Chapter 11

Dealing and managing

11.3   Client order handling

General principles

11.3.1 R (1) A *firm* (other than a *UCITS management company* providing *collective portfolio management* services) which is authorised to execute orders on behalf of *clients* must implement procedures and arrangements which provide for the prompt, fair and expeditious execution of *client* orders, relative to other orders or the trading interests of the *firm*.

[**Note:** paragraph 1 of article 28(1) of *MiFID*]

(2) These procedures or arrangements must allow for the execution of otherwise comparable orders in accordance with the time of their reception by the *firm*.

[**Note:** paragraph 2 of article 28(1) of *MiFID*]

(3) A *UCITS management company* providing *collective portfolio management* services, must establish and implement procedures and arrangements in respect of all *client* orders it carries out which provide for the prompt, fair and expeditious execution of portfolio transactions on behalf of the *UCITS scheme* it manages.

[**Note:** article 27(1) first paragraph of the *UCITS implementing Directive*]

11.3.1A R (1) Subject to (2) and (3) in this chapter provisions marked "UK" apply to a *firm's* business other than *MiFID business* as if they were *rules*.

(2) Provisions which derive from recitals to *MiFID* or the *MiFID Org Regulation* apply to all *firms* as guidance.

(3) ■ COBS 11.3.4AUK, which reproduces article 67(2) of the *MiFID Org Regulation*, does not apply to a *UCITS management company*.

11.3.2 R [deleted]

Carrying out client orders

11.3.2A UK 67(1)Investment firms shall satisfy the following conditions when carrying out client orders:

(a)ensure that orders executed on behalf of clients are promptly and accurately recorded and allocated;

(b)carry out otherwise comparable client orders sequentially and promptly unless the characteristics of the order or prevailing market conditions make this impracticable, or the interests of the client require otherwise;

(c)inform a retail client about any material difficulty relevant to the proper carrying out of orders promptly upon becoming aware of the difficulty.

11.3.3   G   For the purposes of the provisions of this section, orders should not be treated as otherwise comparable if they are received by different media and it would not be practicable for them to be treated sequentially.

[**Note:** recital 110 to the *MiFID Org Regulation*]

11.3.4   R   Where a *management company* executes the order itself in the course of providing *collective portfolio management* services, it must take all reasonable steps to ensure that any *client financial instruments* or *client* funds received in settlement of that executed order are promptly and correctly delivered to the account of the appropriate *UCITS scheme*.

[**Note:** article 27(1) third paragraph of the *UCITS implementing Directive*]

Settlement of executed orders

11.3.4A   UK   67(2)Where an investment firm is responsible for overseeing or arranging the settlement of an executed order, it shall take all reasonable steps to ensure that any client financial instruments or client funds received in settlement of that executed order are promptly and correctly delivered to the account of the appropriate client.

11.3.5   R   [deleted]

Use of information relating to pending client orders

11.3.5A   UK   67(3)An investment firm shall not misuse information relating to pending client orders, and shall take all reasonable steps to prevent the misuse of such information by any of its relevant persons.

11.3.6   G   Without prejudice to the *Market Abuse Regulation*, for the purposes of the provision on the misuse of information (see ■ COBS 11.3.5AEU), any use by a *firm* of information relating to a pending *client* order in order to deal on own account in the *financial instruments* to which the *client* order relates, or in related *financial instruments*, should be considered a misuse of that information. However, the mere fact that *market makers* or bodies authorised to act as counterparties confine themselves to pursuing their legitimate business of buying and selling *financial instruments*, or that persons authorised to execute orders on behalf of third parties confine themselves to carrying out an order dutifully, should not in itself be deemed to constitute a misuse of information.

[**Note:** recital 110 to the *MiFID Org Regulation*]

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Aggregation and allocation of orders

11.3.7 R [deleted]

11.3.7A UK 68(1)Investment firms shall not carry out a client order or a transaction for own account in aggregation with another client order unless the following conditions are met:

(a)it is unlikely that the aggregation of orders and transactions will work overall to the disadvantage of any client whose orders is to be aggregated;

(b)it is disclosed to each client whose order is to be aggregated that the effect of aggregation may work to its disadvantage in relation to a particular order;

(c)an order allocation policy is established and effectively implemented, providing for the fair allocation of aggregated orders and transactions, including how the volume and price of orders determines allocations and the treatment of partial executions.

11.3.7B R A *management company* must ensure that the order allocation policy referred to in article 68(1)(c) of the *MiFID Org Regulation*, reproduced at ■ COBS 11.3.7AUK, is in sufficiently precise terms.

[**Note:** article 28(1) of the *UCITS implementing Directive*]

11.3.8 R [deleted]

Partial execution of aggregated client orders

11.3.8A UK 68(2)Where an investment firm aggregates an order with one or more other client orders and the aggregated order is partially executed, it shall allocate the related trades in accordance with its order allocation policy.

Aggregation and allocation of transactions for own account

11.3.9 R [deleted]

11.3.9A UK 69(1)Investment firms which have aggregated transactions for own account with one or more client orders shall not allocate the related trades in a way that is detrimental to a client.

11.3.10 R [deleted]

11.3.10A UK 69 (2) Where an investment firm aggregates a client order with a transaction for own account and the aggregated order is partially executed, it shall allocate the related trades to the client in priority to the firm.

Where an investment firm aggregates a client order with a transaction for own account and the aggregated order is partially executed, it shall allocate the related trades to the client in priority to the firm. Where an investment

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firm is able to demonstrate on reasonable grounds that without the combination it would not have been able to carry out the order on such advantageous terms, or at all, it may allocate the transaction for own account proportionally, in accordance with its order allocation policy referred to in Article 68(1)(c).

11.3.11   R   [deleted]

11.3.11A UK   69(3)As part of the order allocation policy referred to in Article 68(1)(c), investment firms shall put in place procedures designed to prevent the reallocation, in a way that is detrimental to the client, of transactions for own account which are executed in combination with client orders.

11.3.12   G   For the purposes of the provisions of this section, the reallocation of transactions should be considered as detrimental to a *client* if, as an effect of that reallocation, unfair precedence is given to the *firm* or to any particular person.

[**Note:** recital 109

to the *MiFID Org Regulation*]

11.3.13   G   In this section, carrying out *client* orders includes:

(1) the *execution of orders on behalf of clients*;

(2) the placing of orders with other entities for execution that result from decisions to deal in *financial instruments* on behalf of *clients* when providing the service of *portfolio management* or *collective portfolio management*;

(3) the transmission of *client* orders to other entities for execution when providing the service of reception and transmission of orders.

Transposition of client order handling provisions in the UCITS Implementing Directive

11.3.14   G   (1) This section applies to a *UCITS management company* as a result of ■ COBS 18.5B.2R.

(2) The provisions of the *MiFID Org Regulation* reproduced in this section apply to a *UCITS management company* as a result of ■ COBS 11.3.1AR.

(3) Some of these provisions were used to transpose provisions of the *UCITS implementing Directive*, as set out in the table below:

MiFID Org Regulation Provision	COBS 11.3 provision	UCITS implementing Directive transposition
article 67(1)	COBS 11.3.2AUK	article 27(1) second paragraph
article 67(3)	COBS 11.3.5AUK	article 27(2)

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article 68(1)	COBS 11.3.7AUK, as modified by COBS 11.3.7BR	article 28(1)
article 68(2)	COBS 11.3.8AUK	article 28(2)
article 69(1)	COBS 11.3.9AUK	article 28(3)
article 69(2)	COBS 11.3.10AUK	article 28(4)