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Declared Alternative Investment Funds (AIF): policy update

The AMF is updating its policy on declared AIFs (which previously included specialised professional funds (FPS) and professional private equity investment funds (FPCI)) to take account of recent national and European legislative and regulatory developments and also to integrate specialised financial vehicles.

Addition of Specialised Financing Vehicles (OFS)

The AMF is clarifying its policy concerning the declaration and modification of specialised financing vehicles. This new AIF category was introduced by an order in 2017 on the modernisation of the legal framework of asset management and debt financing. The vehicles may be set up either as a fund (specialised financing fund) or a company (specialised financing companies). Specialised financing vehicles are open in particular to professional investors and investors with an initial subscription of at least €100,000. They are not subject to prior authorisation by the AMF, but must be declared to the AMF. Like the specialised professional fund, specialised financing vehicles may invest in all asset classes, under certain conditions. Another specific characteristic of this fund is that it can issue and acquire debt securities via assignment deeds.

Consequently, new appendices have been added to instruction DOC-2012-06 concerning the contents of the specialised financing vehicle prospectus, the articles of incorporation of the specialised financing fund, the master-feeder exchange agreement, as well as three forms relating to the reporting of a specialised financing vehicle and the report of changes that affect a specialised financing vehicle.

Update of instructions further to legislative and regulatory developments

EU Regulation (EU) 2017/1131 on money market funds (MMF regulation) came into force on 21 July 2018. Today, any new UCITS or AIF that corresponds to the definition of a money market fund within the meaning of the MMF regulation must obtain a specific authorisation. Specialised professional funds and specialised financing vehicles can be concerned and must, in such a case, in addition to their declaration to the AMF, apply for authorisation as a monetary fund. A guide was published in July 2018 for the financial marketplace, setting out the authorisation and monitoring procedures for money market funds. Instruction DOC-2012-06, as well as the appendices relating to specialised professional funds and specialised financing vehicles, were adjusted accordingly.

In addition, during the work to transpose MiFID II and separate the legal regime of portfolio asset management companies from that of investment firms, some provisions of the Monetary and Financial Code and the AMF General Regulation were renumbered. Instruction DOC-2012-06 has therefore been amended in order to update the regulatory references required after this renumbering.

Change in the procedure for reporting fees

The procedure for displaying research costs in the prospectuses of AIFs managed by a portfolio management company that chooses to use a research payment account as part of its collective management activity are specified in the standard template of the UCIs concerned.

The AMF is also changing the way outperformance fees are published in regulatory literature in order to allow the publishing of a maximum rate of outperformance sharing when the effect rate is also indicated. These changes are the continuation of the changes made in the instructions applicable to other UCIs (DOC-2011-19, 2011-20, 2011-21 and 2011-23), in the version published on 26 November 2019.

The AMF draws the attention of investment management companies to the one-year grace period as from the publication of this update to bring the regulatory documentation of their CIUs into compliance, provided that this does not place them in a situation of non-compliance with the laws and regulations in force. In particular, the update may involve adjustments to the contents of regulatory documents.

Scope	Reference	Title
Instruction	DOC-2012-06	Procedures for declaring, amending and drawing up a prospectus and periodic disclosures of specialised professional funds, professional private equity investment funds and specialised financing vehicles

Other changes may be made in the course of the year, in particular with respect to the implementing texts of the PACTE law.

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