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AMF INSPECTION GUIDE
The following English text is a translation of the French version of the Inspection Guide. Only the original French text has any legal value. The AMF expressly disclaims all liability for any inaccuracies in the translation.

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INTRODUCTION

Duties of the AMF

The Autorité des Marchés Financiers (AMF) is an independent public authority with legal personality established by Act No. 2003-706 of 1 August 2003 (Financial Security Act). It is charged with:

- protecting savings invested in financial instruments, certain assets and certain units of account offered to the public or admitted to trading on a regulated market or on a multilateral trading facility, and in any other investment offered to the public;
- providing information for investors;
- ensuring the markets for financial instruments, certain assets and certain units of account operate correctly.

The AMF is composed of a Board with sixteen members which is divided into three Specialised Commissions, as well as an independent Enforcement Committee with twelve members who are not members of the Board, and several Consultative Commissions. All these Committees rely on the departments managed by the Secretary General.

The AMF has statutory powers to carry out its duties. Among other things it can:

- adopt a General Regulation covering, inter alia, the professional practices of the issuers and service providers under its authority, as well the general organisation and operating principles of regulated markets and multilateral trading facilities, all with a view to protecting investors.
- issue approvals, authorisations, etc.
- carry out inspections and investigations,
- sign administrative settlement agreements,
- issue formal notices,
- impose sanctions subsequent to an adversarial procedure initiated by the Board.

Investigations and inspections

“In the performance of its duties, the AMF carries out inspections and investigations.”

Investigations focus on activities that may constitute either market abuse (insider dealing, price manipulation, disseminating false information) or, more generally, a breach of obligations that could undermine investor protection and disclosure or the correct operation of the market. Investigations are covered by a separate guide entitled “Investigation Guide” which is available on the AMF website.

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1 Article L. 621-1 of the Monetary and Financial Code.
2 Specifically the assets listed in Article L. 421-1 II of the Monetary and Financial Code, as stipulated by Article D.214-22-1 of the same code (certain shares or units in French or foreign UCITS).
3 Specifically, units of account linked to greenhouse gas emission quotas as per Article L. 229-7 of the Environmental Code.
4 Article L. 621-2 of the Monetary and Financial Code.
5 Article L. 621-5-1 of the Monetary and Financial Code.
6 Article L. 621-7 of the Monetary and Financial Code.
7 Articles L. 621-8 to L. 621-8-3 of the Monetary and Financial Code.
8 Articles L. 621-9 to L. 621-12 of the Monetary and Financial Code.
9 Article L. 621-14-1 of the Monetary and Financial Code.
10 Article L. 621-14 of the Monetary and Financial Code.
11 Article L. 621-15 of the Monetary and Financial Code.
12 Article L. 621-9 of the Monetary and Financial Code.
13 Article L. 621-9 of the Monetary and Financial Code.
The purpose of inspections\textsuperscript{14} is to ensure that the entities and persons referred to in Article L.621-9-II of the Monetary and Financial Code, as well as the individuals acting under their authority or on their behalf\textsuperscript{15}, are in compliance with their professional obligations as set forth in European regulations, that same Code, the AMF General Regulation and professional rules approved by the AMF. Inspections may target a specific topic or cover general cross-cutting, thematic issues.

In certain cases, the thematic issue underlying an inspection is applied to a broad population; these inspections are known as “mass inspections” and may be conducted partially in the form of off-site examinations of records and on-site inspections at the business premises.

**Purpose of this guide**

This guide sets out the procedures for carrying out inspections in accordance with the applicable legal and regulatory provisions. In addition, it describes the principles of good conduct for the inspectors and the behaviour expected of persons who are summoned during an inspection.

This guide is not intended to give an exhaustive description of all aspects of an inspection. It merely provides information on standard practice, and refers where appropriate to the applicable laws and regulations. It neither supplements nor replaces the applicable European regulations, legal and regulatory provisions or the professional rules approved by the AMF.

Compliance with the principles and conduct described in this guide, respectively, the inspectors (AMF staff or external agents) and the persons inspected or summoned during an inspection, helps to ensure that inspections proceed in a satisfactory manner in the interests of all parties concerned.

It is important to note that certain types of inspection may be governed by specific procedures (e.g. delegated inspections and mass inspections). In these cases, the person being inspected shall of course be informed of the rules that apply.

**The purpose of an inspection and how it is conducted**

The purpose of inspections is to check whether the persons being inspected are complying with their professional obligations.

An inspection involves obtaining and analysing information provided by inspected persons, as well as from individuals acting under the authority or on behalf of inspected persons and from any person able to provide relevant information. Information is gathered mainly at the business premises but also through written requests or during interviews and hearings\textsuperscript{16}. It may also be necessary to request information from foreign regulators.

The AMF may conduct inspections on behalf of other domestic authorities, including the Autorité de Contrôle Prudentiel et de Résolution (ACPR), or perform joint inspections with them\textsuperscript{17}. The AMF may also ask other domestic authorities, such as the ACPR, to exercise their own powers of inspection\textsuperscript{18}.

The AMF may also cooperate with its fellow European regulators\textsuperscript{19} (authorities of other European Union Member States or parties to the European Economic Area Agreement) and non-European counterparts\textsuperscript{20}. If it receives a

\textsuperscript{14} Article 143-1 of the AMF General Regulation.
\textsuperscript{15} Article L. 621-9 of the Monetary and Financial Code.
\textsuperscript{16} Article 143-1 of the AMF General Regulation, and Article L. 621-10 of the Monetary and Financial Code.
\textsuperscript{17} Article L 631-1 of the Monetary and Financial Code.
\textsuperscript{18} Articles L. 621-9-2 and R. 621-31 of the Monetary and Financial Code.
\textsuperscript{19} Article L 632-1 of the Monetary and Financial Code.
\textsuperscript{20} Article L. 632-7 of the Monetary and Financial Code.
cooperation request from another European authority, the AMF may either carry out the requested actions or allow the authority that made the request to perform the actions itself.\(^{21}\)

**How an inspection is followed up**

Once an inspection has been carried out, the inspectors produce a report.\(^{22}\)

Based on the findings of the inspection report and any comments received, the AMF decides what follow-up action to take. This may consist of one or more of the following measures:

- sending a follow-up letter,\(^ {23}\)
- notifying the respondents of the complaints against them and instigating sanction proceedings with the Enforcement Committee,\(^ {24}\)
- notifying the respondents of the complaints against them and proposing an administrative settlement,\(^ {25}\)
- sending the file to the Public Prosecution Service,\(^ {26}\) and in certain cases publicly announcing this fact.\(^ {27}\)
- forwarding the report to another national or foreign competent authority.

If sanction proceedings are begun, the chairman of the Enforcement Committee appoints a rapporteur from among its members. The rapporteur conducts a procedure during which the respondents and their advisers have access to the inspection dossier and can file a defence. At the end of this investigation procedure, the Enforcement Committee holds a public hearing and issues its decision. It may order a financial penalty and/or disciplinary measure if one or more regulatory breaches have been confirmed. Barring the exceptions provided for in Article L.621-15 of the Monetary and Financial Code, the decision is publicly disclosed, in an anonymised or non-anonymised version, and may be challenged in the Paris Court of Appeal or in France’s supreme administrative court, the Conseil d’Etat.

**Contents of the guide**

This guide contains:

- the principles followed by the inspectors,
- the behaviour expected of persons summoned during an inspection.

It is available to view on the AMF website.

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\(^{21}\) Article L.632-2 of the Monetary and Financial Code.

\(^{22}\) Article L.621-36 of the Monetary and Financial Code.

\(^{23}\) Article 143-6 of the AMF General Regulation.

\(^{24}\) Article L.621-15 of the Monetary and Financial Code.

\(^{25}\) Article L.621-14-1 of the Monetary and Financial Code.

\(^{26}\) Article R. 621-33 of the Monetary and Financial Code.

\(^{27}\) Articles L. 621-15 and L. 621-20-1 of the Monetary and Financial Code.

\(^{28}\) Article L. 621-15-I of the Monetary and Financial Code.
I. PRINCIPLES TO BE FOLLOWED BY THE PERSONS RESPONSIBLE FOR INSPECTIONS

1.1 Prerequisites for appointing the inspectors

Pursuant to Article R. 621-31 of the Monetary and Financial Code, the AMF may either use its own employees to exercise its inspection powers or draw from an exhaustive list of external inspectors, subject to a memorandum of understanding as provided for in Article R. 621-32 of the Monetary and Financial Code.

Pursuant to Article R. 621-33 of the Monetary and Financial Code, the person who has been proposed to carry out an inspection must meet the following prerequisites before he can be appointed by the AMF Secretary General:

- integrity requirement: “No one may be [...] appointed to carry out [...] an inspection if they have been subject to one of the convictions referred to in Article L. 500-1 of the Monetary and Financial Code”;
- no conflict of interests: “No one may be authorised or appointed to carry out an [...] inspection of a legal entity in which they have been employed on a professional basis during the previous three years”.

“Before giving a mission order to [an external inspector], the secretary general [of the AMF] shall ensure that the nominee is not likely to have a conflict of interests with the person to be inspected [...]”. To that end, where the nominee is [a statutory auditor, an accounting or legal expert, or a person or organisation competent in financial research or consultancy], the secretary general [of the AMF] shall ask him for information about all his professional relations during the three previous years with the person that will be the subject of the mission. The Secretary General [of the AMF] may not assign the inspection to this person if, during the period in question, he or she supervised or advised the persons concerned regarding the services or transactions in question”.

The AMF is required to verify in advance that there is no conflict of interest between the inspectors and the inspected person. If the inspected person believes that there is a possible conflict of interests, that person should notify the head inspector or the head inspector’s superiors.

1.2 Professional secrecy

Article L. 621-4 II of the Monetary and Financial Code states, “The members, staff and employees of the AMF [...] are bound by professional secrecy under the conditions and subject to the penalties provided for in Article L. 642-1 of the Monetary and Financial Code.”
Pursuant to Article R. 621-32 III of the Monetary and Financial Code, where the inspection is delegated, the external inspector appointed by the AMF will take measures vis-à-vis employees to ensure that all information gathered is protected by professional secrecy rules.

The inspectors may not disclose any specific information about other institutions that they may have inspected.

Professional secrecy applies to facts, acts and information that may come to the attention of inspectors when performing their duties. It also applies to the documents and information obtained in the course of their inspection, which may not be disclosed in any way unless otherwise provided by law.

In particular, under Article L. 621-4 II of the Monetary and Financial Code, “professional secrecy cannot be raised in defence against the judicial authorities acting within the scope of criminal proceedings, or in connection with judicial liquidation proceedings brought against any person referred to in II of Article L. 621-9 [of the Monetary and Financial Code]”.

Neither may professional secrecy be invoked against the national financial intelligence unit (Tracfin) when it is carrying out its duties. Professional secrecy may also be waived with regard to the other domestic authorities specified in Article L. 631-1 of the Monetary and Financial Code when they are performing their duties. Lastly, it may be waived vis-à-vis counterpart foreign authorities, as stipulated in Articles L. 632-1 to L. 632-11 and L. 632-16 of the Monetary and Financial Code.

During the phase following the transmission of the inspection report to the inspected person, the inspectors may not disclose to the inspected person or to any other person any information about the progress in the case, which is the remit of the AMF Secretary General and, where applicable, the Specialised Commissions of the AMF Board.

1.3 Professional, impartial and courteous attitude

The inspectors will conduct their investigations in a professional manner and ensure that they respect the imperatives of the inspection, the timeframe of the investigation and the constraints of the people with whom they are dealing.

When exercising their powers, especially as regards access to information and documents, the inspectors will behave impartially and courteously at all times. They will accommodate the operational and technical constraints of the inspected person insofar as these do not hinder the investigations. They shall refrain from expressing personal opinions or assessments.

Both during interviews and hearings and in the conduct of on-site investigations, inspectors make every effort to give the persons concerned enough time to acquaint themselves with the information they are given, understand its impact, answer questions relevantly and reread — and, where necessary, propose corrections to — the inspectors’ minutes before signing them.

Shortcomings identified during the inspection are reported in a factual manner.

The inspectors do not involve themselves in the internal management of inspected persons and refrain from giving advice on how to conduct their business.

[35 Articles L. 561-30 and L. 561-31-1 of the Monetary and Financial Code.]
If, during an inspection, a particular difficulty arises that cannot be resolved directly by the inspectors and the representatives of the inspected person, the next person up in the AMF chain of command may have to be called in.

In the context of the inspection, the inspectors may not accept any invitation, gift or benefit from the inspected person.

### 1.4 Due care and diligence when performing inspection work

As there is no regulatory or statutory deadline, inspections are not limited in time. They last as long as necessary to complete the investigations. The inspectors will however endeavour to exercise due care and diligence when performing their inspection work. However, various factors may extend the time required, including the complexity of the investigations, the time needed for international cooperation requests and delays by the inspected person in submitting documents or commenting on the inspection report.

The AMF’s managers pay close attention to the time taken to carry out inspection work and also strive to ensure that inspection reports are submitted and reviewed within certain time frames.

Accordingly, AMF staff seek, as far as possible, to ensure that no more than six months pass between the signing of the inspection order, and the transmission of the inspection report to the inspected person.

As regards the review of the inspection report and any comments submitted by the inspected person, and subject to the same reserves, AMF staff seek to ensure that the time between the signing of the inspection order and the finalisation of the follow-up actions (cf. below) does not exceed one year.

### 1.5 Compliance with the principles of fairness and proportionality

The inspectors are guided by the principles of fairness and proportionality.

The principle of fairness means that inspectors carry out their duties in such a way as to assemble evidence both for and against the person or persons concerned. They collect factual evidence, documents and arguments that could confirm a breach of regulations but that could also reduce its scope or rule it out. These materials are added to the investigation file or report. The inspectors are free at all times to interview any person who might help them with their inspection, but they may also take evidence from anyone who asks to be interviewed. Before the end of the inspection, they shall interview, in the form of a hearing, anyone who may be implicated in the inspection report, and allow that person to provide explanations and, where applicable, any additional evidence relating to the actions discovered by the inspection.

The principle of proportionality means that operational, technical and professional constraints affecting the inspected person will be taken into account, except where this may be detrimental to the investigation. As far as possible, the inspectors endeavour to limit the impact of their activities on the work of the inspected person and on individuals summoned during an inspection.

