

## AMF instruction n°2007-06 on financial instrument transaction reporting to the AMF by investment services providers and branches

Reference texts: Articles 315-46 to 315-48 of the AMF General Regulation

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### Article 1 – Scope of the financial instruments concerned by financial instrument transaction reporting to the AMF

I. - In application of Article 315-46, Paragraph I of the AMF General Regulation, the financial instruments concerned are those mentioned in Article L. 211-1 of the Monetary and Financial Code admitted to trading on a regulated market in a State party to the European Economic Area agreement or on an organised multilateral trading facility within the meaning of Article 524-1 of the AMF General Regulation;

II – In application of Article 315-46, Paragraph II *bis* of the AMF General Regulation, the financial instruments concerned are those not admitted to trading on a regulated market in a State party to the European Economic Area agreement or on an organised multilateral trading facility within the meaning of Article 524-1 of the AMF General Regulation, but the value of which depends on a financial instrument admitted to trading on such a market or facility.

The present instruction shall apply only to OTC single-name equity or credit derivatives in which the underlying asset is a financial instrument admitted to trading on a regulated market in a State party to the European Economic Area agreement or on an organised multilateral trading facility within the meaning of Article 524-1 of the AMF General Regulation. These shall include notably the following:

- Options;
- Warrants;
- Futures and forwards;
- Total return swaps;
- Derivatives with payment of a difference, such as contracts for differences;
- Derivatives “betting” a given amount for each movement of one point in the price of the underlying share (“spread bets”);
- Derivatives to swap performance of a security against payment of a fixed or variable interest rate (“equity swap”);
- Debt swaps;
- Dividend swaps;

- Futures transferring single-name credit risk (credit derivatives such as single-name credit default swaps);
- Complex derivatives.

The following two categories of financial instruments are excluded from the scope of the present instruction: on the one hand, financial instruments other than equity derivatives and credit derivatives (notably derivatives on commodities, interest rates or currency) and, on the other hand, the following financial instruments:

- Index or basket options;
- Index or basket futures;
- Swaps between two indexes;
- Swaps between two interest rates (interest rate swaps);
- Variance swaps and volatility swaps;
- Futures transferring single-name credit risk (credit derivatives such as single-name credit default swaps) for which the reference entity is not admitted to trading on a regulated market in a State party to the European Economic Area agreement or on an organised multilateral trading facility within the meaning of Article 524-1 of the AMF General Regulation.

## **Article 2 – Scope of the entities concerned by financial instrument reporting to the AMF**

The following are subject to AMF transaction reporting requirements:

- all investment services providers, including asset management companies and French-based branches of investment services providers that are authorised in a State party to the European Economic Area agreement other than France with respect to the transactions they carry out on financial instruments as mentioned in Article 315-46, Paragraph I of the AMF General Regulation;
- investment services providers and French-based branches of investment services providers that are authorised in a State party to the European Economic Area agreement other than France, excluding asset management companies, with respect to the transactions they carry out on financial instruments as mentioned in Article 315-46, Paragraph II *bis* of the AMF General Regulation.

## **Article 3 – Information to be reported on transactions**

In application of Article 315-47 of the AMF General Regulation, the transaction report must contain the following information:

1. For the financial instruments mentioned in Article 315-46, Paragraph I of the AMF General Regulation:
  - the information mentioned in Annex 1, Table 1 of Regulation (EC) n° 1287/2006 of 10 August 2006, except for the characteristics of the financial instruments listed in points 8 to 15 of the list of fields;
  - the settlement date for the financial instrument, as agreed by the parties;
  - the amount exchanged in respect of the transaction: this information is not required, however, when the transaction concerns a financial contract.
2. For the financial instruments mentioned in Article 315-46, Paragraph II *bis* of the AMF General Regulation, all the information mentioned in Annex 1, Table 1 of Regulation (EC) n° 1287/2006 of 10 August 2006.

