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their Implementation in the EU
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Conduct of Business Rules and their Implementation in the EU Member States

Michel TISON

Abstract

The purpose of this paper is to analyse how the Member States have implemented and put into operation the principles of conduct of business for investment firms as set out in Article 11 ISD into their national legal systems. This should provide some insight into the degree of convergence brought about by Article 11, or, conversely, whether existing disparities between the Member States constitute a barrier to the integration of the markets for investment services in the European Union. After a few general observations on the genesis and legal character of Article 11 ISD, our attention will focus on the different aspects related to the implementation of the rules of conduct in national law, namely: the regulatory techniques used (self-regulation versus hard law or intermediate forms), the level of regulation (implementation of the minimum or additional standard setting), the legal nature and effects of the conduct of business rules in the Member States, the supervision and enforcement of the conduct of business rules, and, finally, the territorial scope of application of the rules and its supervision. A final section will briefly touch upon the prospects for further developments or harmonization of the conduct of business rules in view of recent developments in both the markets and in regulation.

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