

## AMF Instruction

Authorisation procedures, preparation of a KIID<sup>1</sup> and a prospectus and periodic reporting for French and foreign UCITS marketed in France – DOC-2011-19

References: Articles 411-1 and following of the AMF General Regulation

Chapter I – Procedures.....	2
Section I - Creation of a French UCITS.....	2
Section II - Changes (subject to pre-approval / ex-post notification) during the life of UCITS .....	8
Sous-section 1 – Types of changes in the life of a UCITS .....	9
Sub-section 2 – Changes subject to pre-approval.....	16
Chapter II – Preparing the key investor information document (KIID), the prospectus and periodic information .....	26
Section I - Key investor information document (KIID) and prospectus of the UCITS .....	26
Section II – Periodic reports.....	35
Chapter III – Foreign UCITS seeking to market units or shares in France and French UCITS seeking to market units or shares in other countries.....	38
Section I – Foreign UCITS .....	38
Section II - French UCITS marketed in other countries .....	40

This document comprises annexes that are accessible via the “Annexes and Links” tab:

Annex I – Creation of a French UCITS (or UCITS compartment)

Annex I (a) – Content of information-sharing agreements in cross-border master/feeder arrangements

Annex II - Letter of undertaking from the management company for the authorisation application of a French UCITS

Annex III – Authorisation application form for a comparable UCITS

Annex IV – Letter of undertaking from the management company for the authorisation application of a comparable French UCITS

Annex V - Frame of reference for the undertaking made by the management company

Annex VI – Authorisation application form for changes to a French UCITS requiring pre-approval

Annex VI a - Procedures for filling in authorisation forms for changes subject to pre-approval

Annex VII – Authorisation form in reply to a request for further information

Annex VIII – AMF notification form for changes subject to ex-post notification

Annex IX – Application form for administrative management of multiple changes subject to ex-post notification

Annex X – Prime broker compliance letter template

Annex XI – Demerger notification form

Annex XII - Standard template for individual notifications of unit or shareholders (simple or complex conversion)

Annex XIII – Standard template for the key investor information document (KIID)

Annex XIV – Standard template for the prospectus

Annex XVI – Standard articles of incorporation

Annex XVII - Statistical and financial data to be filed with the Autorité des Marchés Financiers

Annex XVIII - Notification letter to be completed for an outward passport application

<sup>1</sup> KIID: key investor information document

This Instruction applies to French UCITS and to UCITS established in another Member State of the European Union than France or in another State that is a party to the European Economic Area agreement and governed by Book II, Title I, Chapter IV, Section I of the Monetary and Financial Code.

Where reference is made in this Instruction to sending documents to the GECO database of the management company, those management companies located in another Member State of the European Union than France or in another State that is a party to the European Economic Area agreement and managing or wishing to manage a French UCITS shall transmit such documents to the following address: [gio@amf-france.org](mailto:gio@amf-france.org)

## **Chapter I – Procedures**

### **Section I - Creation of a French UCITS**

#### **Authorisation process and periods for creating a French UCITS**

<b>Steps</b>	<b>FCP or SICAV Management Company</b>	<b>Autorité des Marchés Financiers</b>
1	Files an authorisation application for a UCITS	
2		Checks compliance of the application  Acknowledges receipt of the application, specifying the expiry date of the authorisation period <i>or</i> rejects the application, with an explanation of the reasons for the rejection
3		Examines the application  May contact with the applicant  May reject the application in the event of non-compliance with the fast-track authorisation process for a comparable UCITS
4		Where applicable, requests further information, which may or may not require the management company or the SICAV to submit a supplementary information sheet
4a	Where applicable, files the supplementary information sheet and the information requested within 60 days of the date of the request	
4b		Receives the supplementary information sheet and the information requested  Acknowledges receipt of the filing, specifying the new expiry date of the authorisation period
5		Issues notice of the decision to grant or refuse authorisation, or implicit authorisation decision

6	Services notice of the deposit certificate for the capital of the FCP or the initial capital of the SICAV	
7		Updates the information in the GECO database
8	Submits the key investor information document (KIID) and the final prospectus in accordance with the procedures set out in Annex XVII	
9		Posts the key investor information document (KIID) and the prospectus on its website

#### Authorisation periods

Nature of the transactions	Period
Creation	1 month (or approx. 23 weekdays)
Creation of a UCITS under the fast track process	8 weekdays
Creation of a feeder UCITS	15 business days (or approx.. 13 weekdays.)

#### Article 1 - Authorisation procedure

The creation of a UCITS or a UCITS compartment requires the authorisation of the AMF and the UCITS or compartment may not be marketed until such authorisation has been obtained.

To obtain such 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 or by the SICAV if the latter is self-managed. This person must be either a legal representative, meaning one of the officers of the SICAV or management company, or a specifically empowered person.

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

In order to prevent excessively frequent applications for conversions of UCITS, the characteristics of UCITS must be thoroughly and completely examined before filing any authorisation applications.

#### Article 2 - Filing the authorisation application

##### Article 2-1 - Standard process for filing UCITS authorisation applications

Pursuant to 411-6 (I) and 411-10 (I) of the AMF General Regulation, the authorisation application filed with the AMF for the creation of a UCITS must include:

1. Two copies – one copy only if the application is filed on-line – of the duly completed authorisation application form 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 letter of undertaking in Annex II.

The application may be filed with the AMF on-line through the GECO database extranet in the area reserved for the management company.

#### **Article 2-2 – Fast track process for filing UCITS authorisation applications**

Any authorisation application filed with the AMF under the terms of Articles 411-6 (II) and 411-10 (II) of the AMF General Regulation for the creation of a UCITS under the fast track process must include:

1. The duly completed authorisation application form in Annex III;

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;

3. The letter of undertaking in Annex IV.

The application may only be filed with the AMF on-line through the GECO database extranet in the area reserved for the management company.

#### **Article 2-2-1 - Eligibility requirements for authorisation of a comparable UCITS**

I. Pursuant to Articles 411-6 and 411-10, (II), (1) of the AMF General Regulation: “1. *The reference UCITS and the comparable SICAV [FCP] are managed by the same management company or the same delegated investment manager, or by investment management companies or delegated investment managers belonging to the same corporate group, and subject to the AMF's assessment of the information provided by the management company of the comparable SICAV [FCP], in accordance with the requirements stipulated in an AMF Instruction.*”

Where the comparable UCITS and the reference UCITS or AIF are managed by management companies or delegated investment managers belonging to the same corporate group, the AMF shall assess their comparability in consideration of their use of common resources, management and control methods.

II. Pursuant to Articles 411-6 and 411-10, (II), (4) of the AMF General Regulation: “4. *Subscribers to the comparable SICAV [FCP] shall meet the requirements for subscribing and purchasing the reference UCITS or AIF.*”

The subscription and purchase rules of the comparable UCITS and the reference UCITS or AIF referred to in Articles 411-6 and 411-10, (II) (4) of the AMF General Regulation shall be assessed in consideration of the subscriber profile and the minimum investment amounts as set out in their prospectuses. For example, the subscription rules of the comparable UCITS must not be materially less strict than those of the reference UCITS or AIF.

The marketing materials of the comparable UCITS may only differ from those of the reference UCITS or AIF filed with the AMF to the extent necessary, in order to maintain consistency between the information provided in such documents, in the key investor information document (KIID) and the prospectus of the comparable UCITS. Differences, additions or omissions of information between the marketing materials of the comparable UCITS and those of the reference UCITS or AIF must be clearly identified in the authorisation application for the comparable UCITS.

III. Pursuant to Articles 411-6 and 411-10, (II) (5) of the AMF General Regulation: “5. *The investment strategy, risk profile, operating rules and articles of incorporation of the comparable SICAV [FCP] shall be similar to those of the reference [UCITS or AIF].*”

The similarity of the investment strategy, risk profile, operating rules and articles of incorporation of the comparable UCITS with those of the reference UCITS or AIF shall be assessed on the basis of the number and nature of identical features between the comparable UCITS and the reference AIF. Any

differences, additions or omissions of information between the comparable UCITS and the reference UCITS or AIF must be clearly identified in the authorisation application for the comparable UCITS.

IV. Pursuant to Articles 411-6 and 411-10, (II) (3) of the AMF General Regulation: *“The reference UCITS or AIF has not undergone any changes other than those referred to in an AMF Instruction. At the reasoned request of the management company of the comparable SICAV [FCP], the AMF may allow a UCITS or AIF that has undergone changes other than those referred to in the instruction to be a reference UCITS or AIF”.*

The changes referred to in Articles 411-6 and 411-10, (II) (3) of the AMF General Regulation are:

1. A change that does not require the authorisation of the AMF of one of the service providers involved in the investment management or in the administrative and accounting management of the reference UCITS or AIF, or;
2. A change to the key investor information document (KIID) and/or prospectus of the reference UCITS or AIF of one of the following:
  - a) notice of non-compliance with the investment and disclosure rules of Directive 2009/65/EC (not applicable when the reference fund is a UCITS);
  - b) ISIN code, UCITS or AIF name, expected period of existence;
  - c) change to the charges or means of collecting charges;
  - d) tax rules;
  - e) institution designated to centralise subscriptions and redemptions;
  - f) accounting period;
  - g) allocation of income;
  - h) dates and frequency of net asset value calculations;
  - i) place and terms of net asset value publication;
  - j) creation of unit or share classes;
  - k) assets used, provided that the change in such instruments does not affect other items that are not referred to in this article.

You are reminded that the management company's programme of activity must be consistent with any changes that might have been made.

This process may not be used if the reference UCITS or AIF:

- has not drawn up a key investor information document (KIID) (in compliance with the applicable rules) ;
- has drawn up a key investor information document (KIID) but the said document was not examined by the AMF as part of the initial authorisation procedure of the reference UCITS or AIF.

### **Article 2-3 - Filing the authorisation application for a French master UCITS**

The procedures for filing authorisation applications with the AMF are identical to those set out in Article 2.1.

In accordance with Article L. 214-22-5 of the Monetary and Financial Code, the French master UCITS is required to notify the AMF immediately whenever any foreign feeder UCITS are authorised. The AMF shall transmit this notification to the competent authorities of the home Member States<sup>2</sup> of all the foreign feeder UCITS.

The AMF provides each master UCITS with a certificate stipulating that the latter:

- has at least one feeder OPCVM among its unit or shareholders;
- is not a feeder UCITS itself, and
- does not hold units or shares in a feeder UCITS.

<sup>2</sup> Member States of the European Union or parties to the European Economic Area agreement.

Management companies print out these certificates directly via the GECO database and must send them to their foreign feeder UCITS or the management companies thereof.

