

## **AMF Position 2012-17**

### **Compliance function requirements**

**Reference texts: Articles 313-1 to 313-3, 313-5 to 313-7, 313-54, 313-75 of the AMF General Regulation**

The *Autorité des Marchés Financiers* applies all the ESMA<sup>1</sup> “guidelines on certain aspects of the MiFID compliance function requirements” (2012/388). These guidelines have been enacted on the basis of the Markets in Financial Instruments Directive (2004/39/CE) and MiFID implementing directive (2006/73/CE), transposed into national Law in the Financial and Monetary Code and in the AMF General Regulation. They aim at clarifying the compliance function requirements with a view to ensuring common, uniform and consistent application of Union law.

The nine ESMA guidelines are reproduced in this position. They provide details on the following:

→ In terms of responsibility:

- The assessment of the risk of non-compliance
- The monitoring, reporting and advisory obligations of the compliance function

→ In terms of organisation:

- The efficiency, permanence and independence of the compliance function
- The exemptions
- Combining the compliance function and other internal control functions
- Outsourcing the compliance function

→ The review of the compliance function by the regulatory authorities.

### **Scope of application of the position**

This position applies to investment services providers when they offer investment services and ancillary services.

### **Incorporation into the regulatory practices of the AMF**

As regards the compliance function<sup>2</sup> requirements, the professional obligations of investment services providers arise from the statutory and regulatory provisions resulting from the transposition of the aforementioned directives. They shall be understood in the light of the provisions set out in this position, which itself reproduces the ESMA guidelines 2012/388.

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<sup>1</sup> European Securities and Markets Authority

<sup>2</sup> The compliance function is defined in Articles 313-2 and 313-3 of the AMF General Regulation

Table of contents

<b>1.</b>	<b>Non-compliance risk assessment.....</b>	<b>3</b>
1.1.	General guideline 1.....	3
1.2.	Supporting guidelines .....	3
<b>2.</b>	<b>Monitoring obligations of the compliance function .....</b>	<b>3</b>
2.1.	General guidelines 2.....	3
2.2.	Supporting guidelines .....	3
<b>3.</b>	<b>Reporting obligations of the compliance function.....</b>	<b>4</b>
3.1.	General guideline 3.....	4
3.2.	Supporting guidelines .....	5
<b>4.</b>	<b>Advisory obligations of the compliance function .....</b>	<b>6</b>
4.1.	General guideline 4.....	6
4.2.	Supporting guidelines .....	6
<b>5.</b>	<b>Effectiveness of the compliance function.....</b>	<b>7</b>
5.1.	General guideline 5.....	7
5.2.	Supporting guidelines .....	7
<b>6.</b>	<b>Permanence of the compliance function .....</b>	<b>8</b>
6.1.	General guideline 6.....	8
6.2.	Supporting guidelines .....	8
<b>7.</b>	<b>Independence of the compliance function.....</b>	<b>9</b>
7.1.	General guideline 7.....	9
7.2.	Supporting guidelines .....	9
<b>8.</b>	<b>Exemptions.....</b>	<b>10</b>
8.1.	General guidelines 8.....	10
8.2.	Supporting guidelines .....	10
<b>9.</b>	<b>Combining the compliance function with other internal control functions .....</b>	<b>11</b>
9.1.	General guideline 9.....	11
9.2.	Supporting guidelines .....	11
<b>10.</b>	<b>Outsourcing of the compliance function.....</b>	<b>12</b>
10.1.	General guideline 10.....	12
10.2.	Supporting guidelines .....	12
<b>11.</b>	<b>Review of the compliance function by competent authorities .....</b>	<b>13</b>
11.1.	General guideline 11.....	13
11.2.	Supporting guidelines .....	13

## 1. Non-compliance risk assessment

### 1.1. General guideline 1

Investment services providers shall ensure that the compliance function takes a risk-based approach in order to allocate the function's resources efficiently. A compliance risk assessment shall be used to determine the focus of the monitoring and advisory activities of the compliance function. The compliance risk assessment shall be performed regularly to ensure that the focus and the scope of compliance monitoring and advisory activities remain valid.

