



# AUTHORISATION AND ESTABLISHMENT PROCESSES FOR A KIID<sup>1</sup> AND A PROSPECTUS AND PERIODIC INFORMATION FOR REAL ESTATE COLLECTIVE INVESTMENT UNDERTAKINGS AND PROFESSIONAL REAL ESTATE COLLECTIVE INVESTMENT UNDERTAKINGS

Reference texts: articles 422-121 et seq. and 423-12 et seq. of the AMF General Regulation

## Table of contents

Chapter I - Processes.....	3
Section I - Creation of a real estate collective investment undertaking .....	3
Section II - Changes (subject to pre-approval/ex-post notification) during the life of a real estate collective investment undertaking and procedures for notifying investors .....	8
<b>Sub-section 1 - Types of changes during the life of a real estate collective investment undertaking .....</b>	<b>9</b>
<b>Sub-section 2 - Changes subject to pre-approval.....</b>	<b>17</b>
<b>Sub-section 3 - Changes subject to ex-post notification.....</b>	<b>20</b>
<b>Sub-section 4 - Investor notification when changes occur in the life of real estate collective investment undertakings and notification of the AMF.....</b>	<b>21</b>
Chapter II - Preparing the key investor information document (KIID), the prospectus, and periodic reporting .....	24
Section I - Key investor information document (KIID) and prospectus of a real estate collective investment undertaking .....	24
Section II - Periodic information .....	28
Chapter III – Reporting to the AMF.....	33

<sup>1</sup> KIID: key investor information document

**This document includes annexes that may be viewed under the "Annexes and links" tab:**

**Annex I – Establishment of a real estate collective investment undertaking or a sub-fund of a real estate collective investment undertaking – Application for authorisation**

**Annex I bis – Formation of a real estate collective investment undertaking or a sub-fund – Correlation table for information to be made available to investors and provided to the AMF when filing an application to market in France**

**Annex II – Letter of undertaking from the management company for the authorisation application of a real estate collective investment undertaking**

**Annex II bis – Reference framework for the undertaking signed by the management company**

**Annex III – Authorisation for changes subject to pre-approval to a real estate collective investment undertaking**

**Annex III bis – Procedures for filling in authorisation forms for changes subject to pre-approval**

**Annex IV – Application for authorisation following a request for additional information for a real estate collective investment undertaking**

**Annex V – Form for notification of a change subject to ex-post notification to a real estate collective investment undertaking**

**Annex VI – Application for multiple changes subject to ex-post notification**

**Annex VII – Commitment of external valuers to the AMF**

**Annex VIII – Standard template of individual notifications to unitholders or shareholders (Simple or complex conversion)**

**Annex IX – Standard template of the key investor information document (KIID)**

**Annex X – Standard template of the prospectus**

**Annex XI – Standard template of regulations for real estate funds**

**Annex XII – Standard template for articles of incorporation for open-ended real estate investment companies**

**Annex XIII – Statistical and financial data to be filed with the AMF**

**Annex XIV – Form to be filled out in the event of a product change entailing the consideration of non-financial criteria presented as a key management aspect in the Key Investor Information Document (KIID) or the marketing materials of the real estate collective investment undertaking.**

This instruction applies to real estate collective investment undertakings (OPCI) and professional real estate collective investment undertakings.

Unless otherwise indicated, the term “OPCI” in this instruction refers to an OPCI, a real estate collective investment undertaking, or a sub-fund of an OPCI or real estate collective investment undertaking.

Unless expressly stipulated otherwise, the term “management company” in this instruction means asset management companies authorised in France<sup>2</sup> or management companies authorised in a Member State other than France that manage one or more alternative investment funds (AIFs) in France under the freedom to provide services or the freedom of establishment.

Unless otherwise specified, where reference is made in this Instruction to the transmission of documents from the management company, this must be done through the GECO database extranet. However, those management companies located in another Member State than France and managing or wishing to manage a real estate collective investment undertaking shall transmit such documents to the following e-mail address: [gio@amf-france.org](mailto:gio@amf-france.org).

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<sup>2</sup> Whether it is subject to title I or title I bis of book III of the AMF General Regulation.

## CHAPTER I - PROCESSES

### Section I - Creation of a real estate collective investment undertaking

#### Authorisation process and authorisation period for a real estate collective investment undertaking

Step	Management company of the real estate fund or open-ended real estate investment company	Autorité des Marchés Financiers (AMF)
1	Files an authorisation application for a real estate collective investment undertaking	
2		Checks compliance of the application Acknowledges receipt of the application, specifying the expiry date of the authorisation period or rejects the application, with an explanation of the reasons for the rejection
3		Examines the application - May contact the applicant.
4		Where applicable, requests supplementary information, which may or may not require the management company to submit a supplementary information form.
4 bis	Where applicable, files the supplementary information form and the requested information within 60 days of the date of the request	
4 ter		Receives the supplementary information form and requested information Acknowledges receipt of the filing, specifying the new expiry date of the authorisation period
5		Provides notification of the decision to grant or refuse authorisation or implicit authorisation decision
6	Provides notification of the deposit certificate for the capital of the real estate fund or the initial capital of the open-ended real estate investment company	
7		Updates the information in the GECO database
8	Sends the final key investor information document (KIID) and prospectus for real estate collective investment undertakings or sends only the prospectus for dedicated real estate collective investment undertakings meeting the conditions and for professional real estate collective	

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Step	Management company of the real estate fund or open-ended real estate investment company	Autorité des Marchés Financiers (AMF)
	investment undertakings as specified in Annex XIII	
9		Where applicable, post on the AMF website the key investor information document (KIID) and the prospectus for real estate collective investment undertakings or only the prospectus for professional real estate collective investment undertakings.

#### Authorisation time frames

Type of operation	Time frame
Formation	One month (approximately 23 business days)

#### Article 1 - Authorisation procedure

The formation of a real estate collective investment undertaking or a real estate collective investment undertaking sub-fund requires AMF authorisation. Subject to the marketing procedure arising from Directive 2011/61/EU (for real estate collective investment undertakings managed by management companies authorised under Directive 2011/61/EU), the units or shares real estate collective investment undertaking's may not be marketed until such authorisation has been obtained.

#### Specific provisions applicable to real estate collective investment undertaking managed by management companies authorised under Directive 2011/61/EU – Marketing procedure

Where the real estate collective investment undertaking is managed by an asset management company authorised in France in accordance with Directive 2011/61/EU<sup>3</sup>, that company must comply with Articles 421-1 and 421-13 of the AMF General Regulation prior to marketing in France, to professional clients and retail clients respectively.

Where the asset management company wishes to apply for authorisation to market the units or shares of the real estate collective investment undertaking in France at the same time as it applies for authorisation for the said real estate collective investment undertaking, the asset management company must fill out the authorisation application accordingly, appending the necessary documentation (see Annexes I and I bis of this instruction).

The maximum waiting time of twenty working days mentioned in Article 421-2 of the AMF General Regulation to indicate to the asset management company whether it can begin to market the real estate collective investment undertaking to professional clients also applies to the application to market to retail clients. If the marketing procedure is carried out at the same time as the authorisation, this period starts to run on the authorisation date

<sup>3</sup> The total asset value of managed AIFs, calculated in accordance with Article 2 of Commission Delegated Regulation (EU) 231/2013 of 19 December 2012, exceeds the limits set in Article R.532-12-1 of the Monetary and Financial Code or, where it is lower but the asset management company has opted for full application of Directive 2011/61/EU.

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

of the real estate collective investment undertaking provided the application is complete. If the application is complete and compliant, notification to market in France will be issued with authorisation notification.

The asset management company shall refer to another AMF instruction where:

- a) it follows this procedure after the employee saving scheme fund has been authorised, in a situation where the real estate collective investment undertaking was not marketed on being authorised;
- b) it wishes to market the real estate collective investment undertaking in a Member State other than France under European passporting arrangements.

Where the AIF is managed by a management company authorised in a Member State other than France, the management company must refer to another AMF instruction to market the fund in France<sup>4</sup>.

To obtain authorisation for the real estate collective investment undertaking, an application containing the items stipulated in this instruction must be filed with the AMF.

