

ALCO working group: MIFID Compliance Controls

	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
MANAGING CONFLICTS OF INTEREST	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24 art 25, art 26 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To detect any new sources of conflict of interest and manage all conflicts of interest	Compliance risk Reputation risk Operational risk	/	Establishment of a process for informing the Compliance department of any changes to the organisation of the firm and any new products	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24, 25 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To detect any new sources of conflict of interest and manage all conflicts of interest	Compliance risk	Draw up a register of potential conflicts of interest	Regularly update the conflicts of interest register	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To avoid all conflicts of interest	Compliance risk Operational risk	State in the code of conduct that all employees must abstain from involvement in any transaction in which they would find themselves in conflict of interest. List client accounts over which the members of personnel have authority.	Avoid / forbid all authority over clients' accounts on the part of the Bank's staff. Also, ensure that any client accounts over which an employee has authority are not overseen by that employee	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure the confidentiality of information and the independence of the various activities (consultancy / management, negotiation of benefits, etc.), in particular regarding the sale of third-party products that generate benefits for the Bank	Compliance risk Operational risk	Existence of Chinese Walls	Ensure that Chinese Walls are put in place where required and that they are complied with, in particular for computer access	✓	

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	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 12 (1), art 28 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure compliance with the provisions relating to personal transactions	Compliance risk	Define those functions that are considered sensitive Draw up a list of securities liable to cause conflicts of interest	Establishment of a pre-clearing system: • Employees in sensitive positions should consult the Compliance department before performing any personal transactions ; • Other employees should contact the Compliance department for authorisation before performing a personal transaction only in the event that the transaction relates to a security liable to generate a conflict of interest The Compliance department would then have to keep an up-to-date list of securities liable to generate a conflict of interest for the firm.	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, art 26 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the Compliance department has been warned of all conflicts of interest and that they have been correctly managed	Compliance risk Reputation risk	Existence of a conflicts of interest management policy	In the event of a conflict of interest not covered by the management policy applying in the firm, the client must be informed. Given that the information must be provided to the client on a durable medium, the durability of the medium can be checked, if applicable. Also ensure that all aspects involved in the management of a conflict of interest are correctly documented		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, Grand-Ducal Regulation of 13 July 2007, art 12 (1), CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the Compliance department has been warned of all conflicts of interest and that they have been correctly managed	Compliance risk Operational risk Reputation risk Legal risk	Management of client complaints	In the event of a client complaint relating to a conflict of interest, ensure that the conflict has been managed in accordance with the relevant provisions		✓

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MANAGING CONFLICTS OF INTEREST	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 12 (1), CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 21 (1-6) & 22 (1-3)	To ensure that no privileged or confidential information has been used	Compliance risk	Establishment of measures aimed at avoiding the use of privileged or confidential information	Perform a check for concurrent orders of the same value on behalf of clients, the personnel or the Bank for its own account, in order to ensure that there is no frontrunning and that no orders have been placed that might have benefitted from knowledge of the other orders being placed. This check could be performed on high-value orders, for example.		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 12 (1), art 28 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 21 (1-6) & 22 (1-3)	To ensure that no privileged or confidential information has been used	Compliance risk	Issuing of investment recommendations on certain securities	Ensure that no orders are placed on securities for which a recommendation has been given shortly before it has been made public		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, art 30 CSSF circular 07/307, point 8, + chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the employees always act in the clients' best interests	Compliance risk Reputation risk	Employee remuneration based on the marketing of specific products	Check that no excessive commercial practices that are contrary to the interests of the client have been observed		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, art 30 CSSF circular 07/307, point 8, + chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 21 (1-6)	To ensure that the employees always act in the clients' best interests	Compliance risk Reputation risk	Running a secondary market, e.g. within the framework of the marketing of structured "house" products	Ensure that positions are bought on the secondary market without harming the interests of the client		✓

