

EXPLANATORY MEMORANDUM TO
THE UNDERTAKINGS FOR COLLECTIVE INVESTMENT IN
TRANSFERABLE SECURITIES REGULATIONS 2011

2011 No. 1613

1. This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Purpose of the instrument**

2.1 Is to amend the Financial Services and Markets Act 2000, the Open Ended-Investment Companies Regulations 2010, and related secondary legislation on financial services to implement in part Directive 2009/65/EC of the European Parliament and of the Council on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (“UCITS”) (the 2009 Directive).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Context**

4.1 The 2009 Directive is the fourth directive made by the European Parliament and the Council on the regulation of UCITS. It consolidates, and repeals, the earlier directives. It also makes new provision in the following areas:

- for the removal of administrative barriers to the cross-border marketing of UCITS, enabling units of a UCITS established in one Member State to be sold in another Member State as soon as the regulator of the fund has given notice to the regulator in the EU Member State where the units are to be sold;
- the introduction of “passport” rights enabling a management company to operate a fund in Member States without being established there;
- for improved investor disclosure;
- for a framework for mergers between UCITS funds,
- for “master-feeder” structures allowing a “feeder” UCITS to invest 85% of its assets into another UCITS fund (the “master” UCITS), and
- for improved supervisory co-operation (particularly where a UCITS and its management company are established in different Member States).

The first three UCITS Directives were implemented in the United Kingdom primarily through provisions in the Financial Services and Markets Act 2000 (and in particular Part 17 of that Act), and the Open-Ended Investment Companies Regulations 2001. This instrument amends that legislation, and other secondary legislation made under

the Financial Services and Markets Act 2000 (the Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001; the Financial Services and Markets Act 2000 (Collective Investment Schemes Constituted in Other EEA States) Regulations 2001, and the Financial Services and Markets Act 2000 (Compensation Scheme: Electing Participants) Regulations 2001 to give effect to the 2009 Directive. It makes other consequential amendments, and implements the provisions of the 2009 Directive in relation to mergers. The Directive is also being implemented in FSA rules.

5. Territorial Extent and Application

5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 The Financial Secretary to the Treasury, Mark Hoban, has made the following statement regarding Human Rights:

“In my view the provisions of the Undertakings for Collective Investment in Transferable Securities Regulations 2011 are compatible with the Convention rights”.

7. Policy background

- *What is being done and why*

7.1 On 13 July 2009, the EU approved a reform of the UCITS Directive. This recast Directive is commonly referred to as UCITS IV and repeals all other UCITS Directives. UCITS IV must be implemented by 1 July 2011. This is an EU Directive and the UK has a treaty obligation to implement it into national law by the required deadline. If the UK chooses not to implement this Directive then it will be in infraction of EU law and infringement proceedings may be launched by the Commission. The Directive allows Member States little flexibility in how it should be implemented and, as such, HM Treasury has made no substantive policy choices in drawing up draft legislation for consultation

A 2005 Commission Green Paper identified a number of problems with the current UCITS framework which have caused significant inefficiencies in the EU investment fund market, resulting in higher costs and lower returns for investors. These problems included: (1) bottlenecks and failures with the product passport; (2) sub-standard investor disclosure; (3) Proliferation of funds of a sub-optimal size (4) Obstacles to functional and geographical specialisation. After extensive consultation, a 2006 Commission White Paper identified that these inefficiencies were caused by serious failings in the legislative framework and that a number of targeted reforms were necessary for these to be corrected.

UCITS IV has been broadly welcomed by UK industry. UCITS IV aims to remove market inefficiencies, improving investor disclosure and develop a true single market in investment funds. It seeks to achieve the following results—

- (1) Improving the single market in investment funds by removing administrative barriers to the cross-border marketing of UCITS, introducing a management company (ManCo) passport and improving supervisory cooperation;
- (2) Allowing for the consolidation of the UCITS fund market so that it can benefit from greater economies of scale, by facilitating mergers between UCITS funds and providing for asset pooling through 'master-feeder structures;
- (3) Increasing investor protection by replacing the simplified prospectus (SP) with the Key Investor Information (KII).

Consolidation

7.2 The Treasury does not have plans to consolidate the Financial Services and Markets Act 2000 or the other secondary legislation made under it at this time. Commercial publishers produce consolidated versions of the Act, and of secondary legislation made under it, both in electronic and hard copy versions.

8. Consultation outcome

8.1 HM Treasury launched a joint consultation with the FSA on 23 December. We received 20 responses from a variety of industry participants and trade bodies. The responses largely focused on the FSA rules and did not raise any major issues with HM Treasury legislation.

9. Guidance

9.1 The FSA will provide guidance in the FSA handbook.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal. We expect the Directive to have very little effect on any business other than the fund management industry. See impact assessment for further detail.

10.2 The impact on the public sector is minimal. See impact assessment for detail.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small business.

To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is proportionate.

UCITS IV does not have any thresholds and so the requirements will apply equally to small firms engaged in fund management. There are however several areas, especially in relation to organisational requirements such as the compliance, risk management and internal audit functions, where the arrangements can be proportionate to the scale and complexity of the firm's business.

This should mean that the requirements on a small firm are not unduly burdensome although if it wishes to operate (e.g.) a fund with complex risk features it may face higher cost barriers than now. It is generally likely that smaller firms will have a small range of funds (there are a number of UK managers operating only one or two UCITS schemes) and that those funds will typically have relatively few unitholders, which may enable them to save on costs of (e.g.) provision of key investor information documents.

12. Monitoring & review

12.1 The Treasury is required to review the operation and effect of the Regulations within five years from the date on which they come into force, and publish a report.

13. Contact

James Steer at HM Treasury Tel: 020 7270 or email: James.Steer@hmtreasury.gsi.gov.uk can answer any queries regarding the instrument.

Implementing Directive 2009/65/EC –A Transposition Note

Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS)

Abbreviations

A: Legislation and Statutory Instruments

DCI Regulations 2001 (SI 2001/2188)	The Financial Services and Markets Act 2000 (Disclosure of Confidential Information)
FSMA	The Financial Services and Markets Act 2000
OEICR	The Open-ended Investment Companies Regulation 2001 (S.I. 2001/1228)
RAO	The Regulated Activities Order 2001 (S.I. 2001/544)
UCITSR 2011/)	The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/)

B: Sourcebooks and Manuals made by the FSA under FSMA

BIPRU	Prudential Sourcebook for Banks, Building Societies and Investment Firms
COBS	Conduct of Business Sourcebook
COLL	Collective Investment Schemes Sourcebook
DISP	Dispute Resolution: Complaints Sourcebook
SUP	Supervision Manual
SYSC	Senior Management Arrangements, Systems and Controls Sourcebook
UPRU	Prudential Sourcebook for UCITS firms

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
Chapter I	Subject Matter, Scope and Definitions		
1(2), 1 st sub-paragraph	Meaning of UCITS	FSMA, s. 237(3)	HMT
1(2), 2 nd sub-paragraph	UCITS to be allowed to have several investment compartments.	FSA Rules COLL 1.2.1A G	FSA
1(3)(b)	“units” of UCITS to include shares	FSMA, s.237(2)	HMT
Art 2 (1)	Definitions		
(e)	“UCITS home Member State”	FSA Glossary definition: “ <i>UCITS Home State</i> “ (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
(m)	“durable medium”	FSA Glossary definition: “ <i>durable medium</i> ” (amended)	FSA
(p)	“mergers”	UCITSR, r 8(2)	HMT
(q)	“cross-border merger”	UCITSR, r 7(1)	HMT
(r)	“domestic merger”	UCITSR, r 7(1)	HMT
2(5)	To determine if there is a qualifying holding, arts 9 and 10 of Directive 2004/109/EC, will be taken into account.	FSA Glossary definition: “qualifying management company holding” (new)	FSA
4	A UCITS must be deemed to be established in its home MS.	FSA Rules COLL 1.2.3R	FSA
Chapter II	Authorisation of UCITS		
5	<p>(1) No UCITS shall pursue activities unless authorised in accordance with the UCITS directive;</p> <p>(2) The application of the management company to manage the fund, the fund rules and the depositary must be approved.</p> <p>(3) A UCITS need not be managed by a management company having its registered office in the UCITS home member state, or pursuing activities in that member state.</p> <p>(4) ... The management company shall be informed in two months of submitting the application whether or not authorisation of the UCITS has been granted.</p> <p>The directors of the depositary must be of good repute and sufficiently experienced for the type of UCITS to be managed. Names of the directors shall be communicated to the competent authorities.</p> <p>(6) Neither the MC or depositary shall be replaced, nor shall the instruments of incorporation be amended, without the approval of the UCITS’s home MS.</p>	<p>FSMA s 242, OEICR, r.12</p> <p>FSMA ss 243, OEICR, r 14, 15</p> <p>FSMA, s243(5), (5A)</p> <p>FSMA, s. 244(1A); OEICR, r 14(4A)</p> <p>FSMA, s. 243; OEICR, r. 13; 14; 15</p> <p>FSMA, s 251; OEICR r.21</p>	HMT
Chapter III	Obligations regarding Management Companies		
6	<p>Authorisation of management companies: Access to the business of management companies must be subject to prior authorisation by a competent authority.</p> <p>The range of activities which a management company may carry on are prescribed.</p>	By virtue of article 51 of the RAO, management companies are already required to obtain authorisation in the United Kingdom. (Carrying on by way of business an activity which is specified in the RAO without authorisation or an exemption is a criminal offence under section 19 of the Act.) By virtue of section 140 of the Act, the FSA may make rules which limit the activities of management	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
		companies.	
7	<p>Conditions of authorisation of management companies</p> <p>Authorisation may only be granted to a management company if it meets certain conditions, including holding sufficient initial capital, being managed by persons who are of sufficiently good repute and sufficiently experienced and having its head and registered office in the same EEA State. Certain details of the application process, including the time in which an application must be dealt with, are also prescribed. The grounds on which authorisation may be withdrawn are set out.</p>	<p>Schedule 6 to the Act set out the conditions for authorisation under the Act at a high level of generality. Schedule 6 reflects the conditions specified in Article 7 of the UCITS Directive at a high level of abstraction. FSA rules contain more specific provision.</p> <p>The provisions of the Act which relate to the authorisation process and the cancellation of authorisation reflect the provisions of the Directive e.g. section 49 of the Act requires the FSA to consult related EEA competent authorities when considering an application for authorisation. No specific implementation of these provisions of the Directive is required.</p>	HMT. The FSA is responsible for making its rules.
8	Competent authorities must be satisfied that the shareholders of an applicant for authorisation are suitable and consult other competent authorities who have authorised any other financial services entity which is in the same group as the applicant before granting authorisation.	The provisions of the Act which relate to the authorisation process reflect the provisions of the Directive (see for example, Schedule 6, para 3). No specific implementation is required.	HMT. The FSA is responsible for making its rules.
10	Authorised management companies must continue to comply with the requirements set out in Article 6 and 7(1) and (2) of the Directive.	The FSA already have rules which relate to the conduct of business of management companies and the prudential supervision of management companies.	The FSA is responsible for making its rules.
11	Those who acquire, dispose of or propose to acquire or dispose of, certain holdings in a management company must obtain approval from the competent authorities. In certain cases, competent authorities must consult each other before granting approval.	Under Part XII of the Act, those who acquire or dispose of certain holdings in an authorised person must obtain the approval of the FSA. These provisions reflect the provisions of the UCITS Directive. Regulation 6 of the CIS Amendment Regulations amends S.I. 2001/2509 so as to require the FSA to consult other competent authorities before granting approval where required to do so by the UCITS Directive.	<p>The Treasury are responsible for Part XII of the Act (change of control) and related legislation.</p> <p>The FSA is responsible for making its rules.</p>
12(1) 1 st sub- paragraph	MCs to observe prudential rules drawn up by their home MS.	<p>The FSA have rules on the prudential supervision of management companies:</p> <p>UPRU (current) (UCITS firms)</p> <p>BIPRU (current) (UCITS investment firms)</p>	The FSA is responsible for making its rules.

