

AUTORITÉ
DES MARCHÉS FINANCIERS



Facts and figures
2009

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Editorial

by Jean-Pierre Jouyet,
Chairman, Autorité des marchés financiers



Some people are wary of statistics, but I find them very enlightening. They tell us much more about what is happening in the markets than any long-winded speech.

So what do the 2009 figures show? Assets managed by collective investment schemes in Paris climbed from €1,250 billion going into 2009 to almost €1,400 billion by year's end. The AMF issued 358 approvals in 2009, up from 291 in the previous year. Capital increases raised €18 billion, and the CAC 40 index ended the year at close to the 4,000-point mark, compared with 3,217 on 31 December 2008. A slight improvement, in other words.

But these performances are fragile and could be undone at any time by the fluctuations caused by opaque markets and unpredictable market participants. This unpleasant reality is the reason why the AMF has redoubled efforts to convince European and international bodies to take a bold approach when implementing the G20 roadmap. Special emphasis needs to be placed on the regulation of complex products traded over the counter, hedge fund oversight, the new regulation on credit rating agencies and the establishment of a European Securities and Markets Agency.

The facts speak volumes too. Throughout the year, the AMF acted on the lessons of the crisis at home, systematically executing the commitments made in the New

Strategy Proposals adopted last June. In terms of strengthening investor protection, the most obvious measure was the creation of a new division to handle relations with retail investors.

We also contributed to efforts to make the French finance industry more attractive, taking action aimed at reviving bond markets and actively promoting French asset management in connection with transposition of the UCITS IV directive. Meanwhile, the increased number of inspections and warnings reflects our efforts to bolster risk surveillance and step up oversight of market participants.

The AMF made its voice heard on issues of corporate governance and compensation, and yet again when it came to adopting measures to uphold market integrity. Our voice will be even stronger once we finalise the overhaul of our disciplinary process in the wake of the Enforcement Committee's ruling on the EADS affair. For there can be no trust without supervision, and no supervision without effective enforcement.

If there is one thing that stands out in this snapshot of our activities over the past year, it is our determination to do everything to restore the trust of investors and encourage them to channel their savings back to the long-term investments that are so vital to our economy.

Jean-Pierre Jouyet

The AMF in profile

The French securities regulator, the **Autorité des marchés financiers (AMF)**, is an independent public agency established by the Financial Security Act of 1 August 2003. It is tasked with safeguarding investments and maintaining orderly financial markets in France. The AMF has a Board and an Enforcement Committee. To carry out its duties, it calls on the expertise and support of five Consultative Commissions, a Scientific Advisory Board and a staff of 383. The AMF has extensive financial and management independence.

Remit

The AMF is responsible for:

- > safeguarding investments in financial products;
- > ensuring that investors receive material information;
- > maintaining orderly markets.

The AMF cooperates with the other authorities responsible for overseeing financial and banking activities, including the Banque de France and the Autorité de contrôle prudentiel (ACP)⁽¹⁾.

The AMF also lends its support to worldwide and European regulation by participating in international bodies and cooperating with regulators in other countries

Powers

The AMF is empowered to:

- > make rules (General Regulation, Instructions, Recommendations, etc.);
- > issue authorisations (approvals, authorisations);
- > supervise and monitor markets and market participants and may conduct investigations;
- > punish regulatory infringements;
- > at the request of the parties, mediate between retail investors and investment services providers (ISPs) or issuers to settle disputes.

Jurisdiction

The AMF has jurisdiction over:

- > fundraising and disclosures by listed companies;
- > financial markets and market infrastructures;
- > professionals authorised to provide investment services or financial investment advice and direct marketers (jointly with the ACP);
- > collective investment schemes invested in financial instruments and all other investments offered to the public.

Accountability

The AMF is an independent public agency with legal personality. Its General Regulation is approved by the finance minister.

Its decisions can be challenged in the courts or administrative tribunals.

The AMF is financially independent.

The public accounting office, Cour des comptes, oversees its financial management and accounting.

The AMF reports annually to the president of France and to Parliament.

2009 key data

Operating income
€49.2 million

Operating expenses
€67.17 million

Average workforce for the year
383

(1) Autorité de contrôle prudentiel formed from the merger of the Commission bancaire, Autorité de contrôle des assurances et des mutuelles (ACAM), Comité des entreprises d'assurance (CEA) and Comité des établissements de crédit et des entreprises d'investissement (CECEI).

The AMF Board

The AMF Board has 16 members. The Board is the decision-making body of the AMF. Its powers include adopting new regulations, taking individual decisions (on the compliance of tender offers, authorisations, approvals and other matters), scrutinising inspection and investigation reports, ordering sanction or injunction proceedings, adopting the budget and approving the AMF's financial accounts.



1 - **Jean-Pierre Jouyet**
Chairman, appointed by Presidential decree.

2 - **Jacques Delmas-Marsalet** ¹
Councillor of the Conseil d'Etat, appointed by the vice president of the Conseil d'Etat.

3 - **Martine Ract-Madoux** ²
Court of Cassation trial judge, appointed by the chief justice of the Court of Cassation.

4 - **Philippe Adhémar** ³
Conseiller maître of the Cour des comptes, appointed by the auditor general of the Cour des comptes.

5 - **Jean-Paul Redouin** ¹
Representative of the Banque de France, appointed by the governor of the Banque de France.

6 - **Jérôme Haas** ³
Chairman of the Autorité des normes comptables.

7 - **Jean de Demandolx Dedons** ¹
Appointed by the president of the Senate.

8 - **Jean-Michel Naulot** ²
Appointed by the president of the National Assembly.

9 - **Bernard Esambert** ³
Appointed by the chairman of the Conseil économique et social.



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16

10 - **Marie-Ange Debon** ³

11 - **Dominique Hoenn** ²

12 - **Olivier Poupart-Lafarge** ¹

13 - **Yves Mansion** ²

14 - **Jean-Pierre Pinatton** ¹

15 - **Jean-Pierre Hellebuyck** ²

16 - **Jean-Claude Mothié** ³

Representing employee shareholders, appointed by the finance minister.

