



Book III - Service providers

Title I bis - Asset management companies of AIFs

Chapter II - Authorisation requirements for aif asset management companies and for acquiring or increasing an equity interest in an aif asset management company

Section 1 - Authorisation requirements

General regulation of the AMF

Article 317-2 into force since 03 January 2018

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Article 317-2

I. - The share capital of asset management companies shall be equal to a minimum of EUR 125,000 and must be fully paid in cash at least to this minimum amount.

II. - When authorisation is granted and in subsequent financial years, the asset management company must be able to prove at any time that its level of own funds is at least equal to the higher of the two amounts referred to in Points 1 and 2 below:

- 1 • EUR 125,000 plus an amount equal to 0.02 % of the amount by which the assets under management by the asset management company exceeds EUR 250 million.

The total own funds requirement shall not exceed EUR 10 million.

The assets included in the calculation of the additional own funds requirement referred to in the third paragraph are:

- a • French or foreign AIFs in corporate form that have globally delegated management of their portfolio to the asset management company;

- b •** French or foreign AIFs in fund form managed by the asset management company, including portfolios for which it has delegated management but excluding portfolios that it manages on a delegated basis.

Up to 50% of the additional own funds requirement may be met by a guarantee given by a credit institution or insurance undertaking having its registered office in a State that is a party to the European Economic Area agreement, or in another State, provided the guarantor is subject to prudential rules considered by the AMF to be equivalent to those applicable to credit institutions and insurance undertakings having their registered offices in States that are parties to the European Economic Area agreement.

- 2 •** One-quarter of general operating expenses for the previous financial year calculated in accordance with Articles 34 *ter* to 34 *quinter* of Commission Regulation (EU) No 241/2014 of 7 January 2014.

III. - The own funds requirement at the time of authorisation shall be calculated on the basis of forecast data.

For subsequent years, the amount of general operating expenses and the total value of portfolio assets used to determine the own funds requirement shall be calculated on the basis of the most recent of the following asset management company documents: financial statements for the previous financial year, interim statement of financial position certified by the statutory auditor or the data sheet referred to in Article 318-37.

IV. - To cover any potential professional liability risks resulting from AIF management activities, the asset management company must:

- 1 •** Either have additional own funds of an amount sufficient to cover potential liability risks arising from professional negligence;
- 2 •** Or hold a professional indemnity insurance against liability arising from professional negligence which is appropriate to the risks covered.

V. - When the asset management company is also authorised by the AMF by the terms of Directive 2009/65/EC of the European Parliament and Council of 13 July 2009, it is not subject to points I, II and III the present Article.

📌 **Version into force since 3 January 2018**