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
<p>12(1) 2nd sub-paragraph (a)</p> <p>12(1) 2nd sub-paragraph (b)</p> <p>12(2)</p>	<p>MCs to be required:</p> <p>(a) to have sound administrative procedures, control arrangements for processing and internal control mechanisms etc. and</p> <p>(b) to be structured and organised so as to minimise conflicts of interest.</p> <p>Management companies which carry on discretionary portfolio management activities must be subject to limits on investments and, in relation to those services, be a member of an investor-compensation scheme.</p>	<p>COBS 11.7 (amended)</p> <p>SYSC 3 to 10 (more generally)</p> <p>SYSC 4.1.2B R (new) - extending scope of application of SYSC 4.1.1R to UCITS</p> <p>SYSC 4.1.2C R (new) (Resources for MCs)</p> <p>COLL 6.3 (Valuation and pricing)</p> <p>SYSC 4.1.2B R and SYSC 4.1.2C R (new)</p> <p>SYSC 2.7A G (new) (of Part 2 of SYSC1 Annex1 (Detailed application of SYSC))</p> <p>SYSC 10.1</p> <p>SYSC 10.1.4R SYSC 10.1.18G and SYSC 10.1.19R</p> <p>Management companies established in the United Kingdom, as authorised persons under the Act, will be subject to the compensation scheme established under Part XV of the Act.</p>	<p>The FSA is responsible for making its rules.</p> <p>HMT is responsible for Part XV of the Act</p>
<p>13(1)</p> <p>13(1)(a) 1st part</p>	<p>EEA States must impose certain conditions on management companies which delegate their functions to third parties</p> <p>Requirement for a MC to inform the CA of its home MS in an appropriate manner if it is delegating to a third party any of its functions.</p>	<p>The FSA makes rules on the delegation by management companies of their functions. Changes made to those rules to reflect amendments in the UCITS IV directive include:</p> <p>SUP 15.8.6R (amended)</p> <p>COLL 6.6.15R and COLL 6.6.15AR - contains requirements in relation to delegation that will apply to MCs</p>	<p>FSA</p>
<p>13(1)(a) 2nd part</p>	<p>Requirement on Home State regulator to inform the CA of the UCITS Home State</p>	<p>FSMA, Schedule 3, new paragraph 26</p>	<p>HMT</p>
<p>13(1)(i)</p>	<p>Requirement for the prospectus of a UCITS scheme to list the functions it has been allowed to delegate to third parties.</p>	<p>COLL 4.2.5, paragraph 11(g) (amended)</p>	<p>FSA</p>
<p>14</p>	<p>EEA states must impose conduct of business rules on management companies which ensure that a management company acts honestly and fairly and with due skill and care</p>	<p>The FSA already has rules relating to the conduct of business by management companies</p>	<p>FSA</p>
<p>15 1st sub-paragraph</p>	<p>MCs to establish appropriate procedures to deal with investor complaints</p>	<p>DISP 1.3.1R (amended)</p> <p>DISP 1.3.1A R (amended)</p> <p>DISP 1.3.1B R (new)</p>	<p>FSA</p>

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
15 2 nd sub- paragraph	MCs to establish appropriate procedures and arrangements to make information available at the request of the public or the CA of the UCITS home MS.	DISP 1.2.1R (amended)	FSA
16.1	<p>Host MSs to ensure that MCs authorised by their home MS may pursue in the State the activity for they are authorised either by the establishment of a branch or under the freedom to provide services.</p> <p>If a MC only markets the units of the UCITS it manages in a Host MS, such marketing only to be subject to the provisions of Chapter XI.</p>	<p>Part II of Schedule 3 to the Act provide for intermediaries established in another EEA State to establish a branch or to provide services in the United Kingdom.</p> <p>Paragraph 15A of that Schedule (as amended by UCITSR) enables an EEA firm to apply to manage a UK UCITS.</p> <p>Paragraphs 19 and 20 as amended by those Regulations allow UK management companies to establish a branch or provide services in another EEA State.</p> <p>Section 264 (as amended) ensures that a UCITS established in another EEA State may be marketed in the UK, provided that the appropriate notice has been given in accordance with Chapter XI of the directive.</p> <p>See also guidance at COLL 12.3.2G (new). COLL 12.1.3G (new)</p>	HMT FSA
16.2	MSs not to make the establishment of a branch or the provision of services subject to any authorisation or prudential requirement or any other equivalent measure	Part II of Schedule 3 to FSMA	HMT
16.3	A UCITS to be free to designate, or to be managed by, a MC authorised in a MS other than the scheme's home MS, provided the MC complies with Arts. 17 or 18 and 19 – 20.	<p>Schedule 3 to FSMA (amended by UCITSR)</p> <p>COLL 12.3.2G (new)</p> <p>COLL 12.3.4R – 12.3.6R (all new).</p>	HMT FSA
17.1	A MC wishing to establish a branch within the territory of another MC must notify the CA of its home MS.	<p>Schedule 3 to FSMA, para.19 (amended)</p> <p>SUP 13.5.1R (current) and SUP 13 Annex 1R (amended)</p>	HMT FSA
17.2	MSs to require MCs wishing to establish a branch in another MS to provide it with certain prescribed information when making the notification.	<p>Schedule 3 to FSMA, para.19 (amended)</p> <p>SUP 13.5.1R (current) and SUP 13 Annex 1R (amended)</p>	HMT FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
17.9 1 st para.	In the event of a change in the particulars communicated under para.3 1 st sub-para, the CA of the MC's home MS must inform the CA of the MC's host MS.	Schedule 3 to FSMA, para 20ZA (new)	HMT
17.9 2 nd para.	The CA of the MC's home MS must update the information in the attestation and inform the CA of the host MS whenever there is a change in the scope of the MC's authorisation or in the details of any restriction on the types of UCITS that the MC is authorised to manage.	Schedule 3 to FSMA, para 20ZA (new)	HMT
18.1	Any MC wishing to pursue activities for which it has been authorised in the territory of another MS for the first time under the freedom to provide services must communicate certain prescribed information to the CA of the MC's home MS.	Schedule 3 to FSMA, para 20 (amended) SUP 13.5.2R (amended) and SUP 13 Annex 6R (new)	HMT FSA
18.2 1 st para.	The CA of the MC's home MS must, within one month of receiving the information referred to in para.1, forward it to the CA of the MC's host MS.	Schedule 3 to FSMA, para 20(3) (current)	HMT
18.2 2 nd para.	The CA of the MC's home MS must also communicate details of any applicable compensation scheme.	Schedule 3 to FSMA, para 20(3ZA) (inserted by UCITSR) SUP 13.4.4G (2B) (new)	HMT/FSA
18.2 3 rd para.	Where the MC wishes to pursue collective portfolio management, the CA of the MC's home MS must enclose with the documentation sent to the CA of the host MS an attestation, a description of the scope of its authorisation and details of any restriction on the types of UCITS that the MC is authorised to manage.	Schedule 3 to FSMA, para 20(3C) (inserted by UCITSR)	HMT
18.2 4 th para.	Notwithstanding Arts. 20 and 93, the MC may then start business in the MC's host MS.	Schedule 3 to FSMA, para 14 (current)	HMT
18.3	A MC which pursues activities under the freedom to provide services must comply with the rules drawn up by the MC's home MS pursuant to Art.14	COLL 12.2.6G (2) (new) COLL 12.3.8G (new) SUP 13A Annex 1 and 2 (amended) (See also COBS 1 Annex 1, Part 3, as amended) SYSC 1 Annex 1, para 2.16AR (new)	FSA
18.4	A MC must give notice in writing of any amendment to the information communicated under para.1(b) to the CA of its home MS and of the host MS before implementing the change. The CA of the MC's home MS must update the information contained in the attestation and inform the CA of the host MS whenever there is a change in the scope	Regulations 5 & 12 of FSMA 2000 (EEA Passport Rights Regulations) 2001 (current) Schedule 3 to FSMA, para 20ZA (new)	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	of the MC's authorisation or in the details of any restriction on the types of UCITS that the MC is authorised to manage.		
19.1	A MC carrying on collective portfolio management on a cross-border basis <u>must</u> comply with the rules of its home MS relating to the organisation of the MC, including delegation arrangements, risk management procedures, prudential rules and supervision, Art.12 procedures and reporting requirements. These rules to be no stricter than those applying to MCs conducting their activities only in their home MS.	COLL 12.2.1R – 12.2.3R (all new) SYSC 1 Annex 1, part 2, para2.16A G (new)	FSA
19.2	The CA of the MCs home MS is to be responsible for supervising compliance with (1).	Schedule 1 to FSMA, para 6 (amended)	HMT
19.3	A MC pursuing the activity of collective portfolio management on a cross-border basis must comply with the rules of the UCITS home MS which relate to the constitution and functioning of the UCITS, being those set out at (a) to (o).	COLL 12.2.4 R (new) COLL 12.3.5 R (new) COLL 12.3.8 R (new)	FSA
19.4	The MC must comply with the obligations set out in the fund rules or the instrument of incorporation and the obligations in the prospectus, which shall be consistent with the applicable law.	COLL 12.2.4 R (new) COLL 12.3.5 R (new)	FSA
19.5	The CA of the UCITS home MS to be responsible for supervising compliance with (3) and (4).	Schedule 1 to FSMA, para 6 (amended)	HMT
19.6	The MC must decide and be responsible for adopting and implementing all the arrangements and organisational decisions	COLL 12.2.4.R (new) COLL 12.3.5 R (new) COLL 12.3.7 G (new)	FSA
19.7	The CA of the MC's home MS must be responsible for supervising the adequacy of the arrangements and organisation of the MC, so that the MC is in a position to comply with the obligations and rules which relate to the constitution and functioning of all the UCITS it manages.	Schedule 1 to FSMA, para 6 (amended)	HMT
19.8	MSs must ensure that any MC authorised in another MS is not subject to any additional requirement established in the UCITS home MS, except in the cases expressly referred to in the Directive.	See SUP 13A, SUP 13A Annex 1, SUP 13A Annex 2 (all as amended).	FSA
20.1 1 st para.	A MC which applies to manage a UCITS established in another MS must provide the CA of the UCITS home MS with its depositary agreement and information on its delegation arrangements.	COLL 2.1.5 G (new) COLL 12.2.7 G (1) (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
20.1 2nd para.	If a MC already manages other UCITS of the same type in the UCITS home MS, reference to the documentation already provided is to be sufficient.	COLL 12.2.7 G (2) (new) COLL 12.3.4 R (2) (new)	FSA
20.2	The CA of the UCITS home MS may ask the CA of the MC's home MS for clarification and information on the documentation in (1) and as to whether the type of UCITS for which authorisation is requested falls within the scope of the MC's authorisation. Where applicable, the CA of the MC's home MS is to provide their opinion within 10 working days of the initial request.	Schedule 3 to FSMA, para 28 (new).	HMT
20.3 1 st para.	The CA of the UCITS home MS may refuse the MC's application only on the grounds that the MC (a) does not comply with the rules falling under their responsibility under Art.19, (b) is not authorised by the CA of its home MS to manage the type of UCITS for which authorisation is requested or (c) has not provide the documentation in (1).	Schedule 3 to FSMA, para 15A (2) and (3) (new)	HMT
20.3 2nd para.	Before refusing an application. The CA of the UCITS home MS must consult the CA of the MC's home MS.	Schedule 3 to FSMA, para 15A (5) (new)	HMT
20.4	Any subsequent modification of the documentation in (1) must be notified by the MC to the CA of the UCITS home MS.	COLL 12.2.7 G (3) (new) COLL 12.3.4 R (4) (new)	FSA
21.2 1 st para.	A MC's host MS may require MCs pursuing business within its territory through a branch or under the freedom to provide services, to provide the information necessary for the monitoring of their compliance with the rules under the responsibility of the MC's host MS that apply to them.	SUP 16 – Reporting requirements (current)	FSA
21.2 2nd para.	Those requirements are not to be more stringent than those which the same MS imposes on MCs authorised in that MS for the monitoring of their compliance with the same standards.	SUP 16 Reporting requirements (current)	FSA
21(2) 3rd para.	MCs must ensure that the procedures and arrangements referred to in Art.15 enable the CA of the UCITS home MS to obtain directly from the MC the information referred to in Art.21.	COLL 12.3.6 R (new)	FSA
21.3	Where the CA of a MC's host MS ascertains that a MC operating on a cross-border basis within its territory is in breach of one of their rules, the CA must require the MC concerned to put an end to that breach and inform the MC's home MS thereof.	S 199 FSMA (amended)	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
21.4	If the MC concerned refuses to provide the MC's host MS with information falling under its responsibility, or fails to take the steps to put an end to the breach referred to in (3), the CA of the MC's host MS must inform the CA of the MC's home MS. The latter, must take all appropriate measures to ensure that the MC concerned provides the information requested by the host MS or puts an end to the breach. The nature of those measures must be communicated to the CA of the MC's host MS.	S 199 FSMA (3)(4)	HMT
21.5	If despite the measures in (4), the MC continues to refuse the information requested by the MC's host MS pursuant to (2), or persists in breaching the legal or regulatory provisions referred to in (2), the CA of the MC's host MS may after informing the CA of the MC's home MS, take appropriate measures under Arts. 98 and 99, to prevent or penalise further irregularities and, in so far as is necessary, prevent that MC from initiating any further transaction within its territory. MSs must ensure that within their territories it is possible to serve the legal documents necessary for those measures on MCs. Where the service provided within the MC's host MS is the management of a UCITS, the MC's host MS may require the MC to cease managing that UCITS.	S 199 FSMA (amended)	HMT
21.6	Any measure adopted pursuant to (4) or (5) involving measures or penalties shall be properly justified and communicated to the MC concerned. Every such measure shall be subject to the right to apply to the courts in the MS which adopted it.	S 197 FSMA	HMT
21.7	Host state may take precautionary measures before the procedure in para 3 in an emergency. Commission and home state to be informed. Commission may decide to abolish or amend.	S 199 FSMA (6) and (7) (amended)	HMT
21.8 1 st para.	The CA of the MC's home MS must consult the CA of the UCITS home MS before withdrawing the authorisation of the MC. In such cases, the CA of the UCITS home MS must take appropriate measures to safeguard investors' interests. Those decisions may include decisions preventing the MC concerned from initiating any further transactions within its territory.	S199A FSMA (new) Schedule 3 to FSMA, para 27 (new)	HMT
21.8 2 nd para.	Every two years the Commission is to issue a report on such cases.	No transposition needed	EU Commission