### 1.2. Supporting guidelines

MiFID requires investment services providers to establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the investment services provider to comply with its obligations under MiFID<sup>3</sup>. As part of this, the compliance function shall identify the level of compliance risk the investment services provider faces, taking into account the investment services and ancillary services provided by the investment services provider, as well as the types of financial instruments traded and distributed.

The compliance risk assessment shall take into account the applicable obligations under MiFID, national implementing regulation and the policies, procedures, systems and controls implemented within the investment services provider in the area of investment services. The assessment shall also take into account the results of any monitoring activities and of any relevant internal or external audit findings.

The compliance function's objectives and work programme shall be developed and set up on the basis of this compliance risk assessment. The identified risks shall be reviewed on a regular basis as well as ad-hoc when necessary to ensure that any emerging risks are taken into consideration (for example, resulting from new business fields or other changes in the investment services provider's structure).

## 2. Monitoring obligations of the compliance function

### 2.1. General guidelines 2

Investment services providers shall ensure that the compliance function establishes a monitoring programme that takes into consideration all areas of the investment services provider's investment services and any relevant ancillary services. The monitoring programme shall establish priorities determined by the compliance risk assessment ensuring that compliance risk is comprehensively monitored.

### 2.2. Supporting guidelines

The monitoring programme aims to evaluate whether the investment services provider's business is conducted in compliance with its obligations under MiFID and whether its internal guidelines, organisation and control measures remain effective and appropriate.

Where an investment services provider is part of a group, responsibility for the compliance function rests with each investment services provider in that group. An investment services provider shall therefore ensure that its compliance function remains responsible<sup>4</sup> for monitoring its own compliance risk. This includes where an investment services provider outsources compliance tasks to another investment services provider within the group. The compliance function within each investment services provider

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<sup>3</sup> As part of its responsibilities for ensuring that the investment company complies with its regulatory obligations, senior management must ensure that the compliance function meets the regulatory requirements.

<sup>4</sup> Even if the compliance function tasks were to be outsourced, the investment services provider would remain responsible for monitoring the non-compliance risk.

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shall, however, take into account the group of which it is a part - for example, by working closely with audit, legal, regulatory and compliance staff in other parts of the group.

The risk-based approach to compliance shall form the basis for determining the appropriate tools and methodologies used by the compliance function, as well as the extent of the monitoring programme and the frequency of monitoring activities performed by the compliance function (which may be recurring, ad-hoc and/or continuous). The compliance function shall also ensure that its monitoring activities are not only desk-based, but that it also verifies how policies and procedures are implemented in practice, for example through on-site inspections at the operative business units. The compliance function shall also consider the scope of reviews to be performed.

Suitable tools and methodologies for monitoring activities that may be used by the compliance function include (but are not limited to):

- a) the use of aggregated risk measurements (for example, risk indicators) ;
- b) the use of reports warranting management attention, documenting material deviations between actual occurrences and expectations (an exceptions report) or situations requiring resolution (an issues log) ;
- c) targeted trade surveillance, observation of procedures, desk reviews and/or interviewing relevant staff.

The monitoring programme shall reflect changes to the investment services provider's risk profile, which may arise, for example, from significant events such as corporate acquisitions, IT system changes, or re-organisation. It shall also extend to the implementation and effectiveness of any remedial measures taken by the investment services provider in response to breaches of MiFID. Monitoring activities performed by the compliance function shall also take into account:

- a) the business area's obligation to comply with regulatory requirements;
- b) the first level controls in the investment services provider's business areas (i.e. controls by the operative units, as opposed to second level controls performed by compliance); and
- c) reviews by the risk management, internal control function, internal audit function or other control functions in the area of investment services.

Reviews by other control functions shall be coordinated with the monitoring activities performed by the compliance function while respecting the different functions' independence and mandate.

The compliance function shall have a role in overseeing the operation of the complaints process and it shall consider complaints as a source of relevant information in the context of its general monitoring responsibilities. This does not require compliance functions to have a role in determining the outcome of complaints. In this regard, investment services providers shall grant the compliance function access to all customer complaints received by the investment services provider.