The application for authorisation must be signed by an authorised person of the management company, i.e., one of the senior managers of the open-ended real estate investment company or management company, or a specifically authorised person.

Once the application has been filed, the AMF may request proof of the powers vested in the person filing the application at any point during the authorisation procedure.

In order to avoid requests for modifications to real estate collective investment undertakings due to an incorrect assessment of the operation and the constraints of this type of vehicle, the real estate collective investment undertaking project must be sufficiently completed when the application for authorisation is filed.

## Article 2 - Filing the authorisation application

Pursuant to Articles 422-7(I) and 422-11(I) of the AMF General Regulation<sup>5</sup>, the authorisation application filed with the AMF for the creation of a real estate collective investment undertaking must include:

- 1° Two copies – one copy only if the application is filed online – of the duly completed authorisation application form in Annex I of this instruction;
- 2° The attachments referred to in Annex I, along with any other document that the management company deems necessary for the examination of the application;
- 3° The signed letter of undertaking referred to in Annex II.

The application may be filed with the AMF electronically through the GECO extranet in the area reserved for the management company.

## Article 3 - Registration by the AMF

When the authorisation application is received, the AMF registers the application. An acknowledgement of receipt of the application is sent to the management company.

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<sup>4</sup> Note that marketing the units or shares of AIFs managed by a management company established in a Member State other than France to retail clients in France is subject to the specific requirements set out in Article 421-13 of the AMF General Regulation:

- an instrument for the exchange of information and mutual assistance in the area of discretionary asset management has been set up between the AMF and the supervisory authority of the management company; and
- the management company meets the requirements set out in a mutual recognition agreement establishing the specific requirements applicable to the authorisation of management companies of AIFs that may be marketed to retail clients concluded between the AMF and the supervisory authority of the management company.

<sup>5</sup> Applicable to real estate collective investment undertakings by reference to Article 422-125 of the AMF General Regulation and to professional real estate collective investment undertakings by reference to Article 423-12.

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

This acknowledgement of receipt certifies that the application has been filed with the AMF and stipulates the expiry date of the authorisation period, in accordance with the terms of Articles 422-7 and 422-11 of the AMF General Regulation.

Where the application filed in accordance with the aforementioned Articles 422-7 and 422-11 of the AMF General Regulation is incomplete or non-compliant, it is returned to the sender with an explanation of the reasons for its rejection, which may be of two kinds:

1° Missing documents;

2° Documents are incomplete or fail to comply with the laws and regulations in force.

#### **Article 4 - Examination of the authorisation application by the AMF**

The AMF may ask for any further information during its examination of the application. The management company submits this information to the AMF electronically, mentioning the references of the application.

If the AMF asks for further information that requires submission of a supplementary information sheet, the AMF shall serve such notice, stipulating that the items requested must arrive within 60 days. In this case the waiting period is suspended.

If the AMF fails to receive the said items within 60 days, the authorisation application is deemed to be rejected.

The further information required must be submitted with a supplementary information sheet filled in using the template in Annex IV. The AMF acknowledges receipt when it has received all the requested information. The acknowledgement of receipt stipulates the new deadline for the authorisation decision.

The management company is notified of the AMF decision to grant authorisation.

In the event that authorisation is not explicitly granted, the real estate collective investment undertaking shall be deemed to be authorised as from the authorisation period expiry date indicated in the acknowledgement of receipt of the authorisation application or in the acknowledgement of receipt of the requested supplementary information.

#### **Article 4-1 - Management delegation requirements**

Where the management company wishes to delegate the management of the real estate collective investment undertaking, especially its financial management<sup>6</sup>, the company must comply with the applicable provisions.

As regards asset management companies approved in France, these rules are provided for in Articles 321-97<sup>7</sup> or 318-62<sup>8</sup> of the AMF General Regulation.

The authorised asset management company in France also refers to the AMF instruction on the authorisation process for asset management companies, obligations for information and passport - DOC 2008-03.

#### **Article 4-2 – Auditors**

When an open-ended real estate investment company or a real estate fund is being created, the authorisation application filed with the AMF must specify the name of the intended statutory auditor, along with the names of the individual(s) responsible for auditing the open-ended real estate investment company or the real estate fund where the statutory auditor is a legal entity.

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<sup>6</sup> Or risk management, for management companies authorised under Directive 2011/61/EU.

<sup>7</sup> For asset management companies covered by Title I quater of Book III of the AMF General Regulation in respect of their AIF management business.

<sup>8</sup> For asset management companies covered by title I bis of book III of the AMF General Regulation for their AIF management activity.

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

At the request of the AMF, the statutory auditor must submit the list of its auditing assignments in collective investments and management companies, along with the dates of appointment and the functions performed, the latest invoiced or provisional budget in the case of a creation, along with its latest total turnover figure.

The file must describe the schedule of work mutually determined by the statutory auditor and the management company. This schedule must be expressed in number of hours, detailed by audit item, and broken down by type of operation. Where applicable, it must take into account the distinctive characteristics of real estate collective investment undertakings with sub-funds. The provisional auditing fees for these operations must be communicated to the AMF, along with the hourly rate being considered.

#### **Article 4-3 - External valuer(s)**

During creation, the management company must disclose the identity of the planned external valuers (and their contact information) and communicate along with the application:

- 1° the professional guarantees demonstrating that the external valuers are able to carry out the valuation function;
- 2° the signed commitment according to the template in Annex VII of this instruction for each of the external valuers.

The AMF may request additional information. In accordance with Article L. 214-24-16(III) of the Monetary and Financial Code, the AMF may require the appointment of another external valuer if the conditions of Article L. 214-24-16(I) are not met.

In accordance with Article L. 214-149 of the Monetary and Financial Code, there must be only one external valuer per professional real estate collective investment undertaking.

#### **Article 5 - Completion of the authorisation process**

##### **Article 5-1 - Fund deposit certificates for real estate funds or initial capital deposit certificates for open-ended real estate investment companies**

I. The deposit certificate for the funds for real estate funds or the deposit certificate for the initial capital for the open-ended real estate investment company must be sent to the AMF by the management company immediately after the funds are deposited and no later than one hundred eighty business days following the authorisation date of the real estate collective investment undertaking.

II. For real estate collective investment undertakings with sub-funds, this certificate must be sent to the AMF within:

- one hundred eighty business days of the date of authorisation of the real estate collective investment undertaking for at least one of the sub-funds; and
- 360 weekdays after the authorisation notification date for the other sub-funds, if any.

III. If this document is not received within 180 weekdays, the AMF shall deem the authorisation null and void and so notify the management company in writing. The nullity of the authorisation may be limited to the sub-funds that have not filed the certificate within one hundred eighty days where this certificate was filed for the first sub-fund within sixty days.

IV. Where warranted by special circumstances, the management company may make a reasoned request for an extension of the deadline for depositing the funds beyond the 180 weekdays. The request must be sent to the AMF online through the GECO database extranet in the area reserved for the management company. It should state the desired date and must reach the AMF before the date on which the authorisation is to be declared null and void. The management company must attach a PDF file of the letter requesting the extension signed by a

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

duly empowered person to its e-mail message. The AMF shall notify the management company of its decision within eight business days of receiving the request.

V. The first net asset value of the real estate collective investment undertaking must be calculated as soon as the funds have been deposited.

#### **Article 5-2 - Submission of the final versions of the key investor information document (KIID) and prospectus to the AMF**

The management company must electronically submit to the AMF the final versions of the key investor information document (KIID) and prospectus to which the regulations or the articles of incorporation for real estate collective investment undertakings are appended and submit only the prospectus for professional real estate collective investment undertakings and dedicated real estate collective investment undertakings that have chosen not to draw up a key investor information document (KIID) under the conditions defined in Annex XIII to this instruction.

### **Section II - Changes (subject to pre-approval/ex-post notification) during the life of a real estate collective investment undertaking and procedures for notifying investors**

#### **Article 6 - Changes**

According to Article 422-138 of the AMF General Regulation,<sup>9</sup> “Two types of changes can occur in the life of the real estate collective investment undertaking:

1° Changes subject to pre-approval; these are conversions and mergers, demergers, dissolutions, and liquidations;  
2° Changes subject to ex-post notification. (...).”

