



## **GUIDE TO THE ORGANISATION OF RISK MANAGEMENT, COMPLIANCE AND CONTROL SYSTEMS WITHIN PORTFOLIO ASSET MANAGEMENT COMPANIES**

**Background regulations: Articles 312-43 to 312-48, 318-4, 318-5, 318-38 to 318-56, 321-23 to 321-27, 321-30 to 321-36, 321-62 to 321-65, 318-29 to 32, 321-76 to 321-81, 321-79 and 321-83 to 321-92 of the AMF General Regulation, Articles 38 to 49 and 60 to 62 of Commission Delegated Regulation (EU) 231/2013 of 19 December 2012 and Articles 22 and 25 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.**

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#### Object, scope and date of application

The positions and recommendations in this guide aim to clarify the expectations of the French financial markets regulator (Autorité des Marchés Financiers - AMF) with regard to the organisation of risk management, compliance and the control system within portfolio asset management companies (AMCs). This guide is for AMCs that manage UCITS or AIFs, including, where applicable, when they provide a discretionary portfolio management service. All these positions and recommendations shall apply with immediate effect, except for the positions mentioned in i) to iii) of paragraph 3.4.3, which shall apply as from 31 March 2023.

With regard to the management of the risks associated with their business, AMCs should introduce and maintain a risk prevention and management system, and regularly check that it is being applied correctly.

In order to do this, AMCs should identify the risks they wish to guard against and therefore need to eliminate, and the investment risks to which they wish to be exposed and therefore need to manage. As such, the risk management system of an AMC primarily involves:

- Defining effective risk management systems, policy and procedures;
- Establishing a permanent risk management function to implement this policy and procedures and to ensure compliance with risk limits. Where appropriate to the nature, scale, diversity and complexity of its activities, the AMC assigns risk management to an independent permanent function;
- Assessing and monitoring the adequacy and effectiveness of the risk management policy and procedures, as well as their compliance.

AMCs must also have a compliance system that includes an independent compliance function with two roles: an advisory and assistance role and a monitoring role.

Lastly, AMCs must have a set of control systems, with the Chief Compliance and Internal Control Officer playing a central role, that is commensurate with the size, nature and complexity of their activities.

This control system includes:

- Compliance control;
- Control of risk management systems,<sup>1</sup>
- Monitoring of internal control mechanisms,<sup>2</sup>
- Internal audit.<sup>3</sup>

There are several possible ways of organising these control functions, depending on the characteristics of the AMC. They are described in detail in this position–recommendation.

## 1. THE RISK MANAGEMENT SYSTEM

The regulation defines the minimum risks that must be taken into account by AMCs when they carry out the risk mapping process. The AMC can establish or adapt its risk management system by identifying existing and potential risks and determining an acceptable level of risk.

### 1.1. Identification of risks

#### 1.1.1. Financial risks



Financial risks, which include liquidity, market and counterparty risk, are defined in Articles 312-44 and 321-76 of the AMF General Regulation and mentioned in paragraph 2 of Article 40 the Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

Counterparty risk is defined as the risk of loss for the collective investment scheme or the individual portfolio from the fact that the counterparty to the transaction or to a contract may default on its obligations prior to the final settlement of the transaction's cash flow;

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<sup>1</sup> Or "risk control" as defined in Articles 318-50 and 321-85 of the AMF General Regulation.

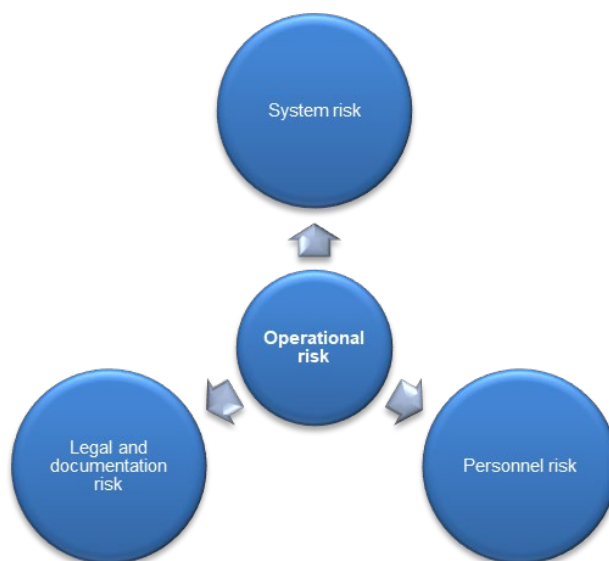
<sup>2</sup> See Articles 318-50 and 321-85 of the AMF General Regulation.

<sup>3</sup> Or internal audit according to Commission Delegated Regulations (EU) 2017/565 of 25 April 2016 and 231/2013 of 19 December 2012.

Liquidity risk is defined as the risk that a position in the portfolio cannot be sold, liquidated or closed out at limited cost in an adequately short time frame and that the ability of the collective investment to comply at any time with issue and redemption requirements at the request of investors, or the ability of the AMC to liquidate positions in an individual portfolio in accordance with the contractual requirements of the portfolio management mandate, is thereby compromised;

Market risk is defined as the risk of loss for the collective investment scheme or the individual portfolio resulting from fluctuation in the market value of positions in the portfolio attributable to changes in market variables such as interest rates, foreign exchange rates, equity and commodity prices, or an issuer's creditworthiness.

### 1.1.2. Operational risk



Operational risk<sup>4</sup> means the risk of loss for the collective investment scheme or the individual portfolio resulting from inadequate internal processes and failures in relation to people or systems of the AMC or from external events, and includes legal and documentation risk and risk resulting from the trading, settlement and valuation procedures operated on behalf of the collective investment scheme or the individual portfolio.

### 1.1.3. Risk mapping

Once the risks to which the AMC is exposed have been identified and limits have been set, risk mapping assesses the company's level of exposure to these risks, compares it with the pre-established limits and implements all the procedures necessary to manage the identified risks.

The AMC can establish quantitative or qualitative risk limits, or both, by taking into account all the relevant risks, including market risk, credit risk, liquidity risk, counterparty risk and operational risk.

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<sup>4</sup> See Articles 312-44 and 312-321-76 of the AMF General Regulation and paragraph 2 of Article 40 of the Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

### **Position**

**AMCs should periodically assess the risk levels to which the collective investment schemes and individual portfolios managed are exposed. Risk mapping should take into account all corporate processes linked to the individual or collective investment management business, and determine whether or not a risk factor is critical by measuring the probability that it will occur. Risk mapping should then, where applicable, enable the company to make all the necessary improvements to the existing risk management system and set priorities for the checks to be carried out.**

## **1.2. Risk management policy and permanent risk management function**

Risk management includes:<sup>5</sup>

- Defining effective risk management systems, policy and procedures;
- Establishing a permanent risk management function to implement this policy and procedures and to ensure compliance with risk limits. Where appropriate to the nature, scale, diversity and complexity of its activities, the AMC assigns risk management to an independent permanent function;
- Assessing and monitoring the adequacy and effectiveness of the risk management policy and procedures, as well as their compliance.

### 1.2.1. Risk management policy<sup>6</sup>

The risk management policy aims to describe and explain the measures and procedures used by the AMC to measure and manage the risks to which it is exposed.