Appointed by the finance minister, after consultation with organisations representing listed industrial and commercial companies, firms managing collective investment schemes, other investors, investment services providers, market operators, clearing houses, settlement system operators and central securities depositories (CSDs).

Ramon Fernandez
Director of the Treasury and Economic Policy.

Government Commissioner appointed by the finance minister.

The government commissioner sits on all AMF commissions, including the full Board, the Enforcement Committee and the Specialised Commissions. The Commissioner attends in an advisory capacity but may request a second deliberation.



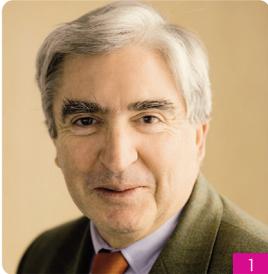
¹ Specialised Commission No. 1

² Specialised Commission No. 2

³ Specialised Commission No. 3

The Enforcement Committee

The Enforcement Committee has 12 members, none of whom sit on the Board. It has the power to impose penalties and sanctions on any legal entity or natural person that infringes laws and regulations on public offerings of securities and financial markets or that acts in a manner that impairs investor protection or interferes with orderly market operation. The Enforcement Committee takes decisions pursuant to the notification of enforcement proceedings submitted to it by the Board of the AMF. **It has total freedom of decision-making when carrying out its duties.**



1 - Daniel Labetoulle
Chairman of the Enforcement Committee.
Chairman of the First Division
Councillor of the Conseil d'Etat, appointed by the vice president of the Conseil d'Etat.

2 - Claude Nocquet
Chair of the Second Division.
Court of Cassation trial judge, appointed by the chief justice of the Court of Cassation.

3 - Jean-Claude Hassan
Councillor of the Conseil d'Etat, appointed by the vice president of the Conseil d'Etat.

4 - Marielle Cohen-Branche
Court of Cassation trial judge, appointed by the chief justice of the Court of Cassation.

Members appointed by the Finance Minister:

- 5 - Alain Ferri
- 6 - Guillaume Jalenques de Labeau
- 7 - Pierre Lasserre
- 8 - Jean-Pierre Morin
- 9 - Antoine Courteault
- 10 - Jean-Claude Hanus

Representatives of the employees of companies or institutions providing investment services or managing collective investment schemes, market operators, clearing houses, settlement system operators and CSDs; appointed by the finance minister:

- 11 - Joseph Thouvenel
- 12 - Jean-Jacques Surzur



Ramon Fernandez
Director of the Treasury and Economic Policy.

Government Commissioner appointed by the finance minister.

The government commissioner sits on all AMF commissions, including the full Board, the Enforcement Committee and the Specialised Commissions. The Commissioner attends in an advisory capacity but may request a second deliberation.



Consultative Commissions and the Scientific Advisory Board

The AMF has set up five Consultative Commissions to foster dialogue and consultation. Furthermore, it regularly organises market-wide consultations through special working groups. It can also rely on input from members of its Scientific Advisory Board to help with its work.

The Five Consultative Commissions

The role of the five permanent Consultative Commissions is to assist the AMF in its deliberations and help it formulate its positions in the light of changes in techniques, products and market structures, as well as the evolving legal and financial environment, both domestic and international.

Composed of experts appointed by the AMF Board for a three-year term, the commissions are chaired by Board members, who coordinate the work programmes and report back to the Board.

Each commission addresses a specific topic:

- > Retail Investors, chaired by Jean-Claude Mothié;
- > Markets and Exchanges, chaired by Jean-Michel Naulot;
- > Clearing, Custody and Securities Settlement, chaired by Dominique Hoenn;
- > Asset Management, chaired by Philippe Adhémar;
- > Disclosures and Corporate Finance, chaired by Yves Mansion.

The Scientific Advisory Board

The AMF has set up a Scientific Advisory Board composed of prominent personalities from the academic and financial worlds. Its members include several world-renowned foreign researchers, which gives it a broad international perspective. The Scientific Advisory Board has a three-fold remit:

- > to provide the AMF with more comprehensive information about ongoing academic research in the financial field;
- > to identify developments that might have an impact on the AMF's areas of activity;
- > to research issues of concern to the regulator.

To find a broader audience for this work, the AMF holds an annual Academic Conference. The fifth conference, "How should regulators address changes in equity markets?", was held in Paris on 27 May 2010.

AMF Scientific Advisory Board

Michel Aglietta (Paris University, West Nanterre La Défense)

Michel Albouy (Grenoble University PMF-ESA)

Noël Amenc (EDHEC)

Patrick Artus (Natixis)

Christian de Boissieu (Paris I University)

François Champarnaud (Agence des participations de l'Etat)

Patricia Charlety (ESSEC)

Jean-Philippe Cotis (INSEE)

Olivier Davanne (DPA Invest)

Thierry Foucault (HEC)

Olivier Garnier (Société Générale Asset Management)

Edith Ginglinger (Paris Dauphine University)

Christian Gourieroux (Paris IX University, ENSAE)

Carole Gresse (Paris Dauphine University, CEREG)

Pierre Jaillet (Banque de France)

Ruben Lee (Oxford Finance Group)

Jean-François Lepetit

François-Serge Lhabitant (HEC Lausanne University)

Albert Menkveld (Vrije Universiteit Amsterdam)

André Orléan (CNRS)

Olivier Pastré (Paris VIII University, GP Banque)

Jean-Charles Rochet (Toulouse University - Institut d'économie industrielle)

Benn Steil (Council on Foreign Relations)

Xavier Vives (IESE Business School)

Information, education and mediation

To carry out its task of safeguarding investments and making sure that investors receive material information, the AMF educates consumers and mediates in disputes. Its role is not to declare whether an investment is advisable or to certify a financial product but to ensure that investors have all the information needed to reach an informed decision. A Retail Investor Relations Division (DREP) was created in the first half of 2010 to handle all AMF activities aimed at this constituency, i.e. consultation, education and mediation. The ACP⁽²⁾ and the AMF will set up a joint unit in spring 2010, which will be the gateway for retail investors wanting information.

