal of authorisation to banking entities that provide investment services. For more details see Tables 2 and 3. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **ES** CNMV proposes to the Minister the refusal of the authorisation in these cases. In **LU**, the authorisation is granted by the Minister of Treasury and Budget after advice by the CSSF.
120. All authorities, except **LU**, have directly the power to refuse authorisation if the laws, regulations or administrative provisions of a 3rd country governing one or more natural or legal person with which investment firms for which they are responsible have close links or difficulties involved in their enforcement prevent the effective exercise of their supervisory functions. (Article 10-2). In **LU** the power to refuse authorisation is attributed to the Minister of Treasury and Budget acting on advice of the CSSF. In **ES** the authorisation is granted by the Ministry of Economy and Finance, except for the only-investment firms and individuals. In **BG, FR, IT, PT** and **SI** this power



is also exercised by another competent authority. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **ES** the authorisation is granted (prior proposal of the CNMV) by the Ministry of Economy and Finance, except for those investment firms and individuals acting only in an advisory capacity. For more details see Tables 2 and 4.

121. All authorities, except **NL**, have directly the power to supervise that any natural or legal person that acquires or sells, directly or indirectly, a qualifying holding in an investment firm for which they are responsible notify the competent authorities of the size of the resulting holding (10-3). In **NL** this power is exercised by the Central Bank. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **FR, IT, PT** and **SI** this power is also exercised by another competent authority. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. For more information see Tables 2 and 4.

122. All authorities, except **IT, FR** and **NL** have directly the power to require notification if such persons as under 11 propose to increase or reduce their qualifying holding, if in consequence the proportion of the voting rights or of the capital that they hold, would reach or fall below or excess 20%, 33% or 50% or the investment firm would become or cease to be their subsidiary (10-3). In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **IT, FR** and **NL** this power is only assigned to the Central Bank. In **PT** and **SI** this power is also exercised by the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

123. All authorities, except **NL**, have directly the power to require investment firms for which they are responsible to inform them without delay if they become aware that any acquisition or disposal of holdings in its capital causes holdings to exceed or fall below any of the following thresholds (20%, 33% or 50%) or if the investment firm would become or would cease to be a natural or legal person's subsidiary. In **NL** this power is assigned to the Central Bank. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **FR, IT, PT** and **SI** this power is also exercised by the Central Banks. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

124. All authorities, except **NL** and **PT**, have directly the power to require investment firms for which they are responsible to at least once a year inform them of the names of shareholders and members possessing a qualifying holding and the sizes of such holdings. In the **NL** and **PT** this power is exercised by the Central Bank. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **FR, IT** and **SI** this power is also



exercised by the Central Banks. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **IT** both Consob and the Bank of Italy have the power to require information on shareholdings.

125. All authorities, except the **NL**, have directly the power to take appropriate measures to put an end to the situation described in Article 10(6) of the Directive in respect to entities and activities for which they are responsible. In the **NL** this power is exercised by the Central Bank. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **FR, IT, PT** and **SI** this power is exercised by the central bank in respect to certain activities or entities. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Membership of an authorised investor compensation scheme

126. All authorities, except **IS**, have directly the power to verify that investment firms for which they are responsible meet their obligations under Directive 97/9/EC of 3 March 1997 on investor compensation schemes at the time of authorisation. In **IS** the FME has the power to verify that the investment firms for which they are responsible meet their obligation after the authorisation of an investment firm if – at the time of the authorisation the investment firm has not paid their contribution to the Depositors' and Investors' Guarantee Fund.
127. In respect to certain activities or entities this power is also exercised by the Central Bank in **FR, IT, LT, NL, PT** and **SI**. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **EL**, this power is exercised by HCMC in case of investment firms and by the Central Bank in case of credit institutions providing investment services. In **FI** this power is exercised in collaboration with the Finnish Investors' Compensation Fund. In **LV** the Financial and Capital Market Commission enforces the Investor Protection Law, which provides for an ex-post investor compensation scheme.

Initial capital endowment

128. All authorities directly have the power to ensure that authorisation is not granted until investment firms for which they are responsible have sufficient initial capital in accordance with Directive 93/6/EEC having regard to the nature of the investment service or activity in question. In respect to certain activities or entities this power is also exercised by the Central Bank in **FR, LT, NL, PT** and **SI**. In **BG** this power is exercised by the Central Bank with regard to credit institutions. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.



Organisational requirements

129. All authorities directly have the power to supervise that investment firms for which they are responsible comply with the organisational requirements as set out in paragraphs 2-8 of Article 13 and its implementing measures as set out in Article 5 and 6 Implementing Directive.
130. In **FR, EL, IT, and ES** this power is also exercised by the Central Bank, in **IT** certain actions are taken following consultation between the authorities, and in **SI** it is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **EL** this power is exercised by the CESR Member in case of investment firms and by the Central Bank in case of credit institutions providing investment services. In **ES** the Bank of Spain exercises this power with respect to credit institutions, if the investigated areas are within the framework of its powers.

Regular review of conditions for initial authorisation of investment firms

131. All authorities directly have the power to supervise that investment firms authorised in their territory and for which they are responsible comply at all times with the conditions for initial authorisation established in Chapter 1 of Title II of the Directive. In **EL, IT, PT and SI** this power is also exercised by the Central Banks and in **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. . In **EL** this power is exercised by the CESR Member in case of investment firms and by the Central Bank in case of credit institutions providing investment services. In **FR** the regular review of conditions for initial authorisation is done in cooperation between CECEI of the Central Bank and the AMF.

General obligations in respect of ongoing supervision

132. All authorities directly have the power to monitor the activities of investment firms for which they are responsible so as to assess compliance with the operating conditions provided for in the Directive. In **EL, FR, PT, IT and SI** this power is also exercised by another competent authority. We refer to Tables 2, 3 and 4 and the answer given in paragraph 133. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **EL** this power is exercised by the CESR Member in case of investment firms and by the Central Bank in case of credit institutions providing investment services.

Conflicts of interest

133. All authorities directly have the power to supervise that investment firms for which they are responsible take all reasonable steps to identify conflicts of interest as set out in Article 18(1) of the Directive and its implementing measures as set out in Article 21 and 22 Implementing Directive. In **EL and SI**



this power is also exercised by the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

134. All authorities, except **HU**, directly have the power to require the investment firm to disclose to the client, before undertaking business on its behalf, the general nature and / or sources of conflicts of interest in the circumstances set out in Article 18(2) of the Directive.

Conduct of business obligations when providing investment services to clients

135. All authorities directly have the power to supervise that investment firms for which they are responsible, providing an investment service and / or ancillary service to clients, comply with the conduct of business rules in accordance with Article 19 of the Directive and its implementing measures as set out in Article 24 Implementing Directive. In **BE** the power is exercised on behalf of the authority by the Securities Regulation Fund⁶³ with respect to Belgian treasury instruments, and in **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Obligation to execute orders on terms most favorable to the client

136. All authorities directly have the power to supervise that investment firms for which they are responsible execute orders in accordance with the requirements as set out in Article 21(1) to 21(5) of the Directive. In **BE** the power is exercised on behalf of the authority by the Securities Regulation Fund⁶⁴ with respect to Belgian Treasury instruments, and in **SI** it is also exercised by the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Client order handling rules

137. All authorities directly have the power to supervise that investment firms authorised to execute orders on behalf of clients and for which they are responsible, implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client order, relative to other client orders or the trading interest of the investment firm as required by Article 22 and its implementing measures as set out in Article 47 – 48 Implementing Directive. In **BE** the power is exercised on behalf of the authority by the Securities Regulation Fund⁶⁵ with respect to Belgian Treasury instruments, and in **SI** it is also exercised by the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent

⁶³ *Fonds des Rentes / Rentefonds*

⁶⁴ *Fonds des Rentes / Rentefonds*

⁶⁵ *Fonds des Rentes / Rentefonds*



authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Obligations of investment firms when appointing tied agents

138. All authorities directly have the power to supervise that the investment firms for which they are responsible meet their obligations in respect of tied agents as set out in Article 23(2) of the Directive. In **EL** this power is exercised by the CESR member in case of investment firms and by the central bank in case of credit institutions providing investment services. **BG, DK and LT** do not allow investment firms to appoint tied agents.

Transactions executed with eligible counterparties

139. All authorities directly have the power to ensure that investment firms for which they are responsible which are authorised to execute orders on behalf of clients and / or deal on own account and/or receive and transmit orders, meet the relevant obligations set out in Article 24 and its implementing measures as set out in Article 40 Implementing Directive. In respect to certain activities or entities this power is exercised by the central bank in **SI**. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Obligation to uphold integrity of markets, report transactions and maintain records

140. All authorities directly have the power to ensure that investment firms for which they are responsible meet their obligations as set out in Article 25 of the Directive and its implementing measures as set out in Article 9 – 14 Regulation. In **BE** the power is exercised on behalf of the authority by a non CESR member⁶⁶ with respect to Belgian Treasury instruments and in **SI** it is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Monitoring compliance with the rules of the MTF and with other legal obligations

141. All authorities directly have the power to supervise that investment firms for which they are responsible maintain effective arrangements and procedures to meet their obligations as set out in Article 26(1) and 26(2) of the Directive. In **EL** this power is exercised by the CESR member in case of investment firms and by the Central Bank in case of credit institutions providing investment services.
142. All authorities directly have the power to supervise that investment firms maintain effective procedures to meet their obligations as set out in Article

⁶⁶ Securities Regulation Fund (*Fonds des Rentes / Rentefonds*)



26(1) and 26(2) of the Directive with regard to the entities they are responsible for. In **SI** this power is exercised in collaboration with the Central Bank. In **EL and SI**, this power is exercised by the CESR member in case of investment firms and by the central bank in case of credit institutions providing investment services.

Obligation of investment firms to make public firm quotes

143. All authorities directly have the power to supervise that systematic internalisers for which they are responsible meet their obligation as set out in Article 27 of the Directive and its implementing measures as set out in Article 20, 22 – 26 of the Regulation implementing Article 27 of MiFID. In respect to certain activities or entities this power is exercised by the central bank in **SI**. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Post trade disclosure by investment firms

144. All authorities directly have the power to supervise that investment firms for which they are responsible, who, dealing either on own account or on behalf of clients, conclude transactions which fall under their supervisory authority in shares admitted to trading on a regulated market outside a regulated market or MTF, make public the volume and price of those transactions and the time at which they were concluded. In respect to certain activities or entities this power is exercised by the central bank in **SI**. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.
145. All authorities directly have the power to supervise that investment firms for which they are responsible meet their post trade disclosure obligations as set out in Article 28 of the Directive and its implementing measures as set out in Articles 27 – 34 of the Regulation in respect to activities for which they are responsible. In respect to certain activities or entities this power is exercised by the central bank in **SI**. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Freedom to provide investment services and activities

146. All authorities directly have the power to request that any investment firm for which they are responsible wishing to provide services / activities for which they are responsible within the territory of another Member State for the first time or who wishes to change the range of services / activities so provided, provides the Member State in which it intends to operate, with a programme of operations within the meaning of Article 31(2) b) of the Directive. In **BU** this power is exercised by the Central Bank with regard to credit institutions. In **EL and SI** this power is exercised by the CESR member in case of investment firms and by the central bank in case of credit institutions providing



investment services. In **FR** this power is shared between the AMF and the Central Bank.

Establishment of a branch

147. Most authorities do not have the power to impose requirements additional to those allowed under Article 32(7) of the Directive. The CESR authorities in **CY, DE, EL, ES, FR, RO, SK** and **UK** have the power to impose additional requirements. At the moment, in **ES**, the additional requirements are identical for both home and host investment firms. In **FR**, although AMF has this power, it chose not to impose additional requirements.

Access to central counter party, clearing and settlement facilities and the right to designate settlement system

148. All authorities, except **DE**, directly have the power to supervise that regulated markets in their territory offer all their members or participants the right to designate the system for the settlement of transactions in financial instruments undertaken on that regulated market provided the criteria in Article 34(2) a) and b) of the Directive are met. In **DE**, this right shall be provided for in the respective exchange rules which have to be approved by the competent exchange supervisory authority.

Authorisation of regulated markets and applicable law

149. All authorities, except **BE, DE, FI, PT, FR, LU, NL** and **NO** directly have the power to ensure that authorisation as a regulated market only applies to those systems which comply with the provisions of Title III of the Directive. In **DE**, the power is assigned to the exchange supervisory authorities. In **FI, NL** and **NO** the power is assigned to the Ministry of Finance. In **NL** and **NO** the Ministry of Finance acts upon prior advice by AFM and Kredittilsynet respectively. In **BE**, the power is exercised in collaboration with the Minister of Finance. The Minister grants the authorisation as a regulated market after advice of the authority and the authority is competent to ensure that the requirements are fulfilled at all times after authorisation has been granted by the Minister of Finance.
150. In **BG** when treasury bills are to be traded on the regulated market, the FSC grants authorisation only after approval by the Minister of Finance and the Governor of the Bulgarian National Bank with regard to the provisions for the activities of the regulated market, the trading rules, the internal organisation, the registration and settlement of treasury bills. In the **UK**, it is obligatory for the FSA to send a notice to HMT who then has the power to refuse approval on competition grounds.
151. In **FR**, the power is assigned to the Ministry of Finance on a proposal of the authority. In **LU** this power is exercised by the Minister of Treasury and Budget, acting only upon prior advice of the CSSF. In **PT** after the authorisation granted by the Minister of Finance upon advice of the authority, the market operator needs to register with CMVM to start operating the market.

152. Most authorities, except **BE, DE, FI, FR, LU, NL, NO** and **PT** directly have the power to ensure that authorisation as a regulated market is only granted where the authority is satisfied that both the market operator and the systems of the regulated market comply with the requirements laid down in Title III of the Directive. For a more detailed description see paragraphs 152-154, 307, 308 and Tables 2, 3 and 45.
153. Most authorities, except **BE, DE, FI, FR** and **LU** directly have the power to ensure that the market operator meets its obligations as set out under Article 36 of the Directive. In **BE**, the power is exercised in collaboration with the Minister of Finance. The Minister grants the authorisation as a market operator after advice of the authority and the authority is competent to ensure that the requirements are fulfilled at all times after the authorisation has been granted by the Minister of Finance. In **FI**, this power is also assigned to the Ministry of Finance. In **LU** this power is exercised by the Minister of Treasury and Budget, acting only upon prior advice of the CSSF. In **NL** and **NO** this power is exercised by the Ministry of Finance acting on advice of AFM and Kredittilsynet respectively.

Requirements for the management of the regulated market

154. All authorities, except **BE** and **DE** directly have the power to supervise that the requirements as set out in Article 37 of the Directive are met. In **BE** the power is exercised in collaboration with the Minister of Finance. In **DE**, the power is assigned to the exchange supervisory authorities.

Requirements relating to persons exercising significant influence over the management of the regulated market

155. All authorities, except **BE, DE, LU** and **NO** directly have the power to supervise that they do not authorise a regulated market unless the persons who are in a position to exercise, directly or indirectly, significant influence over the management of the regulated market, are suitable. See paragraph 287, 288 and tables 35, 36 for further explanation.
156. All authorities, except **BE, FR** and **DE** directly have the power to supervise that the operator of the regulated market provides them with information regarding the ownership of the regulated market and / or the market operator, the identity and scale of interests of any parties in a position to exercise significant influence over the management, and the publication of the aforementioned information. In **BE**, the power is exercised in collaboration with the Minister of Finance. In **DE**, the power is assigned to the exchange supervisory authorities. In **FR** this power is shared between AMF and the Central Bank.

Organisational requirements

157. All authorities, except **BE** and **DE** directly have the power to supervise that the regulated market complies with the organisational requirements as set out in Article 39 of the Directive. In **BE** the power is exercised in collaboration with the Minister of Finance. In **DE**, the power is assigned to the exchange supervisory authorities.

Admission of financial instrument to trading

158. All authorities, except **DE** and **PT**, directly have the power to supervise that the regulated markets meet all their obligations as set out in Article 40 of the Directive and its implementing measures as set out in Articles 35-37 Regulation. In **DE**, the power is assigned to the exchange supervisory authorities. In **PT** the carrying-out of transactions on a regulated market or MTF on derivative contracts related to commodities or climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics needs to be authorised by the Ministry of Finance and the Minister of the respective sector preceded by an opinion by CMVM and Banco de Portugal.

Suspension and removal of instruments from trading

159. All authorities, except **DE**, directly have the power to ensure that an operator of a regulated market immediately makes public its decision to suspend or remove a financial instrument from trading. In **DE**, the power is assigned to the exchange supervisory authorities.
160. All authorities directly have the power to inform the competent authority of other Member States when an operator of a regulated market suspends or removes a financial instrument from trading.
161. All authorities, except **SI**, directly have the power to immediately make public their decision to demand suspension or removal of a financial instrument from trading on one or more regulated markets.
162. All authorities directly have the power to inform the competent authorities of the other Member States of their decision to demand suspension or removal of a financial instrument from trading on one or more regulated markets.

Access to the regulated market

163. All authorities, except **DE**, directly have the power to supervise the regulated market to establish and maintain transparent and non-discriminatory rules, based on objective criteria, governing access to or membership of the regulated market. In **DE**, the power is assigned to the exchange supervisory authorities.
164. All authorities, except **DE** and **HU** directly have the power to provide for the direct or remote participation of investment firms and credit institutions. In **DE**, the power is assigned to the exchange supervisory authorities. In **HU**, this is not regulated explicitly, but may be regarded as implied by non-discriminatory access. In the **UK** the power is exercised in collaboration with the operators of the regulated markets.
165. All authorities, except **DE** and **HU**, directly have the power to allow regulated markets from other Member States to provide appropriate arrangements to facilitate access to trading without further legal or administrative requirements so as to facilitate access to and trading on those markets by remote members or participants established in their territory. In **DE**, the

power is exercised by the exchange supervisory authorities. In **HU**, this is not regulated explicitly, but may be regarded as implied by non-discriminatory access.

166. All authorities, except **DE**, directly have the power to supervise that the operator of a regulated market provides the list of the members and participants of the regulated market to the authority on a regular basis (initially and on an ongoing basis). In **DE**, the power is exercised by the exchange supervisory authorities. In **AT** the regulated market has to submit a register of all members on the authorities request.

Monitoring compliance with the rules of the regulated market and with other legal obligations

167. All authorities, except **DE**, directly have the power to supervise that the operator of a regulated market reports significant breaches of their rules or disorderly trading conditions or conduct that may involve market abuse to the authority. In **DE**, the exchange supervisory authorities ensure that the regulated markets inform them about breaches of rules or disorderly trading conditions. They also supervise that the exchange trading surveillance units report conduct that may involve market abuse directly to the authority.

Pre-trade transparency requirements for regulated markets

168. All authorities, except **DE**, directly have the power to ensure that regulated markets comply with their pre-trade transparency requirements as set out in Article 44(1) of the Directive and its implementing measures as set out in Article 29 – 34 Regulation. In **DE**, the power is exercised by the exchange supervisory authorities.

Post-trade transparency requirements for regulated markets

169. All authorities, except **DE**, directly have the power to supervise that regulated markets comply with their post-trade transparency requirements as set out in Article 45(1) and its implementing measures as set out in Article 27 – 34 Regulation. In **DE**, the power is exercised by the exchange supervisory authorities.

Powers to be made available to competent authorities

170. All authorities, directly have all the powers and rights set out in Article 50(2)(a) – (d) of the Directive in respect to entities/ activities for which they are responsible. In **BE**, the exercise of powers as set out in Article 50 (2) d), f) and g) require the prior authorisation of an examining judge. In **FR** – in addition to the powers listed in article 50(1) – the authority may refer to the courts in order to require compliance with the rules and regulations, to put irregularities to an end or eliminate its effects. The authority is also required to inform the Public Prosecutor of a crime or an offence without delay, and to supply all the relevant information. In **DE**, the authority has the powers with respect to investment firms, while the exchange supervisory authorities have them with respect to regulated markets. In **NL** and **SI**, the authorities have the powers in collaboration with the Central Banks.

171. All authorities exercise the powers referred to in Article 50(1) of the Directive in conformity with national law in respect to entities/ activities for which they are responsible. See paragraph 172 for further explanation.

Administrative Sanctions

172. All authorities directly have the power to take administrative measures and impose sanctions against the persons responsible where the provisions adopted in the implementation of MiFID have not been complied with in accordance with Article 51 of MiFID in respect to entities/ activities for which they are responsible. In **EL, FR, IT** and **NL** this power is also exercised by the Central Banks. In **CY** the competent authorities can exercise this power directly, or in collaboration between them or with other competent authorities, or following application to Judicial Authority. In **EE**, this power is exercised by application to judicial authority. In **SI**, this power is exercised by the CESR member in case of investment firms and by the central bank in case of credit institutions providing investment services.

Relations with auditors

173. In relation to investment firms all authorities directly have the power to obtain information from auditors in respect to entities for which they are responsible. In **FR** and **NL** this power is also assigned to the Central Banks, and in **SI** it is exercised in collaboration with the Central Bank. In **EE**, the power is also exercised in collaboration with a non CESR Member.

Cooperation in supervisory activities, on the spot verifications or investigations

174. All authorities directly have the power to carry out on-the-spot verifications or investigations, upon request for cooperation from the competent authority of another Member State in respect to entities for which they are responsible. In **FR** and **NL** this power is also exercised by the Central Banks, and in **SI** it is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **ES** the CNMV may carry out verifications by itself or in collaboration with the requesting authority, or allow auditors or experts to carry out the verification or investigation.
175. All authorities upon receipt of a request with regard to a on-the-spot verification or investigation, directly have the power to carry out the verification or investigation themselves in respect to entities/ activities for which they are responsible. In **FR** and in **NL** this power is also assigned to the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.
176. All jurisdictions, except **DK, IS, IT, NO**, and **SE**, allow the requesting authorities to carry out the verification or investigation. In **NL** and in **FR** this power is also assigned to the Central Bank and **SK** exercises this power in



collaboration. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

177. All jurisdictions, except **DK, IT, NO, PT** and **SE** allow auditors or experts to carry out the verification or investigation. In **FR** this power is also assigned to the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.

Exchange of information

178. All authorities directly have the power to exchange information with competent authorities of other Member States.

Branches

179. All authorities, acting as the competent host authority, directly have the power to access the records, and enforce the obligations as laid down in paragraph 13(6) with regard to transactions undertaken by the branch in respect to entities for which they are responsible. In **SI** this power is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
180. All authorities, acting as the host competent authority of the branch of an investment firm, directly have the power to assume responsibility for ensuring that the services provided by the branch within its territory comply with the obligations laid down in Article 19, 21, 22, 25, 27 and 28 and measures adopted pursuant thereto with respect to the services and / or activities provided by the branch in their territory. In **SI** this power is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
181. All authorities, except **HU**, acting as the host competent authority of the branch of the investment firm have the necessary powers to examine branch arrangements and to request such changes as are strictly needed for you to be able to enforce the obligations in accordance with Article 27 and measures pursuant thereto with respect to the services and/or activities provided by the branch within their territory. In **SI** this power is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
182. All authorities, acting as the home competent authority of an investment firm that has established a branch in another member state, directly have the power to carry out on-site inspections in that branch after having informed



the branch's host competent authority in respect to entities/ activities for which they are responsible. In **SI** this power is exercised in collaboration with the Central Bank. In **FR** and **IT** this power is also exercised by the Central Bank.

- 183.** In the event of a change in any of the information communicated in accordance with paragraph 2 of Article 32 of the Directive, all authorities directly have the power to require the investment firm to provide them with written notice of the change, and upon receipt of such notification inform the host competent authority of the change in respect to entities/ activities for which they are responsible. In **FR** and **IT** this power is also assigned to the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively.
- 184.** All authorities, except **IS**, directly have the power as a competent host authority to require all investment firms with branches in their territory to report to them periodically on the activities of those branches. In **PT** this power is also exercised by the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two competent authorities (Central Bank of Cyprus and ASDCS) in respect of credit institutions and cooperative credit institutions respectively. In **SI** this power is exercised in collaboration with the Central Bank.
- 185.** All authorities directly have the power as a competent host authority to require branches of investment firms to provide them with the information necessary to monitor their compliance with the standards set by the CA in relation to their obligations as laid down by Articles 19, 21, 22, 25, 27, 28 and the measures adopted pursuant thereto. In **SI** this power is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.

Multilateral Trading Facilities

- 186.** All authorities directly have the power to ensure that the persons who effectively direct business of an MTF have a sufficiently good repute and are sufficiently experienced to ensure sound and prudent management of the MTF as set out in Article 9(1) of the Directive. The same applies when a market operator seeks authorisation to operate a MTF and the persons that effectively direct the business of the MTF are the same as those that effectively direct the business of the regulated market. In **DE** there is a “dual supervisory structure” as regards the supervisory task of BaFin and the exchange supervisory authorities. Principally, BaFin exercises the respective powers. Only in cases where the MTF – operated by the exchange operator – does not provide any other financial service, the respective powers is exercised by the exchange supervisory authorities. In **EL** and **SI** the central bank exercises this power regarding credit institutions providing investment services or exercising investment activities. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and



ASDCS) in respect of credit institutions and co-operative credit institutions respectively.

187. All authorities directly have the power to ensure that investment firms for which they are responsible operating a MTF meet the requirements as set out in Article 13, establish transparent and non-discretionary rules and procedures for fair and orderly trading and establish effective criteria for the efficient execution of orders in respect of activities for which they are responsible. In **EL** and **SI** the central bank exercises this power regarding credit institutions providing investment services or exercising investment activities. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
188. All authorities directly have the power to ensure that investment firms for which they are responsible operating a MTF establish transparent rules regarding the criteria for determining the financial instruments that can be traded under its systems. In **EL** and **SI** the central bank exercises this power regarding credit institutions providing investment services or exercising investment activities. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
189. All authorities directly have the power to ensure that investment firms for which they are responsible operating a MTF establish and maintain effective arrangements and procedures, relevant to the MTF, for the regular monitoring of the compliance by its users with its rules in respect to activities for which they are responsible. In **SI** this power is exercised in collaboration with the Central Bank.
190. All authorities directly have the power to ensure that investment firms operating a MTF (a) report significant breaches of its rules or disorderly trading conditions or conduct that may involve market abuse to the competent authority, (b) supply relevant information without delay to the authority competent for the investigation and prosecution of market abuse and (c) provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through its systems. In **SI** this power is exercised in collaboration with the Central Bank. In **CY** this power is exercised by the CESR Member in case of investment firms and the other two authorities (Central Bank and ASDCS) in respect of credit institutions and co-operative credit institutions respectively.
191. All authorities directly have the power to request as a home authority that investment firms operating an MTF in other Member States, communicate to them the Member State in which they intend to operate. In **EL** and **SI** the central bank exercises this power regarding credit institutions providing investment services or performing investment activities.

Market operators

192. All authorities have directly the power to ensure that market operators operating an MTF meet the requirements as set out in Article 13, establish

transparent and non-discretionary rules and procedures for fair and orderly trading and establish effective criteria for the efficient execution of orders. In **DE** principally BaFin exercises the respective powers. Only in cases, where the MTF – operated by the exchange operator – does not provide any other financial service, the respective powers are exercised by the exchange supervisory authority.

193. All authorities have directly the power to ensure that market operators operating a MTF establish transparent rules regarding the criteria for determining the financial instruments that can be traded under their systems.
194. All authorities have directly the power to ensure that market operators operating a MTF establish and maintain effective arrangements and procedures, relevant to the MTF, for the regular monitoring of the compliance by their users with its rules.
195. All authorities have directly the power to ensure that market operators operating a MTF report significant breaches of their rules or disorderly trading conditions or conduct that may involve market abuse to the competent authority; supply relevant information without delay to the authority competent for the investigation and prosecution of market abuse and provide full assistance to the latter in investigating and prosecuting market abuse occurring on or through their systems.
196. All authorities have directly the power to request as a home authority that market operators operating an MTF in other Member States communicate to them the Member States in which they intend to operate.
197. In **DE** the respective powers are exercised by the exchange supervisory authority in cases, where the MTF – operated by the exchange operator – does not provide any other financial service.

Part B – Supervisory Practices

198. This second part of the report sets out in some detail the supervisory practices that CESR Members have put into place in order to discharge their obligations under MiFD.

202. In view of the extensive nature of MiFID and the different areas that it covers, this part has been divided into 4 sections as follows:

Section I – Investment firms: authorisation and monitoring – paragraphs 204 to 277

Section II – Regulated markets and MTF's-authorisation and other aspects related to their supervision – paragraphs 278 to 318

Section III – Cooperation and branches – paragraphs 319 to 376

Section IV – Delegation of tasks – paragraphs 377 to 378

203. In order to facilitate the readers understanding of this section, each section starts of with a brief introduction of the areas of MiFID that are covered, and includes in the form of headings the questions that CESR Members were asked (either in the form of the actual question, or a paraphrasing of it).

Section I – Investment firms: authorisation and monitoring

204. This section of the report explains how CESR Members authorise investment firms and monitor on an ongoing basis that the requirements for this initial authorisation are maintained.

205. The consequences for investment firms who either conduct investment services without seeking and obtaining the necessary authorisation, breach the terms of their authorisation or conduct services for which they have not been authorised are set out in detail in Section C of this report with regard to enforcement measures and sanctions.

Authorisation requirements for investment firms and credit institutions (providing investment services and activities) amongst the CESR Membership.

206. This part of the report explains the supervisory practices that CESR Members employ when authorising investment firms and credit institutions (providing investment services), and deals with the requirements of Articles 7,8,9(1),10(1), 10(6), 11, 12 and 60(1) of MiFID.

207. Before going into the specific details of the authorisation processes that CESR Members employ, it is important to point out that this is an area of MiFID where members are allowed to exercise their discretion and impose additional requirements to those set out in MiFID and it's implementing measures, and as such, this section starts with an overview of which Members employ additional authorisation requirements, and what these additional requirements are.

Do CESR Members impose any additional requirements on those investment firms or credit institutions that they authorise under the Directive? If so, what are these additional requirements?

208. Twenty (20) out of twenty-eight (28) authorities reported that they do not impose additional requirements on the investment firms or credit institutions that they have authorised under the MiFID. Eight (8) jurisdictions (**BE, EL, ES, IE, NO, PT, SE and UK**) reported that additional requirements are imposed and listed the relevant requirements. There are no commonalities between the additional requirements reported by these eight (8) authorities. The names of the jurisdictions where no additional requirements are required and the names of the jurisdictions where additional requirements are imposed as well as the particular requirements are included in the Table below.

Table 6 – Imposition of additional requirements on investment firms

Member State	No	Yes	Additional requirements
Austria	X		
Belgium	X		Content of the basic agreement between an investment firm providing an investment service of portfolio management and its retail clients.
Bulgaria	X		
Czech Republic	X		
Cyprus	X		
Denmark	X		
Estonia	X		
Finland	X		
France	X		Content of the basic agreement, unbundling of the commissions and principle of “whistleblowing”
Germany	X		
Greece		X	Initial capital endowment according to the activities the investment firm provides, in particular, where the investment firm provides the service of underwriting of financial instruments or placing of financial instruments on a firm commitment basis, or deals on own account then initial capital should be a minimum of € 5.000.000, where the investment firm provides only the service of reception and transmission of order or portfolio management without holding clients’ assets (money or financial instruments) then initial capital should be at least € 500.000, in all other case initial capital should be a minimum of € 1.500.000. Mandatory employment of certified persons for the provision of certain activities.



Member State	No	Yes	Additional requirements
Hungary	X		
Iceland	X		
Ireland		X	Holding by investment firms of client assets.
Italy	X		
Latvia	X		
Lithuania	X		
Luxembourg	X		
Malta	X		
Netherlands	X		
Norway		X	Restrictions on employees own account trading
Portugal		X	<p>Article 4-27: The Portuguese legal framework considers a ‘Qualifying holding’ any direct or indirect holding in an investment firm which represents 5% (and not 10% as prescribed in MiFID);</p> <p>Article 10(3): the limits for notifying a proposal to increase or reduce a qualifying holding in a investment firm are 5%, 10%, 20% 33% or 50%;</p> <p>Article 32(1): The management of the branch shall be entrusted to at least two managers, with appropriate powers to deal with and definitely settle, in Portugal, all matters pertaining to its activity.</p>
Romania	X		
Slovakia	X		
Slovenia	X		
Spain		X	Internal code of conduct, a fees brochure, if applicable, a standard agreement on portfolio management and a custody agreement as well as the responsible for the service for the clients claims. Moreover, general commercial requirements, such as the incorporation to the Commercial Registry, must be met previously to the incorporation to the CNMV’s registry.
Sweden		X	Competence and documentation when investment firms or credit institutions provide investment advice to consumers (natural persons acting in their capacity as private persons).
UK		X	<ul style="list-style-type: none"> - conditions advisers have to meet to call themselves “independent”; - provisions of a simplified prospectus (SP) or key features document (KFD); - disclosure of actual commission and commission equivalent in relation to the sale of packaged products; and - use of dealing commission.



How do CESR Members check that the applicant complies with all the authorisation requirements? – Articles 7 and 8

209. In replying to this question, most of the authorities described the procedure they follow in order to grant the authorisation. However, some authorities indicated the type of information they ask from the applicants. The stages and practices that are commonly followed by the authorities while granting an authorisation are described below in Table 7. The type of information that the authorities ask for can fall under some general categories that are listed in the table 8 below.
210. The information that is required by the authorities for the granting of the authorisation has been classified under general categories which are set out in Table 8 such: as general information about the company, constituting documents, information on the capital etc. One can derive from this Table that there is convergence throughout the EU regarding the area/ category of information that the authorities require from the applicant. However, when it comes to the specific documents that authorities require for the same general category of information, there are some divergences between Member States.
211. This is partly due to the fact that some of the documents (e.g. constituting documents, extracts from the national companies' registrars) are linked to each Member States company law which is an area of law that is less harmonised than that of securities' law.

The stages of the authorisation procedure and information required for authorisation

212. The stages of the authorisation procedure as well as the information required by the competent authorities for the granting of such authorisation are described in two tables (Tables 7 and 8) below.
213. The authorisation procedure consists of four stages that are described in Table 7 in chronological order as follows:
214. Before the submission of the authorisation file, eleven (11) authorities (**BE, CY, CZ, FI, FR, DE, IT, LU, MT, NO** and **SK**) organise a meeting with the applicant or its promoter.
215. After the submission of the authorisation file by the applicant, all the competent authorities assess the application on the basis of the information/ documentation as described in Table 8 below. However, there is some differentiation on the type of checking: Ten (10) Members (**AT, BE, CY, EE, EL, LT, LU, LV RO** and **UK**) check whether the file is complete and the information is true and accurate and fully compliant with applicable rules though seventeen (17) Members (**BG, CZ, DE, DK, ES, FI, HU, IE, IS, IT, MT, PT, NL, NO, SE, SI** and **SK**) stated that they check the completeness of the file and its compliance with the applicable rules.
216. Competent authorities contact the applicant (by e-mail, telephone, physical meeting or letter) in order to ask him to complete and / or update the file or to provide the necessary clarifications. Moreover, some authorities use other



supervisory practices such as the hearing with the applicant, on-site inspections, the simulation tests and the gathering of information from other persons. Some authorities also stated that they communicate with / consult other competent authorities of the same or other Member States or of third countries.

217. In jurisdictions where the authorisation decision lies with the relevant Minister (**ES** and **LU**) there is an additional step in the procedure consisting of the submission of the file with a proposal on the granting or not of the authorisation to the relevant Minister.
218. Regarding the information / documentation required for the granting of the authorisation which is included in Table 8 below, the general conclusion arising out of table 8 is that there is convergence throughout the EU regarding the area / category of information that the authorities require from the applicant. However, when it comes to the specific documents that authorities require and fall under the same general category some divergences can be pointed out.



Table 7 - The stages of the authorisation procedure

Members	Before submission file	After submission file											Submission file with proposal to relevant Minister	
		Assessment applicant on the basis of the file												
		Checking file		Contacting applicant in case of incomplete file + ask applicant to complete / update file / provide clarifications						Hearing with applicant	Onsite inspections / visit to applicant	Simulation / stress tests		Gathering information from other persons
Completeness + information true and accurate and compliant	Completeness + compliant		Email	Telephone	Meeting	Letter	Communication / consultation with CA's within MS (of 3 rd countries)	Check completeness + compliance info with applicable rules						
Austria		X		X						X				
Belgium	X	X		X	X	X	X	X	X	X	X		X	X
Bulgaria			X	X					X					
Cyprus	X ⁶⁷	X		X	X	X		X					X	
Czech Republic	X		X	X	X	X	X						X	
Denmark			X		X	X	X			X			X	
Estonia		X		X				X					X	
Finland	X		X	X	X	X	X	X			X		X	

⁶⁷ With the promoter of the applicant



Members	Before submission	After submission file										Submission file with proposal to relevant Minister	
		Assessment applicant on the basis of the file								Hearing with applicant	On site inspections / visit to applicant		Simulation / stress tests
		Checking file		Contacting applicant in case of incomplete file + ask applicant to complete / update file / provide clarification				Letter	Communication / consultation with CA's within MS (of 3 rd countries)			Check completeness + compliance info with applicable rules	
		Completeness + information true and accurate and compliant	Completeness + compliant		Email	Telephone	Meeting						
France	X			X				X				X	
Germany	X		X	X	X	X	X	X				X	
Greece		X		X		X	X	X				X	
Hungary			X	X						X			
Iceland			X							X			
Ireland			X	X				X				X	
Italy	X ⁶⁸		X	X ⁶⁹				X			X ⁷⁰	X	

⁶⁸ In IT prior meetings are not required by law, but take place on a mere informal and case by case basis.

⁶⁹ In IT the supervisory authority can also ask relevant shareholders.

⁷⁰ On the basis of the economic and financial data provided.

Members	Before submission	After submission file											Submission file with proposal to relevant Minister		
		Assessment applicant on the basis of the file								Hearing with applicant	On site inspections / visit to applicant	Simulation / stress tests		Gathering information from other persons	
		Checking file			Contacting applicant in case of incomplete file + ask applicant to complete / update file / provide clarification										
Latvia		X			X	X	X	X		X			X		
Lithuania		X			X	X	X	X	X				X		
Luxembourg	X	X			X	X	X	X	X				X		X
Malta	X		X		X	X	X	X	X				X		
Netherlands			X		X	X			X				X		
Norway	X		X		X	X	X	X	X				X		
Portugal					X					X		X ⁷¹	X		

⁷¹ Simulation of real transactions.



Members	Before submission	After submission file											Submission file with proposal to relevant Minister	
		Assessment applicant on the basis of the file							Hearing with applicant	On site inspections / visit to applicant	Simulation / stress tests	Gathering information from other persons		
		Checking file		Contacting applicant in case of incomplete file + ask applicant to complete / update file / provide clarification										
		Completeness + information true and accurate and compliant	Completeness + compliant		Email	Telephone	Meeting	Letter						
Romania		X		X				X				X		
Slovakia	X		X		X	X	X	X		X	X ⁷²	X ⁷³	X ⁷⁴	
Slovenia			X	X						X				
Spain			X	X		X	X	X						X
Sweden			X	X		X	X	X						
UK		X		X	X	X	X	X		X	X	X ⁷⁵		

⁷² Simulation of real transactions during an on-site visit.