The risk management policy must be formalised and documented and include all the procedures that will enable the AMC to assess its exposure to financial and operational risks for each collective investment or individual portfolio managed. The risk management policy should be commensurate with the company's business and periodically reviewed and approved by management to ensure its effectiveness.

It must as a minimum provide details of:

- the organisation and governance of the permanent risk management function (appointment of a function head, where applicable, profiles of those persons involved in managing risks, independence of the permanent risk management function from the operational functions, where applicable);
- the process used to set collective investment scheme risk profiles;
- the techniques and tools used to:
  - o measure and manage the risks to which the collective investment schemes and individual portfolios managed are, or could be, exposed,
  - o ensure compliance with the limits applicable to collective investment schemes in terms of global and counterparty risk;
- the content and frequency of reports to the board of directors, senior managers and , where applicable, supervisory bodies.

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<sup>5</sup>Articles 38 to 41 of Delegated Regulation 231/2013 for AIF portfolio asset management companies, 321-77 to 321-80 of the AMF General Regulation for UCITS portfolio asset management companies and 312-45 to 312-47 for the third-party asset management service provided by these companies.

<sup>6</sup> See Articles 312-46 and 312-321-78 of the AMF General Regulation and Article 40 of the Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.

In compliance with Article 5 of AMF Instruction DOC-2012-01, where individual managed portfolios share exactly the same risk profile and asset breakdown, the risk management policy and procedures can be implemented by family of portfolios. The AMC is responsible for this analysis and should be able to justify it at any given moment.

### 1.2.2. Permanent risk management function

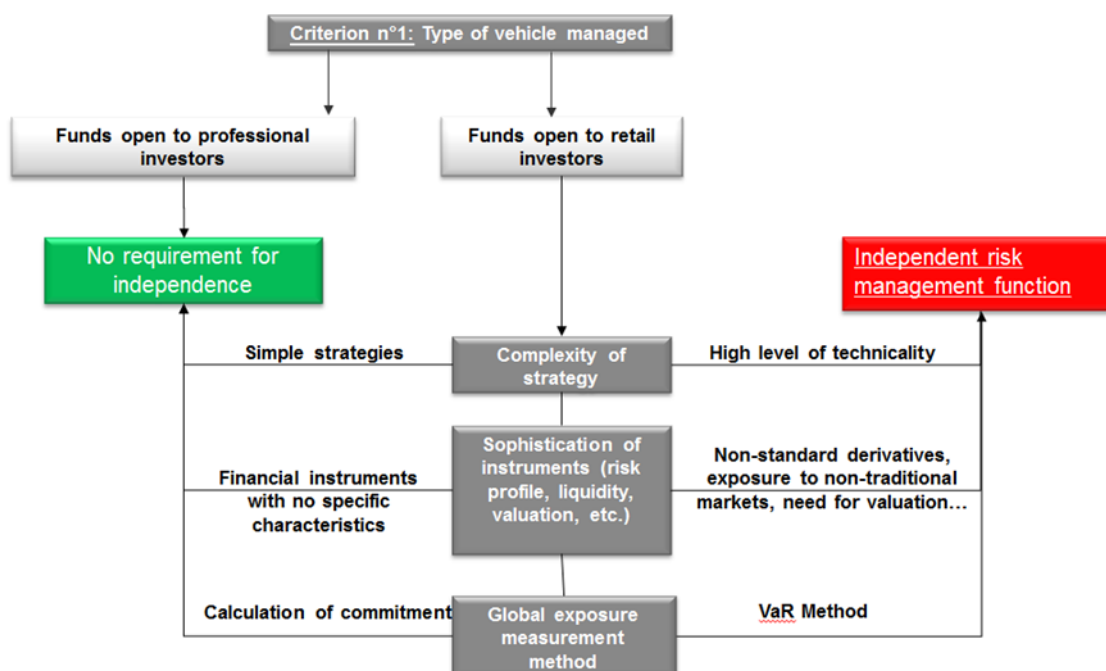
The permanent risk management function is the function within the AMC responsible in particular for implementing the risk management policy.

Pursuant to Articles 312-45, 318-38, 318-39 and 321-77 of the AMF General Regulation, AMCs should establish and maintain a permanent risk management function that is independent from the operational units in terms of both hierarchy and function. However, this does not apply if the nature and complexity of the AMC does not require the function to be independent.

#### Position

**If an AMC has not set up a permanent risk management function that is independent from the operational units in terms of both hierarchy and function, it must explain this to the AMF by indicating in its programme of operations the reasons why it is exempt from this obligation.**

#### 1.2.2.1 Independence of the permanent risk management function



The principle of proportionality set out in Articles 318-39 and 321-77 of the AMF General Regulation is assessed based on different criteria, such as the target client base (and therefore also the type of investment vehicle managed) and the degree of complexity of the strategies and instruments used. This assessment assumes that experienced investors are more likely than retail investors to understand the risks associated with a given strategy, conduct their own due diligence with regard to the AMC's risk management system and invest with full knowledge of the facts.

AMF Instruction DOC-2012-01 states that:

The permanent risk management function must be independent in the following situations:<sup>7</sup>

1° If the strategies implemented in the collective investment schemes or discretionary portfolios (portfolio management for third parties), or the risk measurement techniques for said strategies, can be described as complex.

For example, an AMC must have an independent permanent risk management function if it implements any of the following strategies:

- option strategies (e.g. strategies that are delta-neutral or based on implicit volatility);
- marked non-directional arbitrage strategies;
- long/short or market-neutral strategies presenting high basis risk (risk of imperfect correlation caused by similar but not identical positions being taken in an opposite direction);
- strategies that sell credit protection.

As an exception to the above, long/short or market-neutral strategies can be considered "simple" if both the following conditions are met:

- a) gross collective investment exposure does not exceed 200 % of net assets (and commitment calculation does not allow offset or cover of certain positions);<sup>8</sup> and
- b) the collective investment uses only derivatives and simple securities involving derivatives, and operates only in the areas of 'traditional' risk and markets.

2° If the AMC uses any of the following in its collective investment schemes or discretionary portfolios:

- non-standard derivatives as defined in Instruction DOC-2011-15 on global exposure for UCITS;
- eligible financial securities and money market instruments with non-standard embedded derivatives;
- financial instruments posing particular valuation and/or liquidity difficulties (for example, contingent convertible bonds, commonly known as "CoCos");<sup>9</sup>
- financial instruments with material exposure to markets or risks other than traditional markets or risks (equity, interest rate, monetary, currency, bond, financial index,<sup>10</sup> inflation, credit), such as financial instruments whose performance is based on commodity, volatility, correlation or dividend markets or risks.

Market or credit risk intervention must be examined carefully to determine whether it requires approval for "derivatives and complex financial securities involving a derivative" or particular human and organisational resources. For example, single-name CDSs or CDS indices (Traxx type), so long as standardised, may be classified as derivatives and simple financial securities involving a derivative, but basket-default swaps (n-to-default type) come under the heading of derivatives and financial securities that involve a derivative when they are complex.

3° Lastly, if the AMC uses the Value at Risk calculation method to measure global risk.