2009 key data

Number of cases received: 2,029 including 1,294 consultations and 735 mediation requests.

NUMBER OF CASES CLOSED

In 2009, the AMF responded to **1,291** consultations and **887** requests for mediation, of which **52%** culminated in a settlement.

QUESTION/ANSWER

I am in a dispute with my financial intermediary or with a company whose shares I own. What should I do?

First, you should try to settle the dispute by writing to the intermediary or company in question.

If you are still in dispute, you may contact the AMF Ombudsman⁽³⁾, who intervenes to find outofcourt settlements to disputes coming within the AMF's jurisdiction.

The mediation procedure is free, confidential, adversarial and nonbinding.

Informing the public

The AMF operates public hotlines at:

- > the Documentation Centre, for general queries about financial markets and the way they operate;
- > the mediation department and Ombudsman, for specific issues such as corporate actions, listed companies' disclosure requirements, asset management rules, stock order transmission and reception, custody account keeping, and the marketing of financial products.

The AMF also has a decentralised regional network that operates through the local offices of the Banque de France.

Educating investors

The AMF's website (www.amffrance.org) features:

- > educational guides explaining how markets work, giving details of financial products, and setting out the basic rules for managing investments wisely;
- > AMF warnings about products and investment services not authorised in France.

The AMF also participates in the actions of the Institute for Public Financial Education by helping to finance its budget and sitting on its Board of Directors.

Mediation and the Ombudsman

The mediation department responds to queries and seeks out-of-court settlements to individual cases that are referred to it. Most of these cases involve retail investors but they may also be submitted by professionals, such as intermediaries or listed companies, and concern every area of the AMF's jurisdiction: the marketing of financial products, market operation, the content of disclosures, order execution (timeliness and content), portfolio management and custody account keeping.

The mediation procedure is governed by a charter and is confidential, free, adversarial and nonbinding. Either party may terminate it whenever they want, while retaining the right to petition the courts. If a case is referred to the Ombudsman, the limitation period on civil and administrative proceedings is suspended.

(2) Cf. page 2, footnote 1.

(3) Contact details for the Ombudsman are provided at the back of this brochure. For more information, go to HYPERLINK "<http://www.amffrance.org>" "www.amffrance.org" and click on "Ombudsman".

Regulation of corporate financing and disclosures

The AMF regulates fundraising and disclosures by listed companies. All such companies are required to inform the public regularly about their business activities and results, and about transactions such as takeovers and mergers. The AMF makes sure that disclosures are accurate, precise, fair and disseminated to the public at large.

Corporate financing

The AMF oversees and regulates transactions involving the securities of listed companies:

- > initial public offerings;
- > capital increases and rights issues;
- > public cash offers, exchange offers, buyout offers, etc.;
- > mergers, demergers, etc..

The AMF ensures that for each operation, companies offering securities to the public provide comprehensive and reliable information on a timely basis and in an equitable manner to all.

The AMF scrutinises the documents prepared by listed companies, such as simplified and full prospectuses, offer documents, shelf registration documents, base documents and securities notes. Depending on the case, these documents are either approved by the AMF prior to publication or are filed with the AMF and examined ex-post.

The AMF also rules on whether proposed tender offers are regulation-compliant.

In addition, the AMF makes sure that promotional materials related to a corporate financing transaction are clearly recognisable as such and contain no potentially misleading statements.

Disclosure quality

The AMF ensures that listed companies disclose price-sensitive information to the general public at the earliest possible opportunity. It also checks that companies comply with quarterly, half-yearly and annual disclosure requirements.

In the event of late filing, the AMF publishes the names of the companies in question on its website. In the event of a serious delay, it can also petition the courts to issue injunctions and penalties.

To improve the standard of information supplied to the market, the AMF publishes an annual report and recommendations on corporate governance and internal control in listed companies.

2009 key data

Approvals for corporate financing transactions . . . 251

Registration documents filed and recorded 354

Source: AMF

FINANCIAL OFFERINGS AND DISCLOSURES

Filing rate for registration documents: **58%**

QUESTION/ANSWER

What is the scope of an AMF approval?

Before approving a prospectus, the AMF makes sure that the information it contains is comprehensive, understandable and consistent. An approval does not mean that the AMF is endorsing the investment or assessing the situation of the issuer.

Regulation of markets, professionals and investment products

The AMF oversees the orderly operation of the market and establishes rules of conduct for the professionals it supervises. It regulates the asset management industry by authorising the creation of collective investment vehicles, approving investment management companies and clearing their programmes of operations.

2009 key data

Entities reporting to the AMF at 31 December 2009

Investment management companies	567
Investment services providers (other than investment management companies)	390
Collective investment schemes (CIS)	12,200
Assets under management	€1,388.3 billion

PERSONAL INVESTMENT MANAGEMENT

Percentage of companies receiving authorisation in under 75 days: **76%**

QUESTION/ANSWER

How do I check whether a professional or product has been authorised?

If you are contacted by a professional and want to check that the entity in question has been authorised, you can go to the AMF website and look under "Check for an authorisation". You can verify the authorisations of investment services providers (ISPs), asset management companies, financial investment advisers (FIAs), management companies of real-estate investment trusts, as well as direct marketers of banking and financial services. You can also check the authorisations of products that are offered to you, including CIS (open-end and closed-end funds, etc.), foreign CIS and schemes specialising in areas such as film production and fisheries.

Oversight of markets

The AMF sets the principles of market organisation and operation. These apply to:

- > market operators, such as NYSE Euronext, which organises trading in equities, fixed income securities and derivatives;
- > securities settlement systems and the central securities depository, Euroclear France.