### 3. Reporting obligations of the compliance function

#### 3.1. General guideline 3

Investment services providers shall ensure that the regular written compliance reports are sent to senior management. The reports shall contain a description of the implementation and effectiveness of the overall control environment for investment services and a summary of the risks that have been identified as well as remedies undertaken or to be undertaken. Reports must be prepared at appropriate intervals and at least annually.

Where the compliance function makes significant findings, the compliance officer shall, in addition, report these promptly to senior management. The supervisory function, if any, shall also receive the reports.

### 3.2. Supporting guidelines

The written compliance report to senior management shall cover all business units involved in the provision of investment services and ancillary services. Where the report does not cover all of these services of the investment services provider, it shall clearly state the reasons.

The following matters shall be addressed in these written compliance reports, where relevant:

- a) a description of the implementation and effectiveness of the overall control environment for investment services;
- b) a summary of major findings of the review of the policies and procedures;
- c) a summary of on-site inspections or desk-based reviews performed by the compliance function including breaches and deficiencies in the investment services provider's organisation and compliance processes that have been discovered and appropriate measures taken as a result;
- d) risks identified in the scope of the compliance function's monitoring activities;
- e) relevant changes and developments in regulatory requirements over the period covered by the report and the measures taken and to be taken to ensure compliance with the changed requirements (where senior management has not previously been made aware of these through other channels);
- f) other significant compliance issues that have occurred since the last report;
- g) material correspondence with competent authorities (provided that senior management has not previously been made aware of these through other channels).

The compliance function shall report to senior management, in a timely manner, on an ad-hoc basis when significant compliance matters have been discovered, such as material breaches of MiFID and the respective national requirements. The report shall also contain advice on the necessary remedial steps.

The compliance function shall consider the need for additional reporting lines to any group compliance function.

ESMA notes that some competent authorities require:

- That investment services providers provide them with compliance function reports on a regular or ad hoc basis;
- That senior management provides it with an annotated version of the report containing explanations of the compliance function's findings<sup>5</sup>.

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<sup>5</sup> This description of specific practices of competent authorities aims to provide the reader with additional information on differing approaches of competent authorities without setting up additional requirements for investment firms or competent authorities (and thereby triggering the obligation under Article 16(3) of the ESMA Regulation to comply or explain).

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These practices provide competent authorities with first-hand insight into an investment services provider's compliance activities, as well as any breaches of regulatory provisions.

#### 4. Advisory obligations of the compliance function

##### 4.1. General guideline 4

Investment services providers shall ensure that the compliance function fulfils its advisory responsibilities including: providing support for staff training; providing day-to-day assistance for staff and participating in the establishment of new policies and procedures within the investment services provider.

##### 4.2. Supporting guidelines

Investment services providers shall promote and enhance a 'compliance culture' throughout the investment services provider. The purpose of the compliance culture is not only to establish the overall environment in which compliance matters are treated, but also to engage staff with the principle of improving investor protection.

Investment services providers shall ensure that their staff is adequately trained. The compliance function shall support the business units in the area of investment services (i.e. all staff involved directly or indirectly in the provision of investment services) in performing any training<sup>6</sup>. Training and other support shall focus particularly, but not exclusively, on:

- a) the internal policies and procedures of the investment services provider and its organisational structure in the area of investment services; and
- b) MiFID, the relevant national laws, the applicable standards and guidelines set out by ESMA and competent authorities, and other supervisory and regulatory requirements that may be relevant, as well as any changes to these.

Training shall be performed on a regular basis, and needs-based training shall be performed where necessary. Training shall be delivered as appropriate – for example, to the investment services provider's entire staff as a whole, to specific business units, or to a particular individual.

Training shall be developed on an on-going basis so that it takes into account all relevant changes (for example, new legislation, standards or guidelines issued by ESMA and competent authorities, and changes in the investment services provider's business model).

The compliance function shall periodically assess whether staff in the area of investment services hold the necessary level of awareness and correctly apply the investment services provider's policies and procedures.