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
21.9 1 st para.	MSs to inform the Commission of the number and type of cases in which they refuse authorisation under Art.17 or an application under Art.20 and of any measures taken in accordance with paragraph 5.	Section 199(10) (inserted by UCITSR) Schedule 3 to FSMA, para 19(12ZA)	HMT
21(9) 1 st para.	Every two years the Commission is to issue a report on such cases.	No transposition needed	EU Commission
Chapter IV	Obligations regarding the depositary		
22(1)	The assets of a common fund to be entrusted to a depositary for safe-keeping	Section 237 and chapter 3 of Part XVII of FSMA; Reg.5 (1) of the OEIC Regs.	HMT
22(3)(a)(b)	Depositary to ensure that sale, issue, repurchase and cancellation of units, and calculation of value of units, is carried out in accordance with national law and fund rules.	COLL 6.6.4R (1) and (2) (current)	FSA
22(3)(c)	Depositary must carry out instructions of the management company unless they conflict with national law or fund rules	COLL 6.6.13R (1) (current) COLL 6.6.10R (3) (current)	FSA
22(3)(d)	Depositary to ensure that in transactions involving scheme's assets consideration is remitted to it within usual time limits.	COLL 6.6.4R (5) (new)	FSA
22(3)(e)	Depositary to ensure that a scheme's income is applied in accordance with national law and the fund rules.	COLL 6.6.4R (1) (current)	FSA
23(1)	Depositary to have its registered office or be established in the UCITS home MS.	Section 243(5) (amended) and (5A) (new); Reg. 15(8) of the OEIC Regs (current)	HMT
23(2)	Depositary to be subject to prudential regulation and ongoing supervision and to have sufficient financial and professional guarantees to pursue its business.	FSMA, Schedule 6, para.4, - adequacy of resources to pursue its business is a condition of threshold competency for all firms.	FSA
23(4)	Depositary to enable CA of the UCITS home MS to obtain all information that depositary has that is necessary for CA to supervise the UCITS's compliance with the Directive.	SUP 2 (Information gathering by the FSA on its own initiative) COLL 6.6.4A G (new)	FSA
23(5)	Where the MC's home MS is not the UCITS home MS, the depositary must sign an agreement with the MC regulating the flow of information deemed necessary to allow it to perform its functions.	COLL 6.6.4R (6) (new)	FSA
24	The Depositary shall be liable to the management company and to unit holders for loss suffered by them for unjustifiable failures to perform its obligations	No further implementation needed. Liability would exist under the common law in these cases.	

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
25	No company shall act as depositary and management company. The management company and the depositary shall act independently in the interests of unit holders.	FSMA, ss. 242(2); 243(4);	HMT
26	The law or the fund rules shall lay down the conditions for the replacement of the management company and the depositary	FSMA, ss 251, 252	HMT
Chapter V	Obligations regarding investment companies		
27, 1st sub-para	Access to the business of an investment company is subject to prior authorisation	OEICR provide that open-ended investment companies (the only form in which investment companies within the meaning of the Directive may be formed in the United Kingdom) must obtain authorisation from the FSA	HMT
27, 2nd sub-para	Member States shall determine the legal form the investment company will take	FSMA, Part XVII	HMT
27, 3 rd sub-para.	The registered office of a UCITS (that is an investment company) to be situated in that UCITS's home MS.	Reg.15(3) of OEIC Regs (current)	HMT
28	No investment company may engage in activities other than those referred to in Article 1(2)	OEICR, Sch 2	HMT
29(1)	Authorisation must not be granted to an investment company which has not designated a management company unless that investment company has sufficient initial capital. Such investment companies must be managed by directors of sufficiently good repute.	As FSA rules do not permit an open-ended investment company to operate without a management company (which will in many cases be the authorised corporate director of the company), the provisions relating to investment companies which do not have a management company do not require specific implementation. The provisions of the OEICs Regulations which relate to the procedure for obtaining authorisation and the grounds on which authorisation may be withdrawn reflect the provisions of the UCITS Directive	HMT / FSA
29(2)	Where the UCITS (that is an investment company) has not designated a MC, it must be informed within 6 months of a complete application whether or not authorisation has been granted.	Reg. 14 (4) of the OEIC Regs. (current)	HMT
31	EEA States must impose conduct of business rules on such investment companies which ensure that they act honestly and fairly and with due skill and care. Such investment companies must also be subject to prudential rules.	As noted above, as FSA rules do not permit an open-ended investment company to operate without a management company, the provisions relating to investment companies which do not have a management company do not require	

