



## **PROGRAMME OF ACTIVITY OF INVESTMENT SERVICES PROVIDERS AND INFORMATION PROVIDED TO THE AMF**

References: AMF General Regulation 311-2, 311-3, 312-1 and 312-2

### **Contents**

<b>Title I – Examining the programme of activity of an investment services provider .....</b>	<b>2</b>
<b>Chapter I – Authorisation procedure .....</b>	<b>2</b>
<b>Article 1 – Filing a request for initial application for or extension of approval .....</b>	<b>2</b>
<b>Article 2 – Examination of the request to approve the programme of activity by the AMF .....</b>	<b>2</b>
<b>Article 3 – Notifying the approval decision on the programme of activity.....</b>	<b>2</b>
<b>Article 3-1 – Approval of an extension to a programme of activity.....</b>	<b>3</b>
<b>Chapter II – Approval of the programme of activity – examination of the request by the AMF .....</b>	<b>3</b>
<b>Article 4 – Approval of an initial programme of activity or changes to the programme of activity .....</b>	<b>3</b>
<b>Article 5 – Verification of the content of the programme of activity .....</b>	<b>3</b>
<b>Article 6 – Description of human resources.....</b>	<b>4</b>
<b>Article 7 – Description of the organisation of compliance monitoring.....</b>	<b>4</b>
<b>Title II – Processing of requests for authorisation or registration for carrying out the business of a benchmark index administrator.....</b>	<b>5</b>
<b>Article 8 – Description of the business of benchmark administration.....</b>	<b>5</b>
<b>Title III – Data reporting services providers (DRSPs) .....</b>	<b>6</b>
<b>Article 9 – Processing of requests from investment services providers for authorisation to provide data reporting services .....</b>	<b>6</b>
<b>Title IV – Information from investment service providers to the AMF.....</b>	<b>7</b>
<b>Article 10 – Annual statistics .....</b>	<b>7</b>

**This document includes annexes that can be accessed using the “Annexes and links” tab:**

**Annex 1 – Notification – Change of investment services compliance officer**

This instruction applies to investment services providers other than portfolio asset management companies and to branches of third-country companies authorised or seeking authorisation to provide investment services in

accordance with Article L. 532-48 of the Monetary and Financial Code, referred to in Sections I and III of Article 311-1 of the AMF General Regulation (*together referred to, for the purposes of this instruction, as the “investment services provider(s)”*).

This instruction specifies, in particular for investment services providers, the conditions under which the AMF will examine their programme of activity and is not intended to cover the entire procedure, particularly with regard to relations between the applicant and the ACPR.

## Title I – Examining the programme of activity of an investment services provider

### Chapter I – Authorisation procedure

To provide investment services,<sup>1</sup> investment services providers must obtain approval from the Prudential Supervisory and Resolution Authority (ACPR). It should be noted that an authorisation is not required simply to provide one or more of the services referred to in Article L. 321-2 of the Monetary and Financial Code (“ancillary services”<sup>2</sup>), with the exception of providing a custody account keeping service, for which the authorisation of the ACPR is required. This authorisation is also required for clearing activities.

The AMF shall approve the programme of activity of an investment services provider, irrespective of which investment service(s) are involved,<sup>3</sup> under the conditions set out in Article L. 532-4 of the Monetary and Financial Code.

#### Article 1 – Filing a request for initial application for or extension of approval

Once the applicant has filed with the ACPR an application prepared in accordance with Commission Delegated Regulation (EU) 2017/1943 of 14 July 2016 on information and requirements for the authorisation of investment firms and Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017, the application is sent by the ACPR to the AMF within 5 working days from the date of receiving the complete application.<sup>4</sup>

The form annexed to Commission Implementing Regulation (EU) 2017/1945 of 19 June 2017 is available at the following address:

<https://acpr.banque-france.fr/autoriser/procedures-secteur-banque/agrement-autorisation-ou-enregistrement/entreprise-dinvestissement>

Requests for authorisation are submitted via the Authorisations portal, which can be accessed at the following link: <https://acpr.banque-france.fr/autoriser/portail-autorisations>

#### Article 2 – Examination of the request to approve the programme of activity by the AMF

During the examination process and with a view to approving the programme of activity, the AMF can ask for any additional information needed to examine the programme of activity.

