



## French provisions governing the marketing requirements applicable to AIFs and UCITS

### **2 August 2021**

This page contains information on the national legislative, regulations and administrative provisions governing the marketing requirements referred to in Article 5 (1) of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 on facilitating cross-border distribution of collective investment undertakings.

It outlines the main provisions of French financial legislation based on the Monetary and Financial Code, the AMF General Regulation, and the AMF instructions, positions and recommendations applicable to the marketing in France of units or shares of UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 and AIFs managed by fund managers authorised in accordance with Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011.

However, it does not mention all the provisions concerning the marketing of UCITS or AIFs which are already covered by the UCITS IV and AIFM directives (e.g., the rules relating to publication of the prospectus or the Key Investor Information Document already stipulated by the UCITS IV Directive), especially when it is the rules of the home country of the UCITS or the AIF manager that apply. This document also does not mention the provisions of, for example, contract law or consumer law which might apply.

### **I. Marketing requirements applicable for UCITS**

#### **(a) Format and content of marketing material**

##### **Documents to be notified to the AMF prior to beginning of marketing**

The information and documents to be disclosed before marketing UCITS, in accordance with Article 93 of Directive 2009/65/EC, are listed below in the section devoted to passport rules. Note that proof of payment of the fixed duty owed to the AMF pursuant to Article L. 621-5-3 of the Monetary and Financial Code is required in addition to the documents stipulated in Annex 1 to Commission Regulation (EU) 584/2010 of 1 July 2010.

##### **Format and content of marketing material**

*Non-exhaustive description of the regime:* Marketing material for UCITS must comply with certain formal requirements. In particular, such publications, clearly identifiable as such, must be accurate, clear and non-misleading (otherwise, the AMF may make changes in their presentation or content) and mention the existence of the prospectus and the availability of the Key Investor Information Document. They shall comply with the requirements mentioned in the provisions listed below.

##### Legislative provision:

[Article L. 533-22-2-1 of the Monetary and Financial Code](#)

##### Regulatory provisions:

Articles [314-6](#), [411-126](#) and [411-132](#) of the AMF General Regulation<sup>1</sup>

AMF instruction, positions and recommendations:

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 37 (concerning foreign UCITS)

[Position-Recommendation DOC-2011-24](#): A Guide to drafting collective investment marketing materials and distributing collective investments

[Position-Recommendation DOC-2020-03](#): Information to be provided by collective investment schemes incorporating non-financial approaches

[Recommendation DOC-2017-07](#): Future performance simulations

#### **(b) Verification of marketing communications by the AMF**

The AMF has a risk-based approach combining a non-systematic preliminary review of marketing documents with an ex-post review by sampling.

For the preliminary reviews the AMF concentrates mainly on innovative strategies or strategies whose atypical nature could entail a greater risk of mis-selling to the general public.

Legislative provision:

[Article L. 533-22-2-1 of the Monetary and Financial Code](#)

Regulatory provisions:

Articles [314-6](#), [411-126](#) and [411-132](#) of the AMF General Regulation<sup>2</sup>

AMF instruction, positions and recommendations:

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 37 (concerning foreign UCITS)

[Position-Recommendation DOC-2011-24](#): A Guide to drafting collective investment marketing materials and distributing collective investments

[Position-Recommendation DOC-2020-03](#): Information to be provided by collective investment schemes incorporating non-financial approaches

[Recommendation DOC-2017-07](#): Future performance simulations

#### **(c) Reporting obligations in relation to marketing**

##### **Sending information to the AMF**

*Non-exhaustive description of the regime:* When a foreign UCITS is marketed in France, it must send to the AMF the information referred to in the instruction mentioned below (annual and half-year reports, changes affecting the life of the UCITS and those made to its Key Investor Information Document (KIID) and prospectus, said changes being performed after filing the application and affecting the conditions of marketing of the UCITS in France). This information shall be sent to the AMF at the following email address: [europeanopcvm@amf-france.org](mailto:europeanopcvm@amf-france.org).

