

AMF instruction
Authorisation procedures, preparation of a KIID¹ and rules, and reporting for private equity funds – DOC-2011-22

References: Articles 422-120-1 to 422-120-14 of the AMF General Regulation

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This document includes annexes that may be viewed under the Annexes & links tab:

¹ KIID: Key investor information document

Annex I – Creation of a retail private equity investment fund (or a sub-fund of a retail private equity investment fund) – Authorisation application form

Annex I bis – Creation form for a retail private equity investment fund (or a sub-fund of a retail private equity investment fund) – Correlation table for information to be made available to investors and provided to the AMF when filing an application to market in France

Annex II – Letter of undertaking from the management company for the authorisation of a retail private equity investment fund

Annex II bis – Reference framework for the undertaking signed by the management company

Annex III – Authorisation of changes to a retail private equity investment fund that require pre-approval

Annex IV – Authorisation following a request for additional information concerning a retail private equity investment fund

Annex V – Multiple change request

Annex V bis – Notice of change to the AMF

Annex VI – Standard template of the Key Investor Information Document (KIID)

Annex VII – Standard fund rules

Annex VIII – Statistical and financial data to be filed with the Autorité des Marchés Financiers

Annex IX – Reporting form for annual statistics on retail private equity investment funds

This instruction applies to private equity funds, namely:

- Retail private equity investment funds governed by Articles L.214-28 and L.214-29 of the Monetary and Financial Code;
- Innovation funds governed by Articles L.214-30 and L.214-30-1 of the Monetary and Financial Code;
- Local investment funds governed by Articles L.214-31 to L.214-32-1 of the Monetary and Financial Code.

Innovation funds and local investment funds are categories of retail private equity investment fund. The abovementioned retail private equity investment funds, innovation funds and local investment funds are referred to as “retail private equity investment funds” in the instruction and its annexes.

Note that in this instruction and unless otherwise stated, the concepts of master and feeder alternative investment fund (AIF) are not to be understood as per Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011² but as per Article L.214-24-57 of the Monetary and Financial Code.

Unless expressly stipulated otherwise, the term “management company” in this instruction means asset management companies authorised in France³ or management companies authorised in a Member State of the European Union other than France that manage one or more AIFs in France under the freedom to provide services or the freedom of establishment.

Where reference is made in this instruction to sending documents to the GECO database of the management company, management companies located in a Member State of the European Union other than France and managing or wishing to manage a retail private equity investment fund shall email said documents to gjo@amf-france.org.

² These definitions, taken from Directive 2011/61/EU, are repeated in IV of Article L.214-24 of the Monetary and Financial Code.

³ Whether subject to Title I or Title I bis of Book III of the AMF General Regulation.

Chapter I - Procedures

Section I - Creation of a retail private equity investment fund

Authorisation process to form a retail private equity investment fund

| Step | Retail private equity investment fund management company | Autorité des Marchés Financiers |
|------|---|--|
| 1 | File an authorisation application for a retail private equity investment fund | |
| 2 | | Compliance verification Acknowledgement of receipt of the application by the AMF, specifying the waiting time for the authorisation decision <i>or</i> Rejection of the application, with an explanation of the reasons for the rejection |
| 3 | | Examination of the application - Possible contact with the applicant |
| 4 | | Where applicable, a request for further information, which may or may not require the management company to submit a supplementary information sheet |
| 4a | Where applicable, filing of the supplementary information sheet and the information requested within 60 days of the request | |
| 4b | | Reception of the supplementary information sheet and the information requested Acknowledgement of receipt specifying the new waiting time for the authorisation decision |
| 5 | | Notice of the decision to grant or refuse authorisation, or implicit authorisation decision |
| 6 | Notification of the fund deposit certificate | |
| 7 | | Update of the GECO database |
| 8 | Submission of the KIID and the rules in accordance with the procedures stipulated in Annex VIII | |
| 9 | | Posting on the AMF website of the KIID and rules sent by the management company via the GECO database |

Authorisation waiting times

| Type of operation | Waiting time |
|--|---|
| Creation | One month (approx. 23 worked days) |
| Creation of a designated feeder retail private equity investment fund | 8 working days |
| Creation of a feeder retail private equity investment fund – innovation fund – local investment fund | 15 working days (approx. 13 worked days) |

Article 1 - Authorisation procedure

The creation of a retail private equity investment fund, or a sub-fund of a retail private equity investment fund⁴, requires AMF authorisation. Subject to the marketing procedure arising from Directive 2011/61/EU (for retail private equity investment funds managed by management companies authorised in accordance with Directive 2011/61/EU), the units of a retail private equity investment fund cannot be marketed until such authorisation has been obtained.

Specific provisions applicable to retail private equity investment funds managed by management companies authorised in accordance with Directive 2011/61/EU – Marketing procedure

Where the retail private equity investment fund is managed by an asset management company authorised in France in accordance with Directive 2011/61/EU⁵, said company must comply with Articles 421-1 and 421-13 of the AMF General Regulation before marketing units in France to professional clients and retail clients respectively.

Where the asset management company wishes to apply for authorisation to market the units of the retail private equity investment fund in France at the same time as it applies for authorisation for the said retail private equity investment fund, the asset management company must fill out the authorisation application, appending the necessary documentation (Cf. Annexes I and I bis of this instruction).

The maximum waiting time of 20 working days mentioned in Article 421-2 of the AMF General Regulation to notify the asset management company whether it may begin to market the retail private equity investment fund to professional clients also applies to the application to market to retail clients. If the marketing procedure is carried out at the same time as authorisation, this period starts on the authorisation date of the retail private equity investment fund, provided the application is complete. If the application is complete and compliant, notification to market in France will be issued with authorisation notification.

The asset management company shall refer to another AMF instruction where:

- a) it follows this procedure following authorisation of the retail private equity investment fund, in a situation where the retail private equity investment fund was not marketed on being authorised;
- b) it wishes to market the retail private equity investment fund in a Member State of the European Union other than France under European passporting arrangements.

⁴ Local investment funds may not be set up as umbrella AIFs in accordance with provisions of Article L.214-32 of the Monetary and Financial Code.

⁵ The total asset value of managed AIFs, calculated in accordance with Article 2 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012, exceeds the limits set in Article R.532-12-1 of the Monetary and Financial Code or, where it is lower but the asset management company has opted for full application of Directive 2011/61/EU.

