

## **AMF Instruction n° 2008-01 Investment services providers other than portfolio management companies**

**Reference texts: articles 313-4, 313-9, 314-4-1 and 314-6 of the AMF General Regulation**

### **Article 1 - Organisation of the compliance function**

In application of article 313-4 of the AMF General Regulation, the following clarifications are made. When, for economic reasons, the investment services provider cannot reasonably dedicate a person to the compliance function, it appoints one of its directors and senior managers as compliance officer for investment services.

The compliance officer for investment services may delegate compliance tasks internally, under his responsibility, to the extent justified by the nature, scale, complexity and diversity of the activities carried out by the investment services provider.

Where applicable, the investment services provider may externalise the compliance function to an employee of an entity in the group to which the investment services provider belongs or of an entity under the authority of the same central body. This employee shall hold a professional licence.

In application of article 143-2 of the General Regulation, the AMF requires investment services providers to provide it with the annual report drawn up in accordance with the provisions of article 313-7 of the said General Regulation by 30 April each year.

### **Article 2 – Ethical measures**

I. - In application of article 313-9 of the AMF General Regulation, a personal transaction is a transaction carried out by or on behalf of a relevant person as referred to in II of article 313-2 of the AMF General Regulation where at least one of the following conditions is met:

1° This person is acting outside of the scope of his functions;

2° The transaction is carried out on behalf of one of the persons referred to in 2 of article 313-9.

II. - The personal transactions referred to in 2° of I of article 313-9 are those, inter alia, carried out:

1° By a relevant person as referred to in II of article 313-2 of the AMF General Regulation, himself acting on his own account;

2° By a relevant person on behalf of a close relations, that is, with whom he has family ties, a close link or who has a significant interest in the result of the transaction (even if power of attorney has been given by this person to the relevant person);

3° By any person on behalf of the relevant person.

However, the transaction carried out on own account by a close relation of the relevant person is not a personal transaction, provided that this person is the only holder of the equity account (rather than holding it jointly with the relevant person).

- A situation in which a person has close links with the relevant person, as defined by III of article 313-9, shall mean a situation where these persons are linked:

a) By an equity holding, meaning a direct holding or a holding through a controlled entity of 20% or more of the voting rights or the share capital of a company;

b) By relations of control between two companies as defined in article L. 233-3 of the Commercial Code;

c) By the control of a natural person over a company in one of the situations referred to in Article L. 233-3 of the Commercial Code.

Where two or more natural or legal persons are linked to one and the same company by a control relationship as defined in b) and c), such persons shall be regarded as having close links.

### **Article 3 – Checks on the identity and legal capacity of new clients**

In application of article 314-4-1 of the AMF General Regulation, when entering into a relationship with a new professional or retail client, the investment services provider shall perform identity checks in accordance with the legislative and regulatory provisions relating to the prevention of money laundering and of terrorist financing.



When the client has appointed a person to act on his behalf, or when he is appointed by a third party to act on the third party's behalf, the investment services provider shall obtain the document proving this appointment.

#### **Article 4 - Categorisation of clients**

For application of the provisions of article 314-6 of the AMF General Regulation, a transaction in financial instruments is significant when its gross amount is higher than 600 euros.