### 1.6 Presenting the inspectors to the inspected person

Once the AMF Secretary General has decided to conduct an inspection, he or his representative “issues an inspection order to the persons he has placed in charge”\(^{36}\).

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\(^{36}\) Article 143-3 of the AMF General Regulation.
The date on which the inspection order is signed marks the legal start date of the inspection, and the inspectors may from that date carry out any work required for the inspection.

“The inspection order indicates, inter alia, the name of the entity or body corporate to be inspected, the identity of the inspector and the purpose of the inspection […]”37.

At the start of the inspection, the AMF Secretary General or his representative issues a personal inspection order to each inspector (whether an AMF employee or an external inspector) and to any person who may be asked to provide occasional assistance with the inspection work. The inspection order, which bears the AMF’s logo, is dated and valid for the duration of the assignment. This order is presented to the inspected person at the briefing meeting that is arranged with the inspected person and, pursuant to Article R. 621-34 of the Monetary and Financial Code, at any time when requested during the inspection.

Each order is issued to a named individual, and may not be transferred, even temporarily, to any other person summoned during an inspection. The original of the inspection order must be kept by the inspector in whose name it has been issued. However, a copy may be given to any person summoned during an inspection if that person so requests.

Inspectors who are members of the AMF staff carry a professional photo identity card issued by the AMF, which they will present, along with their personal inspection order, at the request of any person summoned during an inspection.

External inspectors must be able to provide identification. When making contact with the inspected person for the first time, the external inspector is always introduced by his or her contact person within the AMF, whose name appears on the inspection order given to the external inspector. For inspections delegated to an external firm, the inspector or inspectors shall receive named inspection orders signed by the AMF Secretary General or his representative.

For inspections delegated to the ACPR, the head inspector from the ACPR presents the inspected person with two types of document. First, a letter from the AMF Secretary General to the ACPR Secretary General. This letter, which mandates the ACPR to act on behalf of the AMF, names the person to be inspected and the purpose of the inspection. It also states the name of the ACPR’s contact person within the AMF (who may, if necessary, attend the main meetings with the inspected person, especially at the start and end of the inspection). Second, the ACPR head inspector, who has been officially instructed to act in relation to the inspection, presents the inspection order issued by the ACPR Secretary General, in which the head inspector is named as being in charge of the inspection. Inspection orders are not issued for any persons assisting the ACPR head inspector.

Every inspection, whether delegated or not, will be carried out by a team whose members may change over the course of the assignment if circumstances warrant. If an inspector is replaced, the AMF Secretary General or his representative must prepare, in the same way as described above, a new personal inspection order that is identical to the original inspection order but that is dated on the day on which the new inspector joins the team.

1.7 Briefing the inspected person on the inspection framework

To enable inspected persons to organise themselves as efficiently as possible during the inspection (making material resources available, organising the work of affected staff members), it is customary, where circumstances permit, for the inspectors to organise a briefing meeting with the legal representatives of the

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37 Article 143-3 of the AMF General Regulation.
inspected person to explain the framework of the inspection. For larger entities, this briefing may be made to any other person authorised to represent the inspected person.

Since the length of an inspection depends on the scope and topic of the inspection, but also on the organisation of the inspected person and the manner in which it carries out its business, the inspectors will inform the inspected person of the estimated duration of the inspection.

1.7.1 Request to appoint a primary contact person

At the briefing meeting, the representatives of the inspected person will give the inspectors the name of the person who will act as the primary contact person during the inspection. Any person appointed to perform this role must already have or be given the power to lawfully make undertakings on behalf of the inspected person and sign any records of findings prepared in the course of the inspection.

The primary contact person is responsible for coordinating the stages of the inspection to enable the inspected person to have a clear view of how the inspection is progressing, in particular:

- the timetable of interviews conducted with staff members, including with individuals placed under the authority or acting on behalf of the inspected person;
- documents submitted to the AMF;
- how unresolved points are being followed up.

In this regard, if the inspected person is an investment services provider and unless it expressly requires otherwise, the inspectors will consider that their primary contact person is the Investment Services Compliance Officer (RCSI) or the Compliance and Internal Control Officer (RCCI) of the inspected person. However, the inspected person is free to appoint any other person to perform this role.

1.7.2 Briefing on the different stages of the inspection

At the briefing meeting, the inspectors will detail the main stages of the inspection. They will also take the opportunity to provide a copy of this Guide and explain how it applies, if necessary.

a) Investigations and interviews

Pursuant to Article L. 621-10 of the Monetary and Financial Code, inspectors may, for the purposes of their inspection, ask to receive a copy of any document whatsoever, regardless of its format.

According to Article 143-2 of the AMF General Regulation, “to ensure the proper performance of its supervisory duties, the inspectors may order any of the persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code to retain information, regardless of the storage medium. Such a measure is confirmed in writing, with details of its duration and the conditions in which it may be renewed”.

Inspectors are entitled to access all business premises. They may also gather on-site explanations.

Communication with the inspected person may take the form of on-site interviews or information requests (conducted via telephone, email or any other method).
b) **Hearings**

Inspectors may summon and take statements from any individual capable of providing information.

Hearings may be held:

- during an inspection,
- at the end of the inspection, when the findings are presented,
- with all potential respondents.

During the hearing, the answers to the inspectors’ questions are recorded, along with all the information that the interviewees wish to bring to their attention. The last word is given to the interviewee, who is asked by the inspectors, at the end of the hearing, to add any further comments if he or she so wishes.

To hold a hearing, a summons is sent by recorded delivery (or delivered by hand with a signed receipt or by bailiff’s order) at least eight calendar days before the hearing date. In general, the hearing date is set in advance jointly with the interviewee. The interviewee may opt to waive the eight-day notice.

The summons specifies that the interviewee is entitled to be assisted by an advisor of his or her choice. It states the name of the interviewee and is addressed to the registered office of the inspected person; if the interviewee no longer works for the inspected person, the summons is sent to the interviewee’s home address.

Hearings are generally held at the AMF’s offices. However, a hearing may be conducted at the premises of the inspected person or at another authority’s offices if the hearing is to be conducted abroad. Hearings may also take place at Banque de France branches located around the country. Hearings involving third parties may be held at the premises of the third party or at a location agreed on by both parties.

Minutes are kept of what takes place during the hearing, including all explanations given and documents are presented by the inspectors and/or by the interviewee. These documents are then appended to the minutes. The inspectors keep the original of the minutes, and do not give copies to the persons who have been interviewed.

The inspectors and the interviewee sign the minutes. If the interviewee refuses, this is noted in the minutes.

If inspectors gather on-site explanations, minutes must be drawn up in addition to the report of the visit. These minutes shall indicate that the interviewee has been informed of his right to be assisted by an advisor of his choosing and has expressly waived the right to the notice period usually required for a summons.

Hearings may be conducted in the presence of the person or by video or audio conference if the interviewee agrees. In this case, the summons to attend the hearing must state that the interviewee has agreed for it to be recorded.

If the hearing is conducted by video or audio conference, a written transcription shall be produced from the audiovisual or sound recording. The transcription is submitted to the interviewee for signature within one month of the hearing, accompanied by the recording.

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39 The provisions relating to hearings may not apply to mass inspections or to inspections delegated to third parties (such as the ACPR, Banque de France or IEDOM).

40 Article L. 621-10 of the Monetary and Financial Code.

41 Article L.621-35 of the Monetary and Financial Code.
Hearings conducted during an inspection

Any person whose hearing may help to advance the inspection, including representatives and employees of the inspected person and any third party, may be interviewed in a hearing at any stage of the inspection where required.

Presenting the findings concerning the inspected person\(^2\) at the end of the inspection

Every inspection involves a debriefing meeting during which the findings concerning the inspected person are presented. This meeting may take the form of a hearing or a simple interview.

This meeting is attended by representatives of the inspected person, most often accompanied by the RCSI or RCCI, and by the inspectors, their superiors, and, where applicable, the external inspector's AMF contact person.

The chief purpose of this meeting is to inform the representatives of the inspected person about the principal facts and legal evidence gathered by the inspectors following investigations and to gather the interviewees' initial comments on these findings before finalising the inspection report. These initial comments as well as any additional inspection work and the internal approval process for the inspection report within the AMF may result in changes to the findings as presented in the meeting.

The ability to submit comments at this time does not remove the right\(^3\) of the inspected person to submit further written comments following receipt of the inspection report.

When the meeting takes the form of a hearing, the minutes of the hearing are appended to the inspection report. They are not handed out at the end of the hearing. No written record is kept if the meeting takes the form of a simple interview.

Hearings of potential respondents

Any potential respondent is interviewed in a hearing.

This hearing is for employees (current or former) of the inspected person who may be potential respondents, as well as any senior manager who represented the inspected person at the time of the acts covered by the allegations, but who is not necessarily still a legal representative of the inspected person when the inspection report is sent.

The purpose of this hearing is chiefly to inform the interviewee of the principal facts and legal evidence gathered about him or her by the inspectors and to gather the interviewee's initial comments on these findings before finalising the inspection report. These initial comments, any additional inspection work and the internal approval process for the inspection report within the AMF may result in changes to the findings as presented in the hearing.

The minutes of the hearing will be appended to the summary letter (cf. below) but no copy will be issued at the end of the hearing.

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\(^2\) The provisions relating to hearings may not apply to mass inspections or to inspections delegated to third parties (such as the ACPR, Banque de France or IEDOM).

\(^3\) Article 143-5 of the AMF General Regulation.
c) **Inspection minutes and reports**

Inspectors keep reports whenever they exercise their right to access business premises, gather explanations and obtain documents and use the reports to note any facts that may be of use in the inspection. The purpose of these reports is to describe the conduct of the investigation and the related comments, draw up a list of documents collected and, as the case may be, record any explanations, comments and unprompted statements made by the persons interviewed about the visit. These persons are given a copy of the reports, and they keep the originals of all evidence collected.

The inspectors and the interviewee sign the report. If the interviewee refuses, this is noted in the report.  

**d) Use of assumed identities**

When certain entities, a list of which is given by Article L.621-9 II of the Monetary and Financial Code, provide online services, inspectors may, under Article L.621-10-1 of the Monetary and Financial Code, use an assumed identity to access information about these services that could be of interest to the inspection. The aim is to document the manner in which the service is being delivered.

When inspectors exercise this right, a report stating the way in which they consulted and used the website, the responses obtained and the findings must be prepared and sent to the concerned person or entity before the end of the inspection.

**e) Issue of the inspection report and summary letters**

**Inspection report**

Under Article R. 621-36 of the Monetary and Financial Code, “the results of [...] inspections are the subject of a written report [which] states [...] any facts likely to constitute breaches of European regulations, the [Monetary and Financial Code], the Commercial Code, the AMF General Regulation and rules approved by the AMF, or breaches of other professional obligations or a criminal offence”. “The report produced at the end of an inspection is sent to the inspected entity or corporate entity”. It is accompanied by its annexes and a table of comments.

Financial investment advisors are required to send a copy of any inspection report and any follow-up documents concerning them to their professional association.

 “[The inspected person] to whom the report is sent is invited to submit comments to the AMF Secretary General within a period that cannot be less than ten days. These comments are forwarded to the Board when it examines the report in accordance with Section I of Article L. 621-15 of the Monetary and Financial Code”. In practice, the cover letter accompanying the inspection report states the deadline for representatives of the inspected person to submit their written comments. This deadline may not be longer than one calendar month. The AMF may agree to review this deadline on receipt of a justified request. The representatives of the inspected person may also ask for additional documentation provided by them to be included in the file.

To promote transparency, a letter is also sent to each of the legal representatives, if any complaints involve them personally. This letter, which is sent at the same time as the report is sent to the inspected person, informs each representative about the potential breaches discovered by the inspection and with which they could be personally charged as the legal representatives of the inspected person. It is addressed to the persons who are

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44 Article L.621-35, Monetary and Financial Code.
45 Article L.621-35 final subparagraph of the Monetary and Financial Code.
46 Article 143-5 of the AMF General Regulation.
47 Mass inspections, which are limited to an examination of documentary evidence, do not result in a written inspection report.
48 Article 143-5 of the AMF General Regulation.
the legal representatives of the inspected person at the time when the letter is sent. The letter states the deadline for submitting written comments and explains that they may consult the inspection report. The AMF may agree to review this deadline on receipt of a justified request. The representatives of the inspected person may also ask for additional documentation provided by them to be included in the file.

In certain circumstances, the inspection report is not submitted to the inspected entity, “if the Board [of the AMF] alerted by the Secretary General, observes that a report describes facts which are capable of being characterised as criminal and deems that such transmittal could interfere with legal proceedings”\(^{49}\).

**Summary letter**

In certain cases, a summary letter is sent to any individual likely to be charged. Recipients of this letter may be individuals who are under the authority or who act on behalf of the inspected person, against whom charges may be brought under the regulations, as well as any senior manager who was representing the inspected person at the time of the facts contained in the inspection report but who is no longer the legal representative of the company when the report is sent.

The summary letter provides excerpts from the inspection report to inform the person of the factual and legal evidence that is likely to serve as the basis for action against him or her. The key evidence from the inspection report is appended to the summary letter. The inspection report itself is not appended to the summary letter.

The letter specifies that the individual has one month to submit written comments. The AMF may agree to review this deadline on receipt of a justified request. The individual may also ask for additional documentation that he or she wishes to provide to be included in the report.

f) **How an inspection is followed up**\(^{50}\)

“Having due regard for the conclusions of the inspection report and for any observations that may be submitted”\(^{51}\), the AMF determines what action needs to be taken following an inspection, which may include one or more measures.

“The [inspected person] is informed [...] of the measures it is required to put in place”\(^{52}\) to address the issues found in the inspection. This notification takes the shape of a follow-up letter sent to the legal representatives of the inspected person who are “[...] requested to forward the report and the aforementioned [follow-up] letter to [the] board of directors, or executive board and supervisory board, or the equivalent decision-making body, as well as to the statutory auditors [of the inspected person]”\(^{53}\).