#### **Article 2-4 – Filing the authorisation application for a French feeder UCITS**

The procedures for filing authorisation applications with the AMF are identical to those set out above.

For the creation of a French feeder UCITS with a foreign master UCITS, the list of items to be included in the authorisation application can be found in Annex I.

#### **Article 3 – Registration by the AMF**

When the authorisation application is received, the AMF proceeds with registration. An acknowledgement of receipt of the application is sent to the SICAV or management company. This acknowledgement of receipt certifies that the application has been filed with the AMF and stipulates the expiry date of the authorisation period, in accordance with the terms of Articles 411-6 and 411-10 of the AMF General Regulation.

If the application filed under the terms of the Articles 411-6 and 411-10 of the AMF General Regulation is incomplete or non-compliant, it is returned to the sender with an explanation of the reasons for its rejection, which may be of two kinds:

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

Pursuant to Articles 411-6 and 411-10 of the AMF General Regulation, if the reference UCITS or AIF and the comparable UCITS do not comply with the requirements referred to in Articles 411-6 and 411-10 (II) of the AMF General Regulation, the AMF shall notify the applicant, stipulating that the further information must be included in an authorisation application in accordance with the procedures described in Article 2-1 (I) of this Instruction. The UCITS management company must provide the AMF with the documents referred to in Article 2-1 of this Instruction within the 60-day period stipulated in the last paragraph of Point II of the same articles.

#### **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 or the SICAV may submit this information to the AMF electronically, by post or by fax, indicating the references of the application.

If the AMF asks for further information that requires submission of a supplementary information form, the AMF gives such notification, stipulating that the items requested are to be submitted within sixty days. In this case the authorisation period is suspended.

Failing receipt of the said items within this period, the authorisation application is deemed to be rejected.

If a management company in another European Union Member State or another State that is a party to the European Economic Area agreement has applied for authorisation of a French UCITS, the foreign management company that filed the authorisation application and the supervisory authority in its home Member State are notified of the suspension of the authorisation period.

The further information required must be submitted with a supplementary information form filled in using the template in Annex VII. The AMF acknowledges receipt when it has received all the information requested. The acknowledgement of receipt stipulates the new expiry date of the authorisation period.

The AMF decision to grant authorisation is notified to the SICAV or to the management company.

In the absence of express authorisation, the UCITS shall be deemed to be authorised as of the first business day following the authorisation period expiry date stipulated in the acknowledgement of receipt of the authorisation application or in the acknowledgement of receipt of the further information requested.

#### **Article 4-1 – Management delegation requirements**

The management of a UCITS may be:

- delegated overall by a SICAV to a management company in accordance with Article L. 214-7-1 of the Monetary and Financial Code; or
- delegated in accordance with Article 313-77 of the AMF General Regulation under the following conditions:
  1. By the management company of an FCP or SICAV to another management company that has been authorised by the AMF, for an activity within the scope of the authorisation of the management company;
  2. By a SICAV that does not delegate its overall investment management or by a management company to a company having its registered office outside of France, under the following conditions:
    - a) The delegation concerns only transactions and products or markets that are covered by the authorisations of the delegating company and the delegated company;
    - b) The delegation is consistent with the investment policy of the UCITS;
    - c) The delegated company has been authorised by a public authority or a body that has been delegated to that effect by a public authority to manage collective investment funds that are equivalent to those for which management has been delegated to it. It must comply with the conduct of business rules applying to asset management companies.

The delegated company may sub-delegate all or part of the investment management delegated to it, provided that this delegation is covered by a contract meeting the same requirements as the delegation contract.

The requirements for delegation of investment management, administration and accounting activities must be described in the programme of activity of the management company of the UCITS.

#### **Article 4-2 – Self-managed SICAVs**

In accordance with Article 411-1, Point 3 of the AMF General Regulation, SICAVs that do not delegate the overall management of their investment must meet all the requirements applying to management companies in order to obtain authorisation.

They must therefore file an application with the AMF that complies with the programme of activity required for the authorisation of a management company.

#### **Article 4-3 – Statutory Auditors**

When a SICAV or an FCP is being created, the authorisation application filed with the AMF shall specify the name of the intended statutory auditor, along with the names of the individual(s) responsible for auditing the SICAV or the fund when the statutory audits must be carried out by a legal entity.

At the request of the AMF, the statutory auditor must submit the list of its auditing assignments in UCITS and management companies, along with the dates of appointment and the functions performed, the latest invoiced or provisional budget in the case of a creation, along with its latest total turnover figure.

The management company shall hold the work programme jointly agreed between the auditor and the SICAV or the management company at the disposal of the AMF. The programme shall specify the number of hours, broken down by audit tasks and the nature of the activities. It must give due consideration to the special features of umbrella UCITS and master and feeder UCITS, where applicable. The provisional auditing fees for these activities must be held at the disposal of the AMF, along with the hourly rate being considered.

## **Article 5 – Completion of the authorisation procedure**

### **Article 5-1 - Fund deposit certificates for FCPs or initial capital deposit certificates for SICAVs**

I. The management company or the SICAV, where applicable, shall send the AMF the deposit certificate for the funds of the FCP or the deposit certificate for the initial capital of SICAV immediately after the funds are deposited and within one hundred eighty weekdays at the latest after the UCITS is authorised.

II. For UCITS that are umbrella funds, this certificate shall be sent to the AMF within:

- one hundred eighty weekdays of the date of authorisation of the UCITS for at least one of the compartments;
- and three hundred sixty weekdays of the date of notification of the authorisation for the other compartments if they exist.

III. If the AMF does not receive this document within one hundred and eighty weekdays, the AMF declares the authorisation null and void and informs the SICAV or management company to that effect in writing.

IV. Where warranted by specific circumstances, the SICAV or management company may make a reasoned request for an extension of the deadline for depositing the funds beyond one hundred and eighty weekdays. This request must reach the AMF by post or on-line via the extranet of the GECO database in the area reserved for the management company before the date on which the authorisation is to be declared null and void and must state the desired date. If the management company chooses the on-line procedure, it must attach to its e-mail message a PDF file of the letter requesting the extension and signed by a duly empowered person.

The AMF shall notify the SICAV or the management company of its decision within eight weekdays of receiving the request.

V. The first net asset value of the UCITS must be calculated as soon as the funds have been deposited.

### **Article 5-2 - Submission of the final versions of the key investor information document (KIID) and prospectus to the AMF**

The SICAV or management company shall send the final versions of the key investor information document (KIID) and the prospectus by e-mail, along with fund rules or the articles of incorporation attached, in accordance with the requirements set out in Annex XVII of this Instruction.

## **Section II - Changes (subject to pre-approval / ex-post notification) during the life of UCITS**

### **Article 6 - Changes**

According to Article 411-15 of the AMF General Regulation, there are two types of changes that can occur during the life of a collective investment scheme: those subject to pre-approval and those subject to ex-post notification

Changes shall only take effect, depending on the circumstances, once the depositary has been informed or given its consent, and the AMF has been notified or granted its approval. Some changes must be posted to the AMF database (GECO).

When changes subject to pre-approval also imply change subject to ex-post notification, the latter shall still be governed by Sub-section 3 of this section.

If a change should occur that is not covered by this Instruction, the management company or SICAV shall contact the AMF beforehand to determine the appropriate way of dealing with it.

## **Article 6-1 - Streamlined formalities**

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

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

A “multiple” change is when the same change is made simultaneously to more than twenty UCITS.

### **I. Changes subject to pre-approval**

In the case of “multiple” changes subject to pre-approval, the AMF updates the corresponding data in the GECO database (in accordance with Annex IX). 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 for “multiple” changes must specify the following:

- 1 The nature of the change;
- 2 The complete list of the UCITS concerned, including their names and the ISIN code for each class of their units or shares;
- 3 The date on which the change is to take place, which may not be less than eight (8) weekdays after the date on which the AMF receives the written request.

When a request made under the terms of this article is incomplete or non-compliant with the regulations in force, the AMF shall notify the management company or SICAV to this effect in writing, indicating the reasons for the rejection of the request:

- missing or incomplete documents;
- failure to comply with regulations in force.

## **Sous-section 1 – Types of changes in the life of a UCITS**

### **Article 7 – General provisions**

Articles 8 to 11 list the changes to UCITS that qualify as changes subject to pre-approval or to ex-post notification, depending on the circumstances.

The table in Article 8 of this Instruction lists the obligations of management companies or SICAVs with regard to authorisation and notification of UCITS subscribers, depending on the changes made to the UCITS.

The “authorisation” column shows whether the change in question requires the authorisation of the AMF. Any changes that do not require authorisation may simply be notified to the AMF via the GECO extranet of the management company or SICAV by the day when the change takes effect at the latest.

The “Individual notification” and “Notification by any means”<sup>3</sup> columns show the procedures for notifying unit or shareholders of each change.

Individual notification of unit or shareholders and the possibility to exit the fund free of charge are not required when all the unit or shareholders have given their prior consent to the change being considered. Any changes that do not require the authorisation of the AMF and/or do not require individual notification may be notified to unit or shareholders by any means.

In the latter case, the words “ex post” show whether the notification of the change to unit or shareholders may be given after it takes effect. If there is no such indication, notification must be served to unit or shareholders before the change takes effect and within a reasonable timeframe.

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<sup>3</sup> The means of notification are described in Chapter I, Section II, Sub-section 4.

The “exit free of charge” column shows whether unit or shareholders must be offered the possibility of exiting the fund free of charge.