Changes shall only take effect, depending on the circumstances, once the depositary has been informed or given its consent, and the AMF has been notified or granted its approval. Some changes subject to ex-post notification must be posted to the AMF real estate collective investment undertaking data base (GECO).

Where changes subject to pre-approval also involve changes subject to ex-post notification, the latter will still be governed by Sub-section 3 of this section.

If a change occurs that is not covered by this instruction, the management company will contact the AMF beforehand to determine the appropriate way of dealing with it.

#### **Article 6-1 - Streamlined formalities**

Where warranted by special circumstances, the AMF may authorise the management company to streamline some of the formalities stipulated in this section.

#### **Article 6-2 - Administrative management of “multiple changes”**

A “multiple” change is when the same change is made simultaneously to more than twenty real estate collective investment undertakings.

##### **I. Changes subject to pre-approval**

In the case of “multiple” changes subject to pre-approval, the AMF shall update the corresponding information in the GECO database (in accordance with Annex VI). However, the procedures for preparing an authorisation application defined in sub-section 2 of this section may be adapted.

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<sup>9</sup> Applicable to professional real estate collective investment undertakings by reference to Article 423-12 of the AMF General Regulation.



## II. Changes subject to ex-post notification

Any request dealing with “multiple” changes subject to ex-post notification must specify the following:

- 1° The nature of the change;
- 2° The complete list of real estate collective investment undertakings concerned, including their names and the ISIN code for each of their unit or share classes;
- 3° The date on which the change is to take place. This date must not be less than 8 weekdays after the date on which the AMF receives the written request.

When a request made under the terms of this article is incomplete or does not comply with the regulations in force, the AMF will notify the management company in writing and explain the reasons for the rejection of the request:

- Missing or incomplete documents;
- Failure to comply with regulations in force.

### **Sub-section 1 - Types of changes during the life of a real estate collective investment undertaking**

#### **Article 7 - General provisions**

Article 8 to this instruction lists the changes to real estate collective investment undertakings that qualify as changes subject to pre-approval or subject to ex-post notification, depending on the circumstances.

This table lists the obligations of management companies with regard to authorisation and notification of subscribers, depending on the changes made to the real estate collective investment undertaking.

The “authorisation” column shows whether the change requires AMF authorisation. Changes that do not require authorisation may simply be notified to the AMF via the GECO extranet of the management company no later than the day when the change takes effect.

The “Individual notification” and “Notification by any means”<sup>10</sup> columns show the procedures for notifying unitholders or shareholders of each change.

Individual notification of unitholders or shareholders and the possibility to exit the fund free of charge are not required when all the unitholders or shareholders have given their prior consent to the change being considered. All changes that do not require the AMF authorisation and/or do not require individual notification may be notified to investors by any means.

In this last case, the words “ex-post” show whether the notification of the change to unitholders or shareholders may be given after it takes effect. Failing that, the notification must be given to unitholders or shareholders before the change takes effect and within a reasonable time frame.

The “exit free of charge” column shows whether unitholders or shareholders must be offered the possibility of exiting the fund free of charge.

Professional real estate collective investment undertakings, exempt from drawing up a key investor information document (KIID), and real estate collective investment undertakings that have chosen not to draw up a KIID under the conditions of article 422-177(I) of the AMF General Regulation must follow, with regard to the prospectus, the same procedure as described in relation to each of the sections that are the subject of a change in a key investor information document (KIID).

In real estate collective investment undertakings that provide for, as permitted by Articles L. 214-61-1, L. 214-67-1, or L. 214-77 of the Monetary and Financial Code, a lock-in period on redemptions and/or the establishment of

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<sup>10</sup> The methods of publication are detailed in sub-section 4 of section II of chapter I

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

“gates” to limit redemptions below the threshold mentioned in Article L. 214-45 of the Monetary and Financial Code, unitholders or shareholders shall not have the possibility of exiting the real estate collective investment undertaking. In this case, authorisation applications regarding substantial changes to the real estate collective investment undertaking must undergo a thorough examination by the management company, which must justify that the proposed change is in the interest of the investors.

The changes in question are those pertaining to (non-exhaustive list):

the objective and the investment policy;

the debt policy;

the risk and reward profile;

the delegation of financial management (pertaining to financial and/or real estate assets) from the moment that it has the effect of substantially changing the risk/reward profile or the investment policy;

- guarantee;
- the increase in expenses;
- the extension of the period for payment of sums in the event that “gates” are put in place;
- the extension of the life of the fund;
- the redemption terms;
- any merger or demerger;
- the tax regime.

**Article 8 - Table of changes to the key investor information document (KIID) and/or prospectus of a real estate collective investment undertaking, notification of investors, and exit free of charge**

The delegations provided for in this table pertain only to the activities of the real estate collective investment undertaking and not property management of held buildings or entities.

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
<b>Key investor information document</b>				
ISIN code		x		
Name of the real estate collective investment undertaking				x
Management company	x	x (outside group or inside group with nationality change)	x (outside group or inside group with nationality change)	x (inside group without nationality change)
<i>Investment objective and policy</i>				

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
- Objectives and investment policy	x (see Article 7)	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk is less than or equal to 20% of net assets
- Benchmark				x
- Debt policy	x (see Article 7)	x	x	
Other information: recommended holding period				x
Distribution procedures: allocation of net income and realised net gains		x	x	x Only for real estate collective investment undertakings wishing to explain their distribution procedures
Risk and reward profile	x (See Article 7)	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk is less than or equal to 20% of net assets
Consideration of non-financial criteria in the management method. <sup>11</sup>		x		

<sup>11</sup>For consideration of non-financial criteria in the management method, the form in Annex XIV must be filled out. When the introduction of the consideration of non-financial criteria does not only affect the management method applied (e.g. security selection policy), the effect of the changes that are made must be assessed in light of the criteria referred to in Article 11 and notably the change to the risk and reward

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
Redemption fee including any antilution levy		x If increased	x If increased	
Subscription fee including any antilution levy				x only if increase Ex-post
Performance commission (increase - takes effect three months after the investors have been informed)	(See Article 7)	x If increased (where the prospectus indicates a maximum portion of the performance that may be charged: only if this portion increases)	x If increased (where the prospectus indicates a maximum portion of the performance that may be charged: only if this portion increases)	x if decrease Ex-post
<i>Practical information</i>				
- Where to find information about the real estate collective investment undertaking				x
- Where to find the net asset value				x
- Where to find information about unit or share classes				x
- Depository	x	x (outside group)	x (outside group)	x (intragroup)

profile. In this respect, the consideration of non-financial criteria may be subject to authorisation by the AMF in the event of a change to the risk scale level. The procedures for changes subject to pre-approval, as described in this Instruction, shall then apply, in particular on individual notification with the possibility of an exit from the fund free of charge, etc. On this point, it is the responsibility of the management companies to determine the extent to which the introduction of the consideration of non-financial criteria affects the risk profile e.g. impact of any sector bias or of a change in management style, etc.).

