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The AMF updates its policy on funds with high fees

Following the Common Supervisory Action (CSA) on the practices of portfolio asset management companies with regard to management costs and fees, the AMF has reviewed the marketing of active funds that are close to their benchmark and passive funds with high fees, and has decided to upgrade its policy in order to specify the requirements applicable to investment services providers (ISP) in such cases.

Background and facts about active funds

Active funds with high level of fees that durably track their benchmark can be misleading to investors since these funds are unlikely to outperform their benchmark, even though their management objective may suggest otherwise.

The AMF had [issued a news release on the subject in 2019](https://www.amf-france.org/en/news-publications/news/clarifications-concerning-information-be-provided-investors-collective-investment-undertakings) URL = [https://www.amf-france.org/en/news-publications/news/clarifications-concerning-information-be-provided-investors-collective-investment-undertakings], after the ESMA updated its questions and answers (Q&A, [ESMA34-43-392](https://www.esma.europa.eu/sites/default/files/library/esma34_43_392_qa_on_application_of_the_ucits_directive.pdf) URL = [https://www.esma.europa.eu/sites/default/files/library/esma34_43_392_qa_on_application_of_the_ucits_directive.pdf]), in order to clarify the obligation of UCITS to state whether the UCITS is “active” or “passive” based on precise definitions (Question 8a) and to describe the degree of freedom from its benchmark index (Question 8c). These clarifications were intended to ensure accurate, clear and non-misleading disclosure of the funds' management objective and investment strategy.

Observing that the clarifications provided to investors were not enough to limit the marketing of active funds that closely tracks their benchmark index over the long term, the AMF decided to specify the checks that distributors are required to carry out before marketing active funds.

AMF clarification on active funds

Position-recommendation DOC-2007-25 presents questions and answers on the rules of conduct applicable to investment services providers. It has been updated to add a position stating that, pursuant to [Article 54.9 of Delegated Regulation \(EU\) 2017/565](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0565&from=FR) URL = [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0565&from=FR], ISPs that provide investment advice services must, when determining whether equivalent collective investments are likely to match their clients' profile, have policies and procedures in place to ensure that they can assess the long-term relationship between the level of fees of funds displaying an active management objective and the closeness of their performance to that of their benchmark (for example, by calculating the tracking error).

Findings regarding funds with a passive management objective and high fees

The CSA also revealed that ISPs distribute funds with a passive management objective even though they have particularly high fees. This raises questions as to whether the client's interests are put first when there are equivalent investments, such as passive funds that replicate the same index, which are also likely to match the client's profile and have lower fees.

AMF clarification on passive funds

To clarify what is expected of distributors in this case, Position-recommendation DOC-2007-25 now states that ISPs must have policies and procedures in place to compare the level of fees of funds with a passive management objective with those of comparable funds in order to determine whether equivalent, lower-cost collective investment schemes are likely to be suitable for their clients.

Implementation timetable


The AMF's new positions shall apply to ISPs as from 1 January 2023.

En savoir plus

AMF Position-recommendation DOC-2007-25 : Q&A on the rules of conduct

📄 applicable to investment services providers (in french only)

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