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
		express implementation.	
32.1	The assets of an investment company to be entrusted to a depositary for safe-keeping	Reg.5 (1) of the OEIC Regs.	HMT
32.3(a)	Depositary to ensure that sale, issue, repurchase and cancellation of units, is carried out in accordance with national law and the instrument of incorporation.	COLL 6.6.4R (1) and (2) (current)	FSA
32.3(b)	Depositary to ensure that in transactions involving company's assets consideration is remitted to it within usual time limits.	COLL 6.6.4R (5) (new)	FSA
32.3(c)	Depositary to ensure that a company's income is applied in accordance with national law and the fund rules.	COLL 6.6.4R (1) (current)	FSA
33(1)	A depositary must have its registered office or be established in the same member state as the investment company	OEICR, reg 15.8(a)(b)	HMT
33(2)	Depositary to be subject to prudential regulation and ongoing supervision.	FSMA, Schedule 6, para.4 – adequacy of resources for its business is a condition of threshold competency.	FSA
33(4)	Depositary to enable CA of the UCITS home MS to obtain all information that depositary has that is necessary for CA to supervise the UCITS's compliance with the Directive.	SUP 2 (Information gathering by the FSA on its own initiative) COLL 6.6.4A G (new)	FSA
33(5)	Where the MC's home MS is not the UCITS's home MS, the depositary must sign an agreement with the MC regulating the flow of information deemed necessary to allow it to perform its functions.	COLL 6.6.4R (6) (new)	FSA
34	The Depositary shall be liable to the management company and to unit holders for loss suffered by them for unjustifiable failures to perform its obligations	No further implementation needed. Liability would exist under the common law in these cases.	
35	No company shall act as depositary and management company. The management company and the depositary shall act independently in the interests of unit holders.	OEICR reg 15(8)	HMT
36	The law or the instruments of incorporation of the investment company shall lay down the conditions for the replacement of the management company and the depositary	OEICR reg 20, 21	HMT
Chapter VI	Mergers of UCITS		
Article 37	In Chapter VI, a "UCITS" shall include its	COLL 7.7.3R (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	investment compartments.		
38(1)	Member States to allow for cross-border and domestic mergers in accordance with one or more of the merger techniques provided for in Article 2(1)(p)	Regs. 8 and 9 of the UCITS Regulations 2011 COLL 7.7.2G and COLL 7.7.6G (new)	HMT/FSA
38(2) 1 st sub-para.	Merger techniques for cross-border mergers must be provided for under the laws of the merging UCITS home MS.	Regulation 8(1) of the UCITS Regulations 2011	HMT
38(2) 2 nd sub-para.	Merger techniques for cross-border mergers must be provided for under the laws of the merging UCITS home MS.	Regs. 8 and 9 of the UCITS Regulations 2011	HMT
39(1)	UCITS mergers must be subject to the prior authorisation by the CA of the merging UCITS home MS.	Reg. 9(1) of the UCITS Regulations 2011	HMT
39(2) 1 st sub-para.	The merging UCITS must provide the information specified at (a) to (d) to the CA of its home MS.	Reg. 9(2) of the UCITS Regulations 2011	HMT
39(2) 2 nd sub-para.	The information must be provided in such a manner as to enable the CAs of both the merging and the receiving UCITS home MS to read them in the official language or one of the official languages of that MS or in a language approved by it.	Reg. 9(3) of the UCITS Regulations 2011	HMT
39(3) 1 st sub-para.	Responsibility of CA of the merging UCITS home MS to transmit the information received to the CA of the receiving UCITS home MS. Both CAs must consider the potential impact of the proposed merger on both groups of unitholders to assess whether appropriate information is being provided.	Reg. 9 (5) of the UCITS Regulations 2011 Reg 9(6)/ 10(1) of the UCITS Regulations 2011	HMT
39(3) 2 nd sub-para	If the CA of the merging UCITS home MS consider it necessary, they may require the information to unitholders of the merging UCITS to be clarified.	Reg. 9 (7) of the UCITS Regulations 2011	HMT
39(3) 3 rd sub-para	If the CAs of the receiving UCITS home MS consider it necessary, they may require, and within 15 working days, that the receiving UCITS modify the information to be provided to the unitholders.	Reg. 10(3) of the UCITS Regulations 2011	HMT
39(3) 4 th sub-para.	Where modified information has to be provided, the CA of the receiving UCITS home MS is to send an indication of their dissatisfaction to the CA of the merging UCITS home MS and are to inform that CA within 20 working days of being notified whether they are satisfied with the modified information.	Reg. 10(4) and (5) of the UCITS Regulations 2011	HMT
39(4)	The CA of the merging UCITS home MS must only authorise the proposed merger if the conditions at (a) to (c) are met.	Reg. 9 (8) of the UCITS Regulations 2011 COLL 7.7.4 R (new)	HMT/FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
39(5) 1 st sub-para.	If the CA of the merging UCITS home MS consider that the file is not complete, it is to request additional information within 10 working days.	Reg. 9 (4) of the UCITS Regulations 2011	HMT
39(5) 2 nd sub-para	The CA of the merging UCITS home MS must inform the merging UCITS , within 20 working days, whether the merger has been approved or not.	Reg. 9 (9) of the UCITS Regulations 2011	HMT
39(5) 3 rd sub-para.	The CA of the merging UCITS home MS must also inform the CA of the receiving UCITS home MS of their decision.	Reg. 9 (9) of the UCITS Regulations 2011	HMT
39(6)	MSs may provide for a derogation from Articles 52 to 55 for receiving UCITS that are newly authorised funds.	COLL 5.2.3 R(2) (current)	FSA
40(1)	MSs must require that the merging and receiving UCITS draw up common draft terms of merger which set out the particulars at (a) to (h).	COLL 7.7.7 R (1) and (2) (new)	FSA
40(2)	The merging UCITS and the receiving UCITS may decide to include further information in the common draft terms of merger.	COLL 7.7.8 G (new)	FSA
41	MSs to require that the depositary of both the merging and the receiving UCITS verify the specified particulars set out at points (a), (f) and (g) of article 40(1) with the Directive requirements and the fund rules or instruments of incorporation of their respective UCITS.	COLL 7.7.9 R (new)	FSA
42(1)	The law of the merging UCITS home MS to entrust to a depositary or an independent auditor the responsibility of validating the criteria at (a) to (c)	Reg. 11(1) and (2) of the UCITS Regulations 2011	HMT
42(2)	The statutory auditors of either the merging or the receiving UCITS to be considered independent for the purposes of (1).	Reg. 11(3) of the UCITS Regulations 2011	HMT
42(3)	A copy of the reports of the independent auditor, or the depositary, where applicable, to be made available on request and free of charge to the unitholders of both the merging and the receiving UCITS and to their CAs.	Reg. 11(4) of the UCITS Regulations 2011	HMT
43(1)	MSs to require merging and receiving UCITS to make appropriate and accurate information available to their unitholders so as to enable them to make an informed judgement of the impact of the proposal on their investment.	COLL 7.7.10 R (1)(a) (new)	FSA
43(2)	The information to unitholders must only be provided after the CA of the merging UCITS home MS have approved the proposed merger and at least 30 days before the last date for requesting	COLL 7.7.10 R (2) (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	repurchase or redemption or conversion of units without additional charge under Article 45(1).		
43(3)	The information to be provided to unitholders to include appropriate and accurate information on the proposed merger, including information on the matters specified at (a) to (e).	COLL 7.7.10 R (1) and (3) (new)	FSA
43(4)	If the merging or receiving UCITS has been notified in accordance with Article 93, the information to be provided must be provided in the official language or one of the official languages of the relevant UCITS host MS or in a language approved by their CA. The UCITS responsible for providing the information must provide the translation which must faithfully reflect the content of the original.	COLL 7.7.10 R (4) (new)	FSA
44	Where national law requires approval by the unitholders of mergers between UCITS, MS to ensure that such approval does not require more than 75% of the votes actually cast, which is to be without prejudice to quorum requirements which are not to be more stringent than presence quorums for mergers of corporate entities.	COLL 7.7.4 R (new) COLL 7.7.5 G (new) COLL 7.6.2 R (current) COLL 4.4.7 R (current) Glossary definition of “extraordinary resolution”	EU Commission
45(1)	The laws of MSs to provide that unitholders of both the merging and receiving UCITS have the right to request the repurchase or redemption of their units etc, which right is to become effective from when unitholders have been notified of the proposed merger and ceases to exist 5 workings days before the date for calculating the exchange ration under Article 47(1)	Regulation 12 of the UCITS Regulations 2011	HMT
45(2)	Without prejudice to (1), MSs may allow the CAs to require or allow the temporary suspension of the subscription, repurchase or redemption of units provided that such suspension can be justified.	COLL 7.2.1 R (current)	FSA
46	MSs must ensure that any legal, advisory or administrative costs associated with the merger are not to be charged to the merging or the receiving UCITS, or to any of their unitholders.	COLL 7.7.20 R (new)	FSA
47(1) 1 st sub-para.	The laws of the MSs are to determine the effective date for a domestic merger, as well as for calculating the exchange ratio of units of the merging UCITS into units of the receiving UCITS and for determining the relevant net asset value for cash payments.	Regulation 13(4) of the UCITS Regulations 2011 COLL 7.7.21G (1) (new)	HMT/FSA
47(1) 2 nd sub-para.	For cross-border mergers, the laws of the receiving UCITS home MS are to determine such dates, which must be after the approval of the merger by	Regulation 13(4) of the UCITS Regulations 2011	HMT/FSA

Article/ paragraph	Provision of the Directive		Relevant domestic provision	Responsibility
	the relevant unitholders.		COLL 7.7.21 G(1) and (2) (new)	
47(2)	The laws of the receiving UCITS home MS are to prescribe the manner in which the entry into effect of the merger is to be made public and is to be notified to the CAs of the home MSs of the receiving and merging UCITS.		Regulation 14 of the UCITS Regulations 2011 COLL 7.7.21G (2)	HMT/FSA
47(3)	A merger which has taken effect in accordance with (1) is not to be declared null and void.		No transposition needed.	
48(1)	Consequences of a merger by absorption		Regulation 13(1) of the UCITS Regulations 2011	HMT
48(2)	Consequences of a merger by formation of a new UCITS		Regulation 13(2) of the UCITS Regulations 2011	HMT
48(3)	Consequences of a merger by scheme of arrangement		Regulation 13(3) of the UCITS Regulations 2011	HMT
48(4)	MSs to establish procedure whereby the MC of the receiving UCITS is to confirm to its depository that the transfer of assets and, where applicable, liabilities is complete.		COLL 7.7.22 R	FSA
Chapter VII	Obligations concerning the investment policies of UCITS			
Article 49	Where UCITS comprise more than one investment compartment, each compartment is to be regarded as a separate UCITS for the purposes of the Chapter.		COLL 5.2.30R (current)	FSA
50(1)	The investments of a UCITS must comprise only one or more of the following...		COLL 5.2.6A R (current)	FSA
50(2)	A UCITS shall not invest more than 10% of its assets in transferable securities or acquire precious metals		COLL 5.2.8 R (amended)	FSA
50(3)	An investment company may acquire moveable or immovable property which is essential for the direct pursuit of its business.		COLL 5.2.6A R (6) (amended)	FSA
51 (1)	1st sub-para	A MC or investment company shall employ a risk-management process which enables it to monitor and measure at any time the risk of the positions and their contribution to the overall risk profile of the portfolio.	COLL 6.12.2 R (1) (new)	FSA
	2nd sub-para	It shall employ a process for accurate and independent assessment of the value of OTC derivatives.	COLL 5.2.23CR (1)(b) (new)	FSA