Compliance staff shall also provide assistance to staff from the operative units in their day-to-day business and be available to answer questions arising out of daily business activity.

Investment services providers shall ensure that the compliance function is involved in the development of the relevant policies and procedures within the investment services provider in the area of investment services and ancillary services. In this context, the compliance function shall be enabled, for example, to provide compliance expertise and advice to business units about all strategic decisions or new business models, or about the launch of a new advertising strategy in the area of investment services. If the compliance function's advice is not followed, the compliance function shall document this accordingly and

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<sup>6</sup> This refers to training programmes related to the professional obligations imposed on investment services providers.

present it in its compliance reports.

Investment services providers shall ensure that the compliance function is involved in all significant modifications of the organisation of the investment services provider in the area of investment services and ancillary services. This includes the decision-making process when new business lines or new financial products are being approved. In this context, the compliance function shall be given the right to participate in the approval process for financial instruments to be taken up in the distribution process. Senior management shall therefore encourage business units to consult with the compliance function regarding their operations.

Investment services providers shall ensure that the compliance function is involved in all material non-routine correspondence with competent authorities in the area of investment services.

## 5. Effectiveness of the compliance function

### 5.1. General guideline 5

When ensuring that appropriate human and other resources are allocated to the compliance function, investment services providers shall take into account the scale and types of the investment services and ancillary services provided by the investment services provider. They shall also provide compliance staff with the authority necessary to exercise their duties effectively, as well as access to all relevant information concerning the investment services as well as ancillary services undertaken.

The compliance officer<sup>7</sup> shall have sufficiently broad knowledge and experience and a sufficiently high level of expertise<sup>8</sup> so as to be able to assume responsibility for the compliance function as a whole and ensure that it is effective.

### 5.2. Supporting guidelines

The number of staff required for the tasks of the compliance function depends to a large extent on the nature of the investment services and ancillary services and other services provided by the investment services provider. Where an investment services provider's business unit activities are significantly extended, the investment services provider shall ensure that the compliance function is similarly extended as necessary in view of changes to the investment services provider's compliance risk. Senior management shall monitor regularly whether the number of staff is still adequate for the fulfilment of the duties of the compliance function.

In addition to human resources, sufficient IT resources shall be allocated to the compliance function.

Where the investment services provider establishes budgets for specific functions or units, the compliance function shall be allocated a budget that is consistent with the level of compliance risk the investment services provider is exposed to. The compliance officer shall be consulted before the budget is determined. All decisions for significant cuts in the budget shall be documented in writing and contain detailed explanations.

In ensuring that compliance staff has access to the relevant information for their tasks at all times, investment services providers shall provide access to all relevant databases. In order to have a permanent overview of the areas of the investment services provider where sensitive or relevant

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<sup>7</sup> It is recalled that, pursuant to Article 313-29 of the AMF General Regulation, the compliance officer must hold a professional license issued by the Autorité des Marchés Financiers provided under the terms of Articles 313-38 to 313-43 of the AMF General Regulation.

<sup>8</sup> Pursuant to Article 313-7-1 of the AMF General Regulation on the verification of the knowledge of specified persons.

information might arise, the compliance officer shall have access to all relevant information systems within the investment services provider as well as any internal or external audit reports or other reporting to senior management or the supervisory function, if any.

Where relevant, the compliance officer shall also be able to attend meetings of senior management or the supervisory function. Where this right is not granted, this shall be documented and explained in writing. The compliance officer shall have in-depth knowledge of the investment services provider's organisation, corporate culture and decision-making processes in order to be able to identify which meetings are important to attend.

In order to ensure that compliance staff has the authority required for their duties, the senior management of the investment services provider shall support them in the exercise of these duties. Authority implies possessing adequate expertise and relevant personal skills, and may be enhanced by the investment services provider's compliance policy explicitly acknowledging the specific authority of the compliance staff.

All compliance staff shall have at least knowledge of MiFID and of the respective national laws and all applicable standards and guidelines issued by ESMA and competent authorities on these provisions, as far as these are relevant for the performance of their tasks. Compliance staff shall be regularly trained in order to maintain their knowledge. A higher level of expertise is necessary for the designated compliance officer.