⁷³ If needed.

⁷⁴ The truthfulness and accuracy of the provided information are supposed fulfilled as all documents have to be submitted to the authority in originals or in authentic copies certified by a notary. However, the truthfulness and accuracy may always be verified by the authority, if the need be.

⁷⁵ In the case of complex systems.

Table 8 – Information required for authorisation

Member State	General info (e.g. general description)	Constituting docs (e.g. articles of incorporation)	Info on the capital	Info on the activities (e.g. list, business plan)	Financial info (e.g. financial statements and accounts)	Info on organisation and CoB (e.g. organisational chart, draft client contract)	Info on managers and personnel	Info on shareholders and close links	Mandatory employment of certified persons
Austria	X	X	X	X	X	X	X	X	X
Belgium	X	X	X	X	X	X	X	X	
Bulgaria	X	X	X	X	X	X	X	X	
Czech Republic		X	X	X	X	X	X	X	X
Cyprus	X	X	X	X	X	X	X	X	depends on the nature of the investment services and financial instruments
Denmark	X	X	X	X	X	X	X		
Estonia		X		X	X	X	X	X	
Finland	X	X	X	X	X	X	X	X	depends on the nature of the investment services and financial instruments.

Member State	General info (e.g. general description)	Constituting docs (e.g. articles of incorporation)	Info on the capital	Info on the activities (e.g. list, business plan)	Financial info (e.g. financial statements and accounts)	Info on organisation and CoB (e.g. organisational chart, draft client contract)	Info on managers and personnel	Info on shareholders and close links	Mandatory employment of certified persons
France	X	X	X	X	X	X	X	X	
Germany	X	X	X	X	X	X	X	X	
Greece	X	X	X	X	X	X	X	X	X
Hungary	X	X	X	X	X	X	X	X	X
Iceland		X	X	X	X	X	X	X	X
Ireland	X	X		X	X	X	X	X	X
Italy	X	X	X	X	X	X	X	X	
Latvia	X	X	X	X	X	X	X	X	
Lithuania	X	X	X	X	X	X	X	X	
Luxembourg	X	X	X	X	X	X	X	X	
Malta	X	X	X	X	X	X	X	X	
Netherlands			X	X	X	X	X	X	
Norway	X	X	X	X	X	X	X	X	
Portugal		X	X	X	X	X	X	X	X
Romania	X	X	X	X		X	X	X	X
Slovakia	X	X	X	X	X	X	X	X	
Slovenia	X	X	X	X		X		X	
Spain	X	X	X	X	X	X	X	X	X
Sweden	X	X	X	X	X	X	X	X	
UK	X	X	X	X	X	X	X	X	

What are the timeframes within which authorities check the documentation for granting authorisation? – Articles 7 and 8

219. Sixteen (16) out of the twenty-eight (28) authorities indicated the six-month period as set out in Article 7(3) as the timeframe within which they check the information for granting the authorisation. The other twelve (12) authorities indicated shorter timeframes and in most of the cases the three-month period, as set out in the table below.

220. Some authorities stated that the time needed for checking depends on the following factors: completeness of the submitted file, scope and complexity of the case and the activities of the applicant, the corporate and ownership structure (i.e. whether the applicant is part of a group) or if there are any matters of outsourcing.

Table 9 – Time frames within which documentation is checked for granting authorisation

Member State	6 months	Less than 6 months
Austria	X	
Belgium	X	
Bulgaria		3 months
Czech Republic	X	
Cyprus	X (3 to 6 months)	
Denmark	X	
Estonia	X (2 to 6 months)	
Finland		5 months
France		3 or 4 months depending on the investment service
Germany		3 months
Greece	X	
Hungary		3 months
Iceland		3 months
Ireland	X	
Italy		within 120 days
Latvia		1 to 3 months
Lithuania	X	
Luxembourg	1 to 6 months	
Malta		3 months
Netherlands		4 months approximately
Norway	X	
Portugal		1 month
Romania	X	1-6 months
Slovakia	X	
Slovenia	X	
Spain	X	

Member State	6 months	Less than 6 months
Sweden		5 months
UK	X	3 months ⁷⁶

How do authorities ensure that those who direct the business meet the requirements to be of sufficiently good repute and experience? – Article 9(1)

221. Authorities ensure that those who direct the business meet the requirements to be of sufficiently good repute and experience on the basis of documents to be submitted to the authority on this purpose. The information that is required by the authorities for the granting of the authorisation could be classified under general categories which are included in table 10 below such as general information and fit and proper test regarding the persons who direct the business, information on the previous professional experience etc. From the responses it appears that almost all authorities ask for information on the professional experience and on the criminal records of the persons who direct the business. The general conclusion arising out of table 10 is that there is convergence throughout the EU regarding the area / category of information that the authorities require from the applicant.

222. However, when it comes to the specific documents that authorities require regarding the financial condition of the individual who directs the business, differences are apparent as follows:

- a. certificates of non – bankruptcy (**CY, IS**); or
- b. request whether the person is not bankrupt (**DE and DK**); or
- c. is involved in insolvency proceedings or in proceedings for making a statutory declaration (**DE**); or
- d. has suspended his payments, that the person has a good and healthy economy (**DK**); or
- e. checking of the open enforcement orders based on a debt and the financial standing of the person from a private register (the same used by the banks in the course of lending) **FI**; or
- f. information on the deprivation of the right to engage in commercial activities (**LV**)

⁷⁶ 79% of applications are determined within three months.

Table 10 – How authorities ensure that those who direct the business meet the sufficiently good repute and experience requirements

Member State	General Questionnaire Fit and proper test	Information on previous professional experience (CV, letters of reference etc)	Information on the financial condition (e.g. non-bankruptcy)	Interview or additional queries	Information on criminal records and court cases	Use of internal records of the authority	Enquiry with other CAs	Other means (contacting other third persons/ other information)
Austria	X	X	X	X	X	X	X	X
Belgium	X	X	X	X	X	X	X	X
Bulgaria		X	X		X	X	X	X
Czech Republic	X	X	X	X	X	X	X	X
Cyprus	X	X	X		X	X		
Denmark		X	X		X			X
Estonia		X	X		X		X	X
Finland	X	X	X	X	X	X	X	X
France	X	X			X		X	X
Germany	X	X	X	X	X	X	X	X
Greece	X	X	X		X	X	X	
Hungary		X	X		X			X
Iceland	X		X	X	X			
Ireland	X				X		X	
Italy		X			X	X	X	X
Latvia	X	X	X	X	X		X	X
Lithuania		X			X	X	X	X
Luxembourg		X	X	X	X	X	X	X
Malta	X	X			X	X	X	X
Netherlands	X	X	X		X	X	X	X

Member State	General Questionnaire Fit and proper test	Information on previous professional experience (CV, letters of reference etc)	Information on the financial condition (e.g. non-bankruptcy)	Interview or additional queries	Information on criminal records and court cases	Use of internal records of the authority	Enquiry with other CAs	Other means (contacting other third persons/ other information)
Norway	X	X	X	X	X	X	X	
Portugal	X	X	X		X	X	X	
Romania		X	X		X	X	X	X
Slovakia		X	X	X (if needed)	X	X	X	X
Slovenia	X	X		X	X	X		
Spain	X	X	X	X	X	X	X	
Sweden	X	X	X		X	X	X	X
UK	X	X	X	X	X	X		

How do authorities ensure that those shareholders that have qualifying holdings are suitable given the need to ensure the sound and prudent management of the firm? – Article 10(1)

223. Authorities ensure that those shareholders that have qualifying holdings are suitable given the need to ensure the sound and prudent management of the firm on the basis of specific documentation they require for this purpose. There is diversity regarding the particular documents that each authority asks for. However, these documents can fall under some general categories that are listed in the table 11 below. From the responses it appears that most of the authorities require these shareholders to complete a general questionnaire or to undertake a fit and proper test. Moreover, most authorities require proof of the shareholders’ financial strength.

224. The general conclusion arising from table 11 is that there is convergence throughout the EU regarding the area/ category of information that the authorities require from the applicant. However, when it comes to the specific documents that authorities require in order to assess the suitability of shareholders with qualifying holdings in respect of the proof of financial strength, the following differences are apparent:

- a. Last annual reports/financial statements (AT, BE, DE, EL, ES, IE, FR, IT, LU, MT);
- b. the reports of the external auditors regarding those accounts (BE) for the last 3 years (CZ and LU);
- c. Ratings from CRA's (AT, LV, LU);
- d. Proof of financial health (LT, PT);
- e. If the financial and economic situation of the person concerned is inadequate in relation to the amount of the proposed holding (PT);
- f. They complete and submit a questionnaire (CY)/ form (DK, FI) disclosing information as to whether or not the firm has suspended its payment and whether there are any close links and if yes, the national code from the Danish Central Business Register (CVR) must be disclosed;
- g. Certificate of good standing (CY and LU);
- h. Information that the legal person was established in compliance with the relevant legal regulation (HU) and is not adjudicated in bankruptcy or liquidation proceedings if the applicant is a legal person (FI, HU).

Table 11 – How authorities ensure the suitability of shareholders with qualifying holdings

Member	General Questionnaire (fit and proper/suitability test)	Proof of financing by own (and not borrowed) funds	Info on the prospects	Description of the ownership structure	Proof of financial strength	Information on criminal records or disciplinary actions/convictions	Enquiry with other CAs	Other means (contacting other third persons/ other information)
Austria	X	X		X	X	X	X	
Belgium	X	X		X	X	X	X	X
Bulgaria		X	X	X	X	X	X	X
Czech Republic	X		X	X	X	X	X	X
Cyprus	X			X	X	X	X	X
Denmark	X				X	X		
Estonia	X	X		X	X			X
Finland	X		X	X	X	X	X	X



Member	General Questionnaire (fit and proper/suitability test)	Proof of financing by own (and not borrowed) funds	Info on the prospects	Description of the ownership structure	Proof of financial strength	Information on criminal records or disciplinary actions/convictions	Enquiry with other CAs	Other means (contacting other third persons/ other information)
France	X			X	X	X		
Germany	X			X	X	X		
Greece	X			X	X	X	X	X
Hungary		X		X	X	X		
Iceland	X					X		
Ireland			X	X	X			X
Italy		X		X	X	X	X	X
Latvia	X	X	X		X		X	X
Lithuania	X			X	X			
Luxembourg		X	X	X	X	X	X	X
Malta	X			X	X	X	X	
Netherlands	X	X		X	X	X	X	
Norway	X			X				
Portugal	X	X	X	X	X	X	X	
Romania	X			X	X	X	X(on a case by case basis)	X
Slovakia			X	X	X	X	X	X
Slovenia	X		X	X	X	X		X
Spain	X	X		X	X	X	X	X
Sweden	X			X		X	X	X
UK	X	X	X	X	X	X	X	X



How do authorities ensure that any close links do not prevent the effective exercise of supervisory functions? – Article 10(1)

225. Twenty seven (27) out of twenty- eight (28) authorities responded that they ensure that any close links do not prevent the effective exercise of supervisory functions by verifying on the basis of documents provided the structure of the shareholdings. Sixteen (16) authorities ask for other information as set out in the Table 12 below.

Table 12 – How authorities ensure that close links don’t prevent effective exercise of supervisory function

Member	Verification of the structure of the shareholdings	Other information
Austria	X	For example extracts from commercial registers, organisational charts, shareholders agreements, contracts, annual accounts.
Belgium	X	CBFA verifies existing links between the entity subject to its supervision and other entities or persons. It ensures that these links do not prevent the effective exercise of the CBFA’s supervisory functions. For example, the CBFA ensures that the legal system of the home authority of an entity to which activities are outsourced are not opposed to the conduct of internal audit controls, compliance and external audit of the firm as well as supervision by the authority.
Bulgaria	X	
Czech Republic	X	
Cyprus	X	
Denmark	X	National code from the Danish Central Business Register
Estonia	X	~
Finland	X	The authority should be ensured that they have access to confidential information
France		To fill out a specific questionnaire
Germany	X	Recent annual accounts
Greece	X	Beneficial owner in case the shareholder of an investment firm is an off-shore company
Hungary	X	
Iceland	X	FME requires the applicant to proved information about who have close links with the applicant when applying for



Member	Verification of the structure of the shareholdings	Other information
		authorisation. Based on the provided information, the FME evaluates whether or not close links prevent the effective exercise of its supervisory functions
Ireland	X	
Italy	X	The purpose is to verify that good repute requirements are met and supervision is not prevented, also considering localisation of foreign group companies
Latvia	X	
Lithuania	X	The authority should be ensured that they have access to confidential information- If needed (e.g. when a shareholder is indirectly owned by the Government of some country) they assess whether there are any safeguards to prevent the overpowering of the economic purposes by political considerations
Luxembourg	X	The motivation of the persons wishing to become a shareholder and a description of the proposed activities of the investment firm in view of transactions to be concluded with other group entities; the fundamentals of the structure of the shareholdings; any shareholders' agreement; any contracts; a written negative statement in case of doubts
Malta	X	
Netherlands	X	
Norway	X	Deviations from the general voting rights The authority should be ensured that they have access to confidential information
Portugal	X	Asking additional information (any kind) whenever deemed necessary.
Romania	X	
Slovakia	X	Extract from other commercial registers, shareholder register and / or issuers register.
Slovenia	X	
Spain	X	The authority should access to any confidential information
Sweden	X	
UK	X	Depending on the applicant, the FSA might ask for financial statements and information on group structure

What measures do authorities employ if shareholders with qualifying holdings are considered prejudicial to the sound and prudent management of the firm? – Article 10(6)

226. The measures that authorities employ if shareholders with qualifying holdings are considered prejudicial to the sound and prudent management of the firm are set out in the Table below. As can be seen, a great majority of authorities (26 out of 27) stated that they refuse or withdraw the authorisation if they consider that shareholders with qualifying holdings are considered prejudicial to the sound and prudent management of the firm. A smaller number (18 out of 27) of authorities stated that they order the company to change the situation before they proceed with the refusal or withdrawal of the authorisation.

Table 13 – Measures employed if shareholders with qualifying holdings are considered prejudicial to sound and prudent management

Member	Order the company to change/rectify the situation	Suspension/prohibition of the exercise of voting rights	Refusal or withdrawal of the authorisation	Other measures and sanctions
Austria			X	
Belgium	X	X	X	X
Bulgaria		X	X	
Czech Republic		X	X	X
Cyprus		X	X	
Denmark	X	X	X	
Estonia			X	
Finland	X	X	X	
France			X	
Germany			X	
Greece	X	X	X	X
Hungary			X	
Iceland	X	X	X	X
Ireland	X		X	
Italy	X	X	X	X
Latvia	X	X	X	X
Lithuania	X		X	X
Luxembourg	X	X	X	X
Malta	X	X	X	X
Netherlands	X		X	
Norway	X	X	X	
Portugal	X	X	X	X
Romania	X	X	X	X
Slovakia	X	X	X	X
Slovenia	X			X
Spain			X	X
Sweden		X	X	X
UK	X		X	X

What are the key pieces of information that authorities ask firms to provide in order to assess if shareholders with qualifying holdings are considered prejudicial to the sound and prudent management of the firm? – Article 7(2)

227. All authorities with the exception of **LV** require particular information in order to proceed with this assessment. **LV** decides on a case-by-case basis what information is to be required in order to make this assessment, which could be any information or documents which prove the sound and prudent management of the firm. There is diversity regarding the particular documents that each authority asks for. However, these documents can fall under some general categories that are listed in the table 14 below. The general conclusion arising out of table 14 is that there is convergence throughout the EU regarding the area/ category of information that the authorities require from the applicant. However, when it comes to the specific documents that authorities require in order to assess whether shareholders with qualifying holdings are considered prejudicial to the sound and prudent management of the investment firm, some differences are apparent as follows for example, the following similar but not identical documents are some of the documents that have to be included in the category of Information on the organisation and conduct of business :

- a. Description of the administrative infrastructure of the applicant (organisational chart **BE, DE, EL, IS, LU, MT, NO, SI** and **UK**);
- b. Description of the tasks to be carried out by the staff, tied agents, outsourcing activities and agreements etc. (**AT, BE, CZ, CY, DK, ES, HU, IE, LU, NO** on outsourcing, **IT, SK**);
- c. IT-report. Information regarding the fulfilment of the organisational requirements in particular on internal control, compliance and risk management (**AT, BE, DE, ES, IE, LI, LU, PT** and **SI**);
- d. Rules on prevention of money laundering and terrorist financing (**BE, DK, HU**);
- e. controls to counter the risk of the firm being used by others to further financial crime (**UK**);
- f. Procedures/ processes/ routines and guidelines (**BE, DE, ES, IE, IS, IT, PT, NO** and **UK**);
- g. Compliance arrangements (**BE, UK**), Accounting arrangements (**BE, IE, LU**);
- h. Names of the company's auditors, if already appointed (**BE**) or to be appointed (**LU**);
- i. business continuity arrangements (**BE, IE, UK**),
- j. Internal rules for handling of money and valuables and the execution policy and conflicts of interest policy (**BE, ES, HU** and **IE**),
- k. Details on the IT system (**BE, CZ, LU, ES** and **UK**) / infrastructure (**LU**), equipment and technical facilities (**BE** and **HU**)
- l. The auditor's certificate that the IT system has sufficient facilities to satisfy the legal requirements (**HU**).

Table 14 – Information to be provided to assess whether shareholders with qualifying holdings are considered prejudicial to sound and prudent management

Member	Info on group structure shareholders (e.g. group structure chart)	Constituting docs (e.g. articles of incorporation)	Info on the initial capital (existence and legitimate source)	Info on the activities (e.g. list, business plan)	Financial info (e.g. financial statements and accounts)	Info on organisation and CoB (e.g. organisational chart, draft client contract)	Info on managers and personnel	Other
Austria	X	X	X	X	X	X	X	X
Belgium	X	X	X	X	X	X	X	X
Bulgaria	X	X	X	X	X	X	X	X
Czech Republic	X	X	X	X	X	X	X	X
Cyprus	X	X	X	X		X	X	X
Denmark	X	X	X	X		X	X	
Estonia	X	X	X	-	X		X	X
Finland	X	X	X	X	X		X	X
France	X		X				X	X
Germany	X	X	X	X		X	X	X
Greece	X	X	X	X	X		X	
Hungary	X	X	X	X		X		
Iceland	X	X	X	X		X	X	
Ireland	X	X		X	X	X	X	X
Italy	X	X	X	X	X	X	X	X
Latvia	On a case by case basis	On a case by case basis	On a case by case basis	On a case by case basis	On a case by case basis	On a case by case basis	On a case by case basis	On a case by case basis
Lithuania	X	X	X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X	X	X

Member	Info on group structure shareholders (e.g. group structure chart)	Constituting docs (e.g. articles of incorporation)	Info on the initial capital (existence and legitimate source)	Info on the activities (e.g. list, business plan)	Financial info (e.g. financial statements and accounts)	Info on organisation and CoB (e.g. organisational chart, draft client contract)	Info on managers and personnel	Other
Malta	X	X			X	X		
Netherlands	X				X	X	X	
Norway	X							X
Portugal	X	X	X	X		X	X	X
Romania	X	X		X	X	X		X
Slovakia	X	X	X	X	X	X	X	X
Slovenia	X	X		X	X	X	X	
Spain	X	X	X	X	X	X	X	X
Sweden	X			X	X	X	X	
UK	X			X	X	X	X	X

The process that competent authorities use when consulting the competent authority of another member state when granting authorisation to an investment firm meeting the conditions set out in Article 60 (1)

228. All respondents stated that they contact the other authorities by addressing a written consultation in which they ask for a response within a given timeframe. As can be seen from table 15 below, six (6) out of twenty-seven authorities particularly stated that if they don't get a response within the prescribed timeframe, they send a reminder or extend the initial timeframe. Thirteen (13) authorities particularly stated that if no response is received within the initial (and in some cases the extended) timeframe they consider that the other authority has no objection. Five (5) authorities stated that they wait (i.e. their decision is suspended) until they receive the response of the other authority.

Table 15 – Process authorities employ when consulting each other about granting an investment firms authorisation

Member	Addresses written consultation asking for a response within given timeframe	Sends reminder and extends the timeframe	If no response considers no objection	If no response, waits
Austria	X	X	X	
Belgium	X		X	
Bulgaria	X			
Czech Republic	X			
Cyprus	X	X	X	
Denmark	X			
Estonia	X			X
Finland	X			
France	X	X	X	
Germany	X		X	
Greece	X	X		X
Hungary	X			
Iceland	X			
Ireland	X			X
Italy	X		X	
Latvia	X		X	
Lithuania	X		X	
Luxembourg	X		X	
Malta	X	X		X
Netherlands	X			
Norway	X		X	
Portugal	X		X	
Romania	X			
Slovakia	X			
Slovenia	X			
Spain	X	X		X
Sweden	X		X	
UK	X		X	

Do authorities verify that any entity seeking authorisation as an investment firm meets its obligations under Directive 97/9/EC? – Article 11

229. As can be seen from the table 16 below, twenty six (26) out of twenty-eight (28) authorities responded that they verify that any entity seeking authorisation as an investment firm meets its obligations under Directive 97/9/EC.

Table 16 – Do authorities verify that investment firms seeking authorisation meet their Article 11 of Directive 97/9/EC obligations?

Member	Authorities verify that investment firms seeking authorisation meet their Article 11 of Directive 97/9/EC obligations	Authorities do <u>not</u> verify that investment firms seeking authorisation meet their Article 11 of Directive 97/9/EC obligations
Austria	X	
Belgium	X	
Bulgaria	X	
Czech Republic	X	
Cyprus	X	
Denmark	X	
Estonia	X	
Finland	X	
France	X	
Germany	X	
Greece	X	
Hungary	X	
Iceland	X	
Ireland	X	
Italy	X	
Latvia		X
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands	X	
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia	X	
Spain	X	
Sweden		X
UK	X	

How do authorities ensure that the investment firm meets its capital requirements as set out in Article 12 of the Directive?

230. Authorities ensure that the investment firm meets its capital requirements as set out in Article 12 of the Directive on the basis of documents submitted to the authority for this purpose. There is diversity regarding the particular documents that each authority asks for. However, these documents can fall under some general categories that are listed in the table 17 below. From the responses, it appears that the great majority of the authorities require documentation regarding the payment of the initial capital.

Table 17 – How authorities ensure that investment firms meet their capital requirements

Member	Constituting docs	Info on prospects business plan)	Financial info (if the company is already incorporated)	Payment of the initial capital	Other
Austria	X		X	X	
Belgium	X	X	X	X	
Bulgaria		X	X	X	
Czech Republic	X	X	X	X	X
Cyprus	X		X	X	
Denmark			X	X	
Estonia			X	X	
Finland	X	X	X	X	X
France				X	
Germany			X	X	
Greece			X	X	
Hungary				X	
Iceland				X	
Ireland			X	X	X
Italy	X	X	X	X	X
Latvia			X	X	
Lithuania		X	X	X	
Luxembourg	X		X	X	X
Malta	X	X	X	X	X
Netherlands			X		
Norway			X	X	X
Portugal	X			X	X
Romania				X	
Slovakia	X	X	X	X	X
Slovenia				X	X
Spain	X		X		X
Sweden				X	
UK		X	X	X	X

- 231.** Having described in some detail above the authorisation process that the entities responsible for the authorisation of investment firms employ in order to authorise investment firms, the next part of this section of this part of the report (paragraphs 233 and 234) describes the processes used to register the investment firms once authorised and the processes through which the ongoing supervision of the investment firm takes place (paragraphs 235 to 237).
- 232.** For a detailed explanation of the consequences for investment firms that do not meet their ongoing obligations following their authorisation, please see Part C paragraphs [426-441] of Section C of this report.

The process for updating the register of investment firms upon their authorisation, taking into consideration the CESR guidelines (Ref: CESR /07-337) – Article 5(3)

- 233.** In most cases the updating procedure of the register takes place in two stages. The first stage consists of the inclusion of new information or an update of existing information, in the internal database of the authority. In the second stage, the “external” register that is published on the authority’s website is updated on the basis of the information included in the internal database as described in table 18 below.

Table 18 – process for updating the register of authorised investment firms

Member	The authorisation or change is included in an internal database	Then the register is updated	The Register is automatically updated
Austria	X	X	
Belgium	X	X	
Bulgaria	X	X	
Czech Republic	X	X	X
Cyprus	X	X	
Denmark	X	X	
Estonia		X	
Finland	X	X	X
France	X	X	X
Germany	X	X	
Greece	X	X	
Hungary	X	X	
Iceland		X	
Ireland	X	X	X
Italy	X	X	X
Latvia	X	X	
Lithuania	X	X	
Luxembourg	X	X	
Malta	X	X	
Netherlands	X	X	X
Norway	X	X	
Portugal	X	X	X

Member	The authorisation or change is included in an internal database	Then the register is updated	The Register is automatically updated
Romania	X	X	
Slovakia	X	X	
Slovenia	X	X	
Spain	X	X	
Sweden	X	X	
UK	X	X	X

234. Many authorities also provided specific information regarding the time frame within which the updating of the register takes place as follows:

- Overnight (NL, PT and UK)
- Monthly (BE)
- Quarterly (RO)
- On a timely basis (LU)
- As soon as the licence is issued or the change is made (AT, CY, EL, ES, IE, IT HU, MT, NO, SI and SK)
- On a regular basis (LT and LV)
- Target on a daily basis the type of authorisation and the monthly the complete list (DK)

The methods that authorities have put in place in order to monitor that investment firms comply with their obligations under Article 16(1) of the Directive

235. The methods authorities use in order to monitor that investment firms comply with their obligations under Article 16(1) of the Directive are set out in Table 19 below, and the documents they require in order to accomplish this monitoring are set out in Table 20 below.

236. As can be seen, there are a lot of commonalities in the methods employed by authorities for these purposes, all conduct desk-based supervision on the basis of the documents regularly submitted to them and other information gathered. A smaller number of countries (22 out of 27) are also conducting on-site inspections. Five (5) authorities stated that they conduct consultations with the investment firms. Authorities conduct their supervision on the basis of information gathered in most of the cases regularly (reports, financial statements etc). Twenty three (23) authorities also gather information by other means/ from other sources.

237. The general conclusion arising out of table 20 is that there is convergence throughout the EU regarding the area/ category of information that the authorities require from the applicant in order to monitor that the investment firm is abiding by its ongoing obligations. However, when it comes down to the specific documents that authorities require and fall under the same general category some divergences are apparent.

Table 19 – Supervisory methods used to monitor investment firm’s compliance with Article 16(1) obligations

Member	Off-site/ desk-based supervision (review of the docs submitted and other info gathered)	On-site inspections	Consultation of the IF with the authority
Austria	X	X	X
Belgium	X	X	
Bulgaria	X	X	
Czech Republic	X	X	
Cyprus	X	X	
Denmark	X	X	
Estonia	X	~	X
Finland	X	X	X
France	X	X	
Germany	X		
Greece	X	X	
Hungary	X	X	
Iceland	X	X	
Ireland	X	X	X
Italy	X	X	
Latvia	X	X	
Lithuania	X	X	
Luxembourg	X	X	
Malta	X	X	
Netherlands	X		
Norway	X	X	X
Portugal	X	X	
Romania	X	X	
Slovakia	X	X	
Slovenia	X		
Spain	X	X	
Sweden	X		
UK	Risk-based supervision	Risk-based supervision	Risk-based supervision

Table 20 – Information gathered by the authorities from investment firms to monitor that they abide by their ongoing obligations

Member	Periodic reports for prudential supervisory purposes	Financial statements and reports	Changes in the facts of the authorisation	Other docs and reports	Info gathered by other means (Newspapers, inquiries, complaints from citizens, competitors etc.)
Austria	X	X	X	X	X
Belgium	X	X	X	X	X
Bulgaria		X	X		X
Czech Republic	X	X	X	X	X
Cyprus	X	X	X	X	X
Denmark	X	X		X	X
Estonia	X	X	X	X	X
Finland	X	X		X	X
France			X		
Germany		X			X
Greece	X	X	X	X	X
Hungary	X	X			X
Iceland		X			
Ireland			X		X
Italy	X	X	X	X	X
Latvia	X				
Lithuania	X		X		X
Luxembourg	X	X	X	X	X
Malta	X	X	X	X	X
Netherlands			X		
Norway	X	X	X	X	X
Portugal		X	X	X	X
Romania	X	X	X	X	X
Slovakia	X	X	X	X	X
Slovenia	X	X			X
Spain	X	X	X	X	X
Sweden			X		
UK	X	X	X	X	X

The process used by the authorities when an investment firm wishes to extend its initial authorisation – Article 8a

238. Twenty (20) out of twenty-eight authorities follow the same process as for the granting of the initial authorisation, as can be seen from the table below.

239. The eight (8) authorities that use a different process to that employed for granting the initial authorisation, use a similar process for extending it. However, the process and the documents that need to be submitted are focused/ targeted at the new activity(ies), such as: a description of the new activities to be carried out including appropriate administrative procedures, description of the effect of the new activity on the company’s risk profile, the capital adequacy and the financial conditions, new internal guidelines, the suitability of the new activity for the organisation etc.

Table 21 - Process authorities use to extend investment firms initial authorisation

Member	The same process	Different process/ documentation
Austria	X	
Belgium	X	
Bulgaria	X	
Czech Republic	X	
Cyprus	X	
Denmark		X
Estonia		X
Finland		X ⁷⁷
France	X	
Germany	X	
Greece	X	
Hungary	X	
Iceland	X	
Ireland		X
Italy	X	
Latvia	X	
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands	X	
Norway		X
Portugal		X
Romania		X
Slovakia	X (the same process applies but on a “where appropriate” basis)	
Slovenia	X	
Spain	X	
Sweden	X	

⁷⁷ In **FI** the process is the same, but it is focussed on the issues that are relevant in each case.

Member	The same process	Different process/ documentation
UK		X

240. This part of this section of the report explains the procedures put in place by the authorities for withdrawing the authorisation of investment firms in the circumstances set out in Articles 8a – 8e of the Directive, i.e. where the investment firm:

- a) does not make use of the authorisation within 12 months;
- b) has obtained the authorisation by making false statements;
- c) no longer meets the conditions under which authorisation was granted;
- d) has seriously and systematically infringed the provisions adopted pursuant to MiFID on the operating conditions for investment firms; and
- e) falls within any of the cases where national law provides for withdrawal.

The process adopted by the authorities for the withdrawal of the authorisation of investment firms under the circumstances set out in Article 8a

241. The process adopted by the authorities can broadly speaking be broken down into three distinct stages as follows:

- 1) Contacting the investment firm;
- 2) Withdrawing the authorisation; and
- 3) Notifying other authorities or third parties of the withdrawal of the authorisation.

1) The authority contacts the investment firm

242. The authority contacts the investment firm either by letter or through discussion as follows:

- a. by a letter (BE, BG, CY, DK, EL, ES, FR, HU, IS, IT, LT, LU, LV, MT, NO, SE, RO, SI and UK); or
- b. in a discussion with the management (AT, BE, DK, FI, NO, SE).

243. The authority asks the investment firm the following:

- a. to explain the reasons why the IF has not made use of its authorisation within 12 months or has not provided any services for the preceding 6 months (AT, CY, DK, EL, ES, IE, LT, LU, LV, MT, RO and NO)
- b. to clarify whether the investment firm intends to perform the investment activities as provided for in its authorisation (AT, BE, FI, IE, IT, LT, LU, LV, MT, PT and RO)
- c. to take all reasonable measures to redress the situation (ES) or grants a further period of time within which an investment firm is to begin providing investment services (MT, NO, PT and UK)

2) The authority withdraws the authorisation in the following circumstances:

244. If the investment firm does not redress the situation (start activities/continue activities) (**AT, BE, CY, DK, EE, EL, FI, HU, IT, LT, LV, MT, PT, SK** and **RO**).
245. The authority withdraws the license it has issued to authorise operations when the license holder has settled all undisputed debts owed to the clients, or if his contractual liabilities are carried forward by commitment from another investment firm (**BE, HU**) or is wound up (**BE, IS**). In case the investment firm renounces its license the authority withdraws the license only after the investment firm has settled its debts to its clients. In the other two cases under Article 8a the authority withdraws the license and informs the investment firm thereof, the latter being obliged by law to take the necessary steps to transfer its clients' assets to another investment firm (**BG**). The authority may set certain conditions and requirements, which must be satisfied before the investment firm is permitted to terminate operations (**BG** and **HU**). Upon the delivery of the authority's decision on withdrawal of authorisation to the investment firm, the latter may not provide investment services, except for those which are necessary to settle the debts and liabilities vis-à-vis clients (**SK**).
246. The authority starts the procedure to withdraw the initial authorisation and the final decision shall be made by the Minister of Economy and Finance (**ES**) and respectively the Minister of Treasury and Budget (**LU**).

3) Informing other authorities or third parties about the withdrawal of the authorisation

247. In the final stage of the withdrawal of authorisation process, in light of the cross border nature of the authorisation process under MiFID, as well as the number of different authorities involved at a national level this final stage involves notifying others of the withdrawal as follows:
- If the firm is providing cross-border services, the authority informs the host state authority (**BE**), host state authority and the Bank of Greece and the Ministry of development (**EL**);
 - The authority will inform the Central Bank (**BE, IT**);
 - The media and the legal gazette (**BE, IS**);
 - The authority will inform only the host competent authority about the withdrawal of authorisation. It will as well inform the public by means of its website and its monthly newsletter (**LU**);
 - The Commercial Bulletin and the Companies Register shall be notified of the withdrawal by the authority (**SK**).

The process of withdrawal of authorisation in the circumstances described in Article 8(b)-(e)

248. Overall, as can be seen from table 22 below, the process of withdrawal of authorisation in the circumstances of Article 8(b)-(e) of Mifid is the same as the procedure described above for withdrawal of authorisation in the circumstances of Article 8(a), with nineteen (19) out of twenty-eight (28) countries adopting the same process and nine (9) countries adopting a different procedure, which is set out in table 23 of this report.

Table 22 – Countries that follow the same procedure and countries that follow different procedure

Member	The same process	Different Procedure
Austria	X	
Belgium		X
Bulgaria	X	
Czech Republic	X	
Cyprus	X	
Denmark	X ⁷⁸	
Estonia		X
Finland	X	
France		X
Germany		X
Greece	X	
Hungary		X
Iceland	X	
Ireland		X
Italy		X
Latvia	X	
Lithuania	X	
Luxembourg		X
Malta		X
Netherlands	X	
Norway	X	
Poland	~	~
Portugal	X	
Romania	X ⁷⁹	
Slovakia	X	
Slovenia	X	
Spain	X	
Sweden	X	
UK	X	

⁷⁸ If the firm has obtained the authorisation by making false statements or by any other irregular means, the authority will denounce the investment firm to the police or other authorities who can impose sanctions for false declarations.

⁷⁹ If the firm has obtained the authorisation by making false statements or by any other irregular means, the authority will denounce the investment firm to the police or other authorities who can impose sanctions for false declarations.

Table 23 - showing those countries that adopt a different procedure for withdrawing authorisation in the circumstances of Articles 8(b)-(e) of the Directive compared to the procedure adopted for the withdrawal in the circumstances of Article 8(a)

Member	Additional requirements
Belgium	<p>If the CBFA finds that:</p> <ul style="list-style-type: none"> - an investment firm is not operating in accordance with the legal and regulatory provisions regarding the status of an investment firm; - the management or the financial situation of an investment firm is likely to prevent it from honouring its commitments, or does not offer sufficient guarantees for its solvency, liquidity or profitability; - the management structure, administrative and accounting procedures or internal control systems of an investment firm present serious deficiencies; - an investment firm seriously and systematically infringes the rules of conduct imposed upon it under Belgian law; - an investment firm has obtained its authorisation by making false statements or by any other irregular means; <p>it determines the deadline by which the situation must be rectified. If the situation has not been rectified by this deadline, the CBFA may:</p> <p>1° appoint a special auditor.</p> <p>1°bis lay down supplementary requirements in respect of solvency, liquidity, risk concentration or other limitations other than those provided for under normal circumstances by the Law;</p> <p>2° suspend, for a period determined by the CBFA, the direct or indirect exercise of all or part of an investment firm's activities, or prohibit these activities altogether. The CBFA may also direct an investment firm to cede participating interests that it owns;</p> <p>3° order the investment firm's directors or managers to be replaced within a period determined by the CBFA, failing which, it may replace the entirety of the investment firm's decision-making or management bodies with one or more temporary directors or managers who will, individually or jointly as the case may be, have the same powers as the persons being replaced.</p> <p>4° withdraw all or part of the authorisation.</p>
Estonia	<p>The decision of withdrawing the activity license is based on specialists' analysis of all available information. The conclusions and the proposal for the decision are based on preconditions for revoking the authorisation (inconclusive):</p> <ul style="list-style-type: none"> - it has been established that the investment firm has submitted misleading or inaccurate information or misleading or falsified documents; - the investment firm has repeatedly or materially violated provisions of legislation regulating the activities thereof, the investment firm or its manager has been punished for an economic offence, official misconduct, offence against property or offence against public trust or the activities of the investment firm are not in compliance with good business practice; - the investment firm does not meet the requirements in force with regard to the issue of activity licenses;



Member	Additional requirements
	<ul style="list-style-type: none"> - in the opinion of the EFSA, the manager of internal auditor of the institution or a person having a qualifying holding in the firm does not meet the requirements provided for in the law; - the institution has failed to implement a precept of the EFSA within the term or the extent prescribed; - the investment firm is unable to perform the obligations it has assumed or if, for any other reasons, its activities significantly damage the interests of clients; - the amount of own funds does not comply with the requirements; - the institution engage in money laundering, or violates the procedure established by legislation for the prevention of money laundering or terrorist financing; - the institution belongs to a consolidation group the structure of which prevents the receipt of information necessary for supervision on a consolidated basis; - the institution fails to pay contributions to the Investor Protection Sectoral Fund prescribed in the Guarantee Fund Act; - the institution has published materially incorrect or misleading information or advertising concerning its activities or members of its directing bodies.
France	<p>Both the French Banking Commission (for investment services providers other than the asset portfolio management and the AMF (for asset management companies) are vested with withdrawal of authorisation as a sanctioning power. This sanction is decided by the French banking Commission or by the AMF on their own and after due investigation. In addition, if the CECEI deems appropriate, it may refer a case to the French banking Commission for sanction.</p>
Germany	<p>After the Deutsche Bundesbank has ascertained the facts, BaFin will consult with the institution. BaFin must take into account all circumstances of the individual case (discretionary decision weighing the interests of the parties involved) when deciding whether the authorisation is revoked. Alternatively, an authorisation which has been obtained by irregular means may be revoked with effect from a future date.</p>
Hungary	<p>The authority does not send a warning letter.</p>
Italy	<p>In these circumstances the withdrawal is declared by the Ministry of Finance, upon Consob (or the Bank of Italy, depending on respective jurisdiction) proposal. Then, the firm is subjected to a mandatory administrative liquidation, which is under the Bank of Italy responsibility, aimed at ensuring the restitution of financial instruments and cash to the investors.</p>
Ireland	<p>When the Financial Regulator proposes to withdraw an authorisation to operate as an investment firm or to apply to the Court for an order to revoke an authorisation to operate as an investment firm, the Financial Regulator shall serve notice on the investment firm of its intention and state its reasons in the notice.</p>

Member	Additional requirements
Luxembourg	The CSSF firstly requests the investment firm to take position on the CSSFs' observations either by exchange of mail or during a meeting. If the investment firm does not redress the situation (e.g. recapitalisation), the CSSF shall then resort to its powers of injunction and/or suspension. Has the situation not been redressed within a given timeframe, the CSSF asks the competent Minister to urgently withdraw the authorisation.
Malta	The process leading to the withdrawal of such a licence may be summarised in the following steps: (a) identification of the significant breach (b) investigation of the said breach by MFSA officials (c) MFSA writes to the investment firm highlighting its concerns and requesting representations from the investment firm within a set deadline. (d) a report of the outcome of such investigation and the investment firm's representations, if any is sent to Supervisory Council of the MFSA together with a recommended course of action on the basis of the investigation's outcome and the representations, if any, received from the investment firm. (e) Supervisory Council decides whether to go ahead with the withdrawal of the investment firm's authorisation on the basis of the fact the investigation referred to in (b) above confirms a significant breach which is not justified by the investment firm's representations, if any. (f) MFSA confirms the Supervisory Council's decision to the investment firm.