AMF instruction

<sup>1</sup> See also Article 44 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 applicable for the provision of investment services or under the conditions of Article 411-129 (I) of the AMF General Regulation.

<sup>2</sup> See also Article 44 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 applicable for the provision of investment services or under the conditions of Article 411-129 (I) of the AMF General Regulation.

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 39

#### **Information materials available to the public in France**

*Non-exhaustive description of the regime:* UCITS shall provide the public with the (in principle) French version of the Key Investor Information Document, and also with the information that it must hold at the disposal of its unitholders, in the offices of the institutions authorised to receive subscription and redemption orders. Foreign management companies are required to inform shareholders or unitholders who have subscribed in the same conditions as those demanded by the domestic law of the country in which the UCITS is marketed.

#### AMF instruction

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 40

#### **Investor information after the act of subscription**

*Non-exhaustive description of the regime:* Certain changes that may be made in the life of a UCITS or of a UCITS sub-fund require informing the unitholders or shareholders. These changes and the information procedures are described in the aforementioned instruction.

#### AMF instruction

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Articles 18 to 23, 40 and Annex XII

#### AMF guide

[Guide for writing letters to fundholders of authorised CIUs](#)

#### **Language used in regulatory information documents**

*Non-exhaustive description of the regime:* The marketing of UCITS units or shares in France is subject to a requirement that rules or instruments of incorporation and fundholder information documents be provided in French.

Exceptionally, these documents may be drafted in a language customary in the sphere of finance other than French if the marketing is directed at professional clients, as long as the person marketing the UCITS units or shares has ensured:

- 1° In the case of professional clients, that they have consented to receive the documents in that language;
- 2° In the case of non-professional clients, that they understand that language.

#### Regulatory provisions

Articles [411-105](#) and [411-129 III](#) of the AMF General Regulation

#### AMF instruction

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 40

#### **(d) Passport regime**

##### **Procedure for notification of the marketing of foreign UCITS in France**

*Non-exhaustive description of the regime:* For all UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 incorporated under foreign law, prior to marketing of their units or shares in France, the Autorité des Marchés Financiers shall be notified by the competent authority of the UCITS' home Member State.

All notifications of the marketing of a UCITS or a UCITS sub-fund in France shall comprise:

1° the letter of notification containing information on the planned arrangements for marketing of the UCITS units or shares in France, including, where applicable, details for each class of units or shares. The letter shall also contain the information, including the address, needed for the invoicing or communication of any regulatory fees or charges applicable by the AMF pursuant to Article L. 621-5-3 of the Monetary and Financial Code, and information on the facilities for carrying out tasks identical to those referred to by Article 411-137-1 (I) of the AMF General Regulation;

2° the fund rules or instruments of incorporation;

3° the prospectus and, where applicable, the latest annual report and any subsequent half-year report;

4° the certification of the Supervisory Authority;

5° the Key Investor Information Document (KIID), translated;

6° proof of payment of the AMF fee due when submitting any file.

The notification file for marketing in France shall be sent electronically to the AMF directly by the competent authority of the UCITS' home Member State.

On receiving the marketing notification file, the AMF will acknowledge receipt of the file.

When the file is incomplete, the AMF will contact the competent authority of the UCITS' home Member State.

When the file is complete, notification of its acceptance shall be sent to the competent authority of the UCITS' home Member State within five business days.

#### Legislative provision

[Article L. 214-2-2 of the Monetary and Financial Code](#)

#### AMF instruction

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 36

### **Facilities made available to investors in foreign UCITS**

*Non-exhaustive description of the regime:* Foreign UCITS marketed in France shall make facilities available in France for carrying out certain tasks (Article 92 of Directive 2009/65/EC). Pursuant to Article 411-135 of the AMF General Regulation, these UCITS may, in conditions identical to those set out in Article 411-137-1 (II), appoint a third party established in France as "correspondent" to carry out the tasks provided for by said Article. The AMF recommends naming such a third party established in France and belonging to one of the categories referred to in Article 1 of the Order of 6 September 1989.

