

Transposition Table: MiFID Implementing Directive

This table indicates, as at **26 July 2007**, where we have transposed requirements of the MiFID implementing Directive (Commission Directive No 2006/73/EC of the European Parliament and Council relating to markets in financial instruments) into the FSA Handbook or where they are already embodied in existing rules. Many of the Handbook provisions are not due to come into effect until 1 November 2007.

NOTES

1. In this table, we have included references to FSA guidance to assist you; they do not form part of our formal transposition of MiFID.

2. A separate table has been produced for MiFID (Directive 2004/39/EC).

3. The formal transposition table (including statutory instruments) for the purposes of MiFID is the responsibility of the Treasury.

4. The references to Handbook provisions may change as we amend related material e.g. non-scope provisions and consequential amendments.

5. Each Handbook reference is to a COBS provision made in FSA 2007/33 unless otherwise indicated.

ABBREVIATIONS

CA	Competent Authority
CESR	Committee of European Securities Regulators
MS	Member State

Provision of MiFID Implementing Directive	Description	Related Level 1 provision(s)	Responsibility for Transposition (Treasury or FSA)	Transposed in (FSA Handbook provision):
Chapter I	Scope and Definitions			
Article 1	Subject-matter and scope	-	FSA	FSA Handbook Glossary: 'MiFID investment firm'
Article 2	Definitions			
(1)	'distribution channels'	-	FSA	FSA Handbook Glossary: 'distribution channels' (FSA 2007/1)
(2)	'durable medium'	-	FSA	FSA Handbook Glossary: 'durable medium' (FSA 2007/32)
(3)	'relevant person'	-	FSA	FSA Handbook Glossary: 'relevant person'
(4)	'financial analyst'	-	FSA	FSA Handbook Glossary: 'financial analyst' (FSA 2007/1)
(5)	'group'	-	FSA	FSA Handbook Glossary: 'group'

(6)	outsourcing'	-	FSA	FSA Handbook Glossary: 'outsourcing' (FSA 2007/32)
(7)	person with whom a relevant person has a family relationship'	-	FSA	FSA Handbook Glossary: 'personal transaction' (FSA 2007/1)
				FSA Handbook Glossary: 'person with whom a relevant person has a family relationship' (FSA 2007/32)
(8)	securities financing transaction'	-	FSA	FSA Handbook Glossary: 'securities financing transaction' (as amended by FSA 2007/1)
(9)	senior management'	-	FSA	FSA Handbook Glossary: 'senior personnel'
Article 3	Conditions applying to the provision of information	-	FSA	FSA Handbook Glossary: 'durable medium' (FSA 2007/32)
				FSA Handbook Glossary: 'website conditions' (amended by FSA 2007/44)
Article 4	Additional requirements on investment firms in certain cases	-	No transposition required	N/A
Chapter II	Organisational requirements			
Section 1	Organisation			
Article 5	General organisational requirements			
5(1)(a)	Decision making procedures and organisational structure	13(2)-(8)	FSA	SYSC 4.1.4 R(1)
5(1)(b)	Relevant persons to be aware of procedures	13(2)-(8)	FSA	SYSC 5.1.12 R
5(1)(c)	Internal control mechanisms	13(2)-(8)	FSA	SYSC 4.1.4 R(2)
5(1)(d)	Personnel to have necessary skills, knowledge and expertise	13(2)-(8)	FSA	SYSC 5.1.1 R
5(1)(e)	Internal reporting and communication of information	13(2)-(8)	FSA	SYSC 4.1.4 R(3)
5(1)(f)	Records of business and internal organisation	13(2)-(8)	FSA	SYSC 9.1.1R (FSA 2007/9))
5(1)(g)	Multiple performance of functions to be discharged soundly, honestly and professionally	13(2)-(8)	FSA	SYSC 5.1.6 R
5(1) last paragraph	Factors that Investment firms must consider in complying with Article 5 (1)	13(2)-(8)	FSA	SYSC 5.1.13R
5(2)	Systems and procedures to safeguard confidential information	13(2)-(8)	FSA	SYSC 4.1.5 R
5(3)	Adequate business continuity policy	13(2)-(8)	FSA	SYSC 4.1.7 R
5(4)	Accounting policies and procedures	13(2)-(8)	FSA	SYSC 4.1.9 R
5(5)	Monitor and evaluate adequacy and effectiveness of the systems, internal control mechanisms and arrangements required by sub-paras (1)-(4)	13(2)-(8)	FSA	SYSC 4.1.10 R