249. The following part of this section of the report looks at the supervisory processes employed by the relevant entities when dealing with those changes to aspects of the investment firm's management and qualifying holdings that were reviewed when granting the initial authorisation]

250. Comparison is made between the processes adopted in assessing the investment firms adequacy for initial authorisation and those adopted in assessing the impact of subsequent changes to the investment firm in respect of:

- It's management which may have an impact on whether or not the investment firms management is still considered to be of sufficiently good repute and experience; and
- the nature of it's qualifying holdings or the size of those holdings that may have an impact on the sound and prudent management of the investment firm.

Changes to the investment firm's management which may have an impact on whether or not the investment firm's management is still considered to be of sufficiently good repute and experience

251. As can be seen from the table 24 below, for the majority of countries twenty six (26) the process through which authorities ensure that those who direct

the business meet the requirements to be of sufficiently good repute and experience when authorising the investment firm is the same as the one employed when assessing whether changes to a firm’s management impact on the assessment of whether management is of sufficiently good repute and experience.

Table 24 – Comparison of process used in assessing the adequacy those who direct the business when authorising an investment firm versus the process employed when assessing the impact of management changes

Member	No difference to authorisation process (described in question 87)	Different processes
Austria	X	
Belgium	X	
Bulgaria	X	
Cyprus	X	
Czech Republic	X	
Denmark	X	
Estonia	X	
Finland	X	
France	X	
Germany		Requires notification when a firm appoints a person with sole power to represent the firm, although no actual difference to assessment process.
Greece	X	
Hungary	X	
Iceland	X	
Ireland	X	
Italy		Information on firms’ management is usually collected on an ongoing basis and that it assesses any notification of change. If the firm no longer satisfied the requirements, the firm’s board or CONSOB can declare termination of the office.
Latvia	X	
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands	X	
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia	X	
Spain	X	
Sweden	X	

Member	No difference to authorisation process (described in question 87)	Different processes
UK	X	

Changes in the nature and size of the investment firms qualifying holdings.

Differences from the process described when granting the investment firm its authorisation (see paragraph [209-218] above), to the process for assessing whether changes to the nature of qualifying holdings or the size of those holdings impact upon the need to ensure sound and prudent management of an investment firm – Article 9(3)

252. As can be seen from table 25 below, twenty three (23) Members do not use a different process when assessing whether changes to qualifying holdings or the size of those holdings impact upon the need to ensure sound and prudent management of the investment firm to the process used when authorising the investment firm. For those countries where a different process is used, this is described in table 25 below.

Table 25 – Comparison of process used for granting an investment firms initial authorisation (in terms of who has a qualifying holding) versus the one used to assess changes to nature of qualifying holdings

Member	No difference to authorisation process (i.e. prior approval as described in paragraph 223)	Other
Austria	X	
Belgium	X	
Bulgaria	X	
Cyprus	X	
Czech Republic	X	
Denmark	X	
Estonia	X	
Finland	X	
France	X	
Germany	X	
Greece	X	
Hungary	X	
Iceland	X	
Ireland		Increases require approval, decreases require notification and submission of controlling interests annually (pursuant to Article 10(5))
Italy	X	Central bank is competent authority
Latvia	X	

Member	No difference to authorisation process (i.e. prior approval as described in paragraph 223)	Other
Lithuania	X	
Luxembourg	X	
Malta		Increases require approval, decreases require notification and submission of controlling interests annually pursuant to Article 10(5)
Netherlands	X	Central bank is competent authority
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia		Require notification of changes and in particular an owner has to inform the SMA if they intend to sell an amount of shares which would mean that they no longer have a qualifying holding after the transaction.
Spain	X	
Sweden	X	
UK		Increases require approval, decreases require notification and submission of controlling interests annually pursuant to Article 10(5)

253. The next section of this report describes the methods employed by the authorities for supervising how investment firms meet their MiFID obligations in respect of:

- The execution of orders on behalf of their clients; and
- Carry out their activities honestly, fairly and professionally and in a manner that promotes the integrity of the market.

Methods employed by the authorities to supervise how investment firms execute orders on behalf of their clients

How authorities supervise that investment firms, authorised to execute orders on behalf of clients, implement procedures and arrangements which provide for the prompt, fair and expeditious execution of client order, relative to other client orders or the trading interest of the investment firm as required by Article 22 and its implementing measures as set out in Article 47– 48 Implementing Directive

254. Some Members’ desk-check a firm’s control environment, which is then used as the basis for undertaking supervisory visits during which the systems and

controls are checked and verified (BE, BG, CY, CZ, DK, HU, IE, MT, PT⁸⁰ and SI). Others (AT, ES, DE, EE, EL, FI, FR, IT, LU, NL, NO, RO and UK) inter alia, utilise audit reports, accounts and individual firm supervision, and ES and PT rely also upon the authorisation process as an initial step.

Methods employed by authorities to supervise how investment firms carry out their activities honestly, fairly and professionally and in a manner that promotes the integrity of the market – Article 25

255. As can be seen from the table 26 below, the clear majority of authorities (25) employ transaction reports and supervision to ensure that investment firms act in a manner that promotes the integrity of the market.

Table 26 - what authorities use in order to ensure that investment firms act in a manner that promotes the integrity of the market

Member	Transaction reports and supervision (spot checks and/or ongoing)	Supervision	Other comments
Austria	X		
Belgium	X	X	Desk-checking then verification on-site
Bulgaria		X	On-site and off-site
Cyprus	X		
Czech Republic	X (developing transaction reporting tool)		
Denmark	X		
Estonia		X	Desk-checking and on-site (if required)
Finland	X (developing transaction reporting tool)		
France	X		
Germany	X		
Greece	X		
Hungary	X		
Iceland	X (developing transaction reporting tool)		
Ireland		X	
Italy	X		Ongoing supervision on both qualitative and quantitative information; then special reviews for riskier firms

⁸⁰ This involves different crosschecks of parallel data, starting in the order received by the client and finishing in the information provided to the client about the order execution. Examples of data examined and compared: telephone records, the order register made by the firm, the order placed in the market and the operation register in the client accounts.

Member	Transaction reports and supervision (spot checks and/or ongoing)	Supervision	Other comments
Latvia	X		
Lithuania	X	X	
Luxembourg	X		
Malta	X		
Netherlands	X		
Norway	X (developing transaction reporting tool)		
Portugal	X	X	On-site
Romania	X		
Slovakia	X		
Slovenia	X		
Spain	X		
Sweden	X		
UK	X		

256. In general, authorities employ similar practices in monitoring that the activities of investment firms promote the integrity of the market.
257. The next section of this part of the report deals in some detail with the general type of supervisory model that authorities use in order to supervise that investment firms abide by their MiFID obligations.
258. The questions asked to elicit this information were not related to any particular MiFID article, and were generic in nature. The information set out below gives a broad overview of the type of supervision that authorities use.

Whether the supervisory process for ensuring ongoing compliance is ‘risk based’ and whether the risk-based approach to supervision ensures that all activities performed by firms subject to the Directive, are supervised. If not, what factors are considered in determining which areas are selected for review and which of these factors are considered the most important. How often are the factors reviewed. E.g:

- a) size of entity
- b) complexity of entity / business model
- c) risk of investment strategies
- d) data on breaches of Directive requirements
- e) accounting data
- f) data on client complaints
- g) market signals

259. A total of eighteen (18) countries employ a risk-based approach to supervision and 22 countries monitor all activities as can be seen from the table below:

Table 27 – The nature of the supervisory process used for ensuring investment firms ongoing compliance



Member	RBA	All activities supervised	Other Responses, most important factors
Austria	X	X	
Belgium	X	X	
Bulgaria	Some RBA	X	
Cyprus	No	X	a,b,e,f,g
Czech Republic	X	X	
Denmark	X	X	
Estonia	No, all entities reviewed	X	a, b, c, and g
Finland	X	X	
France	RBA in development	X	
Germany	Some RBA		a, b, d, e, and f
Greece	X	X	
Hungary	X	X	
Iceland	X		a, b, most important considerations
Ireland	X	X	
Italy	Some RBA	X	
Latvia	Some RBA	X	
Lithuania	Some RBA	X	
Luxembourg	X	X	
Malta	X	X	
Netherlands	X	X	
Norway	X	X	
Portugal	X	X	
Romania	Some RBA	X	
Slovakia	X		b, c, and g
Slovenia	X		b, d, f and g
Spain	X	X	
Sweden	X	X	
UK	X	X	

260. Most Members using a risk-based approach rate risk as impact multiplied by probability of a risk crystallising. **SE** and the **UK** highlighted how they also operate on a ‘principles-based approach’ to regulation.
261. The qualified responses to the question, detailed how some, utilise a risk-based approach in part. **IT** and **RO** for example, desk review all entities, which means, that they do not take a fully risk-based approach.
262. Complexity of the entity and business; data on breaches; and data on client complaints were highlighted the most often as being the most important issues in determining which areas were selected for review.
263. Similarly a number of authorities also said that while any activity could be reviewed, the regulatory authority would review activities on a risk-based

approach. **ES** summarised the position by stating that the most important issues are reviewed most frequently depending on specific issues at the time rather than a prescriptive rotation through issues. There seems to be consensus that a risk based approach leads to appropriate, flexible and proportionate supervision. Additionally the **UK** also described how it also undertakes horizontal (that is thematic) reviews as well as vertical (firm-specific) reviews allowing it to focus on risk in the most effective way. **EL, FR** and the **NL** also undertake thematic reviews.

For activities not considered ‘high priority’, the type of monitoring to which investment firms are submitted

264. A total of twenty two (22) Members use baseline supervision (both on-site and off-site) to supervise activities that are not considered to be ‘high priority’ as can be seen from the table 28 below:

Table 28 – Type of monitoring used for investment firm activities that are not considered high priority

Member	Baseline supervision	Other Comments
Austria	X	
Belgium	X	Rely on firms own systems and controls and/or off-site review
Bulgaria	X	
Cyprus	X	
Czech Republic	X	
Denmark		Self-assessment questionnaires
Estonia	X	Quarterly reports and annual meetings
Finland	X	
France	X	
Germany	X	
Greece	X	
Hungary	X	
Iceland		Only off-site review
Ireland	X	
Italy	X	
Latvia	X	
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands	X	
Norway	X	
Portugal		Only off-site review
Romania	X	CNVM monitors activities of all firms
Slovakia	X	
Slovenia		Minimum baseline supervision and close monitoring for high risk firms
Spain	X	
Sweden		Only off-site review

UK		Minimum baseline supervision and close monitoring for high risk firms
----	--	---

265. Baseline supervision is business as usual; routine supervision that could be on-site or off-site, depending on the issue or activity being reviewed, and takes place within the normal supervisory plan.

Does the supervisory approach give rise to a plan which provides for a review of all entities subject to the Directive within a given time frame and if so what is the time scale for ensuring that all firms subject to the Directive are reviewed? How often is the supervision plan reviewed?

266. Generally, most Members' use an annual supervision plan for firms with a review period of three years being the most common as can be seen from the table 29 below:

Table 29 – Supervisory approach to supervisory plans for reviewing investment firms

Member	Review All Entities?	Time period	Supervision Plan time period	Other response
Austria	No	Ongoing supervision based on a yearly supervision plan	Annually	Unscheduled review of firms due to recent occurrences
Belgium	X	3 years	Annually	
Bulgaria			Annually	Will review all firms no sooner than 2009
Cyprus	X	4 years	1-2 years	
Czech Republic	X	5 years	Annually	
Denmark	X	2 – 6 years	Annually	
Estonia	No, ongoing monitoring	3 years	Annually	No given time-frame
Finland	No, thematic approach ⁸¹		Bi-annually	
France	No, ongoing monitoring		Annually	
Germany	X	3 years	Annually	
Greece	No, ongoing		Annually	

⁸¹ In FI the thematic approach does not have a fixed time frame for a single entity. However, the thematic approach does not exclude all entities either. On the contrary, an effort is taken to make sure that a single entity will be covered one way or another.



Member	Review All Entities?	Time period	Supervision Plan time period	Other response
	monitoring			
Hungary	X	2 years	Quarterly	
Iceland	No			The FME has no supervision plan
Ireland	X	3 years	Annually	
Italy	X		Annually	
Latvia	X	3 years	Annually	
Lithuania	X	3 years	Bi-annually	
Luxembourg	No	Ongoing monitoring	Annual	Inspects a firm sample and examines for all investment firms the prudential reports covering MiFID provisions.
Malta	X	1-3 years		
Netherlands	No, ongoing monitoring			
Norway	X	2-3 years	Bi-annually	
Portugal	X	4 years	Annually	
Romania	X	1-3 years	Annually	
Slovakia	X	2 years	Annually	
Slovenia	X	1 year	Annually	
Spain	X	1 year	Annually	The time period refers to the main ongoing off-site supervision actions of investment firms
Sweden	X	1 year	Annually	
UK	X	1 – 4 years	Annually	

267. Under a risk-based approach to supervision, high risk firms are reviewed much more frequently.

The activities that are monitored on a desk-based approach and the activities that are subject to on-site monitoring

Table 30 – Use of desk-based approach and on-site monitoring



Member	Mainly Desk-based	Can be either on-site or off-site	Other comments
Austria		X	
Belgium		X	<p>On site supervision is focused on the assessment of the adequacy of the organisation of the firm: organisation of the activities, of the internal control, of the control of functions (compliance, risk management, internal audit), governance etc.</p> <p>Off site supervision is more focused on:</p> <ul style="list-style-type: none"> - the assessment of procedural aspects (does the firm have all the requisite policies? Does the firm have an internal audit plan?); - the assessment of shareholders and of the persons who direct the business
Bulgaria		X	
Cyprus		X	All activities are subject to on-site reviews
Czech Republic		X	
Denmark		X	
Estonia		X	On-site inspections if necessary
Finland		X	
France		X	
Germany		X	
Greece		X	All on-site inspection may take the form of a full audit, which covers the overall compliance of the firm or of a thematic one
Hungary	X		
Iceland	X		Activities subject to on-site monitoring are dealing on own-account, portfolio management, investment advising and advising undertakings
Ireland	X		

Member	Mainly Desk-based	Can be either on-site or off-site	Other comments
Italy		X	
Latvia		X	All activities reviewed on a routine basis, the less critical ones are monitored either off-site or less frequently
Lithuania	X		
Luxembourg	X		On-site inspections if necessary.
Malta	X		
Netherlands		X	
Norway		X	All activities are subject to on-site reviews
Portugal		X	CMVM does not separate supervision in this way
Romania		X	
Slovakia	X		
Slovenia		X	
Spain		X	
Sweden		X	Approach depends on the issue, most on-site focus is on organisation and business activities
UK		X	

268. A clear majority of authorities view activities as being subject to whichever review mechanism seems most appropriate for that specific activity and/or issue. In this way risks can be monitored, escalated and downgraded from desk supervision to visits and then back down to desk review in a proportionate and flexible manner.

269. A smaller number of countries specifically highlighted which activities they usually review on-site and off-site. Accounts, audits, and financial statements all feature heavily as activities that can be monitored off-site as part of 'desk-based' monitoring. Conversely, client categorisation, clients assets, firm controls, organisation and policies and procedures all feature as activities that are more easily reviewed using on-site monitoring.

Where different from the process described in the general monitoring section please describe the process for ensuring that a branch established within your territory complies with obligations under Articles 19, 21, 22, 25, 27 and 28 – Article 32(7)

270. The responses to this question were almost unanimous in stating that there was no difference to the general monitoring regime within that territory.

271. AT responded that branches also have to submit an annual electronic analysis questionnaire specially adopted according to the programme of operations of branches to the FMA.

The process adopted for inter-authority consultation to ensure the exchange of all information that is of relevance for ongoing assessment of compliance with the operating conditions with regard to the suitability of the shareholders or members and the reputation and experience of persons who effectively direct a business – Article 60(3)

272. All of the responses to this question described that Members would consult with other regulators if required. Most Members’ gave the responding authority three months to reply, and if no response was received then they considered that there was no relevant information pertaining to the suitability question:

Table 31 – Process adopted for inter-authority consultation for ongoing assessment of compliance with operating conditions regarding suitability

Member	Request and exchange information	Specifically by written medium	Other
Austria		X	
Belgium		X	
Bulgaria		X	
Cyprus		X	
Czech Republic	X		
Denmark		X	
Estonia	X		
Finland		X	
France		X	
Germany		X	
Greece		X	
Hungary		X	
Iceland		X	
Ireland			Will share info where appropriate
Italy		X	
Latvia	X		
Lithuania	X		
Luxembourg	X		
Malta	X	X	
Netherlands	X		
Norway		X	
Portugal	X		
Romania		X	
Slovakia		X	
Slovenia		X	
Spain		X	
Sweden			Supervision reviews all information
UK			Approach depends on risk firm poses

How authorities monitor as set out in Article 17(1) of the Directive that the activities of an investment firm comply with the operating conditions provided for in the Directive

273. The majority of authorities use internal and external audit reports, annual accounts, prudential reports and other sources of information, as well as on-site and off-site supervision in order to monitor investment firms compliance with the Directive. The information used by the competent authorities is very diverse and covers almost any information source.
274. Six (6) members (BE, BG, MT, NL, RO and SI) use all off-site supervision to approve controls, policies and procedures and then verify these on-site.
275. Please see Table 8 paragraph 218 of Section I of this report for further information on the type of documentation gathered by the competent authority.

How authorities ensure that when an investment firm provides an investment service and / or ancillary service to clients, it complies with the conduct of business rules in accordance with Article 19 of the Directive and it's implementing measures as set out in Article 24 Implementing Directive

276. The methods used by the authorities to ensure that investment firms comply with conduct of business rules are the same as those used for the supervision of investment firm's compliance with their obligations as set out in Article 16(1) and the requirements to execute orders on behalf of their clients. Overall, ongoing supervision is the key method of inducing compliance with conduct of business rules.
277. Despite the differences in emphasis of the responses to the question, all supervisory authorities rely on ongoing supervision to ensure compliance and in effect there appears to be a common approach adopted throughout the CESR membership.

Section II – Regulated Markets and Multilateral Trading Facilities

278. This section of the report gives an overview of how regulated markets and Multilateral trading facilities are authorised and supervised throughout the membership. Following the review of the responses to these sections of the questionnaire- it is apparent that overall the authorisation and supervision of regulated markets under the new MiFID provisions is relatively new for some, especially in light of the fact that there was a grandfathering provision allowing those regulated markets that were already categories as such to be classified as such under MiFID without the need for undergoing a new authorisation process.

279. This section of the report is divided as follows:

Part A – Authorisation, supervision of authorisation requirements and withdrawal of authorisation of regulated markets – paragraphs 281-296;

Part B – Ongoing supervision of regulated markets – paragraphs 297-317;

Part C – Multilateral trading facilities (MTFs) – paragraphs 318

280. For a detailed explanation of the consequences for regulated markets and MTF's that do not meet their MiFID obligations please see paragraph 442-447 of Part C of this report.

Part A – Authorisation, supervision of authorisation requirements and withdrawal of authorisation of regulated markets

281. Part A of Section II of Part B of this report is divided as follows:

- 1) **The processes used for authorising regulated markets – paragraphs 282-288;**
- 2) **The process used for supervising changes to regulated markets that may have an impact on the authorisation requirements – paragraphs 289-293;**
- 3) **The withdrawal of regulated markets authorisation – paragraphs 294-296;**

1) The processes used for authorising regulated markets

282. As the purpose of the questionnaire was to ascertain what is done under the provisions of MiFID as opposed to its predecessor ISD and as there have been few (if any) new regulated markets authorised since the implementation of MiFID many of the responses in relation to authorisation were not very detailed.

How authorities check that the regulated market complies with all requirements to authorisation as a regulated market? – Article 36(2)

283. The process adopted by authorities in order to check that regulated markets comply with all their authorisation requirements are not identical and are set out in more detail in table 32 below.

Table 32 – Process for checking regulated markets compliance with all authorisation requirements

Member	Description of process
Austria	January 2008, an organisational directive was submitted to the FMA by the Vienna Stock Exchange on request of the FMA.
Belgium	Authorisation as a regulated market is granted by the Belgian Minister of Finance after advice of the CBFA. In order to assess whether these conditions are fulfilled the market operator submits a file to the Ministry of Finance. The application is subject to a full review by the CBFA and approval procedure based on the requirements set forth by the law implementing MiFID. After that the authorisation has been granted by the Minister of Finance, the CBFA is also competent to ensure that the requirements are fulfilled at all times.
Bulgaria	An application and a registration form shall be filled. The FSC shall determine whether the requirements for issuing the requested license have been satisfied on the basis of the submitted documents.
Cyprus	The Law regarding the operation of a regulated market establish the requirements, the CySEC analyses the information.
Czech Republic	Application procedure: the requirements for authorisation as a regulated market is checked during regular off-site inspections or ad hoc when changes in prerequisites for the performance of the activities of a regulated market are announced or found.
Denmark	Not a pre-established process but some documents are required. Presentation of their organisation, description of their planned business, memorandum of association, rules of the board of directors, description of the tasks to be carried out by the staff and information regarding the companies fulfilment of the organizational requirements, internal control, compliance, risk management, three years business plan for the company contending balance sheet, off-balance sheet and profit and loss account, fit and proper forms from the persons in the board of directors, the directors and the shareholders of the company.
Estonia	The following documents has to be presented to the EFSA, a copy of the articles of association, an application, its financial statements of the latest three years, a business plan, information on the size of own funds and accounting balances, the regulation of the regulated market, an analytical organisational , conflict of interests, accounting policies and procedures or draft thereof, information on the auditor of the applicant, information on the shareholders or members of the applicant information related to the outsourcing.
Finland	The practical details of the authorisation process will be established when needed. Depending on the MoF's request of a statement, we or the MoF asks the applicant to provide the necessary information to evaluate the persons who effectively direct the business, the persons exercising significant influence over the management of the regulated market, the programme of operations, financial resources, ADP systems, contingency arrangements, management of operational and other risks, processes and internal controls.
France	Recognition as a regulated market is decided by order of the Minister of Economy on a proposal from the AMF The requirements include the entities articles of association; its internal regulations; the CV of the directors and officers; the identity of the persons in position to manage and the amount of their holding as well as the identity of the shareholders

Member	Description of process
	<p>owning directly or indirectly, alone or in concert, 10% or more of the capital; a programme of operations setting out the organisations and resources of the operator; the latest annual accounts and the financial resources available to the regulated market; agreements for outsourcing the management of trading systems and information dissemination systems.</p> <p>The college of regulators and the American Securities and Exchange Commission (SEC) have agreed for cooperation on future developments with regard to the NYSE Euronext holding company that are likely to have consequences in the USA and in Europe, including changes to the articles of association, changes in ownership and alliances. Since then, there has not been any new entity requesting authorisation as a regulated market.</p>
Germany	The control of the compliance with the requirements is mainly cause-oriented. But based on the annual report the requirements the operating company has to meet are controlled regularly.
Greece	The HCMC requires from an applicant market operator to submit the following information: An application accompanied by financial statements of the last three years, business plan, Rule book of the regulated market, Organisational chart, Information for the existing arrangements for managing conflicts of interests, Information for the existing systems to identify risks, Information for the existing mechanisms to cope with risks of systems disruptions, contingency plan and crisis management, Information for the systems for clearing and settlement of transactions, Information related to the outsourcing of functions to third persons. Also the HCMC may pose additional questions to the market operator in relation to matters that need further clarification. The Board of Directors of the HCMC issues a decision and grants the relevant authorisation to the market operator whenever the latter fulfils the relevant requirements provided by in the national law.
Hungary	<p>As part of the authorisation procedure the HFSA may conduct on-site inspections to check whether all requirements for authorisations are satisfied. If the regulated is an exchange market/stock exchange the authorisation procedure consists of two steps: at first licensing the foundation and then the activities:</p> <p>In the case of an MTF the market operator is given a license of operation.</p>
Iceland	The FME monitoring is subject to both on-site and off-site inspections.
Ireland	Each individual requirement would be checked against the rules and procedures that govern the membership and operation of the regulated market
Italy	The Consob receives the request for authorisation which shall include a program of activities and the organizational structure of the applying company. The Consob can establish informal meetings. Once the authorisation is granted, Consob inserts the regulated market in the relevant register.
Latvia	The applicant has to submit to the FCM a file containing all the legally required information and any other relevant information. The FCMC checks if the file is complete, the documents are up to date and all the information given is true and accurate.
Lithuania	The applicant must provide the LSC a file containing all the legally required information. The LSC checks the completeness,

Member	Description of process
	relevance, originality and accurateness of provided documents. The applicant may be asked to complete the documents or specify the information if any documents are missing or out of date.
Luxembourg	Authorisation is based inter alia on the transmission of a standard file containing information and documentation. The CSSF consults the competent authorities of other EU Member States or non EU Member States not systematically but when necessary.
Malta	Regulated Markets Regulation 2007. This information would be reviewed by MFSA officials who are required to verify whether the setup of the applicant and its policies and procedures comply with the applicable authorisation requirements.. Members of the regulated markets governing body and senior management are to submit a personal questionnaire form and will be subject to a fit and proper test by MFSA. The MFSA's Council decides whether an authorisation should be granted.
Netherlands	The AFM conducts interviews with management and assesses all necessary rules and procedures which are required resulting from Dutch securities law. Before authorisation the AFM will specifically have regard to: Management risk(sufficient experience and soundness of management and suitability of persons who exercise significant influence over the platform), organisational risk, system risk(operational data processing and outsourcing), clearing and settlement risk, financial risk(financial resources), fair trading rules, pre and post trade transparency, access (non discriminatory access criteria for participants and non discriminatory access criteria for products) and monitoring (member compliance and communication with the AFM)
Norway	<p>The applicant has to submit to Kredittilsynet an application containing all the legally required information and any other information. The articles of association, the certificate of registration, the plan of operations, where relevant, information on outsourcing should be supplied; information on accounting and information on funding. Requirements on capital; details on the shareholders and a group structure chart; internal organizational routines; Requirements on good reputation and experience.</p> <p>The Ministry of Finance is the licensing authority. Kredittilsynet prepares a recommendation to the Ministry of Finance whether authorisation should be granted and on which terms.</p>
Portugal	Authorisation is based in the information provided by the market operator. The following information is required. Definition of the type of institution, draft of the articles of association, Organisational structure and material resources used, description of the markets, identity of the founder members, indication of shares subscribed by each and declaration of undertaking to the effect that on the date of setting-up and as a prerequisite of the same, the amount of capital stock required by law has been deposited with a credit institution.
Romania	CNVM analyses the market rules and the feasibility study. At the same time, CNVM requests a presentation of the trading system and the audit report signed by an IT system auditor and also may request a simulation exercise. The CNVM receives documents regarding the market operator and its regulated market, such as: decisions adopted during shareholders' meeting

Member	Description of process
	and meetings of the board of directors, the annual financial statement, the financial auditor, the activity report of the market operator which contains information regarding: Organisational chart and function chart, delegated powers, structure of the system of internal controls, evaluation of the risk-limitation measures adopted, highlighting any operational issue found and main results of the control activity carried out within the company at the various levels of the structure and particular reference to technological support.
Slovakia	Licence application submitted to the NBS in writing by the market operator. The NBS may, in the process of checking for the authorisation, go for an on-site “inspection” within the market operator to check whether the presented written documents meet with the legal situation.
Slovenia	Statute of corporation, business plan for first three years of operation as the regulated market in from which also procedures for realising organisational legal requirements, list of shareholders with required data about them and other evidences with which applicant proves that legal requirements are met.
Spain	A full memo provided by the Market Operator. Some of the issues that the CNMV checks are: the schedule of activities, detailing the markets organisation structure, the financial instruments that may be traded in it and the services which the governing company plans to provide the draft articles of the Market Rules Book.
Sweden	Sweden compares the information in the relevant requirements of MiFID level 1 and 2 normal practice is to hold one or two meetings with the applicant clarification and additional information is demanded via written or oral procedure.
United Kingdom	Any application should be accompanied by the information, evidence and explanatory material (including supporting documentation) necessary to demonstrate to the FSA that the recognition requirements and in the case of a UK RIE, the MIFID implementing requirements are satisfied.



284. In terms of the information that Members request from those wishing to operate regulated markets, the following types of information is asked for as can be seen from the table below.
285. Twenty three (23) Members check the financial information and organisational structure of the regulated markets. Some jurisdictions (as **BE, BG, DE, EE, EL, ES, FI, FR, IT, MT, NL, NO** and the **UK**) request additional requirements. In NL a map of complete risks is required.



Table 33 – Information requested from those wishing to operate regulated markets

Member	Financial Information	Structure of the Market's organisation	Financial instruments that could be traded	Additional requirements
Austria	X	X	X	
Belgium	X	X	X	Adequate mechanisms and procedures to avoid and detect market manipulation, business continuity planning and disaster recovery; evidence of fit and proper status for managers and shareholders; adequate professional experience for managers
Bulgaria	X	X	X	Program of activities, information on the premises, technical equipment and IT resources.
Cyprus	X	X	X	
Czech Republic	X	X	X	
Denmark	X	X	X	
Estonia				The accuracy of the information is verified using public registers.
Finland	X	X	X	Confirmation of the Finnish authority by the Ministry of Finance that it has assessed the requirements of market operator and the systems compliance with the MiFID requirements for authorisation.
France				A programme of operations setting out the organisations and resources of the operator; the agreements for outsourcing the management of trading systems and information dissemination systems.
Germany				e.g. information on outsourcing.
Greece	X	X	X	Information about outsourcing
Hungary	X	X	X	
Iceland	X	X	X	
Ireland				
Italy	X	X	X	
Latvia	X	X	X	
Lithuania	X	X	X	
Luxembourg	X	X	X	



Member	Financial Information	Structure of the Market's organisation	Financial instruments that could be traded	Additional requirements
Malta	X	X	X	A regulated market which is applying for authorisation is required to provide MFSA with all the information, necessary to enable MFSA to satisfy itself that the regulated market has established, at the time of initial authorisation, all the necessary arrangements to meet its obligations, on an ongoing basis. In particular the applicant must satisfy MFSA that it complies with authorisation requirements both at application stage as well as on an ongoing basis. ⁸²
Netherlands	X	X	X	
Norway	X	X	X	Detailed information is required with respect to the IT-systems
Portugal	X	X	X	
Romania	X	X	X	
Slovenia		X	X	
Slovakia	X	X	X	
Spain	X	X	X	Reviewing the relevant market's Rule Book
Sweden	X	X	X	
United Kingdom	X	X	X	The detailed requirements are set out in Chapter 2 of the recognised investment exchanges and recognised clearing houses (REC) sourcebook

⁸² The information submitted by the applicant would be reviewed by MFSA officials who are required to verify whether the setup of the applicant and its policies and procedures comply with the applicable authorisation requirements. Members of the Regulated Market's governing body and senior management are to submit a Personal Questionnaire form and will be subject to a fit and proper test by MFSA (as described in paragraphs 221-222 and Table 10). Further to the said review a recommendation on whether the authorisation should be issued is made by the management team of the Securities Unit responsible for the processing of applications to the MFSA's Supervisory Council which Council in turn decides whether an authorisation should be granted.

How authorities ensure that those who direct the business and operations of the regulated market meet the requirements to be of sufficiently good repute and experience – Article 37(2)

286. As can be seen from the table below, an assessment of the requirements to be considered as being of sufficiently good repute and experience, is ensured by assessing the following information from which it can be seen that:

- Eighteen (18) Members require a questionnaire with regard to good reputation and experience,
- Twenty-seven (27) Members demand a CV supported by college and university degrees,
- Twenty-six (26) Members require an assessment of fitness and propriety,
- Twenty-two (22) Members require experience,
- Twenty-six (26) Members require a certificate of non criminal records,
- Twenty- one (21) Members request information on financial conditions (e.g. non bankruptcy) and;
- Twenty (20) Members require professional track records

Table 34 – How authorities ensure that those directing the business and operations of the regulated market meet the requirements of sufficiently good repute and experience

Member	Questionnaire regarding good reputation and experience	CV supported by college and university degrees	Fit and proper test	Experience Years	Criminal records	Information on the financial condition (e.g. non-bankruptcy)	Professional track records
Austria	X	X	X	X	X	X	X
Belgium	X	X	X	X	X		X
Bulgaria	X	X		X	X	X	X
Cyprus	X	X	X		X	X	X
Czech Republic	X	X	X	X	X	X	X
Denmark		X	X		X	X	
Estonia			X		X	X	
Finland	X	X	X	X	X	X	X
France		X	X		X	Certificate of good conduct	
Germany	X	X	X	X	X		X
Greece	X	X	X	X	X	X	X
Hungary		X	X	X	X	X	
Iceland	X	X	X	X	5 years	5 years, not have been declared bankrupt	X
Ireland		X	X			X	
Italy		X		X	X		X

Latvia		X	X	X	X	X	X
Lithuania		X	X	X	X	X	X
Luxembourg		X	X	X	X	X	X
Malta	X	X	X	X		X solvency	
Netherlands	X	X	X	X	X	X tax references	X
Norway	X	X	X	X	X	X	X
Portugal	X	X	X	X	X	X	X
Romania	X	X	X	5 years	X	X	X
Slovenia	X	X	X	5 years	X		X
Slovakia		X		3/5 years	X		
Spain	X	X	X	X	X		X
Sweden	X	X	X	X	X	X tax certificates	X
United Kingdom	X	X	X		X		

How authorities ensure that the persons who are in a position to (in)directly exercise significant influence over the management of the regulated market are suitable given the need to ensure the sound and prudent management of the regulated market – Article 38(1)

287. The following methods are employed to ensure that those who are in a position to directly exercise significant influence over the management of the regulated market are suitable given the need to ensure the sound and prudent management of the regulated market as set out in the table below from which as can be seen:

- Twenty-six (26) Members require a CV,
- Twenty two (22) Members require an assessment of fitness and propriety,
- Fifteen (15) Members make enquiries with other competent authorities,
- Seventeen(17) Members use other means of getting in touch with other third persons or use other information,
- Twenty three(23) Members request non criminal records; and
- Twenty three (23) Members require a description of the ownership structure.

Table 35 – Assessing suitability of those that in(directly) exercise significant influence over the management of the regulated market

Member	Curriculum Vitae	Fit and proper test	Enquiry with other Competent authorities	Other means: contacting other third persons/other information	Criminal Records	Description Ownership structure
Austria	X	X	X	X	X	X
Belgium	X	X			X	X
Bulgaria				X	X	X
Cyprus	X	X	X	X	X	X
Czech Republic	X	X	X	X	X	X
Denmark	X	X				
Estonia	X	X	X	X	X	



Member	Curriculum Vitae	Fit and proper test	Enquiry with other Competent authorities	Other means: contacting other third persons/other information	Criminal Records	Description Ownership structure
Finland	X	X	X	X	X	X
France	X	X			X	X
Germany	X	X				X
Greece	X	X	X		X	X
Hungary	X				X	
Iceland	X				5 years	
Ireland	X	X		X		X
Italy	X		X	X	X	X
Latvia		X	X	X	X	X
Lithuania	X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X
Malta	X	X	X	X	X	X
Netherlands	X	X		X	X	X
Norway	X	X				X
Portugal	X	X	X		X	X
Romania	X	X		X	X	X
Slovenia	X	X	X	X	X	X
Slovakia	X				X	X
Spain	X	X	X	X		X
Sweden	X		X		X	
United Kingdom	X	X			X	X

The key pieces of information that authorities ask regulated markets to provide in order assess the suitability of who can significantly influence the management of the regulated market discussed in para [286] above – Article 38(1)

288. Members request the following types of information from regulated markets in order to make their assessment regarding those who exercise significant influence over the management of the regulated market as set out in the table below from which can be seen:

- Twenty three (23) Members request a questionnaire with regard to academic qualifications and professional experience,
- Twenty three (23) Members require CV,
- Fifteen (15) Members request the ownership structure,
- Fourteen (14) Members request a certificate of non criminal records or sanctions,
- Eighteen (18) Members require information on financial conditions (e.g. non bankruptcy); and
- Four (4) Members request additional requirements.

Table 36 – Information used to assess suitability of those who can significantly influence the management of the regulated market

Member	Questionnaire regarding academic qualifications and professional experience	CV	Ownership structure	Criminal records/or sanctions	Information on the financial condition (e.g. non-bankruptcy)	Other
Austria	X	X	X	X	X	X
Belgium	X	X	X		If it is a legal entity, the annual accounts of the entity	
Bulgaria	X		X	X	Financial stability of the person who possesses a qualifying holding	X
Cyprus	X	X		X	X	
Czech Republic						
Denmark	X	X		X		
Estonia	X	X			Yearly report of personal financial interests	
Finland	X	X	X	X	Details of any debt restructuring or bankruptcy proceedings involving the, a controlled corporation or a corporation in which the notifies exercises a significant influence.	
France	X			X	X	
Germany	X	X	X	X	X	
Greece	X	X	X	X	X	
Hungary	X	X				
Iceland	X	X				
Ireland	X	X				
Italy	X	X	X	X	Evidence of sufficient financial	



					resources	
Latvia			X	X	X	X
Lithuania	X	X	X	X	Financial statements of the previous year accompanied by independent auditors opinion	
Luxembourg		X	X	X	Annual reports/audited annual accounts for the last three years (legal person); proof of financing by own funds/of financial strength; affidavit (natural person)	
Malta	X	X	X			
Netherlands	X	X	X	X	X	
Norway	X	X	X		X	
Portugal	X	X				
Romania	X	X	X		Insolvency in the last three years	
Slovenia	X	X	X			
Slovakia					Documents providing the sources of financial and non-financial contributions invested to the registered capital	
Spain	X	X		X		
Sweden	X	X	X	X	Economic status	
United Kingdom		X				X

2) The process used for supervising changes to regulated markets that may have an impact on the authorisation requirements

289. The following section of Part II details how authorities supervise the changes to regulated markets that may have an impact on the authorisation requirements of the investment firm.

