



## Book III - Service providers

### Title II - Other service providers

#### Chapter V - Financial investment advisers

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

##### Sub-section 4 - Knowledge about clients

## General regulation of the AMF

### Article 325-8 into force from 08 June 2018 to 21 February 2019

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#### Article 325-8

I. - Financial investment advisers shall determine the extent of the information to be collected from clients in light of the features of the advisory services to be provided to those clients. Financial investment advisers shall obtain from clients or potential clients such information as is necessary for them to understand the essential facts about the client and to have a reasonable basis for determining, giving due consideration to the nature and extent of the service provided, that the specific transaction, operation or service to be recommended satisfies the following criteria:

- 1 • It meets the investment objectives of the client in question, as well as the client's risk tolerance in the case of the advisory services mentioned in Points 1° and 3° of I of Article L. 541-1 of the Monetary and Financial Code;
- 2 • It is such that the client is able financially to bear any related risks consistent with his investment objectives;
- 3 • The client has the necessary experience and knowledge in order to understand the risks involved in the transaction, operation or service.

II. - The information regarding the financial situation of the client or potential client shall include, where relevant, information on the source and extent of his or her regular income, his assets, including liquid assets, investments and real property, and his or her regular financial commitments.

III. - The information regarding the investment objectives of the client or potential client shall include, where relevant, information on the length of time for which the client wishes to hold the investment, his preferences regarding risk taking, his risk profile, and the purposes of the investment.

IV. - Financial investment advisers shall ensure that the information regarding a client's or potential client's knowledge and experience includes the following, to the extent appropriate to the nature of the client, the nature and extent of the service to be provided and the type of product or transaction envisaged, including their complexity and the risks involved in the said service:

- 1 • The types of service, transaction and financial instrument with which the client is familiar;
- 2 • The nature, quantity, and frequency of the services or transactions in financial instruments carried out or subscribed by the client and the length of the period over which the client carried out or subscribed to these services or transactions;
- 3 • The level of education and occupation or relevant former occupation of the client or potential client.

V. - Where a client is a legal person or a group of two or more legal persons or where one or more legal persons are represented by another legal person, the financial investment adviser shall establish and implement a policy as to who should be subject to the suitability assessment and how this assessment will be done in practice, including from whom information about knowledge and experience, financial situation and investment objectives should be collected. The financial investment adviser shall formally record this policy.

Where a legal person is represented by another legal person, the financial situation and investment objectives shall be those of the legal person or, in relation to the legal person, the underlying client rather than of the representative. The knowledge and experience shall be that of the representative of the natural person or the person authorised to carry out transactions on behalf of the underlying client.

VI. - Financial investment advisers shall take reasonable steps to ensure that the information collected about their clients or potential clients is reliable. This shall include, but shall not be limited to, the following:

- 1 • Clients are aware of the importance of providing accurate and up-to-date information;
- 2 • All tools, such as risk assessment profiling tools or tools to assess a client's knowledge and experience, used in the suitability assessment process are fit-for-purpose and are appropriately designed for use with their clients, with any limitations identified and actively mitigated through the suitability assessment process;
- 3 • Questions used in the process are likely to be understood by clients, capture an accurate reflection of the client's objectives and needs, and the information necessary to undertake the suitability assessment; and
- 4 • Appropriate steps are taken to ensure the consistency of client information, such as by considering whether there are obvious inaccuracies in the information provided by clients.

Financial investment advisers having an ongoing relationship with a client and that provide an ongoing advisory service shall have, and be able to demonstrate, procedures to maintain appropriate and up-to-date information about clients to the extent necessary to fulfil the requirements under II.

VII. - Financial investment advisers that do not obtain the information required under Point 4° of Article L. 541-8-1 of the Monetary and Financial Code shall not recommend investment services or financial instruments to client or potential clients.

VIII. - Financial investment advisers shall have procedures in place to ensure that they understand the nature and features, including costs and risks, of investment services and financial instruments selected for their clients in their overall offering. This procedure shall assess in addition, while taking into account cost and complexity, whether equivalent investment services or financial instruments can meet their client's profile. Financial investment advisers shall be able to demonstrate that they have such procedures.

IX. - Financial investment advisers shall not recommend where none of the services or instruments are suitable for the client.

X. - When providing investment advisory services that involve switching investments, either by selling an instrument and buying another or by exercising a right to make a change in regard to an existing instrument, financial investment advisers shall collect the necessary information on the client's existing investments and the recommended new investments and shall undertake an analysis of the costs and benefits of the switch, such that they are reasonably able to demonstrate that the benefits of switching are greater than the costs.

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📄 **Version into force from 8 June 2018 to 21 February 2019**

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