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MANAGING CONFLICTS OF INTEREST	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, art 30 CSSF circular 07/307, point 8, + chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 19 (1-10)	To ensure that the employees always act in the clients' best interests	Compliance risk Reputation risk	Bank holding a position on securities that it wishes to offer its clients	Ensure that the conditions of presentation and sale of the securities concerned are fully transparent and in the client's interest		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Act of 13 July 2007, art 136 (art 37-3) Grand-Ducal Regulation of 13 July 2007, art 27, art 32 CSSF circular 07/307, chap 11 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 19 (1-10)	To ensure that the information communicated to the client is clear, correct and not misleading	Compliance risk Legal risk Operational risk	Issue of commercial documents for the attention of the clients	Ensure that the commercial documents issued comply with the necessary criteria regarding clarity of information		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 25, 28 (2) c) Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the selection of values offered to the client is not dependant on any commission received	Compliance risk	Commercial offer based on a fund selection procedure within an open architecture framework	Ensure that the selection process for all funds is based on the same objective quality criteria, regardless of any inducements received. If the in-house funds are included in the selection, ensure that they undergo the same process of analysis		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24 CSSF circular 07/307, point 8, + chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the employees always act in the clients' best interests	Compliance risk Reputation risk Operational risk	Existence of a charging policy	Ensure that the Bank's charging policy is properly applied		✓

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MANAGING CONFLICTS OF INTEREST	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24 CSSF circular 07/307, point 8, + chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the employees always act in the clients' best interests	Compliance risk Reputation risk Operational risk	Personnel allowed to perform certain roles on client accounts	Ensure that no advantage has been given to the client / gained by the employee or the Bank		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 21 (1-6)	To detect any new sources of conflict of interest and manage all conflicts of interest	Compliance risk Legal risk Reputation risk	Establishment of a Best Execution policy	Check that the Best Execution policy is adhered to in order to ensure that the clients' interests are always best served		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 24 CSSF circular 07/307, chap 7 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 19 (1-10)	To detect any new sources of conflict of interest and manage all conflicts of interest	Compliance risk Legal risk Reputation risk	Putting in place of Suitability test for consultancy and management services	Check those operations that have generated a warning during the Suitability Test		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 12 (1), art 28 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure compliance with the regulatory provisions relating to personal transactions	Compliance risk	Addition to the code of ethics of provisions relating to the prior checking and approval by the employee committee	As far as is possible (labour law and privacy protection restrictions) perform checks on the personal transactions of employees whose duties may cause them to be faced with a conflict of interest situation, e.g. by requesting them to provide their securities trading account statements. Check portfolio rotation.		✓

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BENEFITS / INDUCEMENTS	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 30	To ensure that any new inducement received or paid is in compliance with the regulatory provisions	Compliance risk	Draw-up a register of inducements	Regularly update the register of inducements	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 12 (1), CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure confidentiality of information and the independence of the various activities (consultancy / management, negotiation of inducements, etc.)	Compliance risk Operational risk	Existence of Chinese Walls	Check that the Chinese Walls put in place are complied with	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 28 (2) c) CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that the consultancy and management services provided remain independent of any gifts or invitations received from a client	Compliance risk Reputation risk Operational risk	/	Put in place a policy regarding the acceptance of gifts and invitations	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 30 CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To identify any new benefit/inducement flows	Compliance risk Reputation risk Legal risk	/	<ul style="list-style-type: none"> • include the Compliance department in the new product acceptance process (possible retrocession flows) • include the Compliance department in the broker acceptance / review process (tender procedure) • include the Compliance department in the independent financial advisor acceptance / review process (approval, review, possible retrocession flows) • include the Compliance department in the supplier acceptance / review process (tender procedure) 	✓	

