



Performance fees in UCITS and certain types of AIFs

Reference documents: Articles L. 533-11 and L. 214-23 of the Monetary and Financial Code and Articles 319-3, 319-13, 321-100, 321-101, 321-118, 411-106 to 411-112, 411-121, 421-33 and 422-67 to 422-70 of the AMF General Regulation

In accordance with the provisions of Article 16(3) of Regulation (EU) 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority, the AMF declared to ESMA on 5 January 2021 its compliance with the guidelines issued by ESMA¹ on “*performance fees in UCITS and certain types of AIFs*” (ESMA34-39-992).²

The objective of these guidelines is to promote greater convergence and standardisation in the area of performance fees and to encourage convergent supervision by competent authorities. They are intended, in particular, to ensure that the performance fee models used by asset management companies comply with the principles of acting honestly and fairly in conducting their business activities and with due skill, care and diligence, in the best interests of the fund they manage, thereby preventing undue costs being imposed on the fund and its investors. In addition, they aim to establish a common standard for the disclosure of performance fees to investors.

The ESMA guidelines, which apply as of 5 January 2021, provide clarifications regarding the following aspects:

- The method for calculating performance fees;
- Consistency between the performance fee model and a fund’s investment objectives, strategy and policy;
- The payment frequency of performance fees;
- Catch-up processes relating to negative performance;
- Disclosure of the performance fee model.

These guidelines are available in the “Appendices & Links” section:

- In French: Orientations sur les commissions de surperformance dans les organismes de placement collectif en valeurs mobilières et certains types de fonds d’investissement alternatifs ([ESMA34-39-992 FR](#))
- In English: Guidelines on performance fees in UCITS and certain types of AIFs ([ESMA34-39-992 EN](#))

¹ European Securities and Markets Authority.

² Published on 5 November 2020.