				SYSC 5.1.14 R
Article 6	Compliance			
6(1)	Adequate policies and procedures to detect risk of failure to comply with obligations under the Level 1 Directive; adequate measures and procedures to minimise such risk	13(2)	FSA	SYSC 6.1.2 R
6(2)	Permanent and effective independent compliance function	13(2)	FSA	SYSC 6.1.3 R
6(3), 1st sub-para	Compliance function must have necessary authority, resources, expertise and access to information; a compliance officer; method of determining remuneration of persons involved in compliance function not to compromise their objectivity	13(2)	FSA	SYSC 6.1.4 R
6(3), 2nd sub-para	Exception where compliance function requirements are not proportionate given the nature, scale and complexity of a firm's business	13(2)	FSA	SYSC 6.1.5 R
Article 7	Risk management			
7(1)(a)	Adequate risk management policies and procedures	13(5), 2nd sub-para	FSA	SYSC 7.1.2 R
7(1)(b)	Effective arrangements, processes and mechanisms to manage risks	13(5), 2nd sub-para	FSA	SYSC 7.1.3 R
7(1)(c)	Monitoring the adequacy and effectiveness of risk management policies and procedures, the level of compliance with those policies and procedures and the adequacy and effectiveness of measures taken to address deficiencies	13(5), 2nd sub-para	FSA	SYSC 7.1.5 R
7(2), 1st sub-para	Independent risk management function to implement policies and procedures in Art 7(1) and provide reports and advice to senior management	13(5), 2nd sub-para	FSA	SYSC 7.1.6 R
7(2), 2nd sub-para	Firms which are not required to have an independent risk management function must nevertheless comply with the requirements in 7(1)	13(5), 2nd sub-para	FSA	SYSC 7.1.7 R
Article 8	Internal audit			
	Separate and independent internal audit function	13(5), 2nd sub-para	FSA	SYSC 6.2.1 R
Article 9	Responsibility of senior management			
9(1)	Senior management responsible for compliance with the obligations under the Level 1 Directive, assessing and reviewing the policies, arrangements and procedures for compliance with those obligations and taking measures to address deficiencies	13(2)	FSA	SYSC 4.3.1 R
9(2)	Senior management to receive frequent written reports on the matters in Arts 6, 7 and 8	13(2)	FSA	SYSC 4.3.2 R(1)
9(3)	Supervisory function to receive regular written reports on the matters in Arts 6, 7 and 8	13(2)	FSA	SYSC 4.3.2 R(2)
9(4)	Supervisory function means the function responsible for the supervision of senior management	13(2)	FSA	FSA Handbook Glossary: 'supervisory function'
Article 10	Complaints handling			
	Effective and transparent procedures for the handling of complaints from retail clients	13(2)	FSA	DISP 1.9.1 R (FSA 2007/38)
	Record of each complaint received and the measures taken for resolution.	13(2)	FSA	DISP 1.3.1 R (FSA 2007/38)
Article 11	Meaning of personal transaction			
	Criteria for meeting definition of personal transaction	13(2)	FSA	FSA Handbook Glossary: 'personal transaction' (FSA 2007/1)
Article 12	Personal transactions			
12(1)	Adequate arrangements for the handling of personal transactions	13(2)	FSA	11.7.1 R
12(2)	Aims of arrangements for the handling of provisions	13(2)	FSA	11.7.4R
12(3)	Personal transactions to which restrictions shall not apply	13(2)	FSA	11.7.5 R
Section 2	Outsourcing			
Article 13	Meaning of critical and important operational functions			
13(1)	When an operational function shall be regarded as critical or important	13(2), 13(5), 1st sub-para	FSA	SYSC 8.1.4 R
13(2)	Certain functions not critical or important	13(2), 13(5), 1st sub-para	FSA	SYSC 8.1.5 R
Article 14	Conditions for outsourcing critical or important operational functions or investment services or activities			