Article/ paragraph	Provision of the Directive		Relevant domestic provision	Responsibility
	3 rd sub-para	An MC must communicate to the CA of its home MS the types of derivative instruments traded in, the underlying risks, the quantitative limits and the methods which are chosen to estimate the risks associated with transactions in derivative FSA instruments.	COLL 6.12.3R (2)(a) and (b) (new)	FSA
51(2)	An MS may authorise UCITS to employ techniques and instruments relating to transferable securities and money market instruments provided that such techniques and instruments are used for efficient portfolio management		COLL 5.4.3R (current) COLL 5.4.2 G (current);	FSA
51(3)	A UCITS shall ensure its global exposure re derivative instruments does not exceed the total net value of its portfolio		COLL 5.3.3AR (new); COLL 5.3.3CR (new); COLL 5.6.13R (current)	FSA
52	Investment limits for UCITS		COLL 5.2.11R (amended)	FSA
53	Limits for investment when replicating a stock or debt securities index		COLL 5.2.31R (current)	FSA
54(1)	Investments in transferable securities and money market instruments issued or guaranteed by a Member State, local authority, third country or public international body		COLL 5.2.12R (current)	FSA
54(2)	A UCITS investing more than 35% of its assets in accordance with 54(1) must include an express mention in its fund rules or instruments of incorporation of the MS, local authorities or public international bodies in which they intend to make such investments		COLL 5.2.12R (4) (current)	FSA
54(3)	Each UCITS must include a prominent statement in its prospectus and marketing communications drawing attention to the nature of its authorisation and indicating the MSs, local authorities or public interest bodies in the securities of which it intends to invest or has invested more than 35% of its assets.		COLL 4.2.5R, paragraph 3(i) (current), COBS 4.13.2R (new)	FSA
55(1)(2)	Limits on investments in other UCITS		COLL 5.2.13R (current)	FSA
55(3) 1 st sub-para.	Investments in associated UCITS: subscription and redemption fees		COLL 5.2.15R (current) COLL 5.2.16R (current)	FSA
55(3) 2 nd sub-para.	Investments in associated UCITS: disclosures		COLL 4.2.5R (q) (current) (prospectus) COLL 4.5.9R (12) (current) (report and accounts)	