The measures that authorities employ if changes to the controlling interests of the regulated market and / or market operator are considered to pose a threat to the sound and prudent management of the regulated market – Article 38(3)

290. Members employ the following measures if changes to the controlling interests of the regulated market and / or market operator are considered to pose a threat to the sound and prudent management of the regulated market as set out in the Table 37 below from which can be seen:

291. The competent bodies of the majority of the Members which authorise the acquisition of a significant holding are CESR members except some jurisdictions such as Spain where the competent body is the Spanish Government and in the Netherlands where the competent bodies are the AFM and the Minister of Finance. Seventeen (17) Members set out the possibility of suspension of voting rights, five (5) Members the possibility of the selling out of shares and sequestration and the other fourteen (14) Members request additional requirements.

292. As set out in Table 37 below eighteen (18) Members request authorisation over a certain determined percentage. In some of the jurisdictions the percentage is not specified. Sixteen (16) Members require authorisation over 10%. **DE** and **DK** request authorisation when the percentage is over 20, 33 and 50%. **UK** starts at a threshold of 20% as well. In **HU** authorisation is requested at the following percentages: 33%, 50%, 66%, 75%, 100%

Table 37 – Measures employed if changes to controlling interests are considered to pose a threat to sound and prudent management of the regulated market

Member	Competent authority to authorise the acquisition of a significant holding	Percentage from which the authorisation is required	Suspension of voting rights and competent authority	Selling out of shares Sequestration and competent authority	Other
Austria	FMA	10%, 20%, 33% and 50%	X		X
Belgium	CBFA	10%	X	Yes, selling out and sequestration	
Bulgaria	FSC	10%	Deputy Chairman of the FSC		Yes, deputy chairman can impose particular measures, necessary for

Member	Competent authority to authorise the acquisition of a significant holding	Percentage from which the authorisation is required	Suspension of voting rights and competent authority	Selling out of shares Sequestration and competent authority	Other
					prevention and elimination of breaches of the law and of detrimental consequences thereof or of jeopardy of investors' interests.
Cyprus	CYSEC	In excess of 10%	X		
Czech Republic	CNB	10%	X		
Denmark	DFSA	20%, 33% and 50%	X		
Estonia	EFSA	10%			EFSA has right to order withdrawal manager, withdrawal license and request withdrawal manager by court decision
Finland	Rahoitustarkastus	10%, 20%, 33%, 50%			Rahoitustarkastus has as ultimate measure withdrawal of authorisation.
France	AMF	10%			Merger between
Germany	ESA	20%, 33%, 50%			X
Greece	HCMC	10%, 20%, 33%, 50%, 66% which are considered qualifying holdings	X		
Hungary	HFSA	33%, 50%, 66%, 75%, 100%	X		
Iceland	FME	10%	X	X selling out of shares	X
Ireland					

Member	Competent authority to authorise the acquisition of a significant holding	Percentage from which the authorisation is required	Suspension of voting rights and competent authority	Selling out of shares Sequestration and competent authority	Other
Italy	Consob		X		X
Latvia	FCMC	10%	X		X
Lithuania	LSC	10%, 20%, 33%, 50%	X		X
Luxembourg	CSSF	Holding representing 10% or which makes it possible to exercise a significant influence over the management, 20%, 33%, 50%, subsidiary	X		injunction, suspension of activities, ask the competent Minister to withdraw the authorisation
Malta	MFSA	Qualifying holding 10%, 20%, 33%, 50%			X
Netherlands	AFM / Minister of Finance	10% in the case of natural persons			
Norway	Kredittilsynet	Holding exceeding 10%	X		
Portugal	CMVM	10%, 20%, 33% or 50%	X		X
Romania	CNVM	5%	X	X	X
Slovakia	NBS	Not specified ⁸³	X		X
Slovenia	SMA	Qualifying holding		X	
Spain	Spanish Government/CNMV	“			
Sweden	Finansinspektionen	10%, 20%, 33% and 50%		X	
United Kingdom	FSA	Holds 20% or can exercise			Controllers and proposed

⁸³ When the percentages are not specified, this is because the Members States state that the obligatory authorisation is based on “sound and prudent management”.

Member	Competent authority to authorise the acquisition of a significant holding	Percentage from which the authorisation is required	Suspension of voting rights and competent authority	Selling out of shares Sequestration and competent authority	Other
		“significant influence” over shares, parent, management or voting power. ⁸⁴			controllers of UK RIEs have an obligation to notify the FSA of acquisitions of or increases in control. Furthermore, those persons are required to obtain the FSA’s approval before becoming a controller or increasing the level of control held (in certain circumstances).

293. Note that in relation to those members for whom a percentage is not specified, this is because the assessment is based on “sound and prudent management” and not on a percentage basis.

3) The withdrawal of regulated markets authorisation

The processes adopted for the withdrawal of authorisation of regulated markets under the circumstances as set out in article 36(5) (a)-(e) – Article 36(5)

294. In light of the discussion in paragraphs 241-248 and Table 23 regarding the withdrawal of the authorisation of investment firms, set out below is an explanation about whether or not the process for withdrawing the regulated markets authorisation is the same or is different to that employed in the case of withdrawing an investments firms authorisation, whether or not there was a specific legal procedure and who is the relevant body responsible for withdrawing the authorisation as set out in the table below from which can be seen the following:

295. In all Members the competent bodies are CESR members, except **BE**⁸⁵, **IT**, **FI** and **NO** where the competent body is the Ministry of Finance. In **IT** Consob decides on withdrawals directly when one of the conditions under Article 36(5) MiFID occurs. Outside these cases, Consob may propose the Ministry of Finance to withdraw the authorisation. In **LU** the competent body is the Minister of Treasury and Budget acting upon advice of the CSSF.

⁸⁴ Section 301A of FSMA 2000.

⁸⁵ In **BE** the Minister of Finance is competent to withdraw authorisation after advice of CBFA. The CBFA is competent to approve the transition plan and if needed to take measures against the regulated market.

296. Sixteen (16) Members have a specific legal procedure to withdraw an authorisation whereas ten (10) Members have a different procedure from the investment firm ones

Table 38 – Process for withdrawal of authorisation

Member	Competent body to withdraw authorisation	Is there a specific legal procedure to withdraw an authorisation?	Is the procedure similar to / different from the investment firm?
Austria	FMA	X	In case of insolvency the authorisation automatically expires – no withdrawing necessary, only formal declaration notice
Belgium	Minister of Finance	X ⁸⁶	Similar – the market operator provides a transition plan that needs to be approved by the CBFA
Bulgaria	FSC	X	Similar
Cyprus	CYSEC	X	Similar
Czech Republic	CNB		Similar
Denmark	DFSA		Similar
Estonia	EFSA		Different
Finland	Ministry of Finance	X	Different
France	AMF		Different
Germany	ESA		Different
Greece	HCMC	X	Similar
Hungary	HFSA		Similar
Iceland	FME		Different – can revoke operating licence in whole or in part
Ireland	Financial Regulator	X	Similar
Italy	Consob or Ministry of Finance (only for withdrawals outside art. 36(5))		Similar
Latvia	FCCM	X	Similar
Lithuania	LSC		Similar
Luxembourg	Minister of Treasury and Budget ⁸⁷		Similar

⁸⁶ The procedure and consequences for withdrawal can be determined by royal decree.

⁸⁷ acting upon advice of CSSF.

Member	Competent body to withdraw authorisation	Is there a specific legal procedure to withdraw an authorisation?	Is the procedure similar to / different from the investment firm?
Malta	MFSA	X	Similar
Netherlands	Ministry of Finance		Different
Norway	Ministry of Finance	X	Similar
Portugal	Minister of Finance	X	Different – The revocation of the authorisation shall lead to the winding up and liquidation of the regulated market operator
Romania	CNVM	X	Different
Slovakia	NBS	X	Similar
Slovenia	SMA	X	Similar
Spain	Minister of Finance ⁸⁸	X	Different
Sweden	Finansinspektionen		Similar
United Kingdom	FSA	X	Different

Part B – Ongoing supervision of regulated markets

297. The following section of Part II sets out in some detail the type of ongoing supervision that authorities use in assessing whether or not regulated markets are complying on an ongoing basis with their MiFID obligations.

The extent to which authorities supervisory process for ensuring ongoing compliance is “risk-based”, and an indication of those regulated market areas/activities for which such a supervisory approach is used

298. As set out in the following Table 39 below, the following can be deduced:

- Seventeen (17) Members have a risk based approach;
- Twelve (12) Members have a non risk based approach; and
- Three (3) use both types of approach.

Table 39 – Type of approach used for ongoing supervision of regulated markets

Member	Risk Based	Not Risk Based	Areas/activities applying a risk based approach
Austria	X	X	
Belgium	X		
Bulgaria	X		
Cyprus		X	
Czech Republic	X		

⁸⁸ Acting upon a proposal from the CNMV

Member	Risk Based	Not Risk Based	Areas/activities applying a risk based approach
Denmark			
Estonia		X	
Finland	X		
France	X		The college of regulators has set up various subgroups such as those dedicated to risk-mapping of Euronext or to the surveillance of its members.
Germany	X	X	
Greece	X	X	
Hungary	X		
Iceland		X	
Ireland			
Italy		X	
Latvia	X		
Lithuania	X		
Luxembourg		X	
Malta		X	
Netherlands	X		
Norway	X		
Portugal		X	
Romania		X	
Slovakia	X		
Slovenia	X		
Spain	X		
Sweden		X	
United Kingdom	X		

When using a risk based approach to the ongoing supervision of regulated markets, the factors considered in determining which areas of a regulated markets activities are selected for reviewing, which of these factors are considered the most important and how often the factors are reviewed

299. As can be seen from the Table 40 below, the use of a risk based approach to the supervision of regulated markets in terms of the number of the regulated markets activities that get supervised on an ongoing basis differs between authorities. In twenty (20) Members all activities are supervised, in five (5) Members not all activities are supervised and in nine (9) Members there are factors for the selection of those activities that are supervised. For instance in AT, DE, ES, FR, HU, IT, LT, IS and NO.

Table 40 – Factors considered in determining which areas of a regulated market’s activities are selected for review

Member	All activities are supervised	Not all activities supervised	Factors for selection of activities that are supervised
Austria		X	The core supervisory activities are amendments of terms and conditions, monitoring of market abuse alarms (generated by trading surveillance system and internal applications of the FMA)
Belgium	X		
Bulgaria	X		
Cyprus	X		
Czech Republic	X		
Denmark			
Estonia			
Finland	X		
France	X		For market signals, a day-to-day screening of anomalies, complemented by a tracking error system, for client complaints, a monitoring of the mails received at the Ombudsman's office and complemented by the complaints book open in each investment services providers
Germany	X		BaFin systematically monitors regulated markets with regard to contraventions of the prohibitions of insider trading and the prohibition of market manipulation.
Greece	X		
Hungary	X		Volumes or numbers of transaction, failures, suspensions and halts, complaints
Iceland		X	The most important factors are suspensions and failures and the factors are reviewed at least once a year. The most important factors change according to the shape and size of the market.
Ireland			
Italy	X		Monitoring of process of matching orders and price formation on continuous basis.
Latvia		X	
Lithuania	X		Market signals, suspensions and failures, clients complaints, complexity of financial instruments admitted to trading, anomalies in the training process.
Luxembourg	X		
Malta	X		
Netherlands	X		
Norway		X	Regular review of factors including IT systems, the control and procedures employed for monitoring the marketplace and its participants
Portugal	X		
Romania	X		
Slovakia	X		
Slovenia	X		
Spain		X	Systematic impact, types of investors, volumes and numbers of transactions, reliance of the IT systems, failures, investor complaints, accounting data
Sweden	X		

Member	All activities are supervised	Not all activities supervised	Factors for selection of activities that are supervised
United Kingdom	X		

For activities that are not considered “high priority”, the type of monitoring to which they are submitted

300. As set out in the Table 41 below, the following can be deduced in terms of the type of monitoring that is employed for activities that are not considered as “high priority” as follows:

301. Four Members (EE, FR, RO, SK) monitor on a regular basis those activities that are not considered “high priority”. Eight (8) Members do not differentiate between types of activity, twelve (12) Members monitor on a desk based approach or with lower frequency and seven (7) Members use other methods of supervision.

Table 41 – Type of monitoring employed for non “high priority” activities

Member	Monitoring on a regular basis	No differentiation of activities	Monitoring on desk based or with lower frequency	Other
Austria				Risk based approach
Belgium				Risk based approach
Bulgaria		X		
Cyprus			X	
Czech Republic			X	
Denmark				
Estonia	X		X	
Finland		X		
France	X		X	Dual approach based on off-site and on-site controls, including investigations
Germany			X	
Greece		X		
Hungary			X	
Iceland			X	
Ireland				
Italy		X		Matching of orders and process formation on a continuous basis

Latvia			X	
Lithuania		X	X	
Luxembourg		X	X	
Malta		X		
Netherlands			X	
Norway				Covered by on site inspections
Portugal			X	
Romania	X		X	Dual approach based on off-site and on-site controls, including investigations
Slovakia	X			Regulatory body prepares a yearly supervisory plan with 2 years timeframe
Slovenia		X		
Spain			X	
Sweden				
United Kingdom				Use of periodic risk assessments

The extent to which the supervisory approach that authorities use gives rise to a plan which provides for a review of all entities subject to the Directive within a given time frame, and if so, what the time frame for ensuring that all firms subject to the Directive are reviewed is.

302. The following can be deduced from the answers to this question in relation to the use of a plan for the review of all entities subject to the Directive as set out in the Table 42 below:

303. Twenty two (22) Members request a supervisory approach that gives rise to a plan which provides for a review of all entities and six (6) Members does not have a supervisory approach that gives rise to a plan which provides for a review of all entities.

Table 42 – Use of plan to review entities

Member	Supervisory approach for all entities gives rise to a plan	Supervisory approach for all entities does not give rise to a plan
Austria		X
Belgium	X	
Bulgaria	X	
Cyprus		X

Czech Republic	X	
Denmark	X	
Estonia		X
Finland	X	
France	X	
Germany		X
Greece	X	
Hungary	X	
Iceland		X
Italy	X	
Latvia	X	
Lithuania	X	
Luxembourg		X
Malta	X	
Netherlands	X	
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia	X	
Spain	X	
Sweden	X	
UK	X	

How often the supervision plan is reviewed

304. Members review the supervision plan with the following frequency as can be seen from the following Table 43:

- Fourteen (14) Members supervise on a yearly basis
- Three (3) Members on a quarterly basis,
- Seven (7) Members on an going basis,
- Two (2) Members did not respond,
- Two (2) Member on a three-year revolving basis; and
- One (1) Member semi-annually.

Table 43 – Frequency within which the supervision plan is reviewed

Member	On a yearly basis	Semi-annually	Quarterly	On an on-going basis	Not responded	On a three-year revolving basis
Austria	X					
Belgium				X		
Bulgaria	X					
Cyprus				X		
Czech Republic	X					
Denmark	X			X		

Estonia					X	
Finland		X				
France						X
Germany	X					
Greece				X		
Hungary			X			
Iceland				X		
Ireland						X
Italy	X					
Latvia	X					
Lithuania			X			
Luxembourg				X		
Malta					X	
Netherlands	X					
Norway	X					
Portugal	X					
Romania	X					
Slovakia	X					
Sweden			X			
Slovenia	X					
Spain	X					
United Kingdom				X		

Those regulated market activities that are monitored on a desk-based approach and those that are subject to on-site monitoring

305. As can be seen from the Table 44 below, the majority of the Members monitor regulated market activities on a mainly desk-based approach which means that some activities (not many but some) are monitored on-site as well:

Table 44 – How regulated market activities are monitored

Member	Desk-based	Mainly on-site
Austria	All activities	No activities
Belgium	In principal all activities	Linked to risk assessment of specific activities
Bulgaria	<ul style="list-style-type: none"> - daily trading - financial statements - changes in members management body market operator / who have right to manage activity of market operator etc. 	<ul style="list-style-type: none"> - trading rules - internal organisation - membership in stock exchange
Cyprus	<ul style="list-style-type: none"> - information published by the markets - changes in regulated market information - details that were 	<ul style="list-style-type: none"> - organisational requirements of the regulated market such as systems in order to manage the risks to which it is exposed

	<ul style="list-style-type: none"> - submitted on licensing process - details of transactions executed in respect of shares admitted to trading are made public on time etc. 	<ul style="list-style-type: none"> - rules and procedures that provide for fair and orderly trading of orders and - generally procedures and controls that the regulated market follows in order to be in compliance with the Law.
Czech Republic	<ul style="list-style-type: none"> - financial resources - market rules - pre-trade and post-trade disclosure - admissions - suspensions and removals of financial instruments 	<ul style="list-style-type: none"> - technical operations - organisational arrangements and - market rules monitoring arrangements
Denmark	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing decisions - trading halts - regulation issued by the markets - management appointments - financial statements 	<p>Organisational matters such as:</p> <ul style="list-style-type: none"> - IT systems - Procedures and controls
Estonia	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing decisions - trading halts - regulation issued by the markets - management appointments; - financial statements 	<p>All activities can be supervised on site.</p>
Finland	<ul style="list-style-type: none"> - plans to revise the rules - market models - IT systems - minutes board meetings - reports of any system failures - reports of trading halts and suspensions - reports from the RM surveillance activity - notifications relating to 	<p>Any and all activities can be also supervised on-site</p>

	<p>changes in the management (persons who effectively direct the business)</p> <ul style="list-style-type: none"> - notifications relating to changes in the ownership structure - relevant procedures of the regulated market are assessed 	
France	<ul style="list-style-type: none"> - activities of the regulated market (transactions reporting and research of anomalies as a whole) 	
Germany		Ex officio analysis and also involved in searches carried out by the public prosecutor's office as part of preliminary proceedings relating to insider trading or market manipulation
Greece	<ul style="list-style-type: none"> - rulebook - supervision of transactions executed on the regulated market - financial statements 	<ul style="list-style-type: none"> - all activities can also be supervised on-site
Hungary	<ul style="list-style-type: none"> - capital requirements - pre and post trading transparency - information from public resources (e.g. web sites Exchange or issuers, electronic mediums) that might be relevant to the whole range of activities subjected to the Regulation 	<ul style="list-style-type: none"> - organisational matters - IT systems - asset separation requirements, procedures and controls.
Iceland	<ul style="list-style-type: none"> - activities of regulated markets 	
Ireland	<ul style="list-style-type: none"> - activities of regulated markets 	All activities in principle, but based on a risk assessment of specific activities.
Italy	<ul style="list-style-type: none"> - change in qualifying holdings operator regulated market; - financial statements and reports; - change of persons directing the business - accounting documents; 	Any and all activities can also be supervised on-site.



	<p>(on a yearly basis)</p> <ul style="list-style-type: none"> - reports on the organisational structure - management of conflicts of interests - internal controls and procedures - mitigation initiatives - IT system - risk management and business continuity - emergency plans - outsourcing arrangements - documents concerning the calling of shareholders' meetings - agenda, minutes of the shareholders meetings and of the meetings of the internal control body - notice of irregularities (if any) from the internal control body, business plan and strategies (including those of subsidiaries) and - major corporate agreements having effects on the organisation and function of regulated markets. 	
<p>Latvia</p>	<ul style="list-style-type: none"> - compliance with capital adequacy requirements other financial requirements - submitted information on transactions performed - significant events - stock exchange trading information - publicly available information 	<ul style="list-style-type: none"> - functions, responsibilities and authority of intermediaries' structural units and their officials, ensuring customer transactions' performance - back office functions, responsibilities and ensuring accounting of financial instruments, including keeping customer financial instruments and cash separately from intermediaries, comparison of financial instruments account balance in intermediaries



		<p>and depositories with account balance with contracting parties</p> <ul style="list-style-type: none"> - ensuring efficiency of an internal control system, including the existing procedures and their application - efficiency of measures taken to prevent manipulative transactions - efficiency of internal control system and others.
Lithuania	<ul style="list-style-type: none"> - prudential financial reporting regulated market - auditors' report on financial statements - reports compliance officer of the regulated market - information about participants, managers, personnel - information about significant breaches of the rules of regulated market or disorderly trading conditions or conduct that may involve market abuse. 	<ul style="list-style-type: none"> - serious doubts on the activities of the regulated market
Luxembourg	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing decisions - trading halts - regulation issued by the markets - management appointments 	<ul style="list-style-type: none"> - major changes in the organisation (e.g introduction of a new trading system)
Malta	<ul style="list-style-type: none"> - capital adequacy (financial resources) - authorisation requirements (application stage) - requirements relating to the management of the regulated market - requirements relating to persons exercising 	<ul style="list-style-type: none"> - requirements relating to the management of the regulated market - organisational requirements - access to regulated market and monitoring of compliance with the rules of the regulated market and with other legal

	<p>significant influence over the management of the regulated market</p> <ul style="list-style-type: none"> - access to regulated market and monitoring of compliance with the rules of the regulated market and with other legal obligations - transparency requirements 	obligations
Netherlands	Nearly all activities	Many meetings with management take place at the exchange's premises. In addition, monitoring of trading activity as a consequence of market abuse regulation is done on a real-time basis.
Norway	<ul style="list-style-type: none"> - trading monitoring - mal practice by the market participants - trading halts - regulation issued by the regulated markets and - management appointments 	<ul style="list-style-type: none"> - IT systems - procedures and controls for market surveillance
Portugal	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing decisions - trading halts - regulation issued by the markets 	<ul style="list-style-type: none"> - organisational matters - IT systems - procedures and controls.
Romania	<ul style="list-style-type: none"> - monitoring transactions - information to be published by the markets - listing and de-listing decisions - regulation issued by the markets - management appointments etc 	<ul style="list-style-type: none"> - all the activities performed by the market operator - thematic inspections.
Slovakia	<ul style="list-style-type: none"> - collecting data on transactions 	<ul style="list-style-type: none"> - all activities of regulated markets
Slovenia	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing 	<ul style="list-style-type: none"> - trading monitoring - information published by the markets - listing and de-listing

	<ul style="list-style-type: none"> - decisions - trading halts - regulation issued by the markets - management appointments etc 	<ul style="list-style-type: none"> - decisions - trading halts - regulation issued by the markets - management appointments etc
Spain	<ul style="list-style-type: none"> - trading monitoring - information published by the listed companies and the markets - listing and de-listing decisions - trading halts - regulation issued by the markets - management appointments - subjects of special supervisory interest etc 	<ul style="list-style-type: none"> - organisational matters - IT systems - procedures and controls etc
Sweden	<p>A desk based assessment, based on the recommendations produced by the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organisation of Securities Commissions (IOSCO), which are contained in <i>Recommendations for Central Counterparties</i> is carried out annually. These recommendations aim at providing a comprehensive standard for assessment of the management of various kinds of risks by a central counterparty.</p>	<p>There are only two entities and most activities are carried out through on-site monitoring for example thematic inspections, trading halts, internal control, it-systems. We also meet with the companies on a regular basis. We have a fixed agenda which includes for example organisation changes, financial data, regulatory changes, disturbances in IT-systems, new products.</p>
United Kingdom	<ul style="list-style-type: none"> - generally financial resources issues - Which activities are monitored on a desk based approach varies and is very much dependent on the issues and activities 	<p>Which activities are monitored on site varies and is very much dependent on the issues and activities</p>

The Supervision of operators of regulated markets

306. The section of Part II of the report details how authorities monitor that the operators of regulated markets meet their MiIFD obligations.

How authorities monitor that the operator of a regulated market complies with the obligations and requirements set out in title III of the Directive? – Article 36

307. There are a number of different methods employed by authorities for monitoring the operator of a regulated markets compliance with the obligations and requirements set out in title III of the Directive as can be seen from the Table 45 below:
308. Twenty (20) jurisdictions use the same proves for monitoring the regulated market, twenty four (24) jurisdictions use a desk-based approach and nineteen (19) uses visits and inspections.

Table 45 – Monitoring the operator of a regulated markets compliance with Title III of the Directive

Member	Use of the same process for monitoring of the regulated market	Regular monitoring of the operator using a desk-based approach	Use of visits and inspections
Austria	X	X	
Belgium	X	X	
Bulgaria	X		
Cyprus	X		X
Czech Republic	X	X	X
Denmark	X	X	X
Estonia	X	X	
Finland		X	X
France	X		
Germany	X	X	X
Greece	X		
Hungary	X	X	X
Iceland		X	X
Ireland		X	
Italy	X	X	X
Latvia	X	X	X
Lithuania	X	X	X
Luxembourg	X	X	
Malta		X	X
Netherlands		X	X
Norway	X	X	X
Portugal	X	X	
Romania	X	X	X
Slovakia		X	X
Slovenia		X	X
Spain	X	X	X
Sweden	X	X	X
United Kingdom		X	X

Regulated markets

309. This section of the report deals with how authorities supervise that their regulated markets abide by their MiFID obligations when providing cross border activities.

Do authorities require that the regulated markets that they supervise that intend to provide arrangements in another member state communicate this to them? – Article 42(6)

310. All members require that the regulated markets that they supervise that intends to provide arrangements in another member state communicate this to them.

Do authorities communicate this intention to the relevant member state or states within one month of communication?

311. All members communicate this intention to the relevant member state or states within one month of communication.

Do authorities upon the request of the host competent authority communicate to the host the identity and members or participants of the regulated market established in their member state, and if so, within which time frame this communication is made? – Article 42(6)

312. All members upon the request of the host competent authority communicate to the host authority the identity and members or participants of the regulated market established in their member state.

313. Ten (10) jurisdictions communicate without delay, nine (9) jurisdictions communicate within a reasonable time frame and two (2) countries use other time frames for communication.

Table 46 – Time frames for communication to the host of identity of members or participants of the regulated market

Member	Communication without delay	Communication within reasonable timeframe	Communication within one month	Other time frame for communication
Austria			X (or six weeks)	
Belgium		X		
Bulgaria		X		
Cyprus		X		
Czech Republic	X			
Denmark			X	
Estonia	X			Not specified
Finland		X		
France				No experience
Germany	X			
Greece		X		
Hungary	X (any case within one month)			
Iceland			X	

Member	Communication without delay	Communication within reasonable timeframe	Communication within one month	Other time frame for communication
Ireland		X		
Italy				No experience
Latvia				14 days (except longer if necessary)
Lithuania			X	
Luxembourg	X			
Malta				Within the time requested or two weeks
Netherlands		X		
Norway	X			
Portugal			X	
Romania		X		
Slovakia	X			
Slovenia	X			
Spain		X		
Sweden	X			
United Kingdom	X			

Operators of regulated markets

Do authorities require that the operator of the regulated market communicates on a regular basis the list of participants and members of the regulated market to the competent authority of the regulated market? – Article 42(7)

314. All the authorities other than **AT** and the **UK** require that the operator of the regulated market communicates on a regular basis the list of participants and members of the regulated market to the competent authority of the regulated market.

The procedures that authorities have in place to monitor that the operators of regulated markets comply with the requirements of article 43 (2) of the Directive – Article 43(2)

315. The procedures that authorities have in place in order to monitor that the operators of regulated markets comply with the requirements of Article 43(2) of the Directive have been grouped into the following categories as set out in the Table 47 below:
316. Four (4) jurisdictions (**ES, IS, IR** and **NO**) executed MoU'S or other arrangements with the market operator, four (4) jurisdictions (**IT, LU, MT** and **PT**) have put specific procedures in place to monitor compliance of the market operator with Article 43(2).
317. Twenty one (21) countries do not have procedures in place for monitoring compliance.

Table 47 – Procedures in place for monitoring that operators of regulated markets comply with the requirements of Article 43(2)

Member	No procedures in place for monitoring compliance of the market operator with Article 43(2) – part of continuous supervision process	Executed MoU's or arrangements with the market operator	Specific procedures have been put in place to monitor compliance of the market operator with Article 43(2)
Austria	X		
Belgium	X		
Bulgaria	X		
Cyprus	X		
Czech Republic	X		
Denmark	X		
Estonia	X		
Finland	X		
France	X		
Germany	X		
Greece	X		
Hungary	X		
Iceland		X	
Ireland		X	
Italy			X
Latvia	X		
Lithuania	X		
Luxembourg			X
Malta			X
Netherlands	X		
Norway		X	
Portugal	X		X
Romania	X		
Slovakia	X		
Slovenia	X		
Spain		X	
Sweden	X		
United Kingdom	X		

Part C – Multilateral trading Facilities

Differences (if any) in the processes used by authorities to monitor and ensure compliance of multilateral trading facilities with their MiFID obligations to the process employed by authorities for monitoring investment firms compliance with their MiFID obligations

- 318.** As can be seen from the Table 48 below twenty two (22) authorities use the same processes for monitoring that MTF's meet their MiFID obligations as those used for monitoring that investment firms meet their MiFID obligations. There are six (6) that do not have MTF's in their jurisdictions.

Table 48 – Process for investment firms versus process for MTF's

Member	Differences from the process for investment firms	No differences from the process for investment firms	No MTF
Austria		X	
Belgium		X	
Bulgaria			X ⁸⁹
Cyprus		X	
Czech Republic		X	
Denmark			X
Estonia			X
Finland			X
France		X	
Germany		X ⁹⁰	
Greece		X	
Hungary		X	X
Iceland		X	
Ireland		X	
Italy		X	
Latvia		X	
Lithuania	X	X	
Luxembourg		X	
Malta			X
Netherlands		X	
Norway		X	
Portugal		X	
Romania			X
Slovakia		X	
Slovenia		X	
Spain		X	
Sweden		X	
United Kingdom		X	

⁸⁹ At present BG does not have any MTF's. However, if this would be the case, the processes for monitoring and ensuring compliance of MTF's with their MiFID obligations would be similar to the processes for monitoring investment firms' compliance.

⁹⁰ Under the condition that the MTF - operated by the exchange operator - does not provide any other financial services.

Section III – Cooperation and Branches

319. In light of the home host supervisory framework that investment firms and regulated markets need to operate within as a result of MiFID and the importance of the establishment of the necessary cooperation arrangements between the numerous authorities that supervise within this framework, this section of the report explores in some detail:

- 1) the type of the cooperation arrangements that authorities have in place; and
- 2) the nature of the arrangements that are in place to supervise branches.

1) The type of the cooperation arrangements that authorities have in place

320. There are three aspects of cooperation arrangements that are discussed in this section, the first is an explanation of the arrangements in place for the purposes of the exchange of information, and the second is a description of the cooperation arrangements in place in order to deal with Article 41 of MiFID with regard to the suspension of trading of a financial instrument on a regulated market. The third is a description of the cooperation agreements for the purposes of carrying out the authorities' duties.

Exchange of information

321. Part A of this report showed how complicated the MiFID supervisory framework within Europe is, just in terms of the sheer volume of entities that are involved on both a national and cross border basis. The quality of cooperation between all these entities is entirely dependant upon the nature of the arrangements that are in place in order to be able to exchange information.

322. As can be seen from the Tables below, authorities have extensive arrangements in place in order to be able to exchange information at a national level, on a cross border basis within Europe and on a global basis with third countries.

How authorities exchange information – Article 56(1), (3), (4) and 49

a) With other authorities within the same jurisdiction:

Table 49 – Exchange of information with authorities within the same jurisdiction

Member State	Supervisory framework with one entity	Exchange of information with Central Bank	Exchange of information w/ Insurance, Pension Funds and Regulators	Other: Ministry of Finance	Other: Police, Judiciary, Ministry of Justice	Other: Consumers protection, Competition authority	Other: specify
Austria	X	X		X			

Member State	Supervisory framework with one entity	Exchange of information with Central Bank	Exchange of information w/ Insurance, Pension Funds and Regulators	Other: Ministry of Finance	Other: Police, Judiciary, Ministry of Justice	Other: Consumers protection, Competition authority	Other: specify
Belgium	no						X ⁹¹
Bulgaria	no ⁹²	X			X		
Cyprus	no	X					
Czech Republic	X	X					
Denmark	X				X		
Estonia	X						
Finland	no	X	X	X	X		
France	no	X	X	X			
Germany	no	X	X	X	X	X	Fed Cartels Office
Greece	no	X		X			
Hungary	X	X		X	X	X	
Iceland	X						
Ireland	X						Market Authority
Italy	no	X	X	X	X		
Latvia	X						
Lithuania	no	X	X		X	X	
Luxembourg	no	X	X	X ⁹³			
Malta	X						
Netherlands	no	X		X	X		
Norway	no			X			
Portugal	no	X	X	X			
Romania	X	X	X			X	
Slovakia	X				X		
Slovenia	no	X					
Spain	no	X	X		X		
Sweden	X	X			X		
UK	no	X	X	X	X	X	X ⁹⁴

323. As can be seen, even in Member States in which there is a supervisory framework with one entity under MiFID is applied (**AT, CZ, DK, EE, HU, IE, IS, LT, LV, MT, NL, RO, SE, SK**) co-operation with other domestic supervisors has been provided by law and /or by bilateral protocols, agreements or covenants that have been enforced

⁹¹ *Fonds de Rentes / Rentefonds* (market operator of the market of government bonds).

⁹² The Bulgarian Financial Supervision Commission is an integrated regulatory and supervisory body of capital market, insurance and pension fund sectors.

⁹³ Minister of Treasury and Budget.

⁹⁴ For a full list, please see <http://www.fsa.gov.uk/Pages/Library/corporate/Memorandums/UK/index.shtml>



before the transposition of the MiFID. A special structure (**AT, FR, PT⁹⁵, NL**) or a multilateral agreement (**EL** and **RO**: Protocol for the Stability of the Financial Sector) is sometimes in place for the purpose of co-operation. Formally, these exchanges of information resort to written procedures, whereas automated access seems to be quite rare (**AT** and **DE** with their respective Central Banks).

b) With competent authorities in other Member States:

- 324.** Twenty-five (25) CESR Members (**AT, BE, BG, CZ, DK, FI, FR, DE, EE, EL, HU, IE, IS, IT, LV, LT, LU, MT, NO, PT, RO, ES, SE, NL, UK**) use Memoranda of Understandings (MoU) - bilateral and multilateral - or other types of cooperation agreements as the general framework for international co-operation.
- 325.** Co-operation between CESR Members is mostly based on the CESR MOU of 1999. All CESR Members have joined the CESR Multilateral Memorandum of Understanding on the Exchange of Information and Surveillance of Securities Activities, which provides the framework of exchange of information and cooperation in surveillance related issues for CESR Members. The content of the information exchanged is related to the scope of assistance as referred to by the MOU. In addition, some authorities indicate that cooperation may also encompass general information on the day-to-day exercise of supervision (**DK, LT, LV, NL, RO, NO**).
- 326.** Written procedures such as attached documents sent by e-mails, documents sent by fax and letters sent by post are the usual process by which information is disseminated between authorities, but it can be complemented by e-mails and phone calls.

c) With third countries authorities:

- 327.** Co-operation with third countries authorities is also based on agreements that Member States authorities are permitted to sign for the performance of their duties.

Table 50 – Basis of cooperation with third country authorities

Member State	Under the IOSCO MMOU	Under a bilateral agreement	Number of bilateral agreements w/ third countries	Ad hoc cooperation (out of scope or without formal cooperation agreement)
Austria	List B	X	25	Yes, if professional secrecy is at least equivalent to Austrian law
Belgium	X	X		Yes, but only for information or documents not subject to confidentiality.
Bulgaria	List B	X	6	No
Cyprus	List B	X		Yes, if covered by guarantees regarding the observance of

⁹⁵ Creating a National Council of Financial Supervisors without affecting the powers and independence of the different authorities, is aimed at insitutionalising and organising cooperation between them and creating a forum for joint action for the supervision fo the financial system, so as to facilitate mutual exchange of information.



Member State	Under the IOSCO MMOU	Under a bilateral agreement	Number of bilateral agreements w/ third countries	Ad hoc cooperation (out of scope or without formal cooperation agreement)
				professional secrecy at least equivalent to those provided by the Cyprus law
Czech Republic	X	X		
Denmark	X	X		Not yet experienced but not prohibited
Estonia	X	X		Yes, based on reasoned motion and under condition of confidentiality
Finland	X			
France	X	X		Yes, under condition of reciprocity and confidentiality
Germany	X			Ad hoc basis if it is ensured that data protection is comparable.
Greece	X	X	21	Yes, with due care that professional secrecy rules be equivalent to those applicable in Greece.
Hungary	X	X	3	Yes, if data protection is at least equivalent to the Hungarian provisions.
Iceland	-	X		No
Ireland	List B	X		No
Italy	X	X	23	Consob needs either that a MoU has been executed (usual case) or some form of acknowledgement on professional secrecy does apply.
Latvia	-	X	0	
Lithuania	X	X		
Luxembourg	X	X	13	Yes, subject to the conditions of Luxembourg law
Malta	X		10	
Netherlands	X	X	14	No
Norway	X	X		Yes, only information that is not subject to statutory confidentiality is submitted.
Portugal	X	X	18	Yes, subject to confidentiality, strict procedures and reciprocity
Romania	-	X	14	Yes, whenever necessary to fulfil its obligations
Slovakia	X			
Slovenia		X	6	Yes, ad hoc cooperation is possible in case professional secrecy rules in the third country are equivalent to the ones in Slovenia.
Spain	X	X		Yes, under condition of reciprocity

Member State	Under the IOSCO MMOU	Under a bilateral agreement	Number of bilateral agreements w/ third countries	Ad hoc cooperation (out of scope or without formal cooperation agreement)
				and confidentiality
Sweden	-	X		Yes, any document not subject to confidentiality
UK	X	X	28 ⁹⁶	No, co-operation requires a bilateral or multilateral IOSCO MoU.