Where the retail private equity investment fund is managed by a management company authorised in a Member State of the European Union other than France, the management company shall refer to another AMF instruction as regards marketing the retail private equity investment fund's units in France⁶.

To obtain authorisation, an application containing the items stipulated in this instruction must be filed with the AMF.

The authorisation application must be signed by a person duly empowered by the management company. This person must be either a legal representative, meaning one of the senior managers or the sole manager of the management company, or a specifically empowered person.

Once the application has been filed, the AMF may request proof of the powers vested in the person filing the application at any point during the authorisation procedure.

To avoid requests to modify retail private equity investment funds owing to an improper assessment of the operating procedures and restrictions of this type of fund, the fund proposal should be sufficiently advanced when the authorisation application is filed.

Article 2 - Filing the authorisation application

Under the terms of Article 422-11 of the AMF General Regulation⁷, the authorisation application filed with the AMF to form a retail private equity investment fund or a sub-fund of a retail private equity investment fund must include:

- 1° Two copies – one copy only if the application is filed online – of the duly completed authorisation application form found in Annex I;
- 2° The attachments referred to in Annex I along with any other document that the management company deems necessary for the examination of the application;
- 3° The signed letter of undertaking referred to in Annex II.

The application may be filed with the AMF online through the extranet of the GECO database in the area reserved for the management company.

Article 3 - Registration of the authorisation application by the AMF

The AMF registers the authorisation application when it is received. An acknowledgement of receipt of the application is sent to the management company. The acknowledgement of receipt certifies the filing of the application with the AMF and stipulates the waiting period for authorisation.

If the application filed under the terms of Article 422-11 of the AMF General Regulation⁸ is incomplete or non-compliant, it is returned to the sender with an explanation of the reasons for its rejection. These reasons may be twofold:

- 1° Missing documents;
- 2° Documents are incomplete or fail to comply with the laws and regulations in force.

⁶ Note that marketing the units or shares of AIFs managed by a management company established in a Member State of the European Union other than France to retail clients in France is subject to the specific requirements set out in Article 421-13 of the AMF General Regulation:

- 1) an instrument for the exchange of information and mutual assistance in the area of discretionary asset management has been set up between the AMF and the supervisory authority of the management company; and
- 2) the management company meets the requirements set out in a mutual recognition agreement establishing the specific requirements applicable to the authorisation of management companies of AIFs that may be marketed to retail clients concluded between the AMF and the supervisory authority of the management company.

⁷ Applicable to private equity funds by reference from Article 422-120-1 of the AMF General Regulation.

⁸ Applicable to private equity funds by reference from Article 422-120-1 of the AMF General Regulation.

Article 4 - Examination of the authorisation application by the AMF

The AMF may ask for any further information during its examination of the application. The management company may submit this information to the AMF electronically, by post or by fax, including the application's references.

If the AMF asks for further information that requires submission of an authorisation application form, the AMF shall serve such notice, stipulating that the items requested must arrive within 60 days. In this case the waiting period is suspended. If the AMF fails to receive the said items within 60 days, the authorisation application is deemed to be rejected.

The further information required must be submitted with a supplementary information sheet filled in using the template in Annex IV. The AMF acknowledges receipt when it has received all the information requested. The acknowledgement of receipt stipulates the new deadline for the authorisation decision. The AMF's decision to grant authorisation is disclosed to the management company.

In the event that authorisation is not explicitly granted, the retail private equity investment fund or its sub-fund will be deemed to be authorised as of the first day following the authorisation deadline stipulated in the acknowledgement of receipt of the authorisation application or, where applicable, in the acknowledgement of receipt of the further information requested.

Article 4-1 - Management delegation

If the AIF or management company wishes to delegate management of the AIF (for example, investment management or, in the case of management companies authorised under the terms of the AIFM Directive, risk management), it must comply with the applicable provisions.

As regards asset management companies authorised in France, these rules are provided for in Articles 313-77⁹ and 318-58¹⁰ of the AMF General Regulation.

Asset management companies authorised in France shall refer also to instruction 2008-03.

Article 4-2 – Auditors

When a retail private equity investment fund is being formed, the authorisation application filed with the AMF must specify the name of the statutory auditor contacted, along with the names of the individual(s) responsible for auditing the fund where the plans call for auditing to be carried out by a legal entity.

At the AMF's request, the auditor must submit the list of its auditing assignments in collective investments and management companies, together with the date of appointment to functions performed, the latest budget invoiced or forecasted in the case of a fund creation along with its latest total turnover figure.

The management company ensures that a work programme jointly agreed between the fund's auditor and the management company is made available to the AMF. The programme must specify the number of hours, broken down by audit task and nature of the activities. It should take into account, where applicable, the specific features of umbrella retail private equity investment funds and master and feeder retail private equity investment funds. The forecast auditing fees for these activities must be made available to the AMF, along with the hourly rate being considered.

⁹ For asset management companies governed by Title I of Book III of the AMF General Regulation in respect of their AIF management business.

¹⁰ For asset management companies governed by Title I bis of Book III of the AMF General Regulation in respect of their AIF management business.

Article 5 - Completion of the authorisation application

Article 5-1 - Fund deposit certificate

I. The management company must send the fund deposit certificate to the AMF immediately after the funds have been deposited and within 180 worked days at the latest after the retail private equity investment fund is authorised.

II. In the case of umbrella funds, the deposit certificate must be sent to the AMF within:

- 180 worked days after the authorisation date of at least one of the retail private equity investment fund's sub-funds; and
- 360 worked days after the authorisation notification date for the other sub-funds, if any.

III. If this document is not received within 180 worked days, the AMF shall deem the authorisation null and void and so notify the management company in writing.

IV. Where warranted by special circumstances, the management company make a reasoned request for an extension of the deadline for depositing the funds beyond the 180 worked days. The request may be sent to the AMF by post or online through the extranet of the GECO database in the area reserved for the management company. It should state the desired date and must reach the AMF before the date on which the authorisation is to be declared null and void. If the management company chooses the online procedure, it must attach a PDF file of the letter requesting the extension signed by a duly empowered person to its e-mail message. The AMF will notify the management company of its decision within eight worked days of receiving the request.

V. The first net asset value of the retail private equity investment fund must be calculated as soon as the funds have been deposited.

