



## PROCEDURES FOR PRE-MARKETING OR MARKETING UNITS OR SHARES OF AIFs

Reference texts: Articles 421-A, 421-1, 421-3-1, 421-13, 421-13-1, 421-14, 421-14-1, 421-27 and 421-27-3 of the AMF General Regulation

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**This document comprises annexes which are accessible via the Annexes and Links section**

Annex A - Form for the pre-marketing in France or in another European Union Member State of units or shares of AIFs established in a Member State of the European Union (French AIFs included) by an asset management company

Annex 1 - Notification file for marketing in France of units or shares of European Union AIFs managed by an asset management company authorised in France

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Annex 2-2 - Items to be attached to the file referred to in Annex 2-1

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2. Annex 4 - File for the de-notification of arrangements for marketing in France of units or shares of European Union AIFs (French AIFs included) managed by an asset management company authorised in France

3. Annex 4-1 - File for the de-notification of arrangements for marketing in a Member State of the European Union other than France of units or shares of European Union AIFs (French AIFs included) managed by a portfolio asset management company authorised in France

## Scope of application

This instruction sets out the conditions applicable to the following procedures:

1. The **procedure for the pre-marketing in France or in another European Union Member State**<sup>1</sup> of units or shares of AIFs established in a Member State of the European Union (French AIFs included) and managed by an asset management company authorised in France under Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 (AIFM Directive),
2. The **procedure for marketing in France** of units or shares in AIFs:
  - established in France or in a European Union Member State other than France and managed by an asset management company authorised in France under the AIFM Directive,
  - established in France or in a European Union Member State other than France and managed by a management company authorised in a European Union Member State other than France under the AIFM Directive,
  - established in a third country and/or managed by a manager established in a third country.
3. The **procedure for marketing in a European Union Member State other than France** of units or shares of European Union AIFs (French AIFs included) managed by an asset management company authorised in France under the AIFM Directive (“out” passport);
4. The **procedure for the de-notification of arrangements for marketing in France or in another European Union Member State** of units or shares of AIFs established in a Member State of the European Union (French AIFs included) and managed by an asset management company authorised in France under the AIFM Directive).

This instruction does not explain the provisions relating to the passport mechanism provided by Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market.

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<sup>1</sup> For the purposes of the application of this instruction, any reference to the Member States of the European Union and the European Union shall be understood as including the other States that are parties to the European Economic Area agreement.

In this respect it is stated that if an AIF is of the closed-ended type within the meaning of Regulation (EU) 2017/1129 of 14 June 2017, application should be made both of the provisions of this instruction and of those based on the said Regulation.

Finally, this instruction does not apply to French asset management companies that are not authorised under the AIFM Directive.<sup>2</sup> Nor does it concern marketing of units or shares of AIFs under Regulation (EU) n° 345/2013 of the European Parliament and the Council of 17 April 2013 on European venture capital funds or Regulation (EU) n° 346/2013 of the European Parliament and the Council of 17 April 2013 on European social entrepreneurship funds.

### Terms used

The term AIF also refers to the "Other AIFs" referred to in Article L. 214-24, III of the Monetary and Financial Code.

When the AIF is self-managed, the terms "asset management company", "management company" and "manager" refer to the AIF itself.

The term professional clients refers to:

- professional clients corresponding to the criteria of Article D. 533-11 of the Monetary and Financial Code, and
- clients opting for professional client treatment.<sup>3</sup>

## Chapter I - Procedure for the pre-marketing in France or in another European Union Member State of units or shares of AIFs of the European Union (French AIFs included)

This chapter applies to AIFs established in France or in another European Union Member State and managed by an asset management company authorised in France under the AIFM Directive.

As an introduction, you are reminded that any asset management company that conducts activities of pre-marketing of units or shares of a European Union AIF to professional clients in France or in another European Union Member State, in accordance with Article L. 214-24-2-1 of the Monetary and Financial Code, must send the AMF the letter referred to in Article D. 214-32-4-1-1 of the said Code within two weeks of the start of such pre-marketing.