- 328.** Where a bilateral agreement has not been signed, the exchange of information falls within the scope of the IOSCO Multilateral Memorandum of Understanding (MMoU) concerning consultation and cooperation and the exchange of information as far as the concerned Member State is a signatory. The IOSCO MMoU was developed within the framework of IOSCO and provides for the rules of cooperation between those IOSCO Member authorities that have signed the IOSCO MMoU. The following CESR Members have joined the IOSCO MMoU: **BE, CZ, DK, FI, FR, DE, EL, HU, IT, LT, LU, MT, NL, NO, PL, PT, SK, ES, UK**, three CESR Members being committed to become signatories (Appendix B): **AT, BG, CY** and **SI**. **RO** has committed to become a signatory to the IOSCO MMoU.
- 329.** Five (5) CESR Members (**BG, IS, IE, NL** and **UK**) pointed out that cooperation is only possible on the basis of a formal cooperation agreement, on the other hand some nineteen (19) CESR Members (**AT, BE, CY, DK, HU, DE, EE, EL, ES, FR, HU, IS, IT, LU, MT, NO, PT, RO** and **SE**) expressly stated that cooperation is also possible on an ad hoc basis without having a formal cooperation agreement. However, this is subject to certain criteria (such as same level of confidentiality, secrecy rules, mutuality, justified need, etc.). Secrecy and confidentiality rules shall always be respected, no matter whether cooperation takes place under a MoU or on an ad hoc basis.
- 330.** One CESR Member (**LV**) stated that there is no (cooperation) agreement concluded with third countries in the financial instrument market sector to date. **UK** mentions that it has a duty by law to cooperate with other regulatory and enforcement authorities.

Cooperation arrangements between competent authorities in order to deal with Article 41 of MiFID with regard to the suspension of trading of a financial instrument on a regulated market

- 331.** This part of this section of the report describes how authorities meet their MiIFD cooperation obligations.

⁹⁶ Please note this only includes MOUs where the parties have agreed to publication (for full list see <http://www.fsa.gov.uk/Pages/Library/corporate/Memorandums/International/index.shtml>)



Do authorities inform each other of a suspension or removal from trading of a financial instrument by the operator of that regulated market when notified by the operator of the suspension or removal? – Article 41(1)

332. All CESR Members with the exception of **EE** inform the competent authorities of other Member States of the suspension or the removal of a financial instrument by the operator of that regulated market.

Methods of communication used by authorities for communicating the suspension or removal of the financial instrument from trading.

333. For the purposes of communicating the suspension or removal from trading of a financial instrument, all CESR Members with the exception of **EE** use the same framework provided by the Protocol on MiFID article 41, especially its format “communication processes” and its “contact details of CAs”. The electronic form is the relevant method of communication.

When you demand the suspension or removal of a financial instrument from trading on one or more regulated markets, does your authority inform the competent authorities of other Member States except where it could cause significant damage or to investor’s interest or the orderly functioning of the market? – Article 41(2)

Cooperation arrangements between competent authorities for the purposes of carrying out their duties

334. All CESR Members inform the competent authorities of other Member States of the suspension or the removal of a financial instrument.

What method of communication does your authority use?

335. All CESR Members use the same framework provided by the Protocol on MiFID article 41, especially its format “communication processes” and its “contact details of CAs”. The electronic form is the relevant method of communication.

Article 56(1) – Do authorities:

a) cooperate with supervisory authorities of other Member States whenever necessary for the purpose of carrying out the duties under the Directive making use of their powers as set out in the Directive or in national law?

336. All CESR Members cooperate with supervisory authorities of other Member States whenever necessary for the purpose of carrying out the duties under the Directive making use of their powers as set out in the Directive or in national law.

b) render assistance to competent authorities of other Member States?

337. All CESR Members render assistance to competent authorities of other Member States.

c) exchange information and cooperate in any investigation or supervisory activities?

338. All CESR Members exchange information and cooperate in any investigation or supervisory activities.

339. However, nine (9) CESR members have signed (or are in the process of signing) agreements with a view to better organising the supervision of securities on their respective marketplaces (**BE, DE, DK, IS, IT, FI, NL, PT, SE** and **UK**). These agreements may be aimed at dealing with the supervision of:

- specific securities, as is the case of the BaFIN (**DE**) establishing arrangements with the FSA (**UK**) and with the AFM (**NL**) related to German companies providing services on a cross-border basis and the FSA (**UK**) in a similar perspective;
- common cross-border market operators as mentioned by the four Nordic Authorities except Kredittilsynet (**NO**) with regard to the OMX-Group, by the Consob (**IT**) establishing a special agreement with the **UK** FSA with regard to the acquisition of Borsa Italiana by the LSE, or by the CMVM (**PT**) with peer Authorities from Belgium, France and the Netherlands with regard to the NYSE-Euronext Group and CBFA (**BE**) with AFM (**NL**), AMF (**FR**), CMVM (**PT**) and FSA (**UK**).

How has your authority established cooperation arrangements?

340. In **BE** CBFA is part of the CESR Protocol on the supervision of branches under MiFID. As foreseen in this Protocol, the CBFA has agreements on requests of assistance with different CESR Members.
341. In **BG** the FSC has signed a Standing Request with CBFA **BE** based on Article 6 of the CESR Protocol of October 2007 on the supervision of branches under MiFID.
342. In **CZ**, the Czech National Bank agreed to provide assistance in accordance with the Standing Request for Assistance under the Protocol on the supervision of branches under MiFID (Ref: CESR/07-672) to the following Members of CESR: *Commissie voor het Bank-, Financiering en Assurantiewezen* (**BE**), FSA (**UK**) and *Narodna Banka Slovenska* (**SK**). Further agreements with BaFin (**DE**) and *Narodna Banka Slovenska* (**SK**) are pending.
343. In **EL** The HCMC has concluded one SRFA with CBFA (**BE**) based on CESR's Protocol on the supervision of branches under MiFID and there are two pending: one with the BaFin (**DE**) and the other with the **UK** FSA respectively
344. In **IT** Consob has not as yet executed any protocols for the supervision of branches. The possibility to sign a protocol with BaFin is currently under discussion.
345. In **LU** the CSSF has signed a Standing Request for Assistance with the FSA **UK**, based on the CESR Protocol on the supervision of branches under MiFID (Ref: CESR/07-672). The signature of a protocol between BaFin and CSSF is currently under discussion.
346. In **RO** CNVM signed a Standing Request for Assistance with CBFA (**BE**) based on CESR Protocol of October 2007 on the supervision of branches under MiFID and especially article 6 of this Protocol with respect to the standing request for assistance.

Can authorities use their powers for the purposes of cooperation even in cases where the conduct under investigation does not constitute an infringement of any regulation in force in their Member State? – Article 56(3)

347. All CESR Members can use their powers for the purposes of cooperation even in cases where the conduct under investigation does not constitute an infringement of any regulation in force in their member state.

When authorities have good reasons to suspect that acts contrary to the provisions of MiFID are carried out by entities not subject to its supervision are being or have been carried out on the territory of another member state – do they notify this in as specific a manner as possible to the competent authority of the other Member State? – Article 56(4)

348. All CESR Members notify in as specific a manner as possible to the competent authority of the other Member State that acts contrary to the provisions of MiFID carried out by entities not subject to its supervision are being or have been carried out on the territory of another Member State.

Upon receiving information from another competent authority in relation to the situation set out in Article 56(4) do authorities take appropriate action and inform the notifying competent authority of the outcome of the action and to extent the possible of significant interim developments? – Article 56(4)

349. All CESR Members take appropriate action and inform the notifying competent authority of the outcome of the action and to the extent the possible of significant interim developments.

When a request with respect to an on the spot verification or an investigation is received, do authorities within the framework of their powers: a) carry out the verification or investigations themselves, b), allow the requesting authority to carryout the verification or investigation or c) allow auditors or experts to carry out the verification or investigation? – Article 57

350. The following Table 51 shows what the authorities do when receiving a request for an on the spot verification or an investigation as follows:

Table 51 – What authorities do upon receipt of a request for an on the spot verification or an investigation

Member State	a) Carry out yourself	b) Allow the requesting authority to carry out	c) Allow auditors or experts to carry out
Austria	X	X	X
Belgium	X	X	X
Bulgaria	X	X	X
Cyprus	X	X	X
Czech R	X	X	X
Denmark	X	NO	NO
Estonia	X	X	X
Finland	X	X	X
France	X	X	X
Germany	X	X	X
Greece	X	X	X
Hungary	X	X	X
Iceland	X	NO	X
Ireland	X	X	X

Member State	a) Carry out yourself	b) Allow the requesting authority to carry out	c) Allow auditors or experts to carry out
Italy	X	NO	NO
Latvia	X	X	X
Lithuania	X	X	X
Luxembourg	X	X	X
Malta	X	X	X
Netherlands	X	X	X
Norway	X	NO	NO
Portugal	X	X	NO
Romania	X	X	X
Slovakia	X	X	X
Slovenia	X	X	X
Spain	X	X	X
Sweden	X	NO	NO
UK	X	X	X

When exchanging information with other competent authorities under this Directive do authorities indicate at the time of communication that such information must not be disclosed without their express agreement? As the recipient of that information, do authorities only disclose that information solely for those purposes? – Article 58(1)

351. Almost all CESR Members both indicate at the time of communication that such information must not be disclosed without their express agreement and, as the recipient of that information, only disclose that information solely for those purposes.
352. As a matter of policy Kredittilsynet (NO) does not indicate that the information Kredittilsynet exchanges with other competent authorities, must not be disclosed without express agreement of Kredittilsynet. As the recipient of that information, Kredittilsynet only discloses that information solely for those purposes.

Do authorities only transmit information received under paragraph 1 of Article 58 and Article 55 and 63 to those authorities referred to in Article 49? – Article 58(2)

353. Almost all CESR Members only transmit information received under paragraph 1 of Article 58 and Article 55 and 63 to those authorities referred to in Article 49.
354. The FCMC (LV), and Finansinspektionen (SE) do not.

As the recipient of information, in the event that authorities need to transmit it to other bodies or legal persons without the express agreement of the composed authorities who disclosed the information to them in duly justified circumstances, do authorities immediately inform the contact person in the relevant competent authority/ies that sent the information to them? – Article 58(2)

355. All CESR Members immediately inform the contact person in the relevant competent authority/ies that sent the information to them in the circumstances described above in accordance with article 58(2) of the MiFID.

Do authorities only use confidential information received under paragraph 1 of Article 58 or Articles 55 and 63 of the Directive during the course of their duties and in particular for



the purposes of those situations as set out in Article 58(3) (a)-(f) of the Directive? – Article 58(3)

356. All CESR Members only use confidential information received under paragraph 1 of Article 58 or Articles 55 and 63 of the Directive during the course of their duties and in particular for the purposes of those situations as set out in Article 58(3) (a)-(f) of the Directive.

Do authorities in their capacity as the host state competent authority have the ability to take precautionary measures as envisaged under article 62 against Article 62(1):

1) **an investment firm, credit institution or branch in instances where primary responsibility for compliance is conferred on the home member state and**

357. All CESR Members have the ability to take precautionary measures - as envisaged under article 62 against: an investment firm, credit institution or branch in instances where primary responsibility for compliance is conferred on the home member state.

2) **MTFs and Regulated markets of another Member State active in their jurisdiction?**

358. All CESR Members have the ability to take precautionary measures - as envisaged under article 62 against: MTFs and Regulated markets of another Member State active in their jurisdiction.

Are authorities required to follow the procedures for notifying/ communicating with the competent authority of the home member state and the Commission as contemplated in Article 62

359. All CESR Members are required to follow the procedures for notifying/ communicating with the competent authority of the home member state and the Commission as contemplated in Article 62.

Have authorities used such powers (precautionary measures) to date?

Table 52 – Authorities that have used precautionary measures to date

Member State	Authorities that have used precautionary measures to date	Authorities that have <u>not</u> used precautionary measures to date
Austria		X
Belgium		X
Bulgaria		X
Cyprus		X
Czech Republic	X	
Denmark		X
Estonia		X
Finland		X
France		X
Germany		X
Greece		X
Hungary		X
Iceland		X

Member State	Authorities that have used precautionary measures to date	Authorities that have <u>not</u> used precautionary measures to date
Ireland		X
Italy	X	
Latvia	X	
Lithuania		X
Luxembourg		X
Malta		X
Netherlands	X	
Norway		X
Portugal		X
Romania	X	
Slovakia		X
Slovenia		X
Spain		X
Sweden		X
UK		X

In the event that measure are adopted pursuant to paragraph 1,2 or 3 of Article 62 involving sanctions or restrictions on the activities of an investment firm or of a regulated market, are they: – Article 62(4)

- properly justified; and

360. In the event that measures are adopted pursuant to paragraph 1, 2 or 3 of Article 62 involving sanctions or restrictions on the activities of an investment firm or of a regulated market, these measures are properly justified in all CESR Members.

- communicated to the investment firm or to the regulated market concerned as required by Article 62(4) of the Directive?

361. In the event that measures are adopted pursuant to paragraph 1, 2 or 3 of Article 62 involving sanctions or restrictions on the activities of an investment firm or of a regulated market, these measures are communicated to the investment firm or to the regulated market concerned in all CESR Members - as required by Article 62 (4) of the Directive.

The administrative and organisational measures adopted by authorities – Article 56(3)

362. Many CESR Members (AT, BG, DE, EL, FR, IT, LV, MT, NL, PT, SK, ES, UK) have indicated that they have departments dedicated to dealing with cooperation issues and the related coordination work within their authorities. In BE there is no specific department dealing with cooperation issue as each department deals with cooperation issues and answers to cooperation requests within the scope of their competencies. BG stated that this issue is also dealt in the FSC’s Charter. CZ stated that they have *standard internal procedures* for dealing with requests for cooperation with third countries.



The process for dealing with requests (including refusal of requests) from another competent authority for cooperation in a supervisory activity or on the spot verification. Articles 57, 59

- 363.** Some CESR Members (**DE, ES, HU, MT, NL, NO**) mention that they first establish whether the request falls under a formal agreement and proceed accordingly. In case of requests for cooperation, CESR Members decide on a case by case basis also taking into account the special characteristics of the request. **BE** also assesses whether the requesting authority is competent for the issues it intends to verify, furthermore they always accompany the requesting authority on an on-site inspection. **SE** prefers to carry out investigations itself or if necessary in cooperation with the requesting authority.
- 364.** Five (5) CESR Members (**DK, IS, IT, PT, SE**) do not allow auditors or experts to carry out investigations and five CESR Member (**DK, IS, IT, NO** and **SE**) do not allow the requesting authority to carry out the investigation itself even if such request arrives from another Member State. **LU, NO** and **SE** state that third country authorities are not allowed to carry out investigations themselves, however they can participate in on-the-spot verifications or investigations under the overall control of the home authority.
- 365.** The **UK** has a general statutory duty to co-operate with other competent authorities. The FSA has a range of powers and tools including investigative powers that it can use in providing assistance to overseas regulators. A request would normally be received and reviewed, and an assessment of the most appropriate response would be made on a case-by-case basis involving close communication with the requesting authority. The FSA has to exercise its powers in meeting its Community obligations. In contrast, the FSA may decide that it will not exercise its powers unless the overseas regulator undertakes to make such contribution towards the cost of its exercise as the FSA considers appropriate.

Table 53 – Is refusal for dealing with a request for cooperation possible?

Member State	Refusal is possible	No refusal is possible	Additional information
Austria	X		<p>FMA may refuse to act on a request for cooperation in carrying out an investigation, on-the-spot verification or supervisory activity as provided for in section 98 only where</p> <ol style="list-style-type: none"> 1. such an investigation, on-the-spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of Austria; 2. judicial proceedings have already been initiated in respect of the same actions and the same persons before an Austrian court; 3. final judgment has already been delivered in Austria in respect of the same persons and the same actions. <p>In the case of such a refusal, the FMA shall notify the requesting competent authority accordingly, providing as detailed information as possible.</p>



Member State	Refusal is possible	No refusal is possible	Additional information
Belgium	X		Reasons for refusal as listed in Article 59 of MiFID.
Bulgaria	X		<p>FSC may refuse assistance in carrying out on-the-spot verification / investigation and in supplying information in the following cases:</p> <ol style="list-style-type: none"> 1. carrying out on-the-spot verification / investigation and if supplying information might adversely affect sovereignty, security or state policy of BG; 2. proceedings have already been initiated in respect of the same actions and the same persons for whom assistance has been requested, before the judicial authorities of the Republic of Bulgaria; 3. in respect of the same persons and the same actions in relation to whom assistance has been requested, final enforceable judgement has already been delivered in the Republic of Bulgaria. <p>In the above cases the FSC must notify the authority which has requested assistance, providing to it detailed information on the reasons for the refusal.</p>
Cyprus	X		Reasons for refusal as listed in Article 59 of MiFID.
Czech Republic	X		<p>Refusal of an investigation or the transmission of information is possible if 1) this might adversely affect the sovereignty, security or public order of CZ or 2) judicial proceedings have already been initiated in respect of the same facts against the persons in question or if a final judgment has been passed. In case of refusal the requesting authority should be informed with giving the reasons for refusal.</p> <p>In case there is no reason for refusal, CNB will decide on case by case basis whether the investigation will carry out itself or assistance will be provided to the requesting authority.</p>
Denmark	X		Reasons for refusal as listed in Article 59 of MiFID.
Estonia	X		Refusal may be possible. There is no special procedure in place. EFSA cooperates with third countries on a case by case basis.
Finland	X		Refusal is possible if this might adversely affect the Finnish sovereignty, security or public order or if judicial proceedings have already been initiated in Finland with respect to the same facts against persons in question or if these persons have been sanctioned by the courts.
France			Refusal of an investigation or the transmission of information is possible, if this might adversely affect the French sovereignty, security or public order, or if judicial proceedings have already been initiated in France with respect to the same facts against the persons in question, or if these persons have been sanctioned by the Courts.
Germany	X		Refusal of an investigation or the transmission of information is possible, if 1) this might adversely affect the sovereignty, security or public order of the Federal Republic of Germany or 2) judicial proceedings have already been initiated in respect of

Member State	Refusal is possible	No refusal is possible	Additional information
			the same facts against the persons in question or if a final judgement has been passed. In case of refusal the requesting authority should be informed without delay by also giving the reasons for refusal.
Greece	X		Reasons for refusal as listed in Article 59 of the Directive such as 1) this might adversely affect the sovereignty, security or public order of Greece or 2) judicial proceedings have already been initiated in respect of the same facts against the persons in question or if a final judgment has been passed. In case of refusal the requesting authority should be notified without delay providing also the reasons for refusal”.
Hungary	X		
Iceland	X		Refusal is possible if the FME has not made bilateral contract (MoU) with the relevant authority or the relevant request is not within the scope of the relevant MoU.
Ireland	X		Reasons for refusal as listed in Article 59 of MiFID.
Italy	X		Refusal is possible only in the cases allowed under Article 59 of MiFID.
Latvia	X		<p>The FCMC shall be entitled to take a motivated decision and refuse that the supervisory authority of another member state carries out an inspection in the territory of the Republic of Latvia upon request of that supervisory authority and that the authorised representatives of the supervisory authority of another member state take part in inspections, where</p> <p>1) that inspection or participation of the authorised representatives of the supervisory authority of another member state therein adversely affects the sovereignty, security or state policy of the Republic of Latvia;</p> <p>2) a court procedure has been initiated in the Republic of Latvia for the same violation and against the same persons;</p> <p>3) a court verdict has already been taken in respect of the same violation and against the same persons.</p>
Lithuania	X		Refusal of an investigation or the transmission of information is possible, if 1) such an investigation, on the spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of the Republic of Lithuania or 2) judicial proceedings have already been initiated in respect of the same actions and same persons before the authorities of the Republic of Lithuania, or 3) final judgement has been delivered in the Republic of Lithuania in respect of the same persons or actions.
Luxembourg	X		Reasons for refusal as listed in Article 59 of MiFID
Malta	X		Refusal is possible if there are no safeguards of confidentiality or requests are being made for reasons other than regulatory purposes.

Member State	Refusal is possible	No refusal is possible	Additional information
Netherlands	X		Refusal possible. When there are grounds to refuse a request, AFM will inform the requesting authority.
Norway	X		Reasons for refusal as listed in Article 59 of MiFID.
Portugal	X		Refusal is possible if it might adversely affect sovereignty, security or public order, judicial proceedings have already been initiated or a final judgement has already been delivered in respect of the same actions and against the same persons by or before the Portugese Court.
Romania	X		<p>Refusal is possible in the following situations :</p> <ul style="list-style-type: none"> a) such an investigation, on the spot verification, supervisory activity or exchange of information might adversely affect the sovereignty, security or public policy of the state addressed b) judicial proceedings have already been initiated in respect of the same actions and the same persons before the authorities of the member state addressed. c) A final judgement has already been delivered in Romania in respect of the same persons and same actions. <p>In the case of such a refusal, CNVM shall notify the requesting competent authority accordingly providing as detailed information as possible</p>
Slovakia	X		<p>The National Bank of Slovakia may refuse to provide information where:</p> <ul style="list-style-type: none"> a) judicial proceedings have already been initiated in respect of the same actions and the same persons before the authorities of the member state addressed. b) providing the required information might adversely affect the sovereignty, security or public policy of the Slovak Republic; c) where in the Slovak Republic, a final judgement has already been delivered in relation to such entities for the same actions to which the request for information relates ; <p>In such case the National Bank of Slovakia shall notify the requesting competent authority accordingly, providing it with information on the proceedings or judgement.</p>
Slovenia	X		
Spain	X		Cases for refusal of requests are: 1) if the relevant request is not within the scope of the relevant MoU, 2) if one of the reasons established in the relevant MoU as causes to refuse a request concurs, 3) when the reciprocity or confidentiality



Member State	Refusal is possible	No refusal is possible	Additional information
			requirements are not met or 4) in cases described in the CESR and IOSCO MMoU.
Sweden	X		Refusal is possible for the reasons listed in Article 59 MiFID
UK	X		

Have authorities concluded cooperation agreements providing for the exchange of information with any third country authorities, bodies and natural and legal persons responsible for those activities as set out in Article 63(1) (i)-(v)? – Article 63

366. As can be seen from the Table 54 below, the majority of authorities have concluded cooperation agreements with third country authorities. For further details regarding the nature of these agreements see above.

Table 54 – Authorities that have concluded cooperation agreement with third country authorities

Member State	Cooperation agreement with third country authorities	No cooperation agreement with third country authorities
Austria	X	
Belgium	X	
Bulgaria	X	
Cyprus	X	
Czech Republic	X	
Denmark	X	
Estonia	X	
Ireland	X	
Germany	X	
Greece	X	
Finland		X
France	X	
Hungary	X	
Iceland	X	
Italy		X
Lithuania	X	
Luxembourg	X	
Latvia	X	
Malta	X	
Netherlands	X	
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia		X
Spain	X	
Sweden	X	
UK	X	

The process for considering the adequacy of the administrative structure and financial situation of the investment firm – Article 32(3)

Table 55 – Differences in process used for considering adequacy of an investment firms administrative and financial situation to that used in the general authorisation process

Member State	Not different from general authorisation process	Different from the general authorisation process
Austria	X	
Belgium	X	
Bulgaria	X	
Cyprus	X	
Czech Republic	X	
Denmark	X	
Estonia	X	
Finland	X	
France	X	
Germany	X	
Greece	X	
Hungary	X	
Iceland	X	
Ireland	X	
Italy	X	
Latvia	X	
Lithuania	X	
Luxembourg	X	
Malta	X	
Netherlands	X	
Norway	X	
Portugal	X	
Romania	X	
Slovakia	X	
Slovenia	X	
Spain	X	
Sweden		
UK	X	

367. Many CESR Members (**BE, DE, EL, ES, FI, HU, IS, LV, LU, NO, PT, RO, UK**) underline the importance of internal cooperation within their authorities for the assessment of the administrative structure and financial situation of investment firms, which mostly includes the involvement of supervisory experts being in charge of the supervision of the specific firm (and other relevant departments accordingly).
368. In the **UK**, it is obligatory for the FSA to send a notice to HMT who then has the power to refuse approval on competition grounds.
369. A number of CESR Members (**BE, BU, DE, FI, IE, IS, IT, LT, LU, MT, NO, PT, SI**) have indicated that there is no substantial difference for the process for considering the adequacy of the administrative structure and financial situation of the investment firm from the general authorisation process.



370. As regards the information that is taken into account when such consideration takes place, a high number of CESR Members (AT, BE, CY, CZ, DK, DE, EL, FR, HU, IE, IS, LV, LU, MT, NO, PT, RO, ES, SE, UK) make reference to the consideration of the information provided in the Standard Notification Form and the programme of operations (Annex 2 of CESR's Protocol on MiFID Passport Notification, CESR/07-317). CESR Members may also consider all information available on the investment firm to consider their administrative structure and financial situation.

Table 56 – Information that is taken into account when considering adequacy of the administrative structure and financial situation of the investment firm

Member State	Administrative and structural framework	Controlling framework, management, ownership	Financial situation (financial statements, reports, forecast, etc.)	Interests of clients and owners	Other
Austria	X	X	X	X	
Belgium	X	X	X	X	
Bulgaria	X				
Cyprus	X	X	X		
Czech Republic	X	X	X		
Denmark	X	X	X		
Estonia	X	X	X		X
Finland	X	X	X	X	X
France	X				
Germany	X	X	X		
Greece	X	X	X		Tied agents
Hungary	X	X	X	X	
Iceland	X	X	X		
Ireland	X	X	X		
Italy					
Latvia	X	X	X	X	
Lithuania	X	X	X	X	
Luxembourg	X	X	X		Sound proportion in the structure of investment firms and its branches
Malta	X	X	X	X	Critical outsourcing arrangements
Netherlands					
Norway	X	X	X		
Portugal	X	X	X	X	Tied agents
Romania	X	X	X		Tied agents
Slovakia	X				



Member State	Administrative and structural framework	Controlling framework, management, ownership	Financial situation (financial statements, reports, forecast, etc.)	Interests of clients and owners	Other
Slovenia	X	X			
Spain	X	X	X	X	
Sweden	X				Tied agents
UK	X	X	X	X	Location of offices and suitability of persons directing the business

The controls surrounding the process to ensure that authorities meet the three months deadline for informing the competent host authority and the investment firm – Article 32(3)

Table 57 – Controls surrounding process ensuring that authorities meet the 3 months deadline

Member States	Deadline set by law	Internal agenda/schedule or create work sheets	Electronic administrative tools (software)	Personal responsibility of the individual administrators	Management's role in controlling deadlines
Austria	X				
Belgium	X	X			
Bulgaria	X				
Cyprus ⁹⁷	X	X			
Czech Republic	X				
Denmark	X				
Estonia		X			
Finland		X			X
France		X			
Germany				X	
Greece	X				
Hungary	X	X		X	X
Iceland				X	
Ireland	X				
Italy	X				
Latvia	X		X		
Lithuania	X				
Luxembourg	X	X			
Malta	X				X
Netherlands					

⁹⁷ CY mentions that it is in the process of building the relevant software system.

Member States	Deadline set by law	Internal agenda/schedule or create work sheets	Electronic administrative tools (software)	Personal responsibility of the individual administrators	Management's role in controlling deadlines
Norway	X		X		
Portugal	X	X			
Romania	X			X	
Slovakia	X				
Slovenia	X				
Spain	X				
Sweden	X		X		
UK	X	X	X		

2) The nature of cooperation arrangements in place for the supervision of branches

Where different from the process described under the monitoring heading, the process for ensuring that the branch complies with its obligations as set out in Articles 19, 21, 22, 25, 27 and 28 of MiFID – Article 32(7)

371. Some CESR Members (CY, DE, EL, ES, HU, LT, RO) highlighted the importance of considering the CESR Protocol on the supervision of branches under MiFID when supervising the branch and any agreements concluded with other CESR Members in this regard.
372. All CESR Members require that any investment firm wishing to establish a branch within the territory of another Member State first notifies you and provides you with the following information:
- the Member State within the territory of which it plans to establish a branch;
 - a programme of operations within the meaning of Article 32(2)(b) of the Directive
 - the address of the host Member State from which the documents may be obtained
 - the names of those responsible for the management of the branch.
373. All CESR members within 3 month of receipt of the information set out in Article 32(2) of the Directive (unless you have reason to doubt the adequacy of the administrative structure or the financial situation of the investment firm taking into account the activities envisaged) communicate that information to the competent authority of the host member state designated as contact point in accordance with Article 56(1) of the Directive and inform that investment firm accordingly
374. In addition to the information set out in Article 32(2) of the Directive, all CESR Members also provide the competent authority of the host Member State with the information regarding the accredited compensation scheme of which the investment firm is a member as required by Article 32(4) of the Directive.
375. In the event that a CESR Member refuses to communicate the information set out in Article 32(3) and Article 32(4) of the Directive to the competent host authority, all CESR Members give reasons for the refusal to the investment firm concerned within three months of receiving all information.

Section IV – Delegation of tasks of the supervisory authority to another entity

- 376.** According to articles 5(5), 16(3) and 17(2) of MiFID, Member States may allow the competent authority to delegate administrative, preparatory or ancillary tasks related to, respectively:
- the granting of authorisation to those investment firms that provide only investment advice or the service of reception and transmission of order;
 - the review of conditions for initial authorisation in case of investment firms which provide only investment advice;
 - the regular monitoring of operational requirements in case of investment firms which provide only investment advice.
- 377.** At the time of writing, none of the authorities has exercised any of the abovementioned options to delegate administrative, preparatory or ancillary tasks.

Do authorities exchange information with other authorities: Article 56(1), (3), (4) and 49

- 378.** All Members exchange information with other authorities within the same jurisdiction, with competent authorities in other Member States and with authorities in third countries.

Part C – Administrative measures and criminal sanctions

- 379.** The capacity for Members to act on an equal footing when performing sanctioning activities is considered fundamental to delivering supervisory convergence by CESR as a precondition to a credible EU supervisory system and maintaining clean financial markets in which those who participate in it have confidence
- 380.** The equivalent powers of supervisors when enforcing against those who infringe EU legislation is considered by CESR as a precondition to a credible EU supervisory system and fundamental to a credible system of maintaining sound financial markets in which those who participate in it have confidence. At the same time such equivalence in enforcement and sanctioning powers protects European financial markets from regulatory arbitrage.
- 381.** Differences in respect of the administrative measures and sanctions exist, due to the fact that Member States' legal systems differ across the EU and that Member States have the discretion to decide on the types of administrative measures applicable in cases of infringement of MiFID.
- 382.** The basis of this report is factual in nature and looks into the actual powers, enforcement and sanctioning regimes and not into the effective enforcement in practice of infringements of MiFID provisions
- 383.** Further to the December 2007 Council conclusions, this section of the report sets out below an analysis following an extensive fact finding exercise by CESR of its Members in respect of the administrative measures and criminal sanctions available to supervisory authorities. The purpose of the analysis is to encourage compliance with MiFID and adequately enforcing infringements by those investment firms, credit institutions, regulated markets and their operators, and all individuals regulated by MiFID who do not abide by their MiFID obligations.
- 384.** As the purpose of this exercise is to ascertain the nature of the enforcement provisions that Members can use for the infringement of MiFID, Members have been asked to only take into account those measures and sanctions specifically provided in their national laws implementing MiFID provisions, and not to include those referring to breaches of other pieces of legislation, such as the general penal law.
- 385.** As the obligations under MiFID involve organisation of a business and conduct of business rules, the enforcement of these obligations primarily tend to be understood by the Members as of an administrative nature rather than of a criminal nature. With regards to more material infringements of MiFID such as unauthorised provision of investment services, the majority of Member States with the exception of **(AT, ES, PT, RO, SI and SE)** may also introduce criminal sanctions. For that reason, CESR Members were asked to describe: (i) the criteria used to determine administrative fines and (ii) how in practice the interrelation between administrative and criminal procedure works in their jurisdiction.
- 386.** MiFID does not contain any definition with regard to an administrative measure and a criminal sanction as the notions of administrative measures and criminal sanctions depend on the national law of each Member State. Therefore, the following paragraphs do not intend to provide legal definitions of the relevant measures and

sanctions, nor to define the scope of national measures and sanctions. However, in order to facilitate the understanding of the use of these terms in the report, CESR adopted a pragmatic approach on this issue by distinguishing between on the one hand administrative measures and administrative fines, and on the other hand criminal sanctions such as imprisonment and criminal fines. Although not all of the following applies throughout the Membership as a whole, it was deemed necessary for the purpose of this report to explain in more detail the terminology used.

- 387.** First is set out what for the purpose of this report has to be understood as being an administrative measure. This will be explained by making a differentiation between restorative and / or punitive administrative measures. Via this differentiation we set out what, for the purpose of this report, is referred to as administrative fines. Secondly, the criminal sanctions are explained in more detail.
- 388.** The power to impose administrative measures lies with the administrative competent bodies. Administrative measures can be restorative or punitive in nature.⁹⁸ Restorative administrative measures are used by issuing orders or injunctions (issued by the authority in question or by Judicial Authorities under the terms of the relevant jurisdiction)⁹⁹ to elicit immediate compliance in order to try and restore the situation (if possible) to the status quo that existed before the infringement occurred and to prevent continuation of the infringement. To ensure compliance the restorative administrative measure will be used in combination with a “non compliance penalty.” This gives the infringer a financial incentive to correct his illegal behaviour. These administrative orders for restoration / injunctions may also be combined with an obligation to pay an administrative fine for infringement of a legal provision.
- 389.** This other type of administrative pecuniary measure that can be imposed is punitive in nature - and is only imposed after the infringement has occurred. Only these punitive administrative fines will for the purpose of this report be referred to as administrative fines.
- 390.** Criminal sanctions can be either criminal fines or imprisonment and are in almost all Member States imposed by the Judicial Authorities.¹⁰⁰ Criminal sanctions mainly serve the following purposes: punishment and deterrence in order to punish the guilty individual or the management of the investment firm for the infringement in question and deterring the offender from repeating the offences. For the purpose of this report criminal fines and imprisonment will be referred to as criminal sanctions.
- 391.** Overall, the results of the exercise show that there are differences between Members in respect of the administrative measures and criminal sanctions applicable in cases of infringements of MiFID. These differences are largely due to the fact that Members

⁹⁸ E.g legislation in **LU** does not make a distinction between the two types of (restorative and punitive) administrative fines as described in this paragraph.

⁹⁹ Note that there is no consistency in the current legal framework as regards the use of the term “injunction” in terms of who (namely a court of law or an administrative authority) can impose such an administrative measure. As such the use of this term in this section of the report is to be understood as something that can be imposed by both a Court of law or an administrative authority.

¹⁰⁰ In **IR** (for summary proceedings) and the **UK** the competent authorities can themselves impose criminal sanctions. In **AT, EE, ES, PT, RO, SE** and **SI** criminal sanctions with regard to MiFID provisions are not available at all.



States' legal systems differ and that Member States have the discretion to decide on the types of administrative measures applicable in cases of infringement of MiFID.

- 392.** The division of responsibilities between competent authorities in each Member State, in relation to the investigation of cases and subsequent enforcement activity is at the Member States discretion as well.
- 393.** This section of the report describes the types of administrative measures and administrative fines, as well as the criminal sanctions in the form of imprisonment and criminal fines that Members can impose for breaches of different MiFID provisions, as well as the amount of administrative and criminal fines that are imposed and how these are determined. According to the provisions of MiFID, Member States have the discretion to decide on the amount of fines and the types of administrative measures applicable in cases of infringement of MiFID. Several Members (**DK** and **UK**) use a system of unlimited administrative fines. Several Members (**CZ**, **DE**¹⁰¹, **DK**, **FI**¹⁰², **IS** and **NO**) use a system of unlimited criminal fines.
- 394.** For ease for reference further details of the administrative and criminal sanctions that Members can impose are set out in Table 68 of this section of the report
- 395.** This part of the report is divided into the following four broad areas of MiFID:
- A) Requirement for the authorisation of investment firms – Article 5(1) – paragraphs 397-410**
 - B) Conditions for the authorisation and the regular review of conditions for initial authorisation of investment firms (ongoing supervision) – Article 9-14 and 16 – paragraphs 411-424**
 - C) Ongoing obligations for investment firms – paragraphs 425-441**
 - i) Operating conditions – General provisions and provisions to ensure investor protection – Articles 16-24 – paragraphs 426-439**
 - ii) Provisions for market transparency and intergrity – Articles 25-30 – paragraphs 433-441**
 - D) Regulated Markets – Article 36-40 – paragraphs 442-451**
- 396.** In addition, Section E discusses the criteria used to determine administrative fines:
- E) Criteria used to determine administrative fines – paragraphs 452-454**

¹⁰¹ In **DE** criminal fines are unlimited and imposed in units per day that correspond with the daily income of the convict. Accordingly there may be a cap of the number of units that can be imposed. One unit corresponds with one day of imprisonment. In principle imprisonment should not be ordered for periods less than 3 to 6 months.

¹⁰² In **FI** a fine is imposed as unit fines (uf). For instance, 20 uf at EUR 10 = EUR 200. The more blameworthy the infringement, the more unit fines are imposed. The statutory maximum number of unit fines is 120 – or if the fine concerns several offences – EUR 240. The amount of a unit fine depends on the net income of a convict.

A. Requirements for the authorisation of investment firms – Article 5(1)

397. For the infringement of the MiFID requirements for authorisation and thus the unauthorised provision of investment services which are discussed in detail in Part B of this report in paragraphs 204-238, as can be seen from Table 58, all twenty-eight (28) jurisdictions reported that they can impose **administrative measures**.
398. The nature of these administrative measures is discussed in further detail below.
399. Twenty-two (22) out of twenty eight (28) jurisdictions reported that they can impose **administrative fines** whereas six (6) reported that they can not (namely **BE, EE, FI, FR, NO** and **UK**), with one jurisdiction (**DK**) reporting that the legislation does not explicitly specify the amount of or range of administrative fines that can be imposed as these Members have the ability to impose unlimited administrative fines.
400. Twenty-two (22) out of the twenty eight (28) jurisdictions reported that they can impose **criminal fines** whereas the following six (6) reported that they cannot (**AT, ES, PT, RO, SI** and **SE**). In seven (7) of jurisdictions (**CZ, DE, DK, FI, IS, NO** and **UK**) the amount or range of criminal fines that can be imposed is not legally specified as these Members have the ability to impose unlimited criminal fines.
401. The range of administrative and criminal fines that can be imposed in this area is not convergent between Members as it varies on the administrative side from the lowest maximum amount in **LU** of € 12,500 to the highest maximum amount in **SE** of € 5,352,990, and on the criminal side from the lowest maximum amount in **BG** of € 5,000 to the highest maximum amount in **EE** of € 16,129,032. Further 14 Members (**BE, CZ, EE, DE, FI, FR, IE, IS, LT, LU, LV, MT, NO, UK**) have criminal fines that are greater than administrative fines whereas the reverse is the case for twelve (12) jurisdictions (**AT, BG, EL, ES, HU, IT, NL, PT, RO, SE, SI, SK**). In **CY** and **DK** the amount for administrative and criminal fines is equal.
402. The ability to imprison individuals found guilty of unauthorised conduct of investment services is possible in twenty (21) jurisdictions whereas only seven (7) out of twenty eight jurisdictions namely (**AT, EE, ES, PT, RO, SE** and **SI**) the law does not provide for the penalty of imprisonment.
403. Where this sanction is possible, the term of maximum imprisonment varies from four (4) months in **DK** to ten (10) years in **BG** and **IE**.
404. Overall, as can be seen from the Table 58, all jurisdictions can impose administrative measures. Therefore, the use of administrative measures is more prolific throughout the Membership than the imposition of administrative or criminal fines and the use of imprisonment.