Article 5-2 - Submission of the final versions of the KIID and rules to the AMF

The management company must electronically send the AMF the final versions of the KIID and prospectus including the rules in accordance with the requirements defined in Annex VIII hereto.

Section II - Changes (subject to pre-approval / subject to ex-post notification) during the life of a retail private equity investment fund and procedures for notifying investors

Article 6 - Changes

According to Article 422-16 of the AMF General Regulation¹¹: There are two types of changes that can occur during the life of a [retail private equity investment fund] (...):

- 1° Changes subject to pre-approval;
- 2° Changes subject to ex-post notification.

Changes subject to pre-approval cannot be implemented, depending on the circumstances, until the depositary has given its consent and the AMF has granted its authorisation.

Where changes subject to pre-approval also involve changes subject to ex-post notification, the latter will still be governed by Sub-section 3 of this section.

If a change occurs that is not covered by this instruction, the management company will contact the AMF beforehand to determine the appropriate way of dealing with it.

¹¹ Applicable to private equity funds by reference from Article 422-120-1 of the AMF General Regulation.

Article 6-1 - Streamlined formalities

Where warranted by special circumstances, the AMF may authorise the management company to streamline some of the formalities stipulated in this section.

Article 6-2 - Administrative management of “multiple changes”

“Multiple” changes occur when the same change is made simultaneously to more than 20 retail private equity investment funds.

I. Changes subject to pre-approval

When “multiple” changes subject to pre-approval take place, the AMF updates the relevant data in the GECO database in accordance with Annex V. However, the procedures for preparing an authorisation application defined in Sub-section 2 of this section may be adapted.

II. Changes subject to ex-post notification

Any request dealing with “multiple” changes subject to ex-post notification must specify the following:

- 1° The nature of the change;
- 2° The full list of the retail private equity investment funds concerned, including their names and the ISIN for each class of their units;
- 3° The date on which the change is to take place. This date must not be less than eight worked days after the date on which the AMF receives the written request.

When a request made under the terms of this article is incomplete or does not comply with the regulations in force, the AMF will notify the management company in writing and explain the reasons for the rejection of the request:

- Missing or incomplete documents;
- Failure to comply with regulations in force.

Sub-section 1 - Type of changes occurring in the life of a retail private equity investment fund

Article 7 - General provisions

The table in Article 8 of this instruction lists the changes to retail private equity investment funds that qualify as changes subject to pre-approval or changes subject to ex-post notification, as applicable.

This table lists the obligations of management companies with regard to authorisation and notification of unitholders depending on the changes to the retail private equity investment fund or to one of its sub-funds.

The “authorisation” column shows whether the change requires AMF authorisation. Changes subject to ex-post notification and not requiring authorisation must simply be reported in a prior notification to the AMF via the GECO extranet of the management company by the day that the change takes effect at the latest.

The “individual notification” and “notification by any means”¹² columns show the procedures for notifying unitholders of each change.

Individual notification of unitholders is not required when all the unitholders have given their prior consent to the change being considered.

All changes that do not require the AMF’s authorisation and/or do not require individual notification may be disclosed to investors by any means

¹² Dissemination methods are explained in detail in Sub-section 4 of Section II of Chapter I.

In the latter case, the words “after the fact” show whether the notification of the change to unitholders can be given after the change takes effect. Failing that, the notification must be given to unitholders before the change takes effect and within a reasonable timeframe.

Because of the lock-up period provided for in VII of Article L.214-28 of the Monetary and Financial Code, unitholders who do not agree to changes made during this period will be unable to request early redemption of their units.

Accordingly, since certain changes could substantially modify the operating procedures of the retail private equity investment fund, any application to authorise a change must be preceded by an analysis by the management company, taking into account the interests of unitholders, to ensure that the proposed changes comply with the legislation and the regulations in force.

The changes particularly considered here are those dealing with (non-exhaustive list):

- investment objective and policy;
- risk and reward profile;
- investment management delegation where this could materially affect the risk and reward profile or investment strategy;
- guarantee;
- increase in management and operating charges;
- life;
- lock-up period;
- redemption fee;
- mergers and demergers.

If an application to authorise a change subject to pre-approval is filed by the management company in the light of its analysis of the proposed change’s compliance, this application will be the subject of a specific review by the AMF.

Article 8 – Summary table of changes to the Key Investor Information Document (KIID) and/or the rules of a retail private equity investment fund and notification of unitholders

| Changes | Authorisation | Individual notification | Notification by any means |
|--|----------------------|--|--|
| Key investor information document | | | |
| ISIN | | x | |
| Name of the retail private equity investment fund | | | x |
| Management company | x | x (outside group or inside group with nationality change) | x (inside group without nationality change) |
| <i>Investment objective and policy</i> | | | |
| - Investment objective and policy | x (cf. Article 7) | x | |
| - Benchmark | | | x |
| - Extension of lock-up period | x (cf. Article 7) | x | |
| - Appropriation procedures: appropriation of net income and realised net capital gains | | x | x Only in the case of retail private equity investment funds, local investment funds and innovation |

| | | | funds wishing to specify appropriation procedures |
|--|---|--|---|
| Changes | Authorisation | Individual notification | Notification by any means |
| Risk and reward profile | x In the case of a change to the investment objective or policy strictly exceeding 20% of net assets in terms of exposure (cf. Article 7) | x In the case of a change to the investment objective or policy strictly exceeding 20% of net assets in terms of exposure | x In the case of a change to the investment objective or policy less than or equal to 20% of net assets in terms of exposure |
| Change of master AIF | x | x | |
| Subscription fee including any antidilution levy | | | x Only if increased After the fact |
| Redemption fee including any antidilution levy | (cf. Article 7) | x If increased | |
| Charges, performance fee (increase - entry into force one month after investors have been informed) and carried interest | x (cf. Article 7) | x | x If reduced After the fact |
| <i>Practical information</i> | | | |
| - Where to find information about the retail private equity investment fund | | | x |
| - Where to find the net asset value | | | x |
| - Where to find information about unit classes | | | x |
| - Depositary | X | x (outside group) | x (inside group) |
| - Tax rules (except if new regulations enter into force immediately) | | x If the investment is no longer eligible for tax breaks | |
| Rules | | | |
| - Institution designated to receive subscriptions and redemptions | | x Only if no longer used | x After the fact |
| - Auditor | x If the AMF staff does not know the auditor | | x After the fact |
| - Investment management delegation | x (cf. Article 7) | x Delegation outside the group of more than 50% of the net assets of the retail private equity investment fund | x Delegation outside the group of less than 50% of the net assets of the retail private equity investment fund, or delegation inside the group |

