

Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (Text with EEA relevance)

CHAPTER II

ORGANISATIONAL REQUIREMENTS

SECTION 1

Organisation

Article 5

(Article 13(2) to (8) of Directive 2004/39/EC) General organisational requirements

1 Member States shall require investment firms to comply with the following requirements:

- a to establish, implement and maintain decision-making procedures and an organisational structure which clearly and in documented manner specifies reporting lines and allocates functions and responsibilities;
- b to ensure that their relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities;
- c to establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the investment firm;
- d to employ personnel with the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them;
- e to establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the investment firm;
- f to maintain adequate and orderly records of their business and internal organisation;
- g to ensure that the performance of multiple functions by their relevant persons does not and is not likely to prevent those persons from discharging any particular function soundly, honestly, and professionally.

Member States shall ensure that, for those purposes, investment firms take into account the nature, scale and complexity of the business of the firm, and the nature and range of investment services and activities undertaken in the course of that business.

2 Member States shall require investment firms to establish, implement and maintain systems and procedures that are adequate to safeguard the security, integrity and confidentiality of information, taking into account the nature of the information in question.

3 Member States shall require investment firms to establish, implement and maintain an adequate business continuity policy aimed at ensuring, in the case of an interruption to their systems and procedures, the preservation of essential data and functions, and the maintenance of investment services and activities, or, where that is not possible, the timely recovery of such data and functions and the timely resumption of their investment services and activities.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After
IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

4 Member States shall require investment firms to establish, implement and maintain accounting policies and procedures that enable them, at the request of the competent authority, to deliver in a timely manner to the competent authority financial reports which reflect a true and fair view of their financial position and which comply with all applicable accounting standards and rules.

5 Member States shall require investment firms to monitor and, on a regular basis, to evaluate the adequacy and effectiveness of their systems, internal control mechanisms and arrangements established in accordance with paragraphs 1 to 4, and to take appropriate measures to address any deficiencies.