The AMF approves the rulebooks of clearing houses, such as LCH.Clearnet, and establishes the operating requirements for clearing members.

The AMF also oversees financial markets and the transactions executed on them.

Oversight of professionals

The AMF sets the conduct of business rules and other requirements applicable to ISPs. It approves asset management companies at the formation stage, after ensuring that they have sufficient resources and assessing the qualifications and integrity of their managers. The AMF also sets rules for the custody and administration of financial instruments. The AMF issues opinions to the ACP⁽⁴⁾ regarding the programmes of operations of investment services providers other than investment management companies.

The AMF supervises financial investment advisers (FIAs) and approves the professional associations to which they are required to belong. These associations are responsible for upholding FIAs' rights and interests, implementing and ensuring compliance with conduct of business rules, and providing training for FIAs.

The AMF also supervises direct marketers acting on behalf of investment management companies. Furthermore, it issues professional licenses for compliance officers in the investment departments of ISPs other than investment management companies and compliance officers in charge of management companies' internal control.

Oversight of collective investment schemes

The AMF authorises the formation of collective investment schemes, including open-end and closed-end funds, venture funds, innovation funds, company savings schemes, futures funds and local investment funds. Among other things, it examines the information set out in the prospectus given to all potential investors. Prospectuses contain key information such as operating procedures, track record, fees and commissions, product features, product-specific risks, etc. The AMF monitors each product throughout its lifetime, paying particular attention to the clarity of disclosures to investors, including annual reports, newsletters and advertising materials.

Other, special-purpose collective vehicles, such as securitisation funds, real-estate investment trusts and funds, and schemes specialising in areas such as film production, fisheries and forestry development, also come under AMF supervision.

Oversight of financial-product marketing

As set out in its strategic plan, the AMF is planning to step up oversight of financial-product marketing. In spring 2010, the AMF and the ACP (4) will set up a joint unit in charge of coordinating oversight of financial-product marketing, monitoring developments affecting these products, supervising advertising, and acting as the gateway for investor queries.

(4) Cf. page 2, footnote 1.

Developing financial regulation in France and internationally

Alongside other public and private-sector bodies, the AMF is helping to rebuild confidence in markets and playing an active part in consolidating France's position in an integrated Europe-wide financial sector. The AMF plays a major role in international financial standard-setting bodies in an effort to foster the integrity and efficiency of financial markets in a globalised world.

The AMF and the French financial community

Since it was founded in 2003, the AMF has actively worked for the Paris financial market by affording a much clearer view of how France's financial regulation system is organised amid intensifying international competition and heightened investor concerns about market shortcomings. It maintains regular dialogue with market professionals by holding consultations, organising special events and having industry representatives sit on its Consultative Commissions.

The AMF plays an active international role

The AMF plays an important role in the international arena. That role is particularly crucial at a time when financial markets are becoming closely integrated. The AMF is extremely active at European level through its involvement in CESR, and also globally through its activities at IOSCO, the Financial Stability Board, the Joint Forum and the French-speaking regulators' institute, IFREFI.

WORLD

The International Organization of Securities Commissions (IOSCO), formed in 1983, brings together financial regulators at the world level. It has 192 members. The AMF sits on IOSCO's Technical Committee and Executive Committee.

The Financial Stability Board (FSB), which replaced the Financial Stability Forum in April 2009, is composed of the financial regulators, central banks and finance ministries of significant international financial centres, together with international institutions (International Monetary Fund, World Bank, European Commission, European Central Bank, Bank for International Settlements, Organisation for Economic Cooperation and Development) and international regulators (IOSCO, Basel Committee). The FSB has 64 members.

EUROPEAN

The Committee of European Securities Regulators (CESR) comprises the regulatory authorities of the financial markets in the European Economic Area. CESR has 30 members, including the European Commission.

The College of Euronext Regulators comprises the five regulatory agencies of the countries in which Euronext is present: AMF (France), AFM (Netherlands), CBFA (Belgium), CMVM (Portugal) and FSA (UK). Euronext regulators signed a cooperation agreement in January 2007 with the United States Securities and Exchange Commission for the NYSE Euronext alliance.

BILATERAL

The AMF has signed 44 cooperation agreements with other authorities on matters such as the exchange of information, conduct of investigations and technical cooperation. These bilateral relations are underpinned by two multilateral Memorandums of Understanding between the members of CESR (29 signatories) and IOSCO (65 signatories). In 2009, the AMF also signed a charter establishing a partnership between Mediterranean securities regulators.

FRENCH-SPEAKING COUNTRIES

Formed in June 2002 on the initiative of the COB, the Institut francophone de la régulation financière (IFREFI) comprises the financial regulators that use French as their working language. IFREFI has a flexible structure that promotes dialogue and cooperation. The AMF provides the secretariat for the organisation.

Market supervision: inspections, investigations and sanctions

The AMF supervises the orderly operation of the French financial markets on a daily basis. Vested with investigatory and inspection powers, it works with other domestic and foreign authorities responsible for overseeing the banking and financial industries. The AMF can sanction any legal entity or natural person that infringes prevailing rules and regulations.

2009 key data

On-site inspections of investment services providers.....	80
Investigations opened.....	76
Sanctions handed out in 2009.....	39

Source: AMF

INSPECTIONS

Percentage of inspections completed in under six months: **76%**

INVESTIGATIONS

Percentage of domestic investigations completed in under 12 months: **77%**

SANCTIONS

Percentage of cases referred to the Enforcement Committee and resulting in a sanction: **76%**

Percentage of cases referred to the Enforcement Committee and closed in under 12 months: **52%**

QUESTION/ANSWER:

Are the AMF's investigations made public?

To preserve professional secrecy and the presumption of innocence, the AMF does not publish its investigation reports.

If reports reveal possible infringements, they may give rise to sanction proceedings by the AMF, or the case may be referred to the courts if criminal offences are potentially involved.