The correspondent may also be responsible for paying the fixed annual fee due to the AMF in accordance with the provisions of Article L. 621-5-3 of the Monetary and Financial Code. In that case, the UCITS or its management company shall send in the notification referred to in Article 36 of this instruction the information, including the address, needed for invoicing.

#### Regulatory provisions

[Article 411-135 of the AMF General Regulation](#)

#### AMF instruction

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 38

### **Fees due to the AMF**

*Non-exhaustive description of the regime:* Under the conditions provided for by the aforementioned provisions, foreign UCITS are subject to a fixed fee. The amount of the fee is €2,000 per sub-fund or per UCITS if the latter has no sub-fund. It shall be payable on the day when the file is submitted to the AMF and, when the UCITS or the sub-fund still benefits from the marketing notification at 1 January, on 30 April the following years.

Legislative provision

[Article L. 621-5-3 I 4° of the Monetary and Financial Code](#)

Regulatory provision

[Article D. 621-27 4° of the Monetary and Financial Code](#)

#### (e) De-notification of the arrangements made for marketing

*Description of the regime:* Foreign UCITS may de-notify the file sent to the AMF by the competent authority of said undertaking's home Member State in accordance with Article 93 bis of the UCITS Directive.

Legislative provision:

[Article L. 214-2-2 of the Monetary and Financial Code](#)

AMF instruction:

[Instruction DOC-2011-19](#) on authorisation procedures, preparation of a KIID and a prospectus and periodic reporting for French and foreign UCITS marketed in France - Article 36 and Article 40-1 and Annex XVIII bis

#### (f) Other rules governing the marketing of UCITS applicable in France

##### **Rebates on management fees or subscription and redemption fees**

*Non-exhaustive description of the regime:* Receiving rebates on management fees or subscription and redemption fees for investments made on behalf of a UCITS in units or shares of a French or foreign collective investment product or a third-country investment fund is prohibited or regulated under the conditions provided for in the provisions mentioned below of the AMF General Regulation.

Regulatory provisions

Articles [411-129-1](#), [411-130](#) and [411-132](#) of the AMF General Regulation

##### **Specific provisions for certain UCITS**

- **Marketing of units or shares of complex UCITS<sup>3</sup>**

*Non-exhaustive description of the regime:* This position first reminds distributors of their obligations regarding the choice of products that they offer to retail investors. It also draws attention to the fact that this marketing,

<sup>3</sup> It is specified that the word "complex" should not be understood within the meaning of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014.

when it concerns particularly complex products specially referred to by the AMF position, could lead distributors to not comply with their professional obligations. These particularly complex products are the subject of "*enhanced due diligence*".

AMF position

[Position DOC-2010-05](#): Marketing of complex financial instruments

- **Marketing of units or shares of UCITS offering a guarantee**

*Non-exhaustive description of the regime*: This position aims to prevent the risk of mis-selling to the general public of UCITS or formula-based or "guaranteed" AIFs, and structured debt instruments having similar characteristics issued by dedicated issuance vehicles. The AMF specifies that if the guarantee of the formula's result or the capital is not given by an authorised entity, there is a risk that retail clients may misunderstand the risks.

AMF position

[Position DOC-2013-12](#): Requirement to offer a guarantee (of the formula and/or capital as appropriate) for structured UCITS and AIFs, "guaranteed" UCITS and AIFs, and structured debt securities issued by special purpose entities and marketed to the general public

- **Admission of UCITS units or shares to trading on a regulated market**

Regulatory provisions

[Article D. 214-22-1 of the Monetary and Financial Code](#)  
[Articles 411-133 and 411-134 of the AMF General Regulation](#)

- **UCITS containing classes of units or shares reserved for an investor category**

*Non-exhaustive description of the regime*: When a UCITS or UCITS sub-fund contains classes of units or shares reserved for an investor category, defined in the prospectus, the distributor shall ensure that the investor fulfils the subscription requirements.

Regulatory provisions

Articles [411-22](#) and [411-129 II](#) of the AMF General Regulation

**Soliciting, entering into a relationship and investor information**

- **General provision regarding soliciting the public**

*Non-exhaustive description of the regime*: In accordance with this provision of the AMF General Regulation, soliciting the public for foreign UCITS is subject to the same measures as those applicable to French UCITS.