| | | | |
|--|--|--|---|
| - Delegation of administration and accounting | Commitment by the management company to ensure compliance with its programme of operations | | |
| - Guarantor | X | x (outside group) | x (inside group) |
| - Lapse of the guarantee on the expiry date given in the prospectus | | | x |
| Changes | Authorisation | Individual notification | Notification by any means |
| - Guarantee or protection (solely in the interest of unitholders) | x (cf. Article 7) | x | |
| - Minimum initial subscription amount | - | | x After the fact |
| - Option to cap, close or reopen subscriptions | | | x After the fact |
| - Establishment of a swing pricing mechanism | | x | |
| - Increase in redemption notice period | | x | |
| - Gates | x | x | |
| - Order centralisation (time and date) | | | x |
| - Decrease in the frequency of net asset value calculations | | x | |
| - Increase in the number of days between the centralisation date and the settlement date | | x | |
| - Frequency of payouts | | | x |
| - Base currency of a unit class | | x | |
| - Creation / elimination of a unit class (C, D or other if no unitholders in the eliminated class) | | | x After the fact |
| - Liquidation of units | X | x Only to unitholders of the affected unit classes | x After the fact Only to unitholders of other unaffected unit classes |
| - Reverse splits of units | | x Only to unitholders of the affected unit classes (eliminated unit(s)) | x After the fact Only to unitholders of other unaffected unit classes |
| - Splits of units, decimalisation | | | x |
| - Investor profile | | | x After the fact |
| - Increase in life | x (cf. Article 7) | x | |
| - Pre-liquidation | | x | |
| - Asset valuation rules | | | x After the fact |
| - Accounting year | | | x |

| | | | |
|---|---|---|---|
| - Establishment or change of contract mentioned in Article L.214-24-10 III or IV of the Monetary and Financial Code and Article 323-35 of the AMF General Regulation (Only in the case of AIFs that are not open to retail investors) | x | x | |
| Admission to trading | | | x |
| Delisting from trading | | x | |

Any change to the legal structure of the retail private equity investment fund (conversion to a feeder fund, conversion to an umbrella fund or vice-versa, or change of master AIF, etc.) is a change subject to pre-approval.

Transactions to merge or wind up a retail private equity investment fund at the initiative of the management company also constitute changes subject to pre-approval.

In accordance with Article 6 of this instruction, if a proposed change, such as an amendment of the fund rules, for example, is not covered by Article 8 of this instruction, the management company will contact the AMF beforehand to determine the appropriate way of handling it.

Article 9 - Notification and/or consent of the depositary and the statutory auditor

I. Any change to a retail private equity investment fund subject to pre-approval must obtain the unqualified consent of the depositary before the authorisation application is filed with the AMF.

II. Any change to a retail private equity investment fund subject to ex-post notification must be disclosed to or obtain the consent of the depositary before being implemented in accordance with the terms of the agreement between the retail private equity investment fund management company and its depositary.

III. The statutory auditor of the retail private equity investment fund must be informed of all changes, whether subject to pre-approval or subject to ex-post notification.

Sub-section 2 - Changes subject to pre-approval

Authorisation procedure for a change to a retail private equity investment fund subject to pre-approval

| Step | Retail private equity investment fund management company | Autorité des Marchés Financiers |
|------|---|--|
| 1 | Filing of an authorisation application for a change subject to pre-approval | |
| 2 | | Compliance verification Acknowledgement of receipt of the application by the AMF, specifying the waiting time for the authorisation decision <i>or</i> Rejection of the application, with an explanation of the reasons for the rejection |

| | | |
|-------------|---|---|
| 3 | | Examination of the application - Possible contact with the applicant |
| 4 | | Where applicable, a request for further information, which may or may not require the management company to submit a supplementary information sheet |
| 4a | Where applicable, filing of a supplementary information sheet and the information requested within 60 days of the request | |
| 4b | | Reception of the supplementary information sheet and the information requested Acknowledgement of receipt stipulating the new authorisation waiting period |
| Step | Retail private equity investment fund management company | Autorité des Marchés Financiers |
| 5 | | Notice of the decision to grant or refuse authorisation, or implicit authorisation decision |
| 6 | Notification of unitholders individually, through the press or through any medium, depending on the circumstances | |
| 7 | | Update of the GECO database |
| 8 | Submission of the KIID and the rules in accordance with the procedures stipulated in Annex VIII | |

Authorisation waiting times

| Type of operation | Waiting time |
|--|---|
| Change to a feeder retail private equity investment fund subject to pre-approval | 15 working days (approx. 13 worked days) |
| Mergers & demergers | 20 working days (approx. 17 worked days) |
| Other changes subject to pre-approval | Eight worked days |

Article 10 - Filing the authorisation application

Article 10-1- Usual case

All applications for changes subject to pre-approval must be set out in an authorisation application sent to the AMF comprising:

1° Two copies – one copy only if the application is filed online - of the duly completed authorisation form found in Annex III. Each section must be filled in and the sections affected by the change must be clearly identified.

2° The attachments referred to in Annex III, along with any other document that the management company deems necessary for the examination of the application.

If an identical change subject to pre-approval affects more than one retail private equity investment fund, the AMF may allow the authorisation applications to be filed together at the request of the management company.

The application may be filed with the AMF online through the extranet of the GECO database in the area reserved for the management company.

Article 10-2 - Special case – Liquidation

End of life of a retail private equity investment fund

Summary of the three steps required to liquidate a retail private equity investment fund



The liquidation of a retail private equity investment fund comprises three steps:

- The first step consists of the pre-liquidation period and is optional. It is used to prepare for the future sale of the portfolio assets, with due consideration for the nature of the securities held and the maturity of the investments made.
- The second step consists in taking the decision to wind up the retail private equity investment fund. This decision leads to the third step.
- The third step is liquidation, which entails realising the portfolio assets and repaying the fund's unitholders.

Pre-liquidation and liquidation are steps that are not subject to AMF approval and are considered to be changes subject to ex-post notification in accordance with Articles 14-1 and 14-2. By contrast, winding-up (date of the management company's decision to enter the liquidation period) is a change that is subject to pre-approval from the AMF.