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
56(1) 1 st sub-para.	An investment company or a MC must not acquire any shares carrying voting rights which would enable it to exercise significant influence over the management of an issuing body.	COLL 5.2.27R (current) COLL 5.2.28R (current)	FSA
56(1) 2 nd sub-para.	Pending further coordination, MSs are to take account of existing rules defining the principle in (1) in the law of other MSs.	No transposition needed	FSA
56(2)	A UCITS may acquire no more than: ...	COLL 5.2.29R (current)	FSA
57 1 st para	UCITS not required to comply with stipulated limits when exercising subscription rights etc.	COLL 6.6.14R (3)(b) (current) COLL 5.2.3R (2) (current)	FSA
57 2 nd para.	Where UCITS limits exceeded, UCITS to prioritise the remedying of the situation	COLL 6.6.14R (3), (5) and (6) (current)	FSA
Chapter VIII	Master-Feeder Structures		
58(1)	Definition of a feeder UCITS	FSMA, s 237(3) FSA Handbook Glossary: 'feeder UCITS'	HMT/FSA
58(2) (1 st subpara.)	Types of assets a feeder UCITS may hold.	COLL 5.8.3R (new)	FSA
58(2)(2 nd subpara.)	Method of calculating a feeder UCITS' global exposure to derivatives.	COLL 5.8.4R (new)	FSA
58(3)	Definition of a master UCITS.	FSMA, s 237(3) FSA Handbook Glossary: 'master UCITS'	HMT/FSA
58(4)(a)	Derogations for master UCITS schemes from Articles 1(2)(a) and 3(b) (raising capital from the public).	COLL 1.2.4R (new)	FSA
58(4)(b)	Derogations for master UCITS schemes from requirements in Chapter XI and Article 108(1) where it only has one or more feeder UCITS in a different member state.	COLL 12.4.2G(new)	FSA
59(1)	Approval required for investment by feeder UCITS into a master fund.	FSMA, section 283A	HMT
59(2)	Feeder UCITS to be informed within 15 days by CA of approval	FSMA, section 283A(7)	HMT
59(3) (1 st subpara.)	CA to grant approval if feeder UCITS, depositary and auditor comply with requirements.	FSMA, section 283A(3)	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
59(3) (a) –(f)	Documents to be provided to CA for purposes of showing compliance.	COLL 11.2.2 R (1) (new)	FSA
59(3) (2 nd subpara.)	Where a feeder UCITS is from a different EEA state to the master UCITS that feeder UCITS to provide an attestation by the CA of the master UCITS home state that the master UCITS meets criteria in Article 58	COLL 11.2.2 R (2) (new)	FSA
60(1)(1st subpara. and 2nd subpara., 1st sentence)	Master UCITS to provide feeder UCITS with all necessary documents and information. Feeder UCITS to enter into agreement with the master UCITS for this purpose.	COLL 11.3.1R (new) COLL 11.3.2 R (1) (new)	FSA
60(1)(2nd subpara., last sentence)	Agreement between master UCITS and feeder UCITS to be provided to unitholders on request and free of charge.	COLL 11.3.2 R (4) (new)	FSA
60(1)(3rd subpara.)	Agreement between master UCITS and feeder UCITS may be replaced by internal conduct of business rules where the master UCITS and feeder UCITS are managed by the same management company.	COLL 11.3.2 R (2) (new)	FSA
60(2)	Master UCITS and feeder UCITS to take appropriate measures <u>to coordinate the timing of their net asset value calculation.</u>	COLL 11.3.6 R (new)	FSA
60(3)	Right of feeder UCITS to <u>suspend dealings where a master UCITS suspends dealings</u>	COLL 7.2.1AR (new)	FSA
60(4)(first subpara.)	<u>Liquidation of the feeder UCITS</u> where a master UCITS is liquidated unless approved by competent authorities	FSMA, ss 252A, 258A (new); OEICR, r.22A, 33A	HMT
60(4)(2nd subpara.)	Liquidation of a master UCITS to take place no sooner than three months after the master UCITS has informed all of its unit-holders and the CAs of the feeder UCITS home state of the binding decision to liquidate.	COLL 11.6.2 R (new)	FSA
60(5)(1st sub-para)	Liquidation of the feeder UCITS if the master UCITS merges or is divided, unless approved by competent authorities.	FSMA, ss 252A, 258A (3),(4); OEICR, r. 22A, 33B	FSA
60(5) (2nd sub-para.)	No merger or division to become effective unless the master UCITS has provided all of its unit holders and the CA of its feeder UCITS home member state with the information in article 43 60 days before the proposed effective date.	UCITS Regulations 2011 Reg 13(6)	HMT
60(5) (3rd sub-para.)	The master UCITS must enable the feeder UCITS to repurchase or redeem all units in the master UCITS before the merger or division of the master UCITS becomes effective unless the CA has	UCITS Regulations 2011 Reg 12(4)	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	granted approval for the feeder UCITS to continue to be a feeder UCITS of the master UCITS or another UCITS resulting from the merger or division		
61(1)(1st sub para.)	If the master and feeder UCITS have different depositaries those depositaries must enter into an information sharing agreement.	COLL 11.4.1R (2) (new)	FSA
61(1)(2nd sub para.)	Requirement that a feeder UCITS must not invest in units of the master UCITS until the agreement between depositaries has become effective.	COLL 11.3.2R (3)(b) (new)	FSA
61(1)(3rd sub para.)	Where in compliance with the requirements in chapter VIII the depositaries will not be in breach of information laws.	FSMA s.351A; OEICR 83A See also guidance provision at COLL 11.4.5 G (new)	HMT/FSA
61(1)(4th sub para.)	Feeder UCITS to be in charge of communicating to the depositary any information about the master UCITS required for the completion of the depositaries duties.	COLL 11.4.1R (new)	FSA
61(2)	Depositary of the master UCITS to inform various parties in the event it detects any irregularities with regard to the master UCITS which are deemed to have a negative impact n the feeder UCITS.	COLL 11.4.3R (1) (new)	FSA
62(1)(1st sub para.)	Auditors to enter into information sharing agreement where the master and feeder UCITS have different auditors.	COLL 11.5.1 R (new)	FSA
62(1)(2nd sub para.)	Feeder UCITS may not invest in units of the master UCITS until such agreement has become effective.	COLL 11.3.2R (3)(c) (new)	FSA
62(2)(1st sub para.)	The auditor of the feeder UCITS must take into account the audit report of the master UCITS in its audit report. Where the feeder and master UCITS have different accounting years the auditor of the master UCITS to make an ad hoc report on the closing date of the accounting year of the feeder UCITS.	COLL 11.5.3 R (new) & COLL 11.5.4R (new)	FSA
62(2)(2nd sub para.)	Auditor of the feeder UCITS to report on any irregularities revealed in the audit report of the master UCITS and their impact on the feeder UCITS.	COLL 11.5.3R (2) (new)	FSA
62(3)	Where in compliance with Chapter VIII the auditors of the master and feeder UCITS will not be in breach of information laws.	FSMA s.351A(3); OEICR, r.83A(3) See also note guidance provision at COLL 11.5.5 G (new)	HMT FSA
63(1)	Information additional to that in Schedule A Annex I that the prospectus of a feeder UCITS must	COLL 4.2.5R, para. 25A (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	contain.		
63(2)	Additional information that the annual report of a feeder UCITS must contain.	COLL 4.5.7R(5) (new) COLL 4.5.8R (4) (new)	FSA
63(3)	Feeder UCITS to send the prospectus, key investor information and any amendment, as well as the annual and half-yearly reports of the master UCITS to the competent authorities of the home Member State.	COLL 4.2.3A R (new) COLL 4.5.15 R (new) COLL 4.7.7 R (3) (new)	FSA
63(4)	A feeder UCITS must disclose in any relevant marketing communications that it permanently invests 85% or more of its assets in units of such master UCITS.	COBS 4.13.3 R (new)	FSA
63(5)	Feeder UCITS to deliver a paper copy of the prospectus and the annual and half yearly reports of the master UCITS to investors on request and free of charge.	COLL 4.2.3AR (1)(b) (new) - (prospectus) COLL 4.5.15R (2) (new) -(reports)	FSA
64(1)	Information to be provided to unit holders where a feeder UCITS already pursues activities as a UCITS.	COLL 4.8.3 R (1) (new)	FSA
64(2)	Where a feeder UCITS has been notified in accordance with article 93 the information to unit holders shall be provided in the official language of the feeder UCITS host Member State or in a language approved by its competent authorities.	COLL 4.8.3 R (2) (new)	FSA
64(3)	A feeder UCITS must not invest in units of a given master UCITS in excess of the limit in article 55(1) before the period of 30 days in 64(1) has elapsed.	COLL 11.3.2R (3) (new)	FSA
65(1)	Feeder UCITS to monitor effectively the activity of the master UCITS. In performing this obligation the feeder UCITS may rely on information and documents received from the master UCITS or where applicable the master UCITS' management company, depositary or auditor.	COLL 11.3.7 R (new)	FSA
65(2)	Where a feeder UCITS, management company or any person acting on behalf of either receives a commission or other monetary benefit in connection with an investment in units of the master UCITS the fee, commission or other monetary benefit shall be paid into the assets of the feeder UCITS.	COLL 11.3.8 R (new)	FSA
66(1)(1st sentence)	A master UCITS must immediately inform the competent authorities of its home state of the identity of each feeder UCITS which invests in its units.	COLL 11.3.9 R (new)	FSA
66(1)(2nd)	If the master UCITS and the feeder UCITS are	FSMA, s.261A; OEICR r.29A	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
sentence)	established in different Member States, the competent authorities of the master UCITS home Member State shall immediately inform those of the feeder UCITS home Member State of such investment.	COLL 11.3.10 G (new)	FSA
66(2)	Master UCITS shall not charge subscription or redemption fees for the investment of the feeder UCITS into its UCITS or the divestment thereof.	COLL 11.3.11 R (new)	FSA
66(3)	A master UCITS must ensure the timely availability of all information that is required in accordance with the Directive, other EU law, applicable national law, the fund rules or the instruments of incorporation to the feeder UCITS or, where applicable, its management company, and to the competent authorities, the depositary and the auditor of the feeder UCITS.	COLL 11.3.12 R (new)	FSA
67(1)	If the master UCITS and the feeder UCITS are established in the same Member State, the competent authorities shall immediately inform the feeder UCITS of any non-compliance with Chapter VIII or any information reported pursuant to Article 106(1) with regard to the master UCITS or, where applicable, its management company, depositary or auditor.	FSMA, s.261B(1); OEICR r.29B(1)	HMT
67(2)	If the master UCITS and the feeder UCITS are established in different Member States, the competent authorities of the Master UCITS home Member State shall immediately communicate any non-compliance with Chapter VIII or any information reported pursuant to Article 106(1) with regard to the master UCITS or, where applicable, its management company, depositary or auditor to the competent authorities of the feeder UCITS home Member State. The latter shall then immediately inform the feeder UCITS.	FSMA, s.261B(2); OEICR r.29B(2)	HMT
Chapter IX	Obligations concerning information to be provided to investors		
68(1)	An investment company and for every common fund it manages, a MC, must publish ... (a) a prospectus; (b) an annual report; (c) a half-yearly report	COLL 4.2.2 R (current) COLL 4.5.3 R (current)	FSA
68(2)	The annual and half yearly reports shall be published four months and two months respectively after the end of the years to which they relate	COLL 4.5.14 R (current)	FSA
69(1)	The prospectus must include the information necessary for investors to be able to make an	COLL 4.2.5R, paragraph 27 (current)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
1 st sub-para.	informed judgement of the investment proposed to them, including on the risks attached.		
69(1) 2 nd sub-para.	The prospectus must include, independent of the instruments being invested in, a clear and understandable explanation of the fund's risk profile.	COLL 4.2.5R (paragraph.27(b)) (current) COLL 4.2.5 (25A) (new) (for feeder funds)	FSA
69(2)	The prospectus must include at least the information provided for in Schedule A of Annex 1, in so far as that information does not already appear in the fund rules or instrument of incorporation.	COLL 4.2.2R (current) COLL 4.2.5R (current)	FSA
70(1)	The prospectus shall indicate in which categories of assets a UCITS is authorised to invest	COLL 4.2.5 R (current)	FSA
70(2)	Where a UCITS invests principally in scheme units, deposits or derivatives or replicates an index in accordance with Article 53, its prospectus and, where necessary, its marketing communications must include a prominent statement to this effect.	COLL 4.2.5, paragraph 3(l) (current) COBS 4.13.2 R (3) (new)	FSA
70(3)	Where the net asset value of a UCITS is likely to have a high volatility due to its portfolio composition or the portfolio management techniques, its prospectus and, where necessary, its marketing communications must include a prominent statement drawing attention to this.	COLL 4.2.5R, paragraph 3(r) (current) COBS 4.13.2 R (4) R (new)	FSA
71(1) and (2)	The fund rules or instrument of incorporation of an investment company must form an integral part of its prospectus and be annexed to it. However, this does not apply provided that the investor is informed that on request, he or she will be sent those documents or be appraised of the place where in each MS in which its units are marketed, he or she may consult them.	COLL 4.2.5R, paragraph 23(a) (current)	FSA
72	The essential elements of a prospectus must be kept up to date.	COLL 4.2.2R (2)(d) (current)	FSA
73	The accounting information given in the annual report must be audited and the auditor's report reproduced in the annual report	COLL 4.5.7R; 4.5.12R (current)	FSA
74	UCITS shall send their prospectuses and any amendments on it, as well as their annual and half-yearly reports, to the CAs of the UCITS home MS and provide that documentation to the CA of the MC's home MS on request.	COLL 4.2.3R (1)(b) (amended) COLL 4.5.14R (2) (d) (amended)	FSA
75(1)	The prospectus and the latest published annual and half-yearly reports must be provided to investors on request and free of charge.	COLL 4.2.3R (1)(a) (amended) – [prospectus] COLL 4.5.14R (2)(a) (current) – [reports]	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
75(2)	The prospectus may be provided in a durable medium or by means of a website. A paper copy must be delivered to the investors on request and free of charge.	COLL 4.2.3R (1A) (new) Glossary definition of “durable medium” (amended)	FSA
75(3)	The annual and half-yearly reports must be available to investors in the manner specified in the prospectus and in the KIID. A paper copy of the annual and half-yearly reports must be delivered to the investors on request and free of charge.	COLL 4.2.5R , paragraph 23(a) (current) COLL 4.5.14R (2)(a) (current)	FSA
77, 1 st sentence	All marketing communications to investors must be clearly identifiable.	COBS 4.3.1R (1) and (4) (new) 4.7.6 G (1) (new)	FSA
77, 2 nd sentence	All marketing communications must be fair, clear and not misleading.	COBS 4.2.1R (1) (amended to extend scope to UCITS Directive)	FSA
77, 3 rd sentence	Any marketing communication comprising an invitation to purchase units in a UCITS must make no statement that diminishes or contradicts the significance of the information in the prospectus or the KIID.	COBS 4.13.2 R (1)(a) (new)	FSA
77, 4 th sentence	Any marketing communication must indicate that a prospectus exists and that the KIID is available.	COBS 4.13.2 R (1)(b) (new)	FSA
77, 5 th sentence	It must specify where and in which language such information or documents may be obtained by investors or potential investors or how they may obtain access to them.	COBS 4.13.2 R (1)(c) (new)	FSA
78(1), 1 st and 2 nd sentences	Every investment company and every MC of a UCITS must draw up a short document which is to be referred to as “key investor information” (“KII”).	COLL 4.7.2R (1)(new)	FSA
78(1), 3 rd sentence	The words “key investor information” must be clearly stated in that document in one of the official languages referred to in Article 94(1)(b).	COLL 4.7.2 R (2) (new)	FSA
78(2)	KII must include appropriate information about the essential characteristics of the UCITS, so that investors are reasonably able to understand the nature and the risks of the investment that is being offered to them and consequently to take investment decisions on an informed basis.	COLL 4.7.2 R (3) (new)	FSA
78(3), 1 st sentence	KII must provide information on the essential elements in respect of the UCITS, as described at (a) to (e).	COLL 4.7.2 R(4) (new)	FSA
78(3), 2 nd sentence	The essential elements described in (3) must be comprehensible to the investor without reference to other documents.	COLL 4.7.2 R (5) (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
78(4)	KII must clearly specify where and how to obtain additional information, including where and how the prospectus, the annual and half-yearly reports can be obtained on request and free of charge, and the language in which such information is available to investors.	COLL 4.7.2 R (6) (new)	FSA
78(5)	KII must be written in a concise manner and in non-technical language. It must be drawn up in a common format, allowing for comparison, and must be presented in a way that is likely to be understood by retail investors.	COLL 4.7.2 R (7) (new)	FSA
78(6)	KII must be used without alterations or supplements, except translation, in all MSs where the UCITS's units are to be marketed.	COLL 4.7.2 R (8) (new)	FSA
79(1)	KII must constitute pre-contractual information; be fair, clear and not misleading; and be consistent with the relevant parts of the prospectus.	COLL 4.7.5 R (1) to (3) (new)	FSA
79(2), 1 st sentence	A person will not incur civil liability solely on the basis of the KII, including any translation of it, unless it is misleading, inaccurate or inconsistent with the relevant parts of the prospectus.	S 90ZA of FSMA (new) COLL 4.7.6 G (1) (new)	HMT FSA
79(2), 2 nd sentence	KII must contain a clear warning that this is the case.	COLL 4.7.6 G (2) (new)	HMT/FSA
80(1)	Every investment company and every MC of a UCITS, which sells UCITS directly or through another natural or legal person who acts on its behalf and under its full and unconditional responsibility, must provide investors with KII on such UCITS in good time before their subscription of units in such UCITS.	COBS 14.2.1 R (6) and (7) (amended) COBS 14.2.1A R (2) (new)	FSA
80(2), 1 st sentence	Every investment company and every MC of a UCITS, which does not sell UCITS directly or through another natural or legal person who acts on its behalf and under its full and unconditional responsibility, must ensure that the KII on such UCITS is provided on request to product manufacturers and intermediaries selling, or advising investors on, potential investments in such UCITS.	COBS 14.2.1A R (3) (new)	FSA
80(2), 2 nd sentence	Intermediaries selling or advising UCITS on potential investments in UCITS must provide KII to their clients or potential clients.	COBS 14.2.1 R (6) and (7) (amended)	FSA
80(3)	KII must be provided to investors free of charge.	COBS 14.2.1A R (4) (new) COBS 14.2.14 R (amended)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
81(1), 1 st sub-para.	Investment companies and MCs of UCITS may provide KII in a durable medium or by means of a website. A paper copy must be delivered to the investor on request and free of charge.	COBS 14.2.1A R (5)(a) (new) COLL 4.8.4 R (1) (new)	FSA
81 (1), 2 nd sub-para.	An up-to-date version of the KII must be made available on the website of the investment company or MC.	COBS 14.2.1A R (5)(b) (new) COLL 7.7.16 R (new) [Key investor information for merging UCITS] COLL 7.7.17 R (new) [Key investor information for cross-border UCITS merger]	FSA
82(1)	UCITS must send their KII and any amendments, to the CAs of their home MC.	COLL 4.7.7 R (2) and (3) (new)	FSA
82(2)	The essential elements of the KII must be kept up to date.	COLL 4.7.7 R (1) (new)	FSA
Chapter X	General obligations of UCITS		
83(1)(b)	A management company or depositary acting on behalf a common fund must not borrow.	COLL 5.5.4R (current) COLL 5.5.5R (current)	FSA
83(2)(a) (2 nd indent)	By way of derogation from (1), a UCITS may borrow provided that such borrowing is on a temporary basis and ... in the case of a common fund, does not represent more than 10% of the value of the fund.	COLL 5.5.4R (current) COLL 5.5.5R (current)	FSA
84(1)	A UCITS shall repurchase or redeem its units at the request of any unitholder.	COLL 6.2.16R (3) (current)	FSA
84(2)	By way of derogation from (1), the repurchase or redemption of units may be temporarily suspended	COLL 7.2.1R (current)	FSA
84(3)	In the event of a temporary suspension, a UCITS shall communicate its decision to its CA and the CAs of all Member States where it markets its units	COLL 7.2.1R(2)	FSA
85	The rules for valuation and for calculating the sale or issue price and the repurchase or redemption price of the units of a UCITS shall be laid down in national law , the fund rules or the instrument of incorporation	COLL 6.3	FSA
86	The distribution or reinvestment of the income of a UCITS shall be effected in accordance with the law and with the fund rules or the instruments of incorporation of the investment company.	COLL 6.8.2BR (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
87	A UCITS unit shall not be issued unless the equivalent of the net issue price is paid into the assets of the UCITS	COLL 6.2.13R (current)	FSA
88(1)	Without prejudice to the application of Articles 50 and 51, an investment company, MC or depositary acting on behalf of a common fund must not grant loans or act as a guarantor on behalf of third parties.	COLL 5.5.6R (1) (current) COLL 5.5.7R (1) (current) COLL 5.5.9 R (current)	FSA
89	An investment company, MC or depositary acting on behalf of a common fund must not carry out uncovered sales of transferable securities, money market instruments or other financial instruments referred to in Article 50(1) (e), (g) and (h).	COLL 5.2.22R (amended) – requirement to cover sales	FSA
90, 1 st sub-para.	The law of the UCITS home MS or the fund rules must prescribe the remuneration and the expenditure which a MC is empowered to charge to a common fund and the method of calculation of such remuneration.	COLL 3.2.6R, para. 10 (current) -contents of the instrument constituting the scheme: Authorised fund manager's charges and expenses COLL 4.2.5R, para 13 (current)- contents of the prospectus: payments out of scheme property	FSA
90, 2nd sub-para	The law or the instruments of incorporation of an investment company shall prescribe the nature of the cost to be borne by the company	OEICR, Schedule 2, para 2	HMT
Chapter XI	Special provisions applicable to UCITS which market their units in Member States other than those in which they are established.		
Article 91 (1)	Host states to allow UCITS to market within their territories	Section 264 FSMA (amended) COLL 9.2.2 G (1) (new)	HMT FSA
91(2)	UCITS host shall not impose additional requirements	No transposition needed	HMT and FSA
91(3)	Host states to ensure additional measures on marketing etc not within scope of directive are accessible at a distance and by electronic means. And in language customary in sphere of finance.	No transposition needed. All FSA rules are available on the FSA website in English. Statutes and regulations can also be accessed electronically in English	
91(4)	UCITS shall include investment compartments.	COLL 9.2.2 G (3) (new)	FSA
92	UCITS shall in accordance with laws etc of host take measures to ensure facilities available for payments, repurchasing etc	COLL 9.4.1R (current) COLL 9.4.2R (amended) COLL 12.4.3 G (new)	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
93(1) subpara 1	UCITS proposing to market its units in another member state to first notify home state	Schedule 3 to FSMA, para 20B (new)	HMT
Subpara 2	The notification letter shall include info on arrangements for marketing and if management co is exercising passport an indication that the MC is doing the marketing.	Schedule 3 to FSMA, para 20B (new) Annex I of Commission Regulation 584/2010	HMT
93(2)	UCITS shall enclose with the letter latest versions of fund rules, instruments of incorp, prospectus etc and KID	COLL 12.4.4 R (new)	HMT/EU
93(3)	CA shall verify whether docs required for notification are complete. CA shall transmit to host state. Upon transmission CA shall notify UCITS.	Schedule 3 to FSMA, para 20B (new)	FSA/ EU Commission
93(4)	Notification and attestation to be in language customary to intern finance unless by agreement.	No transposition needed.	HMT
93(5)	Member states shall ensure electronic transmission and filing of documents in para 3 is accepted.	Schedule 3 to FSMA, para 20B(2)	HMT
93(6)	For the purposes of notification host state shall not request anything additional to those provided for in this article.	Section 264 of FSMA (amended)	HMT
93(7)	Home state to ensure that host has access by electronic means to the docs in para 2. Home state shall ensure UCITS keep them up to date. UCITS shall notify amendments to host and shall indicate where they can be obtained electronically.	Schedule 3 to FSMA, para 20B (3) (new) COLL 12.4.4 R (new)	HMT FSA
93(8)	In event of change to the information contained in notification letter in para 1 or change in share class UCITS to give written notification to host.	COLL 12.4.4 R (new)	FSA
94(1)	Where UCITS markets in a hosts state it must provide all the information required to be provide in the home state pursuant to chapter IX.	COLL 12.4.5 R (1) and (2) (new)	FSA
94(2)	The requirements in (1) also apply to any changes to the specified information or documents.	COLL 12.4.5 R (3) (new)	FSA
94(3)	Frequency of the publication of the issue, sale, repurchase or redemption price of units being marketed in another Member State to be a matter governed by the UCITS home Member State.	COLL 12.4.6 G (new)	FSA
95	Level 2 Implementing measures	No transposition needed	FSA