14(1)	Firms remain fully responsible for complying with obligations under the Level 1 Directive when outsourcing critical or important operational functions	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.6 R
14(2), 1st sub-para	Firms must exercise due skill, care and diligence when outsourcing critical or important operational functions	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.7 R
14(2), 2nd sub-para	Conditions to be followed when outsourcing critical or important operational functions	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.8 R
14(3)	Rights and obligations of the firm and services provider to be clearly allocated and set out in a written agreement	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.9 R
14(4)	Requirements where firm and service provider are part of the same group	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.10 R
14(5)	Firms to make available to CA information regarding outsourced activities on request	13 (2), 13(5), 1st sub-para	FSA	SYSC 8.1.11 R
Article 15	Service providers located in third countries			
15(1)	Requirements for authorisation of third country service provider	13(2), 13(5), 1st sub-para	Treasury/FSA	SYSC 8.2.1 R (1) (FSA 2007/9)
15(2)	Notification requirements to competent authority where conditions in 15(1) not satisfied	13(2), 13(5), 1st sub-para	Treasury/FSA	SYSC 8.2.1 R (2) (FSA 2007/9)
15(3)	Competent authority to publish guidance regarding likely objections to a notification in 15(2)	13(2), 13(5), 1st sub-para	Treasury/FSA	SYSC 8.3.2 G (FSA 2007/9)
15(4)	Article 15 does not affect requirements in article 14	13(2), 13(5), 1st sub-para	Treasury/FSA	SYSC 8.2.1 R (2) (FSA 2007/9)
15(5)	Competent authority to publish list of supervisory authorities in third countries for purposes of 15(1)(b)	13(2), 13(5), 1st sub-para	Treasury/FSA	To be published on FSA website
Section 3	Safeguarding of Client Assets			
Article 16	Safeguarding of client financial instruments and funds			
16(1)(a)	Records and accounts which distinguish between assets held for different clients and between client assets and the firm's own assets	13(7), 13(8)	FSA	CASS 6.5.1 R, CASS 7.6.1 R (FSA 2007/4)
16(1)(b)	Records and accounts to be maintained in a way that ensures accuracy	13(7), 13(8)	FSA	CASS 6.5.2 R, CASS 7.6.2 R (FSA 2007/4)
16(1)(c)	Regular reconciliations between internal accounts and records and those of third parties	13(7), 13(8)	FSA	CASS 6.5.6 R, CASS 7.6.9R (FSA 2007/4)
16(1)(d)	Client instruments deposited with a third party to be identifiable separately from those belonging to the firm or that third party	13(7), 13(8)	FSA	CASS 6.3.1 R (FSA 2007/4)
16(1)(e)	Client funds deposited in a central bank, credit institution or third country bank or money market fund to be held in an account separate from the firm's own funds	13(7), 13(8)	FSA	CASS 7.4.11 R (FSA 2007/4)
16(1)(f)	Organisational arrangements to minimise loss or diminution of client assets	13(7), 13(8)	FSA	CASS 6.2.2 R, CASS 7.3.2 R (FSA 2007/4)
16(2)	If a firm's arrangements under Art 16(1) are not sufficient to satisfy the requirements of Art 13(7) and (8) of the Level 1 Directive MS must prescribe measures for complying with those obligations	13(7), 13(8)	FSA	CASS 6 and 7 (various)
16(3)	MS to prescribe equivalent requirements where applicable law prevents firms from complying with Art 16(1)(d) or (e)	13(7), 13(8)	No transposition required ¹	N/A
Article 17	Depositing client financial instruments			
17(1)	Firms may deposit client financial instruments with third parties and must exercise due skill, care and diligence in selecting, appointing and reviewing those third party arrangements	13(7)	FSA	CASS 6.3.1 R (FSA 2007/4)
17(2)	Firms to only deposit financial instruments with a third party in a jurisdiction which regulates and supervises the safekeeping of financial instruments with a third party who is subject to such regulation	13(7)	FSA	CASS 6.3.4 R (FSA 2007/4)
17(3)	Firms cannot deposit client financial instruments with a third party in a third country which does not regulate the safekeeping of financial instruments unless the nature of the financial instrument requires it or where a professional client requests the firm to do so in writing	13(7)	FSA	CASS 6.3.4 R (FSA 2007/4)
Article 18	Depositing client funds			
18(1)	Firms must promptly place any client money received into an account with a central bank, BCD credit institution, an authorised third country bank or a qualifying money market fund	13(8)	FSA	CASS 7.4.1 R, CASS 7.1.8 R (FSA 2007/4)