**Article 8 - Summary table of changes to the key investor information document (KIID) and/or prospectus of a UCITS, notification of investors and exit free of charge**

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
<b>Key Investor Information Document</b>				
Conversion	Conversion of a UCITS into an AIF is not authorised			
ISIN code		x		
UCITS name				x
Management company	x	x (outside group or inside group with change of nationality)	x (outside group or inside group with change of nationality)	x (inside group without change of nationality)
<i>Investment policy</i>				
- Investment objective and policy	x See Art 11	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk is less than or equal to 20% of net assets
- Benchmark				X
- Other information: minimum recommended holding period				X
- Distribution procedures: allocation of net income and gains		x	x	X Only for UCITS wishing to explain their distribution procedures

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
Risk/reward profile	x if a change in the level of risk stemming from a change of the objectives or investment policy is greater than 20% of net assets in terms of exposure	x if a change in the level of risk stemming from a change of the objectives or investment policy is greater than 20% of net assets in terms of exposure	x if a change in the level of risk stemming from a change of the objectives or investment policy is greater than 20% of net assets in terms of exposure	x if a change in the level of risk stemming from a change of the objectives or investment policy is less than or equal to 20% of net assets in terms of exposure
Change of master UCITS	x	x	x	
Redemption fee including any antidilution levy (ADL)		x if increased	x if increased	
Subscription fee including any antidilution levy (ADL)				x only if increased <i>ex post</i>
Performance fee (takes effect one month after unit or shareholders were informed in the event of an increase)		x if increased	x if increased	x if decreased <i>ex post</i>
<i>Practical information</i>				
- Where to find information about the UCITS				X
- Where to find the net asset value				X
- Where to find information about unit or share classes				X
- Depositary	x	x (outside group)	x (outside group)	x (inside group)

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
- Tax rules (except if new regulations enter into force immediately)		x If the investment no longer eligible for tax breaks (PEA, etc.)	x If the investment no longer eligible for tax breaks (PEA, etc.)	
<b>Prospectus</b>				
- Classification	x See Art 11	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk exceeds 20% of net assets	x if the absolute change in exposure to one or more types of risk is less than or equal to 20% of net assets
- Institution designated to receive subscription-redemption orders		x only if deleted		x <i>ex post</i>
- Statutory auditor	x if not known to the AMF			x <i>ex post</i>
- Delegation of investment management	Commitment by the asset management company to ensure compliance with its programme of activity	x Delegation to a company outside the group of more than 50% of the net assets of the UCITS	x Delegation to a company outside the group of more than 50% of the net assets of the UCITS	x Delegation to a company outside the group of less than 50% of the net assets of the UCITS or delegation to a company in the same group
- Delegation of administration and accounting	Commitment by the asset management company to ensure compliance with its programme of activity			
- Prime broker	x	X	x	
- Guarantor	x	x (outside group)	x (outside group)	x (inside group)
- Lapse of the guarantee on the expiry date				x

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
stipulated in the prospectus				
- Guarantee or protection (solely in the interest of the unit or shareholders)	x	X		
- Modification of the holding threshold of French or foreign UCITS, of French FIA or of FIA established in other Member States of the European Union or of investment funds formed pursuant to a foreign law				X
- Minimum initial subscription amount	See Art 10			<i>ex post</i>
- Increase in redemption notice period		X	x	
- Option to restrict, close or reopen subscriptions				x
Introduction of a swing pricing mechanism				X
Increase in charges (takes effect one month after unit or shareholders were informed in the event of an increase)		x If items 1+2 or 3 or 4 are increased (see prospectus table)	x If items 1+2 or 3 or 4 are increased (see prospectus table)	
- Order centralisation (time and date)				x

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
- Decrease in the frequency of net asset value calculations		x	x	
- Increase in the number of days between centralisation date and settlement date		x	x	
- Distribution frequency				x
- Base currency of one unit class		x	x	
- Creation / elimination of a unit or share class (C, D or others if there are no holders in the unit or share class eliminated)	See Art 10			x <i>ex post</i>
- Liquidation of units or shares	x	x Only to holders of the relevant unit or share class		x <i>ex post</i> only to holders of other unit or share classes that are not concerned
- Reverse splits of units or shares		X Only to holders of the relevant unit or share class (units set to disappear)		x <i>ex post</i> only to holders of other unit or share classes that are not concerned
- Splits of units or shares, decimalisation				X
- Investor profile	See Art 10			x <i>ex post</i>
- Accounting period				X
Admission to trading				X

Changes	Authorisation	Individual Notification	Exit Free of Charge	Notification by Any Means
Termination of the admission to trading		X		

Any change of the legal structure of the UCITS (conversion of a UCITS into a feeder UCITS, conversion of a UCITS into an umbrella UCITS or vice versa, etc.) is a change subject to pre-approval.

Transactions to wind up a UCITS at the initiative of the management company are also changes subject to pre-approval.

In accordance with Article 6 of this Instruction, if the change that is being considered (such as an amendment of the fund rules or articles of incorporation, for example), is not covered by Article 8 of this Instruction, the management company shall contact the AMF beforehand to determine the appropriate way of handling it.

### Article 9 – Changes affecting the parties

#### I. Change of the management company of the UCITS

Any change affecting the appointment of the management company of the UCITS constitutes a change to the UCITS requiring pre-approval. The AMF grants authorisation for such changes, as appropriate, when the management company's programme of activity is updated.

#### II. Change of the depositary institution of the UCITS

Any change affecting the appointment of the depositary institution for the assets of the UCITS constitutes a change to the UCITS requiring pre-approval. The AMF grants authorisation for such changes, as appropriate, when the management company's programme of activity is updated.

In any event, the UCITS must be able to prove the effective appointment of a depositary institution for its assets at all times.

#### III. Change of the prime broker of the UCITS

Any change of the prime broker or any change of the critical terms of the contract constitutes a change to the UCITS requiring pre-approval.

#### IV. Delegation of the administrative and/or accounting management of the UCITS

Delegation of the administrative and/or accounting management of the UCITS may take place only in accordance with the requirements referred to in Article 313-77 of the AMF General Regulation and in Article 4-1 of this instruction. The central administration of the UCITS must be located in France.

The management company's programme of activity must describe the administrative and/or accounting management organisation of the UCITS under its management and specify the extent to which administrative and accounting management is delegated.

#### V. Delegation of the investment management of the UCITS

A management company may delegate the investment management of a UCITS subject to the requirements referred to in Article 313-77 of the AMF General Regulation and in Article 4-1 of this Instruction.

Any change affecting the appointment of the delegated investment manager of the UCITS constitutes a change. You are reminded that delegation of investment management must be consistent with the

programme of activity of the management company. In particular, any plan to sub-delegate investment management requires the explicit approval of the AMF as part of the programme of activity of the management company, before being implemented in a UCITS.

The UCITS shall notify the AMF using the form in Annex VIII to this Instruction of any change affecting a delegated or sub-delegated investment manager.

When a SICAV delegates all its investment management to a management company, any change affecting the appointment of the delegated management company constitutes a change to the SICAV requiring pre-approval and is subject to the requirements referred to in I. above.

#### VI. Statutory auditor of the UCITS

The appointment of a statutory auditor by the UCITS shall be deemed to have the AMF's approval if the appointment of the auditor has already been approved by the AMF as part of the creation of another UCITS or AIF authorised by the AMF.

#### **Article 10 - Easing of UCITS subscription requirements**

A material easing of the subscription and acquisition requirements for units or shares in the UCITS constitutes a change subject to pre-approval. Such is the case when the minimum subscription amount of the UCITS is reduced substantially, or when a new unit or share class is created with a substantially lower minimum subscription amount than the existing classes.

#### **Article 11 - Change of the UCITS investment policy**

Any change affecting the investment strategy is a change subject to pre-approval if it concerns:

1. The management method used by the UCITS

For example, a change of the methods for picking financial instruments shall be deemed to be a change to the UCITS requiring pre-approval. On the other hand, a change in the benchmark sector does not require pre-approval.

2. The risk and reward profile of the UCITS

A change of the risk and reward profile shall be assessed in the event of a change in the level of risk stemming from a change in objectives or investment policy (greater than 20% of net assets in terms of exposure).

3. The guarantee of the UCITS.

#### **Article 12 - Notification and/or consent of the depositary and statutory auditor**

I. Any change to a UCITS that is 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 UCITS is subject to the prior notification and consent of the depositary before it is implemented in accordance with the terms of the agreement between the management company of the UCITS and its depositary. The management company must hold the notification or consent of the depositary at the disposal of the AMF.

III. The statutory auditor of the UCITS must be informed of all changes subject to pre-approval/ex-post notification.

#### **Sub-section 2 – Changes subject to pre-approval**

##### **Authorisation process and period for changes to UCITS requiring pre-approval**

Step	Management company of the FCP or SICAV	Autorité des Marchés Financiers
1	Files an authorisation application for a change subject to pre-approval	
2		Checks compliance of the application  Sends an acknowledgement of receipt of the application by the AMF, specifying the authorisation period expiry date or returns the application with an explanation of the reasons for its rejection
3		Examines the application May contact the applicant
4		Where appropriate, requests further information, which may or may not require the management company to submit a supplementary information form
4 (a)	Where appropriate, files a supplementary information form and the requested information within 60 days of the request	
4(b)		Receives the supplementary information form and requested information  Sends an acknowledgement of receipt specifying the new authorisation period expiry date
5		Notifies the decision to grant or refuse authorisation, or implicit authorisation decision
6	Notifies unit or shareholders individually, via the press or by any other means, depending on the circumstances	
7		Updates the information in the GECO database
8	Sends the final key investor information document (KIID) and prospectus in accordance with the procedures stipulated in Annex XVII	

#### Authorisation periods

Type of transaction	Period of time
Changes subject to pre-approval (Changes & liquidations)	8 business days
Changes to a feeder UCITS requiring pre-approval	15 business days (or about 13 weekdays)
Mergers & demergers	20 business days (or about 17 weekdays)

#### Article 13 - Filing the authorisation application

### **Article 13-1 – General case**

I. - All applications for changes subject to pre-approval must be filed with the AMF and include:

1. Two copies – only one copy if the application is filed on-line – of the duly completed authorisation form in Annex VI. Each section must be filled in and the sections affected by the change subject to pre-approval must be clearly identified.
2. The attachments referred to in Annex VI, along with any other document that the management company deems necessary for the examination of the application.

If the change subject to pre-approval is identical for more than one UCITS, the AMF may allow the authorisation applications to be grouped together at the request of the management company or the SICAV.

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

II. Subject to the terms of Articles 13-2 and 13-3, the merger of two UCITS or the merger of a UCITS with an AIF or the takeover of an AIF or UCITS by a UCITS are changes subject to pre-approval by the AMF (see Annex VI).

### **Article 13-2 – Special case –Merger / Takeover of a French UCITS (merging UCITS) by a foreign UCITS (receiving UCITS)**

I. Any application for a merger between a foreign receiving UCITS and a French merging UCITS is a change subject to pre-approval and requires the management company of the merging UCITS to file an application with the AMF that includes:

1. A duly completed authorisation application form as in Annex VI. The relevant sections must be clearly identified. The application must be filed on-line exclusively;
2. The attachments referred to in Annex VI, along with any other document that the management company deems necessary for the examination of the application.

II. When it receives the authorisation application, the AMF verifies that the application is complete. If the AMF deems that the application is incomplete or non-compliant, it shall ask for further information within 10 business days of receiving the application. If the application is complete, the AMF shall register the application and examine it. An acknowledgement of receipt of the application shall be sent to the SICAV or the management company of the merging UCITS.

This acknowledgement of receipt officially certifies that the application has been filed with the AMF. It stipulates the authorisation period expiry date. This authorisation period is 20 business days (approximately 17 weekdays).