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
Governance body				x
Operating procedures of the governance body				x
- Taxation (except if new regulations enter into force immediately)	(See Article 7)	x If the investment is no longer eligible for tax breaks	x If the investment is no longer eligible for tax breaks	
<b>Prospectuses</b>				
- Institution designated to receive subscriptions and redemptions		x Only if no longer used		x Ex-post
- Auditor	x if not known to AMF staff			x Ex-post
- Delegation of financial management (including real estate assets)	x (see Article 7)	x Delegation to a company outside the group of more than 50% of the real estate collective investment undertaking's net assets	x Delegation to a company outside the group of more than 50% of the real estate collective investment undertaking's net assets	x Delegation to a company outside the group of less than 50% of the real estate collective investment undertaking's net assets or delegation to a company in the same corporate group
Administrative and accounting delegation	Commitment by the management company to ensure compliance with its programme of operations			
External valuers				x

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
- Guarantor	x (see Article 7)	x (outside group)	x (outside group)	x (intragroup)
- Lapse of the guarantee on the expiry date given in the prospectus				x
- Guarantee or protection (solely in the interest of the unitholders or shareholders)	x (See Article 7)	x		
- Minimum initial subscription amount	See Article 8-1			x Ex-post
- Introduction of a redemption notice period or increase in an existing redemption notice period		x	x	
- Option to cap, close or reopen subscriptions				x
Introduction of a swing pricing mechanism				x
Maximum redemption period		x If extension	x If extension	
Increase in fees		x	x	
- Centralisation of orders				x
- Decrease in NAV calculation frequency		x	x	
- Increase in the number of days between the centralisation date and the settlement date		x	x	

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
- Frequency of payouts				x
- Base currency of a unit or share class		X Only to holders of the relevant unit or share class	X Only to holders of the relevant unit or share class	
- Creation / elimination of a unit or share class (if there are no unitholders or shareholders in the eliminated unit or share class)				x Ex-post
- Winding-up of a unit or share class <sup>12</sup>	x	x Only for unitholders or shareholders of the relevant unit or share class		x Ex-post only for holders of other unit or share classes that are not concerned
- Grouping of unit or share classes		x Only to holders of the relevant unit or share class (unit(s) set to disappear)		x Ex-post only for holders of other unit or share classes that are not concerned
- Division of a class of units or shares, decimalisation				x
- Standard investor profile				x Ex-post
- Accounting year				x
- Extension of life	(See Article 7)	x	x	
- Gates and/or lock-ups (within the meaning of Articles L. 214-61-1, L. 214-67-1 and L. 214-77 of the	x (see Article 7)	x	x	

<sup>12</sup> Except in case of winding-up of a real estate collective investment undertaking following redemption of the units or shares at the initiative of the unitholders or shareholders (see Article 14-1 of this instruction).

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Changes	Authorisation	Individual notification	Exit free of charge	Notification by any means
Monetary and Financial Code)				
- Establishment or modification of the contract mentioned in Article L. 214-24-10(III) <sup>13</sup> or (IV) <sup>14</sup> of the Monetary and Financial Code and Article 323-35 of the AMF General Regulation (not applicable to real estate collective investment undertakings open to retail investors)	x	x	x	

Any modification of the legal structure (conversion of a real estate collective investment undertaking into a professional real estate collective investment undertaking, conversion of a real estate collective investment undertaking into a real estate collective investment undertaking with sub-funds or vice versa, etc.) is a change subject to pre-approval.

Transactions to wind up and merge a real estate collective investment undertaking at the initiative of the management company are also changes subject to pre-approval.

In accordance with Article 6 of this instruction, if the change being considered, for example an amendment of the regulations or articles of incorporation, is not covered by Article 8 of this instruction, the management company shall contact the AMF beforehand to determine the appropriate way of handling it.

#### Article 8-1 - Easing of the subscription conditions of a real estate collective investment undertaking

A significant easing of the conditions for subscription and acquisition of units or shares of a real estate collective investment undertaking is a change subject to pre-approval. Such is the case when the minimum initial

<sup>13</sup> In accordance with Article L. 214-24-10(III) of the Monetary and Financial Code, the depositary is exempt from its responsibility in respect of the AIF or in respect of the unitholders or shareholders in the event of loss by the depositary, or by a third party to which custody has been delegated, of the financial instruments under custody in accordance with Article L. 214-24-8(II), if it is able to prove that:

1° All obligations concerning the delegation of its custody tasks mentioned in Article L. 214-24-9 are fulfilled;

2° A written contract between the depositary and the third party expressly transfers the depositary's liability to this third party and allows the AIF or its management company to file a complaint against the third party about the loss of financial instruments or to the depositary to file a complaint in their name;

3° A written contract between the depositary and the AIF or the management company expressly authorises a discharge of the depositary's liability and establishes the objective reason justifying such a discharge.

<sup>14</sup> Article L. 214-24-10(IV) of the Monetary and Financial Code refers to the case in which the depositary may disclaim its liability when the legislation of a third country requires that certain financial instruments be retained by a local entity and no local entity meets the requirements relating to the delegation as they are defined in the second paragraph of Article L. 214-24-9 of the Monetary and Financial Code.



AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

subscription amount of the real estate collective investment undertaking is reduced substantially or when a new unit or share class is created with a substantially lower minimum subscription amount than the existing classes;

There is a significant easing of the conditions for subscription and acquisition of units or shares of the real estate collective investment undertaking when the amount drops below €100,000, namely:

- If new classes of units or shares with a minimum subscription of less than €100,000 are created while existing classes of units or shares with a minimum subscription of €100,000 or more were created.
- If the minimum subscription amount for existing shares is lowered by this amount (i.e. from a level of €100,000 or more to a level below €100,000).

#### Article 9 - Notification and/or consent of the depositary and the statutory auditor

I. Any change to a real estate collective investment undertaking subject to pre-approval must obtain the unqualified consent of the depositary before the authorisation application is filed with the AMF.

II. Any change to a real estate collective investment undertaking subject to ex-post notification is subject to the prior notification and consent of the depositary before it is implemented in accordance with the terms of the agreement between the management company of the real estate collective investment undertaking and its depositary. The management company must make the notification or consent of the depositary available to the AMF.

III. The statutory auditor of the real estate collective investment undertaking must be informed of all changes subject to pre-approval or ex-post notification.

#### Sub-section 2 - Changes subject to pre-approval

##### Authorisation process and authorisation period for changes to a real estate collective investment undertaking subject to pre-approval

Step	Management company of the real estate fund or open-ended real estate investment company	Autorité des Marchés Financiers (AMF)
1	Filing of an authorisation application for a change subject to pre-approval	
2		Checks compliance of the application Acknowledges receipt of the application, specifying the expiry date of the authorisation period <i>or</i> rejects the application, with an explanation of the reasons for the rejection
3		Examines the application May contact the applicant
4		Where applicable, requests additional information, which may or may not require the management company to submit a supplementary information form

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Step	Management company of the real estate fund or open-ended real estate investment company	Autorité des Marchés Financiers (AMF)
4 bis	Where applicable, files the supplementary information form and the requested information within 60 days of the date of the request	
4 ter		Receives the supplementary information form and requested information Acknowledges receipt of the filing, specifying the new expiry date of the authorisation period
5		Provides notification of the decision to grant or refuse authorisation, or implicit authorisation decision
6	Notifies unitholders or shareholders individually, via the press or by any other means, depending on the circumstances	
7		Updates the information in the GECO database
8	Sends the final KIID and prospectus for real estate collective investment undertakings or sends only the prospectus for professional real estate collective investment undertakings and dedicated real estate collective investment undertakings that meet the definitive conditions according to the terms specified in Annex XIII	

#### Authorisation time frames

Type of operation	Time frame
Change subject to pre-approval (modification & winding-up)	8 business days
Mergers and demergers	20 weekdays (approximately 17 business days)

## **Article 10 - Filing the authorisation application**

### **Article 10-1- Usual case**

I. - All applications for changes subject to pre-approval must be filed with the AMF and include:

1° Two copies – only one copy if the application is filed online – of the duly completed authorisation form in Annex III. Each section must be filled in and the sections affected by the change must be clearly identified.

2° The attachments mentioned in Annex III, along with any other document that the management company deems necessary for the examination of the application.

If the change subject to pre-approval is identical for a set of real estate collective investment undertakings, the AMF may allow the authorisation applications to be grouped together at the request of the management company.

The application may be filed with the AMF online through the extranet of the GECO database in the area reserved for the management company.

### **Article 11 - Registration of the authorisation application by the AMF**

When the authorisation application is received, the AMF registers the application. An acknowledgement of receipt of the application is sent to the management company.

The acknowledgement of receipt certifies that the application has been filed with the AMF.

If the application filed is incomplete or non-compliant, it is returned to the applicant. In this case, the reasons for its rejection are explained.

These reasons may be twofold:

1° Missing documents;

2° Documents are incomplete or fail to comply with the laws and regulations in force.

### **Article 12 - Examination of the application for a change subject to pre-approval by the AMF**

The AMF may ask for any further information during its examination of the application. Management companies must submit this information to the AMF online, mentioning the references of the application.

