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Exercise the function of depositary

The Autorité des Marchés Financiers (AMF) examines authorisation applications for custody account keeping activities filed with the Autorité de Contrôle Prudentiel et de Résolution (ACPR) by institutions wishing to exercise the function of depositary. The AMF defines the attributions and obligations relating to this function in its General Regulation.

Which entities can be depositaries?

The following entities can be UCITS depositaries:

- 1 • Banque de France
- 2 • Caisse des Dépôts et Consignations
- 3 • Credit institutions with their registered office in France
- 4 • French branches of credit institutions with their registered office in the European Union or a country that is party to the Agreement on the European Economic Area
- 5 • Investment firms with their registered office in France (subject to certain capital requirements)

In order to be able to operate as a UCITS depositary, the entities mentioned in 3° to 5° above must be authorised to perform the related service of custody account-keeping



The following entities can be AIF depositaries:

- 1 • Banque de France
- 2 • Caisse des Dépôts et Consignations
- 3 • Credit institutions with their registered office in France
- 4 • Investment firms authorised to perform the activity of custody account-keeping
- 5 • Insurance and capitalisation firms governed by the French Insurance Code
- 6 • French branches of credit institutions with their registered office in the European Union that are authorised depositaries in their own country and are authorised under Directive 2006/48/EC of the European Parliament and of the Council of 14 June 2006 relating to the taking up and pursuit of the business of credit institutions
- 7 • French branches of investment firms with their registered office in the European Union that are authorised as depositaries in their own country and subject to capital requirements in accordance with article 20, paragraph 1 of Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006 on the capital adequacy of investment firms and credit institutions, including the capital requirements associated with operational risk

In order to be able to operate as an AIF depositary, the investment firms must be authorised to perform the related service of custody account-keeping and permanently have capital equal to or greater than the initial capital level specified in article 9 of Directive 2006/49/EC.

Regulations

Depositaries of undertakings for collective investment in transferable securities (UCITS) and alternative investment funds (AIF) have two main missions: custody of the assets held by the undertakings for collective investments (UCIs) and ensuring that any decisions by the UCITS, the AIF or its management company comply with the applicable laws and regulations and with the provisions set out in its prospectus.

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Read more

📄 Articles L.214-10-1 of the Monetary and Financial Code (in French only)



- ✚ Articles L.214-24-7 of the Monetary and Financial Code (in French only)
 - ✚ Articles 323-1-A to 323-41 of the AMF General Regulation
 - ✚ Order of 25 July 2013 (AIFs) (in French only)
 - ✚ Page on custody account keeping / clearing on the Banque de France website
- AMF instruction DOC-2016-01 - Authorisation procedure for investment firms acting as a UCITS depositary – Review procedure for the performance
- ✚ specifications of other UCITS and AIF depositaries

Obtain an authorisation

UCITS depositary authorisation process

The UCITS V Directive states that entities other than national central banks and credit institutions (and branches of credit institutions) that wish to perform the function of UCITS depositary must be authorised.

The AMF, the French Prudential Supervisory Authority (ACPR) and the Treasury have decided to implement an authorisation for investment firms acting as UCITS depositaries, which can be obtained in the same way as the ACPR's authorisation for investment services providers.

Investment firms must first get their programme of activity approved by the AMF and then get an authorisation from the ACPR. They do not, however, have performance specifications (the various points from the performance specifications are replicated in the programme of activity drawn up specially for the depositary business).

French credit institutions and French branches of EU credit institutions must submit their performance specifications for approval. These performance specifications outline the conditions in which the depositary performs its activity (resources, organisation, procedures, etc.).

AIF depositary authorisation process


Credit institutions and investment firms (operating under French law or via a French branch) must keep their performance specifications up to date and send them to the regulator.

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