The applicant may provide this information electronically.

#### Article 3 – Notifying the approval decision on the programme of activity

---

<sup>1</sup> Investment services are defined as: order reception/transmission for third parties; order execution for third parties; dealing for own account; asset management for third parties; investment advice; underwriting; placement without firm commitment; operation of a multilateral trading facility within the meaning of Article L. 424-1; and operation of an organised trading facility within the meaning of Article 425-1. The services are defined in Article D. 321-1 of the Monetary and Financial Code.

<sup>2</sup> Ancillary services are listed in Article L. 321-2 of the Monetary and Financial Code.

<sup>3</sup> Articles L. 532-1 and L. 532-48 of the Monetary and Financial Code.

<sup>4</sup> Article R. 532-3 of the Monetary and Financial Code.

In accordance with Article R. 532-3 paragraph II of the Monetary and Financial Code, the AMF shall inform the applicant of its decision within three months of receiving the application, and it shall inform the ACPR of its decision. The failure of the AMF to respond by the end of this period shall constitute a rejection of the request.

If the programme of activity is approved, the notification letter from the AMF to the applicant shall contain the date of issue and the extent of the approval. The AMF's decision may be subject to suspensive conditions.

If the programme of activity is not approved, the AMF shall explain the reasons for its decision in the letter to the applicant.

The time limits available to the ACPR for making its decision are set out in Articles R. 532-3 paragraph III and R. 511-2-1 of the Monetary and Financial Code.

### **Article 3-1 – Approval of an extension to a programme of activity**

Subject to the time limits specified below, the procedure is identical to that set out in Article 3 where an investment services provider is seeking to extend the scope of its authorisation. In this case, the examination periods are two months (from the date the AMF receives the application).

The time limits available to the ACPR for making its decision are set out in Article R. 532-6 paragraph III of the Monetary and Financial Code.

## **Chapter II – Approval of the programme of activity – examination of the request by the AMF**

### **Article 4 – Approval of an initial programme of activity or changes to the programme of activity**

The content of the programme of activity is specific to each service provider. The programme of activity must include in particular all the information referred to in Article 6 of Delegated Regulation (EU) 2017/1943 of 14 July 2016 and must be provided on the form in Annex 1 of Delegated Regulation (EU) 2017/1945 of 19 June 2017.

If the investment services provider makes substantive changes to the programme of activity that was examined by the authorities, it shall first send them to the ACPR, which forwards them to the AMF within five business days. The applicable procedure is that described in Article 3.1 of this instruction, applicable to the approval of an extension to a programme of activity.

In accordance with the Order of 4 December 2017 on the authorisation, changes in circumstance, revocation of authorisation and deregistration of investment firms and similar institutions, the application shall include information on the causes, objectives and impact of the proposed change.

#### Changing the compliance officer

Where the provider has to change its investment services compliance officer, it shall fill in and send the form in Annex 2 of this instruction.

The AMF shall ensure that the compliance officer proposed by the investment services provider enables it to comply with the conditions of its authorisation. The AMF shall make a decision in respect of the granting, where applicable, of a temporary licence before any registration for the examination leading to a compliance officer licence being issued.

### **Article 5 – Verification of the content of the programme of activity**

The programme of activity shall consist of the following in particular:

- the legal structure of the group that includes the parent undertakings, the undertakings in respect of which it holds, either directly or indirectly, a qualifying holding and the branches of the applicant and these undertakings;
- the applicant's organisational structure and the technical and human resources allocated to the various investment activities and services, and to the proposed ancillary services (see below);
- the information referred to in Articles 4 to 6 and 8 of Commission Delegated Regulation (EU) 2017/1943 of 14 July 2016;
- where applicable, a detailed description of the portfolio management activity for third parties, including a summary of the investment strategies being considered and the methods for using leverage, if applicable;
- the list of the financial instruments to which the investment activities and services and proposed ancillary services relate;
- the systems and means put in place to comply with the organisation and good conduct rules set out, in particular, in Chapters I to III of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016, in the related regulatory and implementing technical standards, in Book III of the AMF General Regulation, the professional obligations referred to in Section II of Article L. 621-15 of the Monetary and Financial Code, and the associated inspections;
- where applicable, the systems and means put in place to comply with the organisation and good conduct rules applicable to clearing members as described in Chapter IV of Commission Delegated Regulation (EU) 2017/589 of 19 July 2016;
- the information described in Articles 6 to 9 below.