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
96	UCITS may use the same reference to its legal form in its designation in a host as it uses in the home.	COLL 12.4.7 R (new)	FSA
Chapter XII	Provisions concerning the Authorities responsible for Authorisation and Supervision		
97	Member States shall designate the competent authorities which are to carry out the duties provided for in this Directive	FSMA, ss 242 to 250; OEICR, regulations 3, 4, 6, 7	HMT
98 (1)	Competent authorities shall be given all supervisory and investigatory powers that are necessary for the exercise of their functions. Within the limits provided for in their national legal frameworks they shall exercise such powers:(a) directly; or(b) in collaboration with other authorities; or(c) under their responsibility by delegation to entities to which tasks have been delegated according to Article 48(2); or(d) by application to the competent judicial authorities.	See 98(2)	HMT
98 (2)	2. The powers referred to in paragraph 1 shall be exercised in conformity with national law and shall include, at least, the rights to:		
98 (2) a	have access to any document in any form whatsoever and to receive a copy of it;	s 165-168, 171-173,and 175 of FSMA; Reg 30 OEICR	HMT
98 (2) b	Require any person to provide information and if necessary to summon and question a person with a view to obtaining information;	s 165-168, 171-173, and 175 of FSMA Reg 30 OEICR	HMT
98 (2) c	carry out on-site inspections;	Powers under FSA SUP rules and s 45 and 176 of FSMA ; Reg 30 OEICR	FSA/HMT
98 (2) d	require existing telephone and existing data traffic records;	s 168 and 172-173 of FSMA Reg 30 OEICR	HMT
98(2) e	require the cessation of any practice that is contrary to the provisions adopted in the implementation of this Directive;	s 380. See also r.80 OEICR	HMT
98 (2) f	request the freezing and/or the sequestration of assets;	s 380 of FSMA Orders 45 and 46 of the Rules of the Supreme Court	HMT
98 (2) g	request temporary prohibition of professional activity;	s 19, 45 and 401 of FSMA	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
98 (2) h	require authorised investment firms, management companies or depositories to provide information;	s 165; 171-173 of FSMA, See also r 30 OEICR	HMT
(2) i	adopt any type of measure to ensure that investment firms , management companies or depositories continue to comply with legal requirements;	Generally: s 45, 66, 165-177, 194-196, 205-206A, 380, 382, 384, 401 and 402 of FSMA EEA firms: see s193-204 of FSMA	HMT
98 (2) j	require the suspension of the issue, purchase or redemption of units;	s 257 FSMA; r.25 OEICR	HMT
98 (2) k	Withdraw the authorisation granted to a UCITS, a management company or a depository;	ss.45, 254 FSMA; r. 23 OEICR;	HMT
98 (2) l	(l) refer matters for criminal prosecution;	ss 401 and 402 of FSMA	HMT
98 (2) m	(m) allow auditors or experts to carry out verifications or investigations.	ss 166-175 and 341 of FSMA. S167, 168 and 171. see also r.30 OEICR	HMT
99 (1)	Without prejudice to the procedures for the withdrawal of authorisation or to the right of Member States to impose criminal sanctions, Member States shall ensure, in conformity with their national law, that the appropriate administrative measures can be taken or administrative sanctions be imposed against the persons responsible where the provisions adopted in the implementation of this Directive have not been complied with. Member States shall ensure that these measures are effective, proportionate and dissuasive.	ss.56-71, 150, 205-211, 296 and 380-386 of FSMA.	HMT
99 (2)	Member States shall lay down effective, proportionate and dissuasive measures and penalties concerning the duty to present key investor information in a way that is likely to be understood by retail investors.	ss 205-211 FSMA. See also r.80 OEICR.	HMT
99 (3)	Member States shall provide that the competent authority may disclose to the public any measure or sanction that will be imposed for infringement of the provisions adopted in the implementation of this Directive, unless such disclosure would seriously jeopardise the financial markets, be detrimental to investors or cause disproportionate damage to the parties involved.	ss 205, 298 and 391 of FSMA.	HMT
100 (1)	Member States shall ensure effective complaints and redress procedures are in place for the out-of-court settlement of consumer disputes concerning the activities of UCITS, using existing bodies where appropriate;	ss 212-234 of FSMA	HMT
100 (2)	Member States shall ensure that those bodies are not prevented by legal or regulatory provisions from cooperating effectively in the resolution of	Parts 15 and 16 of FSMA. The UK's out-of- court complaints resolution body, the Financial Ombudsman Service, is a	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	cross-border disputes.	member of FIN-NET.	
101 (1)	Competent authorities of different Member States shall cooperate with each other whenever necessary for the purpose of carrying out their duties under this Directive, making use of their powers whether set out in this Directive or in national law. Competent authorities shall render assistance to competent authorities of the other Member States. In particular, they shall exchange information and cooperate in any investigation or supervisory activities. In order to facilitate and accelerate cooperation, and more particularly exchange of information, Member States shall designate one single competent authority as a contact point for the purposes of this Directive. Member States shall communicate to the Commission and to the other Member States the names of the authorities which are designated to receive requests for exchange of information or cooperation pursuant to this paragraph.	ss 169 and 354 of FSMA Regs 3, 6 and 9 of DCI	HMT
(2)	CAs to provide each other with the necessary information	FSMA, s.58(1)	HMT
(3)	Where a competent authority of one Member State has good reason to suspect that acts contrary to the provisions of this Directive, are being or have been carried out by entities not subject to that competent authority's supervision on the territory of another Member State, it shall notify the competent authorities of the other Member State thereof in as specific a manner as possible. The recipient authorities shall take appropriate action, shall inform the notifying competent authority of the outcome of that action and, to the extent possible, of significant interim developments. This paragraph shall be without prejudice to the competences of the notifying competent authority.	FSMA, S354 and 169 Regs 3, 6 and 9 of DCI	HMT
(4)	The competent authorities of one Member State may request the cooperation of the competent authorities of another Member State in a supervisory activity or for an on-the-spot verification or in an investigation on the territory of the latter within the framework of their powers pursuant to this Directive. Where a competent authority receives a request with respect to an on-the-spot verification or investigation, it shall: (a) carry out the verification or investigation itself; (b) allow the requesting authority to carry out the verification or investigation; or (c) allow auditors or experts to carry out the verification or investigation.	ss 354 and 169 of FSMA	HMT
(5)	If the verification or investigation is carried out on the territory of one Member State by a	ss 354 and 169 of FSMA	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	<p>competent authority of the same Member State, the competent authority of the Member State which has requested cooperation may request that its own officials accompany the officials carrying out the verification or investigation. The verification or investigation shall, however, be subject to the overall control of the Member State on whose territory it is conducted.</p> <p>If the verification or investigation is carried out on the territory of one Member State by a competent authority of another Member State, the competent authority of the Member State on whose territory the verification or investigation is carried out may request that its own officials accompany the officials carrying out the verification or investigation.</p>		
(6)	<p>The competent authorities of the Member State where the verification or investigation is carried out may refuse to exchange information as provided for in paragraph 2 or to act on a request for cooperation in carrying out an investigation or on-the-spot verification as provided for in paragraph 4, only where:</p> <p>(a) such an investigation, on-the-spot verification or exchange of information might adversely affect the sovereignty, security or public policy of that Member State;</p> <p>(b) judicial proceedings have already been initiated in respect of the same persons and the same actions before the authorities of that Member State;</p> <p>(c) final judgment in respect of the same persons and the same actions has already been delivered in that Member State.</p>	ss 169 and 354 of FSMA	HMT
(7)	<p>The competent authorities shall notify the requesting competent authorities of any decision taken under paragraph 6. That notification shall contain information about the motives of their decision.</p>	ss 169 and 354 of FSMA	HMT
(8)	<p>Competent authorities may bring certain situations to the attention of the Committee of European Securities Regulators, established by Commission Decision 2009/77/EC(1) OJ L 25, 29.1.2009, p. 18. (1).</p>	No transposition required	
102(1)	<p>Member States shall provide that all persons who work or who have worked for the competent authorities, as well as auditors and experts instructed by the competent authorities, be bound by the obligation of professional secrecy. Such obligation implies that no confidential information which those persons receive in the course of their duties shall be divulged to any person or authority whatsoever, save in summary or aggregate form such that UCITS, management companies and depositaries (undertakings</p>	s 348 and s 349 of FSMA and DCI, in particular regs 2, 4 and 6.	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	<p>contributing towards UCITS' business activity) cannot be individually identified, without prejudice to cases covered by criminal law. However, when a UCITS or an undertaking contributing towards its business activity has been declared bankrupt or is being compulsorily wound up, confidential information which does not concern third parties involved in rescue attempts may be divulged in the course of civil or commercial proceedings.</p>		
102(2)	<p>Paragraph 1 shall not prevent the competent authorities of the Member States from exchanging information in accordance with this Directive or other Community law applicable to UCITS or to undertakings contributing towards their business activity. That information shall be subject to the conditions of professional secrecy laid down in paragraph 1.</p>	<p>s 348 and s 349 of FSMA and DCI, in particular regs 2, 4 and 6.</p>	HMT
102(3)	<p>Member States may conclude cooperation agreements providing for exchange of information with the competent authorities of third countries, or with authorities or bodies of third countries, as determined in paragraph 5 of this Article and Article 103(1) only if the information disclosed is subject to guarantees of professional secrecy at least equivalent to those referred to in this Article. Such exchange of information shall be intended for the performance of the supervisory task of those authorities or bodies.</p> <p>Where the information originates in another Member State, it shall not be disclosed without the express consent of the competent authorities which have disclosed it and, where appropriate, solely for the purposes for which those authorities gave their consent.</p>	<p>s 348 and s 349 of FSMA and DCI , in particular reg 9, 11 and 12, Part 3 of Sch 1 to DCI; s354 of FSMA</p>	HMT
102(4)	<p>The competent authorities receiving confidential information under paragraphs 1 or 2 may use the information only in the course of their duties for the purposes of:</p> <p>(a) checking that the conditions governing the taking-up of business of UCITS or of undertakings contributing towards their business activity are met and facilitating the monitoring of the conduct of that business, administrative and accounting procedures and internal-control mechanisms;</p> <p>(b) imposing penalties;</p> <p>(c) conducting administrative appeals against decisions by the competent authorities; and</p> <p>(d) pursuing court proceedings initiated under Article 107(2).</p>	<p>s 348 and s 349 of FSMA and DCI , in particular reg 9, 11 and 12, Part 3 of Sch 1 to DCI; s354 of FSMA</p>	HMT
107(1)	<p>1. The competent authorities shall give written reasons for any decision to refuse authorisation,</p>	<p>FSMA ss. 52, 55. 245;</p>	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
	or any negative decision taken in the implementation of the general measures adopted in application of this Directive, and communicate them to applicants.		
107(2)	2. Member States shall provide that any decision taken under the laws, regulations or administrative provisions adopted in accordance with this Directive is properly reasoned and subject to a right of appeal in the courts, including where no decision is taken within six months of submission of an application for authorisation which provides all the information required.	FSMA, ss. 52, 55, 133; Sch 3, para 15B; OEICR r. 14, 16.	HMT
107(3)	3. Member States shall provide that one or more of the following bodies, as determined by national law, may, in the interests of consumers and in accordance with national law, take action before the courts or competent administrative bodies to ensure that the national provisions for the implementation of this Directive are applied: (a) public bodies or their representatives; (b) consumer organisations having a legitimate interest in protecting consumers; or (c) professional organisations having a legitimate interest in protecting their members.	General law provides for such application without further transposition	
108(1)	1. Only the authorities of the UCITS home Member State shall have the power to take action against that UCITS if it infringes any law, regulation or administrative provision or any regulation laid down in the fund rules or in the instruments of incorporation of the investment company. However, the authorities of the UCITS host Member State may take action against that UCITS if it infringes the laws, regulations and administrative provisions in force in that Member State that fall outside the scope of this Directive or the requirements set out in Articles 92 and 94.	FSMA s.195A (amended)	HMT
108(2)	2. Any decision to withdraw authorisation, or any other serious measure taken against a UCITS, or any suspension of the issue, repurchase or redemption of its units imposed upon it, shall be communicated without delay by the authorities of the UCITS home Member State to the authorities of the UCITS host Member States and, if the management company of a UCITS is established in another Member State, to the competent authorities of the management company's home Member State.	No specific transposition required, as a result of Article 12 (Routine exchange of information) of Commission Regulation No 584/2010	
108(3)	3. The competent authorities of the management company's home Member State or those of the UCITS home Member State may take action against the management company if it infringes rules under their respective responsibility.	FSMA s.195A (as amended)	HMT

