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Market timing and late trading practices: update of AMF position DOC 2004-07

The Autorité des Marchés Financiers (AMF) has updated its position DOC-2004-07 on market timing and late trading practices to integrate the provisions introduced in the delegated regulation supplementing the directive on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II). Some non-substantive adjustments have also been made to the position following transposition of the directive on alternative investment fund managers (AIFM).

Integration of Solvency II

Impact of the solvency capital calculation method

Directive 2009/138/EC on the taking-up and pursuit of the business of insurance and reinsurance (Solvency II) requires that insurance and reinsurance undertakings hold eligible own funds covering the solvency capital requirement. Article 84 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing this directive imposes a look-through approach to calculate the solvency capital requirement. This requirement must be calculated on the basis of each of the underlying assets of collective investment undertakings and other investments packaged as funds. To comply with this regulation, insurance and reinsurance undertakings must therefore have access to the composition of the portfolios of the investment funds in which they have invested.

Disclosure of the composition of the assets of the collective investment undertakings under management

From now on, management companies will be authorised, if they so wish, to disclose the composition of the assets of the collective investment undertakings they manage to professional investors supervised by the ACPR (French prudential supervision and resolution authority), the AMF or equivalent European authorities, but only for the purposes of calculating the regulatory requirements related to the Solvency II directive. Such disclosure may be made directly by the management company or indirectly through a third party under the conditions of the delegation, within a time limit that may not be less than 48 hours after publication of the net asset value.

Stringent conditions for the disclosure of information

The system is strictly regulated to prevent this disclosure of information from infringing the principle of equal treatment of shareholders or holders of units in a collective investment undertaking:

- The management company ensures that all investors have implemented procedures for managing this sensitive information before disclosing the composition of the portfolio, so that this information is used only to calculate prudential requirements;
- The management company must inform shareholders or holders of units in the collective investment undertaking about the system, by any means, prior to its implementation;
- Disclosure of the composition of the portfolio of the collective investment undertaking to these investors is provided for, where applicable, in the prospectus.

Integration of AIFM

The changes made following transposition of the AIFM directive relate to:

- fund names following the overhaul of the range; and
- legislative and regulatory references.

Read more

- Commission Delegated Regulation (EU) 2015/35 of 10 October 2014
- Position DOC-2004-07 on market timing and late trading practices

Keywords

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Legal information:

Head of publications: The Executive Director of AMF Communication Directorate. Contact:

Communication Directorate – Autorité des marchés financiers 17 place de la Bourse – 75082 Paris
cedex 02