If the AMF asks for further information that requires submission of a supplementary information sheet, the AMF shall serve such notice, stipulating that the items requested must arrive within 60 days. In this case the waiting period is suspended. If the AMF fails to receive the said items within 60 days, the authorisation application is deemed to be rejected. The further information required must be submitted with a supplementary information sheet filled in using the template in Annex IV. The AMF acknowledges receipt when it has received all the requested information. The acknowledgement of receipt shall stipulate the new deadline for the authorisation decision.

The management company is notified in writing of the AMF's decision to grant authorisation.

In the event that authorisation is not explicitly granted, the change to the real estate collective investment undertaking subject to pre-approval shall be deemed to be authorised as from the authorisation period expiry date indicated in the acknowledgement of receipt of the authorisation application or in the acknowledgement of receipt of the requested supplementary information.

### **Article 13 - Completion of the authorisation application process by the AMF**

The management company must submit to the AMF, electronically under the conditions defined in Annex XIII of this instruction, the final version of the key investor information document (KIID) and the prospectus to which the regulations and the articles of incorporation for real estate collective investment undertakings are appended and submit only the prospectus for professional real estate collective investment undertakings and dedicated real estate collective investment undertakings that choose not to draw up a key investor information document (KIID).

The authorisation granted for a change subject to pre-approval is limited to that change. It does not constitute authorisation for any other items in the key investor information document (KIID) and/or the prospectus that the management company may have amended at the same time. Amended items that are simply required to be reported will be reviewed ex-post.

### **Sub-section 3 - Changes subject to ex-post notification**

#### **Article 14 - Notification of changes – Procedures for notifying the AMF and updating the real estate collective investment undertaking database (GECO)**

The open-ended real estate investment companies affected by the changes subject to ex-post notification mentioned in the table in Article 8 or the management companies must report such changes by updating the GECO database, where applicable, in accordance with the procedures stipulated in Annex XI and notify the depository or obtain the depository's prior consent, depending on the circumstances. The management company is solely responsible for this operation.

Changes subject to ex-post notification may not take effect until the new key investor information document (KIID) and prospectus, for real estate collective investment undertakings, or the prospectus, for professional real estate collective investment undertakings and dedicated real estate collective investment undertakings, has been submitted to the AMF and, where applicable, the changes have been recorded in the GECO database. Some fields of the GECO database must be updated by the AMF on behalf of the management company (fields that are not accessible via the GECO website). Management companies must use the form in Annex V to submit the data for these fields to the AMF. For any change entailing consideration or a change of non-financial criteria in the management of the product, the management company must disclose the characteristics of such consideration by filling out the form provided in Annex XIV.

#### **Article 14-1 - Special case: Winding-up of a real estate collective investment undertaking following redemption of units or shares at the initiative of the unitholders or shareholders**

If a real estate collective investment undertaking is wound up as a result of the simultaneous or gradual redemption of all the units of the real estate collective investment undertaking at the initiative of the unitholders or shareholders, the management company shall notify the AMF within two months of the last redemption date.

This operation constitutes a change subject to ex-post notification.

The statutory auditor's report must be submitted to the AMF within one month of the end of the calendar half-year period for any wound-up real estate collective investment undertaking for which declarations were received during the course of that half-year period.

#### **Sub-section 4 - Investor notification when changes occur in the life of real estate collective investment undertakings and notification of the AMF**

##### **Article 14-2 - Special case - Change in external valuer**

During the life of the real estate collective investment undertaking, the management company must provide advance notification of the appointment of a new external valuer (identity and contact information) and communicate this information to the AMF:

- 1° professional guarantees demonstrating that the appointed new external valuer is able to carry out the valuation function;
- 2° the signed commitment according to the template in Annex VII of this instruction.

Professional real estate collective investment undertakings must notify the AMF if the number of external valuers is reduced from two to one.

The AMF may request additional information. In accordance with Article L. 214-24-16(III) of the Monetary and Financial Code, the AMF may require the appointment of another external valuer if the conditions of Article L. 214-24-16(I) are not met.

##### **Article 15 –Unitholder and shareholder notification**

I. Changes likely to occur during the life of a real estate collective investment undertaking requiring notification of unitholders or shareholders are listed in Article 8 of this instruction. These changes must be notified to the unitholders or shareholders so that they can make an informed decision about maintaining their investment or disposing of it.

II. For changes subject to pre-approval, the unitholders and shareholders may only be notified after the authorisation of the AMF has been obtained. Such authorisation is granted on the basis of the proposed notice to unitholders or shareholders, attached to the authorisation application in the case of the changes subject to pre-approval stipulated in Article 8 of this instruction. In certain cases, the AMF may authorise the management company to provide advance notification.

The management company must also submit the final versions of the key investor information document (KIID) and/or the prospectus of the real estate collective investment undertaking electronically to the AMF on or before the day on which the change subject to pre-approval takes effect, in accordance with the requirements stipulated in Annex XIII of this instruction.

III. The notification must state whether the change takes effect immediately or later. Subject to the specific time frames provided for in the table of modifications in Article 8, the immediate entry into force occurs three business days after the effective dissemination of the notification to the shareholders or unitholders, except in the specific cases indicated in the table below in which a longer minimum period must be respected. This is only a minimum, and management companies must assess the reasonableness of the time period, notably in the light of the change made to the real estate collective investment undertaking.

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

Nature of changes / notice period for unitholders	Minimum number of days between notification of subscribers entailing the right to exit the fund free of charge and the effective date of the change	Minimum number of months between notification of subscribers and the end of the offer to exit the fund free of charge
Merger of real estate collective investment undertakings	30 calendar days + 5 business days	Six months, which may be reduced to two months if the frequency chosen for the real estate collective investment undertaking allows it to establish three net asset values or if the merger is unanimously decided by the unitholders or shareholders
Other (subject to specific time periods provided for in the table in Article 8)	Between 3 business days and 90 calendar days, depending on the material nature of the planned change, left to the discretion of the management company	Six months, which may be reduced to two months if the frequency chosen for the real estate collective investment undertaking allows it to establish three net asset values  This period must be adjusted according to the frequency of net asset value calculations and the profile of the unitholders or shareholders

The management company must work with its distributors to provide a suitable system for notifying future investors in the real estate collective investment undertaking of upcoming changes during the period between the date when the notification is sent to unitholders or shareholders and the effective date of the changes.

IV. The notification given to unitholders or shareholders must make a clear distinction between changes subject to pre-approval by the AMF and changes that are simply subject to ex-post notification to the AMF.

#### Article 16 - Means of disseminating notifications

I. Notifications of unitholders or shareholders may take two forms: individual notification of unitholders/shareholders (letter or any other durable medium within the meaning of Article 314-5 of the AMF General Regulation) or notification by any other medium (such as periodic reports). Article 8 of this instruction summarises the notification requirements, depending on the nature of the change.

II. The nature of the medium used for notifications must be adapted to the marketing of the real estate collective investment undertaking and, more specifically, its geographical distribution and the profiles of the unitholders or shareholders. For changes subject to pre-approval, the publication timetable of the communication(s), the media concerned as well as the draft financial notice(s) must be held available to the AMF, which may modify their nature or content, according to the case.

III. As an exception to point I, when the nature of the change requires individual notification of unitholders or shareholders, one possible solution, with the consent of the AMF, may be to publish a financial notice containing all these changes in the press.

IV. The notification may be disseminated through any appropriate medium, including a financial notice published in the press or in the information documents. The management company shall ensure that these media are actually available to the unitholders or shareholders before the announced changes take effect, unless there are provisions to the contrary in Article 8 of this instruction. Article 18(II) and (III) of this instruction apply in the

specific case of notification by means of a financial notice. If the change is to take effect before the medium is disseminated, a personalised letter must be sent or a financial notice must be published.

### **Article 17 - Supervision by the AMF of changes subject to pre-approval**

In the event of a change subject to pre-approval requiring individual notification, the draft special notification to unitholders or shareholders must be attached to the authorisation application submitted to the AMF.

The prior approval by all the unitholders or shareholders of the proposed changes may exempt the management company from providing an individual notification. In this case, the management company may, instead of sending the proposed notification to unitholders or shareholders to the AMF, attach to the authorisation application the list of unitholders or shareholders of the real estate collective investment undertaking and a letter attesting to the written approval of all the unitholders or shareholders on the proposed change subject to pre-approval. The approval of each unitholder or shareholder must be held available to the AMF by the management company.