The application to authorise winding-up must include:

- two copies - one copy only if the application is filed online – of the duly completed authorisation application form found in Annex III;

- the management company's decision to wind up the fund;
- the name and contact details of the party appointed to act as liquidator, if it is not the management company;
- the draft letter providing individual notification to unitholders;
- the fund's last portfolio.

The application may be filed with the AMF online through the extranet of the GECO database in the area reserved for the management company.

Article 11 - AMF registration of the request for a change subject to pre-approval

The AMF registers the authorisation application when it is received. An acknowledgement of receipt of the application is sent to the management company. The acknowledgement of receipt certifies that the application has been filed with the AMF.

If the application filed is non-compliant, it is returned to the applicant. In this case, the reasons for its rejection are explained.

These reasons may be twofold:

1° Missing documents;

2° Documents are incomplete or fail to comply with the laws and regulations in force.

Article 12 - Examination by the AMF of the authorisation application for a change subject to pre-approval

The AMF may ask for any further information during its examination of the application. The management company may submit this information to the AMF electronically, by post or by fax, including the application's references.

If the AMF asks for further information that requires submission of a supplementary information sheet, the AMF shall serve such notice, stipulating that the items requested must arrive within 60 days. In this case the waiting period is suspended. If the AMF fails to receive the said items within this period, the authorisation application shall be deemed to be rejected. The further information required must be submitted with a supplementary information sheet filled in using the template in Annex IV. The AMF acknowledges receipt when it has received all the information requested. The acknowledgement of receipt shall stipulate the new deadline for the authorisation decision.

The AMF's decision to grant authorisation is disclosed to the management company in writing.

In the event that authorisation is not explicitly granted, the change to the retail private equity investment fund or its sub-fund will be deemed to be authorised as of the authorisation decision deadline stipulated in the acknowledgement of receipt of the authorisation application or in the acknowledgement of receipt of the further information requested.

Article 13 - Completion of the authorisation application process by the AMF

The management company must e-mail the KIID and the prospectus including the final rules, in accordance with the requirements defined in Annex VIII hereto. The authorisation granted for a change subject to pre-approval is limited to that change. It does not constitute authorisation for any other items in the KIID and/or the rules that the management company may have amended at the same time. Amended items that are simply required to be reported will be reviewed ex post.

Sub-section 3 - Changes subject to ex-post notification

Article 14 - Disclosure of changes subject to ex-post notification – Procedures for notifying the AMF and updating the GECO database

The management company of retail private equity investment funds affected by changes subject to ex-post notification mentioned in the table in Article 8 of this instruction must disclose such changes by updating the GECO database, when applicable, in accordance with the procedures stipulated in Annex VIII and notify the depositary or obtain the depositary's prior consent, depending on the circumstances. The management company is solely responsible for this information.

Changes subject to ex-post notification may not take effect until the new KIID and rules have been filed with the AMF and, where applicable, the GECO database has been updated. For certain sections, the GECO database update must be carried out by the AMF on behalf of the management company (for fields which may not be filled in through GECO). For the aforementioned fields, management companies are to send the AMF the information using the form located in Annex V bis.

Article 14-1 - Special case - Disclosure of pre-liquidation of a retail private equity investment fund

Pre-liquidation is optional. The management company takes the decision to place the fund in pre-liquidation.

Pursuant to the provisions of Articles R.214-40 (retail private equity investment funds), R.214-53 (innovation funds) and R.214-71 (local investment funds) of the Monetary and Financial Code, the management company sends an advance disclosure by post to notify the AMF of its wish to open a pre-liquidation period for the fund under management.

The disclosure must include:

- a letter setting out the reason for opening the pre-liquidation period;
- the proposed notification of unitholders before this notification is issued.

After notifying the AMF and at least three worked days before the pre-liquidation period begins, the management company must send unitholders individual notifications (in the form of a letter or information documentation) about the commencement of this period, specifying the possible consequences for management of the retail private equity investment fund. The management company sends a copy of this information to the AMF via the GECO database.

Article 14-2 - Special case - Disclosure of completion of liquidation operations for a retail private equity investment fund

Liquidation entails realising the portfolio assets and repaying the fund's unitholders.

Once liquidation has been completed, the auditor of the retail private equity investment fund prepares a report on the liquidation terms and operations since the close of the last accounting year. This report is made available to unitholders and must be sent to the AMF by post in the month following its preparation. The report must also be sent to the depositary.

Sub-section 4 – Unitholder notification when changes occur in the life of retail private equity investment funds and notification of the AMF

Article 15 – Unitholder notification

I. Changes occurring during the life of a retail private equity investment fund or a sub-fund of a retail private equity investment fund that require notification of unitholders are listed in Article 8 of this instruction. These changes must be disclosed to unitholders before their entry into force.

II. Information about changes subject to pre-approval can only be disclosed to unitholders after the authorisation of the AMF has been obtained. This authorisation constitutes approval of the proposed notice to unitholders, which must be attached to the authorisation application. The AMF may authorise the management company to give advance notification. The management company must also submit the final versions of the KIID and the prospectus including the rules of the retail private equity investment fund, electronically on or before the day on which the change subject to pre-approval takes effect, in accordance with the requirements stipulated in Annex VIII hereto.

III. The notification must state whether the change takes effect immediately or later. Subject to specific requirements set out in the table in Article 8, immediate effect means three worked days after effective notification of unitholders except in the cases set out in the table below where a longer minimum deadline applies. This is merely a minimum and management companies should determine what constitutes a reasonable timeframe, particularly with regard to the nature of the change to the retail private equity investment fund.

| Nature of changes / notice period for unitholders | Minimum number of days between notification of subscribers and the date the change takes effect |
|---|--|
| Merger of retail private equity investment funds | Three calendar days + five working days |
| Others (Subject to specific requirements set out in the table in Article 8) | Between three worked days and 90 calendar days depending on the planned change, left to the discretion of the management company |

IV. The notification given to unitholders makes a clear distinction between changes subject to pre-approval from the AMF and those that need simply be disclosed to the AMF.

Article 16 - Means of disseminating notifications

I. Unitholder notification may take two forms: individual notification (letter or any other durable medium as defined in Article 314-26 of the AMF General Regulation) or notification in any other medium, such as periodic reports. Article 8 of this instruction sets out the notification requirements depending on the nature of the change.

