Print from the website of the AMF

13 March 2018

MiFID II and the separation of investment firms ("IF")-asset management companies ("AMC"): publication of the AMF General Regulation ("GR")

After the modification of the French Monetary and Financial Code[1] and in order to transpose the MiFID II provisions, and to implement the legal separation of the legal regime on investment firms from the one of the asset management companies, the AMF has conducted a public consultation to amend its General Regulation to complete both of these projects. After the end of this public consultation, the AMF therefore publishes the last version of its GR which applies since 3 January 2018. Below are the main changes.

Ahead of the application of the MiFID II European texts and in the context of the project on the separation IF-AMC, the AMF public consultation which started from 1st November and ended on 1st December 2017 focused on modifications in Books III and V of its General Regulation and on the removal of the Book VII of such GR. The AMF received eight answers to the consultation, five from professional associations, two from trading venues and one from an asset management company.

Generally, the respondents have welcomed the proposal of modification of the AMF GR. The report of this consultation is available at the bottom of this page in its "Read more" section. The approval order of these modifications of the AMF GR by the French economy ministry has been published on 23 December 2017.

Books III and V are modified to comply with MiFID II provisions and also to apply the separation of the legal regime between the IF and AMC. Book VII on regulated markets admitting the greenhouse gas emission allowances to trading is repealed and thus removed from the GR. Finally, the AMF has set up a mechanism on incident reporting for fund managers.

Transposition work of MiFID II in the General Regulation

Amendment to the form to help reading the General Regulation

Book III has been thoroughly reorganized, after the transposition of the MiFID II delegated directive and the direct application of various MiFID II provisions, in particular the Commission Delegated Regulation (EU) 2017/565 of 25 April 2016. Since a large number of provisions of this Book are already covered by European regulation directly applicable, therefore, such provisions have been removed from the GR. This Book now also contains provisions that were formerly in Book V of the GR, namely provisions relating to orders with instructions for a deferred settlement on futures markets and on systematic internalisers.

For a better reading experience and understanding of applicable provisions, the AMF proposes to introduce in due time inserts (in the form of boxes) within its GR, which will guide the reader through the applicable European regulation and/or AMF instructions. The introduction of these boxes will be extended to all the AMF GR.

Substantive amendments

In Book III, as a consequence of directly applicable MiFID II Regulations, a large number of existing redundant provisions in Title I (relating to investment services firms/providers) were removed, as for instance provisions in relation to organizational requirements and rules of conduct which were introduced in 2007 in the GR at the time of the transposition of MiFID. For the "sellers", the obligation to verify a minimum necessary knowledge is now transferred within the rules of conduct. The definition of seller (natural persons giving investment advice or information about financial instruments) has been modified to comply with the MiFID II and with the rules on the assessment of their knowledge and competence. In addition, Book III contains new provisions regarding post trade transparency waivers in relation to pricing and size of OTC transaction, carried out by investment firms, for transactions on obligations, structured products and derivatives (MiFIR provides options for transparency waivers, which were exercised by the AMF). Furthermore, the GR contains new provisions on pre and post trade transparency waivers for OTC transactions entered into by systematic internalisers. The GR has a new chapter dedicated to data reporting services providers which details the authorization process for new operators.

In Book V, a new Title is created for organized trading facilities (OTF), a new type of trading venue for bonds and derivatives market introduced by MiFID II. In addition, a number of provisions regarding regulated markets and multilateral trading facilities are updated. Pre and post trade transparency waivers for trading venues are also introduced in Book V, as a consequence of the right for a Member States, as provided in MiFIR, to implement different types of transparency waivers. It is worth noting that MiFIR also contains others directly applicable transparency provisions. Finally, Title VIII on agricultural commodity derivatives has been replaced by new articles implementing the new MiFID II position limits regime on commodity derivatives.

Work relating to the separation between investment firms and asset management companies

After the implementation of the separation of the legal regime of IF from the one of AMC in the Monetary and Financial Code[2], the AMF has decided to reorganize its Book III in order to facilitate its reading and to segment the four existing regimes (MiFID II / AIFM above the thresholds / UCITS / national regimes).

