

CONDITIONS OF IMPLEMENTATION OF THE ACTIVITIES OF FINANCIAL INVESTMENT ADVISER

At the date of 10th July 2018

The status of financial investment adviser (FIA), established by the law of 1st August 2003 is aimed at the reinforcement of protection of investors by better regulation of issues related to its activities. Thus, all FIAs fall under a certain number of duties, conditions and prohibitions controlled by the AMF.

Conditions of implementation of the activities of the financial investment adviser

Schematically, except the obligation to be a member of the Association of Financial Investments Advisers, every intermediate have to meet the following conditions:

- Condition of habitual residence in France;
- Condition of age and respectability;
- Condition of professional ability;
- Condition of the professional liability insurance.

A. Condition of habitual residence in France

The Statute of the FIA imposes on individuals and legal persons an obligation of habitual residence in France (art. L. 541-2 of the Monetary and Financial Code).

B. Condition of age and respectability

To carry out this activity, the financial investment adviser, whether an individual or a person having the power to manage or administer a legal person, have to fulfil the following conditions:

- **Conditions of the age:** to be an adult;
- **Conditions of the respectability according to the article L. 541-7:** not to be subject to disabilities of the article L.500-1 of the Monetary and Financial Code and/or not be subject to sanctions of AMF on the prohibition of activities on a temporary or permanent basis.

C. Condition of professional ability:

Conditions of professional ability necessary for obtaining the status of the financial investment adviser are established by the General regulation of AMF, especially by its article 325-1. In order to exercise this activity, the person has to:

- Whether dispose the national diploma leading to three years of higher legal, economic or management studies, or a diploma or a certificate of a similar degree suitable for carrying out the operations, mentioned in the article L. 541-1 of the Monetary and Financial Code;

- Or receive the professional training of a minimum duration of 150 hours, acquired from an investment services provider, an association of financial investment advisers or a training organization, adapted:
 - to implementation of operations with financial instruments (art. L. 211-1 of the Monetary and Financial Code);
 - to provision of investment services (art. L. 321-1 of the Monetary and Financial Code);
 - to the realisation of operations with various goods (art. L. 550-1 of the Monetary and Financial Code).
- Or to have a professional experience of at least 2 years. This experience should be acquired during the five years preceding his entry into office concerning the functions connected with the implementation of the operations described above. The professional experience should be acquired from an investment services provider, a financial investment advisor, an investment services agent or an insurance intermediary.

Concerning the diploma, the instruction of the AMF n°2013-07 from the 24th April 2013 stipulated that it should be registered in the national directory of professional certificates, in one of the nomenclatures of educational specialties mentioned below:

- 122 (Economy),
- 128 (Law and political sciences),
- 313 (Finances, banks, insurance agencies and real estate agencies),
- 314 (Accounting, management).

As well as the diplomas or certificates of the same level including foreign diplomas recognized by the ENIC-NARIC Center on the basis of a certificate of comparability.

In the context of the provisions relating to the obligation to update members' knowledge at the expense of professional associations, the training for professional ability of the financial investment adviser covers such topics as:

- general knowledge about consultations on financial investments;
- general knowledge on the marketing methods of financial instruments;
- rules of good conduct of the financial investment adviser;
- rules of organization of the financial investment adviser.

Moreover, the financial investment adviser, whether an individual or a person having the power to manage or administer a legal person engaged in the activity of a financial investment advisers,

falls under the conditions of professional competence and business reputation, according to the article L. 541-2 of the Monetary and Financial Code.

D) Condition of the professional liability insurance:

According to the article L. 541-3 of the Monetary and Financial Code, in order to exercise the activity, the financial investment adviser has to acquire professional liability insurance covering the financial consequences of his activity. The threshold of this guarantee differs according to whether it is a natural person or a legal person employing at least two employees who exercise this activity.

- For a natural person and a legal person with less than two employees: 150,000 euros per insurance case and 150,000 euros per year of insurance;
- For a legal person with two and more employees: 300.000 euros per insurance case and 600,000 euros per year of insurance;

These guarantees take effect on March 1st for a period of twelve months; the contract is tacitly renewed on January 1st of each year.

According to the article D.541-9, the financial investment advisers do not fall under the amounts indicated above if they realize a consulting activity concerning exclusively the services related to investment services in accordance with the article L.321-2.

From the article L. 541-2 of the Monetary and Financial Code follows that only individuals can manage a legal person that realize an activity of the financial investment adviser. So, according the article 1 of the Decisions of 1st March 2012 about a single register, only individuals can figure at the register of ORIAS.

The Recommendation of AMF N° 2006-23 in the paragraph 2.1 b) has introduced a new rule regarding the incompatibility of the category of financial investment adviser (CIF) with the category of the Agent of Investment Services Providers (Agents Liés de Prestataires de Services d'Investissements ALPSI).