II. The nature of the medium used to disseminate notifications must be adapted to the marketing of the retail private equity investment fund and, more specifically, its geographic distribution and the profiles of the unitholders. The publication timetable of the communication(s), the media concerned and the proposed financial notice(s) relating to changes subject to pre-approval must be made available to the AMF, which has the right to have their nature or their content modified, depending on the circumstances.

III. As an exception to point I, when the nature of the change requires individual notification of unitholders, one possible solution, with the AMF's consent, may be to publish a financial notice containing all this information in the press.

IV. Notification may be disseminated through any appropriate medium, including a financial notice published in the press or periodic reports. The management company must ensure that these media are actually available to unitholders before the announced changes take effect, unless there are provisions to the contrary in Section II of this chapter. Points II and III of Article 15 of this instruction apply in the specific case of notification by means of a financial notice. If the change is to take effect before the medium is disseminated, a personalised letter must be sent or a financial notice must be published.

Article 17 - AMF supervision of changes subject to pre-approval

If a change subject to pre-approval requires individual notification, the proposed notification of unitholders must be included in the authorisation application sent to the AMF.

Notification of unitholders can only take place after the AMF has authorised the change. The AMF may authorise the management company to give advance notification.

The authorisation application must specify the notification method chosen, such as a letter or a document enclosed with a statement of account.

Article 18 - General principles regarding redemption free of charge

Where the rules of the retail private equity investment fund give unitholders the option of requesting early redemption of their units in the event of a change subject to pre-approval, unitholders must not have to pay any charges for such redemption.

Article 19 - Specific provisions for operations at the end of the retail private equity investment fund's life

I. Where the management company decides to open a pre-liquidation period, unitholders of the retail private equity investment fund must receive advance notification clearly mentioning the characteristics of the operation, in particular:

1° The date on which the pre-liquidation period opens;

2° The effect of pre-liquidation on lock-ups;

3° Consequences for management of the fund.

This notification may be sent to unitholders in individual letters or provided to unitholders in the fund's half-yearly report.

II. Before the retail private equity investment fund enters liquidation, unitholders must receive individual notification mentioning in particular the following items:

- 1° The winding-up date;
- 2° The effect of liquidation on lock-ups;
- 3° A provisional timetable for the operations;
- 4° The existence of a report prepared by the fund's auditor on the liquidation terms and how it is made available on completion of liquidation.

Article 20 - Notification of the AMF following notification of unitholders

When unitholders are given individual notifications or the notification is disseminated by any means for the purposes of this instruction, the management company shall provide a copy of the notification to the AMF through the GECO database. If the notification is given after the fact, the management company merely updates the GECO database with the nature of the notification disseminated, the medium used and the place where the information is.

Chapter II - Preparing a Key Investor Information Document, rules and reporting

Section I - The Key Investor Information Document (KIID) and rules

Article 21 - General provisions

A KIID and rules must be prepared for each retail private equity investment fund.

If a retail private equity investment fund is made up of several sub-funds, a KIID must be prepared for each of its sub-funds and a single set of rules must be prepared for all the sub-funds.

If a retail private equity investment fund is made up of several unit classes, a KIID must be prepared for each class. However, the management company may provide information about several unit classes in the same KIID, provided that the final document satisfies the requirements regarding language, length and presentation stipulated in Articles 5 and 6 of European Commission Regulation No. 583/2010 of 1 July 2010.

Article 22 - Structure of the Key Investor Information Document (KIID) and the rules

I. KIID

The KIID is a summary no longer than two A4 pages in printed form, excluding cost tables, carried interest tables and performance scenarios.

II. Rules

The rules precisely describe the investment and operating rules of the retail private equity investment fund along with all the procedures for compensating the management company and the depositary. It provides a complete presentation of the planned investment strategies, along with the specific financial instruments used, especially in cases where such instruments require special monitoring, are exposed to specific risks or have specific features.

III. The KIID and the rules must use the standard templates found in Annexes VI and VII of this instruction. More specifically, the template and titles of the different sections of the KIID and the fund rules must be followed. If the language used is not French, the template and the section titles must be literal translations of the terms used below. The items in italics must not be modified. Note that in accordance with point II of Article 422-66 of the AMF General Regulation, the rules or the articles of incorporation and documents intended to provide information to holders may be drawn up in a language other than French that is customary in the sphere of finance, provided that the AIF or its management company ensures that the marketing arrangements put in place prevent these documents from being sent to, or from being likely to reach, investors in the territory of the French Republic who might not understand this language.

Article 23 - Objectives of the Key Investor Information Document (KIID) and the rules

The objective of the KIID is to provide a summary of the key information that investors need to make an informed decision. It is presented and laid out in a way that facilitates reading, by using sufficiently large print in particular. It is clearly written, using language that facilitates investors' comprehension of the information being communicated, more specifically by using clear, concise and understandable language, and by avoiding jargon and technical terms when everyday words can be used.

The objectives and characteristics of the rules consist in providing:

1° Detailed information about all the condensed items presented in the KIID, so that investors who are seeking it can find complete information about the management and operating procedures of the retail private equity investment fund and compare the specific features of different retail private equity investment funds;

2° Precise information about the risks identified when the retail private equity investment fund was set up or updated. The rules must not be misleading, either by providing erroneous information or by omitting information that is needed to understand all the management and operating rules of the retail private equity investment fund, along with all the costs incurred;

3° The information that the depository, the statutory auditor and the compliance and internal control officer of the management company need for their due diligence.

The management company must give due consideration to the positions and interpretations published by the AMF when drafting the KIID and the rules.

Article 24 - Dissemination procedures for the Key Investor Information Document (KIID) and the rules

I. The KIID is to be provided to investors free of charge and in timely manner before they subscribe units in the retail private equity investment fund.

II. The subscription form must stipulate that:

1° The subscriber has received the KIID of the retail private equity investment fund;

2° The rules must be provided to investors requesting them free of charge in a durable medium as defined in Article 314-26 or on a website.

The latest annual and half-yearly reports of the retail private equity investment fund must be provided to investors requesting them free of charge in accordance with the procedures stipulated in the rules and the KIID. Hard copies of the documents mentioned in this article shall be provided to investors requesting them free of charge.