18(2)	Definition of 'qualifying money market fund'	13(8)	FSA	FSA Handbook Glossary: 'qualifying money market fund' (FSA 2007/1)
18(3)	If client money is not deposited with a central bank a firm must exercise due skill, care and diligence in the selection, appointment and periodic review of the credit institution, bank or qualifying money market fund where the money is deposited and must take into account the expertise and market reputation of that institution or fund. A firm must give a client the right to oppose the placement of money in a qualifying money market fund	13(8)	FSA	CASS 7.4.5 R, CASS 7.4.7 R, CASS 7.4.8 R (FSA 2007/4)
Article 19	Use of client financial instruments			
19(1)	Requirements for securities financing transactions in respect of client financial instruments	13(7)	FSA	CASS 6.4.1 R (FSA 2007/4)
19(2)	Requirements for securities financing transactions in respect of client financial instruments in an omnibus account held by a third party	13(7)	FSA	CASS 6.4.3R (FSA 2007/4)
Article 20	Reports by external auditors			
	External auditors to report at least annually to the CA on the adequacy of arrangements under Arts 13(7) and (8) of the Level 1 Directive	13(7), (8)	FSA	SUP 3.10.7R (FSA 2007/4)
Section 4	Conflicts of Interest			
Article 21	Conflicts of interest potentially detrimental to a client			
	Minimum criteria for determining whether a conflict of interest arises which may damage the interest of a client	13(3), 18	FSA	SYSC 10.1.4 R
Article 22	Conflicts of interest policy			
22(1)	Effective and appropriate conflicts of interest policy in writing	13(3), 18(1)	FSA	SYSC 10.1.10 R(1) and (2)
22(2)	Contents of conflicts of interest policy	13(3), 18(1)	FSA	SYSC 10.1.11 R(1)
22(3)	Adequate degree of independence	13(3), 18(1)	FSA	SYSC 10.1.11 R(2) and (3)
22(4)	Disclosure pursuant to Art 18(2) of the Level 1 Directive to be made in a durable medium and include sufficient detail	13(3), 18(1)	FSA	SYSC 10.1.8 R(2)
Article 23	Record of services or activities giving rise to detrimental conflict of interest			
	Firms to keep and regularly update a record of conflicts of interest entailing a material risk of damage to the interests of clients	13(6)	FSA	SYSC 10.1.6 R
Article 24	Investment research			
24(1)	Definition of 'investment research'	19(2)	FSA	FSA Handbook Glossary: 'investment research' (see FSA 2007/1)
24(2)	Research not covered by 24(1)	19(2)	FSA	FSA Handbook Glossary: 'investment research' (FSA 2007/1).
				12.3.1 R, 12.3.2 R, 12.3.3 R
Article 25	Additional organisational requirements where a firm produces and disseminates investment research			

