Book III - Service providers

Title I bis - Asset management companies of AIFs

Chapter III - Organisational rules

Section 7 - Conflicts of interest

General regulation of the AMF

Article 318-13 into force since 03 January 2018

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Article 318-13

I. - The asset management company shall take all reasonable steps to identify conflicts of interest that arise in the course of managing AIFs between:

1 • The asset management company, including its managers, employees or any person directly or indirectly linked to the asset management company by control, and the AIF managed by the asset management company or the unit or shareholders in that AIF;

2 • The AIF or the unit or shareholders in that AIF, and another AIF or the unit or shareholders in that other AIF;

3 • The AIF or the unit or shareholders in that AIF, and another client of the asset management company;

4 • The AIF or the unit or shareholders in that AIF, and a UCITS managed by the asset management company or the unit or shareholders in that UCITS; or

5 • Two clients of the asset management company.

The asset management company shall maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps designed to identify, prevent, manage and monitor conflicts of interest in order to prevent them from adversely affecting the interests of the AIFs and their unit or shareholders.

The asset management company shall segregate, within its own operating environment, tasks and responsibilities which may be regarded as incompatible with each other or which may potentially generate systematic conflicts of interest. It shall assess whether their operating conditions may involve any other material conflicts of interest and disclose them to the unit or shareholders of the AIFs.

II. - Where organisational arrangements made by an asset management company to identify, prevent, manage and monitor conflicts of interest are not sufficient to ensure, with reasonable confidence, that risks of damage to the interests of unit or shareholders will be prevented, the asset management company shall clearly disclose the general nature or sources of conflicts of interest to such holders before undertaking business on their behalf, and develop appropriate policies and procedures.

III. - Where the asset management company, on behalf of an AIF, uses the services of a prime broker, the terms shall be set out in a written contract. In particular any possibility of transfer and reuse of AIF assets shall be provided for in that contract and shall comply with the AIF rules or instruments of incorporation. The contract shall provide that the depositary be informed of the contract.

The asset management company shall exercise due skill, care and diligence in the selection and appointment of prime brokers with whom a contract is to be concluded.

Version into force since 3 January 2018