If, following the review of the inspection report pursuant to I of Article L. 621-15 of the Monetary and Financial Code, “[the AMF Board] decides to initiate sanction proceedings, it shall notify the complaints to the individuals concerned and forward the statement of complaints to the Enforcement Committee, which shall appoint a rapporteur from among its members”\(^{54}\) to handle the case. During these proceedings, the respondents and their advisers have access to the inspection file and can file a defence. The Board representative may also submit written comments. The respondents and the Board representative may be heard, at their request, by the rapporteur or if the rapporteur deems this useful, as provided for by Article R. 621-39 of the Monetary and Financial Code. On the basis of this procedure and an adversarial hearing, the Enforcement Committee hands down its decision and may issue a fine and/or disciplinary sanction if one or more breaches have been confirmed. Barring the exceptions provided for in Article L.621-15 of the Monetary and Financial Code, the decision is

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\(^{49}\) Article 143-5 of the AMF General Regulation.

\(^{50}\) These provisions do not apply to the first phase of mass inspections (examination of documentary evidence).

\(^{51}\) Article143-6 of the AMF General Regulation.

\(^{52}\) Article143-6 of the AMF General Regulation.

\(^{53}\) Article143-6 of the AMF General Regulation.
publicly announced, in an anonymised or non-anonymised version, and may be challenged in France’s supreme administrative court, the Conseil d’Etat or in the Paris Court of Appeal.

Under Article L. 621-14-1 of the Monetary and Financial Code, “where the [...] inspection report drawn up by the departments of the AMF indicates breaches [...] of the professional obligations referred to in Article L. 621-17, the AMF Board may, when it notifies the complaints [...], send [to the affected persons] a proposal for the opening of an administrative settlement procedure”54.

Furthermore, “if one of the complaints notified [...] is likely to constitute an offence referred to in Articles L. 465-1 and L. 465-2 of the Monetary and Financial Code55, the [AMF] Board shall immediately forward the [...] inspection report to the Public Prosecutor for the Regional Court of Paris”56. “The Board may decide to make [this] decision public”57.

In general, Article L. 621-20-1 of the Monetary and Financial Code specifies that “if, in the performance of its duties, the AMF has knowledge of a crime or an offence, it must inform the Public Prosecutor without delay”.

Finally, the inspection report may be sent to another competent domestic authority, such as Tracfin or the ACPR, or to a foreign authority (cf. below).

1.7.3 Presenting the progress of the inspection

The inspectors provide regular updates on the progress of the inspection, when they deem it necessary or at the request of the inspected person. If the inspectors anticipate a significant difference between the likely length of the inspection and the initial estimate, they will inform the inspected person accordingly.

Once the inspection is completed, the inspectors inform the inspected person of the approximate date when the inspection report will be released.

1.7.4 Return of documentation

At the end of an inspection by AMF staff, any documents gathered on-site that are not required to understand or present the inspection report may, where applicable, be returned to the inspected person.

If an inspection is delegated to external inspectors, all documents collected for the purposes and within the framework of the inspection are returned to the AMF. Certain documents may be returned to the inspected person.

Any electronic storage devices collected during the inspection are returned to the inspected person, who is told which elements have been retained and used for the file.

The return of electronic storage devices and emails is confirmed in a letter sent by recorded delivery to the legal representative of the inspected person.

54 Using this approach, the AMF Board may, even though it has issued a statement of complaint, avoid taking the matter to the Enforcement Committee and instead offer the respondents the opportunity to enter into an administrative settlement. Settlement results in an agreement with the respondent, under the terms of which the respondent agrees to pay a sum of money to the Treasury, which may not be greater than the fine established by Article L. 621-15 II of the Monetary and Financial Code.

55 Once finalised, the agreement is submitted to the AMF Board for validation and then to the Enforcement Committee for approval.

56 These breaches include insider dealing, price manipulation and dissemination of false information.

57 Article L. 621-15 of the Monetary and Financial Code.
1.7.5 Information for individuals who were interviewed on the grounds of possible personal charges

If a person who was called to attend a hearing on the grounds of possible charges against him or her on a personal basis, is not ultimately charged by the AMF Board, a letter will be sent to notify him or her of this fact. The letter will be sent immediately after the follow-up letter sent to the inspected entity, and in any event no later than when the Enforcement Committee announces its decision, if the inspection resulted in a statement of complaint.

1.8 Exchanging information with other authorities or national administrations

1.8.1 Exchanging information with the judicial authorities

Article L. 621-20-1 of the Monetary and Financial Code states: “If, in the performance of its duties, the Autorité des Marchés Financiers has knowledge of a crime or an offence, it is required to inform the Public Prosecutor thereof without delay and to send him all the relevant information, statements of offence and other documents”.

This same article states that “the Public Prosecutor may obtain from the Autorité des Marchés Financiers all the information it holds in connection with the performance of its duties. Information may not be withheld from him on grounds of professional secrecy”58.

1.8.2 Exchanging information with other national administrations

The AMF may cooperate and exchange information with other authorities, including Banque de France, IEDOM (the central bank for French overseas departments), IEOM (the central bank for issuing currency to overseas departments), ACPR, the Haut Conseil du Commissariat aux Comptes and the administrative authorities for competition and consumer affairs59. Information may also be exchanged with the Commission de Régulation de l’Énergie60.

In addition, the AMF may ask the tax authorities to supply information and documents relevant to its work61. Reciprocally, the AMF is required to provide the tax authorities, at their request and without refusing to do so on grounds of professional secrecy, “any document or information obtained in the course of carrying out its duties”62 unless these documents or this information come from a foreign authority tasked with similar responsibilities to those of the AMF, where said authority has not given explicit permission for the exchange63.

Likewise, the AMF and the national financial intelligence unit Tracfin may exchange any information relevant to their respective missions. However, if the AMF discovers “facts potentially linked to money laundering or terrorist financing or any sum or transaction referred to in Article L. 561-15”64, it must inform Tracfin “promptly”.

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58 Subject to consent from the foreign counterparts of the AMF if the information was obtained through them.
59 Article L. 631-1 of the Monetary and Financial Code.
60 Article L. 621-21 of the Monetary and Financial Code.
61 Article L. 135 F of the Book of Fiscal Procedure: “For the purposes of its duties, the Autorité des Marchés Financiers may obtain information and documents pursuant to the first subparagraph of point 1 of Article L. 621-9 to Article L.621-9-1, and to the first subparagraph of Article L.621-9-3 and to Article L. 621-10 of the Monetary and Financial Code”.
62 Article L. 84 E of the Book of Fiscal Procedure.
63 Article L.632-7 of the Monetary and Financial Code.
1.9 Exchanging information with foreign counterparts and European supervisory and resolution authorities

As part of its inspections, the AMF may exchange information with its counterparts, irrespective of whether they are from countries that are members of the Union European or parties to the European Economic Area Agreement\textsuperscript{65}.

The AMF may also, for the purposes of its inspections, exchange information with the European supervisory and resolution authorities, in particular the European Securities and Markets Authority (ESMA)\textsuperscript{66}.

\textsuperscript{65} Articles L. 632-1 and following of the Monetary and Financial Code; Article L. 632-7 and following of the Monetary and Financial Code.

\textsuperscript{66} Articles L. 632-6-1 of the Monetary and Financial Code; Article 24 of Regulation 596/2014/EU of 16 April 2014 on market abuse, which requires the competent authorities, without delay, to provide ESMA with all information necessary to carry out its duties, in accordance with Article 35 of Regulation (EU) No 1095/2010 establishing the ESMA.
II. BEHAVIOUR EXPECTED OF PERSONS SUMMONED DURING AN INSPECTION

To ensure that the inspection proceeds smoothly, the inspected person, its employees and any individuals acting under its responsibility or on its behalf, and specifically the person who will be the primary contact person during the inspection, as well as any third party summoned during an inspection (together referred to as “persons summoned during an inspection”), are expected to behave as follows:

2.1 Cooperate with the inspectors

Article 143-3 of the AMF General Regulation states that “persons subject to inspection shall cooperate diligently and honestly”.

In order to respect this principle, the inspected person shall supply the inspectors with the details of any employee, anyone related to the inspected person (e.g. members of the Board of Directors, Supervisory Committee, Management Board or Audit Committee) or of any third party (e.g. statutory auditors, depositaries, external consultants, clients of the inspected person, external service providers or former employees) who the inspectors believe it would be necessary or useful to meet or contact to help their investigations.

2.2 Offer guidance for inspectors in the conduct of their work

The person who acts as the primary contact person during the inspection is expected to:

- based on the questions asked, direct the inspectors to the appropriate people, for example by organising meetings with them;
- collect the information and documents requested by the inspectors from the relevant departments, especially if needed to clarify any anomalies that are discovered;
- issue reminders where necessary to ensure that questions are answered promptly.

If the inspected person wishes, the primary contact person for the inspection may attend all interviews between the inspectors and employees of the inspected person or individuals acting under its responsibility or on its behalf. However, that contact person may not answer the inspectors’ questions on behalf of the interviewee.

2.3 Involvement of the legal representatives of the inspected person

To allow the legal representatives of the inspected person to take stock of the findings of the inspections and determine what measures they will have to introduce as a result, the AMF encourages the good practice of having at least one legal representative of the inspected person attend the debriefing meeting during which the findings are presented.

2.4 Ensure the inspectors have unhindered access to business premises

Under Article 143-1 of the AMF General Regulation, “the AMF carries out off-site examinations of records and on-site inspections [...] at the business premises of [inspected persons].”

To this end, inspected persons must facilitate effective access to all their business premises.
2.5 Supply documents, files and explanations within a reasonable time period

Pursuant to Article L. 621-10 of the Monetary and Financial Code, “[...] inspectors may, for the purposes [...] of their inspection, ask to receive a copy of any document whatsoever, regardless of its format” (e.g. hard or soft copies of documents). Inspectors may exercise this right to information against any person they believe able to provide information or documents that relate to the inspection. If they think it relevant, the inspectors may ask to be given a copy of the requested document.

The inspectors’ requests for information should be fulfilled within a reasonable period that accommodates the constraints of the inspected person but without slowing down the inspection unnecessarily, to ensure that the inspection does not last too long. All documents and files requested must be sent in a format that is easy to process, which will be determined with the inspectors.

2.6 Preservation of information

“To ensure the proper performance of its supervisory duties inspections, the inspectors may order any of the persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code to retain information, regardless of the storage medium. Such a measure is confirmed in writing, with details of its duration and the conditions in which it may be renewed”67.

If the inspectors decide to apply this provision to, for example, the recordings of phone conversations as per Article 313-51 of the AMF General Regulation, they must send the inspected person a written request in which the AMF may order these recordings to be retained beyond the minimum time period provided for in Article 313-52 of the AMF General Regulation.

2.7 Not obstruct the investigation

“Where the proper performance of an AMF inspection has been hindered, this fact is mentioned in the inspection report or in a special report setting out these difficulties”68.

Any one who obstructs the inspectors’ investigations may incur an administrative and/or criminal penalty.

The “Enforcement Committee may, after an adversarial procedure order a sanction against whoever, in the context of [...] an investigation carried out pursuant to paragraph I of Article L. 621-9, in response to a request from [...] inspectors and subject to the preservation of a legally-protected secret that may be withheld from the Autorité des Marchés Financiers, refuses to provide access to a document, regardless of its medium, and to provide a copy thereof, refuses to provide information or answer a summons, or refuses to give access to business premises”69.

In addition, Article L. 642-2 of the Monetary and Financial Code stipulates that "whoever obstructs an inspection [...] of the AMF carried out as determined in Articles L. 621-9 to L. 621-9-2 of the Monetary and Financial Code, or who provides it with inaccurate information, shall incur a penalty of two years’ imprisonment and a fine of €300,000”.

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67 Article 143-2 of the AMF General Regulation.
68 Article 143-4 of the AMF General Regulation.
69 Article L. 621-15 f) of the Monetary and Financial Code.
2.8 Act professionally, impartially and courteously

Persons summoned for an inspection are expected to adopt a professional, impartial and courteous attitude in their dealings with the inspectors, as are the inspectors themselves.

2.9 Not use professional secrecy in defence against the inspectors

"Within the scope of the inspections [...], professional secrecy may not be raised in defence against the Autorité des Marchés Financiers [...], except by officers of the law. [...]"\(^{70}\).

Officers of the law means any professional whose primary and habitual occupation is to administer justice, in particular lawyers, court bailiffs and agents acting for the court (court-appointed administrators and agents).

Act no. 71-1130 of 31 December 1971 introducing reforms to certain judiciary and court-related occupations extends the scope of the lawyer’s professional secrecy to include correspondence between a lawyer and his client\(^{71}\).

Statutory auditors are specifically released from their duty of professional secrecy when dealing with the AMF\(^{72}\).

2.10 Right to access and rectify files held by the AMF in connection with inspections

To exercise its power to carry out inspections, the AMF has compiled databases of personal information. These databases have been authorised by France’s Data Privacy Commission and may be accessed by certain authorised AMF employees who receive the processed data. In accordance with Act 78-17 of 6 January 1978 on personal data protection, any person concerned by an inspection and whose personal data are processed in such files has a right to access and rectify them by contacting the AMF.

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In case of any problem, persons summoned during an inspection can contact the secretary of the AMF’s Inspections Directorate (tel: +33 (0)1 53 45 64 07), who will pass on the request to the relevant person in the AMF hierarchy. The AMF Inspections Directorate is part of the Inspection and Investigations Directorate, which in turn reports to the Managing Director for Investigations and Inspections and the AMF’s Secretary General.

References:


2016 Annual Report Chapter 5: Market supervision, inspections and investigations and Chapter 6: transactions, sanctions and recourse:


\(^{70}\) Article L. 621-9-3 of the Monetary and Financial Code.

\(^{71}\) Article 66-5 of Act no. 71-1130 of 31 December 1971.

\(^{72}\) Article L. 621-9-3 subparagraph 2 of the Monetary and Financial Code.
The following English text is a translation of the French version of the Inspection Guide. Only the original French text has any legal value. The AMF expressly disclaims all liability for any inaccuracies in the translation.

GLOSSARY

Hearing: A hearing is a formal interview of any person whose evidence is deemed relevant to the inspection.

Debriefing hearing on inspection findings: The purpose of this hearing is to present the findings and conclusions of the inspection to the inspected person and to obtain the inspected person’s initial reactions. If the debriefing hearing takes place as part of a hearing, minutes will be produced of the proceedings. A debriefing hearing is not systematically held in order to present the findings of the inspection.