If the proceedings opened by the AMF result in sanctions, the related decision may be made public and posted online on the AMF website at www.amffrance.org under "Sanctions > Enforcement Committee Decisions" (in French only).

A supervisory remit

The AMF oversees:

- > the financial instruments admitted to listing on Euronext Paris: equities, fixed income, derivatives;
- > the professionals operating in financial instrument markets (credit institutions, investment firms, investment management companies, financial investment advisers, direct marketers acting for investment management companies);
- > market infrastructures.

The AMF also monitors all trading of instruments listed on Euronext Paris, regardless of where it is executed, including over-the-counter trades and those on multilateral trading facilities.

Inspection powers

The AMF conducts on-site and off-site audits of:

- > all firms licensed for investment services, together with their employees;
- > NYSE Euronext Paris SA;
- > the settlement system and the CSD (Euroclear France SA);
- > clearing houses (LCH.Clearnet SA);
- > financial investment advisers (FIAs).

The AMF may also rely on outside auditors to carry out inspections (NYSE Euronext Paris SA, Euroclear France SA, Commission bancaire, the Banque de France and audit firms).

Investigative powers

If misconduct is suspected, the AMF's secretary general can order an investigation to identify those who may have committed market abuse, such as insider dealing, price manipulation, or releasing false information, be it a company, a private or institutional investor, a market professional or any other person or entity.

International cooperation

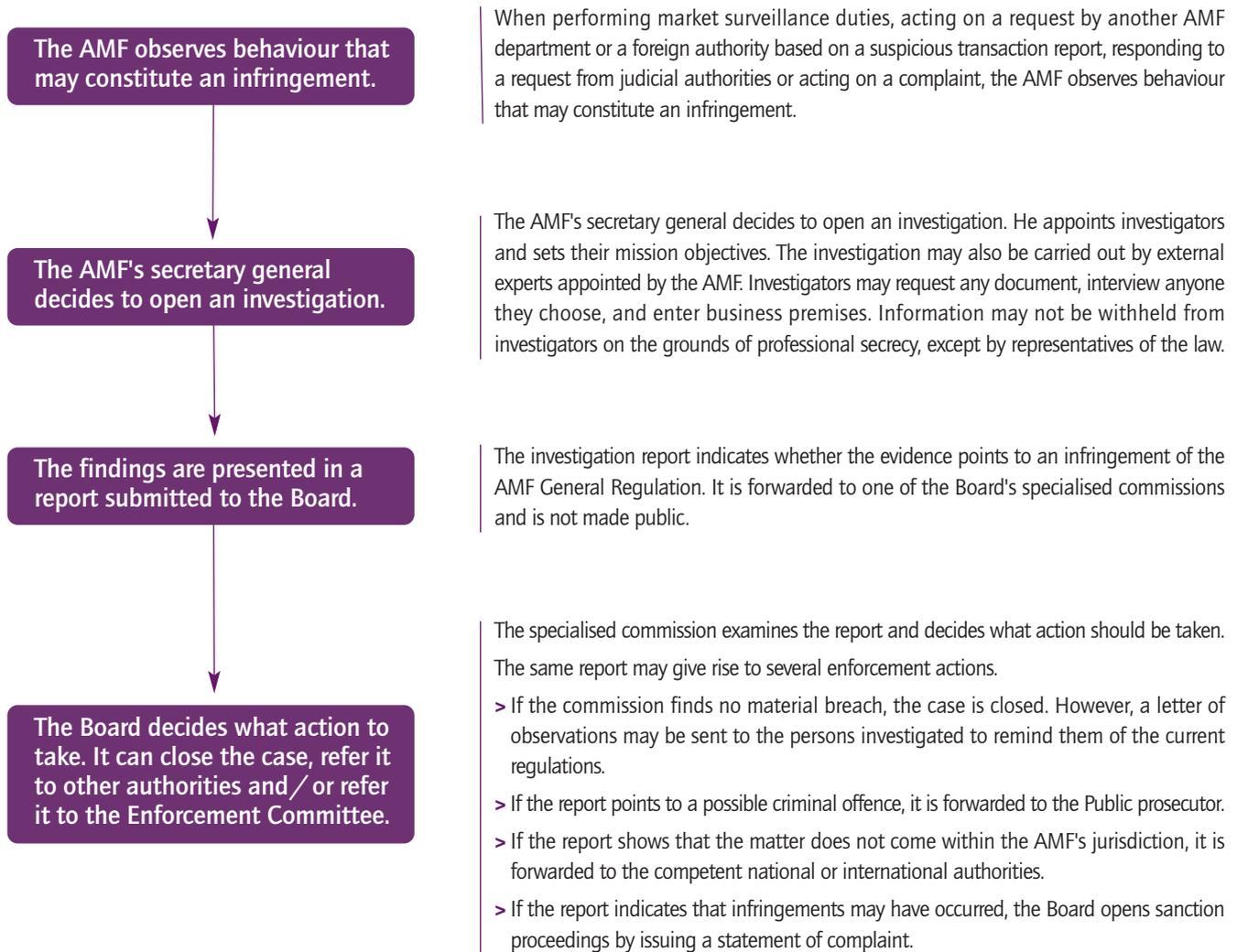
To enhance the oversight of Europe's financial markets, the members of the Committee of European Securities Regulators (CESR) set up CESR-Pol, a group responsible for facilitating effective and efficient sharing of information.

The AMF has also signed the multilateral cooperation agreement of the International Organization of Securities Commissions, which aims to facilitate the exchange of information during international investigations.

Sanction powers

An investigation report is sent to the AMF Board, which decides whether to issue a statement of complaint against the persons or entities in question and to refer the matter to the Enforcement Committee or another competent authority. Following an adversarial procedure, the Enforcement Committee makes a decision on matters of fact and may issue a fine and/or a disciplinary sanction for infringement of market rules or market intermediaries' professional duties.