The rules of the retail private equity investment fund, the latest annual report and asset composition may be made available to the public on a website or, failing this, should be provided on receipt of a written request.

3° The words and items in Article D. 214-80-3 of the Monetary and Financial Code and Articles 3, 4 and 5 of the Ministerial Order of 10 April 2012¹³.

Article 25 - Standard template of the Key Investor Information Document (KIID)

The KIID is essential for informing subscribers and must be updated whenever necessary, under the responsibility of the management company.

The KIID has four sections:

1° "Investment objectives and policy" describes the key characteristics of the retail private equity investment fund that the investor should know;

2 "Risk and reward profile" contains a synthetic indicator backed up by narrative explanations of the limitations of such indicators and the major risks that are not included in the indicator;

3 "Charges" presents a standardised table of charges;

¹³ This point should be included in the subscription form only if the fund is eligible for tax breaks under income and/or wealth taxes.

4° “Practical information” tells investors where to obtain more information (rules, etc.) about the retail private equity investment fund.

The standard KIID template is presented in Annex VI.

Article 26 - Standard template for fund rules

The rules must use the template provided in Annex VII.

Article 27 - Specific procedures

Article 27-1 – Guaranteed retail private equity investment funds

I. The guarantee must be granted either to the retail private equity investment fund or to the unitholders by an institution cited in point II of Article R.214-32-28 of the Monetary and Financial Code¹⁴.

II. When a guaranteed level or formula is offered, the guarantee must apply to:

- 1° The initial net asset value if there is a single subscription net asset value;
- 2° The highest net asset value during the subscription period.

III. The nature of the guarantee and its characteristics must be clearly set out in the relevant section. The information must include:

1° The level of the guarantee:

- full capital guarantee;
- partial capital guarantee;

2° Whether the guarantee includes front-end charges;

3° Subscription dates for obtaining the guarantee;

4° Dates on which the guarantee will be granted;

5° Whether the guarantee is granted to the retail private equity investment fund or directly to the unitholders. If the guarantee is granted directly to the unitholders and they are required to request redemption of their units on a specific date to benefit from the guarantee, this requirement must be pointed out in a warning that specifies the final net asset value that is guaranteed, along with the deadline for submitting redemption orders. If the guarantee requires action by the unitholders, such as making a request for redemption at a set net asset value, they must be alerted individually by letter in a timely manner if there is any likelihood that it will be in their interest to redeem their units.

Section II - Reporting and other information provided to investors

Article 28 – The half-yearly report and half-yearly asset composition

I. In accordance with Articles L.214-24-62 and D.214-33 of the Monetary and Financial Code, retail private equity investment funds/innovation funds/local investment funds must draw up a half-yearly report at the end of the first half of their accounting year.

II. This report must be published no later than two months after the end of the first half of the year.

III. The half-yearly report may be compiled as of:

- 1° either the last trading day of the half year;
- 2° or the day on which the last net asset value is calculated.

IV. Regardless of their presentation, all the disclosures about a retail private equity investment fund or a sub-fund must include its name.

¹⁴ See also AMF Position – Need to offer a guarantee (covering the formula used and/or the capital, as the case may be) when marketing to retail investors shares or units in structured UCITS and AIFs, “guaranteed” UCITS and AIFs, and debt securities with similar characteristics issued by dedicated issue vehicles – DOC 2013-12.

V. The half-yearly report must contain the following information:

1° A statement of assets and liabilities, including the following items:

a) The eligible financial securities stipulated in L.214-28 of the Monetary and Financial Code in the case of a retail private equity investment fund, in L.214-30 of the Monetary and Financial Code in the case of an innovation fund and in L.214-31 of the Monetary and Financial Code in the case of a local investment fund;

b) Bank balances;

c) Other assets held by the retail private equity investment fund;

d) Total assets held by the retail private equity investment fund;

e) Liabilities;

f) Net book value;

2° Number of units in circulation;

3° Net book value per unit;

4° Portfolio;

5° Statement of changes in the composition of the portfolio during the reference period.

6° Summary of situations and conditions in which gates were implemented during the period.

VI. In accordance with Article L.214-24-49 of the Monetary and Financial Code, a document called “asset composition” must be compiled as of the date of the last net asset value of the half year. This document must be sent to any unitholder who requests it within eight weeks of the end of each half year.

This document must contain the following information:

1° An inventory of the portfolio with details about the quantities and values of financial instruments;

2° Net assets;

3° Number of units in circulation;

4° Net asset value;

5° Off-balance sheet commitments.

This document must be compiled in detail and must be understandable for any unitholder.

VII. The document called “asset composition” may be replaced by the document used to calculate the net asset value, provided by the management company to the statutory auditor of the retail private equity investment fund, provided it contains the items referred to in points 1° to 5° of V.

Article 29 - Annual report

The annual report must be drawn up as of the last day of the accounting year, or or the day on which the last published net asset value is calculated, if so stipulated in the rules.

It must contain at least the following items:

- the management report;
- the summary documents defined in the chart of accounts and the certification of the statutory auditor;
- any material change, as defined in Article 106 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012, in the information referred to in Article 33 of this instruction during the accounting year covered by the report.

Where the retail private equity investment fund is managed by a management company authorised under the terms of the AIFM Directive, the annual report must also contain:

- the total amount of remuneration for the financial year, split into fixed and variable remuneration, paid by the management company to its staff, and number of beneficiaries, and, where relevant, carried interest paid by the retail private equity investment fund;
- the aggregate amount of remuneration broken down by senior management and members of staff of the management company whose actions have a material impact on the risk profile of the retail private equity investment fund.

A management company authorised in accordance with Directive 2011/61/EU of 8 June 2011 must also comply with Article 107 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

The accounting information given in the annual report shall be prepared in accordance with French accounting standards and the accounting rules laid down in the retail private equity investment fund's rules.

The statutory auditor's report, including any qualifications, shall be reproduced in full in the annual report.

The annual report of the retail private equity investment fund must also contain information about changes in the structure of the securities portfolio during the accounting period and, where appropriate, information about the financial instruments in the portfolio that have been issued by the management company or entities from its group. It must also mention, where relevant, retail private equity investment funds or collective investments referred to in Article 311-1 A or investment funds from third countries managed by the portfolio management company or entities from its group.