Notification of unitholders or shareholders may only take place after the AMF has authorised the change subject to pre-approval. The AMF may authorise the management company to give advance notification.

The authorisation application must specify the chosen notification method (such as a letter or a document enclosed with a statement of account).

Unless agreed otherwise by the AMF, this notification must comply with the standard template in Annex VIII of this instruction.

### **Article 18 - Individual notification requirements for real estate collective investment undertaking mergers/demergers**

Mergers and demergers of real estate collective investment undertakings are changes subject to pre-approval and subject to a special notification to their unitholders or shareholders under the conditions mentioned in Article 8 of this instruction, with a possibility of exiting free of charge for six months from receipt of the letter. This period may be reduced to two months if the frequency chosen for the real estate collective investment undertaking allows it to establish three net asset values during which the unitholder or shareholder may exit free of charge.

- I. Prior to the merger, the unitholders or shareholders of the acquired real estate collective investment undertaking must be given a special notification.
- II. Where the transaction consists of a transfer of assets from a real estate collective investment undertaking to a real estate collective investment undertaking with sub-funds, currently existing or being created, the notification must set out the exchange parity for which each unitholder or shareholder is eligible in respect of each acquiring sub-fund.
- III. Individual notification of the unitholders or shareholders of the acquiring real estate collective investment undertaking must be made if the merger affects them.

### **Article 19 - General principles for notifications and exit fees**

Article 8 provides for cases of changes in which unitholders or shareholders may request redemption of their units or shares free of charge. In certain cases specified in article 8 of this instruction, the management company must examine the possibility, if the change is substantial, of covering the fees payable to the real estate collective investment undertaking in order to offset any harm.

Where there is a redemption fee not payable on a real estate collective investment undertaking, shareholders or unitholders have the right to exit without bearing such fees for a period of six months from the date on which they are informed of the change. This period may be reduced to three months if the frequency chosen for the real estate collective investment undertaking allows it to establish three net asset values during which the subscriber may exit free of charge. These redemptions are to be executed in accordance with the procedures stipulated in the prospectus, but with no redemption fee payable to the real estate collective investment undertaking.

If these changes pertain to a sub-fund, this option of exiting without redemption fees must be offered to holders of the units or shares of the sub-fund concerned.

In addition, in certain cases of changes subject to pre-approval or ex-post notification defined in the articles of incorporation of the open-ended real estate investment company, the management company must have first submitted these changes to the governance body. Any decision on a change subject to pre-approval that has received an adverse opinion from this body must be duly justified by the management company of the real estate collective investment undertaking.

However, when mergers and demergers of management companies or changes of management companies occur that involve companies with their registered offices in France or companies belonging to the same corporate group and do not modify the human or technical resources used for management, real estate collective investment undertakings shall be exempted from the obligation of offering the option of exiting the fund free of charge and of notifying unitholders or shareholders individually. The same holds true for similar transactions affecting the depositary.

Where the table appearing in article 8 of this instruction requires prior notification to the unitholders, the effective date of the change to real estate collective investment undertaking must be far enough from the date on which the unitholders were informed to allow them to exit free of charge before the entry into force of the change.

#### **Article 20 - Notification of the AMF following notification of unitholders or shareholders**

Whenever unitholders or shareholders of a real estate collective investment undertaking are served individual notifications or notification by any means for the purposes of this instruction, the management company shall submit a copy of the notification to the AMF through the GECO database. In the event of ex-post notifications, the management company must simply update the GECO database with the nature of the notification, the medium used, and the place where the notification is available.

## **CHAPTER II - PREPARING THE KEY INVESTOR INFORMATION DOCUMENT (KIID), THE PROSPECTUS, AND PERIODIC REPORTING**

### **Section I - Key investor information document (KIID) and prospectus of a real estate collective investment undertaking**

#### **Article 21 - General provisions**

A key investor information document (KIID) and a prospectus must be drawn up for each real estate collective investment undertaking unless it is reserved for no more than 20 subscribers or a category of investors and they



AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

have given their approval to exempt the real estate collective investment undertaking from drawing up a KIID<sup>15</sup>. However, for professional real estate collective investment undertakings, only a prospectus must be drawn up.

However, professional real estate collective investment undertakings may need to draw up a key investor information document, pursuant to regulation (EU) no. 1286/2014 of the European Parliament and of the Council of 26 November 2014 (“PRIIPS regulation”) where they make their units available to retail clients.

The summary table below sets out the obligations of a professional real estate collective investment undertaking with regard to drawing up a key investor information document:

AIF (existing, or created upon initial application of PRIIPs regulation)	Situation with regard to the relevant clientele	Prior to initial application of PRIIPs	Starting with the initial application of PRIIPs
Professional real estate collective investment undertakings	Regulatory documents open the subscription or acquisition of units or shares only to professional clients <sup>16</sup>	The professional real estate collective investment undertaking is required to draw up a KIID	The professional real estate collective investment undertaking is required to draw up a KIID
	The regulatory documents do not include a restriction of this kind	<p>Creating a KIID is optional</p> <p>The professional real estate collective investment undertaking may choose not to draw up a KIID</p> <p>OR</p> <p>The professional real estate collective investment undertaking may choose to draw up a KIID compliant with regulation (EU) no. 583/2010</p>	<p>Creating a KIID becomes mandatory</p> <p>The professional real estate collective investment undertaking draws up a KIID compliant with regulation (EU) no. 583/2010</p> <p>OR</p> <p>The professional real estate collective investment undertaking draws up a KIID compliant with regulation (EU) no. 1286/2014</p>

If a professional real estate collective investment undertaking already authorised switches to the KIID (in the format prescribed by regulation (EU) no. 583/2010 or the format prescribed by the PRIIPS regulation), this does not constitute a change subject to pre-approval, and drawing up the KIID does not give rise to an authorisation. Nevertheless, the KIID must be filed via the GECO database. The AMF may perform an ex-post review of the KIID

<sup>15</sup> As from the entry into force of the regulation (EU) no. 1286/2014 of the European Parliament and of the Council of 26 November 2014, this exemption is applicable as long as the units or shares of real estate collective investment undertakings cannot be subscribed or acquired by retail clients.

<sup>16</sup> As defined in Article L.533-16 of the Monetary and Financial Code.

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

already filed on the GECO database. However, the KIID of a newly created professional real estate collective investment undertaking shall be reviewed by the AMF as part of the fund's authorisation process.

Where a real estate collective investment undertaking subject to the key investor information document (KIID) requirement consists of several sub-funds, a key investor information document (KIID) must be drawn up for each of its sub-funds, and only a prospectus must be drawn up for all the sub-funds.

Where a real estate collective investment undertaking subject to the key investor information document (KIID) requirement consists of several classes of units or shares, a key investor information document (KIID) must be produced for each class. However, the management company may provide information about several unit or share classes in the same key investor information document (KIID), provided that the final document satisfies the requirements regarding language, length and presentation stipulated in Articles 5 and 6 of European Commission Regulation 583/2010 of 1 July 2010.

## **Article 22 - Structure of the key investor information document (KIID) and prospectus**

### **I. KIID**

The key investor information document (KIID) is a summary document not to exceed to pages of A4-sized paper when printed.

II. The prospectus must precisely describe the investment and the operating rules of the real estate collective investment undertaking, along with all the terms for remunerating the management company and the depositary. It provides a complete presentation of the planned investment strategies, along with the specific real estate assets and financial instruments used, especially in cases where such instruments require special monitoring, are exposed to specific risks, or have specific characteristics. The structure includes the following sections:

- a) General characteristics;
- b) Operating and management procedures, including remuneration of the management company and the depositary;
- c) Information of a commercial nature;
- d) Investment rules;
- e) Asset valuation rules and procedures.

The regulations or the articles of incorporation of the real estate collective investment undertaking must be appended to the prospectus.

III. The key investor information document (KIID), prospectus, regulations, or articles of incorporation must conform to the standard templates developed by the AMF found in Annexes IX, X, and XI/XII of this instruction. More specifically, the template and titles of the different sections of the KIID and the prospectus must be followed.