### **Article 1**

The pre-marketing letter shall be a duly completed copy of the form in Annex A to this Instruction. It must be sent by the asset management company to the AMF by email to the following address: [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

In the event of any change to the information mentioned in the pre-marketing letter, a new letter must be sent.

## Chapter II – Provisions applicable to marketing in France of units or shares of AIFs

### **Section I - Procedures for marketing and for de-notification of arrangements for marketing in France of units or shares of European Union AIFs (French AIFs included) managed by an asset management company authorised in France under the AIFM Directive**

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<sup>2</sup> In other words, this instruction does not apply to asset management companies for which the total value of the assets of the AIFs they manage, calculated in accordance with Article 2 of Delegated Regulation (EU) n° 231/2013 of the Commission of 19 December 2012, is below the thresholds set out in Article R. 532-12-1 of the Monetary and Financial Code and which have not opted for full application of the AIFM directive.

<sup>3</sup> Articles L. 533-16, D. 533-12 and D. 533-12-1 of the Monetary and Financial Code.

As an introduction, when the application for marketing in France (to professional or retail clients) concerns a French authorised or declared<sup>4</sup> AIF and is made at the same time as the authorisation application or declaration of the AIF, the asset management company shall refer to the instruction applicable to the AIF in question (see AMF Instructions DOC-2011-20, DOC-2011-21, DOC-2011-22, DOC-2011-23 and DOC-2012-06). If the application for marketing in France (to professional or retail clients) is made after the authorisation or declaration, the asset management company shall refer to the procedure hereafter.

Only (French) AIFs authorised or declared after 22 July 2014 must comply with the obligation of notification and authorisation of marketing in France provided by Article L. 214-24-1 of the Monetary and Financial Code.

You are also reminded that pursuant to Article 33 of Decree n° 2013-676 of 25 July 2013 amending the legal framework of asset management, the regime for marketing in France of AIFs established in the European Union and managed by an asset management company does not apply to marketing of units or shares of AIFs subject to a public offer with a prospectus that was drafted and published in accordance with Regulation (EU) 2017/1129 of 14 June 2017, for the period of validity of the prospectus.

I - Procedures for marketing and for de-notification of arrangements for marketing to professional clients

#### **Article 2**

Pursuant to Article 421-1 of the AMF General Regulation, all AIFs established in France or in another European Union Member State and managed by an asset management company authorised in France under the AIFM Directive must be the subject of a procedure of notification to the AMF prior to marketing their units or shares in France to professional clients.

#### **Article 3**

The marketing notification file shall comprise:

- 1) a duly completed copy of the form in Annex 1 to this Instruction,
- 2) the attachments referred to in Annex 1, along with any other document that the management company deems necessary for the examination of the application.

#### **Article 4**

The notification file is transmitted directly to the AMF through the GECO database extranet of the asset management company. If the AIF is not referenced in the GECO database when the application is made and does not require authorisation or declaration, the asset management company must register beforehand.

#### **Article 5**

When it receives a complete notification file, the AMF sends an acknowledgement of receipt for the file by e-mail.

#### **Article 6**

Pursuant to Article 421-2 of the AMF General Regulation, the AMF shall indicate within 20 business days of receipt of the complete notification file whether the asset management company may start marketing the units or shares of the AIF to professional clients.

The AMF may ask for further information. If it does so, it informs the asset management company to this effect. The asset management company may send this additional information to the AMF by e-mail, indicating the references of the file.

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<sup>4</sup> These are retail investment funds, funds of alternative funds, private equity funds, real estate collective investment undertakings (OPCI), professional real estate collective investment undertakings, professional investment funds, professional specialised funds, professional private equity funds and employee investment undertakings.

Pursuant to Article 421-2 of the AMF General Regulation, the AMF shall only object to marketing of the AIF if the management of said AIF by the asset management company is not, or will not be compliant with the laws and regulations applicable to asset management companies or with Books II and V of the Monetary and Financial Code.