Hearing of potential respondents: The purpose if this hearing is to present to an individual who does not otherwise have access to the inspection report, the main findings of fact and of law on the grounds of which he or she may be personally charged. At this stage, the AMF Board has not made its decision and so the person is not classed as a “respondent”.

Interview: An inspection may entail interviews. The interview format is recommended especially for the inspected person to present its track record, organisational structure, processes and so on, since the particular nature of inspections lies in the need to obtain an accurate understanding of how the inspected person is organised or the specific nature of the topics covered. No formal invitation is sent for meetings.

Follow-up letter: In a follow-up letter, the AMF informs the inspected person of the measures that it needs to take to address the issues observed. A follow-up letter does not constitute in and of itself any charges against the inspected person who is the recipient of the letter.

Summary letter: In a summary letter, the AMF informs an individual who does not otherwise have access to the inspection report of the acts for which he or she may be personally charged, by sending excerpts from the inspection report concerning that person. The recipient of this letter may be an employee (current or former) of the inspected person who does not have access to the inspection report, or any other person, including a senior manager who represented the inspected person at the time of the acts covered by the allegations, but who is not necessarily still the legal representative of the inspected person when the inspection report is sent. This person must have previously given evidence in a hearing. At this stage, the AMF Board has not made its decision and so the person is not classed as a “respondent”.

Statement of complaint: In a statement of complaint, the AMF Chairman informs the inspected person of the breaches of the professional rules for which charges have been brought under Article 621-15 II of the Monetary and Financial Code. From this point on, an inspected person or individual who has been served a statement of complaint is classed as a “respondent”.

Inspection order: When the AMF decides to launch an inspection, an inspection order, signed by either the AMF Secretary General or his representative, is produced and issued to the persons designated to carry out the inspection. No contact may be made with the inspected person until the inspection order has been signed. The inspectors must present the original of the order along with their professional identity cards on their first visit to the inspected person.

Inspection report: The results of the inspection results are written up in a report. The report states any facts that may constitute a breach of European regulations, the Monetary and Financial Code, the Commercial Code, the AMF General Regulation or other rules approved by the AMF, a breach of any other professional requirements or a criminal offence. It summarises the findings of the inspection, once the investigation phase is completed. It is sent to the inspected person, but only after the main findings have been presented to it verbally.
APPENDICES

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APPENDIX 1

MAIN INSPECTION-RELATED ARTICLES CONTAINED IN THE MONETARY AND FINANCIAL CODE AND AMF GENERAL REGULATION

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APPENDIX 2

EXTRACTS FROM THE LEGISLATIVE SECTION OF THE MONETARY AND FINANCIAL CODE APPLICABLE ON 17 OCTOBER 2017, NOTWITHSTANDING SUBSEQUENT AMENDMENTS

Article L. 561-28

I.- The unit referred to in Article L.561-23 shall exchange with the supervisory authorities, professional bodies and national representative bodies referred to in Article L.561-36 any information required to perform their respective duties pursuant to this chapter.

II. If, in the accomplishment of their duties, the supervisory authorities and professional bodies uncover facts likely to be linked to money laundering or terrorist financing or any sum or transaction referred to in Article L.561-15, they report them promptly to the unit referred to in Article L. 561-23.

The said unit acknowledges receipt of such information to the reporting authority or body and may, if so requested, keep it informed of any follow-up action.

III.- Notwithstanding the provisions of II, if, in the accomplishment of their duties, the Conseil de l'Ordre des Avocats learns of facts likely to be linked to money laundering or to terrorist financing, the president of the Conseil informs the Public Prosecutor for the Court of Appeal, who then promptly forwards the information to the unit referred to in Article L.561-23. The president of the Conseil de l'Ordre des Avocats of the Conseil d'Etat and of the Court of Cassation reports any facts of the same kind learned by the Ordre to the Public Prosecutor for the Court of Cassation, who promptly forwards the information to the unit.

Article L. 561-31

In addition to the provisions of Article L. 561-30-1 and Article 40 of the Code of Criminal Procedure, the unit is authorised to send information in its possession to the judicial authorities and the criminal investigation service, provided that such information relates to their missions.

It may also send to specialist information units information about facts pertaining to the purposes listed in Article L. 811-3 of the National Security Code.

It may also sent to the tax authorities, which may use it for the purposes of its missions, information about facts likely to represent evidence of the offence described in Article 1741 of the General Tax Code or the laundering of the proceeds of that office.

For the accomplishment of their respective missions, the unit may also send information to:

1° Financial jurisdictions, through their public prosecutor;
2° the Haute Autorité pour la transparence de la vie publique [National authority for transparency in public office];
3° the Autorité de contrôle prudentiel et de résolution [Prudential supervisory authority];
4° the Autorité des Marchés Financiers;
5° specialist anti-corruption units;
6° the customs administration;
7° State departments charged with preparing and implementing an assert freeze or a ban on the movement or transfer of funds, financial instruments and financial resources;
8° State departments charged with public policy for protecting and promoting the national economic, industrial and scientific interests;
9° State departments charged with competition policy, consumer affairs and fraud control;
10° Police departments charged with controlling and supervising gambling and gaming;
11° the organisations listed Article L. 114-12 of the Social Security Code.
Article L. 561-31-1

Information sent pursuant to Articles L. 561-28 and L. 561-31, with the exception of the information described in the first subparagraph of Article L. 561-31, is confidential. The recipients of this information are not permitted to disclose its existence or contents or to transmit it to any other authority without prior permission from the unit referred to in Article L. 561-23.

Article L. 621-1

The Autorité des Marchés Financiers, an independent public authority, oversees the protection of savings invested in the financial instruments, the units referred to in Article L. 229-7 of the Environmental Code and the assets referred to in paragraph II of Article L. 421-1 of this code that give rise to an offer to the public or to admission to trading on a regulated market, and in any other investment offered to the public. It also provides information for investors and ensures the proper operation of the financial instrument markets, the units mentioned in Article L. 229-7 of the Environmental Code and the assets referred to in paragraph II of Article L. 421-1 of this code. It lends its support to the regulation of said markets at a European and an international level. In carrying out its duties, the Autorité des Marchés Financiers takes account of the objectives of financial stability throughout the European Union and the European Economic Area and the convergent implementation of the national and European Union provisions, while also embracing the best practices and recommendations deriving from the European Union's provisions relating to supervision. It cooperates with the competent authorities of the other States. It also ensures that the undertakings subject to its supervision implement suitable measures to comply with the approved codes of conduct referred to in Article L. 611-3-1.

Article L. 621-2

I. - The Autorité des Marchés Financiers consists of a Board, an Enforcement Committee and, when required, specialised commissions and consultative commissions.

Except as otherwise herein provided, the responsibilities entrusted to the Autorité des Marchés Financiers are exercised by the Board.

II. - The Board has sixteen members:

1° a chairman, appointed by a decree from the President of the Republic;
2° a councillor of the Conseil d’État designated by the vice-president of that body;
3° a justice of the Court of Cassation designated by the chief justice of that court;
4° a senior member of the court of auditors (Cours des comptes) designated by the auditor general;
5° an under-governor of the Banque de France designated by the governor;
6° the chairman of the accounting standards authority (Autorité des normes comptables);
7° three members with legal and financial expertise and experience in securities issuance, financial-instrument admission to trading on a regulated market and financial-instrument investments, designated by the presidents of the Senate, the National Assembly and the Economic, Social and Environmental Council respectively;
8° six persons with legal and financial expertise and experience in securities issuance, financial-instrument admission to trading on a regulated market and financial-instrument investments, designated by the finance minister after consultation with organisations representing securities-issuing industrial and commercial companies and industrial and commercial companies whose securities are admitted to trading on a regulated market, fund management companies and other investors, investment services providers, market undertakings, clearing houses, operators of clearing and settlement systems, and central securities depositaries;
9° an employee shareholders representative designated by the finance minister after consultation with representative labour unions and employee associations.

The members referred to in points 2, 3, 4 and 7 shall comprise an equal number of men and women. If the nominations for appointment make it impossible to comply with this rule or if no nominations are made within the time period established by decree, the authorities that have nominated a person of the over-represented gender will be allocated at random, in a manner established by decree, to appoint or designate a man or a woman.
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The number of men and women members appointed as per sections 8 and 9 may not differ by more than one. The chairman of the Autorité des Marchés Financiers is empowered to act on behalf of the AMF before any court. The position of chairman of the Autorité des Marchés Financiers is a full-time role. The chairman's term of office is five years with effect from his or her appointment. It is not renewable. The term of office of the other Board members, except for those referred to in points 5 and 6, is five years. They may be reappointed once, subject to the requirements of subparagraphs eleven and twelve of this paragraph II. After expiry of the five-year period, the members remain in office until the first meeting of the renewed Board takes place.

If the seat of a Board member, other than the chairman, becomes vacant for whatever reason, it is filled for the unexpired portion of the former member's term of office, subject to the parity requirements of subparagraphs eleven and twelve. A term of office of less than two years is not taken into account for application of the renewal rule laid down in the previous paragraph.

Following consultation with the Board, the chairman of the Autorité des Marchés Financiers appoints a member to act as his replacement if he is incapacitated or if his post is vacant.

II. - As determined in a decree issued following consultation with the Conseil d'Etat, the Board may delegate authority to make decisions of individual scope to specialised commissions composed of its members and chaired by the AMF chairman.

The Board may also set up consultative commissions of experts to assist it in preparing decisions.

IV. - The Autorité des Marchés Financiers has an Enforcement Committee responsible for imposing the sanctions referred to in Articles L. 621-15 and L. 621-17.

The Enforcement Committee has twelve members:
1° two councillors of the Conseil d'Etat designated by the vice-president of that body;
2° two justices of the Court of Cassation designated by the chief justice of that court;
3° six persons with legal and financial expertise and experience in securities issuance, financial-instrument admission to trading on a regulated market and financial-instrument investments, designated by the finance minister after consultation with organisations representing securities-issuing industrial and commercial companies and industrial and commercial companies whose securities are admitted to trading on a regulated market, fund management companies and other investors, investment services providers, market undertakings, clearing houses, operators of clearing and settlement systems, and central securities depositaries;
4° two representatives of the employees of the investment service providers, fund management companies, market undertakings, clearing houses, operators of clearing and settlement systems and central securities depositaries, designated by the finance minister after consultation with the representative labour unions.

The members referred to in points 1, 2, 3 and 4 shall comprise an equal number of men and women. The chairman is elected by the members of the Committee from among the persons referred to in 1 and 2.

The Committee may establish divisions of six members each, chaired by one of the persons referred to in 1 and 2. The functions of members of the Enforcement Committee are incompatible with those of Board members. Enforcement Committee members serve a five-year term of office. This term may be renewed once, subject to the requirements of subparagraph seven. After expiry of the five-year period, the members remain in office until the first meeting of the renewed Committee takes place.

If the seat of an Enforcement Committee member becomes vacant for whatever reason, it is filled for the unexpired portion of the former member's term of office, subject to the parity requirements of subparagraph seven.

Pursuant to terms set forth in a decree issued following consultation with the Conseil d'Etat, one-half of the Enforcement Committee, with the exception of the chairman, is renewed every thirty months.

V. - The employees appointed as members of the Autorité des Marchés Financiers are given sufficient time to ensure that they can prepare for, travel to and participate in the meetings. Such time is treated as effective working time for the calculation of social-security benefit entitlement. The employees concerned must inform their employer of their appointment, and of each meeting, as soon as they receive the notice to attend.
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Article L. 621-4

I. (Repealed)
II. The staff and employees of the Autorité des Marchés Financiers and the experts appointed to the consultative commissions referred to in III of Article L. 621-2 are bound by professional secrecy under the conditions and subject to the penalties provided for in Article L. 642-1.

This secrecy cannot be raised in defence against the judicial authorities acting within the scope of criminal proceedings or in connection with court-ordered liquidation proceedings instituted against an entity referred to in paragraph II of Article L. 621-9.

III. The provisions of Chapter VIII of Part II of Book I of the Commercial Code are applicable to members of the Autorité des Marchés Financiers. No person who has been sanctioned under the provisions of this code during the preceding five years may be a member of the Autorité des Marchés Financiers.

Article L. 621-5-1

A Secretary General is charged with the operation and coordination of the departments under the authority of the Chairman.

The staff of the Autorité des Marchés Financiers is composed of public-law contract employees and private-law employees. As determined in a decree issued following consultation with the Conseil d’Etat, public-sector employees may be seconded to the Autorité des Marchés Financiers in a position provided for in the rules which govern them.

The provisions of Articles L. 2111-1, L. 2141-4, L. 2311-1 and L. 2312-1 to L. 2312-5, L. 2321-1, L. 2322-1 to L. 2322-4, L.4523-11 and L. 4523-12, L. 4523-14 to L. 4523-17 and L. 4524-1 of the Labour Code apply to staff of the Autorité des Marchés Financiers. These provisions may nevertheless be subject to amendment resulting from a decree issued following consultation with the Conseil d’Etat.

The Board of the Autorité des Marchés Financiers establishes the general remuneration framework for staff of the Autorité des Marchés Financiers. The Secretary General reports to the Board on the management of the departments in the manner determined by the latter.

Article L. 621-7

The General Regulation of the Autorité des Marchés Financiers determines, inter alia:

I.- The rules of professional practice applicable to issuers who issue securities or who make an offering that does not give rise to the publication of the information document referred to in the first paragraph of I of Article L. 412-1 and that is carried out through the intermediary of an investment services provider or a crowdfunding adviser via a website or whose financial instruments or units referred to in Article L. 229-7 of the Environmental Code are admitted to trading on a regulated market as well as the rules which must be complied with in transactions relating to the financial instruments and units referred to in II of Article L. 421-1 which are admitted to trading on a regulated market or on a multilateral trading facility.

II.- The rules regarding takeover bids relating to securities admitted to trading on a regulated market.

III.- The conduct of business rules and the other professional obligations that must be complied with at all times by the persons referred to in II of Article L. 621-9.

