

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 1

General principles

Article 22

Duty to act in the best interests of UCITS and their unit-holders

1 Member States shall require management companies to ensure that unit-holders of managed UCITS are treated fairly.

Management companies shall refrain from placing the interests of any group of unit-holders above the interests of any other group of unit-holders.

2 Member States shall require management companies to apply appropriate policies and procedures for preventing malpractices that might reasonably be expected to affect the stability and integrity of the market.

3 Without prejudice to requirements under national law, Member States shall require management companies to ensure that fair, correct and transparent pricing models and valuation systems are used for the UCITS they manage, in order to comply with the duty to act in the best interests of the unit-holders. Management companies must be able to demonstrate that the UCITS portfolios have been accurately valued.

4 Member States shall require management companies to act in such a way as to prevent undue costs being charged to the UCITS and its unit-holders.

Article 23

Due diligence requirements

1 Member States shall require management companies to ensure a high level of diligence in the selection and ongoing monitoring of investments, in the best interests of UCITS and the integrity of the market.

2 Member States shall require management companies to ensure they have adequate knowledge and understanding of the assets in which the UCITS are invested.

3 Member States shall require management companies to establish written policies and procedures on due diligence and implement effective arrangements for ensuring that investment decisions on behalf of the UCITS are carried out in compliance with the objectives, investment strategy and risk limits of the UCITS.

4 Member States shall require management companies when implementing their risk management policy, and where it is appropriate after taking into account the nature of a foreseen investment, to formulate forecasts and perform analyses concerning the investment's contribution to the UCITS portfolio composition, liquidity and risk and reward profile before carrying out the investment. The analyses must only be carried out on the basis of reliable and up-to-date information, both in quantitative and qualitative terms.

Management companies shall exercise due skill, care and diligence when entering into, managing or terminating any arrangements with third parties in relation to the performance of risk management activities. Before entering into such arrangements, management companies shall take the necessary steps in order to verify that the third party has the ability and capacity to perform the risk management activities reliably, professionally and effectively. The management company shall establish methods for the on-going assessment of the standard of performance of the third party.