However, the risk management function does not have to be permanently independent from the operational units if the AMC:

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<sup>7</sup> See Article 3 of AMF Instruction DOC-2012-01

<sup>8</sup> Method of calculating general risk described in AMF Instruction DOC-2011-15. This involves calculation of the leverage generated by the use of derivatives, effective portfolio management techniques and financial securities involving a derivative. The commitment is generally used when the fund uses strategies and financial instruments that can be termed "simple".

<sup>9</sup> CoCos (from "contingent convertibles" or "compulsory convertibles") are subordinated debt securities issued by lending institutions or insurance or reinsurance companies that are eligible for inclusion in their regulatory capital and can be converted into shares or written down in the event of a trigger specified in the prospectus for the said debt securities.

<sup>10</sup> Financial indices here are the indices commonly recognised as being representative of a financial marketplace, geographic zone or particular sector.

1° Only provides the discretionary portfolio management investment service to professional clients or eligible counterparties,

2° Only manages collective investment undertakings open to professional investors (such as professional investment funds, professional private equity fund, specialised professional funds or equivalent foreign collective investment undertakings).

**NB: These exemptions from the need to establish a permanent risk management function that is independent from the operational units in no way absolve AMCs of their obligation to define a suitable risk management policy and procedures or mean a reduction in the quality of checks.**

#### 1.2.2.2 Human resources dedicated to the permanent risk management function

Regulations<sup>11</sup> require that a permanent risk management function be set up but not that a head of said function be appointed. Depending on the situation, the permanent risk management function can be performed by:

- a senior manager or member of the management team, provided independence from the management team is not required;
- a Risk Manager who will be in charge of this function in circumstances where independence is necessary.

#### 1.2.2.3 Tasks of the permanent risk management function



In practice, the AMCs draw up a risk management policy that includes all the necessary procedures enabling them to measure the exposure of each collective investment scheme or individual portfolio they manage to market, liquidity, counterparty or credit risk, as well as to any other potentially material risk, including operational risk.

Therefore, in practice, the AMCs identify the financial risks associated with their business and decide on measures to contain these risks.

*The possible tasks of a permanent risk function are described below by way of an example.*

a) Identifying and managing risks: the example of financial risks

- Risk mapping

In compliance with Article 5 of AMF Instruction DOC-2012-01, the risks to which the managed portfolios or collective investments are exposed cannot be identified or assessed without mapping. This means it is best to first analyse the portfolio holdings (individually and collectively) and the implemented strategies before establishing what types of risk are present.

Let us consider the example of a UCITS implementing a long equity strategy, which involves buying equities and betting that their price will rise so they can then be sold on at a profit. It should be remembered that the fund manager may exceptionally resort to specific financial techniques in order to hedge against certain risks.

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<sup>11</sup> See Articles 312-45 and 312-321-77 of the AMF General Regulation and Article 40- 4c) of the Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012.



To this end, the AMC may identify various market risks according to the strategy and the UCITS portfolio, and engage in the following mapping:

Composition of the portfolio:

- international equities, mainly from Europe and the US, EUR- and USD-denominated small and mid caps;
- EUR/USD currency swaps or futures as part of hedging forex risk on USD securities;
- cash pocket (money market AIFs and UCITS).

Investment strategy:

Stock-picking in expectation of an increase in share price.



A non-exhaustive possible risk map

Family of risk	Type of risk	Source of risk
<b>Market risks</b>	Equity market risk	Equities
	Foreign exchange risk	US equities, currency swaps, currency futures
	Volatility risk	Equities
	Concentration risk	Concentration in a single market or sector
	Risk of poor analysis	Strategy
<b>Liquidity risk</b>	Risk of poor liquidity of portfolio assets	Small cap equities
<b>Counterparty risk</b>	Counterparty risk on over-the-counter derivatives used for hedging	Currency swaps
<b>Invested-related operational risks</b>	Settlement/delivery risk	<b>All assets</b>
	Legal risks arising from derivatives	Currency swaps
	Risk of restricted liquidity	<b>Activation of gates</b> in underlying AIFs

This mapping provides the AMC with an overview of the risks to which it is exposed.

- Developing risk measurement indicators

At this stage, the AMC should determine how to qualify and quantify, where applicable, the risks that have been identified. This means determining for each risk some measurement indicators that may take the form of simple financial variables (like the Greek letters commonly used on the financial markets to monitor changes in the market value of positions in derivatives versus the underlying asset, interest rates, volatility, etc.) or may require the support of a more sophisticated model (monitoring the portfolio by risk budget or via a VaR, or performing stress tests to measure liquidity risk, etc.).

- Developing risk limitation systems

These measurement indicators should then be accompanied, where applicable, by maximum thresholds set by the AMC based on its own tolerance and that of its investors to the risks incurred (according to the documents drafted upon creation of the collective investment or individual portfolio managed).

These thresholds should be justifiable and remain fairly stable over time.

The following indicators and thresholds could be implemented for the previous example:

Family of risk	Type of risk	Source of risk	Measurement indicator	Thresholds	Current level
Market risks	Equity market risk	Equities	Sharpe Ratio <sup>12</sup> of the portfolio	> <b>0.9</b>	1
			VaR of the portfolio (99%, 1d), historical model	<b>5%</b>	4%
			Historical maximum 1-month loss (maximum drawdown) by position	<b>-20%</b>	
	Foreign exchange risk	US equities, currency swaps, currency futures	Historical maximum 1-month loss (maximum drawdown)	<b>-20%</b>	
	Volatility risk	Equities	Annualised daily volatility	<b>Max. 12%</b>	10%
			Annualised monthly volatility	<b>Max. 10%</b>	9%
	Concentration risk	Concentration in a single market or sector	Diversification ratio by geographical zone	<b>15%</b>	
Diversification ratio by business segment			<b>15%</b>		
Risk of poor analysis	Strategy	Stop orders on equity positions	<b>-50%</b>		
Liquidity risk	Risk of poor liquidity of portfolio assets	Small cap equities	Number of days to liquidate the positions	<b>3 days</b>	3 days
			Number of days to liquidate the positions according to stress tests, scenario based on a 30% fall in share prices.	<b>10 days</b>	11 days
Counterparty risk	Counterparty risk on over-the-counter derivatives used for hedging	Currency swaps	Exposure to a single counterparty	<b>5%</b>	
			Diversification of collateral received	10% per issuer	
Invested-related operational risk	Settlement/delivery risk	All assets			
	Legal risks arising from derivatives	Currency swaps			
	Risk of restricted liquidity	Activation of gates in underlying AIFs			

- Implementing alert mechanisms

<sup>12</sup> The Sharpe Ratio measures the risk-adjusted return of a portfolio of financial assets.

In compliance with Article 5 of AMF Instruction DOC-2012-01, alert mechanisms must be implemented for each of these indicators in order to quickly detect any breach of threshold. A response procedure should be set up.

If the daily potential loss level tolerated for a given security is ever exceeded, the AMC should have in place a series of measures it can take, such as partly or fully closing the position or hedging against market risk.