25(1)	Firms producing or arranging investment research must ensure that they comply with conflict of interest provision in 22(3) regarding financial analysts and other affected persons	13(3)	FSA	FSA Handbook Glossary: 'investment research' (FSA 2007/1).
				12.2.1 R, 12.2.3 R (see FSA 2007/33)
25(2)	Firms covered by paragraph 1 to have in place arrangements to ensure following conditions are met	13(3)	FSA	FSA Handbook Glossary: 'related financial instrument' (FSA 2007/1).
				12.2.5R
25(2)(a)	Financial analysts and other relevant persons not to undertake personal transactions or trade outside specified circumstances	13(3)	FSA	12.2.5R(1)
25(2)(b)	Financial analysts and other relevant persons not to undertake personal transactions in financial instruments relevant to research	13(3)	FSA	12.2.5R(2)
25(2)(c)	Firms, analysts, and other relevant persons, not to accept inducements from those with material interest in the research	13(3)	FSA	12.2.5R(3)
25(2)(d)	Firms, analysts, and other relevant persons, must not promise favourable research coverage	13(3)	FSA	12.2.5R(4)
25(2)(e)	Firms, analysts, and other relevant persons, not to review draft research including a recommendation or target price other than to verify compliance with legal obligations.	13(3)	FSA	12.2.5R(5)
25(3)	Conditions under which member states are to exempt firms for paragraph 1 criteria.	13(3)	FSA	12.2.10 R (FSA 2007/3)
Chapter III	Operating Conditions for Investment Firms			
Section 1	Inducements			
Article 26	Inducements	19(1)	FSA	2.3.1 R, 2.3.2 R
Section 2	Information to clients and potential clients			
Article 27	Conditions with which information must comply in order to be fair, clear and not misleading			
27(1)	Member states to require firms to comply with paragraphs 2 to 8 when dealing with retail clients	19(2)	FSA	See details for articles 27(2)-(8).
27(2)	Communicated information must include the name of the firm, give fair emphasis to risks, shall be presented in a way that will be understood by an average member of the group, and will not obscure any important items	19(2)	FSA	4.5.2 R
27(3)	When information compares services or instruments, comparison must be fair, source information relied on, and state key assumptions	19(2)	FSA	4.5.6 R
27(4)	Rules relating to use of past performance information for a financial instrument	19(2)	FSA	4.6.2 R
27(5)	Rules relating to use of simulated past performance information for a financial instrument	19(2)	FSA	4.6.6 R
27(6)	Rules relating to future performance information	19(2)	FSA	4.6.7 R
27(7)	Information relating to a particular tax treatment	19(2)	FSA	4.5.7 R
27(8)	Information not to suggest endorsement/approval of a product by a competent authority	19(2)	FSA	GEN 1.2.2 R (FSA 2007/9)
Article 28	Information concerning client categorisation			
28(1)	Firms to inform clients of new MiFID classifications	19(3)	FSA	3.5.9 R, TP 1.5 R
28(2)	Firms to inform clients about any right to be categorised differently	19(3)	FSA	3.3.1 R (2)
28(3)	Firms permitted to treat clients as professional or retail clients under specified circumstances	19(3)	FSA	3.7.3 R
Article 29	General requirements for information to clients			
29(1)	Timely provision of information relating to terms of agreement and information required under article 30 prior to client being bound by any agreement	19(3)	FSA	8.1.3 R
29(2)	Timely provision of article 30 - 33 information to potential retail/retail clients before provision of services	19(3)	FSA	6.1.11 R, 14.3.9 R
29(3)	Timely provision of article 32 information to professional clients before provision of services	19(3)	FSA	6.1.7R, 6.1.11 R
29(4)	Information to be in a durable medium	19(3)	FSA	6.1.13R, 13.2.1R