In addition to describing the planned activities, the provider shall supply copies of draft conventions, as well as the related procedures, pertaining to relations with its clients, counterparties and partners.

#### **Article 6 – Description of human resources**

Article 6(c) of Commission Delegated Regulation (EU) 2017/1943 of 16 July 2016 states that the applicant shall provide information about his organisation and in particular *“the organisational structure and internal control systems”*.

The application shall include a detailed organisation chart showing the managers of the provider's businesses, the person in charge of managing its capital, and the chain of command.

The application shall also state the identity of the manager of each activity as well as the staff assigned to each investment service over the coming three years. (Depending on the size of the provider, the application can also include the names of all members of staff.)

The application shall also contain a general description of staff remuneration methods, distinguishing between those applicable to senior managers, asset managers, marketing managers, and the heads of supervisory functions. In particular, details shall be provided about profit-sharing arrangements or remuneration linked to personal or group performance, with a description of the method used to calculate the variable portion, where applicable.

The curricula vitae of the senior managers, asset managers, risk manager (if there is one), and the investment services compliance officer shall also be included in the application.

#### **Article 7 – Description of the organisation of compliance monitoring**

I. The application shall describe the organisational arrangements put in place by the provider for compliance monitoring and risk monitoring (where the request applies to portfolio management for third parties). This includes the human resources made available and the procedures used for monitoring and reviewing investment services, in accordance with the provider's business.

Details shall be provided about the names and reporting lines of the person or persons in charge of the different types of monitoring as well as the frequency and types of procedures:

1° Compliance and risk monitoring, in particular concerning the supervision of compliance with laws and regulations, the supervision of compliance with the investment management policies specified in the mandates and the monitoring of risks arising from the limits in those mandates and from derivative market positions;

2° Where appropriate, the procedures for monitoring the functions and other essential or significant operational tasks entrusted to third parties and branches in a country party to the European Economic Area agreement.

Details shall also be given about the information provided to the senior managers of the company and about the response and escalation procedures activated in the event of deficiencies. The provider shall retain documents detailing the steps taken in the area of internal control and, where such is the case, the measures taken to deal with any anomalies noted.

Reference shall be made to any audit committees that may exist.

II. Investment services providers are reminded that, in accordance with Article 312-1 of the AMF General Regulation, the compliance system covers all the professional obligations referred to in paragraph II of Article L. 621-15 of the Monetary and Financial Code. As such, the provider shall describe the human and technical resources put in place to prevent market abuse. It shall give the AMF a description of its arrangements for detecting such abuse. These shall include, in particular, the arrangements for handling inside information and reporting suspicious trades to the AMF.

Accordingly, the provider shall give details about the arrangements adopted to record inside information and prevent it from being passed on or used. The arrangements shall include, in particular, the introduction of watch lists and black lists for certain financial instruments. The provider shall also describe in its authorisation application the resources implemented to oversee personal trading by employees (see Articles 315-1 to 315-5 of the AMF General Regulation).

III. The investment services provider shall inform the AMF of the following relating to the organisation of its compliance function:

- if it does not reasonably have the financial resources to assign a person to the compliance function and has thus appointed one of its senior managers as compliance officer for investment services;
- if the compliance officer for investment services has, under his or her authority, delegated the execution of compliance duties internally, to the extent warranted by the nature, importance, complexity and diversity of his or her activities;
- where he or she has outsourced compliance functions to an employee of an entity belonging to the same central body, in which case the employee in question must hold a professional licence.

The provider may elect to outsource some compliance supervision functions to an outside firm, but it remains responsible for these functions.

The AMF will assess the proposed delegation arrangements, notably the supervision plan presented by the outside firm as well as the firm's experience with and knowledge of the regulations applicable to the provision of investment services, as part of the verification of the due diligence performed by the provider on this delegation.

