



Book III - Service providers

Title I bis - Asset management companies of AIFs

Chapter I - Procedures for authorisation, programme of operations and passport

Section 3 - Specific rules on the authorisation of managers seeking to manage european union aifs or to market aifs of the european union or third countries under their management in the european union with a passport

General regulation of the AMF

Article 316-13 into force since 21 December 2013

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Article 316-13

The authorisation of the AIF manager shall be granted in accordance with Article L. 532-36 of the Monetary and Financial Code, subject to the following criteria:

- 1 • The information referred to in Article L. 532-9 of the same code is supplemented by:
 - a • A justification by the manager of its assessment regarding the Member State of reference in accordance with the criteria set out in Article R. 532-31 of the same code with information on the marketing strategy;
 - b • A list of the legislative and regulatory provisions applicable to asset management companies of AIFs for which compliance by the manager is impossible, as compliance by the manager with those provisions is incompatible with compliance with a mandatory provision in the law to which the manager established in a third country or the third-country AIF marketed in the Union is subject;
 - c • Written evidence based on the regulatory technical standards developed by ESMA that the relevant third-country law in question provides for a rule equivalent to the provisions for which compliance is impossible, which has the same

regulatory purpose and offers the same level of protection to the investors of the relevant AIFs and that the manager complies with that equivalent rule. Such written evidence shall be supported by a legal opinion on the existence of the relevant incompatible mandatory provision in the law of the third country and including a description of the regulatory purpose and the nature of the investor protection pursued by it;

- d • The name of the legal representative of the manager and the place where it is established;
- 2 • The information referred to in Article 316-3, Points 1 to 6 may be limited to the EU AIFs the manager intends to manage and to those AIFs it manages and intends to market in the European Union with a passport;
- 3 • The second paragraph of Article L. 532-9, II of the Monetary and Financial Code is without prejudice to Article L. 532-31 of the same code;
- 4 • Point 1 of Article L. 532-9, II of the Monetary and Financial Code is not applicable;
- 5 • The fifth paragraph of Article 316-4 shall be understood as including a reference to the "information referred to in Article L. 532-37 of the Monetary and Financial Code".

📌 **Version into force since 21 December 2013**