				14.3.8R (as amended by FSA 2007/44)
29(5)	Exception to rules in paragraph 1 and 2	19(3)	FSA	6.1.11 R, 8.1.3R, 14.3.9R
29(6)	Timely notification of any change to information provided under articles 30 to 33	19(3)	FSA	6.1.14R, 8.1.3R, 14.3.10R
29(7)	Information in marketing communication to be consistent with information provided in the course of carrying out investments	19(3)	FSA	4.5.8 R
29(8)	Offers to respond or invitations contained in marketing communications which specify the manner of response are to include article 30 to 33 information	19(3)	FSA	4.7.1 R
Article 30	Information about the investment firm and its services for retail clients and potential retail clients			
30(1)	General Information to provide to client about firm and services	19(3) (1st indent)	FSA	6.1.4 R, 6.1.7 R
30(2)	Managing firm to establish an appropriate method of evaluation for client to assess firm's performance	19(3) (1st indent)	FSA	6.1.6 R
30(3)	Information to be provided by firms to retail clients in regard to portfolio management services	19(3) (1st indent)	FSA	6.1.6 R
Article 31	Information about financial instruments			
31(1)	Firms must provide clients with a general description of the nature and risks of specific financial instruments	19(3) (2nd indent)	FSA	14.3.2 R
31(2)	Specific information on risks to be communicated to client	19(3) (2nd indent)	FSA	14.3.2 R
31(3)	Firms to provide information to clients where a prospectus has been placed for a financial instrument	19(3) (2nd indent)	FSA	14.3.3 R
31(4)	Firms must inform clients where the interaction between different financial instruments increases the risk over any of the components	19(3) (2nd indent)	FSA	14.3.4 R
31(5)	Where a financial instrument incorporates a guarantee by a third party, information about the guarantee must be provided to a client	19(3) (2nd indent)	FSA	14.3.5 R
Article 32	Information requirements concerning safeguarding of client financial instruments or client funds	19(3) (1st indent)	FSA	6.1.7 R
Article 33	Information about costs and associated charges	19(3) (4th indent)	FSA	6.1.9 R
Article 34	Information drawn up in accordance with UCITS Directive (85/611/EEC)	19(3) (2nd & 4th indent)	FSA	14.3.11 R
Section 3	Assessment of suitability and appropriateness			
Article 35	Assessment of suitability			
35(1)	Firms must obtain sufficient information from clients to ensure that they meet the suitability criteria for recommending a particular instrument	19(4)	FSA	9.2.2 R
35(2)	Firm may assume that a professional client has the requisite level of experience and knowledge	19(4)	FSA	9.2.8 R
35(3)	Specific information to be obtained in regard to assessing the financial situation of the client	19(4)	FSA	9.2.2 R
35(4)	Specific information to be obtained in regard to assessing the investment objectives of the client	19(4)	FSA	9.2.2 R
35(5)	Firms are not to recommend investment services or financial instruments to the client if they do not obtain the information required under article 19(4) of Directive 2004/39/EC	19(4)	FSA	9.2.6 R
Article 36	Assessment of appropriateness	19(5)	FSA	10.2.1 R
Article 37	Provisions common to the assessment of suitability or appropriateness			
37(1)	Requirements about knowledge of client	19(4), 19(5)	FSA	9.2.3 R, 10.2.2 R
37(2)	Firm not to encourage client not to provide information required under 19(4) or (5) of MiFID Level 1 Directive	19(4), 19(5)	FSA	9.2.4 R, 10.2.3 R
37(3)	Reliance on information provided by client	19(4), 19(5)	FSA	9.2.5 R, 10.2.4 R
Article 38	Provision of services in non-complex instruments	19(6) (1st indent)	FSA	10.4.1 R
Article 39	Retail client agreement	19(1), 19(7)	FSA	8.1.2 R, 8.1.5 R
Section 4	Reporting to Clients			
Article 40	Reporting obligations in respect of execution of orders other than for portfolio management			