Regulatory provision

[Article 411-131 of the AMF General Regulation](#)

- **Direct marketing of banking or financial products**

*Non-exhaustive description of the regime:* The direct marketing of banking or financial products is an active method of marketing of financial products or services governed by a regime stipulated by the Monetary and Financial Code. This arrangement shall apply whenever an act of direct marketing of banking or financial products is carried out in France, even when only the person solicited is located in France. However, this arrangement provides for certain exceptions, particularly when establishing contact with qualified investors.

Legislative provisions

[Articles L. 341-1 to L. 341-17 of the Monetary and Financial Code](#)

Regulatory provisions

[Articles D. 341-1 to R. 341-16 of the Monetary and Financial Code](#)

- **The distance provision of financial services to consumers**

*Non-exhaustive description of the regime:* These provisions result from the transposition of Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance selling of financial services to consumers.

Legislative provisions

[Articles L. 343-1 and L. 343-2 of the Monetary and Financial Code](#)

**The handling of an order for subscription or redemption of UCITS units or shares by an asset management company authorised in France or a management company authorised in another Member State**

*Non-exhaustive description of the regime:* The provision of services, by a French asset management company or a management company authorised in another Member State, for handling an order for the subscription or redemption of AIF units or shares, is subject to conduct of business rules (without prejudice to the possible provision of an investment advisory service).

Regulatory provision

[Article 411-129 of the AMF General Regulation](#)

AMF instruction

[AMF Instruction DOC-2008-04](#) on the application of conduct of business rules in the marketing of units or shares of UCITS or AIFs by asset management companies, management companies and managers

**Disclaimer:** The AMF has taken all reasonable care to ensure that the information on the national provisions governing the marketing requirements applicable for UCITS in France is up-to-date and complete. The AMF is not responsible for maintaining external websites and is not liable for any error or omission on any external website to which hyperlinks are provided on this webpage.

## **II. Marketing requirements for AIFs**

### **(a) Prior authorisation for marketing**

*Non-exhaustive description of the regime:* Summary of the regime applicable to the marketing of units or shares of AIFs in France

Overview of the regime applicable to marketing in France of units or shares of AIFs

		French asset management company		Management company authorised in another Member State of the European Union	Manager established in a third country
		not authorised under Directive 2011/61/EU	authorised under Directive 2011/61/EU		
French AIF	Professional clients	As appropriate, authorisation, declaration or compliance with the provisions based on the Prospectus Regulation for the AIF	Procedure of prior notification to the AMF (Articles 421-1 and 421-2 of the AMF General Regulation)	Procedure of prior notification to the authority of the management company (Article 32 of Directive 2011/61/EU)	Not applicable
	Retail clients		Procedure of prior authorisation by the AMF (Article 421-13 of the AMF General Regulation)	Procedure of prior authorisation by the AMF (Article 421-13 of the AMF General Regulation), subject among other things to the existence of a mutual recognition agreement	Not applicable
AIF established in another Member State of the European Union	Professional clients	Marketing impossible	Marketing with a passport: procedure of prior notification to the AMF (Articles 421-1 and 421-2 of the AMF General Regulation)	Marketing with a passport: procedure of prior notification to the authority of the management company (Article 32 of Directive 2011/61/EU)	Non-passport marketing: procedure of prior authorisation by the AMF (Articles D. 214-32 of the Monetary and Financial Code and 421131 of the AMF General Regulation)
	Retail clients		Procedure of prior authorisation by the AMF (Article 421-13 of the AMF General Regulation), subject among other things to the existence of a mutual recognition agreement		
AIF established in a third country	Professional clients	Marketing impossible	Non-passport marketing: procedure of prior authorisation by the AMF (Articles D. 214-32 of the Monetary and Financial Code and 421-13-1 of the AMF General Regulation)		
	Retail clients		Procedure of prior authorisation by the AMF (Article 421-13 of the AMF General Regulation), subject among other things to the existence of a mutual recognition agreement		