The compliance officer shall demonstrate sufficient professional experience as is necessary to be able to assess the compliance risks and conflicts of interest inherent in the investment services provider's business activities. The required professional experience may have, amongst others, been acquired in operational positions, in other control functions or in regulatory functions.

The compliance officer shall have specific knowledge of the different business activities provided by the investment services provider. The relevant expertise required may differ from one investment services provider to another, as the nature of the main compliance risks that investment services providers face will differ. In respect of Article 5(1)(d)<sup>9</sup> of the MiFID Implementing Directive, a newly employed compliance officer may therefore need additional specialised knowledge focused on the specific business model of the investment services provider even if the person has previously been the compliance officer for another investment services provider.

## 6. Permanence of the compliance function

### 6.1. General guideline 6

MiFID requires investment services providers to ensure that the compliance function performs its tasks and responsibilities on a permanent basis. Investment services providers shall therefore establish adequate arrangements for ensuring the responsibilities of the compliance officer are fulfilled when the compliance officer is absent, and adequate arrangements to ensure that the responsibilities of the compliance function are performed on an ongoing basis. These arrangements shall be in writing.

### 6.2. Supporting guidelines

The investment services provider shall ensure, e.g. through internal procedures and stand-in

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<sup>9</sup> Transposed in Article 314-54 of the AMF General Regulation



arrangements, that the responsibilities of the compliance function are fulfilled adequately during any absence of the compliance officer.

The responsibilities and competences as well as the authority of the compliance staff shall be set out in a 'compliance policy' or other general policies or internal rules that take account of the scope and nature of the investment services provider's investment services. This shall include information on the monitoring programme and the reporting duties of the compliance function as well as information on the compliance function's risk-based approach to monitoring activities. Relevant amendments to regulatory provisions shall be reflected promptly by adapting these policies/rules.

The compliance function shall perform its activities on a permanent basis and not only in specific circumstances. This requires regular monitoring on the basis of a monitoring schedule. The monitoring activities shall regularly cover all key areas of investment services taking into account the compliance risk associated with the business areas. The compliance function shall be able to respond rapidly to unforeseen events, thereby changing the focus of its activities within a short timeframe if necessary.

## 7. Independence of the compliance function

### 7.1. General guideline 7

Investment services providers shall ensure that the compliance function holds a position in the organisational structure that ensures that the compliance officer and other compliance staff act independently when performing their tasks. The compliance officer shall be appointed and replaced by senior management or by the supervisory function.

### 7.2. Supporting guidelines

While senior management is responsible for establishing an appropriate compliance organisation and for monitoring the effectiveness of the organisation that has been implemented, the tasks performed by the compliance function shall be carried out independently from senior management and other units of the investment services provider. In particular, the investment services provider's organisation shall ensure that other business units may not issue instructions or otherwise influence compliance staff and their activities.

Where senior management deviates from important recommendations or assessments issued by the compliance function, the compliance officer shall document this accordingly and present it in the compliance reports.

## 8. Exemptions

### 8.1. General guidelines 8

Where an investment services provider considers that it may not be proportionate for it to comply with the requirements set out in Article 6(3)(c) or (d)<sup>10</sup> of the MiFID Implementing Directive, it shall assess whether the effectiveness of the compliance function is compromised by the proposed arrangements. This assessment shall be reviewed regularly.

### 8.2. Supporting guidelines

Investment services providers shall decide which measures, including organisational measures and the level of resources, are best suited to ensuring the effectiveness of the compliance function in the investment services provider's particular circumstances. In deciding this, investment services providers shall take the following criteria (inter alia) into account:

- a) the types of investment services and ancillary services and other business activities provided by the investment services provider (including those not related to investment services and ancillary services);
- b) the interaction between the investment services and ancillary service and other business activities carried out by the investment services provider;
- c) the scope and volume of the investment services and ancillary services carried out (absolute and relative to other business activities), balance sheet total and income of the investment services provider from commissions and fees and other income in the context of the provision of investment services and ancillary services;
- d) the types of financial instruments offered to clients;
- e) the types of clients targeted by the investment services provider (professional, retail, eligible

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<sup>10</sup> Transposed in Article 313-3 of the AMF General Regulation: "Investment services providers shall ensure that the following conditions are met to enable the compliance function to perform its tasks properly and independently:

1° The compliance function must have the necessary authority, resources and expertise and access to all relevant information;

2° A compliance officer must be appointed and must be responsible for this function and for reporting as to compliance, including the report referred to in Article 313-7.