Table 58 showing types of administrative measures and fines and criminal sanctions that can be imposed for infringements of the MiIFD authorisation requirements for investment firms (Article 5.1).

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Austria			X	X	na	50,000	na		X
Belgium		X			1 month- 1 year	na	50,000	X	
Bulgaria					3-10 years	100,000 ¹⁰³	5,000		X
Cyprus					0-5 years	350,000	350,000	~	~
Czech Republic					6 months-3 years	800,000	unlimited	X	
Denmark					0-4 months	unlimited	unlimited	~	~
Estonia		X		X	na	na	16,129,032	X	
Finland		X			0-1 year	na	unlimited ¹⁰⁴	X	
France		X			0-3 years	na	375,000	X	
Germany					0-3 years	250,000 ¹⁰⁵	unlimited ¹⁰⁶	X	
Greece					1 year or more	3,000,000	na		X
Hungary					0-3years	79,350	40,000 ¹⁰⁷		X

¹⁰³ For repeated violations by a legal person

¹⁰⁴ Max amount depends on the income of the convict. A fine is imposed as unit fines. The amount of one unit fine depends on the income of the convict. There is a cap for the number of units, but not for the amount of one unit.

¹⁰⁵ In **DE** administrative fines are not unlimited. Criteria are existing precedents in comparable cases, damage caused, degree of intent, repetition of contraventions etc.

¹⁰⁶ In **DE** criminal fines are unlimited and imposed in units per day that correspond with the income of the convict. Accordingly there may be a cap of the amount of the unit, but the number of units that can be imposed is not limited. One unit corresponds with one day of imprisonment. In principle imprisonment should not be ordered for periods less than 3 to 6 months.

¹⁰⁷ Fine only imposed with if imprisonment imposed

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Iceland					0-2 years	421,384	unlimited	X	
Ireland					0-10 years	5,000,000 for legal entities, 500,000 for individuals	10,000,000	X	
Italy					1-8 years	1,000,000	400,000		X
Latvia					0-2 years	14,200	100 times min monthly wage – 23,000	X	
Lithuania					0-4 years	29,000	1,882,530 ¹⁰⁸	X	
Luxembourg					8 days-5 years	12,500	125,000	X	
Malta					0-4 years	93,175	465,875	X	
Netherlands					0-2 years	96,000	16,750		X
Norway		X			14 days-1 year	na	unlimited	X	
Portugal			X	X	na	2,500,000	na		X
Romania			X	X		13,545	na		X
Slovakia					6 months -8 years	664,000	332,000		X
Slovenia			X	X	na	370,000	na		X
Spain			X	X	na	600,000 or 5 x gross profit or 5%	na		X

¹⁰⁸ With regards to legal persons

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
						of firms own or owned by 3 rd parties funds			
Sweden			X	X	na	5,352,990	na		X
UK		X			0-2 years	na	unlimited	X	

405. Administrative measures is the most commonly used form of action cited taken for breaches of the MiFID requirements for authorisation and the unauthorised provision of investment services. The following part of this section therefore discusses the nature of these administrative measures in more detail.

The most frequently cited administrative measures used for the unauthorised provision of investment services

406. As can be seen from Table 59, one of the most frequently administrative measures cited against the unauthorised performance of investment services is the issue of *orders* by the authorities or *injunctions* by courts or an administrative authority *to cease the illegal activity*. Twenty-one (21) jurisdictions employ this measure (AT, BE, BG, CZ, DE, DK, EE, EL, ES, HU, IE, IT, LU, LV, MT, NO, PT, RO, SE, SK and UK).
407. Another fairly spread measure is the *publication of warnings or statements* which is used in eighteen (18) jurisdictions (AT, BE, BG, CY, CZ, DE, EE, EL, ES, FI, LT, LU, MT, NL, NO, PT, RO and UK) and/or the imposition of a *reprimand* which is used in eight (8) jurisdictions (CZ, EE, EL, IE, FI, LT, NO and UK).
408. Seven (7) Members are also able to order the *closure of the business* (AT, CY, DE, HU, IT, PT, SI).
409. Twenty-one (21) jurisdictions are able to order the cessation of the illegal activity where the unauthorised service is carried out by a licensed entity. The following four (4) Members (FI, IS, IT, PT) are able to order the cessation of the illegal activity when the unauthorised activity is conducted by an unauthorised entity. Twenty (20) jurisdictions can also *withdraw the licence* (BE, CY, DE, DK, EE, EL, FI, HU, IS, IT, LU, LT, LV, MT, NL, NO, PT, RO, SK and UK).
410. In nine (9) jurisdictions (BG, DE, EE, EL, HU, IE, IT, LU and PT) *disqualification/dismissal of the responsible managers* and/or the *appointment of administrators* is a possible measure that has a direct impact on the management of the entity. In seven (7) jurisdictions (AT, CY, DE, HU, IT, PT and SE) *liquidation* of the unauthorised business is possible as a measure.



Table 59 of the types of the most commonly available administrative measures that Member states can impose for infringement of the MiFID conditions for authorisation (Article 5.1)

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity/ Imposition of injunction by Court to cease unauthorised activity	Issue a public reprimand	Suspension of voting rights	Publish a warning or statement	Publish all admin measures	Revocation of Licence/withdawal of authorisation	Closure of business/ Liquidation of the business	Disqualification/dismissal of responsible management and/or the appointment of [administrators]
Austria	X			X	X		X	
Belgium	X*			X		X		
Bulgaria	X			X	X			X
Cyprus				X		X	X	
Czech Republic	X	X		X				
Denmark	X*					X		
Estonia	X*	X	X	X	X	X		X
Finland		X		X		X		
France								
Germany	X			X	X	X	X	X
Greece	X	X		X		X		X
Hungary	X					X	X	X
Iceland						X		
Ireland	X*	X						X
Italy	X		X		X	X	X	X
Latvia	X					X		
Lithuania		X		X	X	X		
Luxembourg	X		X	X	X	X		X
Malta	X			X	X	X		

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity/ Imposition of injunction by Court to cease unauthorised activity	Issue a public reprim and	Suspension of voting rights	Publish a warning or statement	Publish all admin measures	Revocation of Licence/withdr awal of authorisation	Closure of business/ Liquidation of the business	Disqualification/dismissal of responsible management and/or the appointment of [administrators]
Netherlands				X	X	X		
Norway	X	X		X		X		
Portugal	X			X	X ¹⁰⁹	X	X	X
Romania	X			X		X		
Slovakia	X		X			X		
Slovenia			X				X	
Spain	X			X				
Sweden	X							
UK	X	X		X		X		

* Only Judicial Authorities can impose injunction to cease unauthorised activity.

¹⁰⁹ Publishment is an ancillary sanction itself.

B. Conditions for the authorisation (Articles 9-14) and Article 16 – and Regular review of conditions for initial authorisation of investment firms (ongoing supervision)

411. For infringements of Articles 9-14 (conditions for authorisation) and Article 16 (regular review of conditions for initial authorisation) of MiFID which are discussed in detail in Part B of this report in paragraphs 253-277, as can be seen from Table 60, all twenty eight (28) jurisdictions can impose **administrative measures**. In terms of the nature of these administrative measures, these are discussed in further detail below.
412. Twenty-six (26) (**AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FR, HU, IE, IS, IT, LU, LT, LV, MT, NL, PT, RO, SE, SI, SK, UK**) out of twenty-eight (28) jurisdictions can impose administrative fines and two (2) jurisdictions namely (**FI** and **NO**) cannot. In two (2) jurisdictions (**DK** and **UK**), the relevant legislation does not explicitly specify the amount or range of administrative fines that can be imposed as these Members have the ability to impose unlimited administrative fines.
413. Fourteen (14) (**BE, CY, DK, EE, FI, FR, IS, IT, LU, MT, NL, NO, SK, UK**) out of twenty eight (28) jurisdictions can impose criminal fines, and fourteen (14) jurisdictions cannot (**AT, BG, CZ, DE, EL, ES, HU, IE, LT, LV, PT, RO, SE, SI**). In four (4) jurisdictions **DK, FI, IS** and **NO** the relevant legislation does not explicitly specify the amount or range of criminal fines that can be imposed as these Members have the ability to impose unlimited criminal fines.
414. The range of administrative and criminal fines that can be imposed is not convergent between jurisdictions. The range of administrative fines that can be imposed is very broad, varying from a lowest maximum of administrative fines of €12,500 in **LU** to a highest maximum administrative fine of € 5,352,990 in **SE**, and unlimited administrative fines in **DK** and the **UK**. The range of maximum criminal fines varies from € 7,500 in **UK** to € 16,129,032 in **EE** and unlimited criminal fines in **DK, FI, IS** and **NO**.
415. The possibility to imprison those individuals found guilty of the infringements of authorisation and the ongoing conditions for its maintenance, sixteen (16) out of twenty-eight (28) jurisdictions do not provide for imprisonment (**AT, BG, CZ, DE, EE, ES, EL, FI, HU, IE, LV, LT, PT, RO, SE, SI**), whereas twelve (12) jurisdictions (**BE, CY, DK, FR, IS, IT, LU, MT, NL, NO¹¹⁰, SK, UK**) do.
416. Where imprisonment is possible, there is no convergence between jurisdictions in terms of the length of imprisonment as the maximum term varies from 4 months in **DK** to eight years in **SK**.

¹¹⁰ In **NO** the ability to imprison does not cover all the conditions for initial authorisation of investment firms, only some specific conditions as for example the duty to keep client assets separated from the firm's own assets.

Table 60 showing types of administrative and criminal sanctions and measures that can be imposed for infringements of the MiFID conditions for authorisation (Article 9-14) and regular review of conditions for initial authorisation (Article 16)

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Austria			X	X	na	30,000	na		X
Belgium					1 month – 1 year	2,500,000	50,000		X
Bulgaria			X	X	na	25,000 ¹¹¹	Na		X
Cyprus					0-5 years	350,000	350,000	~	~
Czech Republic			X	X	na	800,000	na		X
Denmark					0-4 months	unlimited	unlimited	~	~
Estonia				X	na	32,000	16,129,032	X	
Finland		X		X	na	na	unlimited ¹¹²	X	
France					0-3 years	1,500,000 or 10 times the unlawful profit	375,000 for individuals, 1,000,000 for legal entities		X
Germany			X	X	na	500,000	na		X
Greece			X	X	na	3,000,000 or twice	na		X

¹¹¹ For repeated violation by legal person

¹¹² Max amount depends on the income of the convict.

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
						unlawful profit			
Hungary			X	X	na	79,350	na		X
Iceland					0-2 years	421,384	unlimited	X	
Ireland			X	X	na	5,000,000 for legal entities, 500,000 for individuals			X
Italy					6 months – 4 years	1,000,000	619,748 (may be increased by 1/3)		X
Latvia			X	X	na	14,200	na		
Lithuania			X	X	na	29,000	na		X
Luxembourg					8 days-5 years	12,500	125,000	X	
Malta					0-4 years	93,175	465,875	X	
Netherlands					0-2 years	24,000	16,750 & illegal profits	X	
Norway		X			0-1 year	na	unlimited	X	
Portugal			X	X	na	2,500,000	na	X	
Romania			X	X	na	13,545 for individuals, 5% of paid up share capital for legal entities	na	X	
Slovakia					6 months – 8 years	664,000	332,000	X	



Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Slovenia			X	X	na	370,000	na	X	
Spain			X	X	na	600,000, or 5X gross profit or 5% of firms/own, or owned by 3 rd parties funds	na	X	
Sweden			X	X	na	5,353,990	na		X
UK					Up to 2 years	unlimited	7,500	X	

417. Administrative measures are the most common form of action cited as being taken for breaches of the ongoing MiFID requirements for authorisation. The following part of this section therefore discusses the nature of these measures in more detail.
418. The range of administrative measures available across the Members in connection with infringements of the ongoing conditions for authorisation is broader compared to those measures available for the unauthorised conduct of investment services discussed in paragraphs 397-410 above.

The most frequently cited measures used for infringement of ongoing authorisation requirements

419. A majority of the jurisdictions namely twenty-one (21) can impose the *withdrawal/revocation of the licence* (BE, BG, CY, CZ, DE, DK, EL, ES, FI, HU, IS, IT, LT, LU, LV, MT, NL, NO, PT, RO, and SK) as can be seen from Table 61.
420. Another widespread administrative measure that is used is the *prohibition of directors from managing the firm* and/or the appointment of provisional *administrators/government supervisors/special auditors/conservators*, which is the case in thirteen (13) jurisdictions (BE, BG, DE, EL, ES, HU, IE, IT, LT, LU, NO, PT and UK).
421. In twenty (20) jurisdictions the authorities can issue *orders to stop illicit activities / prohibit the execution of transactions* and/or Court can issue *injunctions / authority can issue order* to this purpose (AT, BE, BG, CZ, DE, DK, EL, ES, HU, IE, IT, LT, LU, MT, NO, PT, RO, SK, SE, UK).
422. Furthermore, it is possible to *publish warnings or statements* in seventeen (17) jurisdictions (AT, BE, BG, CY, CZ, DE, EL, ES, FI, HU, LT, LU, LV, MT, NL, PT and RO) and/or impose *reprimands* in five (5) (CZ, EL, FI, IE and LT).
423. Additional administrative sanctions in the form of *forced administration* can be used in two (2) jurisdictions (CZ, IT) and, in the most serious cases, the use of *compulsory administrative liquidation* can be used in (FR, IT).

The most frequently cited administrative measures used for managers or qualifying shareholders that do not fulfil their good reputation or notification obligations

424. In terms of the measures available for managers or qualifying shareholders who do not fulfil their good reputation requirements or fail to comply with their notification obligations, the administrative measures that can be imposed are the:
- a. *suspension/prohibition of exercising voting rights* in the case of ten (10) jurisdictions (BE, BG, CY, CZ, IT, LU, NO, SI, SK and UK);
 - b. *sale of holdings* in excess in the case of five (5) jurisdictions (BE, IS, IT, NO, SE); and the *disqualification of managers from the office/prohibition of performing activities* in the case of thirteen (13) jurisdictions (BE, BG, DE, EL, ES, HU, IE, IT, LT, LU, NO, PT, UK).

Table 61 of the types of the most commonly available administrative measures that Member states can impose for infringement of the MiFID conditions for authorisation (Article 9-14) and regular review of conditions for initial authorisation of investment firms (Article 16)

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity	Issue a public reprimand	Suspension of voting rights	Publish a warning or statement	Publish all admin measures	Revocation of Licence/withdrawal of authorisation	Closure of business/Liquidation of the business	Disqualification/dismissal of responsible management and/or the appointment of administrators
Austria	X			X	X ¹¹³		X	
Belgium	X*		X	X		X		X
Bulgaria	X		X	X	X	X		X
Cyprus			X	X		X	X	
Czech Republic	X	X	X	X		X		
Denmark	X*					X		
Estonia								
Finland		X		X		X		
France								
Germany	X			X	X	X	X	X
Greece	X	X		X		X		X
Hungary	X			X		X	X	X
Iceland						X		
Ireland	X*	X						X
Italy	X		X		X	X	X	X
Latvia	X			X		X		
Lithuania		X		X	X	X		X
Luxembourg	X		X	X	X	X		X

¹¹³ Pursuant to Article 11 Paragraph 6 in conjunction with Article 92 of the Austrian Securities Supervision Act 2007, administrative measures can be made public, such as the prohibition of the ongoing supervision of the executive management (if a member of the board is not considered fit and proper)..

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity	Issue a public reprim and	Suspension of voting rights	Publish a warning or statement	Publish all admin measures	Revocation of Licence/withdawal of authorisation	Closure of business/ Liquidation of the business	Disqualification/dismissal of responsible management and/or the appointment of administrators
Malta	X			X	X	X		
Netherlands				X		X		
Norway	X		X		X	X		X
Portugal	X			X	X ¹¹⁴	X	X	X
Romania	X			X		X		
Slovakia	X		X			X		
Slovenia			X				X	
Spain	X			X	X	X		X
Sweden	X							
UK	X		X					X

*_Only Judicial Authorities can impose injunction to cease unauthorised activities

¹¹⁴ Publishement is an ancillary sanction itself.

C. Ongoing obligations for Investment Firms

425. This part of the report is divided into:

- i) Operating conditions – General provisions and provisions to ensure investor protection (Articles 16-24); and
- ii) Provisions for market transparency and integrity (Articles 25-30)

i) Operating conditions – General provisions and provisions to ensure investor protection (Articles 16-24)

426. For infringements of the general provisions and those that ensure investor protection (Articles 16-24) of MiFID which are discussed in detail in Part B of this report in paragraphs 235-237, as can be seen from Table 62, all twenty eight (28) jurisdictions can impose **administrative measures** as discussed in further detail below.
427. Twenty six (26) Members except **FI** and **NO** can impose administrative fines. In two (2) jurisdictions namely **DK** and **UK** the relevant legislation does not explicitly specify the amount or range of fines that can be imposed as these Members have the ability to impose unlimited administrative fines.
428. Ten (10) Members (**CY, DK, FI, FR, IT, MT, NL, NO, SK** and **UK**) out of twenty eight (28) jurisdictions can impose criminal fines, and eighteen (18) jurisdictions can not (**AT, BE, BG, CZ, DE, EE, EL, ES, HU, IE, IS, LV, LT, LU, PT, RO, SE, SI**). In three (3) jurisdictions, **DK, FI** and **NO** the relevant legislation does not explicitly specify the amount or range of criminal fines that can be imposed as these Members have the ability to impose unlimited criminal fines.
429. In terms of the range of administrative and criminal fines that can be imposed, as can be seen there is no convergence between jurisdictions, and the range of fines that can be imposed is very broad, with the maximum of administrative fines ranging from the imposition in **BG** of € 5,000, to the imposition in **DK** and the **UK** of unlimited administrative fines and in **SE** the imposition of € 5,352,990. In terms of criminal fines the range varies from the imposition of a maximum in the **UK** of € 6,360 to the imposition in **FR** of 1,500,000 (increasable to a max of 10 times the realised profits) to the imposition in **DK, FI** and **NO** of unlimited criminal fines.
430. In terms of the criminal sanctions in the form of imprisonment in twenty (20) of the twenty eight (28) jurisdictions the law does not provide for imprisonment (**AT, BE, BG, CZ, DE, DK, EE, EL, ES, FI, HU, IE, IS, LT, LU, LV, PT, RO, SE** and **SI**), and in eight (8) jurisdictions namely **CY, IT, FR, MT, NL, NO, SK** and **UK** the law does provide for imprisonment, with a maximum term varying from 3 months in the **UK** to 8 years in **SK**. In **NO** imprisonment of a maximum of 1 year may be imposed.

ii) Provisions for market transparency and integrity (Articles 25-30)

- 431.** For infringements of investment firms operating conditions for market transparency and integrity (Articles 25-30) of MiFID, discussed in detail in Part B of this report in paragraphs 255-277, as can be seen from Table 63 all twenty eight (28) jurisdictions can impose **administrative measures** ;
- 432.** In terms of the nature of these administrative measures, these are discussed in further detail below.
- 433.** In terms of the imposition of administrative fines twenty seven (27) namely (**AT, BE, BG, CY, CZ, DE, DK, EE, EL, ES, FI, FR, HU, IE, IS, IT, LV, LT, LU, MT, NL, PT, RO, SE, SI, SK, UK**) out of twenty-eight (28) jurisdictions may impose such administrative fines whereas one (1) namely (**NO**) cannot. In two (2) jurisdictions, **DK** and **UK**, the relevant legislation does not explicitly specify amount or range of amounts as these Members have the ability to impose unlimited administrative fines..
- 434.** In terms of the imposition of criminal fines nine (9) jurisdictions (**CY, DK, FI, FR, IT, MT, NL, NO, SK**) out of twenty-eight (28) can impose criminal fines and nineteen (19) namely (**AT, BE, BG, CZ, DE, EE, EL, ES, HU, IE, IS, LV, LT, LU, PT, RO, SE, SI, UK**) cannot. In **DK, FI**, and **NO** the relevant legislation does not explicitly specify amount or range of amounts as these Members have the ability to impose unlimited criminal fines.
- 435.** In terms of the range of administrative and criminal fines that can be imposed, as can be seen there is no convergence between jurisdictions, and the range of fines that can be imposed is very broad, with the maximum of administrative fines ranging from in **FI** of € 10,000 to the imposition in **SE** of € 5,352,990. In relation to the criminal fines the range varies from the imposition of a maximum in the **UK** of € 6,360 may be imposed and depriving illegal profits to the imposition in **FR** of € 1,500,000 (which may be increased to 10 times the amount of realised profits).
- 436.** In terms of the ability to imprison those held responsible for infringing the MiFID market transparency and integrity operating requirements, in twenty-one (21) jurisdictions (**AT, BE, BG, CZ, DE, DK, EE, EL, ES, FI, HU, IE, IS, LT, LV, LU, PT, RO, SE, SI, UK**) the law does not provide for imprisonment, and in the following seven (7) jurisdictions (**CY, FR, IT, MT, NL, NO** and **SK**) imprisonment is possible.
- 437.** There is no convergence in respect of the term of imprisonment possible which varies from a maximum in **NO** of 1 year to eight years in **IT** and **SK**.

Table 62 showing types of administrative measures and fines and criminal sanctions that can be imposed for infringements of the MiIFD conditions for investment firms [divided into the two categories: general provisions and provisions to ensure investor protection (Article 16-24) and provisions for market transparency and integrity (Article 25-30)]

Member State	Can NOT impose admin measures		Can NOT impose admin fines		Can NOT impose criminal fines		Can NOT imprison		Term of imprisonment For both 16-24 & 25-30	Max admin fine in € for both 16-24 & 25-30	Max of criminal fines in € for both 16-24 & 25-30	Criminal fines greater than admin fines	Admin fines greater than criminal fines
	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30					
Austria					X	X	X	X	na	50,000	na		X
Belgium					X	X	X	X	na	2,500,000	na		X
Bulgaria					X	X	X	X	na	5,000 for individuals, 10,000 for legal entities & 8,000 for legal entities for Arts 25-30	na		X
Cyprus									0-5 yrs	700,000	350,000		X
Czech Republic					X	X	X	X		800,000	na		X
Denmark							X	X	na	unlimited	unlimited	-	-
Estonia		X			X	X	X	X	na	32,000	na		X
Finland			X				X	X	na	10,000 for legal entities, 1,000 for individuals for Arts 25-30	unlimited		X
France									1-7 yrs	1,500,000 or 10 times	1,500,000 or 10	-	-

Member State	Can NOT impose admin measures		Can NOT impose admin fines		Can NOT impose criminal fines		Can NOT imprison		Term of imprisonment For both 16-24 & 25-30	Max admin fine in € for both 16-24 & 25-30	Max of criminal fines in € for both 16-24 & 25-30	Criminal fines greater than admin fines	Admin fines greater than criminal fines
	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30					
										profit	times profit		
Germany					X	X	X	X	na	200,000 ¹¹⁵	na		X
Greece					X	X	X	X	na	3,000,000 or 2 times profit	na		X
Hungary					X	X	X	X	na	40,000	na		X
Iceland					X	X	X	X	na	421,384	na		X
Ireland					X	X	X	X	na	5,000,000 – legal entities, 500,000 – individuals	na		X
Italy									1-8 years and 6 months ¹¹⁶ and 8 years for Art 25-30 ¹¹⁷	1,000,000	619,748 – can be increased by a third		X
Latvia					X	X	X	X	na	14,200	na		X
Lithuania					X	X	X	X	na	29,000	na		X
Luxembourg					X	X	X	X	na	12,500	na		X

¹¹⁵ Can be lower for other articles in this category – see Annex

¹¹⁶ Double for listed companies

¹¹⁷ Can be lower for other Articles in this category – see Annex

Member State	Can NOT impose admin measures		Can NOT impose admin fines		Can NOT impose criminal fines		Can NOT imprison		Term of imprisonment For both 16-24 & 25-30	Max admin fine in € for both 16-24 & 25-30	Max of criminal fines in € for both 16-24 & 25-30	Criminal fines greater than admin fines	Admin fines greater than criminal fines
	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30					
Malta									0-4yrs	93,175	465,875	X	
Netherlands									0-2yrs	24,000	16,750		X
Norway			X	X					0-1 yr	na	unlimited		
Portugal					X	X	X	X	na	2,500,000	na		X
Romania					X	X	X	X	na	13,545	na		X
Slovakia									6 mnts-8 yrs	664,000	332,000		X
Slovenia					X	X	X	X	na	370,000	na		X
Spain					X	X	X	X	na	600,000 or 5 x gross profit or 5% of firms own or owned by 3 rd parties funds	na		X
Sweden					X	X	X	X	na	5,352,990	na		X
UK						X		X	3 mnts-2 yrs	unlimited	6,360		X

438. Administrative measures are the most commonly used form of action cited as being taken for breaches by investment firms of the general provisions and those that ensure investor protection (Articles 16-24) and their operating conditions for market transparency and integrity (Articles 25-30). The following part of this section discusses the nature of these measures in more detail.
439. In terms of the general provisions and those that ensure investor protection, the administrative measures described above, are generally the same used for breaches of these MiFID provisions.
440. The administrative measures that can be imposed for infringements of the market transparency and integrity operating conditions, in addition to the measures already described above, it is possible to outline sanctioning powers specifically aimed at ensuring market transparency and integrity. This is the case for the orders *prohibiting/suspending market trading* or banning transactions (BG, CZ, ES, HU, IS, IT, LU, SK, UK).
441. As can be seen from Table 63 the administrative measures that can be imposed for infringements with regard to the general operating conditions for investment firms and those to ensure investor protection (Articles 16-24) are almost identical to the measures that can be imposed with regard to provisions for market transparency and integrity (Articles 25-30).

Table 63 of the types of administrative measures that Member states can impose for infringement of the MiFID operating conditions for investment firms – General provisions and provisions to ensure investor protection (Article 16 – 24) and Market transparency and integrity (Article 25-30)

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity		Issue a public reprimand		Suspension of voting rights		Publish a warning or statement		Publish all admin measures		Revocation of Licence/withd rawal of authorisation		Closure of business/ Liquidation of the business		Disqualification/di smissal of responsible management and/or the appointment of [administrators]	
	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30
Austria	X	X							X	X	X	X	X	X	X	X
Belgium	X	X			X	X	X	X			X	X			X	X
Bulgaria	X	X					X	X	X	X					X	X
Cyprus							X	X			X	X	X	X		
Czech Republic					X	X			X	X	X	X				
Denmark	X	X									X	X				
Estonia	X*	X*	X	X					X	X	X	X			X	X
Finland			X	X			X	X			X	X				
France	X	X	X	X			X	X	X	X		X				
Germany	X	X			X				X	X	X	X			X	X
Greece			X	X							X	X				
Hungary							X	X			X	X			X	X
Iceland	X															
Ireland	X	X	X	X							X	X			X	X
Italy	X	X							X	X	X	X	X	X	X	X
Latvia					X		X	X			X	X				

Member State	Order by CA or *injunction by Judicial Authorities to cease unauthorised activity		Issue a public reprimand		Suspension of voting rights		Publish a warning or statement		Publish all admin measures		Revocation of Licence/withd rawal of authorisation		Closure of business/ Liquidation of the business		Disqualification/di smissal of responsible management and/or the appointment of [administrators]	
	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30	16-24	25-30
Lithuania			X	X			X	X	X	X	X	X			X	
Luxembourg	X	X			X	X	X	X	X	X	X	X			X	X
Malta							X	X	X	X	X	X				
Netherlands							X	X			X	X				
Norway	X	X							X	X	X	X				
Portugal	X	X							X	X	X	X			X	X
Romania							X	X			X	X				
Slovakia	X	X			X	X					X	X				
Slovenia	X	X					X	X			X	X				
Spain	X	X							X	X	X	X				
Sweden	X	X					X	X			X	X				
UK	X	X	X	X	X		X	X	X	X	X	X			X	X

D. Regulated Markets (Articles 36-40)

442. Twenty-six (26) jurisdictions can impose **administrative measures** for infringements of the regulated markets provisions of MiFID (Articles 36-40), discussed in detail in Part B of this report in paragraphs 442-451, as can be seen from the Table 64 below, discussed in further detail below. Only two (2) jurisdictions (**FI** and **FR**) cannot impose administrative measures.
443. Administrative fines can be imposed by twenty three (23) (**AT, BE, BG, CY, CZ, DE, DK, EE, ES, EL, HU, IE, IS, IT, LT, LU, LV, MT, NL, PT, RO, SE, SI, SK**) out of twenty eight (28) jurisdictions can do so and four (4) jurisdictions namely (**FI, FR, NO** and **UK**) cannot. In two jurisdictions, namely **DK** and **UK**, the amount of the administrative fine is unlimited as the relevant legislation does not explicitly specify the amount or range of fines that can be imposed.
444. Fifteen (15) (**BE, CY, DK, FI, FR, IS, IT, LT, LU, LV, MT, NL, NO, SK, UK**) out of twenty-eight (28) jurisdictions can impose criminal fines, and thirteen (13) jurisdictions cannot (**AT, BG, CZ, DE, EE, ES, EL, HU, IE, PT, RO, SE, SI**). In four (4) jurisdictions **DK, FI, IS** and **NO** the amount of the criminal fines is unlimited as the relevant legislation does not explicitly specify the amount or range of criminal fines that can be imposed.
445. There is a very broad range of both administrative and criminal fines that are impossible varying maxima in the case of *administrative fines* from a € 12,500 in **LU** to € 5,352,990 in **SE**. In the case of *criminal fines* the maxima varies from € 6,360 in the **UK** to € 10,000,000 in **FR**.
446. Imprisonment following infringement of the regulated market provisions of MiFID is not provided for in the legislation of fifteen (15) out of twenty-eight 28 jurisdictions (**AT, BG, CZ, DE, DK, EE, EL, ES, FR, HU, IE, PT, RO, SE, SI**), and in the following thirteen jurisdictions imprisonment is possible (**BE, CY, FI, IS, IT, LT, LV, LU, MT, NL, NO, SK, UK**).
447. In terms of the maximum length of imprisonment, there is again no convergence and it ranges from a maximum term in **BE, FI** and **NO** of one year to 8 years in **IT** and **SK**.



Table 64 showing types of administrative measures and fines and criminal sanctions that can be imposed for infringements of the MiFID conditions for regulated markets (Articles 36-40)

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Austria			X	X	na	50,000	na		X
Belgium					1 month – 1 year	2,500,000	50,000		X
Bulgaria			X	X	na	50,000 legal entities, 25,000 individuals	na		X
Cyprus					0-5 years	700,000	350,000		X
Czech Republic			X	X	na	800,000	na		X
Denmark				X	na	unlimited	unlimited		
Estonia			X	X	na	32,000	na		X
Finland	X	X			0-1 year	na	unlimited	X	
France	X	X		X	na	na	10,000,000	X	
Germany			X	X	na	500,000	na		X
Greece			X	X	na	3,000,000	na		X
Hungary			X	X	na	79,350	na		X
Iceland					0-2 years	421,384	unlimited		
Ireland			X	X	na	5,000,000	na		
Italy					1-8 years	1,000,000	619,748 can increase by 1/3		X
Latvia					0-2 years	14,200	23,000	X	

Member State	Can NOT impose admin measures	Can NOT impose admin fines	Can NOT impose criminal fines	Can NOT imprison	Term of imprisonment	Max admin fine in €	Max of criminal fines in €	Criminal fines greater than admin fines	Admin fines greater than criminal fines
Lithuania					0-4 years	29,000	1,882,530 for legal entities, 7,536 for individuals	X	
Luxembourg					8 days- 5 years	12,500	125,000	X	
Malta					0-4 years	93,175	465,875	X	
Netherlands					0-2 years	24,000	16,750		X
Norway		X			0-1 year	na	unlimited		
Portugal			X	X	na	2,500,000	Na		X
Romania			X	X	na	13,545	Na		X
Slovakia					6 months -8 years	664,000	332,000		X
Slovenia			X	X	na	370,000	Na		X
Spain			X	X	na	600,000 or 5 x gross profit or 5% of firms own or owned by 3 rd parties funds	Na		X
Sweden			X	X	na	5,352,990	Na		X
UK		X			0-2 years	unlimited	6,360		X

448. In light of the fact that the use of administrative measures is the most [common] form of action cited as being taken for breaches by regulated markets of their MiFID obligations, set out below is a more detailed discussion of what the nature of these provisions can be.
449. Most of the measures mentioned in Part C sections A-C also apply, *mutatis mutandis*, to the market operators/regulated markets when they infringe their MiFID obligations. Broadly speaking, the same jurisdictions can withdraw the licence, dismiss/replace managers, issue orders/injunctions of cessation of illegal practices, and issue publish warnings. The same applies in connection with the requirements and notification duties on managers and qualifying shareholders.

Administrative measures imposed for infringements of Article 40

450. For infringements of Article 40 of MiIFD, the use of suspension or removal of financial instruments from trading may be employed in the following jurisdictions (BE, BG, CZ, EE, EL, ES, FR, HU, IS, IT, LU, SI, SK, UK).
451. In cases where the market operator fails to take necessary action, two Members namely AT and IT have the power to directly take action.

Table 65 of the types of the most commonly available administrative measures that Member states can impose for infringement of the MiFID conditions for regulated markets (Article 36-40)

Member State	Order by CA or injunction by Judicial Authorities to cease unauthorised activity	Issue a public reprimand	Suspension of voting rights	Publish a warning or statement	Publish all admin measures	Revocation of Licence/withdrawal of authorisation	Closure of business	Disqualification/dismissal of responsible management and/or the appointment of [administrators]	Liquidation of the business
Austria	X				X**	X**	X	X	
Belgium			X	X		X		X	
Bulgaria	X			X	X**	X	X	X	
Cyprus				X		X	X		
Czech Republic	X	X	X	X	X	X			
Denmark	X					X			
Estonia	X*			X	X	X		X	
Finland		X		X		X			
France									
Germany	X		X		X	X			
Greece		X	X			X			
Hungary	X			X		X	X	X	
Iceland	X								
Ireland	X*	X				X		X	
Italy	X		X		X	X		X	X
Latvia						X			
Lithuania		X		X	X	X			
Luxembourg	X		X	X	X	X		X	
Malta	X			X	X	X			
Netherlands	X			X		X			
Norway	X		X		X	X		X	
Portugal	X				X	X	X	X	
Romania				X		X			

Member State	Order by CA or injunction by Judicial Authorities to cease unauthorised activity	Issue a public reprimand	Suspension of voting rights	Publish a warning or statement	Publish all administrative measures	Revocation of Licence/withdrawal of authorisation	Closure of business	Disqualification/dismissal of responsible management and/or the appointment of [administrators]	Liquidation of the business
Slovakia	X		X			X			
Slovenia	X			X		X			
Spain	X				X	X			
Sweden	X			X			X		
UK						X			

* Only Judicial Authorities can impose injunction to cease unauthorised activity.

** It is not with regard to all administrative measures, but only those imposed for operating an unauthorised regulated market.



E. Criteria used to determine administrative fines

452. CESR members were asked to identify the criteria they use to determine the administrative fines imposed for MiFID infringements as set out in the Table 66 below.
453. Overall the majority of Members use all criteria mentioned in Table 66. Two Members use a system of unlimited administrative fines (**DK** and **UK**). This system differs between Members but in general the amount imposed depends on the blameworthiness of the infringement which is decided depending on the seriousness of the breach, extent of damage and the degree of intent.
454. The financial status of the offender is taken into account. Therefore the common criteria between Member States who use unlimited administrative fines and Member's who do not, are seriousness of the breach, extent of damage, degree of intent and financial status.



Table 66 – Table showing criteria used to determine the amount of administrative fines

MS	Seriousness of the breach	Willingness of cooperation	Compliance history	Financial health	Extent of damage / harm	Impact on market / investors	Profits derived	Degree of intent / fault	Precedents for similar cases	Other
Austria	X				X	X		X		
Belgium	X	X	X	X		X			X	
Bulgaria	X	X	X	X	X		X	X		X
Cyprus	X	X	X	X	X	X	X	X	X	
Czech Republic	X	X	X	X	X	X	X	X	X	
Denmark	X			X	X			X		
Estonia	X	X	X		X	X		X	X	X
Finland	X			X	X			X		
France	X						X			
Germany	X	X	X	X	X	X	X	X	X	X
Greece	X	X	X		X	X	X		X	X
Hungary	X	X	X		X	X	X	X	X	X
Iceland	X	X	X		X	X		X	X	X
Ireland	X	X	X	X	X	X	X	X	X	X
Italy	X	X		X	X	X	X	X		
Latvia	X	X			X			X	X	
Lithuania	X	X	X		X	X	X	X	X	X
Luxembourg	X	X	X	X	X	X	X	X	X	X
Malta	X	X	X	X	X	X	X	X	X	X
Netherlands	X	X	X			X			X	X
Norway	X			X	X	X	X	X	X	
Portugal	X	X	X	X	X	X	X	X		X
Romania	X				X	X			X	



MS	Seriousness of the breach	Willingness of cooperation	Compliance history	Financial health	Extent of damage / harm	Impact on market / investors	Profits derived	Degree of intent / fault	Precedents for similar cases	Other
Slovakia	X	X	X	X	X	X			X	
Slovenia	X	X	X	X	X	X	X	X	X	
Spain	X	X	X		X	X	X	X		X
Sweden	X	X	X	X	X	X	X	X	X	
UK	X	X	X	X	X	X	X	X	X	X

Table 67 Summary table of Members ability to impose Administrative measures and criminal sanctions in relation to all MiFID provisions.

