

## Chapter 6

# Operating duties and responsibilities

## 6.11 Risk control and internal reporting

### Application

6.11.1

**R**

- (1) This section applies to:
- (a) an *authorised fund manager* of a *UCITS* scheme; and
  - (b) a *UK UCITS management company* providing *collective portfolio management services* for an *EEA UCITS* scheme from a *branch* in another *EEA State* or under the freedom to provide *cross border services*.
- (2) This section does not apply to an *EEA UCITS management company* providing *collective portfolio management services* for a *UCITS* scheme under the freedom to provide *cross border services*.

### Permanent risk management function

6.11.2

**R**

- (1) An *authorised fund manager* of a *UCITS* scheme or a *UK UCITS management company* of an *EEA UCITS* scheme must establish and maintain a permanent risk management function.
- (2) The function referred to in (1) must be hierarchically and functionally independent from operating units, except where such independence would not be appropriate and proportionate in view of the nature, scale and complexity of the *authorised fund manager's* or *UK UCITS management company's* business and of each *scheme* it manages.
- (3) The *authorised fund manager* or *UK UCITS management company* must be able to demonstrate that:
- (a) appropriate safeguards against conflicts of interest have been adopted so as to allow an independent performance of risk management activities; and
  - (b) its risk management process satisfies the requirements of **■** COLL 6.12.3 R (Risk management process) or, where appropriate, the relevant *UCITS Home State* measures implementing article 51 of the *UCITS Directive*.

[**Note:** articles 12(1) and 12(2) of the *UCITS implementing Directive*]

6.11.3

**G**

Where the risk management function required under **■** COLL 6.11.2 R (1) is not hierarchically and functionally independent, the *authorised fund manager* or *UK UCITS management company* should nevertheless be able to demonstrate that its risk management process satisfies the requirements of **■** COLL 6.12.3 R

(Risk management process) and that, in particular, the appropriate safeguards have been adopted.

[Note: article 12(2) third paragraph and recital (12) of the *UCITS implementing Directive*]

### Duties of the permanent risk management function

6.11.4

**R**

- (1) The permanent risk management function must:
  - (a) implement the risk management policy and procedures;
  - (b) ensure compliance with the *risk limit system*, including statutory limits concerning global exposure and counterparty risk, as required by ■ COLL 5.2 (General investment powers and limits for UCITS schemes) and ■ COLL 5.3 (Derivative exposure) or, where appropriate, the relevant *UCITS Home State* measures implementing articles 41, 42 and 43 of the *UCITS implementing Directive*;
  - (c) provide advice to the *governing body*, as regards the identification of the risk profile of each *scheme* it manages;
  - (d) provide regular reports to the *governing body* and, where it exists, the *supervisory function* on:
    - (i) the consistency between the current level of risk incurred by each *scheme* it manages and the risk profile agreed for that *scheme*;
    - (ii) the compliance of each *scheme* it manages with the *risk limit system* referred to in (b); and
    - (iii) the adequacy and effectiveness of the risk management process, indicating in particular whether appropriate remedial measures have been taken in the event of any deficiencies;
  - (e) provide regular reports to the *senior personnel* outlining the current level of risk incurred by the relevant *scheme* and any actual or foreseeable breaches to their limits, so as to ensure that prompt and appropriate remedial action can be taken; and
  - (f) review and support, where appropriate, the arrangements for the valuation of *OTC derivatives*, as referred to in ■ COLL 5.2.23 R (OTC transactions in derivatives), ■ COLL 5.2.23C R (Valuation of OTC derivatives) and in this *rule* or, where appropriate, the relevant *UCITS Home State* measures implementing article 44 of the *UCITS implementing Directive*.
- (2) The permanent risk management function must have the authority and access to all relevant information necessary to fulfil the duties set out in (1).

[Note: articles 12(3), 12(4) and 44(3) of the *UCITS implementing Directive*]