IV.- For investment service providers, market undertakings, members of the regulated markets and clearing houses and their members:

1. The conditions under which investment service providers render the services described in Article L. 321-2;

2. The conditions of membership and professional practice referred to in Article L. 440-2 which apply to the members of the clearing houses;

3. The conditions under which a professional licence may be issued to or withdrawn from natural persons placed under the authority, or acting on behalf of, investment service providers, market undertakings, members of the regulated markets, and clearing houses;

4. The rules applicable to the persons referred to in Article L. 532-18-1;

5. The conditions under which, pursuant to Article L. 440-1, the Autorité des Marchés Financiers approves clearing houses' rules, without prejudice to the powers conferred on the Banque de France by Article L. 141-4.
6. The conditions under which the members of a regulated market may conduct transactions on units referred to in Article L. 229-7 of the Environmental Code or assets referred to in II of Article L. 421-1 of this code, for own account and for a third party.

V.-Concerning management activities carried out for third parties and collective investments:
1. Approval and conduct of business conditions for portfolio management companies;
2. Approval and conduct of business conditions for companies that manage collective investments mentioned in I of Article L. 214-1;
3. Approval conditions for collective investments mentioned in I of Article L. 214-1;

VI.-Concerning the custody and administration of financial instruments, the central securities depositaries and the settlement systems for financial instruments:
1. The conditions under which legal persons which issue securities or admit financial instruments to trading on a regulated market and likewise the intermediaries authorised to do so as provided for in Article L. 542-1 may provide custody or administration of financial instruments,;
2. The conditions under which, pursuant to Article L. 441-1, the Autorité des Marchés Financiers approves the rules of central depositaries and settlement systems and the delivery of the financial instruments which they manage, without prejudice to the powers conferred on the Banque de France by Article L. 141-4.
3. The conditions under which a professional licence may be issued to or revoked from individuals acting under the authority or on behalf of central depositaries.

VII.-Concerning regulated markets within the meaning of Article L. 421-1, market undertakings and multilateral trading facilities:
1. The general organisational and operational principles the regulated markets must comply with, and the rules relating to the execution of transactions on financial instruments, the units referred to in Article L. 229-7 of the Environmental Code and units referred to in Article L. 421-1 of this code admitted to those markets;
2. The conditions under which the Autorité des Marchés Financiers, pursuant to Articles L. 421-4, L. 421-5 and L. 421-10, proposes the recognition, review or withdrawal of regulated market status within the meaning of Article L. 421-1;
3. The general organisational and operational principles of multilateral trading facilities;
4. The general organisational and operational principles of the market undertakings as provided for in III of Article L. 421-11;
5. The conditions under which the Autorité des Marchés Financiers authorises a market undertaking to run a multilateral trading facility, pursuant to the provisions of the second paragraph of Article L. 424-1;
6. The rules relating to the reporting to the Autorité des Marchés Financiers and the public on orders, transactions and positions on the financial instruments, the units referred to in Article L. 229-7 of the Environmental Code and units referred to in II of Article L. 421-1 of this code admitted to trading on a regulated market.

VIII.-Concerning persons, other than those referred to in 1 and 7 of II of Article L. 621-9, who produce and circulate financial analyses:
1. The conditions under which the persons referred to in Article L. 544-1 conduct their business;
2. The conduct of business rules applicable to natural persons placed under the authority, or acting on behalf, of persons who produce and circulate financial analyses in the normal course of their business, and the provisions intended to ensure the independence of their opinions and the prevention of conflicts of interest.


X.-The implementing rules for the publication and reporting requirements stipulated in this code to ensure transparency of the financial markets which call for filing or dissemination in the press and electronically, or free provision of leaflets, in connection with the issuance of securities or the admission of financial instruments to trading on a regulated market.
Article L 621-9

I. In the performance of its duties, the Autorité des Marchés Financiers carries out inspections and investigations. It ensures all transactions in financial instruments offered to the public, in the units referred to in Article L. 229-7 of the Environmental Code and in the assets referred to in II of Article L. 421-1 of this code admitted to trading on a regulated market or a multilateral trading facility are carried out correctly. It ensures that the public offerings of the corporate units referred to in the fourth subparagraph of Article L. 512-1 of this code and public offerings of the mutual certificates referred to in the first subparagraph of II of Article L. 322-26-8 of the Insurance Code are carried out correctly. It monitors the conformity of offerings that do not give rise to the publication of the information document referred to in the first paragraph of I of Article L. 412-1 and that are carried out through the intermediary of an investment services provider or a crowdfunding adviser via its website as well as the minibon issues referred to in Article L. 223-6. It likewise monitors the conformity of transactions conducted in commercial contracts relating to goods and linked to one or more financial instruments or units referred to in Article L. 229-7 of the Environmental Code. The markets in instruments created to represent banking transactions which, pursuant to Article L. 214-20 of this code, cannot be held by UCITS, are not subject to the supervision of the Autorité des Marchés Financiers. Financial instruments and units referred to in Article L. 229-7 of the Environmental Code traded on a multilateral trading facility, admitted to trading on such a market, or for which an application for admission to trading on such a market has been submitted are subject to the supervision of the Autorité des Marchés Financiers.

II. The Autorité des Marchés Financiers also monitors compliance with the professional obligations that the following legal and natural persons placed under their authority or acting on their behalf must assume by virtue of laws and regulations:

1. Authorised investment service providers or those conducting their business in France under freedom of establishment as well as legal persons placed under their authority or acting on their behalf;

2. Persons authorised to provide custody or administration of the financial instruments referred to in Article L. 542-1;

3. Central depositaries;

4. Members of the regulated markets who are not investment service providers;

5. Market undertakings;

6. Clearing houses for financial instruments;

7. Collective investments mentioned in I of Article L. 214-1 and the management companies mentioned in Article L. 543-1;

7 bis. Management companies established in another country which is a Member State of the European Union or a party to the European Economic Area Agreement having a branch or supplying services in France, which manage one or more UCITS established under French law and authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009;

7 ter. Management companies established in another country which is a Member State of the European Union or managers established in a third country having a branch or supplying services in France, which manage one or more AIFs within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011;

8. Miscellaneous property intermediaries mentioned in Article L. 550-1;

9. The persons authorised to act in the capacity of direct marketers referred to in Articles L. 341-3 and L. 341-4;

10. Financial investment advisors;

10 bis. Crowdfunding advisors;

11. Persons, other than those referred to in 1 and 7, who produce and disseminate financial analyses;

12. Depositaries of collective investments mentioned in I of Article L. 214-1;


14. The legal persons administering the group occupational pension entities referred to in I of Article 8 of Order No. 2006-344 of 23 March 2006 or the collective retirement savings plans referred to in Articles L. 3334-1 to L.3334-9 and L. 3334-11 to L. 3334-16 of the Labour Code;

15. The tied agents referred to in Article L. 545-1;

16. (Repealed)

17. The authorised professional associations mentioned in Articles L. 541-4 and L. 547-4.
The Autorité des Marchés Financiers ensures that these entities and persons, and any natural persons placed under their authority or acting on their behalf, comply with the provisions of the applicable European regulations. For persons or entities other than those providing the services referred to in 4 of Article L. 321-1 or the persons or entities referred to in 7, 7bis, 8, 10 and 11 of II above, in respect of whom the Autorité des Marchés Financiers has sole competence, supervision is exercised without prejudice to the competence of the Autorité de Contrôle Prudentiel et de Résolution and, for those referred to in 3 and 6, without prejudice to the powers conferred on the Banque de France by Article L. 141-4.

The Autorité des Marchés Financiers shall also be responsible for ensuring compliance with the laws and regulations applicable to investment services providers referred to in Article L. 532-18-1, as provided for in Articles L. 532-18-2, L. 532-19 and L. 532-21-1.

**Article L. 621-9-1**

When the Secretary General of the Autorité des Marchés Financiers, or the Managing Director specifically appointed to that end, decides to carry out investigations, he empowers the investigators under the terms laid down in the General Regulation. The persons selected for such assignments must meet ethical standards set forth in a decree issued following consultation with the Conseil d’Etat.

**Article L. 621-9-2**

As determined in a decree issued following consultation with the Conseil d’Etat, the Autorité des Marchés Financiers may:

1. Delegate to market undertakings and, where applicable, clearing houses, supervision of the business and transactions carried out by members of a regulated market and by investment service providers who have transmitted orders on that market. Such delegation is the subject of a memorandum of understanding. It may be withdrawn at any time;
2. Have recourse, for its inspections and investigations, to external inspection sources, auditors, experts included on a list of legal experts, or competent persons or authorities. Such persons may receive remuneration from the Autorité des Marchés Financiers in respect thereof;
3. Delegate to the associations referred to in Articles L. 541-4 and L. 547-4 supervision of their members’ activities. Such delegation is the subject of a memorandum of understanding and may be withdrawn at any time.

The Board or the Secretary General of the Autorité des Marchés Financiers may request the auditors of companies whose securities are admitted to trading on a regulated market or on a multilateral trading facility, or for which an application for admission to trading on such markets has been submitted or an expert has been included on a list of legal experts to carry out any additional analysis or verification which they deem necessary for persons or entities whose securities are admitted to trading on a regulated market or on a multilateral trading facility, or for which an application for admission to trading on such markets has been submitted, and also for the persons referred to in II of Article L. 621-9. The costs and fees are borne by the Autorité des Marchés Financiers. The provisions of this paragraph also apply to auditors who carry out assignments in the context of securities issuance.

**Article L. 621-9-3**

Within the scope of the inspections and investigations referred to in Articles L. 621-9 and L. 621-9-1, information may not be withheld on grounds of professional secrecy from the Autorité des Marchés Financiers or, where applicable, the market undertakings or clearing houses, supervisory bodies, persons or authorities referred to in Article L. 621-9-2, when they are assisting the Autorité des Marchés Financiers, except by officers of the law. For the purposes of this subsection, auditors are released from professional secrecy in regard to the Autorité des Marchés Financiers.
Article L. 621-10

Investigators and inspectors may, for the purposes of the investigation or inspection, require the submittal of any documents on whatever medium. Investigators may also be see data kept and processed by telecommunications operators pursuant to Article L. 34-1 of the Post and Electronic Communications Code (Code des Postes et des Communications Electroniques) and the service providers referred to in subparagraphs 1 and 2 of I of Article 6 of Act No. 2004-575 of 21 June 2004 on confidence in the digital economy, and may obtain copies of that data. Investigators and inspectors may summon and take statements from any person capable of providing information. They may gain access to business premises. They may gather explanations on the spot under conditions set forth in a decree issued following consultation with the Conseil d'Etat.

Article L. 621-10-1

Where the persons and entities mentioned in II of Article L. 621-9 provide their services on the internet, investigators and inspectors may use an assumed identity to access the available information and elements on these services, without incurring criminal liability for this. A decree issued following consultation with the Conseil d'Etat shall specify the conditions under which investigators and inspectors shall proceed with their investigations in such cases.

Article L. 621-11

Any individual summoned or interviewed shall have the right to be assisted by the adviser of his choice. The terms governing the notice to attend or the on-the-spot gathering of explanations, and the circumstances in which said right shall be exercised are determined in a decree issued following consultation with the Conseil d'Etat.

Article L. 621-12

For the purpose of investigating the violations referred to in Articles L. 465-1 to L. 465-3-3, and acts that may qualify as property crime and be sanctioned by the Enforcement Committee of the Autorité des Marchés Financiers pursuant to Article L. 621-15, the liberty and custody judge of the Regional Court in whose jurisdiction the premises to be searched are located may, at the request of the AMF's secretary general giving grounds for the search, give an order authorising the AMF's investigators to enter any premises, seize documents and gather explanations from persons interviewed on the premises, under the conditions and according to the procedures mentioned in Articles L. 621-10 and L. 621-11.

If the premises to be searched are located within the jurisdiction of several courts and action must be taken simultaneously in each of them, a single order may be issued by one of the competent liberty and custody judges. The judge must verify that the request for authorisation is justified; the request must be accompanied by all information known to the AMF that can justify the search. He shall designate the law enforcement officer who must be in attendance when such measures are enforced and who must keep him informed of their progress. If measures take place outside the jurisdiction of his Regional Court, the liberty and custody judge to which the case is referred may travel to premises no matter where they are located nationally.

The order mentioned in the first paragraph shall make reference to the right of the occupant of the premises or his representative to be assisted by the adviser of his choice. The exercise of such right shall not give rise to suspension of the search and seizure operations. The means of, and time limit for, appeal shall be indicated in the order.

The order shall be notified verbally and on the spot, at the time of the search, to the occupant of the premises or his representative, who shall receive an exact copy thereof in return for a receipt or an acknowledgement of receipt appended to the minutes provided for in the eleventh and twelfth paragraphs of this article. In the absence of the occupant of the premises or his representative, the order shall be notified, after the search, by registered letter with confirmation of receipt. Such notification shall be deemed given on the date of receipt indicated on the advice of delivery. If it cannot be thus notified, the order shall be delivered by a process server. A
copy of the order shall be sent to the alleged perpetrator of the offences indicated in the first paragraph by registered letter with confirmation of receipt.

The order referred to in the first paragraph shall be immediately enforceable upon presentation of the minutes. Said order may be appealed before the presiding judge of the court of appeal or his representative in the jurisdiction within which the judge has authorised the measure. The parties shall not be required to appoint legal counsel. Under the rules laid down by the Code of Civil Procedure, the appeal must be lodged within fifteen days in a declaration handed in or sent to the court registry by registered mail or, with effect from 1 January 2009, by electronic means. Said time limit shall run from the date of handing in, the date of delivery or the date of service of the order. The appeal shall not have suspensive effect. The registry of the Regional Court shall send the case file, without delay, to the registry of the court of appeal, where the parties may consult it. The order of the presiding judge of the court of appeal may be subject to an appeal on points of law under the rules laid down by the Code of Civil Procedure. The time limit for an appeal on points of law is fifteen days.

The search shall take place under the authority and control of the judge who authorised it. He may visit the premises during the mission. At any time he may decide to suspend or halt the search.

A search may not commence before six o'clock in the morning or after nine o'clock in the evening; in publicly-accessible premises, a search may commence during the establishment’s opening hours. The search is conducted in the presence of the occupant of the premises or a representative; should this prove impossible, the law enforcement officer shall enlist the services of two witnesses who are not under his authority or that of the AMF. Only the AMF’s investigators, the occupant of the premises or his representative and the law enforcement officer may consult the documents before they are seized.

The law enforcement officer shall ensure compliance with professional secrecy and protection of the defendant’s rights pursuant to the provisions of the third paragraph of Article 56 of the Code of Criminal Procedure. Article 58 of said code shall apply.