Marketing may only start in France when the asset management company has received the positive decision of the AMF sent by e-mail.

#### **Article 7**

Pursuant to Article 421-3 of the AMF General Regulation, in the event of a material change to any of the particulars communicated in accordance with Article 3 of this Instruction, the asset management company shall inform the AMF to this effect by e-mail to the address [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org), at least one month before implementing the change as regards any changes planned by the asset management company, or immediately after an unplanned change has occurred.

#### **Article 8**

Pursuant to Article 421-3-1 of the AMF General Regulation, any asset management company wishing to de-notify the file sent to the AMF for the marketing in France of units or shares in some or all of the AIFs mentioned in this notification, must send the AMF a marketing de-notification application file.

#### **Article 9**

The marketing de-notification application file shall comprise:

- 1) a duly completed copy of the form in Annex 4 to this Instruction,
- 2) the attachments referred to in Annex 4, along with any other document that the asset management company deems necessary for the examination of the application.

#### **Article 10**

The de-notification file must be sent directly to the AMF by email to the address: [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

#### **Article 11**

The AMF checks that the notification sent to it by the asset management company pursuant to Article 421-3-1, II of the AMF General Regulation is complete. Within 15 business days of receipt of a complete de-notification application file, the AMF shall send an acknowledgement of receipt to the asset management company by email.

Any new or further, direct or indirect, offering or placement of the units or shares identified in the notification must cease as of the de-notification date indicated in the de-notification file transmitted to the AMF.

### II - Procedure for marketing to retail clients

#### **Article 12**

Pursuant to Article 421-13 of the AMF General Regulation, all marketing in France to retail clients is subject to an authorisation procedure.

An asset management company that intends to market units or shares of an AIF to retail clients in France pursuant to paragraph III of Article 214-24-1 of the Monetary and Financial Code, must make facilities available to such clients to perform the tasks referred to in paragraph IV of the abovementioned Article 421-13.

All authorisation applications for marketing in France to retail clients must also be accompanied by a marketing notification referred to in Article 2 of this instruction or must be made after such notification:

#### a) For French AIFs

1st case - An application is being made for marketing to retail clients at the same time as marketing to professional clients

If, when filing the application referred to in Article 2, the asset management company is also applying for an authorisation for marketing in France of units or shares of AIFs to retail clients, the AMF shall indicate within the same period of 20 business days referred to in Article 5, subject to the file being complete, whether the asset management company may start marketing the units or shares of the AIF to retail clients.

2nd case - An application is being made for marketing to retail clients when the AIF can already be marketed to professional clients

If, when filing the application referred to in Article 2, the asset management company did not also apply for an authorisation for marketing in France of units or shares of AIFs to retail clients, the AMF shall indicate within a period of 20 business days, subject to the file being complete, whether the asset management company may start marketing the units or shares of the AIF to retail clients.

b) For AIFs established in a European Union Member State other than France

Marketing in France to retail clients of units or shares of AIFs established in a European Union Member State other than France is subject to the particular conditions provided by Article 421-13 of the AMF General Regulation;

1) an instrument of information exchange and mutual assistance in the area of discretionary asset management has been put in place between the AMF and the supervisory authority of the AIF;

2) the AIF meets the conditions provided by a mutual recognition agreement for AIFs that may be marketed to retail clients, entered into between the AMF and the supervisory authority of the AIF.

In this case, the asset management company shall attach evidence of compliance with the abovementioned conditions to the file. Any incomplete application shall be inadmissible.

If the file is complete, the AMF shall indicate within 20 business days whether the asset management company may start marketing the units or shares of the AIF to retail clients.

**Section II - Procedure for marketing in France of units or shares of European Union AIFs (French AIFs included) managed by a management company authorised in a European Union Member State other than France under the AIFM Directive**

I - Procedure for marketing to professional clients

**Article 13**

All AIFs established in France or in another European Member State and managed by a management company authorised under the AIFM Directive in a European Member State other than France must be the subject, prior to marketing in France of their units or shares to professional clients, of a notification to the authority of the said management company (Article 32 of the AIFM Directive).