## Title II – Processing of requests for authorisation or registration for carrying out the activity of a benchmark index administrator

### Article 8 – Description of the activity of benchmark administration

Where the investment services provider acts or wishes to act as a benchmark administrator pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council, the information listed in Annex I or, where applicable, Annex II of Commission Delegated Regulation 2018/1646 of 13 July 2018 shall appear in an ad hoc document annexed to the programme of activity.

The activity of benchmark administration pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 requires authorisation or registration in compliance with Article 34 of said Regulation.

Service providers acting or wishing to act as a benchmark administrator should send their authorisation or registration request to the AMF in paper form as well as in electronic form to the following address: [benchmark@amf-france.org](mailto:benchmark@amf-france.org).

The request for authorisation or registration as a benchmark administrator is subject to the time frames set out in Article 34 of said Regulation.

The terms and conditions for revoking or suspending an authorisation or registration as a benchmark administrator pursuant to Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 are set out in Article 35 of said Regulation.

### Title III – Data reporting services providers (DRSPs)

#### **Article 9 – Processing of requests from investment services providers for authorisation to provide data reporting services**

To provide data reporting services, investment services providers must obtain authorisation from the ACPR:

- either under the procedure for authorisation as an investment services provider (i);
- or under the procedure for changing the authorisation of an investment services provider (ii).

In both cases, Title I of this instruction applies subject to the following clarifications:

(i) The applicant shall apply for an ISP authorisation and the authorisation to provide one or more data reporting services.

The applicant shall send its application for authorisation to provide one or more data reporting services to the ACPR, which shall then send it to the AMF within five business days from the date of receiving the complete application.

The ACPR shall send the applicant an acknowledgement of receipt within ten business days from the date of receiving the complete application.

The AMF shall examine the application, which includes the forms referred to in Annexes I and II of Commission Implementing Regulation (EU) 2017/1110 of 22 June 2017, supplemented by Commission Delegated Regulation (EU) 2017/571 of 2 June 2016.

In accordance with Article 4 of Commission Implementing Regulation (EU) 2017/1110 of 22 June 2017, the AMF may request from the ISP additional information necessary to examine the application.

The application for authorisation to provide data reporting services, under the procedure for authorisation as an investment services provider, shall be subject to the conditions provided for in Article R. 532-3 of the Monetary and Financial Code.

(ii) The applicant is an investment services provider seeking to obtain authorisation to provide one or more data reporting services.

In accordance with the Orders of 4 December 2017 on the authorisation, changes in circumstance, revocation of authorisation and deregistration of investment firms and similar institutions,<sup>5</sup> changes relating to data reporting services are subject to the prior authorisation of the ACPR.

The ISP shall send its application to the ACPR, which shall include the information referred to in point (i) above and, where applicable, the form provided in Annex III to Commission Implementing Regulation (EU) 2017/1110 of 22 June 2017.

The AMF shall be informed within five business days from the date of receiving the complete application.

The application for authorisation to provide data reporting services, under the procedure for changing the authorisation of an investment services provider, shall be subject to the conditions provided for in Article R. 532-6 of the Monetary and Financial Code.

Applications for authorisation to provide data reporting services are submitted via the Authorisations portal, which can be accessed at the following link: <https://acpr.banque-france.fr/autoriser/portail-autorisations>.

## Title IV – Information from investment services providers to the AMF

### Article 10 – Annual statistics

No later than four months after the close of the financial year, the provider shall send the AMF the annual compliance officer questionnaire,<sup>6</sup> which includes the annual information sheet on portfolio management for third parties, where appropriate. These statistics are sent by a secure link over the GECO extranet.

---

<sup>5</sup> For investment firms, see Article 18(8) of the Order of 4 December 2017 on the authorisation, changes in circumstance, revocation of authorisation and deregistration of investment firms and similar institutions (Official Journal of the French Republic no. 0287 of 9 December 2017), and for credit institutions, see Article 18(8) of the Order of 4 December 2017 on the authorisation, changes in circumstance and revocation of authorisation of credit institutions (Official Journal of the French Republic no. 0285 of 7 December 2017).

<sup>6</sup> Under Article L. 621-8-4 of the Monetary and Financial Code, the AMF requires investment services providers to submit before 30 April each year the annual report prepared in accordance with the provisions of Article 25(2) of Delegated Regulation (EU) 2017/565 of the European Commission of 25 April 2016.