Book III - Service providers

Title II - Other service providers

Chapter III - AIF depositaries

Section 4 - Procedures for supervising compliance of the decisions made by the AIF or its asset management company

General regulation of the AMF

Article 323-40 into force since 14 August 2013

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Article 323-40

The depositary establishes and implements a supervision plan. The plan shall define the object, nature and frequency of supervision for this purpose.

Supervision shall be carried out ex post and shall exclude any discretionary review (contrôle d'opportunité). Supervision shall focus on the following:

1 • Compliance with investment and asset structure rules;

2 • The minimum asset amount;

3 • The frequency of valuation of the AIF;

4 • The rules and procedures for determining the net asset value;

- Substantiation of the contents of the AIF's suspense accounts;

- Information that is specific to certain types of AIF, such as the tracking error of index AIFs;

- The statement of reconciliation with the inventory transmitted by the asset management company. The asset management company shall take an inventory of the AIF's assets, as specified in Articles L. 214-24-49, L. 214-50, L. 214-135 and L. 214-175 of the Monetary and Financial Code, at least once every six months under the supervision of the depositary.

The characteristics of the supervision plan shall take account of the information gathered during the initial contact with the AIF or the asset management company. The plan shall be updated at intervals suited to the characteristics of the activity engaged in and be made available to the AMF.

The supervision plan, audit reports and reports on problems revealed shall be kept for five years.

The depositary shall have access to all of the AIF's accounting information at all times. It shall also have access at all times to all the detailed accounting and non-accounting information pertaining to the assets referred to in Article L. 214-36, I, 1 of the Monetary and Financial Code. The manner and means of transmitting this information shall be provided for in the contract referred to in Article 323-30.

Version into force since 14 August 2013