This notification is transmitted by the home authority of the management company to the AMF. This transmission is notified to the management company by its home authority. Marketing may start in France as of the date of that notification to the management company by its competent authority.

II - Procedure for marketing to retail clients

**Article 14**

All AIFs established in France or in another European Union Member State and managed by a management company authorised under the AIFM Directive in a European Member State other than France must be the subject,

prior to marketing in France of their units or shares to retail clients, of an authorisation procedure (Article 421-13 of the AMF General Regulation).

The marketing authorisation application file ("marketing application") shall be signed by a person duly empowered by the management company, which is to say either one of the senior managers of the management company or a person specifically empowered to that effect.

This marketing application may not be made before the AMF has received the notification referred to in Article 11. In other words, the notification procedure referred to in Article 10 must have been complied with beforehand.

#### **Article 15**

Marketing in France to retail clients of units or shares of AIFs managed by a management company established in a European Union Member State other than France is subject to the particular conditions provided by Article 421-13 of the AMF General Regulation:

- 1) an instrument of information exchange and mutual assistance in the area of discretionary asset management has been put in place between the AMF and the supervisory authority of the management company; and
- 2) the management company meets the conditions provided by a mutual recognition agreement setting out the particular requirements applicable to the authorisation of management companies of AIFs that may be marketed to retail clients, entered into between the AMF and the supervisory authority of the management company.

You are reminded that any asset management that intends to market units or shares in an AIF to retail clients in France, must make facilities available to such clients to perform the tasks referred to in paragraph IV of the abovementioned Article 421-13.

Also, marketing in France to retail clients of units or shares of AIFs established in a European Union Member State other than France is subject to the particular conditions provided by Article 421-13 of the AMF General Regulation:

- 1) an instrument of information exchange and mutual assistance in the area of discretionary asset management has been put in place between the AMF and the supervisory authority of the AIF;
- 2) the AIF meets the conditions provided by a mutual recognition agreement for AIFs that may be marketed to retail clients, entered into between the AMF and the supervisory authority of the AIF.

The management company shall attach evidence of compliance with the abovementioned conditions to the file. Any incomplete application shall be inadmissible.

The application file shall be transmitted by e-mail to the following address: [gio@amf-france.org](mailto:gio@amf-france.org).

#### **Article 16**

When it receives a complete marketing application, the AMF sends an acknowledgement of receipt for the file by e-mail.

#### **Article 17**

The AMF shall indicate within 20 business days of receipt of the complete file whether the asset management company may start marketing the units or shares of the AIF to retail clients.

The AMF may ask for further information; if it does so, it informs the management company to this effect. The management company may send this additional information to the AMF by e-mail, indicating the references of the file.

Marketing may only start in France when the management company has received the positive decision of the AMF.

#### **Article 18**

The management company shall inform the AMF promptly by e-mail to the address [gio@amf-france.org](mailto:gio@amf-france.org) of any material change to the particulars transmitted in the marketing authorisation application. The AMF may take any measure including, if necessary, the express prohibition of marketing in France to retail clients of the shares or units of the AIF.

### **Section III - Procedure for marketing in France of units or shares of AIFs established in a third country or European Union AIFs (French AIFs included) and managed by a manager established in a third country**

This section applies, for marketing to professional clients and retail clients:

- to AIFs of third countries, whether they are managed by an asset management company, management company or manager established in a third country
- to AIFs, whether they are established in the European Union (France included) or in a third country, where they are managed by a manager established in a third country.

#### **Article 19**

Pursuant to Article 421-13-1 of the AMF General Regulation, any AIF established in a third country or any AIF established in the European Union and managed by a manager established in a third country, must be the subject, prior to marketing in France of its units or shares, of a procedure of authorisation by the AMF.