Legislative provision:

[Article L. 214-24-1 of the Monetary and Financial Code](#)

Regulatory provision:

[Articles 421-1 et seq. of the AMF General Regulation](#)

AMF instruction, positions and recommendations:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs

[AMF Position-Recommendation DOC-2014-04](#): Guide to UCITS, AIF and other investment fund marketing regimes in France

**(b) Format and content of marketing material, including by the indication of information and documents to be disclosed to the competent authority before the start of marketing**

**Documents to be disclosed to the AMF before the start of marketing**

*Non-exhaustive description of the regime:* The information and documents to be provided to the AMF are listed in AMF Instruction DOC-2014-03. Note that in addition to the documents requested as part of the marketing procedure with or without a passport, proof of payment of the fixed fee due to the AMF under the conditions of Article L. 621-5-3 of the Monetary and Financial Code must be sent to the AMF for marketing in France.

AMF instruction, positions and recommendations:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs

**Format and content of marketing material**



**Non-exhaustive description of the regime:** AIF marketing material intended for investors must comply with certain formal requirements. In particular, such publications, clearly identifiable as such, must be accurate, clear and non-misleading (otherwise, the AMF may make changes in their presentation or content). They shall comply with the requirements mentioned in the provisions mentioned below.

Legislative provision:

[Article L. 533-22-2-1 of the Monetary and Financial Code](#)

Regulatory provisions

Articles [314-6](#) and [421-25](#) of the AMF General Regulation<sup>4</sup>

AMF positions and recommendations:

[Position-Recommendation DOC-2011-24](#): A Guide to drafting collective investment marketing materials and distributing collective investments

[Position-Recommendation DOC-2020-03](#): Information to be provided by collective investment schemes incorporating non-financial approaches

[Recommendation DOC-2017-07](#): Future performance simulations

(c) Verification of marketing communications by the competent authority

The AMF has a risk-based approach combining a non-systematic preliminary review of marketing documents with an ex-post review by sampling.

For the preliminary reviews the AMF concentrates mainly on innovative strategies or strategies whose atypical nature could entail a greater risk of mis-selling to the general public (e.g. employee savings scheme funds (FCPEs) invested in listed and unlisted company securities; venture capital funds for retail investors and "fiscal" funds (FCPR, FIP, FCPI, SOFICA); undertakings for collective investment in real estate (OPCIs) for retail investors).

Legislative provision:

[Article L. 533-22-2-1 of the Monetary and Financial Code](#)

Regulatory provisions

Articles [314-6](#) and [421-25](#) of the AMF General Regulation<sup>5</sup>

AMF positions and recommendations:

[Position-Recommendation DOC-2011-24](#): A Guide to drafting collective investment marketing materials and distributing collective investments

[Position-Recommendation DOC-2020-03](#): Information to be provided by collective investment schemes incorporating non-financial approaches

[Recommendation DOC-2017-07](#): Future performance simulations

(d) Marketing to retail investors or professional investors

<sup>4</sup> See also Article 44 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 applicable for the provision of investment services or under the conditions of Article 421-26 (I) of the AMF General Regulation.

<sup>5</sup> See also Article 44 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 applicable for the provision of investment services or under the conditions of Article 421-26 (I) of the AMF General Regulation.

*Non-exhaustive description of the regime:* The units or shares of AIFs (established in the European Union or in another State that is a party to the European Economic Area agreement) may be marketed in France (i) to professional clients via the passport scheme of Directive 2011/61/EU and (ii) to retail clients via a prior authorisation procedure. When an asset management company, a management company or a manager intends to market AIF units or shares to retail clients in France, it shall provide those clients with facilities to carry out the tasks referred to in Article 421-13 (IV) of the AMF General Regulation. It may appoint a third party established in France as "correspondent" to carry out the tasks stipulated in said Article and which may be tasked to pay the fixed annual fee due to the AMF in accordance with Article L. 621-5-3 of the Monetary and Financial Code. The AMF recommends naming such a third party established in France and belonging to one of the categories referred to in Article 1 of the official order of 6 September 1989.

