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Review of marketing materials: the AMF updates its approach for various financial products aimed at retail investors

Under its new Supervision#2022 strategy, the AMF has determined a number of priorities relating to the marketing of financial products, among them the supervision of marketing materials. In this regard, the regulator is announcing a change in its approach concerning undertakings for collective investment, structured debt securities issued by banks and structured funds, where these products are marketed to retail investors in France.

Change in the review procedure for marketing materials

The AMF is particularly committed to protecting French retail investors through its proactive policy on the marketing of financial products. This is of particular relevance to structured debt securities, undertakings for collective investment and structured funds. In this regard:

- For the past several years, a stringent policy has been in place to manage complexity and provide industry professionals with guidance on how to present such financial products in their marketing materials, with a particular focus on ensuring that a product's benefits and risks are presented in a clear and balanced way and that the information provided is accurate and not misleading.
- At the same time, marketing materials have been reviewed regularly (e.g. for undertakings for collective investment and structured funds) or even systematically and

exhaustively (notably for structured debt securities) prior to dissemination.

Having noted a satisfactory overall improvement in the quality of the marketing materials submitted to it and the strengthening of compliance functions within supervised institutions, the AMF is now updating its approach:

- From now on, the focus will be on a risk-based approach, with greater emphasis placed on the responsibility of market participants. As such, the Authority will be conducting sample-based reviews once marketing materials have been disseminated.

This change does not, however, mean the AMF will be less vigilant with regard to these priority issues. This new system will enable the Authority to focus its activities on those products and market participants considered most at risk, and to increase its support for the development of new practices and innovation.

Updating of policy on the marketing of complex financial instruments

The AMF has also published an updated version of its Position 2010-05. For reference, this position aims to limit, based on four predetermined criteria, complex financial instruments that are at risk of being inappropriately marketed to the general public. The approach adopted since 2010 has been based on the requirement to include a dissuasive warning in all marketing materials where the financial product in question meets at least one of the four criteria.

This predominantly technical update mainly concerns the following points:

- Addition of a technical annex (Annex – Part 3) – the main change in this update – to publicly explain how the AMF applies Criterion 4 (count of the number of mechanisms) to the most common structures that will no longer be discussed with market participants “in advance”. This annex has been drawn up in close cooperation with AMAFI and the AFG and has long been requested by market participants. However, the list of structures included in it is not exhaustive and the AMF will continue to support financial innovation in this area. The AMF’s goal is to be more transparent with market participants as regards its expectations to enable them to properly take into account Criterion 4^[1] of the Position from the stage when a financial instrument’s formula is being designed.
- A technical “clean-up” to reflect the entry into force of MiFID II on 3 January 2018.

- The addition of a specific hook within Criterion 4 concerning the number of mechanisms included in ESG-themed filters (ESG: environmental, social and governance) used in indices underlying financial instruments, establishing a link with the guide published by AMAFI and the AFG in July 2017, which was drawn up in close cooperation with the AMF.

These changes do not give rise to any new requirements for market participants; in this sense, existing policy remains stable.

Read more


- 📄 AMF Position DOC-2010-05: Marketing of complex financial instruments

Annex: additional information for structured debt securities (Part 1), undertakings

- 📄 for collective investment (Part 2) and structured funds (Part 3)

[1] Relating to the number of mechanisms included in the formula for calculating a financial instrument's gain or loss.

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