The marketing application must:

- for marketing to professional clients, provide evidence of compliance with the conditions set out in Article D. 214-32 of the Monetary and Financial Code; and
- for marketing to retail clients, provide evidence of compliance with the conditions set out in Article 421-13 of the AMF General Regulation.

Any incomplete application shall be inadmissible.

The marketing application shall be signed by a person duly empowered by the asset management company, management company or manager. This person shall be one of the senior managers of the asset management company, management company or manager or a person specifically empowered to that effect.

#### **Article 20**

The marketing application shall comprise:

- 1) a duly completed copy of the form in Annex 3 to this instruction or, where applicable, a copy of the specific form provided for by the mutual recognition agreement specified under Article 421-13 of the AMF General Regulation,
- 2) the attachments referred to in Annex 3, along with any other document that the asset management company, management company or manager deems necessary for the examination of the application.
- 3) when the asset management company, management company or manager intends to market units or shares in the AIF to retail clients in France, the information on the provision of facilities to such clients to carry out the tasks referred to in paragraph IV of the abovementioned Article 421-13.

The marketing application may be transmitted directly to the AMF:

- via the GECO database of the asset management company; or
- by e-mail to the address [gio@amf-france.org](mailto:gio@amf-france.org) for management companies established in a European Union Member State other than France or managers established in a third country.

#### **Article 21**

When it receives a complete marketing application, the AMF sends an acknowledgement of receipt for the file by e-mail.

#### **Article 22**

The AMF shall indicate within two months of receipt of a complete file, by e-mail to the asset management company, management company or manager, whether it may start marketing in France of the units or shares of the AIF and the conditions of that marketing.

The AMF may ask for further information. If it does so, it shall inform the asset management company, management company or manager to this effect. The asset management company, management company or manager may send this additional information to the AMF by e-mail, indicating the references of the file.

Marketing may only start in France when the asset management company, management company or manager has received the positive decision of the AMF.

#### **Article 23**

The asset management company, management company or manager shall inform the AMF by e-mail to the address [gio@amf-france.org](mailto:gio@amf-france.org) of any material change to the particulars transmitted in the authorisation application for marketing of the units or shares of the AIF. The AMF may take any measure including, if necessary, the express prohibition of marketing in France of the units or shares of the AIF.

#### **Section IV - Other general provisions relating to marketing in France of units or shares of AIFs**

##### **Article 24 - Facilities made available for investors**

Pursuant to Article 421-13 of the AMF General Regulation, asset management companies, management companies or managers of AIFs marketed to retail clients in France make facilities available to such investors to perform out certain tasks listed in the said article.

You are reminded that pursuant to Article 421-27 of the AMF General Regulation, an AIF subject to authorisation as stipulated by Articles 421-13 and 421-13-1, its asset management company, management company or manager may appoint a third party established in France as their “correspondent” to carry out the tasks provided by Article 421-13, IV, in the conditions set out in paragraph V of the said article.

The correspondent may also be responsible for payment of the fixed annual fee due to the AMF, in accordance with Article L. 621-5-3 of the Monetary and Financial Code.

##### **Article 25 – Fixed-sum AMF filing fee relating to marketing**

A filing fee is due to the AMF on the conditions set out in Article L. 621-5-3 of the Monetary and Financial Code. Regardless of the attachments required within the framework of the passport or non-passport marketing procedure, proof of payment must be transmitted to the AMF for marketing in France.

##### **Article 26 - Examination by the AMF of marketing of the AIF**

The AMF is entitled to request any further information about the marketing of the UCITS and, in particular, the marketing materials before they are disseminated.

You are reminded that Articles 4 and 7 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 set out the requirements regarding marketing communications and ex ante verification of such marketing communications by the competent authorities.

By the terms of Article 421-25 of the AMF General Regulation, the AMF may exercise the prerogatives referred to in Article 314-6 with regard to any person distributing AIFs.

