

**AMF public consultation on the abolition of its classification of collective investment schemes**

## **1. Targets and practical methods of this consultation**

### **1.1 Targets**

Complementing its participation in the FROG working group, which aims to enhance the positioning and distribution of French funds internationally, the AMF has collected a list of competitiveness measures, including a request for an adjustment to AMF classifications. Keen to support France's industry players, and at the same time ensure the protection of savings and proper investor information, the AMF is launching a public consultation on the revision of AMF classifications with a view to amending its doctrine. This consultation process, open to all, fits in with the consultations that the AMF regularly conducts with professionals and the public.

This consultation document contains two (2) proposals. Participants are invited to respond and add their comments to the AMF's review.

### **1.2 Whom is this consultation for?**

This consultation is specifically meant for:

- individual investors and their representatives
- investment management companies
- distributors (financial investment advisors, banking networks, etc.)
- professional associations
- consumer associations
- law firms, particularly those involved in the financial industry.

### **1.3 Relevant texts**

- AMF Instruction DOC-2011-19
- AMF Instruction DOC-2011-20
- AMF Instruction DOC-2011-21
- AMF Instruction DOC-2012-06
- AMF Position/Recommendation DOC-2011-05
- AMF Position/Recommendation DOC-2011-25

### **1.4 Procedures and deadline for responding**

This consultation will end on **Friday 29 July 2016**. Participants are invited to send their responses and comments to the following address: [directiondelacommunication@amf-france.org](mailto:directiondelacommunication@amf-france.org)

Responses, comments, and proposals submitted under this consultation will enable the AMF to examine the advisability of retaining or amending its texts in force, identified by the phrase "relevant texts" in this document.

In view of the responses received, and if it deems necessary, the AMF will then propose to update its doctrine.

## **2. Context of the consultation**

To begin, the history of classifications and their major operating principles are reviewed. Finally, in advance of the proposals that are the focus of this consultation, the main advantages and disadvantages of maintaining or abolishing the classifications.

### **2.1 Background: Classifications**

There have been classifications in the world of French collective management since the transposition of the UCITS Directive in 1985, and today they apply to both UCITS and certain AIF. Indeed, the original aim was to provide better information by differentiating vehicles according to the primary nature of the investments being made - equities, bonds, short-term - and the geographic coverage areas, France or Foreign.

Since their appearance in 1985, classifications have evolved many times, first on a purely French basis, by integrating the concept of exposure (no longer just investment) to account for the expansion of derivatives, then under the impetus of Europe, in terms of monetary and short-term monetary classifications.<sup>1</sup>

### **2.2 Operating principle and classification families**

At present, the aim of the classifications defined in the AMF doctrine is to represent the dominant real exposure of each collective investment scheme<sup>2</sup>. There are now 11 possible classifications for AIF and 10 for UCITS (UCITS are not eligible for "Fund of hedge funds" classification). Collective investment schemes for which a classification is provided must opt for one of these. Note that Private Equity Funds (FCPR/FCPI/FIP)<sup>3</sup>, FPCI<sup>4</sup>, OT<sup>5</sup>, OPCI<sup>6</sup>, SCPI<sup>7</sup> and SLP<sup>8</sup> are free of these.

These classifications can be grouped into three major families:

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<sup>1</sup> Monetary and short-term monetary classifications would take the form of a specific approval in the "Money Market Fund" European draft regulation.

<sup>2</sup> Except for specific cases of employee savings for investment in company shares.

<sup>3</sup> AMF Instruction DOC-2011-22 - Procedures for approval, drafting of a KIID and a regulation, and periodic reporting on private equity funds.

<sup>4</sup> AMF Instruction DOC-2012-06 - Procedures for declaration, modifications, drafting of a prospectus and periodic reporting on professional specialized funds and professional private equity investment funds.

<sup>5</sup> AMF Instruction DOC-2001-01 – Securitisation vehicles.

<sup>6</sup> AMF Instruction DOC-2011-23 - Authorisation procedures, establishment of a KIID and/or prospectus and periodic reporting on real estate collective investments and professional real estate collective investment organisations.

<sup>7</sup> AMF Instruction DOC-2002-01 – Real estate investment companies.

<sup>8</sup> AMF Instruction DOC-2012-06 - Procedures for declaration, modifications, drafting of a prospectus and periodic reporting on professional specialized funds and professional private equity investment funds.

