



Book III - Service providers

Title II - Other service providers

Chapter V - Financial investment advisers

Section 2 - Conduct of business rules

General regulation of the AMF

Article 325-5 into force from 09 March 2018 to 07 June 2018

DISCLAIMER : Information boxes have been inserted within the General Regulation. They allow for a direct access to the relevant European regulations on the subject matter.

The user will be redirected to the European regulations as initially published in the Official Journal of the European Union and to the subsequent corrigenda, if any. The AMF does not guarantee the completeness of the redirections to these European regulations and corrigenda.

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Article 325-5

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

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

- 1 • All information provided to clients, including advertisements, satisfies the conditions laid down in Point 8° of Article L. 541-8-1 of the Monetary and Financial Code.

Financial 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 financial investment adviser.

It shall be accurate and in particular shall not emphasise any potential benefits of an investment service or 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 investment services, financial instruments, or persons providing investment services, 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, a financial index or an investment service, 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, the financial index has been established, or the investment service has been provided if less than five years, or such longer period as the financial 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 or a financial index, 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 or financial indices 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 circumstances 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 financial investment adviser.

✎ Version into force since 1 January 2023

✎ Version into force from 8 June 2018 to 31 December 2022

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

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