40(1)	Timely reporting of a) information regarding an order and b) confirmation of an order	19(8)	FSA	16.2.1 R
40(2)	Provision of information on status of order on request	19(8)	FSA	16.2.1 R
40(3)	Periodic reporting for orders for a retail client relating to units or shares in a collective investment undertaking	19(8)	FSA	16.2.1 R
40(4)	Requirements for notice specified in article 40(1)(b)	19(8)	FSA	16.2.1 R , 16.2.3 R , 16 Ann1 R (1)
40(5)	Use of Standard codes in reporting	19(8)	FSA	16 Ann1R(1)
Article 41	Reporting obligations in respect of portfolio management			
41(1)	Firms providing portfolio management to report to client's periodically	19(8)	FSA	16.3.1 R
41(2)	Requirements for periodic statements to retail clients	19(8)	FSA	16.3.1 R , 16 Ann 2 R
41(3)	Periodic statements to be provided every six months	19(8)	FSA	16.3.2 R
41(4)	Reports on transactions to be provided promptly where client requires report on each transaction	19(8)	FSA	16.3.3 R
Article 42	Additional reporting obligations for portfolio management or contingent liability transactions	19(8)	FSA	16.3.6 R
Article 43	Statements of client financial instruments or client funds			
43(1)	Firms holding financial instruments or client funds to report annually to client	19(8)	FSA	16.4.1 R
43(2)	Information to be included in statement of client assets	19(8)	FSA	16.4.2 R , 16.4.3 R
43(3)	Permission for firms which also provide portfolio management services to include statement of client assets with periodic statement pursuant to article 41(1)	19(8)	FSA	16.4.4 R
Section 5	Best Execution			
Article 44	Best execution criteria			
44(1)	Criteria for determining best execution for particular client	19(1), 21(1)	FSA	FSA Handbook Glossary: 'execution venue' (FSA 2007/32) 11.2.7 R
44(2)	Best execution requirement met if client's instructions are acted on	19(1), 21(1)	FSA	 11.2.19 R (2)
44(3), 1st sub-para	The best result for the client is to be judged by the total consideration related to execution	19(1), 21(1)	FSA	11.2.7 R
44(3), 2nd sub-para	In assessing the best execution venue for the client, the firm's own commissions and costs are to be taken into account in regard to particular venues.	19(1), 21(1)	FSA	11.2.10 R
44(4)	Firms not to discriminate unfairly between venues	19(1), 21(1)	FSA	11.2.12 R
44(5)	Commission to furnish report to Parliament regarding execution venues	19(1), 21(1)	N/A	N/A
Article 45	Duty of investment firms carrying out portfolio management and reception and transmission of orders to act in the best interests of the client			
45(1)	Firms providing portfolio management to act in client's best interest	19(1)	FSA	11.2.30 R
45(2)	Firms receiving and transmitting orders to act in clients best interests	19(1)	FSA	11.2.31 R
45(3)	In complying with paragraphs 1 and 2, firms to take actions in paragraphs 4 to 6	19(1)	FSA	11.2.32 R
45(4)	Firms to take all steps to ensure best result for client	19(1)	FSA	11.2.32 R(1)
45(5), 1st sub-para	Firms must establish and implement a policy in regard to the obligations in paragraph 4	19(1)	FSA	11.2.32 R(2)
45(5), 2nd sub-para	Firms to provide appropriate information to clients on the policy	19(1)	FSA	11.2.32 R(3)
45(6), 1st sub-para	Firms to monitor the effectiveness of the policy established under paragraph 5	19(1)	FSA	11.2.32 R(4)
45(6), 2nd sub-para	Firms shall review the policy annually. Review also to take place where a material change to policy occurs.	19(1)	FSA	11.2.32 R(5)
45(7)	Firm providing portfolio management/reception and transmission of orders services also executes orders	19(1)	FSA	11.2.34 R
Article 46	Execution policy			
46(1)	Firms to ensure annual review of execution policy in article 21(2) of MiFID level1 Directive is	21(3), 21(4)	FSA	11.2.28R