- Using indicators

The permanent risk management function implements the indicators defined in the risk management policy. In the previous example, the function would be responsible for:

- checking the suitability of the value at risk (VaR) model by analysing the relevance of the theoretical basis and the assumptions made (the following questions could be asked: Is the performance distribution normal? Does the model capture the risks of optional positions? Is choosing a window detrimental? Have specific risks been underestimated?);
- approving the domain of validity, for example by identifying market situations where the VaR indicator would no longer be sufficient (in this example once the assumption of normal returns is no longer valid);
- implementing the model from an IT perspective or ensuring that a third party within the AMC (e.g. the management team) has done this, and performing reliability tests such as reviewing the source code and auditing a proprietary file);
- reviewing the parameters used (is a layer of volatility required? How should the implied volatilities be restated to obtain this layer?);
- ensuring that the model is relevant in the knowledge that atypical market movements in a given period may require a review of models.

- Measuring risk over the lifetime of an investment

The permanent risk management function is responsible for measuring risk levels at a suitable regularity, based on the indicators established, and for ensuring compliance with the defined limitation system, based on the alerts generated.

In the previous example, the Sharpe Ratio is measured at 0.5 and the acceptable threshold is 0.9, so this automatically generates a breach alert.

Family of risk	Type of risk	Source of risk	Measurement indicator	Thresholds	Current level	
Market risks	Equity market risk	Equities	Sharpe Ratio of the portfolio	> 0.9	0.5	Breach
			Value at Risk of the portfolio (99%, 1d), historical model	5%	4.8%	Close

- Helping to value the financial instruments

In compliance with Article 9 of AMF Instruction DOC-2012-01 and Article 70 of Delegated Regulation (EU) 231/2013, the permanent risk management function contributes to the valuation of financial instruments, particularly over-the-counter instruments. In order to do this, it:

- plays a part in validating the valuation model used and in validating the models underlying the risk monitoring indicators;<sup>13</sup>
  - also plays a part if there is a discrepancy in valuations, i.e. a difference between the value produced by the management team with the help of the model and that of the counterparty, by revaluing the instrument and determining the source of the discrepancy;
  - validates the solution or procedure implemented by the management team.
- b) Inform the Board of Directors and the supervisory function, if there is one, about compliance with the risk management policy

In compliance with Articles 312-45 and 321-77 of the AMF General Regulation and Article 39 of Commission Delegated Regulation (EU) No. 231/2013, the permanent risk management function regularly reports to the board of directors and the supervisory function, if there is one, on:

- the consistency between the current risk levels and the risk profile for each collective investment scheme or discretionary portfolio;
- whether each collective investment scheme or discretionary portfolio complies with the relevant risk limitation systems;
- the suitability and effectiveness of the risk management method, specifying whether appropriate corrective measures have been taken where required.

### 1.3 Control of risk management systems

In compliance with Articles 312-47 and 321-80 of the AMF General Regulation and Article 41 of Delegated Regulation (EU) 231/2013, the AMC should periodically assess, check and re-examine the risk management policy and ensure it is still suited to the AMC's business and to changes in markets and products. If it is not, the AMC shall decide to revise the policy. This could happen, for example, after a new type of asset is added to the portfolio.

Pursuant to Articles 318-52 and 321-87 of the AMF General Regulation, this function is entrusted to the Chief Compliance and Internal Control Officer.

## 2. COMPLIANCE SYSTEM

AMCs should establish and maintain adequate policies, procedures and measures for detecting any risk of non-compliance with the professional obligations incumbent upon them pursuant to Article L. 621-15 of the Monetary and Financial Code.<sup>14</sup> They should develop a risk-based approach by regularly assessing the risk of non-compliance.

### Position

**AMCs periodically map their risk of non-compliance. This mapping should enable them to set the targets, resources and work programme of the compliance function. The work programme and resources of the compliance function should be reviewed regularly to take into account any risk arising, for example, from the launch of a new business.**

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<sup>13</sup> For example, it checks the consistency of the valuation model used for a European vanilla call option, typically the Black-Scholes model. It will oppose the use of this model to value a barrier option and will suggest the use instead of a Monte Carlo method taking into account the path dependence of the financial instrument.

<sup>14</sup> See Articles 318-4 and 312-321-30 of the AMF General Regulation and Article 22 (1) of Commission Delegated Regulation (EU) No. 2017/565 of 25 April 2016.

AMCs must set up an independent compliance function that has two key roles:

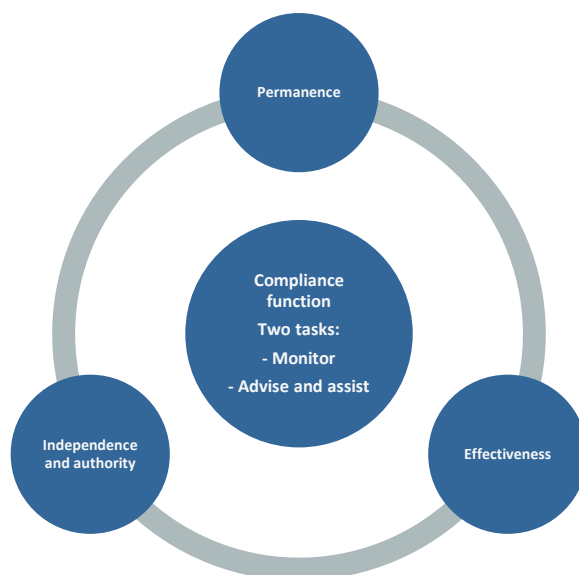
- assistance and advice to operational units and executive management on one hand,
- monitoring of the compliance system (see below) on the other hand.<sup>15</sup>

An effective compliance function needs to have (i) its authority recognised within the company; (ii) sufficient human and technical resources; (iii) expertise aligned with the business of the company; and (iv) access to all the information it needs to perform its duties.

In accordance with the provisions of Article 321-32(2) of the AMF General Regulation and Article 61(3 )b of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012, a compliance officer is appointed and entrusted with this function.

Pursuant to Article 318-5 and the first paragraph of Article 321-33 of the AMF General Regulation, this person shall hold a professional licence as a Chief Compliance and Internal Control Officer.

## 2.1. Characteristics of the compliance function



### 2.1.1. Independence and authority of the compliance function

AMCs should ensure that the compliance function is independent and that the compliance officer's position at the company guarantees the independence and authority of those people involved in the compliance function. The persons involved in the compliance function should not be involved in the execution of the services and activities they are responsible for auditing.<sup>16</sup>

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<sup>15</sup> Article 321-31 of the AMF General Regulation, Article 61 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 for the management of AIFs and Article 22(2) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

<sup>16</sup> See Article 321-32 of the AMF General Regulation, Article 61 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 22 (3) and (4) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

In order to guarantee the independence and authority of the compliance function, the compliance and internal control officer should report directly to one of the AMC's senior managers so that management is involved in defining and implementing the compliance and internal audit system. The AMF recommends that, where possible, the Compliance And Internal Control Officer report to a senior manager not responsible for operational activities. The AMF stresses that an AMC's senior managers are responsible for ensuring that the company fulfils its professional obligations.