The AMF also immediately submits the application to the competent authority of the home Member State of the receiving UCITS. The latter authority has 15 business days (approximately 13 weekdays) to notify the AMF if the application, and notably the draft letter to the unit or shareholders of the receiving UCITS, is not satisfactory. It informs the AMF within 20 business days of the date on which it received the notification, if it considers the modified information for holders of the receiving UCITS to be satisfactory.

III. If the application is incomplete or non-compliant, it is not registered and is returned to the sender with an explanation of the reasons for its rejection, which may be of two kinds:

1. missing documents;
2. documents are incomplete or do not comply with the laws and regulations in force.

### **Article 13-3 – Special case - Merger / Takeover of a foreign UCITS (merging UCITS) by a French UCITS (receiving UCITS)**

I. Any application for a merger between a French receiving UCITS and a foreign merging UCITS requires the competent authority of the merging UCITS home Member State to send notification to the AMF.

The AMF then has 15 business days (approximately 13 weekdays) to notify the competent authority of the home Member State of the merging UCITS if the letter to the unit and shareholders of the receiving UCITS is not satisfactory.

During its examination of the draft letter to unit and shareholders of the receiving UCITS, the AMF may ask for further information by sending a letter to the receiving UCITS or its management company.

In this event, the AMF immediately informs the competent authority of the home Member State of the merging UCITS that it has asked for further information about the letter to the unit or shareholders of the receiving UCITS.

Once the letter to the unit or shareholders of the receiving UCITS has been modified, the AMF has 20 business days (approximately 17 weekdays) to indicate whether it is satisfied with the modifications made to the letter. If the modifications made are satisfactory, the final version of the letter is submitted to the competent authority of the home Member State of the merging UCITS, along with the explicit consent of the AMF. The receiving UCITS or its management company is also informed in writing of the consent of the AMF.

#### **Article 14 - Registration by the AMF of the application for a change subject to pre-approval**

When the authorisation application for a change subject to pre-approval is received, the AMF registers the application. An acknowledgement of receipt of the application is sent to the SICAV or management company.

This document officially certifies that the application has been filed with the AMF.

If the application filed is incomplete or non-compliant, it is returned to the applicant. In this case, the reason(s) for its rejection is/are explained.

There are two types of reasons for returning the file:

1. missing documents;
2. documents are incomplete or fail to comply with the laws and regulations in force.

#### **Article 15 - Examination of the application for a change subject to pre-approval by the AMF**

During its examination of the application, the AMF may ask for any further information. The management company or the SICAV may submit this information to the AMF electronically, by post or by fax, indicating the references to the application.

If the AMF requests further information that requires submission of a supplementary information form, the AMF shall serve notice to this effect, stipulating that the items requested must arrive within sixty days. In this case the authorisation 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 form filled in using the template in Annex VII. The AMF shall acknowledge receipt when it has received all the information requested. The acknowledgement of receipt shall stipulate the new authorisation period expiry date.

The AMF decision to grant authorisation is notified to the SICAV or to the management company in writing.

In the event that authorisation is not explicitly granted, the UCITS shall be deemed to be authorised as of the authorisation period expiry date indicated in the acknowledgement of receipt of the authorisation application or in the acknowledgement of receipt of the further information requested.

If, during the examination of an authorisation application for a merger where the merging UCITS is French and the receiving UCITS is foreign, the competent authority of the home Member State of the receiving UCITS notifies the AMF that it is not satisfied with the letter to the unit or shareholders of the receiving UCITS, the examination of the application is suspended.

#### **Article 16 - Completion of the authorisation application by the AMF**

##### **Article 16-1 - Submission of the final versions of the key investor information document (KIID) and prospectus to the AMF**

The SICAV or management company must e-mail the final versions of the key investor information document (KIID) and prospectus, with the fund rules or the articles of incorporation attached, in accordance with the requirements defined in Annex XVII of this Instruction.

You are reminded that 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 key investor information document (KIID) and/or the prospectus that the management company or SICAV may have amended at the same time. Any amended items subject to a simple reporting procedure will be reviewed ex post.

#### **Sub-section 3 - Changes**

##### **Article 17 - Notification of changes: Procedures for notifying the AMF and updating the UCITS database (GECO)**

The SICAVs affected by changes or the management companies must report such changes by updating the GECO database, where applicable, in accordance with the procedures stipulated in Annex XVII and notify the depositary or obtain the depositary's prior consent, depending on the circumstances. The management company or the SICAV is solely responsible for this operation.

Changes may not take effect until the new key investor information document (KIID) and prospectus have been filed with the AMF, in accordance with the requirements stipulated in Annex XVII of this Instruction, and the GECO database has been updated, where applicable. Some fields of the GECO database must be updated by the AMF on behalf of the management company or SICAV (fields that are not accessible via the GECO website). Management companies or SICAVs must use the form in Annex VIII to submit the data for these fields to the AMF.

##### **Article 17-1 - Special case – Winding up of a UCITS following redemption of the units or shares at the initiative of the unit or shareholders**

If a UCITS is wound up as a result of the simultaneous or progressive redemption of all the units or shares in the UCITS at the initiative of the unit or shareholders, the management company or SICAV shall notify the AMF within two months of the last redemption date.

This transaction constitutes a “change subject to ex-post notification”.

The report by the statutory auditor of the UCITS may be submitted to the AMF within one month of the end of the calendar half year for all wound-up UCITS for which the declaration was received in the course of that half-year.

##### **Article 17-2 - Special provisions for demergers decided under the terms of the second paragraph of Article 214-7-4 or the second paragraph of Article L. 214-8-7 of the Monetary and Financial Code**

A demerger constitutes a change to the UCITS requiring pre-approval, except if the demerger is decided upon under the terms of the second paragraph of Article L. 214-7-4 or the second paragraph of Article 214-8-7 of the Monetary and Financial Code, in which case it is a change to be reported promptly to the AMF.

The notification documents to be filed with the AMF for a “side pocket UCITS” set up to receive assets when the disposal of such assets would not be in the interest of the unit or shareholders of the demerged UCITS include:

1. The duly completed copy of the disclosure form found in Annex XI;
2. The attachments referred to in Annex XI, along with any other document that the management company deems necessary.

The notification may be filed on-line through the extranet of the GECO database in the area reserved for the management company.

This filing constitutes notification of the AMF of the creation of a side pocket UCITS, which must be set up as a contractual UCITS. Provided that the only difference between the replica UCITS and the demerged UCITS is the absence of the assets transferred to the side pocket UCITS, the replica UCITS is covered by the authorisation of the demerged UCITS.

This filing does not exempt the relevant UCITS or AIF or their management companies from completing the other mandatory formalities for demergers or creations of UCITS or AIF (Euroclear formalities, notification of the clerk of the commercial court, etc.).

The statutory auditors' report must be submitted to the AMF when it is drafted.

#### **Sub-section 4 - Unit or shareholder notification when changes are made in the life of UCITS and notification of the AMF**

##### **Article 18 - Unit or shareholder notification**

I. - Changes likely to occur during the life of a UCITS or a UCITS compartment that require notification of unit or shareholders are listed in Article 8 of this Instruction. These changes must be notified to the unit or shareholders so that they can make an informed decision about maintaining their investment or disposing of it.

II. - For changes subject to pre-approval, the unit and shareholders may only be notified after the authorisation of the AMF has been obtained. Such authorisation is granted on the basis of the proposed notice to unit or shareholders, which must be attached to the authorisation application in the case of the changes subject to pre-approval stipulated in Article 8. The SICAV or management company must also submit the final versions of the key investor information document (KIID) and the prospectus of the UCITS electronically to the AMF on or before the day on which the change subject to pre-approval takes effect, in accordance with the requirements stipulated in Annex XVII of this Instruction.

III. - The notification must state whether the change takes effect immediately or later. Immediate effect means 3 weekdays after effective notification of unit and shareholders, except in the cases set out in the table below, where the changes may take effect later after effective notification. This is only a minimum and management companies must determine a reasonable period of time, notably in the light of the change made to the UCITS.

<b>Nature of the changes / Holder notice period</b>	<b>Minimum number of days between notification of unit or shareholders entailing the right to exit the fund free of charge and the date the change takes effect</b>	<b>Minimum number of days between notification of the unit or shareholders and the end of the offer to exit the fund free of charge</b>
Merger of UCITS	30 calendar days + 5 business days	30 calendar days
Merger / demerger of a master UCITS	60 calendar days	60 calendar days

Conversion of a UCITS into a feeder UCITS	30 calendar days	30 calendar days
Winding up of a master UCITS	90 calendar days	90 calendar days
Others	Between 3 and 90 calendar days, depending on the material nature of the planned change, left to the discretion of the management company or SICAV.	30 calendar days This period must be adapted according to the frequency of net asset value calculations and the profile of the unit or shareholders

The management company or SICAV must work with its distributors to provide a suitable system for notifying future investors of upcoming changes during the period between the date the notification is sent to unit or shareholders and the date the changes take effect.

IV. The notification given to unit or shareholders makes a clear distinction between changes subject to pre-approval by the AMF and changes that are simply subject to ex-post notification to the AMF.

#### **Article 19 - Notifications**

I. Notifications of unit or shareholders may take two forms: individual notification of unit or shareholders (letter or any other durable medium) or notification by any other medium (such as periodic reports). Article 8 of this Instruction summarises the notification requirements for the UCITS, depending on the nature of the change.

II. The nature of the medium used for notifications must be adapted to the marketing of the UCITS and, more specifically, its geographical distribution and the profiles of the unit or shareholders. For changes subject to pre-approval, the publication timetable of the communication(s), the media concerned and the proposed financial notice(s) must be held at the disposal of 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 unit or shareholders, one possible solution, with the consent of the AMF, 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 UCITS shall ensure that these media are actually available to their unit or shareholders before the announced changes take effect, unless there are provisions to the contrary in Article 8 of this Instruction. Article 18 (II) and (III) 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 20 – Supervision by the AMF of changes subject to pre-approval**

In the event of a change subject to pre-approval requiring individual notification, the draft notification to unit or shareholders must be attached to the authorisation application submitted to the AMF.

Notification of unit or shareholders may only take place after the AMF has authorised the change subject to pre-approval. The AMF may authorise the management company or the SICAV to give advance notification.

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

Unless agreed otherwise by the AMF, this notification must comply with the standard template in Annex XII of this Instruction.

#### **Article 21 - Special provisions for mergers, winding up and demergers**

Merger and demerger transactions between UCITS constitute changes subject to pre-approval and require individual notification of unit or shareholders with the option of exiting the fund free of charge.

Liquidation of a UCITS at the initiative of the management company or the SICAV constitutes a change subject to pre-approval and requires individual notification of unit or shareholders.