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BENEFITS / INDUCEMENTS	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 30 CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To ensure that any new inducement received or paid is in compliance with the regulatory provisions	Compliance risk Reputation risk	Receipt of / payment of inducements from / to third parties	<ul style="list-style-type: none"> • Check that the client is clearly, precisely and fully informed of any inducements paid to / received from third parties. • Check that the inducement serves to improve the quality of service supplied to the client. 	✓	
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 30 CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To identify any new retrocession / inducement flows	Compliance risk	/	Check to be performed on operational or accounting entities involved in monitoring retrocessions and inducements		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) Grand-Ducal Regulation of 13 July 2007, art 30 CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3), Art. 19 (1)	To ensure the fair treatment of clients and detect any potential conflicts of interest	Compliance risk Reputation risk Legal risk	Management of client complaints	Ensure that client complaints do not raise claims of unfair treatment due to a retrocession / inducement translated as a conflict of interest on the part of an employee in charge of the client's account		✓
	Act of 13 July 2007, art 136 (art 37-1, (2)) Act of 13 July 2007, art 136 (art 37-2) CSSF circular 07/307, chap 7 (7.1), chap 8 Directive 2004/39/EC, Art. 13 (1-10), Art. 18 (1-3)	To detect clients receiving exceptional benefits	Compliance risk Operational risk	/	Check clients' profitability and see to what extent the exceptional benefits received by some are justified		✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
SUITABILITY 1 APPROPRIATENESS	Directive 2004/39/EC, art 19 (4-5) Act of 13 July 2007, art 136 art 37-3 (4-5) RGD 41 (4) and 43 (1) CSSF circular 07/307, Chapter 6	To ensure that the necessary information has been exhaustively collected	Suitability, Disclosure and Fiduciary	Standard collection of necessary information via a questionnaire (i.e. investor profile)	Ensure that the MiFID information collection in place meets the MiFID "documentary" obligations and provide a sufficient level of control	✓	
				Missing document checking process during opening of accounts by an independent "Client file" type instance	Monitoring the progress of missing documents and resolving issues on the basis of monitoring lists of incomplete client files (in the MiFID sense)		✓
				Follow-up of missing documents by the Management and the managers			✓
	Directive 2004/39/EC, art 19 (5) Act of 13 July 2007, art 136 (art 37-3 (5) RGD 42 CSSF circular 07/307, Chapter 6	To ensure that the product/service offered is appropriate for the client's level of knowledge or experience	Suitability, Disclosure and Fiduciary	Establishment of a process / procedure for testing the appropriateness and ensuring the traceability of that test (IT comparison of each transaction, list of instruments not authorised by the client, etc.):	Evaluation of procedures / systems in place for performing the appropriateness test	✓	
				Appropriateness test passed (appropriate / non-complex instrument / information available): OK.	Based on the list of transactions having failed the appropriateness test, check by sampling that the procedures have been correctly followed (client warning and information, etc.)		✓
				Appropriateness test failed: Check that the transaction has not been performed, Or If the transaction has been performed, check that the client has received additional information and/or check that the client has signed a disclaimer confirming receipt of additional information.	Or, based on a list of transactions performed on complex instruments, check that an appropriateness test has been performed and, depending on the result, check that the information has been sent to the client / documentary justification has been received.		✓