Where the search is carried out in the office or home of an advocate, the premises of a press or audiovisual communications undertaking, a doctor’s surgery, or the practice of a notary or a bailiff, the provisions of Articles 56-1, 56-2 or 56-3 of the Code of Criminal Procedure, as applicable, shall apply.

The minutes recording the search operation shall be drawn up on the spot by the Autorité des Marchés Financiers’ investigators. An inventory of the exhibits and documents seized shall be appended thereto. The minutes and the inventory shall be signed by the AMF’s investigators and the law enforcement officer, as well as the parties referred to in the sixth paragraph of this article; any refusal to sign shall be recorded in the minutes. If there are difficulties when producing the on-site inventory, the seized documents and evidence shall be placed under seal. The occupant of the premises or his representative shall be informed that he may be present at the opening of the seals, which shall take place in the presence of the law enforcement officer; the inventory shall then be drawn up.

The presiding judge of the court of appeal in the jurisdiction within which the judge has authorised the measure shall hear appeals against the conduct of the search or seizure operations authorised pursuant to the first paragraph. The minutes and inventory drawn up upon completion of said operations shall indicate the means of, and time limit for, appeal. The parties shall not be required to appoint legal counsel. Under the rules laid down by the Code of Civil Procedure, the appeal must be lodged within fifteen days via a declaration handed in or sent to the court registry by registered mail or, with effect from 1 January 2009, by electronic means. Said time limit shall run from the date of handing in or delivery of the minutes or the inventory. Said appeal shall not have suspensive effect. The order of the presiding judge of the court of appeal may be subject to an appeal on points of law under the rules laid down by the Code of Civil Procedure. The time limit for an appeal on points of law is fifteen days.

As soon as they are drawn up, the originals of the minutes of the search and the inventory shall be sent to the judge who issued the order; a copy of said documents shall be sent to the occupant of the premises or to said occupant’s representative or, in their absence, shall be sent by registered letter with confirmation of receipt to the occupant of the premises and, where relevant, to the individual indicated in the authorisation given in the order referred to in the first paragraph of this article who may have committed an offence or an act also mentioned in the first paragraph. If it cannot be thus notified, the order shall be delivered by a process server. Said documents shall indicate the means of, and time limit for, appeal.

Exhibits and documents which are no longer needed for discovery of the truth shall be returned to the occupant of the premises.
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Article L. 621-12-1

The Autorité des Marchés Financiers may send to the court before which an action for damages has been brought and which so requests the minutes and investigation or inspection reports that it holds and that may be useful to resolving the dispute.

Article L. 621-13

The presiding judge of the regional court may, on a reasoned request from the chairman or secretary general of the Autorité des Marchés Financiers, declare the sequestration of the funds, securities, certificates or rights belonging to the persons the AMF is pursuing, and any asset held by an AIF, regardless of who holds them. He rules via an order made in response to an ex parte application, it being incumbent on any interested party to refer the matter to him. He may, in the same way, pronounce the temporary prohibition of the professional activity.

The presiding judge of the regional court may, on a reasoned request from the chairman or secretary general of the Autorité des Marchés Financiers, order, on a summary basis, that a respondent be required to make a payment into court.

He determines the amount of the sum to be paid into court, the time limit for retention thereof and its allocation. If the respondent is placed under formal investigation, the investigating judge hearing the case orders the sum paid into court to be totally or partially released, retained or raised via a decision rendered pursuant to 11 of Article 138 of the Code of Criminal Procedure.

Article L. 621-13-1

I. The Autorité des Marchés Financiers may appoint an interim administrator to a person referred to in Article L. 543-1. All powers to administer, manage and represent the legal entity are transferred to the interim administrator, who disposes of the movable and immovable property of the entity for the purposes of sound administration.

This appointment is made either at the request of the senior managers if they consider they are no longer able to carry out their duties normally, or at the initiative of the Autorité des Marchés Financiers if the controlled entity can no longer be managed under normal conditions or if one or more of its senior managers have been banned from carrying out their functions pursuant to III(b) of Article L. 621-15.

The remuneration of the interim administrator is decided by the Autorité des Marchés Financiers. It is paid, together with the costs incurred by the interim administrator, by the person to which the administrator is appointed.

II. The Autorité des Marchés Financiers shall decide whether to appoint an interim administrator after an adversarial procedure. Where warranted by special emergency circumstances, the Autorité des Marchés Financiers may order such appointment temporarily without an adversarial procedure. In this case, an adversarial procedure is immediately undertaken in order to lift, adapt or confirm this emergency measure.

III. The decisions made by the Autorité des Marchés Financiers relating to an entity controlled in accordance with I of this article may be notified to the undertaking that has exclusive control over such person within the meaning of Article L. 233-16 of the Commercial Code.

IV. A Conseil d'Etat decree establishes the terms of application of this section.

Article L. 621-13-2

The Autorité des Marchés Financiers may require redemptions of units or shares or issuance of new units or shares of a collective investment undertaking to be suspended temporarily when warranted by exceptional circumstances or in the interest of unitholders, shareholders or the public.

The AMF may also require the gating or suspension of redemptions of units or shares by a collective investment undertaking to be ended, or the use of such gates or suspensions to be temporarily limited in the interest of unitholders, shareholders or the public.
Article L. 621-13-3

The Autorité des Marchés Financiers may require redemptions of units or shares or issuance of new units or shares of an AIF to be suspended temporarily when warranted by exceptional circumstances or in the interest of unitholders, shareholders or the public.

The AMF may also require the gating or suspension of redemptions of units or shares in an AIF to be ended, or the use of such gates or suspensions to be temporarily limited in the interest of unitholders, shareholders or the public.

Article L. 621-14

I. If the regulatory breaches referred to in II of Article L. 621-15, the Board of the Autorité des Marchés Financiers may make public the identity of the individual or natural person in question, and the nature of the breach. 

II. The Board may, after giving the person concerned an opportunity to present his explanations, order the cessation, in France and abroad, of all breaches of obligations imposed by European regulations, the laws or regulations or by professional rules intended to protect investors from insider dealing, price manipulation, unlawful disclosure of inside information referred to in c and d of II of Article L. 621-15, and any other breach likely to undermine investor protection or the orderly operation of the market or any other breach relating to money laundering and the financing of terrorism as described in Chapters I and II, Title VI, Book V of this code. These decisions shall be made public in the conditions and manner described in V of Article L. 621-15.

The Board also exercises powers identical to those referred to in the first subparagraph of this II to deal with any failure to fulfil the obligations resulting from European regulations, laws or regulations intended to protect investors and the market from insider dealing, price manipulation and the unlawful disclosure of inside information referred to in c and d of II of Article L. 621-15, committed on French soil in connection with the financial instruments or assets referred to in Article L. 229-7 of the Environmental Code or the assets referred to in II of Article L. 421-1 of this code admitted to trading on a regulated market of another country which is a Member State of the European Union or a party to the European Economic Area Agreement or in respect of which an application for admission to trading on such a market has been submitted.

III. The chairman of the Autorité des Marchés Financiers may ask the court to order the person responsible for the practice detected to comply with European regulations or the laws or regulations and end the irregularity or eliminate its effects.

The request is brought before the presiding judge of the Paris regional court ruling on a summary basis, whose decision is immediately enforceable. He may, even without consultation, take any protective measure and impose a coercive fine payable to the Trésor Public for execution of his order.

If criminal proceedings are brought, the coercive fine, if one has been imposed, is not applied until a final decision is made on the merits of the public prosecution.

Article L. 621-14-1

Where the investigation or inspection report drawn up by the units of the Autorité des Marchés Financiers indicates breaches committed by an entity referred to in subparagraph 9 of II of Article L. 621-9, and II of Article L. 621-15, with the exception of the breaches referred to in subparagraph f of II of Article L. 621-15 and the professional obligations referred to in Article L. 621-17, the AMF’s Board may, when it notifies the complaints as provided for in the first sentence of the second subparagraph of paragraph I of Article L. 621-15, also send it a proposal for the opening of an administrative settlement procedure.

This proposal suspends the time period stipulated in the second paragraph of I of Article L. 621-15.

Any person to whom an offer of settlement has been made undertakes to pay a sum to the Treasury not exceeding the total fines applicable under III of Article L.621-15, in an agreement with the AMF Secretary General.

The agreement is submitted to the Board for validation, upon which it goes to the Enforcement Committee for approval. The approved agreement is then made public.

If no agreement is approved or if there is a breach of this agreement, the statement of objections is sent to the Enforcement Committee, which applies Article L. 621-15.
Such decisions taken by the Board and the Enforcement Committee may be appealed as provided for in Article L. 621-30.

A decree issued by the Conseil d’Etat stipulates this article’s implementing provisions.

**Article L. 621-15**

I. The Board reviews the report of the AMF staff on the investigation or inspection, or the request submitted by the chairman of the Autorité de Contrôle Prudentiel et de Résolution (ACPR).

Subject to Article L. 465-3-6, if it decides to open sanction proceedings, it shall inform the persons concerned of the complaints made against them. The statement of complaints is sent to the Enforcement Committee, which appoints a rapporteur from among its members. The Enforcement Committee may not hear a case based on facts that occurred more than three years previously if no action contributing to the uncovering, declaration or punishment of those facts has taken place during that period.

A member of the Board shall be invited to the hearing. He shall attend without voting rights. He may be assisted or represented by the departments of the Autorité des Marchés Financiers. He may present his comments in support of the complaints and suggest a sanction.

The Enforcement Committee may hear any AMF employee.

In urgent cases, the Board may suspend the activities of the persons referred to in a and b of II against whom sanction proceedings are initiated.

If the Board sends the report referred to in the first paragraph to the Public Prosecutor, it may decide to make that fact public.

II. Following an adversarial procedure, the Enforcement Committee may impose sanctions on the following persons:

a) Persons referred to in 1 to 8 and 11 to 17 of II of Article L. 621-9 for any breach of professional obligations established by European regulations, laws, regulations or rules of professional conduct approved by the AMF, without prejudice to the provisions of Articles L. 612-39 and L. 612-40;

b) individuals under the authority or acting on behalf of one of the persons referred to in 1 to 8 and 11 to 17 of II of Article L. 621-9 for any breach of professional obligations established by European regulations, laws, regulations or rules of professional conduct approved by the AMF, without prejudice to the provisions of Articles L. 612-39 and L. 612-40;

c) Any person who, in France or abroad, has engaged in or attempted to engage in insider dealing or has engaged in price manipulation, the dissemination of false information or any other violation referred to in the first paragraph of I of Article L. 621-14, when such acts relate to:

- a financial instrument or an asset referred to in II of Article L. 421-1 admitted to trading on a regulated market or on a multilateral trading facility which is subject to the laws and regulations intended to protect investors from insider dealing, price manipulation and the dissemination of false information, or for which an application for admission to trading on such markets has been submitted, as provided for in the General Regulation of the Autorité des Marchés Financiers;

- a financial instrument linked to one or more instruments indicated in the previous paragraph;

- a commercial contract relating to goods and linked to one or more financial instruments mentioned above, as provided for in the General Regulation of the Autorité des Marchés Financiers;

- a financial instrument traded on a multilateral trading facility, admitted to trading on such a market, or for which an application for admission to trading on such a market has been submitted;

- an index as defined in Article L. 465-2-1;

d) Any person who, in France, has engaged in or attempted to engage in insider dealing or has engaged in price manipulation, the dissemination of false information or any other violation referred to in the last paragraph of I of Article L. 621-14, when such acts relate to:

- a financial instrument or an asset referred to in II of Article L. 421-1 admitted to trading on a regulated market of another Member State of the European Union or a party to the European Economic Area Agreement or for which an application for admission to trading on such a market has been submitted;

- a financial instrument linked to one or more instruments indicated in the previous paragraph;

- a commercial contract relating to goods and linked to one or more financial instruments mentioned above, as provided for in the General Regulation of the Autorité des Marchés Financiers;
- a financial instrument traded on a multilateral trading facility, admitted to trading on such a market, or for which an application for admission to trading on such a market has been submitted;
- an index as defined in Article L. 465-2-1;
- a public offering of securities as defined in Article L. 411-1;
- or an offering of financial securities as defined in Article L. 411-2 proposed by the intermediary of an investment services provider or a crowdfunding advisor via a website with the characteristics defined by the General Regulation of the Autorité des Marchés Financiers;
- or an offer of minibonds referred to in Article L. 223-6;
- any person who, in the context of an investigation or inspection carried out pursuant to paragraph I of Article L. 621-9, in response to a request from investigators or inspectors and subject to the preservation of a legally-protected secret that may be withheld from the Autorité des Marchés Financiers, refuses to provide access to a document, regardless of its medium, and to provide a copy thereof, refuses to provide information or answer a summons, or refuses to give access to business premises;
- any other person in respect of breaches of obligations arising from European regulations and coming within the jurisdiction of the Autorité des Marchés Financiers;

III. The applicable sanctions are:

a) For the persons referred to in 1 to 8, 11, 12 and 15 to 17 of II of Article L. 621-9, a warning, reprimand, or temporary or permanent ban on providing some or all of the services previously provided and removal from the register referred to in Article L. 546-1; in lieu of, or in addition to, these sanctions, a fine of up to €100 million or ten times any profit made, if known; the money is paid into the guarantee fund to which the sanctioned person is affiliated or, failing that, to the Trésor Public;

b) For individuals acting under the authority or on behalf of a person referred to in 1 to 8, 11, 12 and 15 to 17 of II of Article L. 621-9, exercising an executive function in the sense of Article L. 533-25 within one of those persons, a warning, reprimand, temporary suspension or withdrawal of their professional licence, a temporary or permanent ban on conducting some or all of their management activities within the person referred to in 1 to 8, 11, 12 and 15 to 17 of II of Article L. 621-9. In lieu of, or in addition to, these sanctions, the Enforcement Committee may also impose a fine of up to €15 million or ten times any profit made, if known, in the case of the practices referred to in II of this article. The money is paid into the guarantee fund to which the person on whose authority or behalf the sanctioned person is acting is affiliated; failing that, the money is paid to the Trésor Public;

c) For persons other than those referred to in II of Article L. 621-9 who perpetrate acts referred to in c to h of this article, fines of up to €100 million or ten times any profit made, if known; the fine shall be paid to the Trésor Public.

