



Summaries of French provisions governing marketing requirements applicable to AIFs and UCITS

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Summary of marketing requirements applicable to UCITS

All French UCITS must be approved by the AMF before their units or shares can be marketed in France, and notification of this approval constitutes authorisation of their marketing in France.

Any UCITS incorporated under foreign law and managed by an management company authorised under Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 (UCITS Directive) must be notified to the AMF by the competent authority of the home Member State of the UCITS before its units or shares can be marketed in France. The notification must include the information stipulated in Article 93 of the UCITS Directive.

The UCITS or its asset management company must provide investors in France with facilities to perform the tasks stipulated in Article 92 of the UCITS Directive. The AMF recommends that a foreign UCITS that has been the subject of a notification of its marketing in France should appoint a correspondent established in France and belonging to one of the categories referred to in Article 1 of the Order of 6 September 1989 to perform these tasks and pay the fixed annual fee due to the AMF, pursuant to Article L. 621-5-3 of the Monetary and Financial Code.

Articles 4 and 7 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 specify the requirements relating to marketing communications and the ex-ante verification of such communications by the competent authorities. These communications must also comply with certain formalities pursuant to Articles 314-6, 411-126 and 411-132 of the AMF General Regulation and with AMF policy (for example, in the case of particularly complex UCITS or when the UCITS communicates on the consideration of non-financial criteria). In particular, these communications, which must be clearly identifiable as such, must be accurate, clear and not misleading (otherwise, the AMF may request that their presentation or content be changed) and must mention that the prospectus and key investor information document are available to investors. The AMF has a risk-based approach that combines a non-systematic pre-review of marketing documents with a sample-based post-review, which focuses primarily on innovative strategies or strategies whose unusual nature could lead to a greater risk of mis-selling to the general public.

The marketing of UCITS units or shares in France is also subject to rules related to the nature of the service provided by the distributor (direct marketing, handling subscription or redemption orders, etc.).

Summary of marketing requirements applicable to AIFs

Summary of the regime applicable to the marketing of AIF units or shares 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		

Articles 4 and 7 of Regulation (EU) 2019/1156 of the European Parliament and of the Council of 20 June 2019 specify the requirements relating to marketing communications and the ex-ante verification of such communications by the competent authorities. These communications must comply with certain formalities pursuant to Articles 4 and 7 of the above-mentioned Regulation and Articles 314-6 and 421-25 of the AMF General Regulation and with AMF policy (for example, in the case of particularly complex AIFs or when the AIF communicates on the consideration of non-financial criteria). In particular, these communications, which must be clearly identifiable as such, must be accurate, clear and not misleading (otherwise, the AMF may request that their presentation or content be changed). The AMF has a risk-based approach that combines a non-systematic pre-review of marketing documents with a sample-based post-review, which focuses primarily on innovative strategies or strategies whose unusual nature could lead to a greater risk of mis-selling to the general public.

When an asset management company authorised in France, management company authorised in another Member State of the European Union or the European Economic Area, or manager established in a third country intends to market AIF units or shares to retail clients in France, it must provide these clients with facilities to perform the tasks mentioned in IV of Article 421-13 of the AMF General Regulation. The AMF recommends that the above-mentioned management companies and manager should appoint a correspondent established in France and belonging to one of the categories referred to in Article 1 of the Order of 6 September 1989 to carry out these tasks and pay the fixed annual fee due to the AMF, pursuant to Article L. 621-5-3 of the Monetary and Financial Code.

The marketing of AIF units or shares in France is also subject to rules related to the nature of the service provided by the distributor (direct marketing, handling subscription or redemption orders, etc.).