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SUITABILITY 1 APPROPRIATENESS	Directive 2004/39/EC, art 19 (4) Act of 13 July 2007, art 136 (art 37-3 (4)) RGD 41 (2) CSSF circular 07/307, Chapter 6	To ensure that the product/service offered is suitable for the client's financial situation, investment objectives and level of knowledge or experience	Suitability, Disclosure and Fiduciary	Establish a scoring system using clear and unequivocal criteria.	Evaluation of procedures / systems in place for performing the suitability test	✓	
				Establish "investment advice" and client risk level monitoring procedures.	Monitor changes in divergence between profile and portfolio and the analysis performed by the marketing department on these divergences on the basis of an exception list		✓
				Check the portfolio risk level against the client's risk profile (composition, asset allocation etc.).			✓
				Monitoring and analysis of divergences between the client risk profile and the portfolio risk level to be carried out by the marketing department and / or an independent entity			✓
				Document the advice given to the client and its suitability (meeting minutes / record of visit / telephone recording / encoding in a CRM tool).			✓
	Directive 2004/39/EC, art 19 (6) Act of 13 July 2007, art 136 (art 37-3 (6)) RGD 44 CSSF circular 07/307, Chapter 6	To ensure compliance with the 4 conditions of simple execution, for which the firm is not obliged to assess the appropriateness of the service - Service provided at the client's initiative - Relating to a non-complex financial instrument - Client informed that the firm is not required to assess the appropriateness (possibility of standard form) - Compliance with the obligations regarding conflict of interest	Suitability, Disclosure and Fiduciary	Check that the 4 conditions are met	Review of exceptions based on a sample		✓

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CLIENT INFORMATION	Directive 2004/39/EC, art 19 (2) Act of 13 July 2007, art 136 (art 37-3, (2)) RGD 32 CSSF circular 07/307, Chapter 11	To ensure that the information provided to the client is accurate, clear and not misleading	Monitoring and Reporting	Compilation of an inventory of all information intended for clients (general conditions, account contracts, management contracts, marketing brochures, descriptions of financial products and associated risks, etc.).	Check that suitable procedures are put in place relating to the compilation and checking of information addressed to clients (clear, accurate and non-misleading information, complete and appropriate details regarding the financial institution and financial instruments)	✓	
				Establishment of procedures (and templates) relating to the compilation of all information intended for clients (including Internet information)	Based on a representative sample of the different types of information sent to the client, check the quality of information addressed to the client (check that the information provided is clear, accurate, non-misleading and complete – particularly in the absence of automated or standardised production / absence of templates)		✓
				Checking of client information produced prior to issuing (clear, accurate and non-misleading – independent entity – particularly of information not presented in a strictly standardised / automatic way)	If applicable, based on a sample, check the quality of control of information to be addressed to clients carried out by an independent entity.		✓
					New products: systematic review by the Compliance department of the description of all new products or services before launch.	✓	
	Directive 2004/39/EC, art 19 (3) Act of 13 July 2007, art 136 (art 37-3, (3)) RGD 34 to 38 CSSF circular 07/307, Chapter 11	To ensure the completeness of the information sent to clients	Monitoring and Reporting	Establishment of procedures for handing compulsory information to the client or potential client on a durable medium and before signature of the contract / performance of the service.	Check that suitable procedures are put in place for the providing compulsory information to clients (providing for support and moment of handover of information)	✓	
				Checking of hand-over of information to the client by an administrative entity (e.g.: administrative secretariat) (presence of a copy signed by the client, acknowledgements of receipt, etc.)	Following-up of missing documents and resolving outstanding documentation issues (based on an exception list).		✓

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CLIENT INFORMATION				Establishment of a procedure, (on a durable medium and in due time).for informing clients of substantial changes to the information provide (if the changes affect the service provided)	Following-up of missing documents and resolving outstanding documentation issues (based on an exception list).		✓
	Directive 2004/39/EC, art 19 (3) Act of 13 July 2007, art 136 (art 37-3, (3)) RGD 47 to 50 CSSF circular 07/307, Chapter 13	To ensure that the information sent to clients in periodic statements is correct and complete	Monitoring and Reporting	Establishment of a procedure for producing periodic reports to clients (management reports, advices of execution, financial instrument and fund statements) and setting-up a procedure for sending these reports.	Check the existence of suitable procedures relating to the production of reports to clients (completeness of legal notices) and the transmission of these reports to clients at regular intervals.	✓	
				Checking by an independent entity of the quality of the reports produced, before transmission to the clients, and transmission of these reports within the required time.	Based on a sample of reports to be provided to clients (management report, execution advice, financial instrument statements), check the quality of the reports produced.		✓
				Establishment of a procedure for identifying losses exceeding the limit previously determined in conjunction with the client, if applicable, and setting-up a procedure for quickly informing the client of these losses before the end of the day (concerns Management portfolios)	Check that a suitable procedure is in place for identifying losses exceeding the limit previously determined in conjunction with the client concerned, and a procedure for informing the client of these losses within the regulatory time frame	✓	
					Based on an exception report of identified losses, check that clients are rapidly informed of losses incurred		✓