The fines that are ordered in application of III may be increased by up to 10% of their value; the additional amount shall be paid by the sanctioned person and used to fund victim support.

The guarantee fund referred to in a and b may, in conditions set by its internal rules and up to the limit of €300,000 per year, allocate part of the proceeds from fines ordered by the Enforcement Committee and received by it towards funding educational activities in the financial sphere.

III bis.

The amount of the fine referred to in a and c of III may be increased to up to 15% of the total annual turnover of the sanctions person following a breach of the obligations:

5. defined by European regulations and by this code or by the General Regulation of the Autorité des Marchés Financiers, committed by the management companies and depositaries referred to in 7, 7bis and 12 of II of Article L. 621-9 relating to the collective investments referred to in 1 of I of Article L. 214-1;
6. referred to in Article L. 233-7 and in II of Article L. 233-8 of the Commercial Code and Article L. 451-1-2 of this code.

The total annual turnover referred to in the first subparagraph of III bis shall be assessed on the basis of the most recent annual financial statements ratified by the general meeting. If the legal entity is an undertaking or a subsidiary of an undertaking required to produce consolidated financial statements pursuant to Article L. 233-16 of the Commercial Code, the total annual turnover to be used is the total annual turnover as stated in the most recent consolidated annual financial statements ratified by the general meeting.

III ter. The following elements in particular are taken into account when applying the sanctions described in III and III bis:
- the severity and duration of the regulatory breach;
- the capacity and degree of implication of the person in question;
- the situation and financial resources of the person in question, in particular his or her assets and, if an individual, his or her annual income, or if a legal entity, its total turnover;
- the extent of either the profit or benefits obtained, or of the costs or losses avoided by the person in question, insofar as they can be calculated;
- the losses suffered by third parties as a result of the regulatory breach, insofar as they can be calculated;
- the degree of cooperation shown by the person in question with the Autorité des Marchés Financiers, without prejudice to the need to ensure any benefits procured by that person are returned;
- any prior regulatory breaches committed by the person in question;
- any specific circumstances of the person in question, in particular any steps taken by that person to rectify the faults caused by the breach attributable to that person, and if applicable to remedy the losses suffered by third parties and to avoid any repeat occurrence of the breach.

III quater. Under the terms laid down in a decree issued following consultation with the Conseil d’État, the disqualification of a member of the Enforcement Committee is decided at the request of the respondent if there is good reason to question the impartiality of that member.

IV. The Enforcement Committee rules on the basis of a reasoned decision, issued in the absence of the rapporteur. No sanction may be imposed unless the respondent or his representative has been heard or, failing that, duly summoned.

IV bis. Enforcement Committee hearings are held in public.
However, acting at its own initiative or at the request of the respondent, the Chairman of the Committee (or the division) may conduct all or part of the proceedings in camera for the sake of public order, national security or if a public hearing would compromise business secrecy or any other legally-protected secret.

V. The Enforcement Committee publishes its decision in any publication, journal or media it chooses, in a format commensurate with the breach committed and the sanction imposed. The cost thereof is borne by the persons sanctioned.

The Enforcement Committee may decide to delay the publication of a decision or to publish an anonymised version or not to publish it, in any of the following circumstances:
- When publication of the decision is likely to severely and disproportionately prejudice the person in question, especially in the case of a sanction imposed on an individual and the publication contains personal details;
- When the publication is likely to severely undermine the stability of the financial system, or the success of an ongoing investigation or inspection.

Decisions pertaining to a breach, by any person, of the obligations referred to in Article L. 233-7 and in II of Article L. 233-8 of the Commercial Code and in Article L. 451-1-2 of this code are systematically published.

If a sanction decision by the Enforcement Committee is appealed, the Autorité des Marchés Financiers shall immediately published the information on its website as well as all subsequent information about the outcome of the appeal. All decisions that override a prior decision imposing a sanction or a measure are published.
Any decision published on the website of the Autorité des Marchés Financiers remains available for at least five years from the date of publication. The personal details must be deleted from decisions published on the website of the Autorité des Marchés Financiers after five years. 

VI. Persons sanctioned by a permanent ban on providing some or all of the services previously provided and or by withdrawal of their professional licence may, at their request, be relieved from this sanction after at least ten years, in the conditions and manner determined by a decree issued following consultation with the Conseil d'État.

Article L. 621-17

Any breach by the financial investment advisors referred to in Article L. 541-1 or by the crowdfunding advisors referred to in Article L. 547-1 of the laws, regulations and professional obligations applicable to them is punishable with a sanction ordered by the Enforcement Committee in the manner referred to in I, a and b of III and III bis to V of Article L. 621-15.

Article L. 621-20-1

If, in the performance of its duties, the Autorité des Marchés Financiers learns of a crime or an offence, it is required to inform the Public Prosecutor thereof without delay and to send him all the relevant information, statements of offence and other documents. 

Without prejudice to the provisions of the third paragraph of Article L. 632-16, the Public Prosecutor may obtain from the Autorité des Marchés Financiers all the information it holds in connection with the performance of its duties. Information may not be withheld from him on grounds of professional secrecy.

Article L. 621-21

I. The Autorité des Marchés Financiers and the Commission de Régulation de l'Énergie cooperate with each other. They send each other information which is relevant to the accomplishment of their respective duties. 

The Autorité des Marchés Financiers may seek the opinion of the Commission de Régulation de l'Énergie on any matter within the scope of its competence.

II. Where a matter is referred to it by the Commission de Régulation de l'Énergie pursuant to Article 39-1 of Act No. 2000-108 of 10 February 2000 relating to the modernisation and development of the public electricity service, the Autorité des Marchés Financiers shall keep the Commission de Régulation de l'Énergie informed of the investigation's progress. The Commission de Régulation de l'Énergie may ask the Autorité des Marchés Financiers to forward to it all the information relating to the case which may be relevant to the performance of its duties.

III. As an exception to the provisions of Article L. 631-1, the Autorité des Marchés Financiers may send the Commission de Régulation de l'Énergie information that is covered by professional secrecy.

The information gathered pursuant to paragraphs I and II is covered by the professional secrecy in force under the conditions applicable to the institution which provided it and the recipient institution.

Said information may be used by the authorities referred to in paragraphs I and II only in the performance of their duties, unless the institution which provided it agrees otherwise.

Article L. 631-1

I. The Banque de France, IEDOM, IEOM, Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers shall cooperate between themselves. They send each other information which is relevant to the accomplishment of their respective duties.

The Autorité de Contrôle Prudentiel et de Résolution, the Autorité des Marchés Financiers and the Haut Conseil du Commissariat aux Comptes may also send each other information which is relevant to the accomplishment of their respective missions.

II. The authorities referred to in I, the deposit guarantee and resolution fund instituted by Article L. 312-4, the guarantee fund instituted by Article L. 423-1 of the Insurance Code, the compulsory indemnity insurance guarantee fund instituted by Article L. 421-1 of that same code, the joint guarantee fund instituted by Article L.
931-35 of the Social Security Code, the guarantee fund instituted by Article L. 431-1 of the Mutual Insurance Code, market undertakings and clearing houses are authorised to send each other information which is relevant to the accomplishment of their respective duties.

The Autorité de Contrôle Prudentiel et de Résolution, the Autorité des Marchés Financiers and the administrative authority with responsibility for competition and consumer affairs may also send each other information which is relevant to the performance of their respective duties in the area of marketing practices.

The Banque de France, the Autorité de Contrôle Prudentiel et de Résolution and the administrative authority with responsibility for competition and consumer affairs may send each other information which is relevant to the performance of their respective duties with regard to ensuring compliance with Regulation (EU) No. 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euros and amending Regulation (EC) No. 924/2009.

The administrative authority with responsibility for competition and consumer affairs determines, in agreement with the Banque de France and the Autorité de contrôle prudentiel et de résolution, the conditions in which they may help each other, within the limit of their respective fields of competence, with the expert investigations necessary to verify compliance with Regulation (EU) No 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions. These three authorities shall provide each other with all relevant information for monitoring these provisions.

III. The information received pursuant to I and II is covered by the relevant professional secrecy under the conditions applicable to the institution providing it and the institution receiving it.

Such information may be used, by the authorities referred to in I, only for the accomplishment of their duties and, by the other entities referred to in II, only for the purposes for which it was communicated to them, unless the institution which provided it agrees otherwise.

The authorities referred to in I may exchange information protected by professional secrecy only with the consent of the authority or person which/who provided such information.

**Article L. 632-1**

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural or legal persons, the Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers cooperate with the authorities of the other Member States of the European Union or the other States party to the European Economic Area Agreement performing equivalent functions, as provided for in this chapter. Inter alia, they exchange with those authorities the information needed to accomplish their respective duties. When warranted by an urgent situation likely to threaten the stability of the financial system of another Member State of the European Union or another State party to the European Economic Agreement, they are also allowed to exchange any necessary information with the ministries of those States responsible for the financial sector, pursuant to the rules laid down by this article, Article L. 631-1 and Articles L. 632-2 to L. 632-4.

The cooperation provided for in the first paragraph may not be refused on the grounds that the acts to which the inspection or investigation relates do not contravene a legal or regulatory provision in force in France.

A decree issued following consultation with the Conseil d’État stipulates this article’s implementing provisions.

**Article L. 632-2**

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural or legal persons, the foreign counterparts of another Member State of the European Union or another State party to the European Economic Area Agreement may require the cooperation of the Autorité de Contrôle Prudentiel et de Résolution or the Autorité des Marchés Financiers in connection with a monitoring action, an on-the-spot inspection or an investigation.

In the same context, when the Autorité de Contrôle Prudentiel et de Résolution or the Autorité des Marchés Financiers receives a request concerning an on-the-spot inspection or an investigation, it responds by carrying it out itself, by allowing the requesting authority to carry it out directly, or by allowing auditors or experts to carry it out.
When it does not carry out the on-the-spot inspection or the investigation itself, the authority which made the request may be in attendance, if it so wishes.

**Article L. 632-3**

The Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers may use the information covered by professional secrecy which they receive only in the accomplishment of their duties. A decree issued following consultation with the Conseil d’Etat stipulates this article’s implementing provisions.

**Article L. 632-4**

Notwithstanding the provisions of this chapter, the Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers may transmit to the European System of Central Banks or to the European Central Bank, acting in their capacity as monetary authorities, information covered by professional secrecy intended for the accomplishment of their duties.

Notwithstanding the provisions of this chapter, the Banque de France, the Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers may transmit information covered by professional secrecy intended for the accomplishment of their duties to other public authorities responsible for the supervision of payment systems and systems for the settlement and delivery of financial instruments.

**Article L. 632-5**

When the Autorité de Contrôle Prudentiel et de Résolution or the Autorité des Marchés Financiers is invited to cooperate in an investigation, an on-the-spot inspection or a monitoring action pursuant to Article L.632-2, or in an exchange of information pursuant to Article L.632-1, it may only refuse to comply with such a request when the nature thereof is likely to undermine French sovereignty, security or public order, or if criminal proceedings have already been instituted in France on the basis of the same facts and against the same persons, or if those persons have already been sanctioned for the same facts by a final decision.

In the event of refusal, it informs the competent authority thereof.

**Article L. 632-6**

I. When the Autorité de Contrôle Prudentiel et de Résolution or the Autorité des Marchés Financiers has reasonable grounds for suspecting that acts which violate the provisions applicable to investment service providers, management companies managing UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009, management companies managing AIFs within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011, regulated markets or market undertakings have been committed in another Member State of the European Union or another State party to the European Economic Area Agreement by entities which are not subject to its supervision, it informs the competent authority of that other State thereof in the most detailed manner possible.

II. When the Autorité de Contrôle Prudentiel et de Résolution or the Autorité des Marchés Financiers is informed by an authority of another Member State of the European Union or another State party to the European Economic Area Agreement that acts which violate the provisions applicable to investment service providers, management companies managing UCITS authorised in accordance with Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009, management companies managing AIFs within the meaning of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011, regulated markets or market undertakings are likely to have been committed in Metropolitan France, the overseas départements, or in the département of Mayotte or Saint Martin by an entity which is not subject to that authority’s supervision, it takes the appropriate measures. It communicates the results thereof to the competent authority which informed it as well as to the European Securities and Markets Authority in the case of an AIF management company, and, to the fullest extent possible, notifies it of any important events that occurred in the intervening period.
Article L. 632-7

I. Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural or legal persons, the Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers may enter into cooperation agreements with the equivalent authorities of a country which is not a Member State of the European Union and not a party to the European Economic Area Agreement which make provision, inter alia, for the exchange of information.

Notwithstanding those same provisions, the Banque de France may enter into cooperation agreements with public authorities responsible for the supervision of payment systems and systems for the settlement and delivery of financial instruments, which make provision, inter alia, for the exchange of information. The information communicated must be afforded professional secrecy guarantees at least equal to those that the French authorities which are a party to those agreements are subject to. Such exchange of information must be intended for the accomplishment of the said competent authorities' duties.

II. The Autorité de Contrôle Prudentiel et de Résolution and the Autorité des Marchés Financiers may also enter into cooperation agreements that make provision, inter alia, for the exchange of information with authorities or nationals of a country which is not a Member State of the European Union and not a party to the European Economic Area Agreement, which/who are:

a) responsible for the supervision of credit institutions, investment firms of other financial institutions and insurance and reinsurance companies and financial markets or the units referred to in Article L. 229-7 of the Environmental Code;

b) tasked with insolvency proceedings for credit institutions, investment firms, insurance and reinsurance companies, or any similar proceedings;

c) tasked with conducting the statutory audit of the accounts of the undertakings mentioned in a of this article, within the purview of their supervisory functions, or their functions as managers of compensation schemes;

d) responsible for the supervision of entities participating in the insolvency proceedings of credit institutions, investment firms, insurance and reinsurance companies or in any other similar proceedings;

e) responsible for the supervision of the persons tasked with the statutory audit of the accounts of undertakings mentioned in a of this section II;

f) tasked with managing deposit guarantee systems and investor compensation schemes.

f bis) responsible for conformity of transactions conducted in commercial contracts relating to goods and linked to one or more financial instruments;

g) tasked with managing compulsory liquidation proceedings or guarantee funds on behalf of insurance and reinsurance companies;

h) independent actuaries of insurance or reinsurance companies exercising, pursuant to their national laws, control over such companies as well as the bodies tasked with controlling such actuaries.