#### **Recommendation**

**If an AMC appoints someone who has been seconded by another group entity as compliance and internal control officer, the AMF recommends that this person report hierarchically to the senior manager of the AMC as part of his/her position at that company and, where applicable, report functionally to the group business line in order to benefit from the group's practices and expertise.**

#### **Position**

**While the executive management is responsible for organising compliance audits in an appropriate manner and for monitoring the effectiveness of the organisation that has been set up, the tasks performed by the compliance function must be carried out independently of the executive management and the other departments of the AMC.**

**Should the executive management deviate from important recommendations or assessments of the compliance function, the Chief Compliance and Internal Control Officer must report this accordingly and record this information in the compliance reports.**

#### **Recommendation**

**If the role of compliance and internal control officer is assigned to a non-operational corporate officer<sup>17</sup> who delegates the duties of the compliance function to one of his/her employees, it is preferable that this employee is also appointed compliance and internal control officer, provided he/she has the necessary expertise and experience.**

### 2.1.2. Permanence of the compliance function

#### **Position**

**AMCs should ensure that the compliance function is able to fulfil its duties and responsibilities on an ongoing basis and must take all the necessary measures, in writing, to ensure that in the absence of the compliance and internal control officer, the compliance function's duties continue to be performed.**

**The compliance function should perform its activities on an ongoing basis, not just in specific circumstances. This involves regular monitoring based on a timetable. Monitoring activities should regularly cover all the main**

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<sup>17</sup> See paragraph 3.3.2 for the case of operational corporate officers

**areas covered by the AMC's services and activities, taking into account the risk of non-compliance associated with these areas of activity. The compliance function must be able to respond quickly to unforeseen events, thus changing the focus of its activities at short notice if necessary.**

### 2.1.3. Effectiveness of the compliance function

The AMC ensures that the compliance function has the necessary resources.<sup>18</sup>

#### Position

**To do this, AMCs shall take into account the nature, scale, complexity and range of the businesses that they engage in.**

**In addition to human resources, the compliance function must be allocated sufficient IT resources.**

**The compliance function is allocated a budget consistent with the level of compliance risk to which the AMC is exposed. The Chief Compliance and Internal Control Officer must be consulted before the budget is decided and all decisions on significant budget cuts must be reported in writing with detailed explanations.**

The AMC ensures that the compliance function has the necessary expertise.<sup>19</sup>

#### Position

**Staff of the compliance function should have the necessary qualifications, knowledge and expertise to fulfil their obligations and should receive regular training to keep their knowledge up-to-date.**

**The Chief Compliance and Internal Control Officer should have sufficiently broad knowledge and experience and a sufficiently high level of expertise to be able to assume responsibility for the compliance function as a whole and ensure its effectiveness.**

It should be noted that the asset management company must ensure that the Chief Compliance and Internal Control Officer has a minimum level of knowledge, either through an in-house examination or through an examination conducted by an AMF-certified organisation.<sup>20</sup>

The AMC ensures that the compliance function has access to all the relevant information.<sup>21</sup>

#### Position

**The AMC must provide access to the compliance function:**

- **To all relevant databases and records;**

<sup>18</sup> Article 321-32 of the AMF General Regulation, Article 61.3 a) of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 22.3 a) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

<sup>19</sup> Article 321-32 of the AMF General Regulation, Article 61.3 a) of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 22.3 a) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

<sup>20</sup> Articles 318-7 and 321-37 of the AMF General Regulation.

<sup>21</sup> Article 321-32 of the AMF General Regulation, Article 61.3 a) of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 22.3 a) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

- **To all relevant information systems within the AMC;**
- **To all internal audit and external audit reports and, where appropriate, all other reports to the governing bodies or the supervisory function.**

**Where necessary, the Chief Compliance and Internal Control Officer should also be able to attend meetings of the executive management or the supervisory function. Where this right is not granted (which should remain exceptional), a report and written justification must be provided. The Chief Compliance and Internal Control Office must have a thorough knowledge of the company's organization, corporate culture and decision-making procedures in order to be able to determine which meetings are important to attend.**

**The AMC must put in place the necessary mechanisms to ensure an effective exchange of information between the compliance function and other control functions (for example, internal audit, external audit, risk management).**

## **2.2. Control functions**

The AMC must ensure that the compliance function is capable of fulfilling its responsibilities to monitor<sup>22</sup> and, at regular intervals, evaluate the measures, policies and procedures put in place to detect and keep the risk of non-compliance to a minimum, as well as the actions taken to remedy any failure by the AMC to comply with its obligations.

### **Position**

**The compliance function should take a risk-based approach in determining the tools and methods that it should use, as well as the focus of the monitoring program and the frequency of monitoring activities (which may be regular, ad hoc or ongoing) that it implements.**

**The compliance function should ensure that its monitoring activities are not only desk-based, but also include verifying how policies and procedures are implemented in practice, for example, by conducting on-site inspections at the AMC's operating units.**

**Some of the tools and methodologies that are appropriate for monitoring activities and could be used by the compliance function include:**

- **the use of aggregate risk measurements (e.g. risk indicators);**
- **the use of (additional) reports warranting management's attention, or that indicate substantial deviations from expectations (exception reports) or problematic situations that need to be addressed (anomaly register);**
- **targeted trade surveillance, observation of procedures, desk reviews, interview of relevant staff.**

**The monitoring programme takes account of changes in the AMC's risk profile, particularly when there are significant events such as corporate acquisitions, changes in IT infrastructure or reorganisations. It also extends**

<sup>22</sup> Articles 321-31 1° of the AMF General Regulation and 61.2 a) of Delegated Regulation (EU) No. 231/2013 and 22.2 a) of Delegated Regulation (EU) 2017/565.



**to the implementation and effectiveness of any corrective measures taken by the AMC to remedy a breach of its professional obligations.**

**Monitoring activities performed by the compliance function should also take the following into account:**

- **Sector-specific obligations to comply with regulatory requirements;**
- **First-level controls, i.e. controls performed by the operational units;**
- **Reviews performed by the permanent risk management function, the internal audit function or other control functions.**

**The compliance function's control activities should be coordinated with the reviews performed by other control functions, while respecting the different functions' independence and mandate.**

**The compliance function should play a role in monitoring the handling of complaints and should consider complaints as a relevant source of information for its overall supervisory role. This does not require the compliance function to play a role in the follow-up of complaints. In this regard, the fund management company should allow the compliance function to consult all complaints sent to the AMC by its clients, unit-holders or shareholders.**

### **2.3. Advisory and assistance duties**

The AMC should ensure that the compliance function is able to fulfil its responsibilities with regard to advising and supporting the operational units and senior management.<sup>23</sup>

#### **Position**

**The compliance function must consequently:**

- **be involved in all material changes to the company's organisation and with all corporate projects likely to generate the risk of non-compliance, e.g. new branches of activity, the launch of new products or a new marketing campaign;**
- **take part in drawing up corporate policies and procedures relating to the collective investment management and discretionary management businesses and to the sale of collective investments, including on the compensation policy<sup>24</sup>;**
- **provide appropriate training to the relevant people on all subjects associated with managing the risk of non-compliance (e.g. regulations and new policies or internal procedures at the AMC).**
- **provide support on a daily basis to staff and the management;**
- **be involved in any important and uncharacteristic correspondence with the competent authorities.**

<sup>23</sup> Articles 321-31 2° of the AMF General Regulation and 61.2 b) of Delegated Regulation (EU) No. 231/2013 and 22.2 b) of Delegated Regulation (EU) 2017/565.