- The family of equities, bonds, and money market instruments, which illustrates the philosophy of classifications aimed at presenting the general exposure of the collective investment scheme. For example, a "Eurozone country equities" fund is constantly 60% exposed to eurozone equities, including France. Exposure to the currency risk outside the eurozone must remain ancillary (i.e. 10%). Money market classifications, if they follow the same pattern, are now based on the European model and are thus made uniform on the European level;
- The family related to specific management types that includes the "Fund of hedge funds" (specific strategies for selecting hedge funds) and "formula fund" (passive structured management) classifications; and
- The "Diversified" classification, which includes all collective investment schemes that do not fit under another classification. This classification is applied, for example, to funds whose management profile desired by the manager is not a typical enough "equity" or "bond"; or for funds whose strategy allows them highly discretionary allocation among the various asset classes, according to the manager's expectations. It also includes funds that are exposed to atypical assets such as commodities, currencies, and receivables.

List of classifications	Families
French equities	Equities
Eurozone country equities	
European Union country equities	
International equities	
Bonds and other debt securities denominated in euro	Bonds
Bonds and other international debt securities	
Short-term money market	Money market
Money market	
Fund of hedge funds	Structured management and Hedge fund selection
Formula fund	
Diversified	Other

Finally, changing from one classification to another does not necessarily require AMF authorisation. Authorisation is only necessary when the risk profile or management method changes,<sup>9</sup> regardless of whether it is accompanied by a change in classification.

<sup>9</sup> Excerpt from AMF Instruction DOC-2011-20 (Article 11):

"Any change affecting the investment strategy is a change subject to pre-approval if it concerns:

1° The management method used by the AIF;

For example, a change in the methods for picking financial instruments shall be deemed to be a change to the AIF subject to pre-approval. On the other hand, a change in the benchmark sector does not require pre-approval as a change to the AIF.

2° The risk and reward profile of the AIF;

A change in the risk and reward profile shall be assessed in the event of a change in the level of risk stemming from a change in objectives or investment policy (greater than 20% of net assets in terms of exposure).

3° The guarantee of the AIF."

### 2.3 Consequences of abolishing classifications

First of all, it seems necessary to reiterate that the UCITS Directive does not stipulate the inclusion of a classification within the legal documentation of UCITS, specifically within the KIID. Since the AIFM Directive is mute on this point, it leaves the Member States totally free to apply classifications to AIF and include them in legal documents. Therefore, the KIID, as it appears in the AMF instructions, does not include any "classification" section. However, it is mentioned that the "investment policy and objectives" section of the KIID must state the classification. The typical prospectus includes a "classification" section. Note that the PRIIPS regulation and the future key information document resulting from this text, which will be applicable to all collective management vehicles (except any transitional provisions) also does not stipulate the use of classification.

Maintaining classifications as-is may be justified mainly by the educational nature of these latter, which allow a uniform presentation of services among the various players and makes it easier for the public to assess management strategies. Classifications are sometimes included in the rules that apply to investors.

Therefore, maintaining classifications could be justified by their informational value to the public. Nonetheless, it is clear today:

- That within the collective investment schemes proposed in the services of distributors and platforms are both French and foreign products, these latter having no classification;
- That the distribution networks and platforms have their own grid of collective investment services that does not follow that of AMF classifications;
- That the external alternatives are numerous, with certain providers having developed classification types that are more developed and detailed than those of the AMF;
- That a majority of recently authorised collective investment schemes fit into the "diversified" category, which gives no relevant information;
- That the arrival of the PRIIPS regulation between 2016 and 2019 and the new product governance process resulting from MiFID II, and specifically the necessity to determine a target market by distributors, makes it possible to respond to the risk of information loss for the public.

However, the abolition of classifications must not result in relaxing the collective investment schemes management rules. If the classifications are abolished, the management rules that correspond to them shall be clearly mentioned in the prospectus, so as to maintain a sense of the constraints before and after abolition. Should the management company later wish to develop these management constraints and rules, such changes must be made within the framework of the rules on authorisation, investor notification, and exiting free of charge stipulated by the corresponding instructions.

The virtue of choosing to abolish classifications would be eliminating any differentiation with regard to European practices, which would increase uniformity between French and European collective investment schemes. Moreover, abolition would avoid any debate over the legibility or explicit nature of certain classifications.

## **2.4 Proposals subject to consultations**

In light of the foregoing, the following two alternatives are proposed. European money market classifications would be maintained, whichever solution is selected.

### **2.4.1 Total abolition of all AMF classifications**

If all classifications are abolished, what are the elements that motivate this choice and any required precautions or supervisory actions of the market, apart from the need to include constraints equivalent to the classifications in the prospectus of the relevant collective investment schemes?

### **2.4.2 The abolition of classifications with optional maintenance, except for the "diversified" classification (permanently abolished)**

When abolishing classifications, can it be made optional, at the discretion of the management companies? It would mean allowing the management companies who wish to, to continue opting for one of the 10 AMF classifications in force, with the associated investment rules.

Should this optionality be only temporary, and for how long? In practice, it would mean allowing management companies not to opt for AMF classification.

In such cases, do you agree to abolish the "Diversified" classification, which is uninformative and could be misconstrued?

*Participants are invited to comment on these proposals.*