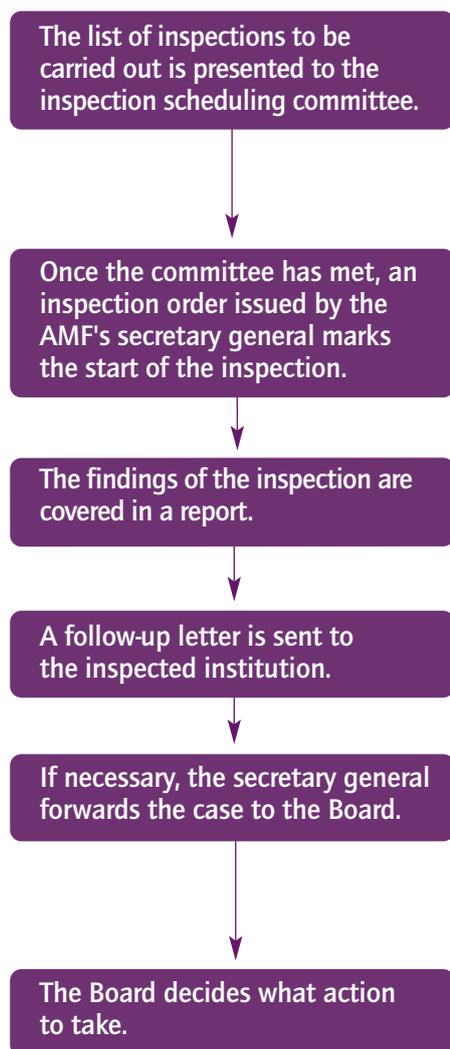
Step-by-step: an investigation relating to market surveillance or disclosures by listed corporates



>> Who is involved in investigations and enforcement?

- > Market Surveillance Department
- > Investigations Department
- > AMF secretary general
- > AMF Board

Step-by-step: an inspection relating to supervision of investment services providers and professionals



The list of scheduled inspections is drawn up by combining systematic and recurring inspections (particular themes or groups, etc.) with the list resulting from the use of a risk-based approach, which refers to evidence, behaviour or incidents that may constitute breaches of the obligations of service providers and FIAs. Incidents are analysed and centralised in a database held by the CPIM department. A list of proposed inspections is presented to the scheduling committee. The committee decides on the resources to be devoted to each inspection.

Acting upon the advice of the committee, the AMF's secretary general defines the objectives for each inspection. To conduct its investigations, the AMF may make use of external auditors (Banque de France, ACP, particularly within the joint unit, as well as the Central Security Depository – CSD –, outside firms, etc.).

An inspection report is always prepared after an on-site inspection. It is sent to the inspected entity, which submits its response.

Following this exchange between the inspected entity and the AMF, the secretary general sends the entity a follow-up letter advising it of corrective measures that need to be implemented.

If need be, the secretary general also forwards the case to the Board.

The Board then decides what action to take:

- > if the reports finds that material breaches may have occurred, the Board opens sanction proceedings by issuing a statement of complaint;
- > if the report points to a possible criminal offence, it is forwarded to the Public prosecutor;
- > If the report shows that the matter does not come within the AMF's jurisdiction, it is forwarded to the competent national or international authorities and, if need be, to Tracfin.

>> Who is involved in the adversarial procedure?

- > Supervision of Services Providers and Market Infrastructures Supervision Department (CPIM)
- > AMF secretary general
- > AMF Board

Enforcement Committee sanction proceedings

If the AMF Board decides to initiate sanction proceedings, the chairman of the Board serves a statement of complaint together with the inspection or investigation report to the person whose conduct is in question. The statement and report are also sent to the chairman of the AMF Enforcement Committee. The Committee operates completely independently. The respondent has two months in which to submit a response to the chairman of the Enforcement Committee.

The chairman of the Enforcement Committee appoints a member of the Enforcement Committee to act as rapporteur, who takes the necessary action (analyses the case, interviews the respondent and witnesses, and so on). The rapporteur may seek the assistance of the AMF's staff if required. If the rapporteur considers that there are additional grounds for complaint or that the charges concern persons other than the respondent, he submits a request to that effect to the Board. Once these proceedings are completed, the rapporteur draws up a report on the results and sends it to the respondent. The respondent is ordered to appear before the Enforcement Committee and has 15 days in which to submit written observations on the report.

The hearing is based on an adversarial procedure. The hearing may be held in public if the respondent so requests. The Board is represented at the hearing and may submit observations. The respondent (or his adviser) has the last word.

When the hearing is complete, the rapporteur, the Board representative and the Government commissioner leave the chamber. The Committee (or the division) reaches its decision.

The respondent is informed of the Enforcement Committee's decision. The Committee may decide to publish the decision in the medium of its choosing, notably the AMF's website. It may also decide not to include names in its decision.

The respondent may appeal the Enforcement Committee's decision within two months of being notified thereof. Appeals are heard by the Paris Appeals Court, except for sanctions concerning professionals (ISPs, FIAs, etc.), which are heard by the Conseil d'Etat.

The statement of complaint is sent to the person whose conduct is in question and to the chairman of the AMF Enforcement Committee.

The chairman of the Enforcement Committee appoints a rapporteur.

The respondent is heard by the Enforcement Committee.

The Enforcement Committee reaches its decision and may publish it.

The respondent has two months to appeal.

>> Who is involved in the adversarial procedure?

- > Chairman of the Enforcement Committee
- > Rapporteur
- > Enforcement Committee

2009

highlights

The AMF sets out its New Strategy Proposals

Responding to the operational impact of the financial crisis, the AMF launched a strategic plan to organise its activities around three priorities:

- > enhance investment protection and bolster the confidence of individual investors;
- > deliver heightened risk monitoring, closer supervision of market participants, and more effective enforcement;
- > play a more active role in efforts to increase the attractiveness of the French markets, for the benefit of investors and the financing of the country's economy.

The AMF translated these priorities into a series of concrete actions, including the creation of a **Retail Investor Relations Division** to handle all the AMF's activities aimed at this constituency.