## **Article 23 - Objectives of the key investor information document (KIID) and prospectus**

The objective of the KIID is to provide a summary of the key information that investors need to make an informed decision. It is presented and laid out in a way that facilitates reading, by using sufficiently large print in particular. It is clearly written, using language that facilitates investors' comprehension of the information being communicated, more specifically by using clear, concise, and understandable language, and by avoiding jargon and technical terms when everyday words can be used.

The objectives and characteristics of the prospectus consist in providing:

1° Detailed information about all the items summarised in the key investor information document (KIID) so that those investors who so wish may find complete information about the management and operating procedures of

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

the real estate collective investment undertaking and compare the specific features of real estate collective investment undertakings with each other;

2° Precise information about the risks identified when the real estate collective investment undertaking was set up or the prospectus was updated. It must not be misleading, either by providing erroneous information or by omitting information that is needed to understand all the management and operating rules of the real estate collective investment undertaking, along with all the costs incurred;

3° The information that the depositary, statutory auditor, and compliance and internal control officer of the management company need for their due diligence.

The management company must give due consideration to the positions and interpretations published by the AMF when drafting the KIID and prospectus.

#### **Article 24 - Key investor information document (KIID) and prospectus dissemination procedures**

I. For real estate collective investment undertakings, in accordance with Article 422-86 of the AMF General Regulation to which Article 422-183 of the AMF General Regulation refers, "The key investor information document (KIID) is to be provided to investors free of charge and in a timely manner before they subscribe units or shares [in the real estate collective investment undertaking]".

II. The key investor information document (KIID) may be disseminated by either of the following procedures, to be chosen by the persons in charge of marketing the real estate collective investment undertaking:

1° If the persons marketing the real estate collective investment undertaking choose to record subscriptions using subscription forms, such forms must stipulate that:

a) The subscriber has received the key investor information document (KIID) for real estate collective investment undertakings and the prospectus for professional real estate collective investment undertakings or dedicated real estate collective investment undertakings.

In accordance with Article 422-89 of the AMF General Regulation to which Article 422-183 relating to real estate collective investment undertakings refers, "*The prospectus shall be provided to investors on request and free of charge in a durable medium, within the meaning of Article 314-5 or by means of a website.*

*The most recently published annual and half-yearly reports [of the real estate collective investment undertaking] shall be delivered to investors on request and free of charge and made available in the manner specified in the prospectus and the key investor information document.*

*Hard copies of the documents mentioned in this article shall be provided to investors requesting them free of charge.*"

2° If the persons handling marketing wish to be exempt from submitting a subscription form, the arrangements for supplying and disseminating the KIID and/or prospectus, latest annual report, and periodic information document must comply with the above-mentioned Articles 422-86 and 422-88 of the AMF General Regulation. Thus, particularly for dedicated real estate collective investment undertakings and/or professional real estate collective investment undertakings, the management company may choose not to publish them on its website.

#### **Article 25 - Standard template of the Key Investor Information Document (KIID)**

The key investor information document (KIID) is essential for informing subscribers and must be updated whenever necessary and under the responsibility of the management company.

The Key Investor Information Document (KIID) has five sections:

1. the "Objectives and investment policy" section describes the essential features of the real estate collective investment undertaking that the investor should know;

2° the "Risk and return profile" section contains a synthetic indicator supplemented by text explanations of the limits of this indicator;

3° the "Charges" section presents a standardised table of charges;

4° the "Past performance" section;

5° the “Practical information” section tells investors particularly where to obtain more information (prospectus, etc.) about the real estate collective investment undertaking.

The standard KIID template is presented in Annex IX.

### **Article 26 - Standard template of the prospectus**

Prospectuses may not be produced for different sub-funds or unit or share classes. Therefore, only one prospectus per real estate collective investment undertaking must be drawn up. The standard template of the prospectus is presented in Annex X.

### **Article 26-1 - Standard template of regulations and articles of incorporation of open-ended real estate investment companies**

The real estate fund’s regulations or the open-ended real estate investment company’s articles of incorporation are established in accordance with the templates in Annexes XI and XII.

### **Article 27 - Specific procedures**

#### **Article 27-1 - Guaranteed real estate collective investment undertakings**

I. The guarantee must be granted either to the real estate collective investment undertaking or to the unitholders or shareholders by an institution referred to in Article R. 214-32-28 of the Monetary and Financial Code<sup>17</sup>.

II. When a guaranteed level or formula is offered, the guarantee must apply to:

- 1° The initial net asset value if there is a single subscription net asset value;
- 2° The highest net asset value during the subscription period.

III. The nature of the guarantee and its characteristics must be clearly set out in the relevant section. The information must include:

1° The level of the guarantee:

- full capital guarantee,
- partial capital guarantee;

2° Whether the guarantee includes front-end charges;

3° Subscription dates for obtaining the guarantee;

4° Dates on which the guarantee will be granted;

5° Whether the guarantee is granted to the real estate collective investment undertaking or directly to the unitholders or shareholders. If the guarantee is granted directly to the unitholders or shareholders and they are required to request redemption of their units or shares on a specific date to benefit from the guarantee, this requirement must be pointed out in a warning that specifies the final net asset value that is guaranteed, along with the deadline for submitting redemption orders. If the guarantee requires action by the unitholders or shareholders (such as making a request for redemption at a set net asset value, for example), they must be alerted individually by letter in a timely manner if there is any likelihood that it will be in their interest to redeem their units or shares.

## **Section II - Periodic information**

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<sup>17</sup>See also AMF Position – Need to offer a guarantee (covering the formula used and/or the capital, as the case may be) when marketing to retail investors shares or units in structured UCITS and AIFs, “guaranteed” UCITS and AIFs, and debt securities with similar characteristics issued by dedicated issue vehicles – DOC 2013-12.

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**Article 28 - Periodic information document (interim report) and interim asset composition**

I. In accordance with article 422-184 of the AMF General Regulation, real estate collective investment undertakings must draw up a periodic information document called an “interim report” at the end of each first half of the financial year.

II. This interim report must be published no later than eight weeks from the end of each half-year period. The management company must send each interim report of the real estate collective investment undertaking to the AMF within nine weeks from the end of each half-year period.

The management company must public this document on its website except for dedicated real estate collective investment undertakings. For professional real estate collective investment undertakings, the management may choose not to publish this document on its website. In such cases, it must inform the AMF. This document must also be made available to any investor requesting it free of charge.

III. It is possible to draw up the interim report:  
1° Either at the last trading day of the half-year period;  
2° Or at the day on which the last net asset value is calculated.

IV. Regardless of their presentation, all information relating to a real estate collective investment undertaking or a sub-fund must include its name.

V. The content of the periodic information document (half-yearly report) mentioned in Article L. 214-53 of the Monetary and Financial Code must be summarised and clear and detail the following information:

- 1° Statement of assets and liabilities, including the following items:
- a) real estate assets mentioned in Article L.214-81 of the Monetary and Financial Code;
  - b) bank balances
  - c) other assets held by the real estate collective investment undertaking
  - d) total assets held by the real estate collective investment undertaking
  - e) liabilities
  - f) net book value
- 2° Number of units or shares in circulation;  
3° Net book value per unit or share;  
4° Portfolio;  
5° Statement of changes in the composition of the portfolio during the reference period;  
6° Quantified data on post-tax dividends paid or proposed during the period;  
6° Summary of situations and conditions in which gates were implemented during the period.

The information document favours a presentation in the form of diagrams or simple tables in order to deliver any useful information concerning the liquidity of the real estate collective investment undertaking (particularly the share of liquid assets in the real estate collective investment undertaking and the presence of significant unitholders and/or shareholders).

The dedicated real estate collective investment undertaking may define the content of the periodic information in its regulations or articles of incorporation.

**Article 29 - Annual report**

The annual report must be drawn up as of the last day of the accounting period or the day on which the last published net asset value is calculated, if so stipulated in the prospectus.