Advertisements from the AIF aimed at investors shall be clearly identified as such. They shall be accurate, clear and not misleading. More specifically, if an advertisement containing an invitation to buy units or shares in an AIF

includes specific information about the AIF, it cannot contain information that contradicts the information provided in the investor disclosure documents or that understates the importance of such information.

Such advertisements shall state whether investor disclosure documents exist and are available.

They shall stipulate where and in which languages the holders of units or shares of the AIF and potential investors can obtain this information and these documents, or how they can gain access to them.

Article L. 533-12 Monetary and Financial Code provides that "All information, including promotional communications, sent by investment service providers ... to clients, and to potential clients in particular, must be accurate, clear and not misleading. Promotional communications must be clearly identifiable as such".<sup>5 6</sup> Article L. 533-22-2-1 Monetary and Financial Code provides that "All information, including promotional communications, sent by portfolio management companies to investors must be accurate, clear and not misleading. Promotional communications must be clearly identifiable as such ."

Finally, in accordance with Article 314-6 of the AMF General Regulation, "The AMF may require investment services providers to submit to it their marketing communications for the investment services that they provide and the financial instruments that they offer prior to publication, distribution or broadcast. It may require changes to the presentation or the content to ensure that the information is accurate, clear and not misleading ."

The abovementioned provisions of Articles L. 533-12 and L. 533-22-2-1 of the Monetary and Financial Code, 44 of Delegated Regulation (EU) 2017/565 of 25 April 2016, 421-25, 314-6 and following of the AMF General Regulation and Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 apply notably to advertising for the AIF.

If the AMF has asked the asset management company, management company or manager to submit the marketing communications of the AIF to it, such communications shall be sent to the following e-mail address: [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

#### **Article 27 - Information made available to the public in France**

1. Pursuant to Article 421-27 of the AMF General Regulation, management companies established in a European Union Member State other than France or managers established in a third country shall be required to inform unit or shareholders in the same conditions as those required in France (for example, for AIFs authorised for marketing to retail or professional clients, in the conditions set out in AMF Instructions DOC-2011-20 and DOC-2012-06 respectively).

2. With the exception of third country AIFs managed by a manager established in a third country and marketed to retail clients only,<sup>7</sup> pursuant to Article 421-34, I of the AMF General Regulation, the asset management company, management company or manager shall provide investors of the AIF with the following information before they invest in the AIF:

a) a description of the investment strategy and objectives of the AIF, information on where any master AIF within the meaning of the AIFM Directive<sup>8</sup> is established and where the underlying funds are established if the AIF is a fund of funds, a description of the types of assets in which the AIF may invest, the techniques it may employ and all associated risks, any applicable investment restrictions, the circumstances in which the AIF may use leverage, the types and sources of leverage permitted and the associated risks, any restrictions on the use of leverage and

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<sup>5</sup> Details are given in article 44 of Delegated Regulation (EU) 2017/565 of 25 April 2016.

<sup>6</sup> This provision applies to asset management companies authorised to offer one or more investment services under article L. 532-9 VII Monetary and Financial Code.

<sup>7</sup> Pursuant to the provisions of Section II, Article 421-A of the AMF General Regulation, Article 421-34 of said General Regulation is not applicable to third country AIFs managed by a manager established in a third country and marketed to retail clients only.

<sup>8</sup> This definition is transposed into French law in Article L. 214-24 IV of the Monetary and Financial Code.

any collateral and asset reuse arrangements, and the maximum level of leverage which the asset management company, management company or manager is entitled to employ on behalf of the AIF;

b) a description of the procedures by which the AIF may change its investment strategy or investment policy, or both;

c) a description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, on the applicable law and on the existence or not of any legal instruments providing for the recognition and enforcement of judgements in the territory where the AIF is established;

d) the identity of the asset management company, management company or manager, of the AIF's depository, auditor and any other service providers and a description of their duties and the investors' rights;

e) a description of how the asset management company, management company or manager is complying with the requirements of Article 9(7) of the AIFM Directive;<sup>9</sup>

f) a description of any management function delegated by the asset management company, management company or manager and of any safe-keeping function delegated by the depository, the identification of the delegate and any conflicts of interest that may arise from such delegations;

g) a description of the AIF's valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing hard-to-value assets;

h) a description of the AIF's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with investors;

i) A description of any fees, charges and commission, together with the maximum amounts applicable, that are borne either directly or indirectly by investors.

