



Book III - Service providers

Title Ier quater - Others asset management companies

General regulation of the AMF

Article 321-154 into force since 26 November 2020

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Article 321-154

Unless otherwise provided, Title Ib and Articles 321-155 to 321-166 are applicable for the management of collective investment:

I. - To the asset management companies referred to in Article L. 532-9, IV of the Monetary and Financial Code.

These legal entities also send the AMF the information mentioned in Article L. 214-24-20, I and II of the Monetary and Financial Code and in Article 421-36 on the terms set out in Article 110 and pages 71 to 77 of Annexe IV to Delegated Regulation (EU) No. 231/2013 of the Commission of 19 December 2012. These entities also comply with the investor disclosure obligations in Article L. 214-24-19 of the Monetary and Financial Code and in Articles 421-33 to 421-35 herein.

Without prejudice to Article 4, (3) of abovementioned Delegated Regulation (EU) No. 231/2013, if the AIFs they manage no longer fulfil the conditions referred to in Article L. 532-9, IV, first sub-paragraph 1 of the Monetary and Financial Code, these legal entities shall comply, for the management of these AIFs, with Title Ia of the present Book.

These legal entities may choose to submit the AIFs they manage to Title Ia of the present Book.

II. - To asset management companies referred to in Article L. 532-9, III, second sub-paragraph of the Monetary and Financial Code.

III. - To the asset management companies of the securitisation schemes referred to in of Article L. 214-167, I of the Monetary and

- 1 • By way of derogation from Article 321-10, an asset management company that manages one or more securitisation schemes referred to in Point I of Article L. 214-167, I of the Monetary and Financial Code must be able to prove at any time that its own funds are at least equal to the higher of the two amounts specified in a and b hereafter:

a) EUR 125,000 plus the sum of:

i) 0.02% of the amount of assets under management by the asset management company in excess of EUR 250 million, excluding the securitisation schemes referred to in Article 214-167, I of the Monetary and Financial Code; and

ii) 0.02% of the assets held by securitisation schemes referred to in Article 214-167, I of the Monetary and Financial Code and managed by the asset management company, the result being capped at a ceiling of EUR 760,000.

The own funds requirement is capped at a ceiling of EUR 10 million.

The assets included in the calculation of the additional own funds requirement referred to in a) are:

- Assets of open-ended investment companies (Sociétés d'investissement à capital variable, SICAVs) that have delegated the management of their portfolio to the asset management company;
- Assets of common funds (Fonds communs de placement, FCPs) managed by the asset management company, including portfolios for which it has delegated management to another entity, but excluding portfolios that it manages on a delegated basis;
- Assets of investment funds managed by the asset management company, including portfolios for which it has delegated management to another entity, but excluding portfolios that it manages on a delegated basis.

b) One-quarter of general operating expenses for the previous financial year, calculated in accordance with Articles 34b to 34d of Commission Regulation (EU) N° 241/2014 of 7 January 2014.

- 2 • 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 321-75.

- 3 • In order to cover any potential professional liability risks resulting from AIF management activities, excluding the securitisation schemes referred to in Article L. 214-167, I of the Monetary and Financial Code, the asset management company must:

a) Either have additional own funds of an amount sufficient to cover potential liability risks arising from professional negligence;

b) Or hold a professional indemnity insurance against liability arising from professional negligence which is appropriate to the risks covered.

IV. - To the asset management companies of "Other Collective Investments".

For the application of Title Ib to the asset management companies referred to in I to IV, the reference to "UCITS" is replaced,

depending on the case, by the reference to “AIFs” or “Other collective investment undertakings”.

By way of derogation to Articles 321-167 and 321-168, Section 2 of Chapter V of Title 1b shall apply to legal entities managing the AIFs referred to in Article L. 214-24 III 3° and to managers of European venture capital funds falling under Regulation (EU) 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds and managers of European social entrepreneurship funds falling under Regulation (EU) 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds.

📄 **Version into force since 26 November 2020**

📄 Version into force from 3 January 2018 to 25 November 2020