A demerger constitutes a change to the UCITS requiring pre-approval, except if the demerger is decided upon under the terms of the second paragraph of Article L. 214-7-4 or the second paragraph of Article 214-8-7 of the Monetary and Financial Code.

#### **Article 21-1 - Special notification requirements for mergers of French UCITS (marketed exclusively in France)**

I. Prior to the merger, the unit or shareholders of the merging UCITS must receive individual notification using the standard template presented in Annex XII to this Instruction.

II. The notification must include an annex on the ratio of units or shares in the receiving UCITS swapped for each unit or shareholder's units or shares in the merging UCITS.

III. Individual notification of the unit or shareholders of the receiving UCITS must be made if the merger affects them.

#### **Article 21-2 - Special notification requirements for cross-border mergers of UCITS or of French UCITS marketed in other countries**

I. Prior to the cross-border merger, the unit or shareholders of the French merging UCITS must receive individual notification using the standard template presented in Annex XII to this Instruction..

II. The notification must include an annex on the ratio of units or shares in the receiving UCITS swapped for each unit or shareholder's units or shares in the merging UCITS.

III. The further information about cross-border mergers required by Article 411-53 of the AMF General Regulation must be included in the annex to the letter to unit or shareholders:

1. Cross-border merger: review of the procedures relating to the other UCITS;
2. Invitation to read the key investor information document (KIID) of the receiving UCITS;
3. Differences between the rights of unit or shareholders;
4. Comparison of synthetic risk and reward indicators;
5. Comparison of all charges;
6. Explanation of the performance fee (description of how it will be determined in the future to ensure fair treatment of former unit or shareholders in the merging UCITS); if the merging UCITS applies a performance fee, an explanation of how it will be determined until the merger takes effect;
7. Costs stemming from preparations for the merger;
8. Clarification of the intention of the management company or SICAV to rebalance the portfolio prior to the merger;
9. Specific explanations about the treatment of loans;
10. How to obtain the statutory auditor's report or the depositary's report;
11. Information about cash payments, where applicable;

12. Where applicable, if the laws applying to the UCITS in question so provide, the procedure by which unit or shareholders will be invited to vote on the proposed merger and the procedure for notifying them of the outcome;

13. Information about when unit and shareholders can start exercising their rights as unit or shareholders in the receiving UCITS.

IV. Prior to the cross-border merger, the unit or shareholders of the receiving UCITS must receive individual notifications using the standard template presented in Annex XII to this Instruction.

The further information about cross-border mergers required by Article 411-53 of the AMF General Regulation must be included in the annex to the letter to unit or shareholders:

1. Cross-border merger: review of the procedures relating to the other UCITS;
2. Potential impact on the receiving UCITS;
3. Specific explanations about the treatment of loans;
4. How to obtain the statutory auditor's report or the depositary's report;
5. Where applicable, if the laws applying to the UCITS in question so provide, the procedure by which unit or shareholders will be invited to vote on the proposed merger and the procedure for notifying them of the outcome.

V. The information referred to in I and IV must be sent at least one month (approximately 23 weekdays) before the deadline for the unit or shareholders' requests to exit the fund, or, where applicable, to convert their units or shares free of charge, except in the case of a master UCITS with one or more foreign feeder UCITS, in which case the deadline is pushed back to two months (approximately 50 weekdays).

## **Article 22 - General principles regarding exits free of charge**

### **Article 22-1 – General principles**

The cases in which the option of exiting the fund free of charge must be offered are listed in Article 8.

When a UCITS charges a redemption fee, the unit or shareholder must have the option to exit the fund free of charge during a period lasting from 30 to 90 days after the date on which they are notified of a change, in accordance with the table in Article 18 of this Instruction. These redemptions are to be executed in accordance with the procedures stipulated in the prospectus, but with no redemption fee.

If the changes affect a compartment, the option of exiting free of charge must be offered to holders of the units or shares in the compartment concerned.

However, when mergers and demergers of management companies or changes of management companies occur that involve companies with their registered offices in France or companies belonging to the same corporate group and do not modify the human or technical resources used for management, UCITS shall be exempted from the obligation to offer the option of exiting the fund free of charge and of notifying unit or shareholders individually. The same holds true for similar operations affecting the depositary.

The option of exiting the fund free of charge must be implemented in such a way that the unit or shareholder has a reasonable amount of time to consider the option before the conversion being considered takes effect.

When the table in Article 8 of this Instruction indicates that prior notification of holders is required, the date on which unit or shareholders are notified must be far enough in advance of the date on which the change to the UCITS takes effect to allow them to exit the fund free of charge before the change takes effect.

If the management company is wound up, the unit or shareholders of the UCITS must be notified individually and offered the option of exiting the UCITS free of charge.

## **Article 22-2 - Exercising the right to exit free of charge when the prospectus and KIID of the UCITS stipulate redemption fees charged by the UCITS**

This Article determines how the redemption fee charged by the UCITS and stipulated in the prospectus and KIID must be applied when the UCITS is subject to a change entitling holders to exit free of charge.

### **a) Reminder: the two types of prior situations**

The prospectus and the KIID of the UCITS do not make provision for any advance notice incentives: the redemption fee charged by the UCITS is therefore applied to all redemption requests.

The prospectus and the KIID of the UCITS make provision for advance notice incentives the redemption fee charged by the UCITS is applied only to redemption requests that do not comply with the existing advance notice incentive.

E.g.

*Redemption fee charged by the UCITS: 3% if the redemption order is placed during the 30 day advance notice period; 0% if the redemption order is placed before the advance notice period.*

- Holders who place redemption orders 40 days before the reference date (thereby complying with the 30-day notice period), are not charged any redemption fees;
- Holders who place redemption orders 10 days in advance (thereby failing to comply with the 30-day notice period), are charged a redemption fee of 3% by the UCITS.

### **b) Procedures for exercising the right to exit the UCITS free of charge**

In the event of a change to the UCITS entitling unit or shareholders to exit the fund free of charge:

- If the prospectus and the KIID of the UCITS make provision for an advance notice incentive, this incentive also applies when the UCITS is affected by a change that entitles holders to exit the fund free of charge. However, on such occasions, the management company or SICAV may decide to reduce or eliminate the notice period stipulated in the prospectus and the KIID, provided that such a decision is made in the interests of the unit or shareholders and that it is implemented in such a way that it ensures fair treatment between unit or shareholders who choose to exit the UCITS and those remaining in the UCITS.
- If the prospectus and the KIID of the UCITS do not make provision for an advance notice incentive, the management company or SICAV must uphold the right of unit or shareholders to exit the UCITS free of charge and take measures to ensure fair treatment between unit or shareholders who choose to exit the UCITS and those remaining in the UCITS. For example, the management company or SICAV may set an advance notice period before which the UCITS does not charge redemption fees; or it may reimburse unit or shareholders taking up the option of exiting the UCITS free of charge for any redemption fees charged by the UCITS.

In any event, when the UCITS has stipulated an advance notice period between the redemption order centralisation date and the settlement date, the existence of this notice period must not effectively reduce the three-month period during which unit or shareholders may apply to redeem their units or shares free of charge. Furthermore, for those cases in which the table in Article 8 indicates that prior notification of unit or shareholders is required, the date on which holders are notified must be far enough in advance of the date on which the change to the UCITS takes effect to allow them to exit the fund free of charge before the change takes effect and to comply with the notice period required for the incentive.

## **Article 23 - Notification of the AMF following notification of unit or shareholders**

Whenever unit or shareholders of a UCITS are served individual notifications or notification by any means for the purposes of this Instruction, the management company or SICAV shall submit a copy of the notification to the AMF through the GECO database. In the event of ex post notifications, the management company merely updates the GECO database with the nature of the notification, the medium used and the place where the information is available.

## **Chapter II – Preparing the key investor information document (KIID), the prospectus and periodic information**

### **Section I - Key investor information document (KIID) and prospectus of the UCITS**

#### **Article 24 – General provisions**

A key investor information document (KIID) and a prospectus must be drawn up for each UCITS.

If a UCITS is made up of several compartments, a key investor information document (KIID) must be prepared for each of its compartments and a single prospectus for all the compartments.

If a UCITS is made up of several unit or share classes, a key investor information document (KIID) must be produced for each class. However, the management company may provide information about several unit or share classes in the same key investor information document (KIID), provided that the final document satisfies the requirements regarding language, length and presentation stipulated in Articles 5 and 6 of European Commission Regulation 583/2010 of 1<sup>st</sup> July 2010.

You are reminded that particular provisions are set out in Position n° 2013-06 – Listed funds and other questions relating to UCITS.

#### **Article 25 - Structure of the key investor information document (KIID) and prospectus**

##### **I. Key investor information document (KIID)**

The key investor information document (KIID) is a summary that shall not exceed two pages of A4-sized paper when printed,<sup>4</sup> except in the case of structured UCITS, which may be up to three pages of A4-sized paper when printed.<sup>5</sup>

##### **II. Prospectus**

The prospectus precisely describes the investment and operating rules of the UCITS, 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. The structure includes the following sections:

- a) general characteristics;
- b) operating and management procedures, including compensation of the management company and the depositary;
- c) information of a commercial nature;
- d) investment rules;
- e) asset valuation rules and procedures.

The fund rules or the articles of incorporation of the UCITS are to be appended to the prospectus.

III. The key investor information document (KIID), prospectus, fund rules and articles of incorporation must use the standard templates developed by the AMF and found in Annexes XIII, XIV, XV and XVI. More specifically, the template and titles of the different sections of the key investor information document

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<sup>4</sup> Article 6 of Commission Regulation n° 583/2010 of 1<sup>st</sup> July 2010

<sup>5</sup> Article 37 of Commission Regulation n° 583/2010 of 1<sup>st</sup> July 2010

(KIID), prospectus, rules and articles of incorporation 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.

#### **Article 26 - Objectives of the key investor information document (KIID) and prospectus**

The objective of the key investor information document (KIID) is to provide a summary of the essential 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 prospectus consist in providing:

1. Detailed information about all the items summarised in the key investor information document (KIID), so that those investors who so wish may find complete information about the management and operating procedures of the UCITS and compare the specific features of different UCITS (or AIFs, where applicable) with each other;
2. Precise information about the risks identified when the UCITS was set up or updated. The prospectus 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 UCITS, along with all the costs incurred;
3. The information that the depositary, statutory auditor and compliance and internal control officer of the management company or SICAV need for their due diligence.

The SICAV or management company must give due consideration to the positions and interpretations published by the AMF when drafting the key investor information document (KIID) and prospectus.

