

Chapter 5

Market Surveillance and Discipline

To carry out its mission of investor protection, the AMF pursued its surveillance activities on a daily basis in 2005, ensuring that markets remain fair and orderly, that investors are treated equally, and that the information they receive is transparent.

For this purpose, the AMF has effective resources of its own and coordinates its efforts with the other authorities responsible for supervising the banking and financial industries¹.

As part of this oversight role, the AMF conducts inspections and investigations under the authority of its Secretary General. For this, the AMF relies on three staff departments that perform:

- market surveillance: monitoring of trading and trader behaviour to detect market anomalies;
- off-site and on-site audits of investment services providers (ISPs), including asset management companies, to ensure they comply with the rules of their profession;
- investigations, which typically focus on infringements of laws or regulations. For these tasks, in addition to its own staff resources, the AMF may draw on external audit bodies: the market operator, the central securities depository, the Commission Bancaire and audit firms.

This chapter describes the oversight activities conducted by the AMF in 2005.

Table 1

Market surveillance and discipline in 2005

Market situations examined	1,700
On-site inspections of investment services providers	107
Investigations opened	88

Source: AMF

What are the possible consequences (*) of an AMF investigation or inspection?					
The AMF opens sanction proceedings	The AMF submits a report to the public prosecutor when the facts constitute a possible offence	The AMF submits a report to other French or foreign administrative authorities when the facts fall within their jurisdiction	The AMF sends comments, which may be published, to the parties concerned	The AMF issues an injunction	The case is closed

Source: AMF

* The same investigation or inspection report may have several consequences.

¹ Banque de France, banking commission (Commission Bancaire), commission on credit institutions and investment firms (Comité des Établissements de Crédit et des Entreprises d'Investissement, CECEI) and the insurance control commission (Autorité de Contrôle des Assurances et des Mutuelles - ACAM).

1 Regulatory Developments Concerning Market Abuse

A Reporting Suspicious Transactions to the AMF

The DDAC Act of 20 July 2005, which transposed some aspects of EU financial legislation into French law, also completed the transposition of the directives on market abuse and established the framework for implementing the Markets in Financial Instruments Directive (MiFID).

The AMF's General Regulation, published in the Official Journal on 24 November 2004, had already transposed many of the regulatory provisions of the Market Abuse Directive (MAD) and its three implementing directives. However, legislative amendments were needed to transpose several provisions aimed at improving the quality of financial disclosures and relating to the prevention and prosecution of insider dealing and price manipulation. The new act effected those amendments.

Pursuant to Articles L. 621-17-2 *et seq.* of the Financial and Monetary Code and Articles 321-142 to 321-144 of the General Regulation², financial intermediaries are now required to report to the AMF without delay any transaction in financial instruments admitted to trading on a regulated market or for which an application for admission to a regulated market has been filed that may constitute insider dealing or price manipulation. Drawing on the existing provisions on the prevention of money laundering and terrorist financing, the Financial and Monetary Code also specifies the contents of such reports, imposes a confidentiality requirement on the reporting party and on AMF members, and exempts from liability the party that submits such a report in good faith.

The AMF's General Regulation stipulates that reporting institutions³ must implement an organisation and procedures to satisfy the requirements of the Financial and Monetary Code. The main purpose of this stipulation is to define and update the categories of suspicious transactions in order to identify those that should be reported. The requirement comes into force on 1 July 2006 (Article 321-144 of the General Regulation).

In Instruction 2006-01, published on 24 January 2006, the AMF defines a standard report format, based on the CESR recommendations of 10 February 2005, and stipulates that this report is to be submitted to its Investigations and Market Surveillance Division.

B Obligation to Keep Insider Lists

The Act of 20 July 2005 introduces a new article, L. 621-18-4, into the Financial and Monetary Code, requiring issuers to establish and maintain lists of staff members having direct or indirect access to inside information about the company, as well as third parties with access to the same information through their professional dealings with the company. In turn, those third parties are required to keep their own lists.

These procedures are explained in detail in Chapter 3 – Corporate Finance and the Quality of Financial Disclosure.

² Approved by an order of 1 September 2005.

³ Pursuant to Article L. 621-17-2 of the Financial and Monetary Code, these are credit institutions, investment firms and members of regulated markets as defined by Article L. 421-8 of the Financial and Monetary Code.