<sup>24</sup> See ESMA Guidelines ESMA/2013/232 and ESMA Guidelines ESMA/2016/575.

### **Position**

**Where the advice of the compliance function is not followed, it documents this accordingly and records it in its compliance reports.**

## **2.4. Written compliance reports for senior management**

The AMC shall ensure that senior management receives regular compliance reports at least once a year specifying in particular if the appropriate measures have been taken in the event of deficiencies.<sup>25</sup>

These reports are relevant tools to get the necessary attention from the management.

### **Position**

**These reports should cover all operational units involved in the conduct of the AMC's activities.**

**Their content should comply with paragraphs 27, 28, 30 and 31 of ESMA's Guidelines on Certain Aspects of the MiFID II Compliance Function Requirements (ESMA-35-36-1952).**

**Where the report does not cover all the activities carried out by the company, it should clearly state the reasons for this.**

## **3. ORGANISATION OF THE AMC'S CONTROL SYSTEM**

### **3.1. Overview of the system**

Pursuant to Articles 318-51 and 321-86 of the AMF General Regulation, the organisation of the control system is based on:

- first-level control exercised by persons in operational functions and;
- second-level controls through permanent control exercised exclusively by persons who are in principle specifically assigned to it and who ensure that the first-level controls are properly carried out.

Pursuant to Articles 318-49 and 321-84 of the AMF General Regulation, the compliance and internal control system of an AMC is made up of monitoring and internal audit:<sup>26</sup>

- Pursuant to Articles 318-51 and 321-86 of the AMF General Regulation, permanent monitoring shall be conducted through second-level controls to ensure proper execution of first-level controls. Permanent controls are performed exclusively by dedicated staff;
- Pursuant to Article 321-83 of the AMF General Regulation, Article 62 of Delegated Regulation (EU) 231/2013 and Article 24 of Delegated Regulation (EU) 2017/565, the internal audit function is responsible for ensuring the effectiveness of the compliance and internal control system by conducting audits of the business and recommending corrective measures when anomalies are identified.

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<sup>25</sup> Article 321-36 of the AMF General Regulation, Article 60 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 25 of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

<sup>26</sup> Article 318-49 also specifies that the compliance and internal control system also includes advisory and assistance activities.

### 3.2. Linkage between the compliance function and the risk management function

Whether or not the permanent risk management function depends on the operational teams, management or is independent, it is always responsible for implementing the risk management policy and procedures, as mentioned above.

The RCCI, on the other hand, is responsible for evaluating and monitoring this function.

#### Recommendation

**The permanent risk management function should not be assigned to the Chief Compliance and Internal Control Officer because the audit duties of the compliance function include checks on the permanent risk management function.**

Having said that, the AMF will assess on a case-by-case basis requests for the Chief Compliance and Internal Control Officer to also be responsible for the permanent risk management function. As part of its analysis, the AMF will consider the profile of the Chief Compliance and Internal Control Officer and any specific characteristics of the company.

#### Recommendation

**To guarantee the independence and authority of the permanent risk management function, when this is required, the head of the function should report directly to one of the company's senior managers so that management is involved in defining and implementing the risk management system. In the case of a group, if an AMC appoints someone who has been seconded by another group entity as head of the permanent risk management function, the AMF recommends that this person reports to the senior manager of the AMC as part of his/her position at that company.**

### 3.3. First level control system



The risk of non-compliance is the risk that the AMC fails to comply with its professional obligations pursuant to Paragraph II of Article L. 621-15 of the French Monetary and Financial Code.<sup>1</sup> As with any other risk, the risk of non-compliance should be assessed and managed in accordance with its potential consequences. If the AMC fails to comply with its professional obligations, it is likely to incur a cost in the form of its civil or criminal liability being invoked, an administrative penalty or damage to its reputation.

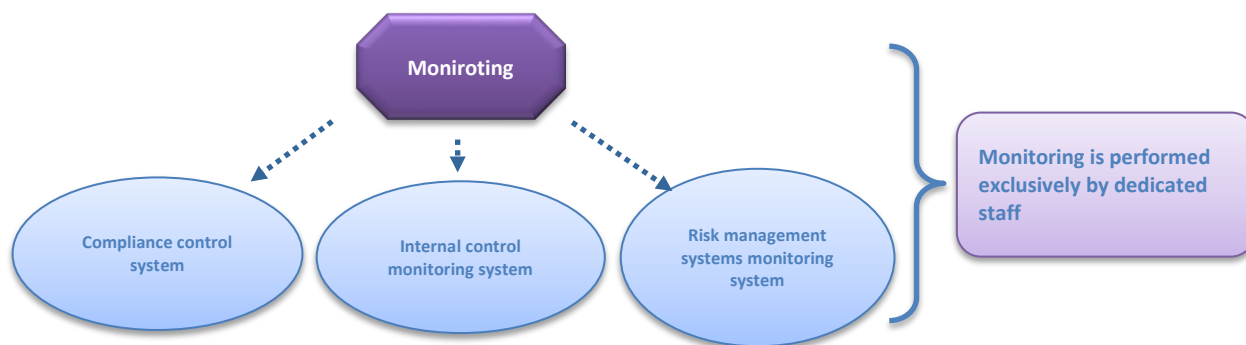
First level controls are performed by people in operational positions.<sup>27</sup> These controls can be performed by line managers or dedicated teams.

### Position

**First-level controls consist in ensuring compliance with all corporate policies and procedures.**

## 3.4. Permanent control system

### 3.4.1. Scope and responsibilities of permanent control



The monitoring system includes the compliance control system, the internal control monitoring system and the risk management systems monitoring system.<sup>28</sup> Pursuant to Articles 318-52 and 321-87 of the AMF General Regulation, this is the responsibility of the Chief Compliance and Internal Control Officer.

However, provided such a decision can be justified, the company can assign responsibility for monitoring to two different people, with one in charge of non-compliance monitoring and the other in charge of compliance.<sup>29</sup> The two people should therefore hold a professional license as Chief Compliance and Internal Control Officer.<sup>30</sup>

The AMC must ensure that the Chief Compliance and Internal Control Officer establishes a comprehensive control programme covering all the company's activities. The purpose of this programme is to ensure that the compliance, internal control and risk management system is suited to the company's business and that it is followed by the persons concerned.

<sup>27</sup> See Articles 318-51 and 321-86 of the AMF General Regulation.

<sup>28</sup> See Articles 318-50 and 321-85 of the AMF General Regulation.

<sup>29</sup> See Articles 318-54 and 321-89 of the AMF General Regulation.

<sup>30</sup> Pursuant to Articles 318-54 and 321-89 of the AMF General Regulation.

