

Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company (Text with EEA relevance)

CHAPTER III

CONFLICT OF INTERESTS

(Article 12(1)(b) and Article 14(1)(d) and (2)(c) of Directive 2009/65/EC)

Article 17

Criteria for the identification of conflicts of interest

1 Member States shall ensure that, for the purposes of identifying the types of conflict of interest that arise in the course of providing services and activities and whose existence may damage the interests of a UCITS, management companies take into account, by way of minimum criteria, the question of whether the management company or a relevant person, or a person directly or indirectly linked by way of control to the management company, is in any of the following situations, whether as a result of providing collective portfolio management activities or otherwise:

- a the management company or that person is likely to make a financial gain, or avoid a financial loss, at the expense of the UCITS;
- b the management company or that person has an interest in the outcome of a service or an activity provided to the UCITS or another client or of a transaction carried out on behalf of the UCITS or another client, which is distinct from the UCITS interest in that outcome;
- c the management company or that person has a financial or other incentive to favour the interest of another client or group of clients over the interests of the UCITS;
- d the management company or that person carries on the same activities for the UCITS and for another client or clients which are not UCITS;
- e the management company or that person receives or will receive from a person other than the UCITS an inducement in relation to collective portfolio management activities provided to the UCITS, in the form of monies, goods or services, other than the standard commission or fee for that service.

2 Member States shall require management companies, when identifying the types of conflict of interests, to take into account:

- a the interests of the management company, including those deriving from its belonging to a group or from the performance of services and activities, the interests of the clients and the duty of the management company towards the UCITS;
- b the interests of two or more managed UCITS.