Article/ paragraph	Provision of the Directive	Relevant domestic provision	Responsibility
108(4)	4. In the event that the competent authorities of the UCITS host Member State have clear and demonstrable grounds for believing that a UCITS, the units of which are marketed within the territory of that Member State is in breach of the obligations arising from the provisions adopted pursuant to this Directive which do not confer powers on the competent authorities of the UCITS host Member State, they shall refer those findings to the competent authorities of the UCITS home Member State, which shall take the appropriate measures.	FSMA s.195A (as amended)	HMT
109(1),(2)	Competent authorities must co-operate closely in relation to management companies which operate in one or more host states. This co-operation may include the sharing of information.	This provision does not require specific implementation. Under section 354 of the Act, the FSA must co-operate with other competent authorities. Under Regulations made under section 349 of the Act, the FSA may provide information to other competent authorities in certain circumstances.	
109(3)	The competent authorities of the management company's home Member State shall, without delay, notify the competent authorities of the UCITS home Member State of any problem identified at the level of the management company which may materially affect the ability of the management company to perform its duties properly with respect to the UCITS or of any breach of the requirements under Chapter III.	FSMA, Sch 3, para 20ZA	HMT
109(4)	The competent authorities of the UCITS home Member State shall, without delay, notify the competent authorities of the management company's home Member State of any problem identified at the level of the UCITS which may materially affect the ability of the management company to perform its duties properly or to comply with the requirements of this Directive which fall under the responsibility of the UCITS home Member State.	FSMA, Sch 3, para 15C	
110	Each management company's host Member State shall ensure that where a management company authorised in another Member State pursues business within its territory through a branch the competent authorities of the management company's home Member State may, after informing the competent authorities of the management company's host Member State, themselves or through the intermediary they instruct for the purpose, carry out on-the-spot verification of the information referred to in Article 109.	ss. 169 and 354 of FSMA	