j) a description of how the asset management company, management company or manager ensures a fair treatment of investors and, whenever an investor obtains preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, the type of investors who obtain such preferential treatment and, where relevant, their legal or economic links with the AIF or asset management company, management company or manager;

k) where available, the last annual report referred to in point 3 of this article;

l) The procedure and conditions for issuing and buying back units or shares.

m) where necessary, the last net asset value of AIF or the last market price of AIF units or shares:

n) where available, the historical performance of the AIF;

o) the identity of the prime broker and a description of any material arrangements of the AIF with its prime brokers and the way the conflicts of interest in relation thereto are managed and the provision in the contract with the depository on the possibility of transfer and reuse of AIF assets, and information about any transfer of liability to the prime broker that may exist;

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<sup>9</sup> Transposed into French law in Article 317-2 IV of the AMF General Regulation.

p) description of how and when the information required under paragraphs 4 and 5 of Article 23 of the AIFM Directive will be disclosed;<sup>10</sup>

q) When the units or shares of AIF are admitted for trading on a regulated market or a multilateral trading facility pursuant to Article D. 214-32-31 of the [French] Monetary and Financial Code, the AIFs make information on the procedures of this admission available to the public and, where necessary, the impact of this admission on subscription/redemption fees/commissions for investors choosing this distribution method.

You are also reminded that Article 421-34 of the AMF General Regulation also makes the following provisions:  
"II. - The AIF or its asset management company, management company or AIF manager shall inform investors before they invest in the AIF of any arrangement made by the depositary to contractually discharge itself of liability in accordance with II and III of Article L. 214-24-10 of the Monetary and Financial Code. The AIF or its asset management company, management company or manager shall also inform investors without delay of any changes with respect to depositary liability.

[...]

IV. European Union AIFs and AIFs marketed in the European Union employing leverage, or their asset management company, management company or manager, periodically disclose to unit or shareholders:

1. The percentage of the AIF's assets subject to special arrangements arising from their illiquid nature; 2° Any new arrangements for managing the liquidity of the AIF;
2. Any new arrangements for managing the liquidity of the AIF;
3. The current risk profile of the AIF and the risk management systems employed by the AIF or its asset management company, management company or AIF manager to manage those risks.

V. European Union AIFs and AIFs marketed in the European Union employing leverage, or their asset management company, management company or manager, disclose the following information regularly for each of these AIFs:

1. Any changes to the maximum level of leverage which the asset management company, management company or AIF manager may employ on behalf of the AIF as well as any right of reuse of the AIF's assets given as collateral and any guarantee under the leveraging arrangements;
- 2° The total amount of leverage employed by that AIF ."

The annual report shall contain at least the following:

- the management report,
- the financial statements defined by the chart of accounts and including the certification issued by the statutory auditor,
- any material changes, within the meaning of Article 106 of Delegated Regulation (EU) n° 231/2013 of the Commission of 19 December 2012, to the information referred to in point 2 of this article of the instruction during the financial year covered by the report,
- the total amount of remuneration for the financial year, split into fixed and variable remuneration, paid by the asset management company, management company or manager to its staff, the number of beneficiaries and, where relevant, carried interests paid by the AIF.
- the aggregate amount of remuneration broken down by senior managers and members of staff of the asset management company, management company or manager whose activities have a material impact on the risk profile of the AIF.

Pursuant to Article L. 214-24-19 of the Monetary and Financial Code, the accounting information given in the annual report shall be prepared in accordance with French accounting standards or the accounting standards of the country in which the AIF is established.

