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MiFID II and the new rules applicable to asset management companies: new update to AMF policy

The Autorité des Marchés Financiers (French Financial Markets Authority, or AMF) is continuing to update its policy (instructions, positions and recommendations) to take account of the impact of the legislative and regulatory provisions arising from MiFID II and the creation of separate legal structures for asset management companies (AMCs) and investment firms (IFs). This update also provides an opportunity to provide further clarifications that may be of use to market operators. Three policy documents have been updated and one new instruction has been issued.

Updates to three policy documents

Scope	Reference	Title
Instruction	DOC-2008-04	The application of business conduct rules to the marketing of UCITS or AIF units or shares by asset management companies, management companies and fund managers
Position-recommendation	DOC-2006-23	Questions and answers on the rules applicable to financial investment advisers
Instruction	DOC-2013-07	Requirements in relation to professional expertise of financial investment advisers, keeping their knowledge up to date and keeping the AMF informed of their activity and the activity of associations

Beyond this formal update, position/recommendation DOC-2006-23 and instruction DOC-2013-07 have been substantially amended in a number of respects:

- The AMF amends position/recommendation DOC-2006-23 to stipulate the applicability to financial investment advisers (FIAs) of the distributor rules set out in the guidelines of the European Securities and Markets Authority on financial instrument governance. It is recalled that the AMF General Regulation already specifies for FIAs a referral to the distributor rules for investment services providers (ISPs).

Clarifications are likewise provided on the articulation between the FIA regime and the regime for intermediation in miscellaneous property, as well as on the rules applicable to FIAs when they carry out 'other asset management advisory activities', as an extension of the recent decisions of the Enforcement Committee in the matter. Finally, the AMF recalls the conditions under which FIAs may provide an investment advisory service concerning European UCITS and AIFs under foreign law.

- Instruction DOC-2013-07 is amended to include (i) the addition on product governance and (ii) keeping the client informed on topics to be addressed in training sessions selected or organised by associations for their members as well as clarification of consideration of the professional experience acquired in the European Economic Area in order to be granted the status of FIA.

Creation of a new instruction (DOC-2018-11) on the content of management mandates concluded with non-professional clients

The new AMF instruction DOC-2018-11 provides clarifications on the specific stipulations in agreements to provide asset management services for third parties concerning the detailed

information to be provided to non-professional clients by the providers in question about the characteristics and modalities of the investment service provided and on the rights and obligations of the parties, in accordance with the new article 314-11 of the AMF General Regulation. These clarifications are in line with the practices required before 3 January 2018.

Scope	Reference	Title
Instruction	DOC-2018-11	Agreements concluded by investment service providers with non-professional clients regarding asset management for third parties

Read more

Instruction DOC-2008-04: Application of business conduct rules to marketing of units or shares in UCITS or AIFs by asset management companies, management companies or managers

Position-recommendation DOC-2006-23: Questions and answers on the rules that apply to financial investment advisers


Instruction DOC-2013-07: Requirements relating to the professional competence of financial investment advisers, the updating of their knowledge, and reporting to the AMF on their activity and that of associations

Instruction DOC-2018-11: Agreements concluded by investment service providers with non-professional clients regarding asset management for third parties

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