Legislative provision:

[Article L. 214-24-1 of the Monetary and Financial Code](#)

Regulatory provision:

[Articles 421-1 et seq. of the AMF General Regulation](#)

AMF policy:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs

[AMF Position-Recommendation DOC-2014-04](#): Guide to UCITS, AIF and other investment fund marketing regimes in France

#### (e) Reporting obligations in relation to marketing

##### **Sending information to the AMF**

*Non-exhaustive description of the regime:* When a foreign AIF is marketed in France, it must send to the AMF the information referred to in the aforementioned instruction and listed in Annexes 1, 2-1 and 2-2 (annual and half-year reports, changes affecting the life of the AIF and those made to its Key Investor Information Document (KIID) and prospectus). Changes made after submitting the file and affecting the conditions of marketing of the AIF in France shall be sent to the AMF at the following email address: [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

Regulatory provision:

Articles [421-3](#) and [421-36](#) to 421-37b of the AMF General Regulation

AMF instruction

[Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs – Articles 6, 15 and 20, Annex 1, Annex 2-1 and Annex 2-2

##### **Information materials available to the public in France**

*Non-exhaustive description of the regime:* The AIF manager shall provide investors with the information listed in Article 26 of AMF Instruction DOC-2014-03

AMF instruction

[Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs – Article 26

**(f) Passporting regime**

**Procedure for notification of marketing to professional clients in France**

Legislative provision:

[Article L. 214-24-1 of the Monetary and Financial Code](#)

Regulatory provision:

[Articles 421-1 et seq. of the AMF General Regulation](#)

AMF policy:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs

[AMF Position-Recommendation DOC-2014-04](#): Guide to UCITS, AIF and other investment fund marketing regimes in France

**(g) Distribution of funds established in a third country under the national private investment regime**

Legislative provision:

[Article L. 214-24-1 of the Monetary and Financial Code](#)

Regulatory provisions

[Article D. 214-32 of the Monetary and Financial Code](#)

[Article 421-13-1 of the AMF General Regulation](#)

AMF policy:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs

[Position-Recommendation DOC-2014-04](#): Guide to UCITS, AIF and other investment fund marketing regimes in France

***Non-exhaustive description of the regime:*** AIFs of third countries wanting to be marketed to professional clients in France are subject to a procedure of prior authorisation by the AMF.

**(h) Distribution of open-ended AIFs and closed-ended AIFs**

As regards the applicable rules concerning marketing, there is no distinction depending on whether the fund is open-ended or closed-ended.

**(i) De-notification of the arrangements made for marketing**

*Description of the regime:* When the AIF is managed by an asset management company, the file for the de-notification of the arrangements for marketing, containing the items indicated in Annex 4 to AMF Instruction DOC-2014-03, shall be sent to the AMF by email to the address [passports-AIFM@amf-france.org](mailto:passports-AIFM@amf-france.org).

When the AIF is managed by a management company established in the European Union, the de-notification procedure provided for in Article 32 bis of the AIFM Directive is subject to the law of the management company's home country, like the marketing procedure referred to in Article 32 of said directive.

Legislative provision:

[Article L. 214-24-1 of the Monetary and Financial Code](#)

Regulatory provision:

[Article 421-3-1 of the AMF General Regulation](#)

AMF instruction:

[AMF Instruction DOC-2014-03](#): Procedures for pre-marketing or marketing units or shares of AIFs, Articles 8 to 11, Annex 4

(j) **Other rules governing the marketing of AIFs applicable in France**

**Specific provisions for certain AIFs**

- **Marketing of units or shares of foreign AIFs equivalent to structured UCITS<sup>6</sup>**

*Non-exhaustive description of the regime:* This position first reminds distributors of their obligations regarding the choice of products that they offer to retail investors. It also draws attention to the fact that this marketing, when it concerns particularly complex products specially referred to by the AMF position, could lead distributors to not comply with their professional obligations. These particularly complex products are the subject of "enhanced due diligence".

