

**Position – Recommendation**

**Q&A on changes in the ownership structure of asset management companies – DOC-2009-24**

References: Articles 312-11 to 312-15 and Articles 317-10 to 317-14 of the AMF General Regulation

1. What are the main measures relating to changes in the ownership structure of asset management companies?.....	1
2. What is the scope of the provisions relating to changes in the ownership structure of asset management companies?.....	1
3. Are there special rules for intragroup transactions?.....	2
4. When should notification take place?.....	2
5. Who is responsible for prior notification of the AMF of transactions that change a company's ownership structure? .....	2
6. What documents must be sent to the AMF when there is a change in ownership structure? ...	2
7. What are the deadlines for the examination of submissions by the AMF? .....	3
8. How does the examination procedure work? .....	3
9. How does the AMF inform the asset management company, the sellers and the acquirers of its decision?.....	3

The inclusion in the AMF General Regulation of Articles 312-11 et seq. and, subsequently, Articles 317-10 et seq., is the result of the transposition into domestic law of European Parliament and Council Directive 2007/44/EC of 5 September 2007. This follows the amendments made to the Monetary and Financial Code by Executive Order 2009-897 of 24 July 2009 and Decree 2009-1223 of 12 October 2009 on the prudential assessment of acquisitions and increases of holdings in the financial sector.

**Except where recommendations are specifically identified, elements of policy included in this document are positions.**

**1. What are the main measures relating to changes in the ownership structure of asset management companies?**

All direct or indirect transactions involving the acquisition, increasing, sale, loss or reduction of qualifying holdings are subject to **prior notification of the AMF**. In other words, the AMF must be notified of all such transactions before they are completed. These provisions define **thresholds** above and below which transactions are subject to prior notification (10%, 20%, 33.3% and 50% of the company's voting rights or capital). Prior notification is also necessary if the transaction results in a person gaining or losing significant influence over the asset management company's management.

**2. What is the scope of the provisions relating to changes in the ownership structure of asset management companies?**

These provisions apply to changes in the ownership structure of all asset management companies, whether they fall under UCITS Directive 2009/65/EC, MiFID Directive 2004/39/EC or AIFM Directive 2011/61/EU.

They are applicable to all transactions involving the sale or acquisition of holdings, including indirect holdings, in these asset management companies. Transactions involving less than 10% of a company's

voting rights do not require notification of the AMF, however, unless they entail the crossing of the thresholds of 10%, 20%, 33.3% or 50% of the asset management company's voting rights or capital, or they result in a person gaining or losing significant influence over the asset management company's management.

Notification is also required for the acquisition, increasing, sale or reduction of holdings resulting in the crossing of the threshold of 50% of the asset management company's capital.

### **3. Are there special rules for intragroup transactions?**

Yes. The AMF only needs to be informed of transactions completed between companies placed under the effective control of the same company by equity ownership ties. However, if these intragroup transactions result in the transferring of effective management control, or the holding of all or part of the company's voting rights by one or more people not governed by the laws of a state that is party to the European Economic Area agreement, prior notification is required.

### **4. When should notification take place?**

Notification should take place before completing any transaction that allows a person acting alone or in concert with other people to directly or indirectly acquire, increase, reduce or sell a holding in an asset management company above or below the abovementioned thresholds. In practical terms, notification of the proposal must be given as soon as the decision is made to complete the transaction. If a threshold is crossed involuntarily, the AMF must be notified as soon as the company in question becomes aware that the threshold has been crossed.

### **5. Who is responsible for prior notification of the AMF of transactions that change a company's ownership structure?**

#### **Recommendation**

To facilitate and speed up exchanges of information with its departments, **the AMF recommends the centralisation and transmitting of all the relevant documents, whether they relate to an acquisition or increase of a holding and/or the sale or reduction of a holding, by the asset management company affected by the change in ownership structure.**

Proposed sellers and acquirers may, of course, directly send the documents regarding them to the AMF, by using the standard forms available on the AMF's website (<http://www.amf-france.org/>).

### **6. What documents must be sent to the AMF when there is a change in ownership structure?**

- Asset management companies must **make sure that they make complete submissions** to the AMF, as it can only start to examine notifications under optimum conditions once all the documents have been collected.

A complete submission, to be sent by the asset management company to the AMF by post, includes at least:

- the declaration(s) of the seller(s) in free format specifying the terms of sales and the identity of the new shareholders;
- two original copies of the submission summary form (appendix 4 to instruction 2008-03), and two original copies of form C1;
- two copies of a declaration for each provider of capital, accompanied by supporting documents and the letter to be sent to the Chairman of the AMF (appendices 2.1 and 2.2 to instruction 2008-03);

- a memo presenting the effects of the transaction on the company's organisation, financial strategy and management in the short and medium term.

**In any event, information that the AMF already holds does not need to be sent again.**

**If there is a change of control**, a complete update of the programme of operations is also required from the asset management company to take into account all the changes introduced by the change of control. The proposed acquirer's submission may be examined and the asset management company's programme of operations may be updated simultaneously by the AMF. However, just because the AMF has approved the holding acquisition or increase does not necessarily mean that it will approve the update of the programme of operations.

**Asset management companies are invited to contact their usual AMF contact person as far ahead of the transaction as possible to discuss its terms and timetable, and to precisely define the information to be transmitted, especially for the updating of the programme of operations.**

#### **7. What are the deadlines for the examination of submissions by the AMF?**

The AMF has **60 business days** from receipt of a complete submission to inform the asset management company and the proposer seller and acquirer of its decision in writing. This time limit may be suspended under the conditions set in Articles 312-13 and 317-12 of the AMF General Regulation if additional information needs to be requested.

#### **8. How does the examination procedure work?**

A holding acquisition or increase by a given person is most often accompanied by a holding sale or reduction by another person. In such cases, and if the two procedures are independent of each other and each follow the rules applicable to them, the AMF will strive to examine the submission as a whole in a homogeneous and harmonious way.

#### **Recommendation**

Note that it is recommended that asset management companies centralise and send all the relevant documents.

#### **9. How does the AMF inform the asset management company, the sellers and the acquirers of its decision?**

The AMF sends:

- the asset management company one of the two copies of the signed C1 form;
- the proposed acquirer the signed declaration of the providers of capital;
- the seller a letter informing them of its decision.

If the AMF refuses to grant approval, the proposed acquirer, the proposed seller and the asset management company are informed by letter of the reasons for this refusal.