

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 IV

RULES OF CONDUCT

(Article 14(1)(a), (b) and (2)(a), (b) of Directive 2009/65/EC)

SECTION 4

Handling of orders

Article 28

Aggregation and allocation of trading orders

1 Member States shall not permit management companies to carry out a UCITS order in aggregate with an order of another UCITS or another client or with an order on their own account, unless the following conditions are met:

- a it must be unlikely that the aggregation of orders will work overall to the disadvantage of any UCITS or clients whose order is to be aggregated;
- b an order allocation policy must be established and implemented, providing in sufficiently precise terms for the fair allocation of aggregated orders, including how the volume and price of orders determines allocations and the treatment of partial executions.

2 Member States shall ensure that where a management company aggregates a UCITS order with one or more orders of other UCITS or clients and the aggregated order is partially executed, it allocates the related trades in accordance with its order allocation policy.

3 Member States shall ensure that management companies which have aggregated transactions for own account with one or more UCITS or other clients' orders do not allocate the related trades in a way that is detrimental to the UCITS or another client.

4 Member States shall require that, where a management company aggregates an order of a UCITS or another client with a transaction for own account and the aggregated order is partially executed, it allocates the related trades to the UCITS or other client in priority over those for own account.

However, if the management company is able to demonstrate to the UCITS or its other client on reasonable grounds that it would not have been able to carry out the order on such advantageous terms without aggregation, or at all, it may allocate the transaction for own account proportionally, in accordance with the policy as referred to in paragraph 1(b).