



Book IV - Collective investment products

Title II - AIFS

Chapter II - Funds open to retail investors

Section 1 - Retail investment funds

Sub-section 1 - Authorisation

Paragraph 2 - Common funds (FCPS)

General regulation of the AMF

Article 422-11 into force since 26 April 2020

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Article 422-11

I. - Authorisation of an FCP, which is provided for under Article L. 214-24-24 of the Monetary and Financial Code and, where applicable, the authorisation of each sub-fund provided for under the same Article, is subject to prior filing of an application with the AMF containing the elements stipulated in an AMF Instruction.

The AMF notifies the asset management company whether authorisation of the FCP has been granted or refused, within one month of the filing of the application.

If the AMF does not respond for one month following the acknowledgement of receipt of the application, authorisation is deemed to be granted.

If the AMF asks for further information that requires the asset management company to submit a supplementary information sheet, the AMF serves written notice stipulating that it shall receive the items requested within sixty days. If it fails to receive the said items within this period, the authorisation application is deemed to be rejected. The AMF issues a written acknowledgement

of receipt when it has received all the information requested. The acknowledgement of receipt stipulates a new deadline for authorisation, which cannot be longer than the one referred to in the second and third paragraphs.

II. - The period referred to in I is reduced to eight working days from the acknowledgement of receipt of the authorisation application by the AMF, when the FCP applying for authorisation is comparable to a UCITS or an retail investment fund already authorised by the AMF; this is notably the case when, pursuant to the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the FCP was created by a demerger of a FCP already authorised by the AMF.

The AMF assesses the comparability of the FCP applying for authorisation, called the "comparable FCP", and the UCITS or retail investment fund previously authorised by the AMF, called the "reference UCITS or retail investment fund", with respect to the following:

- 1 • The reference UCITS or retail investment fund and the comparable FCP are managed by the same asset management company or the same delegated investment manager, or by investment management companies or delegated investment managers belonging to the same corporate group and, subject to the AMF's assessment, of the information provided by the asset management company of the comparable FCP, in accordance with the requirements stipulated in an AMF Instruction;
- 2 • The reference UCITS or retail investment fund has been authorised by the AMF and incorporated less than eighteen months before the date of receipt by the AMF of the authorisation application for the comparable FCP. At the reasoned request of the asset management company of the comparable FCP, the AMF may accept an authorised reference UCITS or retail investment fund that has been incorporated for more than eighteen months at the date of receipt of the authorisation application for the comparable FCP;
- 3 • The reference UCITS or retail investment fund has not undergone any changes other than those referred to in an AMF Instruction.

At the reasoned request of the management company of the comparable FCP, the AMF may allow a UCITS or retail investment fund that has undergone changes other than those referred to in the Instruction to be a reference UCITS or retail investment fund;

- 4 • Subscribers to the comparable FCP shall meet the subscription and purchasing requirements of the reference UCITS or retail investment fund;
- 5 • The investment strategy, risk profile, operating rules and fund rules of the comparable FCP shall be similar to those of the reference UCITS or retail investment fund.

By way of derogation from points 1° to 5° above, when, pursuant to the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the comparable FCP was created by a demerger of a FCP already authorised by the AMF, the comparability of the new FCP is assessed by the AMF notably on the basis of whether the investment strategy, risk profile, operating rules and fund rules of the comparable FCP are similar to those of the reference AIF.

Whenever one of the incorporating documents of the comparable FCP is different from that of the reference UCITS or retail investment fund or when, pursuant to the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the FCP was created by a demerger of a FCP already authorised by the AMF, it shall be clearly identified in the authorisation application of the comparable FCP, in accordance with the procedures stipulated in an AMF Instruction.

Whenever the AMF asks for further information that requires submission of a supplementary information sheet, the AMF shall notify the applicant, stipulating that the requested elements must be received within sixty days. If these elements are not received within this period, the authorisation application is deemed to be rejected. Upon receipt of all the requested information, the AMF shall issue a written acknowledgement of receipt. The acknowledgement of receipt stipulates a new deadline for authorisation of eight working days or less.

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Whenever the comparable FCP or the reference UCITS or retail investment fund do not comply with the requirements referred to in this Article, the AMF shall notify the applicant, stipulating that the supplementary information required to compile an authorisation application under the procedures described in I must be received within sixty days. If all the supplementary information is not received within this period, the authorisation application is deemed to be rejected. Upon receipt of all the supplementary information, the AMF shall issue a written acknowledgement of receipt and examine the authorisation application for the FCP under the conditions and procedures referred to in I. The acknowledgement of receipt stipulates a new deadline for authorisation of one month or less.

✚ **Version into force since 26 April 2020**

✚ Version into force from 21 December 2013 to 25 April 2020