Ongoing efforts to manage the consequences of the financial crisis...

The AMF published a position aimed at establishing tougher criteria for investment schemes to be classified as "euro money market" funds. It advocated this classification during CESR's work on establishing Europe-wide criteria for collective investment schemes that want to be classified as euro money market funds.

In November 2008 the AMF set up a working group led by AMF Board members Marie-Ange Debon and Jean-Pierre Hellebuyck to propose a permanent regulatory framework for short-selling. Because CESR was working on the same question at European level, the AMF opted to wait for the results before adopting a regime in France. The AMF also decided that it would maintain until further notice the exceptional arrangements introduced in September 2008 banning short-selling in listed financial stocks.

The Paris Appeals Court upheld the injunctions issued by the AMF to financial institutions that, while acting as depositaries for several funds of hedge funds, had appointed Lehman Brothers International, a failed institution, as custodian for the funds' securities, but then subsequently refused to return the assets to the funds.

Deeming the obligation to return assets to be a key factor in investor protection, the AMF took the debate about the role and responsibilities of depositaries before the European institutions.

... and the fallout from the Madoff affair in France

Throughout 2009, the AMF kept a close watch on the legal developments surrounding the Madoff case and the many meetings held between the interested parties. The AMF made sure that shareholders of the SICAV Luxalpha fund were informed about the appointment of the fund's liquidators. It also reminded account-keepers of their obligation to provide clients with any assistance needed for them to be recognised as shareholders of the SICAV Luxalpha fund.

In spring 2009 the AMF began a series of inspections to determine how Madoff offshore funds had been marketed in France.

AMF Enforcement Committee ruling on EADS

The Enforcement Committee of the AMF upheld none of the complaints against the respondents in the case and dismissed all criticism of the proper conduct of the investigation and proceedings. Following the decision, the AMF said it had been working for some months on proposals to improve and strengthen its disciplinary process and that it wanted to be able to lodge appeals against Enforcement Committee decisions.

Safeguarding investments

Warning investors about the risks involved in highly leveraged investments

After noting a growing number of aggressive press and radio campaigns advertising contracts for difference (CFDs) and highly leveraged spot forex trading services, the AMF and the CECEI alerted investors to the specific risks associated with these products.

Creating a joint unit for the surveillance and oversight of financial-product marketing

The AMF and the new Autorité de contrôle prudentiel (ACP) decided to set up a joint unit to address the need for strengthened oversight of financial-product marketing. The unit will also act as the gateway for individual investors, directing their queries and complaints to the appropriate authority. The unit is expected to be up and running in spring 2010.

Overhauling the regulatory framework and enhancing the attractiveness of the Paris financial centre

The AMF works to promote the growth of the bond market

With bond issues on the rise, the AMF published a guide to answer the questions of issuers and their advisers about bond prospectuses, whose content requirements are now strictly aligned with European practice. The guide also describes the procedures for obtaining approvals, which have been improved. In particular, the deadline for reviewing prospectuses has been reduced in some cases from ten to five business days. The AMF also published a guide to best practice that details the basic information that must be included in all advertising and in discussions between financial intermediaries and retail investors.

Reforming the public issuance framework

Following amendments to the AMF General Regulation in 2009, the notion of public offerings was replaced by two European concepts. Public issuance now comprises an admission to trading on a regulated market and an offering of financial securities to the public, for which an AMF-approved prospectus is still required.

Listed companies get the opportunity to transfer from Euronext to Alternext

Under the AMF General Regulation, companies in the C segment of Euronext may now transfer to Alternext, provided they meet public disclosure obligations. The law governing public tender offers applicable on Euronext remains in force for three years.

Cross-industry committee on UCITS IV transposition

Set up by the AMF and co-chaired by Jacques Delmas-Marsalet and Jean-Pierre Hellebuyck, this committee was tasked with preparing an action plan to act as a roadmap for the AMF and the financial community as a whole. The committee focussed on four areas: promotion of the French regulatory system, regulation of products and marketing, regulation of management companies, securities administration and the full range of services provided to investment funds.

A draft report will be put out to public consultation prior to publication.

Working group on audit committees

The AMF set up a working group led by Board members Jean-François Lepetit and Olivier Poupart-Lafarge to prepare a guide on audit committees. Among other things, the group was asked to provide a practical description of the audit committee's tasks and consider adjustments for small and mid-caps.

Professional certification system for market participants

The system for testing the regulatory knowledge of market participants was finalised. The AMF General Regulation was amended, and a ten-member Financial Skills Certification Board was set up, with AMF Board member Jean-Pierre Pinatton appointed as its chairman. Traders, salespersons, financial analysts, asset managers, heads of clearing and post-trade services, and compliance officers must meet the requirements of the system, which is scheduled to come into effect on 1 July 2010.

Transparent disclosures

Major shareholding disclosures and statements of intent

The regime governing major shareholding disclosures and statements of intent was reformed to make financial markets more transparent. The scope of financial instruments used to calculate major shareholdings was extended, and the deadline for reporting to the AMF was cut from five to four days for major shareholdings and from ten to five days for statements of intent. In addition, more specific information requirements were introduced for disclosures, two thresholds were created for disclosures on Alternext, and the content and scope of statements of intent were modified.

Supervising transactions in securities involved in a tender offer

The transaction reporting rules for securities involved in tender offers apply from the moment the details of the offer are announced until the final outcome is published. The AMF introduced streamlined reporting rules for investment services providers (ISPs) involved in an offer as sponsors or as advisers to an offeror.

New reporting rules for ownership changes at management companies

From 1 January 2010, the AMF must receive prior notification of all ownership changes at asset management companies that result in

>>> 2009 highlights

the fraction of voting rights or capital held going above or below new thresholds, set at 10%, 20%, 33.3% and 50%. The AMF published a set of Q&A to accompany the introduction of the new measures.

