

Chapter 6

The Enforcement Committee

1 – Activity of the Enforcement Committee
in 2007

Important: The following English text is a translation of extracts from the French version of the 2007 annual Report. Only the original French text has any legal value. The AMF expressly disclaims all liability for any inaccuracies in the translation

The Enforcement Committee takes decisions on complaints brought against natural persons and legal entities in the French markets. It has 12 members divided into two six-member sections.

Cases are referred to the Chairman of the Enforcement Committee by the AMF Chairman on the basis of a decision by the Board, and most commonly by one of the three specialised Committees further to an investigation report or an inspection report. For each case, the Committee's Chairman appoints one of its members to act as rapporteur and prepare the matter for hearing. Rapporteurs are entitled to seek the assistance of AMF departments, in accordance with Article R. 621-39 of the Monetary and Financial Code. The rapporteur relies on the Enforcement Assistance Department of the AMF.

The Enforcement Committee has been chaired since 29 May 2006 by Daniel Labetoulle, honorary president of the litigation division of the Conseil d'État. One section of the Enforcement Committee is chaired by the Committee Chairman, the other by Claude Noquet, a judge at the Court of Cassation.

In 2007 the Committee dealt with more cases than it received. Furthermore, the number of backlogged cases declined as the longest-standing ones were judged. As a result, at 31 December 2007, only 12 proceedings pre-dated 1 January 2007. This means that the goal of processing all cases within an average of one year was almost reached in 2007¹, despite an increase in the number of defendants and complaints per case.

The sanction procedure was amended last year by Act 2007-1774 of 17 December 2007 to allow for timely disclosure of potential grounds for barring a member of the Enforcement Committee from a decision-making session. A defendant can now ask a Committee member to stand aside if he or she has serious reason to doubt the member's impartiality.

¹ Average processing time: 14.7 months

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The Enforcement Committee was highly active in 2007, its fourth year of operations.

Between January and December it completed 33² proceedings, of which 28 gave rise to sanctions against 65 natural persons and legal entities (see table).

Most of the sanctions were related to breaches of rules on public disclosure (13 proceedings), insider dealing (5 proceedings) and price manipulation (1 proceeding). The other sanctions were issued in cases involving providers of investment services other than asset management (5 proceedings) and providers of asset management services (4 proceedings).

Appeals can be lodged against all Committee decisions, as provided for in Articles R. 621-44 and *seq.* of the Monetary and Financial Code. A total of 53 persons and entities lodged appeals against sanction decisions with the Paris Appeal Court, the Court of Cassation and/or the Conseil d'État.

Statistical data

Number of sanction proceedings opened in 2007: 29

Number of sanction proceedings completed in 2007: 33³

Analysis of the 33 sanction proceedings completed in 2007, of which 5 did not give rise to sanctions:

105 persons or entities concerned:

> 65 sanctions (26 legal entities and 39 natural persons)

> 40 acquittals (13 legal entities and 27 natural persons)

The 65 sanctions break down as follows:

> 60 fines

– ranging from €1,000 to €1,500,000

– making a total of €19,894,000 levied against 24 legal entities

(€10,680,000) and 36 natural persons (€9,214,000)

of these, 4 were accompanied by a reprimand and 1 with a warning

> 2 temporary suspensions with no fine

> 3 warnings with no fine

Number of sanction proceedings still under way at end-2007: 37

Number of appeals lodged by sanctioned persons or entities (as at 31 December 2007): 53 (compared with 28 in 2006)

Number of appeals pending before the Paris Appeals Court, the Court of Cassation and the Conseil d'État at 31 December 2007: 45

Source: AMF

² Not including one decision that was not published pending further investigation

³ Six decisions were not published