**Position**

**Monitoring should be documented. If faults are uncovered or the observed situation fails to meet expectations, the Chief Compliance and Internal Control Officer should inform senior management of the facts and of the corrective measures that should be taken. The compliance and internal control officer monitors the implementation of the corrective measures he/she recommends and informs senior management on the appropriate measures taken in his/her compliance reports.**

3.4.2. Outsourcing of monitoring

**Position**

**When the AMC or the group to which it belongs does not reasonably have the financial resources to assign a person to the compliance function, it may appoint one of its senior managers as compliance officer and internal control.**

**If this person performs, inter alia, financial management functions, commercial functions or other activities likely to generate conflicts of interest, or if he/she does not have the necessary skills to perform monitoring functions, the AMC must outsource monitoring tasks. When outsourcing these tasks, the senior manager remains responsible for the compliance and internal control systems.**

3.4.3. Required organisation models

The organisation of second-level monitoring functions is governed by a proportionality principle.<sup>31</sup>

**Position**

Therefore, if the AMC appoints an external service provider or employee from another group entity as compliance and internal control officer, it should always ensure that the time dedicated to the role of compliance and internal control officer is proportionate to the nature, size, complexity and diversity of its services and activities.

The principle of proportionality implies, for the determination of the budget devoted to outsourced second-level monitoring missions, that the AMC takes into account the following elements

- The size (measured, in the case of management, by the amount of assets under management valued in terms of capital deployed and not in terms of capital employed and including leverage) of the management activities and other activities or services carried out by the AMC;
- the diversity and complexity of management activities and other activities or services exercised by the AMC;
- the instruments used within the scope of its programme of operations and the complexity of the strategies implemented;
- the types of clients targeted by the AMC (professional or equivalent clients,<sup>32</sup> retail clients, eligible counterparties),

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<sup>31</sup>Articles 321-23, 321-27 and 321-30 of the AMF General Regulation, Articles 21 1, 21.5 and 22.1 of Commission Delegated Regulation (EU) No. 2017/565 of 26 April 2016 and Article 57 and 61.1 of Commission Delegated Regulation (EU) 231/2013 of 19 December 2012.

- whether or not the AMC belongs to a group;
- cross-border activities conducted by the AMC;
- the organisation and sophistication of IT systems;
- the number of transactions executed by the AMC;
- the number of portfolios under management and the number of clients;
- the distribution modes (direct/intermediated) as well as the number and status of the distributors, if any.

The AMC must therefore readjust the budget allocated to outsourced second-level monitoring tasks as necessary to take account of changes in any of the criteria listed above.

For example,<sup>33</sup>

i) AMCs with total assets under management (collective and discretionary) of less than EUR 200 million must have an annual budget of at least 18 man-days for outsourcing second-level monitoring (excluding the assistance function). This budget must be constantly calibrated according to the criteria listed in the foregoing paragraph.

(ii) AMCs that cater to non-professional clients with assets of between EUR 200 million and EUR 500 million, and those that cater exclusively to professional or equivalent clients with assets of between EUR 200 million and EUR 1 billion, shall determine their budgets in the following manner:

- Step 1: AMCs calculate the following budgets (in terms of man-days - hereinafter "man-days") for outsourcing second-level monitoring (excluding the assistance and advisory function):

Activities and services conducted		if the AMC deals exclusively with professional or equivalent clients	If the AMC's clients include retail clients
Collective management authorisations held by the AMC for the instruments used	The AMC's grid covers 1 instrument	18 m-d	20 m-d
	The AMC's grid covers 2 or 3 instruments	24 m-d	28 m-d
	The AMC's grid covers 4 or 5 instruments	30 m-d	36 m-d
	The AMC's grid covers more than five instruments	36 m-d	48 m-d
	The authorisation table covers derivatives and financial securities involving a derivative when they are complex	+ 1 m-d	+ 1 m-d
	The AMC is allowed to use "other" instruments/assets (e.g. granting loans, land, etc.).	+ 1 m-d	+ 1 m-d

<sup>32</sup>In the sense of being able to subscribe to or acquire units or shares of AIFs open to professional investors, e.g. with a minimum initial investment of EUR 100,000.

<sup>33</sup> The AMC may also outsource tasks other than control tasks in compliance with the rules on outsourcing. However, the time budget for these tasks is left to the discretion of each AMC.

The AMC provides discretionary portfolio management services;	+ 2 m-d	+ 3 m-d
The AMC receives and transmits orders for third parties;	+ 1 m-d	+ 1 m-d
The AMC provides investment advice or order processing services within the meaning of AMF Instruction DOC-2008-04	+ 1 m-d	+ 1 m-d
The AMC carries out ancillary activities (Section 2.B of the programme of operations)	+ 1 m-d	+ 1 m-d

- 2<sup>nd</sup> stage: based on this, the AMC adjusts these budgets according to the criteria listed in the paragraph above.

AMCs must formalise the two stages of determining the budget (in terms of man-days) allocated to outsourced second-level monitoring missions in writing.

iii) The AMC will be deemed to have the economic resources to assign a staff member (employee, corporate officer or staff made available by its group) to carry out second-level monitoring for at least half of his/her time,<sup>34</sup> once its assets under management (collective management and discretionary management) exceed EUR 1 billion for AMCs whose clientele is composed exclusively of professional or equivalent clients, and EUR 500 million if this clientele is made up of retail clients. This of course does not prevent the AMC from outsourcing certain controls when it considers it necessary.

This staff member may also have to carry out assistance and advisory functions that are not included in the calculation of these thresholds. He/she may also perform certain non-operational activities such as risk management or administrative monitoring, provided that these activities are reviewed by an external internal audit as specified in Section 3.5. He/she may also be responsible for the monitoring of other group structures.

### 3.5. Internal audit system

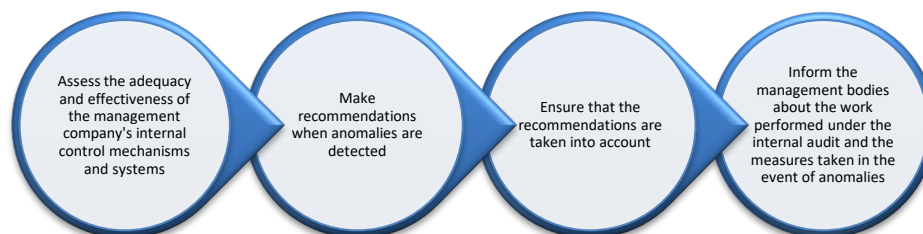
AMCs should implement and maintain a separate internal audit function that is independent from their other functions, subject to application of the principle of proportionality.<sup>35</sup> By virtue of this principle, AMCs are not required to set up an independent internal audit function if such an obligation is disproportionate to the nature, scale, complexity and diversity of their activities. This proportionality will also be assessed according to the criteria of the 2<sup>nd</sup> paragraph of the Position set out in Section 3.4.3 above.

The Chief Compliance and Internal Control Officer is responsible for the compliance, monitoring and internal audit function in cases where the company does not set up an independent internal audit function.<sup>36</sup>

<sup>34</sup>The Chief Compliance and Internal Control Officer will also have to carry out assistance and advisory functions that are not included in the calculation of these thresholds.

<sup>35</sup>See Article 24 of the European Commission's Delegated Regulation (EU) 2017/565 of 25 April 2016, Article 421-77 (II) of the AMF General Regulation, and Article 42 (3) of Delegated Regulation 231/2013

<sup>36</sup> See Articles 318-52 and 321-87 of the AMF General Regulation.