The report produced by the statutory auditor and, where applicable, any qualified opinions, must be reproduced in full in the annual report.

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<sup>10</sup> Transposed in Article 421-34 IV and V of the AMF General Regulation.

Third country AIFs managed by a manager and marketed solely to retail clients are subject to the disclosure rules provided for by the mutual recognition agreements specified under Article 421-13 of the AMF General Regulation.

**Chapter III - Procedures for marketing and for the de-notification of arrangements for marketing in a European Union Member State other than France of units or shares of European Union AIFs (French AIFs included) managed by an asset management company authorised in France under Directive 2011/61/EC (AIFM Directive) (“outgoing” passport)**

**Article 28**

Pursuant to Article 421-14 of the AMF General Regulation, all AIFs established in France or in another European Union Member State and managed by an asset management company authorised in France under the AIFM Directive must be the subject of a procedure of notification to the AMF prior to marketing their units or shares to professional clients in a European Union Member State other than France.

**Article 29**

Pursuant to Article 421-14 of the AMF General Regulation, the marketing notification file comprises:

- 1) A copy of the notification letter in Annex 2-1 to this Instruction, drafted in a language customary in the sphere of international finance, in which each section is completed;
- 2) the attachments referred to in Annex 2- 2, along with any other document that the asset management company deems necessary for the examination of the application. These attachments are drafted in a language customary in the sphere of international finance or in a language accepted by the competent authorities of the Member State in which the asset management company intends to market the units or shares of the AIF.

The notification file is transmitted directly to the AMF through the GECO database extranet of the asset management company.

**Article 30**

When it receives a complete marketing notification file, the AMF sends an acknowledgement of receipt for the file by e-mail.

**Article 31**

According to Article L. 214-24-2, III and Article D. 214-32-4-1 of the Monetary and Financial Code, the AMF shall transmit the notification file within 20 business days to the competent authorities of the host Member State where it is intended that the units or shares of the AIF be marketed. The AMF shall enclose a statement to the effect that the asset management company of the AIF concerned is authorised to manage AIFs with a particular investment strategy.

The AMF shall, without delay, notify the asset management company about the transmission of the abovementioned file to the competent authorities of the host Member State. The units or shares of the AIF may be marketed to professional clients in the host Member State as of the date of the abovementioned notification.

It is hereby stated that the asset management company shall:

- check any additional requirements of the host Member State relating to marketing;
- if it intends to market units or shares of the AIF to retail clients in the host Member State, check any conditions and arrangements for such marketing, where appropriate.

**Article 32**

In accordance with Article L. 214-24-2, V of the Monetary and Financial Code, in the event of a material change to any of the particulars communicated in the notification file, the asset management company shall inform the AMF to this effect by e-mail to the address [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org), using the template in Annex 2-1, at least 1 month before implementing the change or immediately after an unplanned change has occurred.

**Article 33**

Pursuant to Article 421-14-1 of the AMF General Regulation, any asset management company wishing to de-notify the file sent to the AMF for the marketing in a European Union Member State other than France of units or shares in some or all of the AIFs marketed in that State, must send the AMF a notification containing the information referred to in the said article.

**Article 34**

The marketing de-notification application file shall comprise:

- 1) a duly completed copy of the form in Annex 4-1 to this Instruction,
- 2) the attachments referred to in Annex 4-1, along with any other document that the asset management company deems necessary for the examination of the application.

**Article 35**

The de-notification file must be sent directly to the AMF by email to the address [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

**Article 36**

Within no more than 15 business days of receipt of a complete de-notification application, the AMF transmits this de-notification to the competent authorities of the Member State of the European Union identified in the notification and to the European Securities and Markets Authority. Once that has been transmitted, it notifies the asset management company to that effect promptly.

Any new or further, direct or indirect, offering or placement of the units or shares identified in the notification must cease as of the de-notification date indicated in the de-notification file transmitted to the AMF.