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CLIENT CLASSIFICATION	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 136 amending art. 37-7 of the Act of 5 April 1993: transactions with eligible counterparties - art. 165 creating annex III of the Act of 5 April 1993: Grand-Ducal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33, art. 59 CSSF circular 07/307, chapter 5	Existence and Completeness of the Classification in the client file.	Event category: Level 1: Clients, Products and Business Practices. Level 2: Selection, Sponsorship and Exposure.	Existence of an inventory of client/KYC information in the banking system	Post-transaction control: search the list of clients that are not classified within the banking system: Query		✓
	Act of 13 July 2007: - art. 165 creating annex III of the Act of 5 April 1993: CSSF circular 07/307, chapter 5	Existence of a procedure for classifying clients and a client information document	Event category: Level 1: Clients, Products and Business Practices. Level 2: Suitability, Disclosure and Fiduciary	Existence of a client classification internal control procedure	Based on a sample, check the quality of information addressed to the client		✓
	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 136 amending art. 37-7 of the Act of 5 April 1993: transactions with eligible counterparties - art. 165 creating annex III of the Act of 5 April 1993: Grand-Ducal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33, art. 59 CSSF circular 07/307, chapter 5	Correctness of the classification – processing of classification requests that are atypical for the firm	Event category: Level 1: Clients, Products and Business Practices. Level 2: Selection, Sponsorship and Exposure.	* Category "per se": possible classification on the basis of legal criteria and/or substantiating documents. * Category upon request: evaluation of client profile and substantiating documents.	Check the correctness of the client classification when entering into relationship with them	✓	