46(2)	Firms to provide particular parts of execution policy to retail clients	21(3), 21(4)	FSA	11.2.23R
Section 6				
Client Order Handling				
Article 47				
General principles				
47(1)	General Requirements when carrying out client orders	19(1), 22(1)	FSA	11.3.2 R
47(2)	Prompt and correct delivery of executed order to client	19(1), 22(1)	FSA	11.3.4 R
47(3)	Preventing misuse of information relating to pending client orders	19(1), 22(1)	FSA	11.3.5 R
Article 48				
Aggregation and allocation of orders				
48(1)	Conditions under which firms can carry out clients in aggregation	19(1), 22(1)	FSA	11.3.7 R
48(2)	Member states to ensure that firms comply with order allocation policy	19(1), 22(1)	FSA	11.3.8 R
Article 49				
Aggregation and allocation of transactions for own account				
49(1)	Firms not to allocate own account related trades in a detrimental manner to client	19(1), 22(1)	FSA	11.3.9 R
49(2)	Related trades to be allocated to the client ahead of firm's own account when an aggregated order is partially executed	19(1), 22(1)	FSA	11.3.10 R
49(3)	Order allocation policy in article 48(1)c) to include procedures to ensure client's best interests not compromised when own account and client accords executed in combination	19(1), 22(1)	FSA	11.3.11 R
Section 7				
Eligible Counterparties				
Article 50				
Eligible Counterparties				
50(1)	Conditions under which an undertaking can be recognised as an eligible counterparty	24(3)	FSA	3.6.4 R
50(2), 1st sub-para	Conditions under which an eligible counterparty is treated as a professional client	24(3)	FSA	3.7.4 R
50(2), 2nd sub-para	Application of Section I of Annex II where an eligible counterparty requests treatment as a retail client	24(3)	FSA	3.3.1 R, 3.7.1 R, 3.7.2 G, 3.7.3 R and 3.7.5 R
Section 8				
Record-keeping				
Article 51				
Retention of records				
51(1)	Records kept pursuant to Directive 2004/39/EC are to be retained for five years except under specified circumstances	13(6)	FSA	SYSC 9.1.2 (FSA 2007/9) See 'List of Minimum Records required under MiFID and Implementing Measures'
51(2)	Records to be maintained in a manner that is consistent with the criteria set out	13(6)	FSA	SYSC 9.1.3 R (FSA 2007/9)
51(3)	CA to maintain a list of the minimum records firms are required to keep under Directive 2004/19/EC	13(6)	FSA	See 'List of Minimum Records required under MiFID and Implementing Measures'
51(4)	Record-keeping requirements do not prejudice right of MS to impose obligations on firms in regard to the recording of communications involving client orders	13(6)	No transposition required	N/A
51(5)	Commission to report to CESR before 31 December 2009 about effectiveness of the provisions of paragraph 4.	13(6)	No transposition required	N/A
Section 9				
Defined Terms for the Purposes of Directive 2004/39/EC				
Article 52				
Investment advice				
		4(1)(4)	Treasury	Glossary (see definition of 'personal recommendation' in FSA 2007/1)
Chapter IV				
Final Provisions				
Article 53				
Transposition				
	MS are required to transpose the Directive by 31 January 2007. MS are required to apply transposing legislation by 1 November 2007.	-	No transposition required	N/A
Article 54				
Entry into force				

	The Directive enters into force twenty days after the date of its publication in the official journal	-	No transposition required	N/A
Article 55	Addressees			
	The Directive is addressed to the MS	-	No transposition required	N/A
1	If the law of the jurisdiction in which client funds or financial instruments are held prevents firms from complying with certain requirements, article 16(3) of the MiFID Implementing Directive provides that Member States should prescribe requirements which have an equivalent effect in terms of safeguarding clients' rights. The relevant requirements are those in articles 16(1)(d) and (e), which require segregation at the level of the third party's records of client assets held with a third party from the assets of the firm and (in the case of financial instruments) the assets of the third party. We are not aware of any circumstances in which applicable law would prevent a firm from complying with these requirements and therefore have not proposed a provision dealing with this point.			