AMF position

[Position DOC-2010-05](#): Marketing of complex financial instruments

- **Marketing of units or shares of foreign AIFs offering a guarantee**

*Non-exhaustive description of the regime:* This position aims to prevent the risk of mis-selling to the general public of "guaranteed" AIFs in particular. The AMF specifies that if the guarantee of the formula's result or the capital is not given by an authorised entity, there is a risk that retail clients may misunderstand the risks.

AMF position

[Position DOC-2013-12](#): Requirement to offer a guarantee (of the formula and/or capital as appropriate) for structured UCITS and AIFs, "guaranteed" UCITS and AIFs, and structured debt securities issued by special purpose entities and marketed to the general public

- **Admission of AIF units or shares to trading on a regulated market**

Regulatory provisions

[Article D. 214-32-31 of the Monetary and Financial Code](#)

[Articles 421-27-1 and 421-27-2 of the AMF General Regulation](#)

<sup>6</sup> In the sense of those referred to in Article 36 of Commission Regulation (EU) No. 583/2010 of 1 July 2010 implementing the 2009/65/EC directive.

- **AIFs containing classes of units or shares reserved for an investor category**

*Non-exhaustive description of the regime:* When a UCITS or UCITS sub-fund contains classes of units or shares reserved for an investor category, defined in the prospectus, the distributor shall ensure that the investor fulfils the subscription requirements.

Regulatory provisions

Articles [421-24](#) and [421-26, II](#) of the AMF General Regulation

**Soliciting, entering into a relationship and investor information**

- **Direct marketing of banking or financial products**

*Non-exhaustive description of the regime:* The direct marketing of banking or financial products is an active method of marketing of financial products or services governed by a regime stipulated by the Monetary and Financial Code. This arrangement shall apply whenever an act of direct marketing of banking or financial products is carried out in France, even when only the person solicited is located in France. However, this arrangement provides for certain exceptions, particularly when establishing contact with qualified investors.

Legislative provisions

[Articles L. 341-1 to L. 341-17 of the Monetary and Financial Code](#)

Regulatory provisions

[Articles D. 341-1 to R. 341-16 of the Monetary and Financial Code](#)

- **The distance provision of financial services to consumers**

Legislative provisions

[Articles L. 343-1 and L. 343-2 of the Monetary and Financial Code](#)

**The handling of an order for subscription or redemption of AIF units or shares by an asset management company authorised in France or a management company authorised in another Member State**

*Non-exhaustive description of the regime:* The provision of services, by a French asset management company or a management company authorised in another Member State, for handling an order for the subscription or redemption of AIF units or shares, is subject to conduct of business rules (without prejudice to the possible provision of an investment advisory service).

Regulatory provision

[Article 421-26, I of the AMF General Regulation](#)

AMF instruction

[AMF Instruction DOC-2008-04](#) on the application of conduct of business rules in the marketing of units or shares of UCITS or AIFs by asset management companies, management companies and fund managers

**Disclaimer:** The AMF has taken reasonable care to ensure that the information on the national provisions governing the marketing requirements applicable to AIFs in France included on this webpage is up-to-date and complete. The AMF is not responsible for maintaining external websites and is not liable for any error or omission on any external website to which hyperlinks are provided on this webpage.

***Other requirements***

In addition to the provisions referred to above, which are specifically provided for the marketing of *UCITS and AIFs*, there may be other legal provisions that may apply when marketing in France, although they are not specifically designed for the marketing of *UCITS and AIFs*, depending on the individual situation of those involved in the marketing of shares or units of *UCITS or AIFs*. Marketing in France may trigger the application of other requirements, such as contract law, consumer law or tax law.

**Disclaimer:** The following list is a non-exhaustive list of the national laws that could be applicable, and the AMF may not be held liable for any omission from this list. Supervision of the requirements deriving from these laws is not under the supervision of the AMF. The applicability of these requirements, or any other legal requirement, before marketing a *UCITS or an AIF* or investing in a *UCITS or an AIF*. In case of doubt, those who market UCITS or AIFs or who invest in UCITS or AIFs should obtain independent advice concerning the requirements applicable to their individual situation.