3° The relevant persons involved in the compliance function are not involved in the performance of the services and activities that they monitor;

4° The method for determining the remuneration of the relevant persons involved in the compliance function must not compromise their objectivity and must not be likely to do so.

However, investment services providers shall not be required to comply with Points 3° or 4° if they are able to demonstrate that, in view of the nature, scale, complexity and range of the investment services that they provide and the businesses that they engage in, the requirements under Points 3° or 4° are not proportionate and that their compliance function continues to be effective.

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- counterparties) ;
- f) staff headcount ;
  - g) whether the investment services provider is part of an economic group within the meaning of Article 1 of the Seventh Council Directive of 13 June 1983 on consolidated accounts (Directive 83/349/EC) ;
  - h) services provided through a commercial network, such as tied agents, or branches;
  - i) cross-border activities provided by the investment services provider;
  - j) organisation and sophistication of the IT systems.

Competent regulatory authorities may also find these criteria useful in determining which types of investment services providers may benefit from the proportionality exemption under Article 6(3) of the MiFID Implementing Directive.

An investment services provider may fall, for example, under the proportionality exemption if the performance of the necessary compliance tasks does not require a full-time position due to the nature, scale and complexity of the investment services provider's business, and the nature and range of the investment services and ancillary services offered.

While a compliance officer must always be appointed, it may be disproportionate for a smaller investment services provider with a very narrow field of activities to appoint a separate compliance officer (i.e. one that does not perform any other function). Where an investment services provider makes use of the exemption, conflicts of interest between the tasks performed by the relevant persons shall be minimised as much as possible

An investment services provider that does not need to comply with all the requirements set out in Article 6(3) of the MiFID Implementing Directive under the proportionality principle, may combine the legal and compliance function. However, an investment services provider with more complex activities or greater size shall generally avoid such combination, if it could undermine the compliance function's independence.

Where an investment services provider makes use of the proportionality exemption, it shall record how this is justified, so that the competent authority is able to assess this.

## 9. Combining the compliance function with other internal control functions

### 9.1. General guideline 9

An investment services provider shall generally not combine the compliance function with the internal audit function<sup>11</sup>. The combination of the compliance function with other control functions may be acceptable if this does not compromise the effectiveness and independence of the compliance function. Any such combination shall be documented, including the reasons for the combination so that competent authorities are able to assess whether the combination of functions is appropriate in the circumstances.

### 9.2. Supporting guidelines

Compliance staff shall generally not be involved in the activities they monitor. However, a combination of the compliance function with other control units at the same level (such as money laundering prevention) may be acceptable if this does not generate conflicts of interests or compromise the effectiveness of the

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<sup>11</sup> This is the periodic control (Article 313-62 of the AMF General regulation)

compliance function.

Combining the compliance function with the internal audit function shall generally be avoided as this is likely to undermine the independence of the compliance function because the internal audit function is charged with the oversight of the compliance function. However, for practical reasons (for example, decision making), and in certain circumstances (for example, in investment services providers of only two persons), it may be more appropriate to have one person responsible for both functions. In this regard, investment services providers shall consider discussing the combination with the relevant supervisory authority. In addition, where this combination occurs, the investment services provider must, of course, ensure that the responsibilities of each function are discharged properly (i.e. soundly, honestly and professionally).

Whether staff from other control functions also performs compliance tasks, shall also be a relevant consideration in the determination of the relevant number of staff necessary for the compliance function.

Whether or not the compliance function is combined with other control functions, the compliance function shall coordinate its activities with the second-level control activities performed by other units.