In this context, after the modifications in Title I to implement MiFID II, Title I bis (relating to AIF AMC who are fully subject to AIFMD) has been maintained, and two Titles have been created (Titles I ter and I quarter) to provide a dedicated framework for, respectively, UCITS AMC and AMC of collective investments schemes others than the aforementioned AMC. This reorganization of the summary of Book III does not impact the regulation for AMC, but some formal adjustments of certain provisions were required.

When introducing the new Title I ter relating to the UCITS AMC, there has been a selection of relevant provisions for UCITS AMC in former Title I (i.e. Title I as applicable before 3 January 2018). These provisions have thus been incorporated in new Title I ter.

As for the new Title I quarter relating to other AMC of collective investments schemes #ancre_3, a provision specifies that, unless provided to the contrary, managers who are subject to this title, must apply the new regime provided in the (new) Title I ter (applicable to UCITS AMC). Specific provisions for some AIF AMC below the AIFM threshold (e.g. FCPE, SCPI…) that were provided in Title I are now incorporated in Title 1 quarter with no modifications. Finally, as provided in former Title I (as applicable before 3 January 2018), managers of other AIF below the threshold and for professional investors, and managers of EuVECA or EuSEF are both subject to an ad hoc article.

A correspondence table has been established to identify provisions in the GR (as applicable before 3 January 2018) which were renumbered in Books III and V (as applicable after 3

January 2018).

After the completion of the MiFID II transposition work and of the separation between the regime of IF and AMC, the AMF intends to update its policies ("doctrine") (instructions, positions, recommendations). This updating work will be conducted through the next months.

A new mechanism on incident reporting for the management of collective investment companies

As for credit institutions and investment firms, the AMF proposed to create a new obligation for UCITS and AIF managers to report incident to the AMF. Those provisions are in Title I bis related to AIF management companies (article 318-6) and in Title I ter related to UCITS management companies (article 321-35, applicable by reference to asset management companies subject to Title I quater).

Read more

↘ Current General Regulation since 03/01/2018 (in French only)

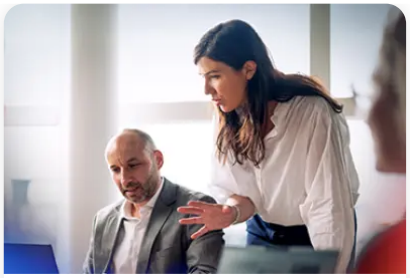
[1] By orders ("ordonnances") n° 2016-827 and 2017-1107 respectively of 23 June 2016 and 22 June 2017 and by decrees n° 2017-1253 and 2017-1324, respectively of 9 August and 6 September 2017

[2] Cf. order of 22 June 2017, decree of the Conseil d'Etat of 9 August 2017 and decree of 6 September 2017

[3] As for the new Title I quarter relating to other AMC of collective investments schemes

ON THE SAME TOPIC

Subscribe to our alerts and RSS feeds

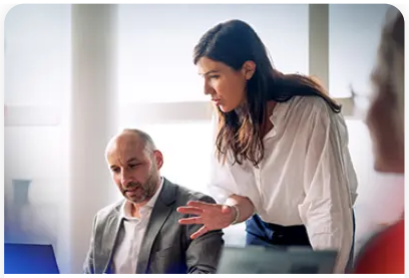


NEWS

DERIVATIVES OR STRUCTURED PRODUCTS

11 February 2026

The AMF revises the position limits applicable to the salmon derivative contract listed on Euronext



NEWS

DERIVATIVES OR STRUCTURED PRODUCTS

03 February 2026

The AMF publishes a working group study on structured products

SPOT INSPECTIONS

INVESTMENT SERVICES

20 January 2026

Summary of SPOT inspections on the involvement of the compliance function in certain cross-functional processes

Legal information:
Head of publications: The Executive Director of AMF Communication Directorate. Contact: Communication Directorate – Autorité des marches financiers 17 place de la Bourse – 75082 Paris cedex 02