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CLIENT CLASSIFICATION	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 136 amending art. 37-7 of the Act of 5 April 1993: transactions with eligible counterparties - art. 165 creating annex III of the Act of 5 April 1993: Grand-Duocal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33, art. 59 CSSF circular 07/307, chapter 5	Correctness of the classification – detection of encoding errors	Event category: Level 1: Execution and Process Management. Level 2: Transaction Capture, Execution and Maintenance	Encoding of the classification in the banking system by an independent section of the marketing department. Existence of procedures for handling client complaints (including MIFID).	Check whether the classification encoded in the banking system via the central file (most frequent case) is appropriate for the client profile - Query		✓
	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 165 creating annex III of the Act of 5 April 1993: Grand-Duocal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33 CSSF circular 07/307, chapter 5	Correctness of classification – updating client information	Event category: Level 1: Clients, Products and Business Practices. Level 2: * Selection, Sponsorship and Exposure.	* Existence of client's financial data. (Professional clients <i>per se</i> and upon request taking account of criteria on the sole basis of the credit institution in which the account is opened.) * Formal client declaration (professional clients upon request taking account of the criteria on the basis of the client's overall assets). * Annual review of non-standard clients.	Incorrect classification following a change in the client's financial situation or the services offered		✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
CLIENT CLASSIFICATION	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 136 amending art. 37-7 of the Act of 5 April 1993: transactions with eligible counterparties - art. 165 creating annex III of the Act of 5 April 1993: Grand-Ducal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33, art. 59 CSSF circular 07/307, chapter 5	Correctness of classification – per transaction	Event category: Level 1: Execution, Delivery and Process Management. Level 2: Transaction Capture, Execution and Maintenance	Existence, in the banking system, of an MiFID client classification per transaction	Check the existence of the client classification per transaction - Query		✓
	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 165 creating annex III of the Act of 5 April 1993: CSSF circular 07/307, chapter 5	Correctness of classification – client reclassification – checking communication to client of loss of rights.	Event category: Level 1: Execution, Delivery and Process Management. Level 2: Monitoring and reporting	Recording changes of classification in the banking system	Query the record of changes of classification. Check the existence of a client notification		✓
	European Directive 2004/39, art. 4 (pts 10,11,12) Act of 13 July 2007: - art. 136 amending art. 37-7 of the Act of 5 April 1993: transactions with eligible counterparties - art. 165 creating annex III of the Act of 5 April 1993: Grand-Ducal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector: art. 33, art. 59 CSSF circular 07/307, chapter 5	Client approval of applied classification (except for non-professional clients)	Event category: Level 1: Clients, Products and Business Practices. Level 2: Suitability, Disclosure and Fiduciary	Existence of an inventory of client/KYC information in the banking system	Pre-transaction or Post-transaction for existing clients. Checking the existence of the client's/ representative's signature on the account opening documents. Checking of random samples	✓	✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
OUTSOURCING	Act of 13 July 2007, art. 136 amending art. 37-1 of the Act of 5 April 1993, paragraph 5 Grand-Ducal Regulation of 13 July 2007 on the organisational requirements and rules of conduct in the financial sector, Chap II section 2 CSSF circulars 07/305, 06/240, 05/178	Completeness of essential or important outsourced operational functions	Event category: Level 1: Execution, Delivery and Process Management. Level 2: Transaction Capture, Execution and Maintenance	Existence of an inventory of outsourced services	List of essential outsourced functions		✓
		Existence of a supplier commercial relationship manager - Identification of lack of follow-up of the commercial relationship and non-identification of the duration of service provision.	Event category: Level 1: Execution, Delivery and Process Management. Level 2: Transaction Capture, Execution and Maintenance	Existence of a procedure for appointing a supplier commercial relationship manager	Existence of a RIM per essential outsourced service provider		✓
		Supplier status: detection of a relationship with an unauthorised entity if the service provided requires approval from the CSSF or an equivalent authorisation in another country.	Event category: Level 1: Clients, Products and Business Practices. Level 2: Product flaws.	Existence of a KYC record of essential outsourced services providers	During the selection process	✓	
		Existence of a service contract – checking the existence of compulsory clauses.	Event category: Level 1: Clients, Products and Business Practices. Level 2: Suitability, Disclosure and Fiduciary	Existence of a service contract	Preferably to be carried out before signing the contract or during review: Second level control of the existence of contract clauses.	✓	
		Continuity of service	Event category: Level 1: Business Disruption and System Failures Level 2: Systems.	Existence of a procedure for recording and monitoring the business relationship with suppliers of essential functions	Checking the updating of data concerning the service provider performing the external outsourced function - checking the existence of a due diligence questionnaire * updating of supplier KYC data: last annual report – authorised signatures - approval -... * site visit * obtaining a report of incidents.		✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
ORDER HANDLING	European Directive 2004/39, art. 22 Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-6 art.56 Chapter 10	To ensure the fast and fair processing of client orders (order handling) (a) encoding of relationship managers in the systems	Execution, Delivery and Process Management	* Existence of procedures stating the order processing rules (also, according to transmission mode – visit / fax / telephone / courier / other...) * Recommendation to timestamp orders (a measure that should be systematic) * Requirement to enter orders into information systems as soon as possible * Immediate transmission to persons concerned for execution	By sampling: * checking of the time stamping of orders * checking the length of time between the order being placed and its entry into system		✓
	European Directive 2004/39, art. 22 Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-6 art.56 Chapter 10	To ensure the fast and fair processing of client orders (order handling) (b) transmission to markets for execution	* Clients, Products and Business Practices. * Execution, Delivery and Process Management	* Existence of a procedure for handling orders during market execution * Transmission to the market immediately upon reception (unless specifically instructed) * Tracing of anomalies by managers * Implementation of an anomaly listing indicating: time of entry into the systems and transmission to the market greater than a certain period (30 minutes?)	* Daily analysis of the anomaly listing by the manager with formal justification of relevant cases		✓
	European Directive 2004/39, art. 22 Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-7 art.52(2) Chapter 9.1 (89)	To ensure the classification of the firm as a professional client by its counterparties / broker	Execution, Delivery and Process Management	Systematic request to be classified professional by the firm's counterparties that execute orders on behalf of the clients	Check the existence of a confirmation of the firm's MIFID status from the brokers		✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
BEST EXECUTION	European Directive 2004/39, art. 21 (1) Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-5(1) art.52(3) Chapter 9.2	To check adherence to specific client instructions	* Clients, Products and Business Practices. * Execution, Delivery and Process Management	* Statement of the principles underlying the special instructions in the execution policy * Existence of procedures relating thereto + requirement for documentation	* Ask managers and/or negotiators to pass on details of orders to which special instructions apply * Then perform random checks to ensure that the instructions have been followed and the required documentation produced		✓
	European Directive 2004/39, art. 21 Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art. 37-5(1) and 37-5(2) art 52, 53 and 54 Chapters 9.3 and 9.5	* To ensure compliance with the principles of selection of the place of execution (e.g. the most liquid market for shares, price for other products, etc.) * To ensure that the chosen places of execution are being used and obtain justification for any exceptions	* Clients, Products and Business Practices. * Execution, Delivery and Process Management	* Establishment of a list of exceptions to the chosen selection principles * Existence of procedures requiring exceptions to be documented	* Obtain and check the list of exceptions to the chosen principles * Check that the places of execution are in compliance with the defined list * Check the justification of exceptions		✓
	European Directive 2004/39, art. 21 (1-2-3) Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art. 37-5(1) art 52(4) Chapter 9.3	To ensure compliance with the price-cost criterion as defined in the execution policy	* Clients, Products and Business Practices. * Execution, Delivery and Process Management	* Existence of a procedure for ensuring best execution in terms of price/cost with respect to the policy. * Establishment of systems of control suited to the products according to the products traded (shares, bonds, structured products, forward exchange, etc.) * Principle of selection of high quality counterparties according to the products traded * Monitoring of execution practices if in-house	Analysis of executions in terms of price with respect to the measures adopted (price histories, others...)		✓