#### **Article 4 – Transaction report transmission procedures**

Subject to the special provisions provided hereafter, the transaction reports are transmitted to the AMF by one of the procedures set out in Article 315-48 of the AMF General Regulation in accordance with the procedure and format defined by the AMF in Annex 1 to the present instruction (RDT Guide to Reporting via the Direct Transaction Reporting System).

#### **Article 5 - Corrections and cancellations**

The correction or cancellation of a report that has already been made must be reported to the AMF as promptly as possible with the appropriate correction or cancellation flag, in accordance with the procedure and format defined by the AMF in Annex 1 to the present instruction (RDT Guide to Reporting via the Direct Transaction Reporting System).

Cancellations or corrections may be sent at the same time as the reports for the following business day.

#### **Article 6 – Report transmission procedures for transactions on a regulated market or a multilateral trading facility in a State party to the European Economic Area agreement other than France**

The entities mentioned in Article 315-46 of the AMF General Regulation operating as a remote member of a regulated market or a multilateral trading facility in a State party to the European Economic Area agreement other than France, are exempted from the obligation to report transactions carried out there when the AMF receives reports on the transactions carried out in such systems by these entities directly from the said regulated market or multilateral trading facility.

However, the entity must ensure that the reports on its transactions:

1. Contain at least the information mentioned in Article 3 of the present instruction;
2. Are transmitted to the AMF via the RDT system in accordance with the procedure and format defined by the AMF in Annex 1 to the present instruction (RDT Guide to Reporting via the Direct Transaction Reporting System), or, if applicable, in accordance with the technical reporting procedures implemented in agreement with the AMF by the market company managing a French regulated market or the manager of the French multilateral trading facility.

#### **Article 7 – Order-matching and reporting systems authorised by the AMF to transmit transaction reports**

Before issuing an authorisation to an order-matching or reporting system, the AMF checks that it satisfies the conditions set out in Article 12(2) of Regulation (EC) n° 1287/2006 of 10 August 2006.

The order-matching or reporting system sends the transaction reports via the RDT system in accordance with the procedure and format set out in Annex 1 to the present instruction (RDT Guide to Reporting via the Direct Transaction Reporting System).

The AMF checks compliance of the order-matching or reporting system with the terms of its authorisation and the effective transmission of the transaction reports it handles.

#### **Article 8 – AMF information on reporting procedures**

I. – For the application of Article 315-48 of the AMF General Regulation, the entities mentioned in Article 315-46 of the AMF General Regulation must complete the functional questionnaire in Annex 2 to the present instruction and send it to the AMF.

II. – When an entity mentioned in Article 315-46 of the AMF General Regulation appoints a third party under the terms of Article 315-48, Paragraph I, Clause 2 of the General Regulation to implement the reporting provided by the present instruction on its behalf, it informs the AMF to this effect via the abovementioned questionnaire. The report that is sent then contains both the identity of the agent and that of the principal.

III. – When transaction reports are sent to the AMF by the procedure set out in Article 315-48, Paragraph II, Clause 2 of the General Regulation, the entity mentioned in Article 315-46 of the AMF General Regulation must inform the AMF to this effect via the abovementioned questionnaire. The report that is sent contains its identity as the reporting firm and that of the order-matching or reporting system used.

#### **Article 9 – Guidelines published by the Committee of European Securities Regulators (CESR)**

For the application of the provisions of the present instruction, the following guidelines published by the Committee of European Securities Regulators must be taken into consideration:

- Guidelines on MiFID Transaction Reporting (CESR/ 07-301) published in May 2007.
- Guidance to Report Transactions on OTC Derivative Instruments (CESR/10-661) published in October 2010.

#### **Annex 1**

RDT Guide to Reporting via the Direct Transaction Reporting System: [http://www.amf-france.org/documents/general/7904\\_1.pdf](http://www.amf-france.org/documents/general/7904_1.pdf)

#### **Annex 2**

RDT functional questionnaire: [http://www.amf-france.org/documents/general/10399\\_1.pdf](http://www.amf-france.org/documents/general/10399_1.pdf)