



Book IV - Collective investment products

Title II - AIFS

Chapter IV - Employee savings scheme funds

Section 1 - Authorisation

General regulation of the AMF

Article 424-2 into force since 26 April 2020

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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 424-2

I.- Authorisation of a SICAV for employee shareholders or an employee investment undertaking is subject to prior filing of an application with the AMF that contains the elements stipulated in an AMF Instruction.

Silence on the part of the AMF for a period of one month from the day the AMF acknowledges receipt of the request shall be deemed authorisation of the request. If the AMF asks for further information that requires the asset management company to submit a supplementary information sheet, the AMF will serve written notice stipulating that the information requested must arrive within sixty days. If it fails to receive the information within this period, the authorisation application is deemed to be rejected. The AMF issues a written acknowledgement of receipt when it has received all of the information requested. The acknowledgement of receipt stipulates a new authorisation waiting time, which cannot be longer than the one stipulated in the second paragraph.

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 AIF applying for authorisation is comparable to an AIF already authorised by the AMF; this is notably the case when, pursuant to the second paragraph of Article L. 214-24-33 or the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the AIF was created by a demerger of an AIF already authorised by the AMF.

The AMF assesses the comparability of the AIF applying for authorisation, called the "comparable AIF", and the AIF previously authorised by the AMF, called the "reference AIF", with respect to the following :

- 1 • The reference AIF and the comparable AIF 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 supplied by the management company of the comparable AIF in accordance with the requirements stipulated in an AMF instruction;
- 2 • The reference AIF has been authorised by the AMF and established less than eighteen months before the date of the AMF's receipt of the authorisation application for the comparable AIF. At the reasoned request of the management company of the comparable AIF, the AMF may accept a reference AIF that has been authorised and established for more than eighteen months at the date of receipt of the authorisation application for the comparable AIF;
- 3 • The reference AIF 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 AIF, the AMF may allow an AIF that has undergone changes other than those referred to in the Instruction to be a reference AIF;
- 4 • Subscribers to the comparable AIF shall meet the requirements for subscribing or purchasing the reference AIF.
- 5 • The investment strategy, risk profile, operating rules and fund rules of the comparable AIF shall be similar to those of the reference AIF.

By way of derogation from points 1° to 5° above, when, pursuant to the second paragraph of Article L. 214-24-33 or the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the comparable AIF was created by a demerger of an AIF already authorised by the AMF, the comparability of the new AIF is assessed by the AMF notably on the basis of whether the investment strategy, risk profile, operating rules and fund rules of the comparable AIF are similar to those of the reference AIF.

Whenever one of the incorporating documents of the comparable AIF is different from that of the reference AIF, or when, pursuant to the second paragraph of Article L. 214-24-33 or the second paragraph of Article L. 214-24-41 of the Monetary and Financial Code, the AIF was created by a demerger of an AIF already authorised by the AMF it shall be clearly identified in the authorisation application of the comparable AIF, 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.

Whenever the comparable AIF or the reference AIF does 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 has been received, the AMF shall issue a written acknowledgement of receipt and examine the authorisation application for the AIF 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