From an organisational perspective, the internal audit function should not be grouped together with the compliance and internal audit functions because the internal audit function is responsible for auditing the other two functions.

Nevertheless, if an AMC believes that setting up an independent periodic internal audit would be excessive, it must be able to prove to the AMF that establishing such a function would be disproportionate to its size and business.

In addition, the AMC should ensure that its supervisory body receives written reports on internal audit at least once a year.<sup>37</sup>

### **Recommendation**

**If the AMC does not belong to a group, the internal audit function should preferably be assigned to an external service provider. If it does belong to a group, the group's internal audit teams can perform internal audit tasks within the AMC.**

### **Position**

**When, under the proportionality principle, the Chief Compliance and Internal Control Officer is also in charge of risk management, the AMC must entrust an external service provider with the institution's periodic supervision.**

**Periodic controls may be performed annually or over several years. In the second case, these controls must ensure a complete cycle of investigations into all of the AMC's activities over a number of years that is as limited as possible and that cannot in any event exceed three years.**

**Where an AMC is not required to have an independent internal audit function, where the monitoring and internal audit functions are entrusted to a Chief Compliance and Internal Control Officer who is a corporate officer, and where monitoring is outsourced to an external service provider:- if it entrusts its internal audit to the same external service provider as the one that performs the monitoring tasks, within this service**

<sup>37</sup> See Article 321-36 of the AMF General Regulation, Article 60 of Commission Delegated Regulation (EU) No. 231/2013 of 19 December 2012 and Article 25 (2) of Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.



**provider these tasks must be entrusted to persons who are separate from those who carry out the monitoring.**

**Recommendation**

- If the AMC is in the situation described in paragraph 3.4.3 (ii) above, the AMF recommends that internal audit be carried out by another external service provider.

**Furthermore, AMCs that outsource their internal audit can have them carried out not annually but every two or three years so as to improve the quality of these controls.**

### **3.6. Outsource of control tasks**

3.6.1. Selection criteria to be taken into account when drawing up budgets and selecting the service provider

#### **Position**

**When an asset management company outsources auditing tasks to an external service provider<sup>38</sup>, the tasks entrusted to the service provider must be precisely defined in terms of the various duties of the Chief Compliance and Internal Control Officer listed in the contract with the asset management company, and the contract must therefore clearly specify the breakdown of the number of days assigned to the following:**

- i. compliance control;**
- ii. internal control;**
- iii. control of risk management systems (second-level); and**
- iv. periodic inspection.**

#### **Position**

**In any case, certain tasks (e.g. drafting and inputting the annual disclosure sheets/annual control reports, preparing internal committee meetings, updating reference data in ROSA, etc.) do not fall within the scope of the Chief Compliance and Internal Control Officer's supervisory functions and should therefore be excluded from the number of days assigned to the his/her outsourced tasks as declared in the programme of operations and in the annual disclosure sheets/annual control reports.**

**The AMF considers the control functions to be essential in an AMC. Therefore, under Articles 318-61 and 321-96 of the AMF General Regulation, AMCs must act with all due competence, care and diligence when they enter into, implement or terminate a contract for the outsourcing of all or part of an audit engagement. In particular, when it selects an audit service provider, the AMC must at least take into account and document the following criteria:**

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<sup>38</sup> This position does not apply when the outsourcing is within a group

- a) the experience of the service provider and the experience and training of the staff assigned to the outsourcing engagement, in relation to the activities carried out and the instruments used by the AMC. It should be noted, as stated in Section 2.1.3 above, that all compliance staff must have the qualifications, knowledge and expertise required to fulfil their obligations and must receive regular training to update their knowledge.
- b) the existence of a back-up system when the person performing the controls is unavailable;
- c) the external service provider's organisation, and in particular the existence of a relevant and traceable hierarchical review with an unalterable audit trail when the person carrying out the controls is a junior member of staff;
- d) the existence of a formalised methodology for identifying, updating, analysing and prioritising risk areas in order to calibrate the performance of outsourced controls;
- e) the existence of a digital system that allows the AMC to monitor the progress of the control plan at any time and to have access to all the reports submitted to its executive management and to the items analysed in order to assess the quality of the control system;
- f) the existence of regulatory intelligence in connection with the activities carried out by the AMC, which cannot be limited to references to regulatory texts when compliance monitoring is outsourced.

#### Recommendation

It is recommended to formalise all these elements in a contract.

#### Position

AMCs must also contractually commit the service provider to giving them and the AMF effective access to data relating to the controls and to its business premises.

- with regard to monitoring the quality of the service, AMCs that have outsourced their controls must monitor the quality of the service provided and, in particular:
  - have access at all times to the scope, nature and findings of the controls conducted;
  - have regular summary reports on the work performed;
  - be regularly informed of future regulatory developments that may have an impact on their activity;
  - formalise an assessment grid for the quality of the service provided based on objective criteria;
  - regularly monitor the appropriateness of the controls carried out in relation to the AMC's activities and to regulatory changes that may have an impact on them, so as to be able to ensure at all times that the resources dedicated to controls remain adequate.
- As regards the management of the end of the service, AMCs that outsource their control must include the following in the contract with their service provider:
  - a notice period for the end of the contract that is long enough to allow for the continuity of control activities;

- **the return, before the end of the contract, of all documentation relating to the controls carried out that is due but not yet submitted.**

**Lastly, the AMF underscores the responsibility of the asset management company's management to ensure that an appropriate control system is in place.**

#### **Recommendation**

**It is recommended that the findings of outsourced controls be systematically transmitted to management and that management's responsibility for the conduct and outcome of these controls be evidenced through the signing of these reports.**

### 3.6.2. Managing the control service provider's conflicts of interest

#### **Position**

**When an AMC entrusts all or part of the second or third level controls to an external service provider, it must ensure that the other tasks it entrusts to the service provider (e.g. accounting and financial audits, organisational tasks, drafting of procedures) do not place the service provider in a position of conflict of interest.**

**In particular, it must ensure that these tasks are of limited significance in terms of budget, compared to the control tasks assigned, or that these tasks are assigned to separate teams.**

#### **Recommendation**

**To preserve the independence of the employees of external service providers who carry out controls, the AMF recommends regular rotation (at most every ten years) of at least the persons in charge of such controls for the selected service provider or, better still, the service provider itself.**

### 3.6.3. The specific case of AMCs that delegate the greater part of their management activities

The rules and legislation on delegation<sup>39</sup> stipulate that the AMC must effectively monitor the delegated functions and that to this end, it must have the necessary expertise and resources at all times to supervise the delegated functions and manage associated risks. The texts also state<sup>40</sup> that if this is not the case, the AMC shall be deemed to be a letter-box entity.

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<sup>39</sup> 1 a) of Article 82 of Delegated Regulation (EU) No. 231/2013 and the last paragraph of Article 321-97 of the AMF General Regulation.

<sup>40</sup> 1 a) of Article 82, Article 75 (f) of Delegated Regulation (EU) No. 231/2013 and the last paragraph of Article 321-97 of the AMF General Regulation.

**Position**

**An AMC that delegates most of its management activities cannot also outsource its monitoring and, more specifically, its compliance control.**