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C Transactions by Senior Executives and Persons Referred to in Article L. 621-18-2 of the Financial and Monetary Code

The Act of 20 July 2005 sets new rules for disclosing transactions in their company's securities by senior managers and persons closely connected to them. These procedures are explained in detail in Chapter 3 – Corporate Finance and the Quality of Financial Disclosures.

D Share Buy-Backs

In 2005, pursuant to MAD, the AMF recognised two accepted market practices related to share buy-backs⁴: the use of liquidity agreements and the purchase of own shares for future use as consideration for acquisitions. Furthermore, the Economic Confidence and Modernisation Act 2005-842 of 26 July 2005 abolished the requirement to seek approval for share buy-back prospectuses.

These procedures are explained in detail in Chapter 3 – Corporate Finance and the Quality of Financial Disclosures.

E Broader Powers of Sanction for the AMF

Pursuant to MAD⁵, the Economic Confidence and Modernisation Act has broadened the AMF's powers of injunction and sanction. The regulator is now empowered to prevent and penalise infringements committed in France or abroad involving the securities offered by companies in France or admitted to trading on a French regulated market, as well as infringements committed in France involving securities admitted to trading on a regulated market in the European Economic Area. The scope of Title VI of the AMF's General Regulation on market abuse was amended accordingly (Article 611-1).

The AMF can also penalise objective infringements of investor protection rules, without having to prove that the practices at fault have an impact on prices or orderly market operation.

Attempted insider dealing can also be sanctioned. Article 622-1 of the AMF's General Regulation now prohibits the use of inside information to buy or sell, or to attempt to buy or sell, financial instruments to which the information relates.

2 Market Surveillance in 2005

Staffed by fifteen experts in financial markets and IT surveillance tools, the surveillance department is responsible for monitoring market activity and trader behaviour. Its aim is to detect abnormal events or behaviours that might result from prohibited actions such as price manipulation, insider dealing and dissemination of false information.

The department monitors 1,019 listed companies (749 on Eurolist, 20 on Alternext, 250 on the Marché Libre), 1,000 investment services providers (ISPs), and all financial instruments traded in the Paris markets.

⁴ Decisions of 22 March 2005.

⁵ European Directive 2003/124/EC of 22 December 2003.

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The mainstay of the monitoring system is a proprietary “delayed surveillance” IT application, which automatically detects any market anomalies by running a suite of 72 statistical tests daily. Some 30,000 alerts were generated in 2005.

These alerts are then analysed by a team of experts to ascertain whether there has been suspicious activity. The workload increased again in 2005: 1,700 situations were analysed in-house, up from 1,560 in 2004, and the securities concerned were put on watch. Of the 1,700 market situations analysed, some 700 were subjected to more thorough investigation, involving requests for information sent to ISPs or foreign regulators.

If the market surveillance department fails to find a reason for the anomaly and there appears to be an infringement, an investigation proposal is drafted and forwarded to senior managers. Of the 28 investigations that led to AMF sanction proceedings in 2005, 20 were initiated by the market surveillance department.

In addition, the Ombudsman Service forwarded to the market surveillance department 120 requests for investigation and assessment involving complex cases of price movements and suspicious transaction reports received from investors.

A Merging IT Tools

The highlight of 2005 was the development and implementation of the SESAM information system. SESAM merges all the functions of SMF and SCAN – the legacy systems inherited from the COB and the CMF – to form a single tool. SCAN was decommissioned as planned on 31 December 2005.

The merged application is more efficient operationally, logistically and financially. SESAM makes it easier for users to access information and broadens the spectrum of data analysed. It simplifies data flows from providers (Euronext, Clearnet and Euroclear France) and reduces the cost of maintaining and operating the information system.

SESAM's multiple screens allow users to retrieve data on all trades executed since 1991 in the equity and derivatives markets, as well as the detailed characteristics of all orders sent to markets by ISPs via the direct transaction reporting system, RDT.

B Better Surveillance through New Requirements

1 Direct Reporting

Pursuant to AMF Instruction 2005-08, ISPs have been reporting over-the-counter (OTC) trades to the AMF since 30 September 2005. They are required to declare all trades not executed on Euronext, which previously were not picked up by the market surveillance department's automated detection system. The AMF now has access to OTC trade data, particularly for the bond market, to which this requirement will be extended in 2006.

Technical changes were made to SESAM in 2005 to accommodate this new information. The system will be upgraded again in 2006 to improve monitoring of OTC trades.

