



## Book III - Service providers

### Title II - Other service providers

#### Chapter V bis - Crowdfunding investment advisers

##### Section 2 - Conduct of business rules

### General regulation of the AMF

#### Article 325-36 into force from 09 March 2018 to 07 June 2018

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#### Article 325-36

All information, including advertisements, issued by crowdfunding investment advisers shall be fair, clear and not misleading. It shall be presented in a balanced manner.

Crowdfunding investment advisers shall make sure that the information referred to in the first paragraph satisfies the following conditions:

- 1 • All information provided by advisers to clients, including advertisements, satisfies the conditions laid down in Point 11° of Article L. 547-9 of the Monetary and Financial Code.

Crowdfunding investment advisers shall likewise ensure that all information, including advertisements, that they provide to clients or that is likely to be received by clients, satisfies the conditions laid down in Points 2° to 8° below.

- 2 • The information shall include the name of the crowdfunding investment adviser.

It shall be accurate and in particular shall not emphasise any potential benefits of a financial instrument without also giving a fair and prominent indication of any relevant risks.

It shall be sufficient for, and presented in a way that is likely to be understood by, an average investor in the category to which it is addressed or by which it is likely to be received.

It shall not disguise, diminish or obscure important items, statements or warnings.

**3 •** Where the information compares financial instruments, the following conditions shall be satisfied:

- a •** The comparison must be relevant and presented in a fair and balanced way;
- b •** The sources of the information used for the comparison must be specified;
- c •** The key facts and assumptions used to make the comparison must be included.

**4 •** Where the information contains an indication of past performance of a financial instrument, the following conditions shall be satisfied:

- a •** That indication must not be the most prominent feature of the communication;
- b •** 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 if less than five years, or such longer period as the crowdfunding investment adviser may decide. In every case that performance information must be based on complete 12-month periods;
- c •** The reference period and the source of information must be clearly stated;
- d •** The information must contain a prominent warning that the figures refer to past performance and that such past performance is not a reliable indicator of future results;
- e •** Where the indication relies on figures denominated in a currency other than the euro, the currency must be clearly stated, together with a warning that the return may increase or decrease as a result of currency fluctuations;
- f •** Where the indication is based on gross performance, the effect of commissions, fees or other charges must be disclosed.

**5 •** Where the information includes or refers to simulated past performance, it must relate to a financial instrument, and the following conditions shall be satisfied:

- a •** The simulated past performance must be based on the actual past performance of one or more financial instruments which are similar to, or underlie, the financial instrument concerned;
- b •** In respect of the actual past performance referred to in Point 5° a) of this Article, the conditions set out in a to c, e and f of Point 4° above must be complied with;
- c •** The information must contain a prominent warning that the figures refer to simulated past performance and that past performance is not a reliable indicator of future performance.

**6 •** Where the information contains information on future performance, the following conditions shall be satisfied:

- a •** The information must not be based on or refer to simulated past performance;
- b •** It must be based on reasonable assumptions supported by objective data;

- c • Where the information is based on gross performance, the effect of commissions, fees or other charges must be disclosed;
  - d • The information must contain a prominent warning that such forecasts are not a reliable indicator of future performance.
- 7 • 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.
- 8 • 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 of the crowdfunding investment adviser.

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✎ **Version into force from 9 March 2018 to 7 June 2018**

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