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The AMF is conducting a consultation on the end of life of private equity funds intended for retail investors

The AMF is conducting a consultation in order to adapt the regulatory framework of the end of life of private equity funds intended for retail clients, with a view to strengthening investor protection and creating a framework facilitating compliance with the initial liquidation dates of these funds.

The AMF has observed that the announced life of private equity funds intended for retail clients, whose compliance is the responsibility of the asset management company, is regularly exceeded by a significant number of funds for various reasons. This results in diverse impacts for their investors, from the perspective of both the information provided at the outset and during the life of the fund, and the problems of all kinds caused by liquidation procedures that are excessively lengthy. In recent years this subject has given rise to a significant flow of claims to the AMF and case referrals to the AMF Ombudsman by retail investors. The funds concerned are innovation venture capital funds (FCPIs), local investment funds (FIPs) and venture capital funds (FCPRs) intended for non-professional clients.

The end of life of private equity funds can be divided into three successive stages: pre-liquidation, which is an optional stage making it possible to prepare the liquidation operations, followed by the termination decision (mandatory stage subject to the prior approval of the AMF), and then liquidation.

A working group was formed on the initiative of the AMF Board and chaired by AMF Board member Mrs Muriel Faure, with representatives of the various stakeholders (representatives of retail investors, private equity investment firms, depositories and auditing and legal professionals). It worked with the support of the AMF staff on various legislative, regulatory and operational proposals designed to improve the protection of retail investors investing in these products.

The AMF is now conducting a consultation on the 19 proposals arising from this working group and contained in the attached report, aimed at addressing the following issues:

- strengthening the regulatory framework of liquidation operations, by clarifying the powers of the fund liquidator and, for example, systematically requiring pre-liquidation, to avoid situations in which the asset management companies might really start their work in order to sell their equity investments only as the originally planned date of termination of the fund draws near;
- the availability of financial resources enabling the liquidator of the funds to allocate sufficient means to this important phase, particularly in situations where the original asset management company might not be capable of performing these liquidation operations itself;
- enhancement of the information for holders of fund units, both at inception of the fund and during the liquidation phase; in particular, those asset management companies that have not complied with the lifetime of at least 50% of the funds that they manage during the last 10 years must insert a warning notice in the fund documentation concerning the asset management company's failure to comply with the announced liquidation dates;
- strengthening of the AMF's supervision, with the establishment of a specific half-year report for the attention of the regulator concerning the liquidation status of funds that have exceeded their lifetime;
- a series of measures to remove the obstacles to liquidation that may exist as of the fund design stage, and in particular a recognition that the current maximum theoretical 10-year duration of private equity funds may be inappropriate for the cycle of value creation in certain economic sectors;
- a series of measures aimed at limiting the occurrence of situations in which the asset management company, in its role as registrar of the fund units, might have lost contact with certain investors and might therefore be incapable of paying them the amounts due at the time of liquidation;

- creation of a marketplace mechanism for the liquidation of funds in special situations.

Some of these proposals are covered by legislative documents (and will therefore have the status of proposals made by the AMF to the legislator), while others are covered by regulatory provisions coming under the AMF General Regulation or policy, so their application will inevitably take place according to different timetables.

Contributions should be sent no later than Friday 14 October 2022 to directiondelacommunication@amf-france.org URL = [mailto:directiondelacommunication@amf-france.org].

About the AMF

The AMF is an independent public authority responsible for ensuring that savings invested in financial products are protected and that investors are provided with adequate information. The AMF also supervises the orderly operations of markets. Visit our website <https://www.amf-france.org> URL = [https://www.amf-france.org/]

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