#### **Article 27 - Key investor information document (KIID) and prospectus dissemination procedures**

I. In accordance with Article 411-128 of the AMF General Regulation, *"The key investor information document (KIID) is to be provided to investors free of charge and in a timely manner before they subscribe units or shares in the UCITS."*

II. The key investor information document (KIID) may be disseminated by either of the following procedures, to be chosen by the persons in charge of marketing the UCITS:

1. If the persons marketing the UCITS choose to record subscriptions using subscription forms, such forms must stipulate that:
  - a) the subscriber has received the key investor information document (KIID) of the UCITS;
  - b) in accordance with Article 411-128-3 of the AMF General Regulation, *"the prospectus shall be provided to investors on request and free of charge in a durable medium, within the meaning of Article 314-26 or by means of a website."*

*The most recently published annual and half-yearly reports of the UCITS shall be delivered to investors on request and free of charge and made available in the manner specified in the prospectus and the key investor information document. A paper copy of the documents referred to in this article will be delivered to the investors on request and free of charge."*

2. If the persons handling marketing wish to be exempt from submitting a subscription form, the arrangements for supplying and disseminating the KIID, the prospectus, latest annual report and periodic statement must comply with the abovementioned Articles 411-128 and 411-128-3 of the AMF General Regulation.

#### **Article 28 - Standard template of the key investor information document (KIID)**

The key investor information document (KIID) is essential for informing subscribers and must be updated whenever necessary (in accordance with Article 22 of Commission Regulation 583/2010 of 1<sup>st</sup> July 2010) and under the responsibility of the management company or SICAV.

The key investor information document (KIID) comprises five sections:

1. the “Objectives and investment policy” section describes the essential features of the UCITS that the investor should know;
2. the “Risk / reward profile” section 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. the “Charges” section presents a standardised table of charges;
4. the “Past performance” section;
5. the “Practical information” section tells investors where to obtain more information (prospectus, etc.) about the UCITS.

The standard key investor information document (KIID) template is presented in Annex XIII.

#### **Article 29 - Standard prospectus template**

Prospectuses may not be produced for different compartments or unit or share classes. The standard prospectus template is presented in Annex XIV.

#### **Article 29-1 - Standard templates for fund rules or articles of incorporation**

The fund rules or articles of incorporation must use the templates provided in Annexes XV and XVI.

#### **Article 30 - Classifications**

The SICAV or management company declares the classification to which the UCITS belongs from among the possibilities mentioned in Articles 30-01 to 30-09 of this Instruction.

The classification of the UCITS must be mentioned in the “objectives and investment policy” section of the key investor information document (KIID) and is subject to permanent compliance of the UCITS with all the criteria that must be stipulated in the “classification” section of the UCITS prospectus. It is up to the management company or SICAV to decide whether to provide any further explanations.

The classification represents the actual exposure of the UCITS. This exposure must be calculated according to the formula set out in Article 30-10 of this Instruction.

The nationality of the issuer of an instrument in which the UCITS is invested is defined with regard to the country where its registered office is located (including when the issuer is a subsidiary located in a different country from its parent company).

In the specific case of securitisation products or special purpose vehicles with other underlying assets, the nationality of the issuer is the nationality of the underlying assets. However, the place of registration of the vehicles issuing these products must be mentioned in the prospectus.

UCITS falling within the classifications defined in Articles 30-1 to 30-4 of this Instruction must have 60% or more exposure to equity markets at all times. The classification then depends on the geographical zone of the equities to which the UCITS is exposed.

The notion of incidental exposure mentioned in Articles 30-1 to 30-4 of this Instruction means the consolidated sum of the exposure to the specific risks described. This means that the contribution of all these risks to the overall risk profile of the UCITS must be low. Under no circumstances may exposure of more than 10% of the assets to specific risks be qualified as incidental exposure within the meaning of Articles 30-1 to 30-9 of this Instruction. On the other hand, merely complying with exposure of less than 10% is not enough in itself to qualify as an incidental specific risk. The notion of incidental risk must be addressed through the nature of the risks incurred and the contribution that the relevant assets make to the overall risk profile and potential return of the UCITS.

#### **Article 30 -1 - “French equities” UCITS**

The UCITS has at least 60% exposure to the French equity market at all times.

Exposure to exchange rate risk or to markets other than the French market must remain incidental.

The “classification” section of the UCITS prospectus must mention the minimum exposure of the UCITS to the French equity market.

#### **Article 30-2 - “Eurozone equities” UCITS**

The UCITS has at least 60% exposure to one or several markets for equities issued in one or several Eurozone countries, possibly including the French market.

Exposure to exchange rate risk or to foreign markets outside the Eurozone must be incidental.

The “classification” section of the UCITS prospectus must mention the minimum exposure of the UCITS to Eurozone equity markets.

#### **Article 30-3 - “European Union equities” UCITS**

The UCITS has at least 60% exposure to one or several markets for equities issued in one or more European Union countries at all times, possibly including Eurozone markets.

Exposure to exchange rate risk for currencies other than those of the Eurozone or European Union must be incidental. Exposure to market risks other than within the European Union must remain incidental.

The “classification” section of the UCITS prospectus must mention the minimum exposure of the UCITS to the relevant equity markets.

#### **Article 30-4 - “International equities” UCITS**

The UCITS has at least 60% exposure to at least one foreign equity market or to the equity markets of several countries at all times, possibly including the French market.

The “classification” section of the UCITS prospectus must mention the minimum exposure of the UCITS to all the relevant markets.

#### **Article 30-5 – “Euro-denominated bonds and other debt securities” UCITS**

The UCITS is exposed to fixed-income securities denominated in Euros at all times. Exposure to equity risk must not exceed 10% of net assets.

Exposure to securities denominated in a currency other than Euros and exposure to exchange rate risk must be incidental.

The “investment strategy” section of the prospectus must provide a table showing the interest-rate sensitivity range within which the UCITS is managed and the geographical zone of the issuers of the securities (or of the underlying assets for securitisation vehicles) that the UCITS is exposed to, along with the relevant exposure ranges.

If the range of credit spread sensitivity is materially different from the range of interest rate sensitivity, the credit spread sensitivity must be mentioned in the “investment strategy” section of the prospectus.

#### **Article 30-6 - “International bonds and other debt securities” UCITS**

The UCITS is exposed to fixed-income securities denominated in other currencies than the Euro at all times (and possibly to Euro-denominated fixed-income securities).

Exposure to equity risk must not exceed 10% of net assets.

The “investment strategy” section of the prospectus must provide a table showing the interest-rate sensitivity range within which the UCITS is managed, the currencies in the which the securities the UCITS is invested in are denominated, the level of exchange rate risk incurred, the geographical zone of the issuers of the securities (or of the underlying assets for securitisation vehicles) that the UCITS is exposed to, along with the relevant exposure ranges.

If the range of credit spread sensitivity is materially different from the range of interest rate sensitivity, the credit spread sensitivity must be mentioned in the “investment strategy” section of the prospectus.

### **Article 30-7 - “Short-term money market” and “money market” UCITS**

This article is based on the CESR Guidelines on a common definition of European money market funds, dated 19 May 2010.

#### I. General provisions:

1. Any UCITS marketed or labelled as a money market UCITS must adopt these provisions.
2. A money market UCITS shall clearly indicate in its prospectus whether it is a “short-term money market fund” or a “money market fund”.
3. A money market UCITS shall provide appropriate information about its risk/reward profile so that investors can identify specific risks stemming from its investment strategy.

#### II. A “short-term money market” UCITS must:

1. have the primary objective of maintaining the principal of the fund and aim to provide a return in line with money-market rates;
2. invest in money market instruments that comply with the criteria in Directive 2009/65/EC of 13 July 2009, or in term deposits with credit institutions;
3. ensures that the monetary market instruments in which it wishes to invest are of a high quality according to an internal assessment process whereby the UCITS or the management company must take into account a combination of factors which include, but are not limited to the following:
  - a) the creditworthiness of the instrument;
  - b) the nature of the asset class represented by the instrument;
  - c) the operational and counterparty risks inherent to the structure of the investment for structured financial instruments;
  - d) the liquidity profile.
4. May, for the purpose of article 3.a), also refer to, as appropriate and in a non-exclusive manner, the short-term ratings of the rating agencies registered with the ESMA which have awarded a note to the instrument and which the “short-term monetary” UCITS or its management company may deem relevant, whilst at the same time avoiding any mechanical dependence in relation to these notations.
5. limit its investment to financial instruments with a residual maturity until the legal redemption date<sup>6</sup> of no more than 397 days. The residual maturity means the period remaining before the legal redemption date;
6. have a net asset value based on a daily valuation and provide daily subscriptions and redemptions;
7. ensure that its portfolio has a Weighted Average Maturity (WAM) calculated according to the procedures defined in the CESR Guidelines of 19 May 2010 under the heading “definitions” of no more than 60 days;
8. ensure that its portfolio has a Weighted Average Life (WAL) calculated according to the procedures defined in the CESR Guidelines of 19 May 2010 under the heading “definitions” of no more than 120 days;
9. when calculating the WAL for financial instruments, including structured financial instruments, base the maturity calculation on the residual maturity until the legal redemption date of the instruments.

<sup>6</sup> The legal redemption date is the contractual maturity date defined in the issuance documents.

However, when a financial instrument embeds a put option before the legal date, the exercise date of the put option may be used only if the following conditions are fulfilled at all times:

- a) the option may be freely exercised by the UCITS at its exercise date;
- b) the exercise price of the put option is close to the anticipated valuation of the financial instrument at the nearest exercise date;
- c) the investment strategy means that there is a strong probability that the option will be exercised at the nearest exercise date.

- 10. take into account, for both the WAL and WAM calculations, the impact of financial derivatives, term deposits and the techniques and instruments used for efficient investment management (in accordance with the criteria defined in Article R. 214-18-II of the Monetary and Financial Code);
- 11. not incur direct or indirect exposure to equity or commodities markets, including via derivatives; and use derivatives only in line with its money market investment strategy. Derivatives that give exposure to the foreign exchange market may be used only for hedging purposes. Investment in non-base currency securities is allowed, provided the exchange rate exposure is fully hedged. (For example, a UCITS denominated in EUR cannot hold investments denominated in USD that are not hedged against EUR/USD exchange rate risk. However, a fund denominated in USD can hold investments denominated in USD that are not hedged against EUR/USD exchange risk);
- 12. limit its investment in other UCITS or AIF to UCITS or AIF that comply with the “short-term money market” classification;
- 13. have either a constant or a variable net asset value.