## 10. Outsourcing of the compliance function

### 10.1. General guideline 10

Investment services providers shall ensure that all applicable compliance function requirements are fulfilled where all or part of the compliance function is outsourced.

### 10.2. Supporting guidelines

The MiFID outsourcing requirements for critical or important functions apply in full to the outsourcing of the compliance function.

The requirements that apply to the compliance function are the same whether or not any or all of the compliance function is outsourced; the responsibility for the fulfilment of the existing requirements rests with an investment services provider's senior management.

The investment services provider shall perform a due diligence assessment before choosing a service provider in order to ensure that the criteria set out in Articles 6 and 14 of the MiFID Implementing Directive<sup>12</sup> are met. The investment services provider shall ensure that the service provider has the necessary authority, resources, expertise and access to all relevant information in order to perform the outsourced compliance function tasks effectively. The extent of the due diligence assessment is dependent on the nature, scale, complexity and risk of the tasks and processes that are outsourced.

Investment services providers shall also ensure that when outsourced partially or fully, the compliance function remains permanent in nature, i.e. the service provider shall be able to perform the function on an ongoing basis and not only in specific circumstances.

Investment services providers shall monitor whether the service provider performs its duties adequately, which includes monitoring the quality and the quantity of the services provided. Senior management is responsible for supervising and monitoring the outsourced function on an ongoing basis, and shall have the necessary resources and expertise to be able to fulfil this responsibility. Senior management may appoint a specific person to supervise and monitor the outsourced function on their behalf.

Outsourcing of the compliance function within a group does not lead to a lower level of responsibility for the senior management of the individual investment services providers within the group. However, a

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<sup>12</sup> Respectively transposed in Articles 313-1, 313-2, 313-3 of the AMG General Regulation on the one hand and in Article 313-75 of the AMF General Regulation on the other hand.

centralised group compliance function may, in some cases, provide the compliance officer with better access to information, and lead to greater efficiency of the function, especially if the entities share the same premises.

If an investment services provider, due to the nature, size and scope of its business activities, is unable to employ compliance staff who are independent of the performance of services they monitor, then outsourcing of the compliance function is likely to be an appropriate approach to take.

## 11. Review of the compliance function by competent authorities

### 11.1. General guideline 11

The *Autorité des Marchés Financiers* shall review how investment services providers plan to meet, implement and maintain the MiFID compliance function requirements. This shall apply in the context of the authorisation process, as well as, following a risk-based approach, in the course of on-going supervision

### 11.2. Supporting guidelines

Article 7 of MiFID states that a competent authority shall not grant authorisation to an investment services provider unless and until such time as it is fully satisfied that the applicant complies with all requirements under the provisions adopted pursuant to MiFID. Accordingly, the competent authority shall assess whether an investment services provider's compliance function is adequately resourced and organised and whether adequate reporting lines have been established.

The AMF shall require that any necessary amendments are made to the compliance function as a condition for approval<sup>13</sup>/authorisation<sup>14</sup>.

Additionally, as part of the ongoing supervisory process, the AMF shall – following a risk-based approach – assess whether the measures implemented by the investment services provider for the compliance function are adequate, and whether the compliance function fulfils its responsibilities appropriately. Investment services providers are responsible for determining whether amendments to the resources and organisation of the compliance function are required due to changes in the business model of the investment services provider. The AMF shall also, as part of its ongoing supervision and following a risk based approach, assess and monitor - where and if appropriate - whether such amendments are necessary and have been implemented. A reasonable time shall be given to the investment services provider to make such amendments. These amendments are governed by the procedure set forth in the AMF instruction 2008-03 on the agreement and approval process of the programme of operations of asset management companies and investment services providers operating as asset managers on behalf of a third party or as investment advisers.

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<sup>13</sup> For asset management companies (Article L. 532-9 of the Financial and Monetary Code)

<sup>14</sup> For investment services providers (others than asset management companies) whose programme of operations provides for the provision of asset management services on behalf of a third party and/or investment advisory services (Article L. 532-4 of the Financial and Monetary Code)

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