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## **Discretionary portfolio management obligations with respect to retail clients: the AMF strengthens its policy**

The Autorité des Marchés Financiers (AMF) is strengthening its policy on professional obligations towards retail clients with regard to discretionary portfolio management (DOC-2007-21). Certain principles already applied to collective management will be reapplied and mandates invested in unlisted securities will be supervised with new rules.

### **Alligning certain aspects of policy applicable to collective management and adding clarifications on the content of the periodic statement.**

Principles taken from the policy applicable to collective management

The AMF is adopting policy elements already applicable within the framework of collective management. In this regard it recommends:

- a presentation of the risk/reward profile, according to the target allocation, in the form of a summary indicator based on the terms prescribed for UCITS, prior to signing the mandate. The summary indicator would thereby rate the discretionary mandate on a scale of 1 to 7. This information would subsequently appear at least in the periodic management statements.

- the appropriate use of the label profil prudent (conservative profile) in discretionary mandates,
- automatic comparison of the mandate's performance with the benchmark indicator provided for in the mandate, where appropriate,
- ensuring that outperformance commissions respect a number of conditions pertaining to the absence of excessive risks, the verifiability of performance, the reasonable frequency of the deduction and correct information provided by the principal on the potential impact of commissions on the performance of the mandate.

Additional clarifications to be provided on the content of the periodic management statement

The AMF recommends expanding the content of the periodic management statement to include:

- the macro-economic context that has a significant impact on the underlying assets,
- the management decisions made during the period under review,
- the valuation method used for financial instruments in the portfolio, for changes made since previous periodic statement and,
- where appropriate, the portfolio's gearing.

## **Enhanced supervision of mandates invested in unlisted securities**

The AMF has noted an increase in the number of offers for mandates invested in unlisted securities presented as a means of financing SMEs in exchange for an advantageous tax allowance. In order to overcome the lack of transparency with respect to retail investors in terms of fees, conflict-of-interest situations, the valuation of financial instruments held, and the information provided by the principal on the impact of the investment in preference shares, the AMF now addresses this type of mandate in its position DOC-2007-21.

### Fees

The AMF thereby recommends aligning fee presentation with that of private equity funds, in the form of average annual fees, detailing the various categories of fees (subscription fee, management fee, indirect management fees) and indicating the maximum duration beyond which the agent can no longer deduct fees or distribution commissions. When the agent is

likely to deduct fees on the underlying companies in exchange for an effective service, the rate of indirect fees borne by the principal cannot be shown as 0%. In this case, the AMF recommends:

- clarifying in the mandate that the agent may be required to deduct from their target companies a maximum cumulative fee equal to X% over the duration of the recommended investment, which may potentially pose a risk to the financial health of the target companies;
- including the list of services invoiced by the agent to the target companies as well as the corresponding fees in the periodic management statement.

### Conflicts of interest

The AMF recommends presenting in the discretionary mandate and in the periodic management statement potential cases of conflicts of interest identified by the agent as well as any identified measures for supervising them.

### Valuation methods

The discretionary mandate must describe the method used for valuing the financial instruments in which the agent has invested. The periodic management statement will mention the valuation of each financial instrument at fair value.

### The impact of investment in preference shares

The discretionary mandate and marketing materials must present the impact of preference shares in which the agent intends to invest on the performance of the discretionary mandate. When the agent intends to invest in preference shares which are callable by the historic shareholders of the target company, this mechanism can only be presented as a liquidity mechanism.

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