### III. A “money market” UCITS must:

- 1. fulfil the conditions in points 1, 2, 3, 4, 6, 9, 10 and 11 of Article 30-7 II;

Furthermore, a “money market” UCITS:

- 2. must have a fluctuating net asset value;
- 3. must limit its investment to securities with a residual maturity of no more than 2 years, provided that the time remaining until the next interest rate reset date is no more than 397 days. Floating rate securities should reset to a money market rate or index;
- 4. must ensure that its portfolio has a Weighted Average Maturity (WAM) of no more than 6 months, calculated according to the procedures defined in the CESR Guidelines of 19 May 2010 under the heading “definitions”;
- 5. must ensure that its portfolio has a Weighted Average Life (WAL) of no more than 12 months, calculated according to the procedures defined in the CESR Guidelines of 19 May 2010 under the heading “definitions”;
- 6. must limit its investment in other UCITS or AIF to UCITS or AIF that comply with the definitions of a “money market fund” or a “short-term money market fund”.

### **Article 30-8 - “Structured fund” UCITS**

I. In accordance with the provisions of Article R. 214-28 of the Monetary and Financial Code, the investment objective of a structured fund is to reach a predetermined amount at the end of a set period through the mechanical application of a predefined formula based on financial market indicators or financial instruments, and to distribute income that is determined in the same manner, where applicable.

The words “structured FCP / SICAV / UCITS” are added to the “objectives and investment policy” section of the key investor information document (KIID) and in the prospectus. These sections must include a specific investment objective for the formula.

II. The “objectives and investment policy” section of the key investor information document (KIID) must mention the “minimum recommended holding period” if it is relevant. The minimum recommended holding period is replaced by the “duration of the formula” in the prospectus, which must stipulate the investment period necessary to benefit from the formula.

III. The “risk profile” section of the prospectus includes a special mention if the provider has not established an official auditable procedure for selecting and assessing intermediaries and counterparties.

IV. The “guarantee” section of the prospectus must mention the special characteristics stipulated in Annex XIV. The “classification” section of the prospectus must be followed with the following language: “Guarantee”, followed by, depending on the circumstances: “Capital guarantee at maturity” or “the [FCP / SICAV / UCITS] does not provide a capital guarantee at maturity.”

V. When rates of return are indicated for formula patterns, they must be expressed directly in the form of yield to maturity or their yield to maturity equivalent must be given.

VI. It should be noted that Article 11 of AMF Instruction 2011-15 stipulates the specific information to be included in the prospectuses of structured funds meeting the criteria set out in Article 411-80 of the AMF General Regulation.

#### **Article 30-9 - “Diversified” UCITS**

This category covers all UCITS that are not part of any other category. The investment objective set out in the prospectus must stipulate the nature of the investment management implemented, and notably:

1. Full discretionary management;
2. Risk-profiled management.

If the investment profile does not correspond to any other classification, this point must be explained in the “investment strategy” section of the UCITS prospectus.

The “investment strategy” section of the UCITS prospectus must also mention any exchange rate risk for French residents.

#### **Article 30-10 - Assessing UCITS exposure**

In addition to physical investments, the assessment must include derivatives transactions, futures, options and similar investments, along with securities with embedded derivatives, in order to measure the exposure of the UCITS. Equity and bond warrants, calls, puts, CVRs, ADRs, EDRs and other financial instruments where the underlying assets are financial instruments are to be classified according to the category of the underlying assets.

The exposure corresponding to the specified category must be maintained at all times. The management company or SICAV must be able to justify the classification of the UCITS at the request of the AMF or the statutory auditors.

The exposure of a UCITS invested in other foreign UCITS, AIF or investment funds is calculated on a transparent basis. Several calculation methods may be used, depending on the amount of information available about the underlying fund:

- first, assess the actual exposure of the underlying foreign UCITS, AIF and investment funds to the markets in question;
- failing that, assess the minimum percentages of exposure to the relevant markets indicated in the regulatory documents of the foreign underlying UCITS, AIF and investment funds;
- finally, failing that, include a haircut depending on the investment policies of the underlying foreign UCITS, AIF and investment funds with regard to the relevant markets. For example, under this

method, a "French equities" UCITS set up under French law and investing in a foreign UCITS where the investment strategy consists of "being primarily exposed to French equity markets" could assign a factor of 0.5 to its exposure to this UCITS.

Bonds that can be converted into equities or similar securities must be broken down to assess the interest rate exposure and credit market exposure of the bond component, as well as the equity market exposure of the option component.

If the UCITS is specialised in a business sector, market or financial instrument, the "investment strategy" section of the prospectus must set out the minimum percentage of investment and/or exposure related to such specialisation.

If the minimum exposure rules of a UCITS for specific markets are no longer met following an event beyond the manager's control (stock price movements, massive subscriptions or redemptions, mergers, etc.), the management company or SICAV must have as its priority objective in its sales to remedy the situation in the interest of the unit or shareholders.

A UCITS may not invest in commodities indices which are not made up of different commodities. The sub-categories of a commodity must be considered as being only one commodity for the calculation of diversification limits. The sub-categories of a commodity should not be considered as the same commodity if they are not highly correlated. With regards to the correlation factor, two components of a commodity index which are the sub-categories of one commodity should not be considered as highly correlated if 75% of the correlation points are lower than 0.8. For this purpose, it is appropriate to calculate the points of correlations observed on the basis of (i) equally weighted daily yields of the corresponding commodities prices and (ii) a sliding window of 250 days over a period of five years.

### Formula used to measure UCITS exposure to a given market

a) Items that must be taken into consideration:

- + Valuation of physical assets invested in the market
- +/- Equivalent underlying assets for financial instruments with embedded derivatives
- +/- Temporary disposals or acquisitions of securities
- +/- Physical equivalent of derivatives  
(number of contracts x unit value x settlement price)
- +/- Equivalent of underlying assets in swaps that alter the dominant exposure of the UCITS to the market
- Equivalent of underlying assets for net short calls and long puts
- + Equivalent of underlying assets for net short puts and long calls

} A

b) Exposure calculation:

$$\text{Exposure} = \frac{A \times 100}{\text{total net assets}}$$

### Article 31 – Specific procedures

#### Article 31-1 - Master and feeder UCITS

I. The classification of the feeder UCITS is the same as that of the master UCITS, unless:

1. The master UCITS is foreign. In this case, the classification depends on the investment strategy of the master UCITS;
2. The trading in derivatives by the feeder UCITS alters its exposure and requires a change in its classification.

II. If the account closing date of the feeder UCITS is different from that of the master UCITS, a technical memo must be filed with the AMF explaining the reasons for the difference (the dividend date of the master UCITS is not a valid reason), and the measures taken to ensure that the unit and shareholders of the feeder UCITS enjoy equivalent disclosure and treatment to that they would enjoy as unit or shareholders in the master UCITS.

III. The key investor information document and prospectus must mention the direct charges stemming from the feeder UCITS and the indirect charges stemming from the master UCITS. The language relating to the indirect charges stemming from the master UCITS must be indicated in italics in the prospectus.

## Article 31-2 – Guaranteed UCITS

I. The guarantee must be granted either to the UCITS or to the unit or shareholders by an institution referred to in Article R. 214-9 of the Monetary and Financial Code.<sup>7</sup>

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 entry charges or not;
3. Subscription dates for obtaining the guarantee;
4. Dates on which the guarantee will be granted;
5. Whether the guarantee is granted to the UCITS or directly to the unit or shareholders. If the guarantee is granted directly to the unit or shareholders and they are required to request redemption of their units or shares 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 unit or shareholders (such as making a request for redemption at a set net asset value, for example), 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 or shares.

## Article 31-3 - UCITS investing in other foreign UCITS, AIF or investment funds

I. All UCITS must specify the level of exposure that they are allowed to foreign UCITS, AIF or investment funds:

1. Less than 10% of net assets;
2. Less than 20% of net assets;
3. Less than 50% of net assets
4. Up to 100% of net assets.

II. Disclosure of indirect charges:

If the UCITS invests more than 20% of its assets in units or shares in French or foreign UCITS or in third-country investment funds, the impact of indirect charges and fees must be included in the total ongoing charges referred to in the key investor information document (KIID) and in the total charges disclosed in the prospectus.

## Section II – Periodic reports

### Article 32 - Half-yearly or quarterly reports and half-yearly or quarterly asset breakdowns

As an introduction, you are reminded that particular provisions are set out in Position n° 2013-06 – Listed funds and other questions relating to UCITS.

I. In accordance with Article D. 214-31-2 of the Monetary and Financial Code, UCITS must draw up a half-yearly report at the end of the first half of their accounting period.

They may choose to publish quarterly reports, in which case the choice is irreversible.

II. This half-yearly or quarterly report must be published no later than two months after the end of the first half of the year, or after the end of each quarter, where appropriate.

<sup>7</sup> See also Position n° 2013-12 – Requirement to offer a guarantee (of the formula and/or capital, as appropriate) for structured UCITS and AIF, “guaranteed” UCITS and AIF and structured debt securities issued by special purpose vehicles and marketed to the general public.

III. The half-yearly or quarterly reports may be compiled:

1. either on the last trading day of the half year or of the quarter, as the case may be;
2. or the day on which the last net asset value is calculated.

IV. Regardless of their presentation, all the disclosures about a UCITS or a compartment must include its name.

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

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

- a) the eligible financial securities referred to in point 1 of I of Article L. 214-20 of the Monetary and Financial Code;
- b) bank balances;
- c) other assets held by the UCITS;
- d) total assets held by the UCITS;
- e) liabilities;
- f) net book value;
2. Number of units or shares in circulation;
3. Net book value per unit or share;
4. Securities portfolio, distinguishing between:
  - a) eligible financial securities and money market instruments admitted to trading on a regulated market within the meaning of Article L. 422-1 of the Monetary and Financial Code;
  - b) eligible financial securities and money-market instruments admitted to trading on another recognised regulated market that operates lawfully, is open to the public and has its registered office in a Member State of the European Union or in another State that is a party to the European Economic Area agreement;
  - c) eligible financial securities and money market instruments admitted to trading on the official list of a stock exchange of a third country or traded on another recognised regulated market of a third country that operates lawfully, is open to the public, provided that this stock exchange or market is not found on the list drawn up by the Autorité des Marchés Financiers and that the choice of said stock exchange or market is allowed under the laws and regulations or under the articles of incorporation of the UCITS;
  - d) newly-issued financial instruments referred to in point 4 of Article L. 214-11, I of the Monetary and Financial Code;
  - e) other assets: these are the assets referred to in Article R. 214-11, II of the Monetary and Financial Code.

The assets referred to in 4 a), b), c) and d) above, must be broken down in accordance with the most appropriate criteria in light of the investment policy of the UCITS (for example: economic, geographical and currency criteria) as a percentage of the net assets, indicating for each category of financial instrument the proportion it represents in the total assets of the UCITS.

5. Statement of changes in the composition of the portfolio during the reference period;
6. Quantified data on post-tax dividends paid or proposed during the period.

