



Book III - Service providers

Title II - Other service providers

Chapter V - Financial investment advisers

Section 3 - Organisational rules

Sub-section 2 - Conflicts of interest

General regulation of the AMF

Article 325-29 into force since 08 June 2018

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Article 325-29

I. - Financial investment advisers shall establish and maintain an effective conflicts of interest policy, set out in writing and appropriate to their size and organisation and to the nature, scale and complexity of their business.

Where a financial investment adviser is a member of a group, its conflicts of interest policy must also take into account any circumstances, of which it is or should be aware, that may give rise to a conflict of interest as a result of the structure and business activities of the other members of the group.

II. - The conflicts of interest policy established in compliance with I must specifically:

- 1 • Identify, with reference to the concerned activities mentioned in I of Article L. 541-1 of the Monetary and Financial Code carried out by the financial investment adviser, the circumstances which constitute or may give rise to a conflict of interest entailing a risk of damage to the interests of one or more clients;
- 2 • Specify procedures to be followed and measures to be adopted in order to prevent or manage such conflicts.

III. - The procedures and measures provided for in Point 2° of II shall be designed to ensure that persons employed to provide an advisory service and engaged in different business activities involving a conflict of interest of the kind specified in Point 1° of II carry on those activities at a level of independence appropriate to the size and activities of the financial investment adviser and of the group to which it belongs, and to the risk of damage to clients' interests.

For the purposes of Point 2° of II, procedures to be followed and measures to be adopted shall include at least such of the following as are necessary for the financial investment adviser to ensure the requisite degree of independence:

- 1 • Effective procedures to prevent or control the exchange of information between persons employed to provide an advisory service and engaged in activities involving a risk of a conflict of interest where the exchange of that information may damage the interests of one or more clients;
- 2 • Separate supervision of persons employed to provide an advisory service and whose principal functions involve providing services to clients whose interests may conflict, or who otherwise represent different interests that may conflict, including those of the financial investment adviser;
- 3 • Elimination of any direct links between the remuneration of persons employed to provide an advisory service who are principally engaged in one activity and the remuneration of, or revenues generated by, other relevant persons principally engaged in another activity, where a conflict of interest is likely to arise in relation to those activities;
- 4 • Measures to prevent or limit any person from exercising inappropriate influence over the way in which a person employed to provide an advisory service carries out his activities;
- 5 • Measures to prevent or control the simultaneous or sequential involvement of a person employed to provide an advisory service in several of the activities mentioned in I of Article L. 541-1 of the Monetary and Financial Code, where such involvement may impair the proper management of conflicts of interest.

IV. - Financial investment advisers shall ensure that disclosure to clients, pursuant to the second paragraph of Point 4° of Article L. 541-8 of the Monetary and Financial Code, is a measure of last resort that shall be used only where the effective organisational and administrative arrangements established by the financial investment adviser to prevent or manage its conflicts of interest in accordance with Point 4° of Article L. 541-8 of the Monetary and Financial Code are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of the client will be prevented.

The disclosure shall clearly state that the organisational and administrative arrangements established by the financial investment adviser to prevent or manage that conflict are not sufficient to ensure, with reasonable confidence, that the risks of damage to the interests of the client will be prevented. The disclosure shall include specific description of the conflicts of interest that arise in the provision of advisory services, taking into account the nature of the client to whom the disclosure is being made. The description shall explain the general nature and sources of conflicts of interest, as well as the risks to the client that arise as a result of the conflicts of interest and the steps undertaken to mitigate these risks, in sufficient detail to enable that client to take an informed decision with respect to the advisory service in the context of which the conflicts of interest arise.

V. - Financial investment advisers shall assess and periodically review, on an at least annual basis, the conflicts of interest policy established in accordance with I to IV and shall take all appropriate measures to address any deficiencies. Over-reliance on disclosure of conflicts of interest shall be considered a deficiency in the financial investment adviser's conflicts of interest policy.

📄 **Version into force since 8 June 2018**

📄 Version into force from 31 December 2007 to 7 June 2018