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	Legal references	Purpose	Risks covered (according to the Basle II risk classification, CSSF circular 07/301)	Pre-requirements	Description	Pre-transaction	Post-transaction
BEST EXECUTION	European Directive 2004/39, art. 21 (1-2-3) Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art. 37-5(3) Chapter 9.3 (98)	To ensure compliance with the rules relating to the execution of orders outside a regulated market or an MTF	Clients, Products and Business Practices.	* existence of a listing of orders executed outside a regulated market or an MTF	Based on the listing, ensure the express prior consent of the client.		✓
	European Directive 2004/39, art. 21 (1) 22(1) Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-6(1) art.56, 57 and 58 Chapter 10.2	To ensure compliance with the order grouping rules	* Clients, Products and Business Practices. * Execution, Delivery and Process Management	* Existence of an order allocation procedure	Check that orders have been allocated in accordance with the procedure.		✓
	European Directive 2004/39, art. 21 (4) Article (missing number?) of the Act of 5 April 1993, article (missing number?) of the Regulation of 13 July 2007, Chapter (missing number?) CSSF circular 07/307: art.37-5(4) art.53(6) Chapter 9.4	To check the effectiveness of the execution policy	* Clients, Products and Business Practices. * Internal Fraud		* Monitoring and analysis of changes in market practice. * Analysis of the selection procedure for places of execution and of brokers / counterparties. * Analysis of execution-related costs. * Checking the policy review and revisions made (if relevant).		✓