Member State	Administrative measures										Criminal sanctions										
	Can impose admin measures					Can impose administrative fines					Can impose criminal fines					Can imprison					
	5	9 -14 and 16	16- 24	25- 30	36 - 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16 - 24	25- 30	36- 40	
Austria	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID										
Belgium	X	X	X	X	X	NO	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Bulgaria	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Cyprus	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Czech Republic	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Denmark	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	
Estonia	X	X	X	X	X	NO	X	X	X	X	X	Criminal sanctions are not applied with regard to the rest of MiFID									
Finland	X	X	X	X	NO	NO	NO	NO	X	NO	X	X	X	X	X	X	NO	NO	NO	X	
France	X	X	X	X	NO	NO	X	X	X	NO	X	X	X	X	NO	X	X	X	X	NO	
Germany	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Greece	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Hungary	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Iceland	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Ireland	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	NO	X	NO	NO	NO	NO	
Italy	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Latvia	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	X	X	NO	NO	NO	X	

Member State	Administrative measures										Criminal sanctions										
	Can impose admin measures					Can impose administrative fines					Can impose criminal fines					Can imprison					
	5	9 -14 and 16	16- 24	25- 30	36 - 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16- 24	25- 30	36- 40	5	9 -14 and 16	16 - 24	25- 30	36- 40	
Lithuania	X	X	X	X	X	X	X	X	X	X	X	NO	NO	NO	X	X	NO	NO	NO	X	
Luxembourg	X	X	X	X	X	X	X	X	X	X	X	X	NO	NO	X	X	X	NO	NO	X	
Malta	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Netherlands	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Norway	X	X	X	X	X	NO	NO	NO	NO	NO	X	X	X	X	X	X	X	X	X	X	
Portugal	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID										
Romania	X	X	X	X	X	X	X	X	X	X											
Slovakia	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Slovenia	X	X	X	X	X	X	X	X	X	X	Criminal sanctions are not applied with regard to MiFID										
Spain	X	X	X	X	X	X	X	X	X	X											
Sweden	X	X	X	X	X	X	X	X	X	X											
UK	X	X	X	X	X	NO	X	X	X	NO	X	X	X	NO	X	X	X	X	X	NO	X

Key to table above:
Yellow = administrative measure
Green = criminal sanction
Grey = not applied for MiFID

Annex

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Art. 5(1) Requirement for authorisation				
Austria	-Order the unlicensed entity to comply -Closure of the whole or parts of the unauthorised business entity - Publication of administrative measures and sanctions	- Fines up to €50,000	No	No
Belgium	- Publish a warning - Bring an action to court for an injunction ordering cessation of activities - Withdrawal of authorisation	No	- Imprisonment between one month and one year	- Fines ranging from €50 to €10,000 (to be multiplied by 5)
Bulgaria	-Oblige persons to take specific actions -Convene a general meeting in order the firm to take measures - Inform the public -Discontinue trade -Remove persons from posts and appoint new representatives -Appoint conservators -Distrain on property -Remove financial instruments from trading – appoint registered auditor;	Fines ranging - from € 2500 to € 25000 for natural persons; - from € 25000 to € 50000 for legal persons; - from € 50000 to € 100000 for repeated violation by legal person.	1.Imprisonment from three to five years; 2. Imprisonment from five to ten years where considerable damage has been caused, or considerable unlawful income has been obtained	1. Confiscation of half of the property of the perpetrator 2. Where considerable damage has been caused, or considerable unlawful income has been obtained - fine of € 2500 to € 5000. The court may also rule confiscation of part or of the entire property of the perpetrator
Cyprus	- Publish a warning	If activities/services are provided notwithstanding the licence withdrawal or suspension: - Fines up to €350,000	- Imprisonment up to five years	-Fines up to €350,000 -Suspension of provision investment services or performance of investment activity by the accused person -Prohibition to provide investment services or perform investment activities by the convicted person
Czech Republic	-Issuance of public reprimand -Order to rectify the situation and remove deficiencies -Prohibition of an activity	- Fines up to €800,000	- Imprisonment up to one year - Imprisonment between six month and three years if significant profit is gained or a third person is employed	Amount of damage caused by the illegal behaviour. The relevant legislation does not explicitly specify amount or range of amount
Denmark	-Injunction -Withdrawal of license	- Yes but the relative legislation does not explicitly specify amount or range of amount	- Imprisonment up to 4 months	Yes but the relative legislation does not explicitly specify amount or range of amount
Estonia	Public warning	No	No	Fine
Finland	-Issue public reprimand -Issue public warning - Prohibit the provisions of investment services -Prohibit the execution of a decision or planned measure or other action -Withdrawal of license -Prohibition of acquisition	No	For unauthorised performance of investment services/activities or abusive use of name : - Imprisonment up to one year	- Fine. A fine is imposed as unit fines. The amount of one unit fine depends on the income of the convict. There is a cap for the number of units, but not for the amount of one unit.
France	Refusal to grant a licence when supervision is likely to be impeded by ownership or group structure	No	- Imprisonment up to three years	- Fines up to €375,000
Germany	- Order immediate cessation of business operations and the prompt liquidation of business without a license - Issue orders immediately enforceable - Issue of orders to eliminate or prevent undesirable developments and necessary for enforcement (eg. withdrawal of	- Penalties up to €250,000	- Imprisonment up to three years	- Unlimited fine

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	authorisation - Demand the dismissal of responsible managers). Publication of all aforementioned incontestable measures			
Greece	-Publishing of a public warning -Temporary suspension of the operation of IF -Demand the interruption of activities/practices and prohibition of the exercise of professional activities - Imposition of a reprimand - Prohibition to specific categories of persons to exercise their managerial responsibilities -Revocation of license of IF	- Fines up to € 3,000,000 or equal to twice the profit that the infringer gained from the relevant contravention.	- Imprisonment of at least one year	No
Hungary	- Warning Notice -Prohibition of the conduct of unauthorised investment services -Prompt liquidation of business without a licence -Request cessation of any practice contrary to the law	- Fine between € 7,935 and € 79,350 - Executives may be subject to a fine from € 1,964 to € 79,350	- Imprisonment up to 3 years	- Fine between €40 and €40,000 only in combination with imprisonment. Obligatory if the unauthorized financial service was committed for profit.
Iceland	-Revocation of operating license in whole or in part -Prohibit financial undertaking from pursuing certain activities for which it is authorised	- Fines ranging from €84 to €421,384	- Imprisonment up to 2 years	- Fine (amount not specified) - Confiscation of profit
Ireland	-Reprimand -Disqualification -Injunctions -Warning notice	Fines up to €5,000,000 (€500,000 for natural persons) and repayment of fees	- Criminal prosecution on indictment: Imprisonment up to 10 years - Summary criminal prosecution: Imprisonment up to 12 months	- Criminal prosecution on indictment: Fine up to €10,000,000 - Summary criminal prosecution: Fine up to €5,000
Italy	- Adoption of relative measures (such as inspection, appointment of an administrator etc.) For failure to comply with experience, good repute and independency requirements or mandatory notifications : -Disqualification of persons from office -Suspension of voting rights and other rights – Order to sale holdings For any MiFID violation : - Order I.F. to stop illicit behaviour For any extremely serious MiFID violations, including the above : Compulsory administrative liquidation and withdrawal of license In case of urgency or danger for costumers/markets : - Prohibition to provide services/activities	For unauthorised use of the name investment firm: - Fines between €2,580 and €51,645 <hr/> For unauthorised performance of investment services/activities: - Fines between €25,825 and €258,230 <hr/> Failure to comply with a Consob order : - Fines between €50,000 and €1,000,000	For unauthorised performance of investment services/activities: - Imprisonment between 1 and 8 years <hr/> For obstructing the exercise of supervisory function : - Imprisonment up to 4 years	For unauthorised performance of investment services/activities: - Fine from 4,132 to € 20,658 <hr/> For obstructing the exercise of supervisory function : - Fine from € 20,000 to € 400,000

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Latvia	<ul style="list-style-type: none"> - Request to terminate illicit activity -Warning to the entity -Restriction of the rights to provide investment services or hold financial instruments -Revocation of the licence 	<ul style="list-style-type: none"> - Fines up to 14,200 	<ul style="list-style-type: none"> -Imprisonment up to 2 years - Custodial arrest 	<ul style="list-style-type: none"> -Fines up to 100 times the minimum monthly wage with or without deprivation of the right to engage in entrepreneurial activity for a term not exceeding 3 years, -Community service
Lithuania	<ul style="list-style-type: none"> -Publicity of illegal activities in order to warn investors 	<ul style="list-style-type: none"> - Penalties maximum of €29,000 or double amount of illegal income if exceeds €29,000 	<ul style="list-style-type: none"> -Imprisonment up to 4 years 	<ul style="list-style-type: none"> - Legal persons: Penalties up to €1,882,530 - Individuals: Penalties up to €7,536 or public work
Luxembourg	<ul style="list-style-type: none"> -Require the cessation of any practice contrary to provisions of law - Freezing and/or sequestration of assets -Prohibit temporarily a professional activity -Adopt measures necessary to ensure compliance with law -Injunction - Suspension of MoB, management, employees and tied agents, of voting rights, of ongoing activities -Suspension of supervised natural/legal persons, regulated markets and MTF -Publication of measures taken - Refusal of granting authorisation - Revocation of licence 	<ul style="list-style-type: none"> - Fines between €125 and €12,500 	<ul style="list-style-type: none"> For (i) unauthorised performance of investment services/activities, (ii) contravention of (or attempt to contravene) legal requirements for authorisation, (iii) abusive use of title or name: - Imprisonment of between 8 days and 5 years 	<ul style="list-style-type: none"> For (i) unauthorised performance of investment services/activities, (ii) contravention of (or attempt to contravene) legal requirements for authorisation, (iii) abusive use of title or name : Fines between €5,000 and €125,000
Malta	<ul style="list-style-type: none"> -Issue directives, to inter alia, require anything to be done or to be omitted to be done, or to impose any prohibition, restriction or limitation or any other requirement 	<ul style="list-style-type: none"> For failure to comply with licence conditions by a licence holder: - Penalties up to €93,175 	<ul style="list-style-type: none"> For the provision of services without the necessary authorisation: -Imprisonment up to 4 years 	<ul style="list-style-type: none"> For failure to comply with licence conditions by a licence holder: - Fines up to €465,875
Netherlands	<ul style="list-style-type: none"> -Issue public warning -Instruction in case of violations that can be repaired -Revoke the license - non compliance penalty 	<ul style="list-style-type: none"> - Fine from € 24,000 up to € 96,000 	<ul style="list-style-type: none"> -Imprisonment up to 2 years 	<ul style="list-style-type: none"> - Fines of €16,750 and depriving illegal profits - Close down the business-Out of court settlement-Freezing of the assets
Norway	<ul style="list-style-type: none"> -Issue an order to halt unauthorised investment services -Impose disclosure duty -Order auditor to disclose information 	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> For unauthorised provision of investment services with wilful or thorough negligence: - Imprisonment up to 1 year 	<ul style="list-style-type: none"> - Fine (no amount or range of amount is specified)
Poland	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> -
Portugal	<ul style="list-style-type: none"> -Temporary suspension of IF not exceeding 2 months and of certain services -Revocation of license of IF -Disqualification from the exercise of a function within an IF -Publication of the sanction imposed -Apprehension and loss of the object of the offence, including the benefit by the infringer by the practice of 	<ul style="list-style-type: none"> - Fines between €2,500 and €2,500,000 	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	the offence			
Romania	- Warning -Suspension -Withdrawal of authorisation - Temporary prohibition -Issue an ordinance for interdiction of performing the activities -Notify other relevant authorities -Public disclosure of alert <hr/> Failure to meet licence requirements:-Do not grant authorisation	- Fines ranging between €135 and €13,545 for persons, between 0.5% and 5% of the paid up share capital for legal persons	No	No
Slovakia	- Suspension of voting rights -Order to stop an unauthorised activity -Temporary suspension or limitation of authorized activity - Revocation of authorisation for serious violations <hr/> For failure by holders of qualifying holding to comply with good repute requirements : suspension of voting rights - failure to meet licence requirements: not grant authorisation	- Fines between €332 and €664,000	- Imprisonment between 6 months and 8 years	- Fines between € 166 and € 332,000
Slovenia	For unauthorised performance of investment services/activities: <hr/> Propose to court to start liquidation procedures Failure by holders to comply with good repute requirements or mandatory notifications: -Suspension of voting rights	For unauthorised performance of investment services/activities: -For legal person Fines between €25,000 and €370,000 -For individuals between €130 and €370,000	No	No
Spain	-Order cessation of services -Issue public warning -Cessation of the use of names or offering or providing the services reserved	- Highest of €600,000 or Five times the gross profit as a result of acts or omissions or 5% of the infringing firm's own funds or of the total funds owned by firm or third parties that were used in the infringement	No	No
Sweden	-Issue order to, on condition of a fine, cease with activities that require authorisation	- Fines between €535 and €5,352,990	No	No
UK	- A general prohibition for unauthorised persons and activities	No	- Summary conviction: Imprisonment up to 6 months - Conviction on indictment: Imprisonment up to 2 years	- Unlimited fines
Art.9 to 14-Conditions for authorisation and Art. 16-Regular review of conditions for initial authorisation				
Austria	-Instruct the firm to restore legal compliance -Prohibit the directors from managing the firm -Revoke the license -Publication of measures taken <hr/> Temporary measures (max 18 months) to avert threat of clients' financial interests: -Prohibit the withdrawal of capital or profits -Appoint a government supervisor -Prohibit the continuation of the business of the firm in general or in part	-Fines up to €50,000 or up to €30,000	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Belgium	<p>-Replace the firm's directors or managers -Publication of not compliance - Lay down supplementary requirements in respect of solvency, liquidity and risk concentration -Suspend or prohibit the exercise of all or parts of its activities -Appointment of a special auditor- Revoke all or part of the authorization</p> <p>If qualifying shareholders fail to notify or are likely to compromise sound, prudent management: -Suspend voting rights -Demand transfer of shares/order sequestration</p>	<p>Fines of min €5,000 (€2,500 for credit institution) up to €2,500,000. Penalties of max sum €2,500,000 per infringement or €50,000 per day's delay (non compliance penalties)</p>	<p>Failure by shareholders to disclose transactions in qualifying holdings: - Imprisonment of between one month and one year</p>	<p>Failure by shareholders to disclose transactions in qualifying holdings: - Fines ranging from €50 to €10,000 (to be multiplied by 5)</p>
Bulgaria¹¹⁸	<p>-Oblige persons to take specific actions -Convene a general meeting in order the firm to take measures - Inform the public -Discontinue trade -Remove persons from posts and appoint new representatives -Appoint conservators -Distrain on property -Remove financial instruments from trading- appoint registered auditor;</p>	<p>Fines ranging</p> <ul style="list-style-type: none"> - from € 250 to € 5000 for natural persons; - from € 5000 to € 10000 for repeated violation by natural persons; - from € 5000 to € 10000 for legal persons; - from € 10000 to € 25000 for repeated violation by legal person. 	<p>No</p>	<p>No</p>
Cyprus	<p>Failure to comply with prior notification for acquiring or increasing qualifying holdings or acquisition or increase notwithstanding CySEC opposition: -Suspension of the exercise of the voting rights</p> <hr/> <p>If conditions of authorisations are no longer met or if authorisation was obtain through the submission of false or misleading information: - Suspension of authorisation of IF - Withdrawal of authorisation of IF</p>	<p>-Fines up to €175,000 or up to €350,000 if repeated or continued</p>	<p>For provision of misleading/ false information to CySEC or the withholding material information: - Imprisonment up to five years</p>	<p>For provision of misleading/ false information to CySEC or the withholding material information: - Fines up to €350,000</p>
Czech Republic	<p>-Suspension of an activity -Prohibition of an activity - Suspension of trading in securities -Introduction of forced administration -Suspension of voting and other rights-Change in a scope of a license -Withdrawal of a license -Prohibition or suspension of public offering or announcement of public offering of the investment instrument or its admission to trading in the regulated market (listing)</p>	<p>- Fines up to €800,000</p>	<p>No</p>	<p>No</p>

¹¹⁸ Bulgarian legislation provides for smaller ranges of the sanctions imposed for the various violations of MiFID's provisions. The ranges in the table are that broad because they include all possible sanctions for the different violations of MiFID which the table comprises.

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Denmark	-Injunction -Withdrawal of license	- Fine (amount not specified)	- Imprisonment up to 4 months	- Fine (range of amount not specified)
Estonia	To make a precept and demand restitution of situation, prohibit certain transactions or activities from being conducted or to establish restrictions on their volume; prohibit, partially or wholly, any distributions from profits; demand a restriction of the operating expenses of a professional securities market participant; demand amendment of internal rules and rules of procedure of a professional securities market participant; make a proposal to the supervisory board of a professional securities market participant to remove a member of the management board; make a proposal to the general meeting of the shareholders of a professional securities market participant to remove a member of the supervisory board; demand that anyone suspend or terminate violation of the requirements provided for in Chapters 19-21 of SMA; demand that an investment firm and an issuer terminate violation of requirements of legislation of a foreign state; prohibit the activities or provision of cross-border services of an investment firm of a Contracting state in Estonia or an investment firm of Estonia in a Contracting State; demand payment of a contribution prescribed by the Guarantee Fund Act.	- Fine €32,000	No	No
Finland	For violation of the terms of authorisation : -Issue public reprimand -Issue public warning – -Prohibit the execution of a decision or planned measure or other action In case of danger of insolvency : Prohibit the provisions of investment services for max 3 months -Withdrawal of license If members of qualifying holding are deemed not suitable: -Prohibition of acquisition or use of voting rights	No	No	- Fine for acquisition of a qualifying holding against the prohibition or without notification - Fine. A fine is imposed as unit fines. The amount of one unit fine depends on the income of the convict. There is a cap for the number of units, but not for the amount of one unit.

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
France	<p>For <u>investment services</u> except asset portfolio management: -Revocation of license -Warning -Injunction -Appoint a provisional administrator</p> <hr/> <p>-Disciplinary revocation -Warning -Reprimand - Prohibition of execution of transactions -Temporary suspension -Automatic dismissal - Cancel authorisation - Appoint liquidator – Prohibition or limit to dividend distribution</p> <hr/> <p>For <u>asset portfolio management</u>: -Disciplinary revocation - Warning - Reprimand - Temporary or permanent prohibition of providing services</p>	<p>For <u>investment services</u> except asset portfolio management: - Penalties at least equal to the minimum capital which the legal entity is required to maintain –</p> <hr/> <p>For <u>asset portfolio management</u>: - Fines up to €1,500,000 or 10 times the unlawful profit (five times for individuals)</p>	<p>For <u>unauthorised performance</u> of services: Any natural person managing an investment firm without receiving a license shall incur an imprisonment of 3 years</p>	<p>For <u>unauthorised performance</u> of services (?) (all services) - For <u>individuals</u>: Fines up to €375,000 Disqualification from professional or corporate activity -Closure of company's facilities - Confiscation. -Forfeit of civic, civil and family rights. For <u>legal entities</u> fine up to €1,000,000 - Dissolution -Prohibition to exercise activities - Placement under judicial supervision - Closure - Disqualification -Prohibition to draw check/use payment cards -Confiscation –</p> <p>For <u>asset portfolio management</u> the AMF may ask the Court to order; Injunction -Sequestration of funds -Order to consign a sum of money</p>
Germany	<p>-Issue of orders to eliminate or prevent undesirable developments and necessary for enforcement - Publication of incontestable measures -Withdrawal of authorisation - Demand the dismissal of responsible managers</p> <hr/> <p>Acquisitions of <u>qualifying holdings</u>: -Oppose proposed acquisition -Prohibit exercise of voting rights.</p> <hr/> <p>Publication of all aforementioned incontestable measures</p>	<p>Violation of <u>ongoing conditions</u> for authorisations: - Fines up to €500,000</p> <hr/> <p>Violation of art. 13(5) (<u>outsourcing</u>), 13(6) (<u>recordkeeping</u>), 13(7) and 13(8) (<u>holding of clients' assets</u>): - Fines up to € 50,000</p>	No	No
Greece	<p>-Temporary suspension of the operation of IF -Demand the interruption of activities/practices and prohibition of the exercise of professional activities - Imposition of a reprimand - Prohibition to specific categories of persons to exercise their managerial responsibilities -Revocation of license of IF - Suspension/Prohibition of exercise of voting rights</p>	- Fines up to € 3,000,000 or equal to twice the profit that the infringer gained from the relevant contravention.	No	No
Hungary	-Warning notice -Oblige the IF to restore the conditions for initial authorisation -Withdraw the license	-Fines ranging between €800 to €79,350	No	No
Iceland	Failure to seek approval for <u>acquisition of qualifying holdings</u> : -Invalidity of voting rights -Sale of shares in excess of authorised limits	- Fines ranging from €84 to €421,384	Failure to seek approval for <u>acquisition of qualifying holdings</u> : - Imprisonment up to 2 years	Failure to seek approval for <u>acquisition of qualifying holdings</u> : - Fines (not specified) - Confiscation of profit
Ireland	-Reprimand -Disqualification -Revocation of authorization-Injunction	- Fines up to €5,000,000 (€500,000 for natural persons) and repayment of fees	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Italy	- Order I.F. to stop illicit behaviour Failure to comply with good repute, experience, independency requirements or likelihood sound and prudent management is affected: -Disqualification of persons from office -Suspension of voting rights and other rights -Sale of holdings-Prohibition of acquisition/increase of qualifying holding	Violations of requirements for persons directing the business, authorisation/organisational requirements , trading process and finalisation of transactions in MTF: - Fines between €2,500 and €250,000 <hr/> Omission of notifications on qualifying holdings /violation of prohibitions to exercise vote: - Fines from € 25,825 to 258,230 <hr/> Failure to comply with Consob requests: - Fines from € 50,000 to €1,000,000	Wilful hindering of supervisory functions : - Imprisonment between 1 and 4 years. Sanction is doubled for listed companies <hr/> Making false representations in notifications to Consob: -Imprisonment between 6 months and 3 years.	Wilful hindering of supervisory functions : - Fines between €5,165 and €619,748 (may increased by 1/3) - Prohibition of professional activity <hr/> Making false representations in notifications to Consob: - - Fines between €5,165 and €51,646
	For serious irregularities, expected capital losses, dissolution : Replacement of administrative and control bodies of firm			
	For any extremely serious MiFID violations, including the above : Compulsory administrative liquidation and withdrawal of license			
	Danger for customers/markets : -Suspension of administrative bodies of a firm and appointment of provisional administrator -Special safeguards and limitations on management - Prohibition to provide services/activities			
In case of urgency : - Prohibition to provide services/activities				
Latvia	- Warning to entity-Establish special safeguards and limitations on management of firm -Revocation of license <hr/> Increase of qualifying holdings without authorisation: - Suspend voting rights of person	- Penalties up to €14,200	No	No
Lithuania	-Refusal to issue a license -Revocation of license - Suspension of license -Warning for the shortcomings and infringements of IF -Appointment of a temporary representative of the CA for the supervision of the activities	For violation of rules on conduct of business and legal entities not fulfilling LSC instructions, not providing info or obstructing LSC : - Penalties up to €29,000	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Luxembourg	-Require the cessation of any practice contrary to provisions of law - Freezing and/or sequestration of assets-Prohibit temporarily a professional activity - Adopt measures necessary to ensure compliance with law -Refuse authorisation for a change in the members of corporate bodies and shareholders -Injunction - Suspension of MoB, management, employees and tied agents, of voting rights, of ongoing activities- Suspension of supervised natural/legal persons, regulated markets and MTF -Publication of measures taken -Revocation of license	- Fines between €125 and €12,500	For (i) unauthorised performance of investment services/activities, (ii) contravention of (or attempt to contravene) legal requirements for authorisation, (iii) abusive use of title or name: - Imprisonment of between 8 days and 5 years	For (i) unauthorised performance of investment services/activities, (ii) contravention of (or attempt to contravene) legal requirements for authorisation, (iii) abusive use of title or name : Fines between €5,000 and €125,000 Failure to provide info, or provision of false info, or failure to communicate subsequent change regarding professional standing by members of corporate bodies and shareholders: - Fines between €1,250 and €125,000
Malta	- Suspension or cancellation of investment services Issue directives, to <i>inter alia</i> , require anything to be done or to be omitted to be done, or to impose any prohibition, restriction or limitation or any other requirement - Issue of a public notice that a person has contravened, <i>inter alia</i> , the relevant legal requirement for authorisation.	- Penalties up to €93,175	- Imprisonment up to 4 years	- Fines up to €465,875
Netherlands	-Instruction in case of violations that can be repaired - Revoke the license -Issue public warning	- Fines up to €24,000	- Imprisonment up to 2 years	- Fines of €16,750 and depriving illegal profits. Publish the verdict. Close down the BGsiness. Out of court settlement. Freezing of the assets
Norway	-Issue corrective order Where activities may expose a firm/its clients to unwarrantably large risk : -Prohibit IFs from carrying on business activities -Carry on business under certain conditions Where shareholders do not ensure sound/prudent management or omit to notify or breach refusal: -Prohibit the exercise of voting rights -Require the disposal of shares -Withdrawal or modification of authorisation in whole or part	No	For violations with wilful or thorough negligence of recordkeeping, confidentiality, duty to disclose info to the authority, handling of clients assets : - Imprisonment up to 1 year	For violations with wilful or thorough negligence of recordkeeping, confidentiality, duty to disclose info to the authority, handling of clients assets : Fine (amount not specified)
Portugal	-Temporary suspension of IF not exceeding 2 months and of certain services -Revocation of license of IF - Disqualification from the exercise of a function - Publication of the sanction imposed - Apprehension and loss of the object of the offence, including the benefit by the infringer by the practice of the offence	- Fines between €2,500 and €2,500,000	No	No
Romania	-Warning -Suspension of authorization -Withdrawal of authorization -Temporary prohibition from carrying out certain activities -Cancel authorization	- Fines between €135 and €13,545 for persons, between 0.5% and 5% of the paid up share capital for legal persons	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Slovakia	<ul style="list-style-type: none"> - Suspension of voting rights -Order to stop an unauthorised activity -Temporary suspension or limitation of authorised activity -Revocation of authorization-Order to eliminate inadequacies -Order to adopt/restore measures -Order to submit special reports and information - Failure by holders of a qualifying holding to comply with good repute requirements: suspension of voting rights - Failure to meet license requirements: not grant authorisation 	<ul style="list-style-type: none"> - Fines between €332 and €663,878 for investment firms Fines for managing directors of/in a) statutory body, b) supervisory function,c) key function.Where they breach law obligations.Amount of fine is up to 12 times the monthly average of their total income 	<ul style="list-style-type: none"> - Imprisonment between 6 months and 8 years 	<ul style="list-style-type: none"> - Fines between € 166 and €332,000
Slovenia	<ul style="list-style-type: none"> -Issue warning -Issue orders to eliminate irregularities -Temporary suspension of providing investment services -Withdrawal of authorisation 	<ul style="list-style-type: none"> - For legal person Fines between €25,000 and €125,000 For individuals between €800 and €4,100 - Fines up to €370,000 for serious breach 	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No
Spain	<ul style="list-style-type: none"> -Demand the cessation of non compliant practices - Temporary prohibition of professional activities -Adopt any type of measure to ensure that IFs and secondary markets continue to comply with legal requirements - Order suspension or limitation of transactions -Order suspension or exclusion of financial instruments - Suspension of membership of secondary market - Withdrawal of authorisation -Suspension or removal of the offender from executives posts-Suspension or restriction of transactions -Publication of sanctions 	<ul style="list-style-type: none"> - Very serious infringements: Highest of €600,000 or five times the gross profit as a result of acts or omissions or 5% of the infringing firm's own funds or of the total funds owned by firm or third parties that were used in the infringement - Serious infringements: highest of twice the gross profit obtained as a result of the acts or omissions comprising the infringement; 2% of the infringing firms own funds; 2% of the total funds, owned by the firm or third parties, that were used in the infringement or € 300.000 	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No
Sweden	<ul style="list-style-type: none"> - Issue order to take certain measures or prohibit execution of decisions-Issue a remark or a warning - Withdrawal of authorisation -Disqualification of manager -Ban s/h from exercising more influence on the s/h meeting -Compel the s/h to sell holdings 	<ul style="list-style-type: none"> - Fine between €535 and € 5,352,990 	<ul style="list-style-type: none"> No 	<ul style="list-style-type: none"> No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
U.K. ¹¹⁹	If individual is not fit and proper: -Prohibition of performing activities-Withdrawal of approval <hr/> For any misconduct: -Publish a statement	Unlimited Penalties	No	No
Art 16 to 24-Operating conditions for I.F.-General provisions and provisions to ensure investor protection				
Austria	-Instruct the firm to restore legal compliance -Prohibit the directors from managing the firm -Revoke the license -Publication of measures taken Temporary measures (max 18 months) to avert threat of clients' financial interests: -Prohibit the withdrawal of capital or profits -Appoint a government supervisor -Prohibit the continuation of the business of the firm in general or in part	- Fines up to €50,000	No	No
Belgium	- Replace the firm directors or managers -Publication of not compliance - Lay down supplementary requirements in respect of solvency, liquidity and risk concentration -Suspend or prohibit the exercise of all or parts of its activities -Appointment of a special auditor- Revoke all or part of the authorisation. <hr/> For violation of conduct of business, best execution, client order handling, market integrity rules : - Require I.F. to comply by a deadline – Make public CBFA opinion on the infringements or deficiencies concerned If qualifying shareholders fail to notify or are likely to compromise sound and prudent management: – Suspend voting rights of shareholders – Demand the transfer of shares/order their sequestration	- For infringement of supervisory law : - Fines of min €5,000 (€2,500 for credit institutions) up to €2,500,000 - penalties of maximum sum €2,500,000 per infringement or €50,000 per days delay <hr/> For violations of conduct of business, best execution, client order handling, market integrity rules : - Penalties min €250 per calendar day or over €50,000 -max total €2,500,000.Fines not less than €2,500 and max €2,500,000 per infringement or or €50.000 per days delay (non compliance penalties). Max may be raised twice the offenders capital gain and if repeated 3 times this amount	No	No
Bulgaria	-Oblige persons to take specific actions -Convene a general meeting in order the firm to take measures - Inform the public -Discontinue trade -Remove persons from posts and appoint new representatives -Appoint conservators -Distrain on property -Remove financial	Fines ranging - from € 250 to € 2500 for natural persons; - from € 2500 to € 5000 for repeated violation by natural persons;	No	No

¹¹⁹ In terms of financial penalties imposed by the FSA (Part C), these are administrative sanctions and although there is no maximum figure, the requirement under FCMA is for the FSA to impose such amount as it considers appropriate - which means that the penalty must be reasonable and proportionate in all the circumstances. Fines imposed by the criminal courts will be in the amount the court considers appropriate in all the circumstances, subject to statutory maximums (see part C).

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	instruments from trading – Appoint registered auditor;	<ul style="list-style-type: none"> - from € 2500 to € 5000 for legal persons; - from € 5000 to € 10000 for repeated violation by legal person. 		
Cyprus	<ul style="list-style-type: none"> -Withdrawal of authorisation of IF -Suspension of authorisation of IF 	- Fines up to €350,000 or up to €700,000 if repeated or continued (For tied agents who do not hold clients assets the fines do not exceed € 175,000 / €350,000)	For provision of misleading/ false information to CySEC or withholding material information: - Imprisonment up to five years	For provision of misleading/ false information to CySEC or withholding material information: - Fines up to €350,000
Czech Republic	-Suspension of an activity -Prohibition of an activity - Suspension of trading in securities -Introduction of forced administration -Suspension of voting and other rights -Change in a scope of a license -Withdrawal of a license -Prohibition or suspension of public offering or announcement of public offering of the investment instrument or its admission to trading in the regulated market (listing)	- Fines up to €800,000	No	No
Denmark	<ul style="list-style-type: none"> -Injunction -Withdrawal of license 	- Fines (amount not specified)	No	- Fines (amount not specified)
Estonia	<ul style="list-style-type: none"> - Disclosing violations, proceedings EFSA has a right to <ul style="list-style-type: none"> - obtain information, documents and explanations from any natural or legal person and from government agencies, supervisory bodies and state and local government databases free of charge; - make a written or electronic inquiry free of charge to obtain the information concerning a user of the telecommunications network from a telecommunications operator in order to establish the truth. - Obtain information from credit institutions and the registrar of the Estonian Central Register of Securities regarding the turnover and balances of the bank accounts and securities accounts of professional securities market participants, issuers, investors and insiders. Upon the existence of justified doubt of a violation of law, the EFSA has the right to file a motivated petition with a court for restriction of the use of such accounts. - submit an inquiry for information directly to a remote participator of a Contracting State in a market regulated by an Estonian 	- Fines (€ 32,000)	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	<p>market operator, and inform the securities market supervision agency of the Contracting State of such request for information.</p> <ul style="list-style-type: none"> - If necessary, require that a person appear at the offices of the EFSA at the time designated by the EFSA in order to provide explanations. <p>the EFSA has the right to carry out on-site inspection of the professional securities market participant and issuer whose securities are traded on a regulated market or whose securities are subject to a public offer or have been subject to a public offer during the past five years.</p> <p><u>A special audit</u> EFSA has right to demand special audit</p> <p><u>Precepts</u> EFSA has the right to issue a precept to:</p> <ol style="list-style-type: none"> 1) prohibit certain transactions or activities from being conducted or to establish restrictions on their volume; 2) prohibit, partially or wholly, any distributions from profits; 3) demand that the issuer whose securities are offered publicly promptly disclose information, if the obligation to disclose such information arises from this SMA; 4) demand a restriction of the operating expenses of a professional securities market participant; 5) demand amendment of internal rules and rules of procedure of a professional securities market participant; 6) make a proposal to the supervisory board of a professional securities market participant to remove a member of the management board; 7) make a proposal to the general meeting of the shareholders of a professional securities market participant to remove a member of the supervisory board; 8) demand that an operator of a regulated market suspend or terminate trading; 9) demand that anyone suspend or terminate violation of the requirements provided for in Chapters 19-21 SMA; 10) propose to the general meeting of the issuer of a security traded on a regulated market for the change of auditor; 			