VI. In accordance with Article L. 214-17 of the Monetary and Financial Code, a document called “asset composition” must be drawn up as of the date of the last net asset value of the half year. This document must be sent to any unit or shareholder who requests it within eight weeks of the end of each half year.

This document must provide the following information:

1. An inventory of the portfolio specifying the quantities and values of financial instruments;
2. Net assets;
3. Number of units or shares in circulation;
4. Net asset value;
5. Off-balance sheet commitments.

The document must be compiled in detail and must be understandable for any unit or shareholder.

VII. In accordance with Article 411-125 of the AMF General Regulation, UCITS with assets of more than €80 million are required to have the quarterly document mentioned in VI certified by the statutory auditor of the UCITS.

VIII. The document mentioned in VI may be replaced by the document used to calculate the net asset value and provided by the SICAV or the management company to the statutory auditor of the UCITS, provided it contains the items referred to in points 1 to 5 of VI.

### **Article 33 – Annual report**

As an introduction, you are reminded that special provisions are set out in Position n° 2013-06 – Listed funds and other questions relating to UCITS.

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

The annual report must contain the following items:

- the management report, the summary documents defined in the chart of accounts and the certification of the statutory auditor;
- an indication of the changes in the composition of the securities portfolio during the reference accounting period and, where appropriate, information about the financial instruments in the portfolio that have been issued by the portfolio management company or entities in its group. The annual report must also mention, where relevant, UCITS or investment funds managed by the portfolio management company or entities in its group.

If the annual report of the UCITS is published within 8 weeks of the end of the accounting period and contains the items referred to in Article 32 (VI), (1) to (5) of this Instruction, the SICAV or management company is not required to report the asset composition. In this case, the annual report is sent to any unit or shareholder who requests disclosure of the asset composition.

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

### **Article 34 - Specific requirements for feeder UCITS**

The management report of a feeder UCITS must indicate the latest available information about direct and indirect charges that it incurs, meaning the charges actually collected, in the form of a percentage.

The annual report of a feeder UCITS must mention the items in the annual report of the master UCITS as well as the total charges of the feeder UCITS and of the master UCITS.

The annual report of the master UCITS must also be appended to the management report of the feeder UCITS.

The other periodic reports must be appended to those of the feeder UCITS.

The statutory auditor of the feeder UCITS must report any problems or inaccuracies found in the statutory auditor's report on the financial statements of the master UCITS and draw the conclusions that he or she deems necessary, if they affect the feeder UCITS.

### **Article 35 - Specific requirements for index-tracking UCITS**

The management report of an index-tracking UCITS must measure the actual tracking error of the UCITS and compare it to the maximum error indicated in the prospectus.

### **Chapter III – Foreign UCITS seeking to market units or shares in France and French UCITS seeking to market units or shares in other countries**

#### **Section I – Foreign UCITS**

As an introduction, you are reminded that the marketing in France of units or shares in a foreign UCITS is subject to compliance with the marketing rules set out notably in the Monetary and Financial Code and the AMF General Regulation, as well as in the positions and recommendations of the AMF.<sup>8</sup>

#### **Article 36 - Notification procedure for marketing a foreign UCITS in France**

Pursuant to Article L. 214-2-2 of the Monetary and Financial Code, UCITS from other European Union Member States or from States that are parties to the European Economic Area agreement may be marketed in France, provided they comply with the following provisions.

Marketing a UCITS or a compartment of a UCITS in France requires prior notice to the AMF in the form of a marketing notification. The UCITS may not be marketed until this notification has been filed.

These provisions also apply to marketing a new compartment of a UCITS that is already being marketed in France.

All notification of the marketing of a UCITS or a compartment of a UCITS in France must include:

1. The notification letter containing information about the proposed arrangements for marketing the shares or units of the UCITS in France, including details of each category of units or shares, where applicable;
2. The fund rules or instruments of incorporation;
3. The prospectus and, where they exist, the latest annual report and any subsequent half-yearly report;
4. The attestation from the supervisory authority;
5. The key investor information document (KIID), translated into French;
6. Proof that the AMF filing fee has been paid.

The notification file is submitted by e-mail directly to AMF by the competent authority of the UCITS home Member State.

The AMF acknowledges receipt of the file when it arrives.

If the file is incomplete, the AMF contacts the competent authority of the UCITS home Member State.

The competent authority of the home Member States is informed within five business days that the full file has been taken into consideration.

#### **Article 37 - Examination by the AMF of the marketing of the UCITS**

The AMF is entitled to request any further information about the marketing of the UCITS and, in particular, the marketing materials before they are disseminated.

According to Article 411-126 of the AMF General Regulation, the AMF “*is entitled to request any further information about the marketing of the UCITS and, in particular, the marketing materials before they are disseminated. All advertisements from the UCITS aimed at investors shall be clearly identified as such. They shall be accurate, clear and not misleading. More specifically, if an advertisement containing an invitation to buy units or shares in a UCITS includes specific information about the UCITS, it cannot contain information that contradicts the information provided in the prospectus and the key investor information document, or that understates the importance of such information.*”

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<sup>8</sup> See, among others, the document published on the AMF website: Provisions applicable to the marketing of shares or units in foreign UCITS on the territory of the French Republic.

*Such advertisements shall state whether a prospectus exists and a key investor information document is available.*

*They shall stipulate where and in which languages holders and potential investors in the UCITS can obtain this information and these documents, or how they can gain access to them.”*

*Investment services providers shall ensure that all information that they address to clients, including marketing information, satisfies the conditions laid down in I of Article L. 533-12 of the Monetary and Financial Code.<sup>9</sup> Investment services providers shall ensure that all information, including marketing information, that they address to retail clients or that is likely to be received by retail clients, satisfies the conditions laid down in Articles 314-11 to 314-17 [of the AMF General Regulation].”*

Finally, according to Article 314-30 of the AMF General Regulation, “*The AMF may require investment services providers to submit to it their marketing communications for the investment services that they provide and the financial instruments that they offer prior to publication, distribution or broadcast. It may require changes to the presentation or the content to ensure that the information is accurate, clear and not misleading.*”

The abovementioned provisions of Articles 411-126, 314-10, 314-30 and following of the AMF General Regulation apply in particular to advertising media for UCITS.

If the AMF requires the management company or SICAV to submit the advertising for the UCITS, the relevant documents must be sent to the following e-mail address: amf-ucits@amf-france.org.

### **Article 38 - Correspondent(s) in France for a foreign UCITS**

Pursuant to Article 411-135 of the AMF General Regulation, UCITS from other Member States of the European Union or States that are parties to the European Economic Area agreement must notify the AMF of their centralising correspondent in France, along with any financial correspondents that they might have, when they file their marketing notification.

The correspondents of the UCITS in France are under contract to provide the following financial services:

1. Processing subscription and redemption requests;
2. Making coupon and dividend payments;
3. Supplying information documents relating to the UCITS to unit or shareholders;
4. Providing unit or shareholders with individual notification in the cases provided for in Article 8 of this Instruction.

The contract between the centralising correspondent and the UCITS may stipulate that the centralising correspondent is responsible solely for the function stipulated in 3 and that the UCITS remains responsible for the tasks stipulated in 1, 2 and 4. In this case, the UCITS notifies the centralising correspondent of the completion of the tasks that the UCITS remains responsible for and provides the centralising correspondent with a copy of the information stipulated in 4.

The centralising correspondent is also responsible for paying the annual set fee, in accordance with Article L. 621-5-3 of the Monetary and Financial Code.

In the case of a single correspondent, the correspondent must perform all the functions listed above.

### **Article 39 - Transmission of information to the AMF**

When they are marketed in France, foreign UCITS must send the AMF:

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<sup>9</sup> Article L. 533-12 of the Monetary and Financial Code stipulates:

*“I. - The contents of all disclosures, including promotional communications that investment services providers send to customers and potential customers must be accurate, clear and not misleading. Promotional communications must be clearly identified as such.*

*II. - Investment services providers must provide their customers and potential customers with information that reasonably enables them to understand the nature of the investment service and the specific type of financial instrument being offered, as well as the related risks, so that customers are able to make informed investment decisions.”*

1. Annual and half-yearly reports;
2. Changes affecting the UCITS (change of name, creation of a new class of units or shares, creation of a new compartment, merger, demerger, liquidation, winding up, transfer) along with amendments to its key investor information document (KIID) and prospectus.
3. Post-filing changes to the UCITS that will affect its marketing in France.

This information must be sent to the AMF at the following email address: [europeanopcvm@amf-france.org](mailto:europeanopcvm@amf-france.org)

#### **Article 40 - Information made available to the public in France**

1. UCITS must make the French-language version of the key investor information document (KIID) available to the public during the subscription period.
2. UCITS must make the information that they are required to make available to their unit or shareholders available to the public on the premises of the institutions authorised to take subscription and redemption orders.
3. The foreign management company is bound by the same disclosure requirements towards unit-holders or shareholders as it is under the domestic laws of the country where the UCITS is marketed, on the terms set out in Article 8 of this Instruction and using the standard template found in Annex XII of this Instruction, where appropriate.
4. When the shares or units of UCITS are granted the authority to trade on a regulated market or a multilateral trading facility pursuant to the provisions of article D. 214-22-1 of the monetary and financial code, the UCITS shall make available to the public the information regarding the rules for admissions and, in particular, where appropriate, the impact of this admission on the costs/commissions of subscription/redemption to investors resorting to this method of distribution.

## **Section II - French UCITS marketed in other countries**

#### **Article 41 - Filing a request to market a French UCITS in other countries**

All requests to market a French UCITS or a compartment of French UCITS in other countries shall include:

1. The fund rules or instruments of incorporation;
2. The prospectus and, where they exist, the latest annual report and any subsequent half-yearly report;
3. The attestation from the AMF;
4. The key investor information document (KIID), translated into French;
5. Proof that local fees have been paid;
6. The name of the country or countries where the UCITS is to be marketed;
7. The notification letter with information about the arrangements made for marketing units or shares of the UCITS in the host Member State, including, where relevant, details for each unit or share class, found in Annex XVIII.

This request must be filed with the AMF electronically:

For French management companies, via the GECO extranet,

For foreign management companies, by email to the following address: [amf-ucits@amf-france.org](mailto:amf-ucits@amf-france.org).

The AMF sends the marketing notification documents electronically directly to the competent authority of the Member State where the UCITS is to be marketed.

If the documents are not complete, the AMF contacts the management company or the SICAV.

The AMF has 10 business days to send the complete documents to the competent authority of the Member State where the UCITS is to be marketed.

The AMF notifies the management company or SICAV that the marketing notification of the UCITS has been sent to the foreign competent authority.