It must contain at least the following items:

- the management report;

AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

- the summary documents defined by the accounting code, including the certification issued by the statutory auditor as well as the report of the real estate fund's supervisory board,
- any material change, as defined in Article 106 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012, in the information referred to in Article 32 of this instruction during the accounting year covered by the report.

Where the real estate collective investment undertaking is managed by a management company authorised in accordance with the AIFM Directive, the annual report must also include:

- the total amount of remuneration for the accounting period, broken down into fixed remuneration and variable remuneration, paid by the management company to its staff, and the number of beneficiaries, and, where applicable, the carried interests paid by the real estate collective investment undertaking,
- the aggregate amount of remuneration, broken down between executives and members of the staff of the management company whose activities have a significant impact on the risk profile of the real estate collective investment undertaking.

A management company authorised in accordance with Directive 2011/61/EU of 8 June 2011 must also comply with Article 107 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

The accounting data contained in the annual report must be prepared in accordance with French accounting standards and the accounting rules established in the fund rules and articles of incorporation of the real estate collective investment undertaking.

The statutory auditor's report, including any qualifications, shall be reproduced in full in the annual report.

The report must be made available to the unitholders and shareholders by the management company within six months from the closing date of the financial year. It must also be sent to the AMF within this same period for posting online. Reports of dedicated real estate collective investment undertakings and professional real estate collective investment undertakings must also be sent to the AMF but are posted on its website.

A paper version of the annual report must be sent free of charge to investors who request it.

Furthermore, in accordance with Article 421-35 of the AMF General Regulation, the management company must comply with Articles 103 to 107 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

The items that must be provided in the annual report and that are not included in the summary documents must be provided in the management report.

### **Article 30 - Management report**

The management report must contain the sections provided for by Article R. 214-123 of the Monetary and Financial Code, without prejudice to the provisions of article 105 of Commission Delegated Regulation (EU) 231/2013 of 19 December 2012. These sections set out all useful information to help investors assess the evolution of their investment.

This information must be accurate, clear, objective, and, in the case of forecast data, based on reasonable assumptions.

This report must also include an indication, where appropriate, on the contributions in kind made during the life of the real estate collective investment undertaking.

The information set out in Article 421-34 of the AMF General Regulation must be at least provided in the management report if it is not provided in the periodic reports and/or periodic disclosures according to the procedures and time frame described in the prospectus.

### **Article 31 - Annual accounts by sub-fund**

Real estate collective investment undertakings must draw up annual accounts for each sub-fund.

### **Article 32 – Information provided to investors**

Pursuant to Article 421-34(I) of the AMF General Regulation, the real estate collective investment undertaking or the management company must make the following information available to investors before they invest in the real estate collective investment undertaking.

- a) a description of the real estate collective investment undertaking's strategy and the investment objectives, information about where any master AIF is established within the meaning of Article L. 214-24(IV) of the Monetary and Financial Code and where the underlying funds are established if the real estate collective investment undertaking is a fund of funds, a description of the types of assets in which the real estate collective investment undertaking can invest, techniques that it may use and all the associated risks, any applicable restrictions on investment, circumstances in which the real estate collective investment undertaking may use leverage, types of leverage and sources of leverage authorised and the associated risks, any restrictions on the use of leverage, as well as any arrangements for reusing collateral or assets and on the maximum level of leverage that a management company is permitted to use on behalf of the real estate collective investment undertaking;
- b) a description of the procedures that may be implemented by the real estate collective investment undertaking to change its investment strategy, its investment policy, or both;
- c) a description of the main legal consequences of the contractual commitment made for investment purposes, including information on legal competence, applicable law, and whether legal instruments exist permitting the recognition and enforcement of decisions on the territory of the French Republic;
- d) the identification of the management company, the depositary, and the statutory auditor of the real estate collective investment undertaking, as well as any other service provider, and a description of their obligations and the rights of investors;
- e) where the real estate collective investment undertaking is managed by a management company authorised under Directive 2011/61/EU, a description of how the manager complies with the requirements set out in Article 317-2(IV) of the AMF General Regulation (or its equivalent, transposing paragraph 7 of Article 9 of Directive 2011/61/EU into the law applicable to the management company);
- f) a description of any management function delegated by the management company and of any safe-keeping function delegated by the depositary, the identification of the delegate and any conflicts of interest that may arise from such delegations;
- g) a description of the real estate collective investment undertaking's valuation procedure and the methodology for determining the price used to assess the asset value, including the methods employed for assets that are difficult to value;
- h) a description of the management of real estate collective investment undertaking's liquidity risk, including the rights to reimbursement in both normal and exceptional circumstances, and the existing arrangements with investors regarding reimbursement;
- i) A description of any fees, charges and commission, together with the maximum amounts applicable, that are borne either directly or indirectly by investors.



AMF Instruction - DOC-2011-23 - Authorisation and establishment processes for a KIID and a prospectus and periodic information for real estate collective investment undertakings and professional real estate collective investment undertakings

j) a description of how the management company guarantees fair treatment of investors and, from the moment an investor receives preferential treatment or the right to receive preferential treatment, a description of this preferential treatment, the type of investors who receive this preferential treatment, and, where applicable, the indication of their legal or economic ties with the real estate collective investment undertaking or the management company;

k) the latest annual report referred to in Article 29;

l) The procedure and conditions for issuing and buying back units or shares.

m) the most recent net asset value of the real estate collective investment undertaking or the most recent market price of the unit or share of the real estate collective investment undertaking;

n) where applicable, the past performance of the real estate collective investment undertaking;

o) the identity of the prime broker and a description of all the important steps that the real estate collective investment undertaking has taken with its prime brokers and how conflicts of interest relating thereto are managed and the provision of the contract with the depositary stipulating the possibility of a transfer or reuse of assets of the real estate collective investment undertaking and the information relating to any transfer of responsibility to the prime broker that could exist;

p) a description of how and when the information required under IV and V of Article 421-34 of the AMF General Regulation will be disclosed.

This information, with the exception of the information referred to in k) and m), appears in the standard template of the KIID and the prospectus, the standard template of the regulations, and the standard template of the articles of incorporation reproduced in the annexes of this instruction. A correlation table is provided in Annex I bis (table 1). The information not included in these regulatory documents is cited in the Annex I bis (table 2); it must be made available to investors.

The real estate collective investment undertaking or the management company must inform investors of any substantial change pertaining to this information.

In addition, Article 421-34 of the AMF General Regulation also provides for the following:

“IV. EU AIFs and AIFs marketed in the EU, or their asset management company, management company or AIF manager, shall periodically disclose to investors:

1° the percentage of the AIF's assets subject to special arrangements arising from their illiquid nature;

2° any new arrangements for managing the liquidity of the AIF;

3° the current risk profile of the AIF and the risk management systems employed by the AIF or its asset management company, management company or fund manager to manage those risks.

V. EU AIFs and AIFs marketed in the EU, employing leverage, or their asset management company, management company or AIF manager, shall, for each such AIF, disclose on a regular basis:

1° any changes to the maximum level of leverage which the asset management company, management company or fund manager may employ on behalf of the AIF as well as any right of reuse of the AIF's assets given as collateral and any guarantee under the leveraging arrangements;

2° the total amount of leverage employed by that AIF. ”

Furthermore, in accordance with Article 421-35 of the AMF General Regulation, the management company must comply with Articles 108 and 109 of Commission Delegated Regulation (EU) 231/2013 of 19 December 2012.



## CHAPTER III – REPORTING TO THE AMF

### **Article 33 – Reporting on compensation for non-compliance with investment restrictions**

Pursuant to Article 411-139 of the AMF General Regulation, an investment management company that is established in a European Union Member State or a State party to the Agreement on the European Economic Area other than France and manages a French UCITS, must send the AMF the form on compensation paid out for any non-compliance with investment restrictions, via the ROSA extranet. This form is available on the AMF website and must be sent by 31/10/2021 at the latest, and then no later than 1 calendar month following the end of each quarter of the calendar year.

The fact that the AMF should choose to target “active” non-compliance (that is excepting any cases occurring beyond the control of the asset management company and not resulting from the maturity of a financial instrument held by the UCITS) with investment and asset structure rules in this data collection should in no case be interpreted as a regulatory comfort granted to investment management companies with regard to “passive” breaches.