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	<p>11) demand that an investment firm and an issuer terminate violation of requirements of legislation of a foreign state;</p> <p>12) prohibit the activities or provision of cross-border services of an investment firm of a Contracting state in Estonia or an investment firm of Estonia in a Contracting State;</p> <p>13) demand payment of a contribution prescribed by the Guarantee Fund Act.</p> <p>14) set other demands to ensure compliance with SMA Act.</p> <p>EFSA has a right to withdraw the license and make an application to start criminal proceedings</p>			
Finland	-Issue public reprimand -Issue public warning -Prohibit the provisions of investment services -Prohibit the execution of a decision or planned measure or other action -Withdrawal of license	No	No	
France	<p>Suspension of activities -Warning -Reprimand -Temporary or permanent prohibition of services and of activities -Temporary or permanent withdrawal of professional card- Publication of decisions</p> <hr/> <p>If issuers violate rules on publications (?):</p> <p>-Order to amend or add publications -Publication of observations and information</p> <hr/> <p>In case of emergency: - Order cessation of all breaches of obligations imposed and publication of decision</p>	<p>For market abuse (?): - Legal persons: Fines up to €1,500,000 or 10 times the amount of profits realised - Publication of decisions - Natural persons: Fines up to 1,500,000 euros or ten times the amount of the profits realized.</p> <hr/> <p>In the other cases, fines are up to 300,000 euros or five times the amount of profits realized. Publication of decisions-</p>	<p>Professionals carrying out a transaction as insiders (?) Imprisonment of one to two years that can be increased to seven years if the information is used in the commission of a crime or of an offence.</p>	<p>Professionals carrying out a transaction as insiders (?): Fine up to €1,500,000 may be increased to amount 10 times of profit realized - Professionals communicating to a third party: Fines up to 150,000 euros.</p>
Germany	-Issue of orders to eliminate or prevent undesirable developments and necessary for enforcement - Publication of incontestable measures -Withdrawal of authorisation - Demand the dismissal of responsible managers -Oppose proposed acquisitions -Prohibit exercise of voting rights-Publication of all aforementioned incontestable measures - Publication of all aforementioned incontestable measures	- Fines up to €50,000 for contraventions regarding art. 19.5, 18.1 . Fines up to €100,000 for contraventions regarding art. 19.4, 18.1 - Fines up to €200,000 for contraventions regarding art. 21.3	No	No
Greece	-Temporary suspension of the operation of IF - Demand the interruption of activities/practices and prohibition of the exercise of professional activities - Imposition of a reprimand - Prohibition to specific categories of persons to exercise their managerial responsibilities -Revocation of license of IF	- Fines up to € 3,000,000 or equal to twice the profit that the infringer gained from the relevant contravention.	No	No
Hungary	- Warning notice -Oblige the IF to restore the conditions -Temporary suspension or limitation of IF operation -Withdrawal of the authorisation	- Fines ranging between €800 to €79,350	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Iceland	-Demand the cessation of noncompliant practices - Temporary suspension of business activities - Temporary suspension of trading	- Fines ranging from €84 to €421,384	No	No
Ireland	-Reprimand -Disqualification -Revocation of authorisation -Injunction	- Fines up to €5,000,000 (€500,000 for natural persons) and repayment of fees	No	No
Italy	- Order I.F. to stop illicit behaviour For any extremely serious MiFID violations, including the above: Compulsory administrative liquidation and withdrawal of license In situation of danger for customers or markets: - Suspension of administrative bodies of a firm and appointment of provisional administrator -Special safeguards and limitations on management - Prohibition to provide services/activities In case of urgency: - Prohibition to provide services/activities For serious irregularities, expected capital losses, dissolution: - Replacement of administrative and control	Violations relating to I.F. on-going supervision, conflicts of interests, conduct of business, provision of services through another I.F., best execution, clients orders handling, financial sale-men, marketing of financial products: Fines between €2,500 and €250,000 <hr/> Failure to comply with Consob requests: - Fines from € 50,000 to €1,000,000	Violation of (i) conflicts if interest rules in providing asset management and (ii) separation of clients assets: Imprisonment between 6 months and 3 years <hr/> Wilful hindering of supervisory functions: Imprisonment btw 1 and 4 years. Sanction is doubled for listed companies	Violation of (i) conflicts if interest rules in providing asset management and (ii) separation of clients assets: Fines between €5,165 and €103,291 -injunctive sanctions Prohibition of professional activity <hr/> Wilful hindering of supervisory functions: Fines between €51,650 and € 619,748 (may increased by 1/3).
Latvia	- Warning to entity – Restrict rights to provide services/hold instruments- Revocation of license - Suspension of voting rights	- Penalties up to €14,200	No	No
Lithuania	-Refusal to issue a license -Revocation of license - Suspension of license -Warning for the shortcomings and infringements of IF -Appointment of a temporary representative of the CA for the supervision of the activities	For violations of conduct of business rules and legal entities not fulfilling LSC instructions, not providing info or obstructing ISC: - Penalties up to €29,000	No	No
Luxembourg	- Require the cessation of any practice contrary to provisions of law -Prohibit temporarily a professional activity -Adopt measures necessary to ensure compliance with law - Injunction -Freezing and/or sequestration of assets- Suspension of MoB, management, employees and tied agents, of voting rights, of ongoing activities-Suspension of supervised natural/legal persons, regulated markets and MTF - Publication of measures taken -Revocation of license	- Fines between €125 and €12,500	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Malta	-Suspension or cancellation of investment services Issue directives, to <i>inter alia</i> , require anything to be done or to be omitted to be done, or to impose any prohibition, restriction or limitation or any other requirement - Issue of a public notice that a person has contravened, inter alia, the relevant legal requirement for authorisation.	- Penalties up to €93,175	- Imprisonment up to 4 years	- Fines up to €465,875
Netherlands	-Instruction in case of violations that can be repaired - Revoke the license -Issue public warning	- Fines up to €24,000	- Imprisonment up to 2 years	- Fines of €16,750 and depriving illegal profits. Publish the verdict. Close down the business. Out of court settlement. Freezing of the assets
Norway	-Issue of corrective order -Withdrawal of authorisation in whole or in part or modification of authorization - Surrender all or part of unlawful gains.	No	For violations with wilful or thorough negligence of recordkeeping, confidentiality, duty to disclose info to the authority, handling of clients assets : - Imprisonment up to 1 year <hr/> For violations with wilful or thorough negligence of conduct of business rules: - Imprisonment up to 1 year	- Fine (amount not specified)
Poland	~	~	~	~
Portugal	-Temporary suspension of IF not exceeding 2 months and of certain services -Revocation of license of IF - Disqualification from the exercise of a function - Publication of the sanction imposed - Apprehension and loss of the object of the offence, including the benefit by the infringer by the practice of the offence	- Fines between €2,500 and €2,500,000	No	No
Romania	-Warning -Suspension of authorisation -Withdrawal of authorization -Temporary prohibition from carrying out certain activities -Cancel authorisation	- Fines ranging between €135 and €13,545 for persons, between 0.5% and 5% of the paid up share capital for legal persons	No	No
Slovakia	- Suspension of voting rights -Order to stop an unauthorized activity -Temporary suspension or limitation of authorized activity -Revocation of authorisation-Order to eliminate inadequacies -Order to adopt/restore measures -Order to submit special reports and information-Suspend administrative bodies -Order to correct economical docs, to decrease risk and to sustain required level of capital Failure by holders of a qualifying holding to comply with good repute requirements : suspension of voting rights	- Fines between €332 and €663,878 Fines for managing directors of/in a) statutory body, b) supervisory function,c) key function.Where they breach law obligations.Amount of fine is up to 12 times the monthly average of their total income	- Imprisonment between 6 months and 8 years	- Fines between €166 to €332,000
Slovenia	-Issue warning -Issue orders to eliminate irregularities -Temporary suspension of providing investment services -Withdrawal of authorisation	- For legal person Fines between €25,000 and €125,000 For individuals between €800 and €4,100 - Fines up to €370,000 for serious breach	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Spain	-Demand the cessation of noncompliant practices - Temporary prohibition of professional activities -Adopt any type of measure to ensure that IFs and secondary markets continue to comply with legal requirements	- Highest of €600,000 or Five times the gross profit as a result of acts or omissions or 5% of the infringing firm's own funds or of the total funds owned by firm or third parties that were used in the infringement	No	No
	-Order suspension or limitation of transactions -Order suspension or exclusion of financial instruments - Suspension of membership of secondary market - Withdrawal of authorisation -Suspension or removal of the offender from executives posts-Suspension or restriction of transactions -Publication of sanctions			
Sweden	- Issue order to take certain measures or prohibit execution of decisions-Issue a remark or a warning - Withdrawal of authorisation -Disqualification of manager -Ban s/h from exercising more influence on the s/h meeting -Compel the s/h to sell holdings	Fine between €535 and € 5,352,990	No	No
UK	- Public censure -Prohibition of individual from performing regulated activities -Variation of permission to carry on regulated activities - Withdrawal of approval <hr/> Special circumstances precluding normal regular dealings in listed securities: -Discontinuance or suspension of listing of securities -Suspend or prohibit offer to the public -Power to suspend or prohibit admission to trading on a regulated market -Suspend or prohibit trading of securities or of financial instruments	- Unlimited Penalties	- Summary conviction: Imprisonment up to 3 months; Conviction on indictment: Imprisonment up to 2 years	- Fines up to € 6,360
Art. 25 to 30-Operating conditions for I.F.-Market transparency and integrity				
Austria	-Instruct the firm to restore legal compliance -Prohibit the directors from managing the firm -Revoke the license -Publication of measures taken <hr/> Temporary measures (max 18 months) to avert threat of clients' financial interests: -Prohibit the withdrawal of capital or profits -Appoint a government supervisor -Prohibit the continuation of the business of the firm in general or in part	- Fines up to €50,000 or up to €30,000	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Belgium	-Replace the firm's directors or managers -Publication of not compliance - Lay down supplementary requirements in respect of solvency, liquidity and risk concentration -Suspend or prohibit the exercise of all or parts of its activities -Appointment of a special auditor- Revoke all or part of the authorisation If qualifying shareholders fail to notify or are likely to compromise sound, prudent management : -Suspend voting rights -Demand transfer of shares/order sequestration	For infringement of supervisory law : - Fines of min €5,000 (€2,500 for credit institutions) - penalties of maximum sum € 2,500,000 per infringement or €50,000 per day's delay	No	No
Bulgaria	-Oblige persons to take specific actions -Convene a general meeting in order the firm to take measures - Inform the public -Suspend trading -Remove persons from posts and appoint new representatives -Appoint conservators -Appoint a registered auditor - Distrain on property	- Fines for natural persons: ranging from €250 to €25,000; Legal entities: from € 500 to € 50,000 Obstacle to supervisory powers : Fines for natural persons ranging from € 500 to € 2,500 (repeated violations from € 1,000 to € 5,000) Legal persons: € 1,000 to € 4,000 (repeated violation from € 2,000 to € 8,000)	No	No
Cyprus	-Lapse of authorization of regulated market -Withdrawal of authorisation of regulated market -Suspension of authorisation of regulated market	Fines up to €350,000 or up to €700,000 if repeated or continued	Imprisonment up to five years	-Fines up to €350,000 -Suspension of operation of the system -Prohibition to operate the system
Czech Republic	-Suspension of an activity -Prohibition of an activity - Suspension of trading in securities -Introduction of forced administration -Suspension of voting and other rights -Change in a scope of a license -Withdrawal of a license -Prohibition or suspension of public offering or announcement of public offering of the investment instrument or its admission to trading in the regulated market (listing)	- Fines up to €800,000	No	No
Denmark	-Injunction -Withdrawal of license	- Fines (amount not specified)	No	- Fines (amount not specified)
Estonia	Prohibit certain transactions or activities from being conducted or to establish restrictions on their volume; -prohibit, partially or wholly, any distributions from profits; -demand that the issuer whose securities are offered publicly promptly disclose information, if the obligation to disclose such information arises from this SMA; - demand a restriction of the operating expenses of a professional securities market participant; - demand amendment of internal rules and rules of procedure of a professional securities market participant; - make a proposal to the supervisory board of a professional securities market participant to remove a member of the management board; - make a proposal to the general meeting of the shareholders of	Fine of €32,000	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	a professional securities market participant to remove a member of the supervisory board; Withdrawal of license Suspension of trading,			
Finland	-Issue public reprimand -Issue public warning - Prohibit the provisions of investment services -Prohibit the execution of a decision or planned measure or other action -Withdrawal of license	- IFs Fines between €500 to €10,000 for legal persons and between €50 to €1,000 for individuals	No	No
France	- Suspension of activities -Warning -Reprimand - Temporary or permanent prohibition of services and of activities -Temporary or permanent withdrawal of professional card- Publication of decisions <hr/> If issuers violate rules on publications: -Order to amend or add publications -Publication of observations and information <hr/> In case of emergency : - Order cessation of all breaches of obligations imposed and publication of decision <hr/> Revocation of the license	For market abuse : - Legal persons: Fines up to €1,500,000 or 10 times the amount of profits realized - Publication of decisions - Natural persons: Fines up to 1,500,000 euros or ten times the amount of the profits realized. <hr/> In the other cases, fines are up to 300,000 euros or five times the amount of profits realized. Publication of decisions	Professionals carrying out a transaction as insiders Imprisonment of one to two years that can be increased to seven years if the information is used in the commission of a crime or of an offence.	Professionals carrying out a transaction as insiders or dissemination of false/deceptive info on issuers: Fine up to €1,500,000 may be increased to amount 10 times of profit realized - Professionals communicating to a third party: Fines up to 150,000 euros.
Germany	- Issue of orders to eliminate or prevent undesirable developments and necessary for enforcement - Publication of incontestable measures -Withdrawal of authorisation - Demand the dismissal of responsible managers <hr/> -Oppose proposed acquisitions -Prohibit exercise of voting rights-Publication of all aforementioned incontestable measures	- Fines up to €50,000 for contraventions regarding art. 29.1, 25.3, 31.3. - Fines up to €200,000 for contraventions regarding art. 29.1	No	No
Greece	-Temporary suspension of the operation of IF - Demand the interruption of activities/practices and prohibition of the exercise of professional activities - Imposition of a reprimand - Prohibition to specific categories of persons to exercise their managerial responsibilities -Revocation of license of IF	- Fines up to € 3,000,000 or equal to twice the profit that the infringer gained from the relevant contravention.	No	No
Hungary	- Issue warning notice -Oblige the IF to restore the conditions -Temporary suspension or limitation of IF operation -Withdrawal of the authorization	- Fines ranging between €800 to €79,350 (executives may be sanctioned)	No	No
Iceland	Temporary suspension of business activities - Temporary suspension of trading -Removal of certain financial instruments from trading	- Fines ranging from €84 to €421,384	No	No
Ireland	-Reprimand -Disqualification -Revocation of authorisation -Injunction	- Fines up to €5,000,000 (€500,000 for natural persons) and repayment of fees	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Italy	<p>- Order I.F. to stop illicit behaviour</p> <p>In situation of danger for customers or markets: - Suspension of administrative bodies of a firm and appointment of provisional administrator -Special safeguards and limitations on management – Prohibition to provide services/activities</p> <hr/> <p>For serious irregularities, expected capital losses, dissolution: - Replacement of administrative and control bodies of firm</p> <hr/> <p>For any extremely serious MiFID violations, including the above: - - Compulsory administrative liquidation - Withdrawal of licence</p> <hr/> <p>In case of necessity and urgency: all measures required to ensure investor protection and orderly trading, including taking actions in place of market operators and prohibition to provide services/activities</p>	<p>Violations relating to I.F., on-going supervision, conflicts of interests, conduct of business, provision of services through another I.F., best execution, clients orders handling, financial sale-men, marketing of financial products, requirements to MTF and systematic internalisers: Fines between €2,500 and €250,000</p> <hr/> <p>Failure to comply with Consob requests: - Fines from € 50,000 to €1,000,000</p>	<p>Violation of (i) conflicts if interest rules in providing asset management and (ii) separation of clients assets: Imprisonment between 1 and 6 years</p> <hr/> <p>Wilful hindering of supervisory functions: Imprisonment btw 1 and 4 years. Sanction is doubled for listed companies</p> <hr/> <p>False representation in registrations and certifications by central depositories: Imprisonment btw 6 months and 4 years</p>	<p>Violation of (i) conflicts if interest rules in providing asset management and (ii) separation of clients assets: Fines between €10,230 and €206,382 -injunctive sanctions - Prohibition of professional activity</p> <hr/> <p>Wilful hindering of supervisory functions: Fines between €51,650 and € 619,748 (may increased by 1/3).</p>
Latvia	<p>- Warning to entity – Restrict rights to provide services/hold instruments -Revocation of licence</p>	<p>For any serious MiFID violations: - Penalties up to €14,200</p> <hr/> <p>For failure to comply with pre- and post-trade transparency requirements: penalties up to €29000</p>	<p>for engaging in entrepreneurial activities without a special permit (licence) where the requirement for such is prescribed by law</p> <p>-Imprisonment up to 2 years - Custodial arrest</p>	<p>for engaging in entrepreneurial activities without a special permit (licence) where the requirement for such is prescribed by law</p> <p>Fines up to 100 times the minimum monthly wage (~23,000EUR) with or without deprivation of the right to engage in entrepreneurial activity for a term not exceeding 3 years,</p> <p>-Community service</p>
Lithuania	<p>-Refusal to issue a license -Revocation of license - Suspension of license -Warning for the shortcomings and infringements of IF -</p>	<p>- Penalties up to €29,000</p> <hr/> <p>Legal entities not fulfilling LSC instructions, not providing info or obstructing LSC: - Penalties up to €29,000</p>	<p>No</p>	<p>No</p>
Luxembourg				

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	-Require the cessation of any practice contrary to provisions of law -Prohibit temporarily a professional activity -Adopt measures necessary to ensure compliance with law - Injunction -Freezing and/or sequestration of assets- Suspension of MoB, management, employees and tied agents, of voting rights, of ongoing activities-Suspension of supervised natural/legal persons, regulated markets and MTF - Publication of measures taken -Revocation of license – Suspension or removal of instruments from trading	- Fines between €125 and €12,500	No	No
Malta	- - Suspension or cancellation of investment services Issue directives, to <i>inter alia</i> , require anything to be done or to be omitted to be done, or to impose any prohibition, restriction or limitation or any other requirement - Issue of a public notice that a person has contravened, inter alia, the relevant legal requirement for authorisation.	- Penalties up to €93,175	- Imprisonment up to 4 years	- Fines up to €465,875
Netherlands	-Instruction in case of violations that can be repaired - Revoke the license -Issue public warning	- Fines up to €24,000	- Imprisonment up to 2 years	- Fines of €16,750 and depriving illegal profits. Publish the verdict. Close down the BGsiness. Out of court settlement. Freezing of the assets
Norway	-Issue of corrective order -Withdrawal of authorisation in whole or in part or modification of authorisation	No	Imprisonment up to 1 year	Fines (amount not specified)
Poland	-	-	-	-
Portugal	-Temporary suspension of IF not exceeding 2 months and of certain services -Revocation of license of IF - Disqualification from the exercise of a function - Publication of the sanction imposed - Apprehension and loss of the object of the offence, including the benefit by the infringer by the practice of the offence	- Fines between €2,500 and €2,500,000	No	No
Romania	-Warning -Suspension of authorization -Withdrawal of authorization -Temporary prohibition from carrying out certain activities -Cancel authorisation	- Fines ranging between €135 and €13,545 for persons, between 0.5% and 5% of the paid up share capital for legal persons	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Slovakia	<p>For investment firms: Suspension of voting rights - Order to stop an unauthorised activity -Temporary suspension or limitation of authorized activity - Revocation of authorization-Order to eliminate inadequacies -Order to adopt/restore measures -Order to submit special reports and information-Suspend administrative bodies -Order to correct economical docs, to decrease risk and to sustain required level of capital – for failure by holders of a qualifying holding to comply with good repute requirements: suspension of their voting rights</p> <p>For investment brokers and issuers/offerors: -Order to eliminate inadequacies and to stop unauthorised activity -Revoke his authorisation For other individuals -Order to eliminate inadequacies and correct public info -Ban transactions</p>	- Fines between €330 and €660,000. Fines for managing directors of/in a) statutory body, b) supervisory function,c) key function.Where they breach law obligations.Amount of fine is up to 12 times the monthly average of their total income	- Imprisonment between 6 months and 8 years	- Fines between €166 to €332,000
Slovenia	-Issue warning -Issue orders to eliminate irregularities -Temporary suspension of providing investment services -Withdrawal of authorisation	- For legal person Fines between €25,000 and €125,000 For individuals between €800 and €4,100 - Fines up to €370,000 for serious breach	No	No
Spain	-Demand the cessation of noncompliant practices - Temporary prohibition of professional activities -Adopt any type of measure to ensure that IFs and secondary markets continue to comply with legal requirements-Order suspension or limitation of transactions -Order suspension or exclusion of financial instruments - Suspension of membership of secondary market - Withdrawal of authorisation -Suspension or removal of the offender from executives posts-Suspension or restriction of transactions -Publication of sanctions	<p>For any of the above violations:</p> <p>- Highest of €600,000 or Five times the gross profit as a result of acts or omissions or 5% of the infringing firm's own funds or of the total funds owned by firm or third parties that were used in the infringement</p>	No	No
Sweden	-Issue order to take certain measures or prohibit execution of decisions-Issue a remark or a warning - Withdrawal of authorisation -Disqualification of manager -Ban s/h from exercising more influence on the s/h meeting -Compel the s/h to sell holdings	- Fines between €535 and €5,352,990	No	No
U.K.	-Withdrawal of approval of trade matching and reporting system - Ability to rely on FSA's general disciplinary powers	No	No	No
	Art. 36 to 40-Regulated markets			
COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS Fines AND OTHER MEASURES

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Austria	-Instruct/order the operating company of regulated market to restore legal compliance -Remove the directors and other officers of operating the company- Publication of administrative measures and sanctions taken--Closure of the whole or parts of unauthorized entity -Temporarily or permanently close the regulated market- Revoke the license <hr/> In case of imminent danger or unfulfilled orders: FMA takes action itself	-Fines up to €50,000	No	No
Belgium	-Withdrawal of the authorisation issued to a regulated market - Withdrawal of authorisation issued to a market operator -Make public opinion with regard to the infringement or deficiency -Appointment of a special auditor to the market operator In case of purchase of qualifying holdings in m.o. for violation of disclosure duty or acquisition notwithstanding CBFA opposition, or if sound/prudent management is compromised : -Suspension of exercise of the voting rights of shareholders -Demand a transfer of the shares/order their sequestration	Penalties of €250 per calendar day or greater than €50,000 and in total may not exceed €2,500,000. Administrative fines may not be less than €2,500 or greater than €2,500,000. The maximum amount may be raised twice the offenders capital gain and 3 times if repeated	For unauthorised performance of activities of a regulated mkt: Imprisonment between one month and one year	For unauthorised performance of activities of a regulated mkt: Fines ranging from €50 to €10,000 (to be multiplied by 5)
Bulgaria	-Oblige persons to take specific actions -Convene a general meeting in order the firm to take measures - Inform the public -Discontinue trade - Inform the public - Remove persons from posts and appoint new representatives -Appoint conservators – Appoint registered auditor Destrain on property -Withdrawal of license -Destrain on property	- Fines for natural persons: ranging from €250 to €25,000; Legal entities: from € 500 to € 50,000 <hr/> Obstacle to supervisory powers: Fines for natural persons ranging from € 500 to € 2,500 (repeated violations from € 1,000 to € 5,000) Legal persons: € 1,000 to € 4,000 (repeated violation from € 2,000 to € 8,000)	No	No
Cyprus	-Lapse of authorisation of regulated market -Withdrawal of authorization of regulated market -Suspension of authorization of regulated market	Fines up to €350,000 or up to €700,000 if repeated or continued	Imprisonment up to five years	-Fines up to €350,000 -Suspension of operation of the system -Prohibition to operate the system
Czech Republic	-Suspension of an activity -Prohibition of an activity - Suspension of trading in securities -Introduction of forced administration -Suspension of voting and other rights -Change in a scope of a license -Withdrawal of a license -Prohibition or suspension of public offering or announcement of public offering of the investment instrument or its admission to trading in the regulated market (listing)	- Fines up to €800,000	No	No
Denmark	-Injunction -Withdrawal of license	- Fines (amount not specified)	No	- Fines (amount not specified)
Estonia	Suspension of trading temporarily or permanently Prohibit certain transactions or activities from being conducted or to establish restrictions on their volume; -prohibit, partially or wholly, any distributions from profits; -demand that the issuer whose securities are	- Fine €32,000	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	<p>offered publicly promptly disclose information, if the obligation to disclose such information arises from this SMA; - demand a restriction of the operating expenses of a professional securities market participant; - demand amendment of internal rules and rules of procedure of a professional securities market participant; - make a proposal to the supervisory board of a professional securities market participant to remove a member of the management board; - make a proposal to the general meeting of the shareholders of a professional securities market participant to remove a member of the supervisory board;</p> <p>Withdrawal of license Suspension of trading temporarily or permanently, -Issue public warning</p>			
Finland	-Issue public reprimand -Issue public warning - Interruption of the operation of a stock exchange	No	For unauthorised performance of activities of a regulated mkt: Imprisonment up to 1 year	- Fine. A fine is imposed as unit fines. The amount of one unit fine depends on the income of the convict. There is a cap for the number of units, but not for the amount of one unit.
France	<p>If authorisation conditions are not met: -Refusal of granting authorisation</p> <hr/> <p>For cases under art. 36(5)MiFID or if management does not satisfy good repute and experience requirements or threat to sound/prudent management: Withdrawal of authorisation</p> <hr/> <p>For violations of art. 40 MiFID: Suspension of trading of financial instrument - Radiation of the financial instrument</p>	No	No	For violations of art. 38 : Suspending the exercise of voting rights
Germany	-Issue of orders -Revoke the exchange license -Demand information and documents -Prohibit acquisitions of qualified participating interest -Prohibit exercise of voting rights-Publication of all aforementioned incontestable measures	- Fines up to: €50,000 for contraventions regarding art. 29.1, 25.3, 31.3 . - €200,000 for contraventions regarding art. 29.1 - €500,000 for contraventions regarding orders on acquisition of qualifying stakes - €100,000 failure to notify qualifying stakes	No	No
Greece	-Imposition of a reprimand against regulated markets Revocation of license of regulated markets Suspension of trading, delisting of financial instruments and interruptions of trading of regulated markets -Suspension of voting rights	- Fines up to € 3,000,000 or equal to twice the profit that the infringer gained from the relevant contravention.	No	No
Hungary	-Warning notice -Prohibit any misconduct -Oblige the regulated market to modify or draw up internal regulations or recovery plans -Withdraw the authorisation -Order suspension of trading -Initiate the dismissal of executive officer	- Fines ranging between €397 to €79,350	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Iceland	-Temporary suspension of transactions involving financial instruments -Permanent removal of financial instruments -Demand immediate corrective actions - Revoke the operating license of stock exchange	- Fines ranging from €84 to €421,384	For violations of art. 36MiFID : - Imprisonment up to 2 years	Yes not specified
Ireland	-Reprimand -Disqualification -Revocation of authorisation -Injunction	Fines up to €5,000,000 (€500,000 for natural persons) and repayment of fees	No	No
Italy	For violations of good repute, experience, independency requirements : -Disqualification of persons from office For failure by shareholders to comply with mandatory notifications and good repute : -Suspension of voting rights and challenge of relevant resolutions For failure to ensure sound/prudent management : - Prohibition of acquisition/increase of qualifying holding - Compel sale of holdings If so necessary to ensure investor protections : Compulsory extraordinary administration In case of necessity and urgency : all measure required to ensure investor protection and orderly trading, including taking action in place of mkt operators -Withdrawal of the authorisation for cases under art. 36(5)MiFID - In case of extraordinarily serious breaches by market operator: -Compulsory administrative liquidation - Sale of holdings	For any of the above violations by market operator and MTF: - Fines between € 2,500 and two hundred and € 250,000 Omission of notifications concerning qualifying holdings , violation of the prohibition to exercise voting rights and non-compliance with the obligation to sell the holdings: Fines between € 5,675 and € 51,646. Failure to comply with Consob requests: - Fines from € 50,000 to €1,000,000	Wilful hindering of supervisory functions: Imprisonment btw 1 and 4 years. Sanction is doubled for listed companies Making false representations in notifications to Consob: -Imprisonment between 6 months and 3 years.	Wilful hindering of supervisory functions: - Fines between €5,165 and €619,748 (may increased by 1/3) - Prohibition of professional activity Making false representations in notifications to Consob: - - Fines between €5,165 and €51,646
Latvia	-Revocation of license Failure to notify increase in qualifying holdings : Suspend voting rights of person	- Penalties up to €14,200	- For engaging in entrepreneurial activities without a special permit (license) where the requirement for such is prescribed by law. - Imprisonment up to 2 years - Custodial arrest	- For engaging in entrepreneurial activities without a special permit (license) where the requirement for such is prescribed by law. - Fines up to 100 times the minimum monthly wage (€ 23,000) with or without deprivation if the right to engage in entrepreneurial activity for a term not exceeding 3 years - Community service
Lithuania	For failure to comply with conditions for authorisation : -Refusal to issue a license of the regulated market For threats to transparent / sound management and operation of regulated markets: Oppose candidatures of heads of the operator of a regulated market – For cases under art. 36(5)MiFID : - Withdraw the validity of the license of regulated markets	- Penalties maximum of €29,000 or double amount of illegal income if exceeds €29,000	For unauthorised performance of activities of a regulated mkt: Imprisonment up to 4 years	For unauthorised performance of activities of a regulated mkt :Legal persons Penalties up to €1,882,530 Individuals Penalties up to €7,536 or public work
Luxembourg	-Require the cessation of any practice contrary to provisions of law -Prohibit temporarily a professional activity -Adopt measures necessary to ensure compliance with law -Injunction -Freezing and/or	- Fines between €125 and €12,500	For (i) contravention of (or attempt to contravene) legal requirements for authorisation imposed on the market operator, (ii) abusive use of title or	For (i) contravention of (or attempt to contravene) legal requirements for authorisation imposed on the market operator, (ii) abusive use of title or name, (iii) running of (or attempt to run) a

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
	sequestration of assets- Suspension of MoB, management, employees, of voting rights, of ongoing activities-Suspension of supervised natural/legal persons, regulated markets and MTF -Publication of measures taken -Revocation of license – suspension or removal of instruments from trading		name, (iii) running of (or attempt to run) a trading system giving the impression it is a regulated market: - Imprisonment of between 8 days and 5 years	trading system giving the impression it is a regulated market: Fines between €5,000 and €125,000
Malta	Revocation of authorisation Issue directives to the regulated market: - for the purpose of securing the regulated market's compliance with the relative regulatory requirements - requiring anything to be done or to be omitted to be done, or impose any prohibition, restriction or limitation, or any other requirement whatsoever Requiring the cessation of any practice that is contrary to the provisions adopted I the implementation of the Directive.	For any of the above violations and failure to cooperate in an investigation: Penalties up to €93,175	- Imprisonment up to 4 years	- Fines up to €465,875
Netherlands	-Instruction in case of violations that can be repaired - Revoke the license -Issue public warning	- Fines up to €24,000	- Imprisonment up to 2 years	- Fines of €16,750 and depriving illegal profits. Publish the verdict. Close down the BGsiness. Out of court settlement. Freezing of the assets
Norway	-Issue an order to halt unauthorised operation of regulated market -Issue a corrective order - Withdrawal or alter of authorization to operate a regulated market-Prohibit the exercise of voting rights -Order individual to bring the violation of an Act to a halt	No	For unauthorised performance of activities of a regulated mkt: Imprisonment up to 1 year	For unauthorised performance of activities of a regulated mkt: - Fines (amount not specified)
Poland	-	-	-	-
Portugal	-Temporary suspension of IF not exceeding 2 months and of certain services -Revocation of license of IF - Disqualification from the exercise of a function - Publication of the sanction imposed - Apprehension and loss of the object of the offence, including the benefit by the infringer by the practice of the offence	- Fines between €2,500 and €2,500,000	No	No
Romania	-Warning -Suspension of authorisation -Withdrawal of authorisation-Cancel of authorisation -Temporary prohibition from carrying out certain activities - Revocation of validation of the members of BoD - Convocation of s/h meeting asap for election of a new board	- Fines ranging between €135 and €13,545 for persons, between 0.5% and 5% of the paid up share capital for legal persons	No	No

COUNTRY	ADMINISTRATIVE MEASURES	ADMINISTRATIVE FINES	CRIMINAL SANCTIONS IMPRISONMENT	CRIMINAL SANCTIONS FINES AND OTHER MEASURE
Slovakia	-Order to eliminate inadequacies, to end unlicensed activity, for a correction of incorrect/incomplete info - Cancel stock exchange transactions -Limit its activity - Suspend or withdraw license -Suspend voting rights	- For stock exchange firm or its Members / issuers: fines up to €663,878. Fines for managing directors of/in a) statutory body, b) supervisory function, c) key function. Where they breach law obligations. Amount of fine is up to 12 times the monthly average of their total income	- Imprisonment between 6 months and 8 years	- Fines between € 166 to €332,000
Slovenia	- Issue warning -Issue orders to eliminate irregularities -Suspension and interruption of trading -Withdrawal of authorisation -Delisting of financial instruments	- For legal person Fines between €25,000 and €370,000 For individuals between €800 and €370,000	No	No
Spain	-Demand the cessation of noncompliant practices - Temporary prohibition of professional activities -Adopt any type of measure to ensure that IFs and secondary markets continue to comply with legal requirements-Order suspension or limitation of transactions -Order suspension or exclusion of financial instruments - Suspension of membership of secondary market - Withdrawal of authorisation -Suspension or removal of the offender from executives posts-Suspension or restriction of transactions -Publication of sanctions	- Highest of €600,000 or Five times the gross profit as a result of acts or omissions or 5% of the infringing firm's own funds or of the total funds owned by firm or third parties that were used in the infringement	No	No
Sweden	- Issue order to take certain measures or prohibit execution of decisions -Issue a remark or a warning - Withdrawal of authorisation -Disqualification of manager -Ban s/h from exercising more influence on the s/h meeting -Compel the s/h to sell holdings	- Fines between €535 and €5,352,990	No	No
UK	Failure to satisfy recognition requirements or comply with MiFID obligations : Revoke recognition Contravention by market operators of relevant requirements: Removal of passport rights <hr/> Suspension or removal of financial instruments from trading to protect investors interests and orderly functioning of the financial market	No	Failure to with FSA notice of control : - Imprisonment up to 2 years	Failure to disclose acquisition of control or additional control in a recognised exchanges, or to comply with FSA notice of control - Fines up to €6,360



Table showing those entities responsible for imposing administrative measures and criminal sanctions on those who breach the MiFID requirements

Art 5(1) Requirement for authorisation			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	ADMINISTRATIVE FINES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)
Austria	Yes DC	Yes DC	No
Belgium	Yes DC	No	Yes (JA)
Bulgaria	Yes DC and Bulgarian National Bank	Yes DC	Yes (JA)
Czech Republic	Yes (Czech National Bank dir.)	Yes (Czech National Bank dir.)	Yes (JA)
Cyprus	Yes DC	Yes DC	Yes (JA)
Denmark	Yes DC	Yes (JA)	Yes (JA)
Estonia	No	No	Yes (JA)
Finland	Yes DC	No	Yes (JA)
France	Yes DC	No	Yes (JA)

Art 5(1) Requirement for authorisation			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	ADMINISTRATIVE FINES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)
Germany	Yes DC	Yes DC	Yes (JA)
Greece	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	Yes (JA)
Hungary	Yes DC	Yes DC	Yes (JA)
Iceland	Yes DC	Yes DC	Yes (JA)
Ireland	Yes DC	No	Yes (JA)
Italy	Yes DC and Central Bank dir. and JA	Yes DC	Yes (JA)
Latvia	Yes DC	Yes DC	Yes (JA)
Lithuania	Yes DC	Yes DC	Yes (JA)
Luxembourg	Yes DC, Minister of Treasury & Budget and JA	Yes	Yes (JA)
Malta	Yes DC	Yes DC	Yes (JA)
Netherlands	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	Yes (JA)
Norway	Yes DC	No	Yes (JA)

	Art 5(1) Requirement for authorisation		
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	ADMINISTRATIVE FINES (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR IMPOSING THE SANCTIONS)
Portugal	Yes DC and Central Bank dir.	Yes DC	No
Romania	Yes DC	Yes DC	No
Slovakia	Yes (National Bank of Slovakia dir.)	Yes (National Bank of Slovakia dir.)	Yes (JA)
Slovenia	Yes DC and BSI dir. and JA	Yes DC	No
Spain	Yes DC and Ministry of Finance	Yes DC and Ministry of Finance	No
Sweden	Yes DC	Yes (JA)	No
U.K.	Yes DC	No	Yes DC and JA

	Art.9 to 14 Conditions for authorisation, Art.16 Regular review of conditions for initial authorization		
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Austria	Yes DC	Yes DC	No
Belgium	Yes DC	Yes DC	Yes (JA)
Bulgaria	Yes DC	Yes DC and Bulgarian National Bank	No
Czech Republic	Yes (Czech National Bank dir.)	Yes (Czech National Bank dir.)	No
Cyprus	Yes DC	Yes DC	Yes (JA)
Denmark	Yes DC	Yes (JA)	Yes (JA)
Estonia	Yes DC	Yes DC	No
Finland	Yes DC	No	Yes (JA)
France	Yes DC and Central Bank	Yes DC and Central Bank	Yes (JA)

Art.9 to 14 Conditions for authorisation, Art.16 Regular review of conditions for initial authorization			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Germany	Yes DC	Yes DC	No
Greece	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	No
Hungary	Yes DC	Yes DC	No
Iceland	Yes DC	Yes DC	Yes (JA)
Ireland	Yes DC	Yes DC	No
Italy	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	Yes (JA)
Latvia	Yes DC	Yes DC	No
Lithuania	Yes DC	Yes DC	No
Luxembourg	Yes DC, Minister of Treasury & Budget and JA	Yes DC	Yes (JA)

	Art.9 to 14 Conditions for authorisation, Art.16 Regular review of conditions for initial authorization		
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Malta	Yes DC	Yes DC	Yes (JA)
Netherlands	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	Yes (JA)
Norway	Yes DC	Yes Minister of Finance	Yes (JA)
Portugal	Yes DC and Central Bank dir.	Yes DC	No
Romania	Yes DC	Yes DC	No
Slovakia	Yes (National Bank of Slovakia dir.)	Yes (National Bank of Slovakia dir.)	Yes (JA)
Slovenia	Yes DC and BSI dir.	Yes DC	No
Spain	Yes DC and Ministry of Finance and Council of Ministers	Yes DC and Ministry of Finance and Council of Ministers	No
Sweden	Yes DC	Yes DC and JA	No
U.K.	Yes DC	Yes DC	No

Art.16 to 24 Operating conditions for I.F. General provisions and provisions to ensure investor protection			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Austria	Yes DC	Yes DC	No
Belgium	Yes DC	Yes DC	No
Bulgaria	Yes DC	Yes DC	No
Czech Republic	Yes (Czech National Bank dir.)	Yes (Czech National Bank dir.)	No
Cyprus	Yes DC	Yes DC	Yes (JA)
Denmark	Yes DC	Yes (JA)	Yes (JA)
Estonia	Yes DC	Yes DC	No
Finland	Yes DC	No	No
France	Yes DC	Yes DC	Yes (JA)
Germany	Yes DC	Yes DC	No
Greece	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	No
Hungary	Yes DC	Yes DC	No
Iceland	Yes DC	Yes DC	No

	Art.16 to 24 Operating conditions for I.F. General provisions and provisions to ensure investor protection	Yes DC	No
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Latvia	Yes DC	Yes DC	No
Lithuania	Yes DC	Yes DC	No
Luxembourg	Yes DC, Minister of Treasury & Budget and JA	Yes DC	No
Malta	Yes DC	Yes DC	Yes (JA)
Netherlands	Yes DC	Yes DC	Yes (JA)
Norway	Yes DC	Yes DC and Minister of Finance	Yes (JA)
Portugal	Yes DC	Yes DC	No
Romania	Yes DC	Yes DC	No
Slovakia	Yes (National Bank of Slovakia dir.)	Yes (National Bank of Slovakia dir.)	Yes (JA)
Slovenia	Yes DC and BSI dir.	Yes DC	No
Spain	Yes DC and Ministry of Finance and Council of Ministers	Yes DC and Ministry of Finance and Council of Ministers	No
Sweden	Yes DC	Yes DC and JA	No
U.K.	Yes DC	Yes DC	Yes DC and JA

Art.25 to 30 Operating conditions for I.F. Market Transparency and integrity			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Austria	Yes DC	Yes DC	No
Belgium	Yes DC	Yes DC	No
Bulgaria	Yes DC	Yes DC	No
Czech Republic	Yes (Czech National Bank dir.)	Yes (Czech National Bank dir.)	No
Cyprus	Yes DC	Yes DC	Yes (JA)
Denmark	Yes DC	Yes (JA)	Yes (JA)
Estonia	Yes DC	Yes DC	No
Finland	Yes DC	Yes DC	No
France	Yes DC	Yes DC	Yes (JA)
Germany	Yes DC and Exchange Supervisory Authorities of the Lander	Yes DC and Exchange Supervisory Authorities of the Lander	No

Art.25 to 30 Operating conditions for I.F. Market Transparency and integrity			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Greece	Yes DC and Central Bank dir.	Yes DC and Central Bank dir.	No
Hungary	Yes DC	Yes DC	No
Iceland	Yes DC	Yes DC	No
Ireland	Yes DC	Yes DC	No
Italy	Yes DC	Yes DC	Yes (JA)
Latvia	Yes DC	Yes DC	No
Lithuania	Yes DC	Yes DC	No
Luxembourg	Yes DC, Minister of Treasury & Budget and JA	Yes DC	No
Malta	Yes DC	Yes DC	Yes (JA)
Netherlands	Yes DC	Yes DC	Yes (JA)

Art.25 to 30 Operating conditions for I.F. Market Transparency and integrity			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Norway	Yes DC	Yes Minister of Finance	Yes (JA)
Portugal	Yes DC	Yes DC	No
Romania	Yes DC	Yes DC	No
Slovakia	Yes (National Bank of Slovakia dir.)	Yes (National Bank of Slovakia dir.)	Yes (JA)
Slovenia	Yes DC and BSI dir.	Yes DC	No
Spain	Yes DC and Ministry of Finance and Council of Ministers	Yes DC and Ministry of Finance and Council of Ministers	No
Sweden	Yes DC	Yes DC and JA	No
U.K.	Yes DC	No	No

Art. 36 to 40 Regulated Markets			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Austria	Yes DC	Yes DC	No
Belgium	Yes DC and Minister of Finance	Yes DC	Yes (JA)
Bulgaria	Yes DC	Yes DC	No
Czech Republic	Yes (Czech National Bank dir.)	Yes (Czech National Bank dir.)	No
Cyprus	Yes DC	Yes DC	Yes (JA)
Denmark	Yes DC	Yes (JA)	Yes (JA)
Estonia	Yes DC	No	No

Art. 36 to 40 Regulated Markets			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Finland	Yes DC and Ministry of Finance	No	Yes (JA)
France	Yes DC and Ministry of Economy	No	Yes (JA)
Germany	Yes (Exchange Supervisory Authorities of Lander)	Yes (Exchange Supervisory Authorities of Lander)	No
Greece	Yes DC	Yes DC	No
Hungary	Yes DC	Yes DC	No
Iceland	Yes DC	Yes DC	Yes (JA)
Ireland	Yes DC	Yes DC	No

Art. 36 to 40 Regulated Markets			
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Italy	Yes DC	Yes DC	Yes (JA)
Latvia	Yes DC	Yes DC	Yes (JA)
Lithuania	Yes DC	Yes DC	Yes (JA)
Luxembourg	Yes DC, Minister of Treasury & Budget and JA	Yes DC	Yes (JA)
Malta	Yes	Yes DC	Yes (JA)
Netherlands	Yes DC	Yes DC	Yes (JA)
Norway	Yes DC and Ministry of Finance	Yes Minister of Finance	Yes (JA)

	Art. 36 to 40 Regulated Markets		
COUNTRY	ADMINISTRATIVE MEASURES (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	ADMINISTRATIVE PECUNIARY SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)	CRIMINAL SANCTIONS (AUTHORITY RESPONSIBLE FOR INFLECTING THE SANCTIONS)
Portugal	Yes DC	Yes DC	No
Romania	Yes DC	Yes DC	No
Slovakia	Yes (National Bank of Slovakia dir.)	Yes (National Bank of Slovakia dir.)	Yes (JA)
Slovenia	Yes DC	Yes DC	No
Spain	Yes DC and Ministry of Finance and Council of Ministers	Yes DC and Ministry of Finance and Council of Ministers	No
Sweden	Yes DC	Yes DC and JA	No
U.K.	Yes DC	No	Yes DC and JA

