

News release

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Marketing complex final instruments to the public: AMF and ACP step up their vigilance

In the current low interest-rate environment, the Autorité de contrôle prudentiel (ACP) and the Autorité des marchés financiers (AMF) have noted the development of particularly complex financial instruments that are sold to retail investors and whose risks are hard for the general public to understand.

To prevent the risk of mis-selling, the two authorities have decided to take coordinated action and remind professionals of their obligations when selling complex products, whether directly or through unit-linked life insurance products.

Instruments concerned

The instruments concerned are "structured" investment funds and complex debt securities under French or foreign law.

The ACP and the AMF have established four common criteria to determine whether the products to be marketed are likely to cause investors to underestimate the risks involved or even to misunderstand the product or policy. The criteria are:

- poor presentation of the risks or potential losses, especially when the product's performance is sensitive to extreme scenarios;
- underlyings that are hard to identify or impossible to observe individually on the markets;
- gains or losses that depend on simultaneous occurrence of several conditions across different asset classes;
- multiple mechanisms incorporated into the formula used to compute gains or losses at maturity.

ACP recommendation

The ACP is issuing a [recommendation](#) on the marketing of complex financial instruments in the form of unit-linked life insurance policies.

It recommends that insurance companies and intermediaries should:

- provide intelligible information in all documents given to policyholders so that they understand the nature of the underlying units and the associated risks;
- be able to prove to the ACP that they have taken the necessary measures for policyholders to understand that the units being marketed are a risky investment;
- gather proof, by any means appropriate to the type of clients, that investors understand the nature of the underlying instrument marketed in the unit-linked contract and its associated risks;
- supply policy holders with information that is precise, clear and not misleading on the guarantees offered under the policy in the event of early redemption, whether because of the policyholder's death or partial or total surrender.

AMF position

The [position](#) explains how the AMF interprets existing laws and regulations governing direct marketing of complex financial instruments.

It reminds distributors of their responsibilities when selecting products offered to individual customers.

It further reminds them that marketing particularly complex products may lead them to breach their professional obligations.

Moreover, the AMF requests that marketing documents for products with a high mis-selling risk should carry the following warning: ***l'AMF considère que ce produit est trop complexe pour être commercialisé auprès des investisseurs non professionnels et n'a dès lors pas examiné les documents commerciaux*** ("the AMF considers this product too complex to be marketed to retail investors and has not therefore examined the marketing documents").

The AMF and the ACP intend to jointly monitor the developments resulting from implementation of these measures.

Note: Through a joint unit set up in April 2010, the ACP and the AMF coordinate their activities with regard to supervision and monitoring of financial product marketing. One of the unit's tasks is to ensure that investors enjoy identical protection whatever the product or distribution channel.