If the annual report of the retail private equity investment fund is published within eight weeks of the end of the accounting year and it contains the items mentioned in points 1° to 5° of Article 28 (VI) of this instruction, the management company is not required to report the asset composition separately. In this case, the annual report is sent free or charge to any unitholder who requests the asset composition.

Management report

The information set out in Article 421-34 of the AMF General Regulation must be at least provided in the management report if it is not provided in the periodic reports and/or periodic disclosures according to the procedures and timeframe described in the prospectus.

Furthermore, in accordance with Article 421-35 of the AMF General Regulation, the management company must comply with Articles 103 to 107 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

The items that must be provided in the annual report and that are not included in the summary documents must be provided in the management report.

Article 30 - Annual newsletter

If the retail private equity investment fund is eligible for one or more tax breaks requiring additional information to be provided, the management company must send subscribers a newsletter observing the same time requirements as those applicable to the provision of the annual report. The items to be provided in the newsletter are given in Article D.214-80-7 of the Monetary and Financial Code and in Article 7 of the Ministerial Order of 1 August 2011.

Article 31 - Dissemination of these documents

The annual financial statements, year-end asset composition and auditor reports are made available to unitholders at the registered offices of the retail private equity investment fund management company. They are sent to any unitholder that requests them in the week following receipt of the request. Subject to the consent of the unitholder, this information may be sent electronically.

Article 32 - Presentation and dissemination of statistical documents

On 31 December of each year, the management company must prepare a statistical report for all the retail private equity investment funds that it manages.

Statistical information is gathered for each of the retail private equity investment funds taken individually and presented using the template in Annex VIII of this instruction.

At the same time and on the same date, the management company must prepare, for the innovation funds and local investment funds that it manages, a summary statement of companies financed, securities held in the portfolio and amounts invested during the year.

The statistical report must be sent to the AMF before 15 February of each year.

The summary statement must be sent to the AMF before 30 April of each year.

Article 33 – Information provided to investors

Pursuant to I of Article 421-34 of the AMF General Regulation, the retail private equity investment fund or the management company must provide investors in the retail private equity investment fund with the following information, before they invest in the retail private equity investment fund:

- a) a description of the investment strategy and objectives of the retail private equity investment fund, information on where any master AIF is established as defined by IV of Article L.214-24 of the Monetary and Financial Code and where the underlying funds are established if the retail private equity investment fund is a fund of funds, a description of the types of assets in which the retail private equity investment fund may invest, the techniques it may employ and all associated risks, any applicable investment restrictions, the circumstances in which the retail private equity investment fund may use leverage, the types and sources of leverage permitted and the associated risks, any restrictions on the use of leverage and any collateral and asset reuse arrangements, and the maximum level of leverage which the management company is entitled to employ on behalf of the retail private equity investment fund;
- b) a description of the procedures by which the retail private equity investment fund may change its investment strategy or investment policy, or both;
- c) a description of the main legal implications of the contractual relationship entered into for the purpose of investment, including information on jurisdiction, on the applicable law and on the existence or not of any legal instruments providing for the recognition and enforcement of judgments in the territory of the French Republic;
- d) the identity of the management company, the retail private equity investment fund's depository, auditor and any other service providers and a description of their duties and the investors' rights;
- e) where the AIF is managed by a management company authorised under Directive 2011/61/EU, a description of how the management company is complying with the requirements of IV of Article 317-2 of the AMF General Regulation (or its equivalent, transposing paragraph 7 of Article 9 of Directive 2011/61/EU, in the law applicable to the management company);
- f) a description of any management function delegated by the management company and of any safe-keeping function delegated by the depository, the identification of the delegate and any conflicts of interest that may arise from such delegations;
- g) a description of the retail private equity investment fund's valuation procedure and of the pricing methodology for valuing assets, including the methods used in valuing hard-to-value assets;
- h) a description of the retail private equity investment fund's liquidity risk management, including the redemption rights both in normal and in exceptional circumstances, and the existing redemption arrangements with investors;
- i) a description of all fees, charges and expenses and of the maximum amounts thereof which are directly or indirectly borne by investors;

j) a description of how the management company ensures a fair treatment of investors and, whenever an investor obtains preferential treatment or the right to obtain preferential treatment, a description of that preferential treatment, the type of investors who obtain such preferential treatment and, where relevant, their legal or economic links with the AIF or the management company;

k) the latest annual report referred to in Article 29;

l) the procedure and conditions for the issue and redemption of units;

m) the latest net asset value of the retail private equity investment fund or the latest market price for the retail private equity investment fund unit or share;

n) where available, the historical performance of the retail private equity investment fund;

o) the identity of the prime broker and a description of any material arrangements of the retail private equity investment fund with its prime brokers and the way the conflicts of interest in relation thereto are managed and the provision in the contract with the depositary on the possibility of transfer and reuse of AIF assets, and information about any transfer of liability to the prime broker that may exist;

p) a description of how and when the information required under IV and V of Article 421-34 of the AMF General Regulation will be disclosed.

q) as necessary, the admission of units or shares to trading on a regulated market or multilateral trading facility and associated procedures

This information, with the exception of that referred to in k) and m), is contained in the standard template of the KIID and the standard fund rules provided in the annexes to this instruction. A correlation table is provided in Annex I bis (Table no. 1). The information not contained in these regulatory documents is mentioned in Annex I bis (Table no. 2); this information must be made available to investors.

The AIF or the management company shall inform investors of any material change concerning this information.

Furthermore, note that Article 421-34 of the AMF General Regulation also contains the following provisions:

“IV. EU AIFs and AIFs marketed in the European Union, or their asset management company, management company or fund manager, shall periodically disclose to unitholders or shareholders:

1° the percentage of the AIF’s assets which are subject to special arrangements arising from their illiquid nature;

2° any new arrangements for managing the liquidity of the AIF;

3° the current risk profile of the AIF and the risk management systems employed by the AIF or its asset management company, management company or fund manager to manage those risks.

V. EU AIFs and AIFs marketed in the European Union employing leverage, or their asset management company, management company or fund manager, shall, for each such AIF disclose, on a regular basis:

1° any changes to the maximum level of leverage which the asset management company, management company or fund manager may employ on behalf of the AIF as well as any right of the reuse of collateral or any guarantee granted under the leveraging arrangement;

2° the total amount of leverage employed by that AIF.”

In accordance with Article 421-35 of the AMF General Regulation, the management company must comply with Articles 108 and 109 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.