

## Book III - Service providers

### Title I bis - Asset management companies of AIFs

#### Chapter III - Organisational rules

##### Section 17 - Delegation of AIF management

## General regulation of the AMF

### Article 318-62 en vigueur au 03 January 2018

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#### Article 318-62

I. - When an asset management company delegates the management of an AIF, the following conditions shall be met:

- 1 • It shall notify the AMF of the delegation before the delegation arrangements become effective;
- 2 • It must be able to justify its entire delegation structure on objective reasons;
- 3 • The delegate must dispose of sufficient resources to perform the respective tasks and the persons who effectively conduct the business of the delegate must be of sufficiently good repute and sufficiently experienced;
- 4 • Where the delegation concerns asset management or risk management, it may be conferred only on a person authorised for the purposes of asset management and subject to supervision within the meaning of and as set forth under Article 78 of the Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 or, if those conditions cannot be met subject to prior approval by the AMF;
- 5 • Where the delegation concerns asset management or risk management of an AIF that is open to professional investors and is conferred upon a third country undertaking, under the conditions specified in point 4°, cooperation between the AMF and

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the supervisory authority of the undertaking must be ensured;

- 6 • The delegation must not prevent the effectiveness of supervision of the asset management company, and, in particular, must not prevent the asset management company from acting, or the AIF from being managed, in the best interests of its unit or shareholders;
- 7 • The asset management company must be able to demonstrate that the delegate is qualified and capable of undertaking the functions in question, that it was selected with all due care and that the asset management company is in a position to monitor effectively at any time the delegated activity, to give at any time further instructions to the delegate and to withdraw the delegation with immediate effect when this is in the interest of the unit or shareholders of the AIF.

The asset management company shall review the services provided by each delegate on an ongoing basis.

II. - No delegation of portfolio management or risk management shall be conferred upon:

- 1 • The depositary or a delegate of the depositary;
- 2 • Any other entity whose interests may conflict with those of the asset management company or the unit or shareholders of the AIF, unless such entity has functionally and hierarchically separated the performance of its portfolio management or risk management tasks from its other potentially conflicting tasks, and the potential conflicts of interest are properly identified, managed, monitored and disclosed to the unit and shareholders of the AIF.

III. - The liability of the asset management company towards the AIF and its unit or shareholders shall not be affected by the fact that it has delegated functions to a third party, or by any further sub-delegation. The asset management company shall not delegate its functions to the extent that it becomes a letter-box entity.

IV. - The delegate may sub-delegate any of the functions delegated to it, provided that the following conditions are met:

- 1 • The delegating asset management company consented prior to the sub-delegation;
- 2 • The delegating asset management company notified the AMF before the sub-delegation arrangements become effective;
- 3 • The conditions set out in Paragraph I are met, on the understanding that all references to the "delegate" are read as references to the "sub-delegate".

V. - No sub-delegation of portfolio management or risk management shall be conferred upon entities referred to in Paragraph II. The relevant delegate shall review the services provided by each sub-delegate on an ongoing basis.

VI. - Where the sub-delegate further delegates any of the functions delegated to it, the conditions set out in Paragraph 4 shall apply *mutatis mutandis*.

## All versions

📄 Version into force since 3 January 2018