



Book III - Service providers

Title II - Other service providers

Chapter V - Financial investment advisers

Section 2 - Conduct of business rules

Sub-section 5 - Information provided to clients

Paragraph 2 - Clear, accurate and non-misleading information

General regulation of the AMF

Article 325-12 into force since 08 June 2018

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Article 325-12

I. - Financial investment advisers shall ensure that the information mentioned in Point 8° of Article L. 541-8-1 of the Monetary and Financial Code that they provide or disseminate to existing or potential clients satisfies the conditions laid down in this article.

II. - Financial investment advisers shall make sure that the information referred to in I satisfies the following conditions:

- 1 • The information is accurate and always gives a fair and prominent indication of any relevant risks when referencing any potential benefits of an investment service or financial instrument;
- 2 • The information uses a font size in the indication of relevant risks that is at least equal to the predominant font size used throughout the information provided, as well as a layout ensuring such indication is prominent;

- 3 • The information is sufficient for, and presented in a way that is likely to be understood by, the average member of the group to whom it is directed, or by whom it is likely to be received;
- 4 • The information does not disguise, diminish or obscure important items, statements or warnings;
- 5 • The information is consistently presented in the same language throughout all forms of information and marketing materials that are provided to each client, unless the client has accepted to receive information in more than one language;
- 6 • The information is up-to-date and relevant to the means of communication used.

III. - Where the information compares investment services, financial instruments, or persons providing investment services, financial investment advisers shall ensure that the following conditions are satisfied:

- 1 • The comparison is meaningful and presented in a fair and balanced way;
- 2 • The sources of the information used for the comparison are specified;
- 3 • The key facts and assumptions used to make the comparison are included.

IV. - Where the information contains an indication of past performance of a financial instrument, a financial index or an investment service, financial investment advisers shall ensure that the following conditions are satisfied:

- 1 • That indication is not the most prominent feature of the communication;
- 2 • The information must include appropriate performance information which covers the preceding five years, or the whole period for which the financial instrument has been offered, the financial index has been established, or the investment service has been provided where less than five years, or such longer period as the financial investment adviser may decide, and in every case that performance information is based on complete 12-month periods;
- 3 • The reference period and the source of information are clearly stated;
- 4 • The information contains a prominent warning that the figures refer to the past and that past performance is not a reliable indicator of future results;
- 5 • Where the indication relies on figures denominated in a currency other than the euro, the currency is clearly stated, together with a warning that the return may increase or decrease as a result of currency fluctuations;
- 6 • Where the indication is based on gross performance, the effect of commissions, fees or other charges must be disclosed.

V. - Where the information includes or refers to simulated past performance, financial investment advisers shall ensure that the information relates to a financial instrument or a financial index, and that the following conditions are satisfied:

- 1 • The simulated past performance is based on the actual past performance of one or more financial instruments or financial indices which are the same as, or substantially the same as, or underlie, the financial instrument concerned;
- 2 • In respect of the actual past performance referred to in Point 1°, the conditions set out in points 1°, 2°, 3°, 5° and 6° of IV, are satisfied;
- 3 • The information contains a prominent warning that the figures refer to simulated past performance and that past performance is not a reliable indicator of future performance.

VI. - Where the information contains information on future performance, financial investment advisers shall ensure that the following conditions are satisfied:

- 1 • The information is not based on and does not refer to simulated past performance;
- 2 • The information is based on reasonable assumptions supported by objective data;
- 3 • Where the information is based on gross performance, the effect of commissions, fees or other charges must be disclosed;
- 4 • The information is based on performance scenarios in different market conditions (both negative and positive scenarios) and reflects the nature and risks of the specific types of instruments or transactions included in the analysis;
- 5 • The information contains a prominent warning that such forecasts are not a reliable indicator of future performance.

VII. - Where the information refers to a particular tax treatment, it shall prominently state that the tax treatment depends on the individual situation of each client and may be subject to change in the future.

VIII. - The information shall not use the name of any competent authority in such a way that would indicate or suggest endorsement or approval by that authority of the products or services covered by the advice.

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