The information communicated is covered by professional secrecy guarantees at least equal to those that the French authorities which are a party to those agreements are subject to.

Said exchange of information must be intended for the performance of said authorities' or entities' duties.

II bis. Where it originates from an authority of another Member State of the European Union or another State party to the European Economic Area Agreement or a third country, the information may not be disclosed without the express consent of the authority which provided it and, where this is the case, only for the purposes for which its consent was given.

III. The Autorité des Marchés Financiers must give its express consent before any disclosure by the competent authorities of a third-party country to the authorities of other third-party countries of data or analyses of data pertaining to AIFs and their managers and provided to said authorities by the Autorité des Marchés Financiers.
Article L. 632-8

The Autorité des Marchés Financiers is the sole authority which may act as a point of contact for requests for exchanges of information or cooperation with the authorities of the other Member States of the European Union or the other States party to the European Economic Area Agreement and the European Securities and Markets Authority where these requests pertain to execution of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011.

The Autorité des Marchés Financiers immediately communicates any information required to accomplish their duties to the competent authorities of the other Member States of the European Union or the other States party to the European Economic Area Agreement which have been designated as points of contact for the purposes of Paragraph 1 of Article 56 of Directive 2004/39/EC of 21 April 2004 on markets in financial instruments, and those competent for application of Directive 2009/65/EC of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in securities. The Autorité des Marchés Financiers shall provide to the directly concerned competent authorities of the other Member States of the European Union information about the major counterparty risk that an AIF or its management company under the AMF’s responsibility could present to a credit institution or other systemically important institutions in these States. It shall provide this information promptly and on a bilateral basis.

If the competent authority which has provided the information so requested at the time of communication, the Autorité des Marchés Financiers may disclose it only with the said authority’s express consent and only for the purposes for which it has given its consent.

The Autorité des Marchés Financiers shall immediately forward the information received under this article, paragraph II of Article L. 612-44 and Articles L. 621-23 and L.632-7 to the Autorité de Contrôle Prudentiel. It forwards it to other institutions or persons only with the express consent of the competent authorities which disclosed it and only for the purposes for which those authorities have given their consent, unless an urgent matter justifies so doing. In this latter case, the Autorité des Marchés Financiers immediately informs its counterparty authority which sent the information.

Where the Autorité des Marchés Financiers receives personal data from the competent authorities of another Member State of the European Union or a third-party country, these data shall be retained for a maximum of five years.

Article L. 632-9

When the activities of a regulated market referred to in Article L.421-1, which has installed access devices in another Member State of the European Union or in another State party to the European Economic Area Agreement, have become substantially important for the operation of the financial markets and investor protection in that State, the Autorité des Marchés Financiers introduces appropriate cooperation arrangements with the competent authority of that State.

Article L. 632-10

The Autorité des Marchés Financiers may request information directly from investment service providers who are members of a regulated market referred to in Article L.421-1 and are not established in France. In such cases, it informs the competent authority of the Member State of the European Union or of the other State party to the European Economic Area Agreement which is their home State.

Article L. 632-11

When the Autorité des Marchés Financiers receives reports on transactions pursuant to Article L.533-9, it transmits such information to the competent authority of the market which is the most relevant in terms of liquidity for the financial instrument in question, when that market is located in another Member State of the European Union or in another State party to the European Economic Area Agreement. When the Autorité des Marchés Financiers receives reports on the transactions of a branch in Metropolitan France, in the overseas départements, or in the département of Mayotte or in Saint Martin of investment service...
providers having their registered office in another Member State of the European Union or in another State party to the European Economic Area Agreement, it forwards them to the competent authority of the branch’s home State. It is exempted from such transmission, however, if the latter authority indicates that it does not wish to receive them.

**Article L. 632-15**

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of an economic, commercial, industrial, financial or technical nature to foreign natural or legal persons, the Autorité de Contrôle Prudentiel et de Résolution may, beyond the scope of the agreements referred to in Articles L. 632-7 and L. 632-13, send information to the authorities of countries which are not Member States of the European Union and not parties to the European Economic Area Agreement which are responsible for the supervision of the persons referred to in 1 to 3 of A and 1 to 3, 5, 6 and 8 of B of I of Article L. 612-2 and 1 to 4 of Article L. 612-26 of the present code, subject to reciprocity and provided that the information communicated is afforded professional secrecy guarantees at least equal to those which the French authorities are subject to.

**Article L. 632-16**

The Autorité des Marchés Financiers may carry out monitoring, inspection and investigatory activities at the request of foreign authorities having similar powers. When such activities are carried out on behalf of authorities of a country which is not a Member State of the European Union and not a party to the European Economic Area Agreement, they are carried out subject to reciprocity.

Notwithstanding the provisions of Act No. 68-678 of 26 July 1968 relating to the communication of documents and information of a financial or technical nature to foreign natural or legal persons, the obligation of professional secrecy stipulated in II of Article L.621-4 does not hinder communication by the Autorité des Marchés Financiers of the information it holds, or which it gathers at their request, to foreign authorities which exercise similar powers and are bound by the same obligations of professional secrecy. When such transmission is made to authorities of a country which is not a Member State of the European Union and not a party to the European Economic Area Agreement, it takes place subject to reciprocity. In the performance of its duties, the Autorité des Marchés Financiers may also exchange confidential information relating to the obligations referred to in Articles L.412-1, L.451-1-2 and L.451-1-3 with entities to which the said authorities have delegated the discharge of their obligations, provided such entities are bound by the same obligations of professional secrecy.

To this end, the Autorité des Marchés Financiers may enter into agreements which organise its relations with such delegated entities.

The provisions of Article L.632-5 and Article L.632-1 A apply to the activities governed by this article.

In addition to the agreements referred to in Article L.632-7, for implementation of the preceding paragraphs the Autorité des Marchés Financiers may enter into agreements which organise its relations with foreign authorities exercising powers similar to its own.

The agreements referred to in Article L.632-7 and in the preceding paragraph are approved by the Autorité des Marchés Financiers as provided for in Article L.621-3.

**Article L. 642-1**

The penalties imposed by Article 226-13 of the Criminal Code shall also apply in the event of any member, staff member or employee of the Autorité des Marchés Financiers, or any expert appointed to a consultative commission referred to in paragraph III of Article L. 621-2, violating the professional secrecy instituted by Article L. 621-4, without prejudice to the provisions of Article 226-14 of the Criminal Code.
Article L. 642-2

Whoever obstructs an inspection or investigation of the Autorité des Marchés Financiers carried out as determined in Articles L. 621-9 to L. 621-9-2, or who provides it with inaccurate information, shall incur a penalty of two years’ imprisonment and a fine of €300,000
APPENDIX 3

EXTRACTS FROM THE REGULATORY SECTION OF THE MONETARY AND FINANCIAL CODE APPLICABLE ON 17 OCTOBER 2017, NOTWITHSTANDING SUBSEQUENT AMENDMENTS

Article R. 621-31

I. To exercise its powers of inspection and investigation, the Autorité des Marchés Financiers may use;
   a) Members of its personnel;
   b) the Secretary General of the Autorité de Contrôle Prudentiel et de Résolution;
   c) the central bodies referred to in Article L. 511-30, as regards their affiliated institutions;
   d) the central depositaries referred to in paragraph 3 of II of Article L. 621-9, as regards their member institutions;
   e) an authority from another Member State of the European Union or party to the European Economic Area Agreement and responsible for the oversight of financial markets or investment service providers;
   f) statutory auditors;
   g) experts included on the list of legal experts;
   h) persons or bodies of expertise in financial research or advice.

II. Pursuant to paragraph 1 of Article L. 621-9-2, the Autorité des Marchés Financiers may delegate a market undertaking or clearing house to supervise the business and transactions of members of a regulated market or of an investment services provider that has transmitted orders to the market.

III. Pursuant to paragraph 3 of Article L. 621-9-2, the Autorité des Marchés Financiers may delegate the associations of financial investment advisors referred to in Article L. 541-4 to supervise their members’ activities.

Article R. 621-32

I. Delegation to one of the persons referred to in paragraph 2 of I, II and III of Article R. 621-31 must be conducted within the framework of a memorandum of understanding signed with the Autorité des Marchés Financiers, which sets out the tasks to be carried out and the terms under which they must be executed.

II. The Autorité des Marchés Financiers ensures that the persons referred to in paragraph I of Article R. 621-31 have the capabilities and resources needed to effectively perform all their tasks.

III. The memorandum of understanding contains a clause stipulating that the persons referred to in paragraph I shall act and organise themselves in such a way as to avoid any conflict of interest and ensure that information gathered in the performance of the tasks entrusted to them is used solely for the purpose of discharging these duties.

IV. Inspection orders are drawn up by the Secretary General, who details their purpose and the responsible persons.

Article R. 621-33

I. A person may not be authorised or appointed to carry out an investigation or an inspection if he or she has been convicted for an offence as referred to in Article L. 500-1.

No one may be authorised or appointed to carry out an investigation or an inspection of a legal person in which they have carried on a professional activity during the previous three years.

II. Before assigning an inspection to one of the persons referred to in paragraph 2 of I, II and III of Article R. 621-31, the Secretary General ensures that the person in question is not likely to be in a conflict of interest with the inspected person. Accordingly, if the proposed person is one of the persons referred to in e, f, g or h of paragraph 2 of I of Article R. 621-31, the Secretary General will ask that person to disclose all professional dealings with the inspected person in the last three years.

The secretary general may not entrust the nominee with a mission if, during the period under consideration, he has inspected or advised the persons concerned about the services or transactions in question.
III. To be authorised by Secretary General to act as an investigator, the proposed person must have executive or similar status or at least two years’ professional experience. Where an investigation is entrusted to one of the persons referred to in paragraph 2 of I of Article R. 621-31, the Secretary General makes sure, before authorising investigators, that the criteria set out in this article are satisfied.

Article R. 621-34

Investigators and inspectors may summon and take statements from any person capable of providing information. Investigators and inspectors must show their personal mission order drawn up by the secretary general in response to any request made during the course of the investigation. The summons is sent to the person by a registered or hand delivered letter with acknowledgement of receipt or by bailiff’s order at least eight days before the date on which he is summoned to appear. The summons refers to the mission order made out in the name of the investigator or inspector. It reminds the person summoned that he has the right to be assisted by the counsel of his choosing, pursuant to Article L. 621-11. If investigators or inspectors wish to interview the person by video or audio conference, the summons issued as provided above must indicate this, specify that the hearing will be recorded, and request the express agreement of the concerned person. Investigators and inspectors may gather explanations on the spot, in accordance with the second paragraph of Article L. 621-10 or Article L. 621-12, provided that the interviewed person has been expressly informed of his right to be assisted by the counsel of his choosing and has expressly waived the right to the notice period required for summons.

Article R. 621-35

The minutes drawn up in connection with investigations or inspections specify the nature, date and place of the findings. They are signed by the investigator or inspector and the person being investigated. If the interviewee refuses, this is noted in the minutes. If investigators or inspectors gather explanations on the spot, a separate set of minutes must be drawn up from the minutes of the search. These minutes shall indicate that the interviewed person has been informed of his right to be assisted by the counsel of his choosing and has expressly waived the right to the notice period required for a summons.

If the investigators or inspectors interview the person by video or audio conference, a written transcription shall be produced from the audiovisual or sound recording of the interview and submitted to the interviewed person for signature. To this end, the minutes, accompanied by the recording, are sent to the person within one month of the video or audio conference. If the investigators or inspectors make use of an assumed identity within the meaning of Article L. 621-10-1 in order to consult a website on which the persons and entities mentioned in II of Article L. 621-9 provide their services, they shall produce a report stating the way in which they consulted and used the website, the responses obtained and their findings. The pages of the website that were consulted are appended to this report. This report must be sent to the concerned person or entity before the end of the investigation or inspection.

Article R. 621-36

A written report of the findings of investigations and inspections is drawn up. The report indicates, in particular, any facts that may constitute a breach of the European regulations, this code, the Commercial Code, the General Regulation of the Autorité des Marchés Financiers and rules approved by the Authority, a breach of other professional requirements or a criminal offence.
APPENDIX 4

EXTRACTED PROVISIONS OF THE AMF GENERAL REGULATION ON 17 OCTOBER 2017, NOTWITHSTANDING SUBSEQUENT AMENDMENTS

Article 143-1

To ensure that the market operates in an orderly manner and that the activity of the entities and persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code complies with the professional obligations arising from laws and regulations or from the professional rules it has approved, the AMF carries out off-site examinations of records and on-site inspections at the business premises of such entities or persons.

Article 143-2

To ensure the proper performance of its supervisory duties, the inspectors may order any of the persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code to retain information, regardless of the storage medium. Such a measure is confirmed in writing, with details of its duration and the conditions in which it may be renewed.

Article 143-3

The Secretary General issues an inspection order to the persons he has placed in charge. The inspection order indicates, inter alia, the name of the entity or body corporate to be inspected, the identity of the inspector and the purpose of the inspection. Persons subject to inspection shall cooperate diligently and honestly.

Article 143-4

Where the proper performance of an AMF inspection has been hindered, this fact is mentioned in the inspection report or in a special report setting out these difficulties.

Article 143-5

Post-inspection reports are transmitted to the inspected entity or body corporate. Transmittal does not take place, however, if the Board, alerted by the Chief Executive, observes that a report describes facts which are capable of being characterised as criminal and deems that such transmittal could interfere with legal proceedings. The entity or body corporate to which a report has been transmitted is requested to submit its observations to the Secretary General of the AMF within a specified period, which cannot be less than ten days. These observations are forwarded to the Board if it when it examines the report in accordance with Section I of Article L. 621-15 of the Monetary and Financial Code.

Article 143-6

Having due regard for the conclusions of an inspection report and for any observations that may be submitted, the inspected entity or body corporate is informed by registered letter with return receipt or by hand delivery against receipt of the measures it is required to put in place. The entity or body is requested to forward the report and the aforementioned letter to its board of directors, or executive board and supervisory board, or the equivalent decision-making body, as well as to the statutory auditors. Where the inspected entity or person is affiliated with a central body, as per Article L. 511-30 of the Monetary and Financial Code, a copy of the report and the letter shall also be sent to that body.