



Book III - Service providers

Title I ter - Asset management companies of UCITS

Chapter III - Organisational rules

Section 16 - Delegation management of UCITS

General regulation of the AMF

Article 321-97 into force since 03 January 2018

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Article 321-97

When the asset management company delegates the management of a UCITS, it shall be bound by the following conditions:

- 1 • It shall inform the AMF about the mandate without delay. Where the asset management company manages a UCITS in another European Union Member State or State party to the European Economic Area agreement, the AMF sends the information without delay to the competent authorities of the home Member State of the UCITS in question;
- 2 • Delegation shall not prevent the effectiveness of the AMF's supervision over the delegating asset management company and, in particular, must not prevent the management company from acting, or the UCITS from being managed in the best interests of its unit holders or shareholders;
- 3 • Financial management can only be delegated to a person authorised for the purpose of asset management; the delegation must be in accordance with the investment allocation criteria laid down periodically by the delegating asset management company.

For the purposes of this point, the following are considered authorised for the purpose of asset management:

- a) Asset management companies authorised to manage UCITS or AIFs;
 - b) Investment services providers authorised to provide portfolio management services on behalf of third parties;
 - c) Entities equivalent to those referred to in a) and b) which are authorised in a State that is party to the European Economic Area agreement;
 - d) Entities equivalent to those referred to in a) and b) which are authorised in a State that is not party to the European Economic Area agreement;
- 4 • Financial management cannot be delegated to a person established in a State that is not party to the European Economic Area agreement except in the conditions specified in point 3° and provided that an effective cooperation has been entered into between the AMF and the supervisory authority of that State;
 - 5 • The mandate shall not be likely to generate conflicts of interest; delegation of financial management to the depositary is prohibited;
 - 6 • The asset management company has implemented measures enabling its senior management to effectively monitor at all times the entity to which management has been delegated;
 - 7 • The mandate must not prevent the persons who conduct the business of the asset management company from giving further instructions to the entity to which functions are delegated at any time or from withdrawing the mandate with immediate effect when this is in the interest of unit holders or shareholders of the UCITS;
 - 8 • The entity to which management is delegated must be qualified and capable of undertaking the delegated functions;
 - 9 • The prospectus for the UCITS shall list the functions that the AMF has allowed the asset management company to delegate in accordance with this article.

The liability of the asset management company or the depositary shall not be affected by delegation by the management company of any functions to third parties.

The management company shall not delegate its functions to the extent that it becomes a letter-box entity.

The asset management company shall maintain the resources and expertise needed to effectively supervise the activities undertaken by third parties under an agreement with them, notably as regards management of the risk associated with that agreement.

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