

Policy Policy principles

Principles for organising and publishing the AMF's policy

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In order to systematise the publication of its policy and better organise the associated documents, the AMF conducted work in liaison with the industry that enabled it to clarify the scope and effect of its published policy, to structure the process for formulating it and determine the format suitable for disseminating it. The policy published by the AMF comprises instructions, positions, recommendations, accepted market practices and rulings, classified by themes.

Update of the AMF's policy in relation to MiFID II Certain policy documents related to the Books III, IV and V of the AMF General Regulation have not been updated in accordance with the texts which transpose MiFID II and which separate the legal framework of investment firms and asset management companies. This further update will be shortly. The documents are currently being updated and carry a disclaimer box on the first page.

Background

In its New Strategy Proposals, the AMF undertook to publish its policy and reorganise the associated documents in order to make its activities more transparent and easier to predict. Prior to this, policy was disseminated in a variety of formats, including guides, Q&As, positions, guidelines, news releases and annual reports... - the effect of which was not always explicit – thereby making it difficult to access.

Working with the industry, the AMF organised a review aimed at clarifying the scope and effect of its policy and structuring the process for formulating and updating it.

The review resulted in a definition of the AMF's policy that differs from its statutory regulatory remit.

It also confirmed the AMF's aim of publishing its policy. However, this does not mean that the AMF will publish all its applicable policies, especially in new or specific situations. Publication is the final phase of a deliberative process that, by nature, can be applied only to recurring or generic topics.

Lastly, the review also underscored the importance of involving the industry in the process of formulating published policy.

Definition and effect of the AMF's published policy

When read in conjunction with past decisions handed down by the Enforcement Committee and the grounds for certain individual decisions, the AMF's published policy allows market participants to understand how the AMF applies – under the supervision of the courts – the laws and regulations governing matters within its jurisdiction.

It comprises instructions, positions, recommendations, accepted market practices and rulings, classified by themes.

- Instructions are interpretations of the AMF General Regulation, stating how it is implemented and enforced. They inform market participants about the procedures to be followed and rules to be complied with.
- Positions are interpretations of legal and regulatory provisions that come within the AMF's jurisdiction. They explain how the AMF applies those provisions to individual cases, and they are published for the purpose of transparency and predictability.
- Recommendations are proposals to adopt a behaviour or comply with a provision that, in the AMF's view, would make it easier to achieve the aims of the standards or general principles under its jurisdiction, without denying that other behaviours or provisions may also be consistent with these standards or principles. Accordingly, recommendations are not mandatory. However, Complying with a recommendation generally contributes to the assumption that participants are acting in accordance with regulations. In some cases, and in light of the particular circumstances, the provisions of a recommendation may be among the factors taken into account when assessing an individual case such as an application for approval or authorisation. Generally, however, failure to comply with a recommendation does not in itself constitute a breach of regulations
- Accepted market practices, the scope of which extends solely to market manipulation, establish the assumption that market participants who comply with them are acting legitimately.
- Rulings enable an entity involved in a capital market transaction to seek an opinion on whether the deal complies with the AMF General Regulation.

The ruling applies only to the entity making the request, but the fact that it is published anonymously allows the AMF to show how its General Regulation would apply to a particular transaction.

Policy formulation

Published policy is approved by the AMF Board. Barring exceptional or special circumstances that demand tight deadlines or confidentiality ahead of publication, the AMF's talking partners, namely professionals and representatives of retail investors, are consulted during the formulation process through the consultative commissions and/or through representative associations or persons chosen for their special expertise.

Format applicable to the AMF's published policy

In order to help readers obtain and understand the AMF's published policy, all policy documents must contain a number of specific references and comply with general layout requirements that will allow market participants to easily identify the nature of each document.

- The title of a policy document must state its nature, i.e. instruction, position, recommendation, accepted market practice or ruling. The document must feature a single reference, which is attributed as of its creation and worded as follows: the prefix "DOC", which allows readers to know that they are reading a document comprising the AMF's policy, followed by the original date of

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publication and a number.

- Background regulations referred to after the title of the document must clearly indicate the article(s) of the Law or Regulation which are subject to an interpretation or which suggest one course of action.
- Moreover, the wording used must be consistent with the nature of the policy document, and hence its scope.

In some cases, the AMF may decide to issue combined documents including positions and recommendations in cases where a single document containing all the AMF's interpretations and proposals would make it easier to understand a given topic. In such cases, the document title will refer to the presence of positions and recommendations, each of which will be clearly identified in order to avoid ambiguity (This may be done through the use of text boxes, although equivalent procedures are also possible).

Layout requirements do not mean that policy cannot be presented through other media such as Q&As, guides or reports. The aim of publishing its policy in a clear manner may prompt the AMF to opt for other formats depending on the topic being dealt with. That said, every effort will be made to avoid a multiplicity of formats, which may undermine the clarity and understanding of the AMF's policy.

All the applicable policy documents which were not compliant with the new format at the time of initial publication have been brought into line with the new format. Reformatting these documents led to merely formal changes or to updating the regulatory references or contextual elements, or even to changing the scope of the initial policy document.

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