AMF watchful on transparency for executive compensation

As part of its annual report on corporate governance and internal control, the AMF examined a sample of 60 companies to make sure that they were properly applying AFEP-MEDEF recommendations on compensation for senior executives. Overall, the AMF found that while companies had made a major effort to provide accurate, clear and individualised information, there was still considerable room for improvement.

Market integrity

New anti-money laundering measures

Transposition of the Third European Money Laundering Directive was completed after the General Regulation was amended to introduce a standard regime that is applicable, subject to a few minor adjustments, to management companies, FIAs, CSDs as well as the operators of settlement systems.

AFG Code of Good Practice extended to all asset management professionals

The AMF approved the French Asset Management Association's (AFG) Code of Good Practice as a set of professional rules and extended it to non-AFG management companies and other investment services providers (ISPs) offering asset management services. The idea is to harmonise the rules applicable to asset management professionals, which may be disciplined by the AMF if they breach the code.

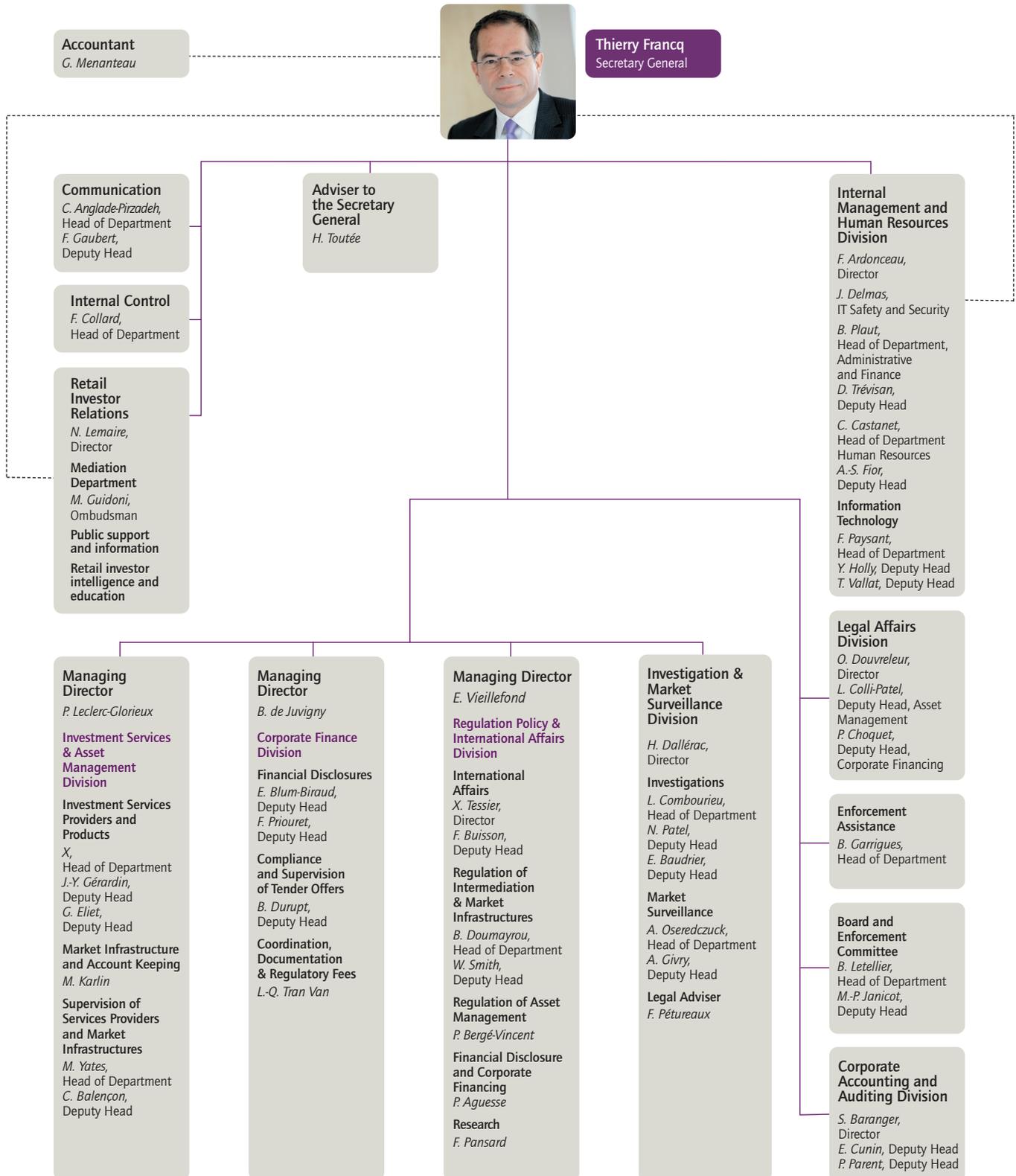
Active presence on the international scene

The AMF's activities were shaped by the G20 summit meetings held over the course of 2009. At international level, the AMF was extremely busy within the FSB, IOSCO and the Joint Forum, examining issues of market regulation posed by the financial crisis as well as the responses to the questions raised. At the FSB, the AMF was asked to chair a working group on sound implementation of financial standards, beginning with compensation. At the same time, the AMF looked at the issue of overall trade transparency and the effective regulation of complex products, and worked with the Australian regulator within IOSCO to co-lead a report on unregulated markets and products. It also co-chaired a group on supervisory cooperation with the SEC.

In Europe, the AMF lobbied for full implementation of the recommendations of the Larosière Group on improving financial supervision in Europe, calling among other things for the creation of a European Securities and Markets Authority (ESMA) and a European Systemic Risk Board. The AMF also played an active part in work on hedge funds oversight as part of the drafting process for the AIFM directive, and examined issues linked to the oversight of derivatives markets.

This international and European commitment reflects the AMF's determination to promote convergence in supervisory practices, with the ultimate goal of ensuring uniform protection for investors.

AMF organisation chart



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