

Book III - Service providers

Title Ier quater - Others asset management companies

General regulation of the AMF

Article 321-154 into force since 10 February 2025

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Article 321-154

Unless otherwise provided, Title I b and Articles 321-155 to 321-166 are applicable for the management of their collective investments:

I. - To the portfolio asset management companies referred to in Article L. 532-9 of the Monetary and Financial Code.

These legal entities also send the AMF the information mentioned in Article L. 214-24-20 I and II of the Monetary and Financial Code and in Article 421-36 under the terms set out in Article 110 and pages 71 to 77 of Annex IV to Delegated Regulation (EU) No. 231/2013 of the Commission of 19 December 2012. These entities also comply with the investor disclosure obligations in Article L. 214-24-19 of the Monetary and Financial Code and Articles 421-33 to 421-35.

Without prejudice to Article 4 (3) of the abovementioned Delegated Regulation (EU) No. 231/2013, if the AIFs they manage no longer fulfil the conditions referred to in the first sub-paragraph of Article L. 532-9 IV of the Monetary and Financial Code, these legal entities shall comply, for the management of these AIFs, with Title I a of the present Book.

These legal entities may choose to submit the AIFs they manage to Title I a of the present Book.

II. - To portfolio asset management companies referred to in the second sub-paragraph of Article L. 532-9 III of the Monetary and Financial Code.

III. - To the portfolio asset management companies of the securitisation vehicles referred to in of Article L. 214-167 I of the Monetary and Financial Code.

1 • By way of derogation from Article 321-10, a portfolio asset management company that manages one or more securitisation vehicles referred to in Article L. 214-167 I of the Monetary and Financial Code must be able to prove at any time that its own funds are at least equal to the higher of the two amounts specified in a and b hereafter:

a) EUR 125,000 plus the sum of:

i) 0.02% of the amount of assets under management by the portfolio asset management company in excess of EUR 250 million, excluding the securitisation vehicles referred to in Article L. 214-167 I of the Monetary and Financial Code; and

ii) 0.02% of the assets held by the securitisation vehicles referred to in Article L. 214-167 I of the Monetary and Financial Code and managed by the portfolio asset management company, the result being capped at a ceiling of EUR 760,000.

The own funds requirement is capped at a ceiling of EUR 10 million.

The assets included in the calculation of the additional own funds requirement referred to in a) are:

- SICAVs (Sociétés d'investissement à capital variable) that have globally delegated the management of their portfolio to the portfolio asset management company;

- FCPs (unit trusts) managed by the portfolio asset management company, including portfolios for which it has delegated management but excluding portfolios that it manages on a delegated basis;

- investment funds managed by the portfolio asset management company, including portfolios for which it has delegated management but excluding portfolios that it manages on a delegated basis.

b) One-quarter of the annual fixed overheads for the previous financial year calculated in accordance with Article 13 of Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 and Commission Delegated Regulation (EU) 2022/1455 of 11 April 2022.

2 • the own funds requirement at the time of authorisation shall be calculated on the basis of forecast data. For

years, the amount of overheads and the total value of portfolio assets used to determine the own funds requirement shall be calculated on the basis of the most recent of the following portfolio asset management company documents: annual statements for the previous financial year, interim statement of financial position certified by the statutory auditor or the data sheet referred to in Article 321-75.

3 • to cover any potential professional liability risks resulting from AIF management activities, excluding the securitisation vehicles referred to in Article L. 214-167 I of the Monetary and Financial Code, the portfolio asset management company must:

a) either have additional own funds of an amount sufficient to cover potential liability risks arising from professional negligence;

b) or be covered by a professional civil liability insurance policy, tailored to the risks covered, for its liability arising from professional negligence.

IV. - To the portfolio asset management companies of "Other Collective Investment Undertakings".

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For the application of Title I b, to the portfolio asset management companies referred to in I to IV, the reference to “UCITs” is replaced, as appropriate, by reference to “AIFs” or “Other Collective Investment Undertakings”.

By way of derogation to Articles 321-167 and 321-168, Section 2 of Chapter V of Title I b shall apply to legal entities managing the AIFs referred to in Article L. 214-24 III 3° and to managers of European venture capital funds falling under Regulation (EU) No. 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds and fund managers of European social entrepreneurship funds falling under Regulation (EU) No. 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds.

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