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2 Reporting Suspicious Transactions

The new obligation on ISPs to report suspicious transactions to the regulator, set forth in European regulations and implemented in France by the Breton Act, began to bear fruit in the last quarter of 2005. The AMF received the first such report in October. A total of six reports were examined in 2005 by the market surveillance department, leading to two investigations.

The practical arrangements for filing suspicious transaction reports were discussed with the industry. In 2006, these reports should offer a new way of detecting market anomalies and significantly increase the number of investigations opened.

3 Director's Dealings and Insider Lists

The market surveillance department now has access to all disclosures by senior managers⁶ relating to dealings in their companies' securities. This speeds up detection of insider dealing, but it also adds a further surveillance task, namely ensuring that managers fulfil their obligations.

Similarly, insider lists⁷ must be made available to the AMF for review, so that the market surveillance department can check more efficiently whether any insiders have influenced the market.

3 Supervision of Investment Services Providers In 2005

To fulfil its mandate of supervising ISPs, the AMF had some 20 inspectors at its disposal in the Supervision of Services Providers and Market Infrastructures Department at year-end 2005.

The department is charged with ensuring the regulatory compliance of ISPs under AMF jurisdiction. It is responsible for assessing the effectiveness of ISPs' compliance systems and resources and for verifying that AMF rules are properly understood.

The AMF's auditing activities concerned 951 regulated entities⁸ (484 asset management companies, 125 investment firms⁹ (49 of which have custody account keeper status), 338 credit institutions (312 of which with account keeper status), 1 custody account keeper¹⁰ and 3 market infrastructures.

Both off-site audits and on-site inspections are used to supervise ISPs and market infrastructures.

A Off-Site Audits

An off-site audit consists in analysing information sent to the AMF, either systematically or upon request, to verify regulatory compliance. It includes checking the orders and trades reported to the AMF by the market operator and ISPs.

⁶ Chapter 5

⁷ Chapter 5

⁸ Figures at year-end 2005.

⁹ Includes Powernext and MTF France, both of which operate multilateral trading facilities. Article 521-1 of the AMF General Regulation.

¹⁰ Article L. 542-1 5° of the Financial and Monetary Code.

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In light of the responses forwarded to it during an off-site audit, the AMF may decide to initiate an on-site inspection.

The main supervisory actions of the AMF in 2005 took the following forms.

1 Authorised Providers

a) Annual Reports

Authorised providers (other than asset management companies), the market operator, the clearing house and the central securities depository are required to submit reports to the AMF each April on their internal supervision of investment services. These reports serve to guide the AMF's on-site inspections. Of the 490 authorised providers, 475 reported that they were providing investment services¹¹.

As in the past, the AMF supplied a questionnaire for use by authorised providers in filing the 2003 and 2004 annual reports. The form included a reference table of the main provisions of its regulation. Systematic use of the questionnaire format makes it possible to standardise the responses, allowing the AMF to analyse them more easily and to monitor statistics relating to the control of the investment services reported by providers.

The annual reports for successive years show that ISPs have introduced internal procedures and that investment services supervisors have stepped up their controls. The result is a continuous improvement in the level of regulatory compliance¹².

The investment services and related services most frequently offered by ISPs are order reception and transmission (88% of authorised providers) and custody account keeping (75% of authorised providers). Although 85% of providers are authorised to engage in proprietary trading, only 55% utilise that authorisation.

b) Special Audits

In 2005, the AMF asked authorised providers' investment services supervisors to submit a special report on control procedures for asset management by September 2005. A summary analysis of the reports it received will be published in 2006.

In 2004, the AMF asked authorised providers' investment services supervisors to submit a report on the control of marketing procedures for investment services. The AMF published a summary of the 455 reports received.

The reports show that ISPs do take compliance-related considerations into account in their marketing policy. Best practices include:

- the compliance officer sits on a new-products committee that assesses customer needs, defines the target customers of a new marketing campaign, and ensures that the proposed products and services comply with regulations, applicable laws and conduct of business rules;
- new marketing initiatives relating to investment services are examined before their launch and checked for compliance with current rules; procedures are adopted to ensure greater security when the initiatives are implemented;

¹¹ Eight ISPs had their approvals withdrawn (in progress or already withdrawn) and were therefore not required to submit an annual report for 2004; seven ISPs asked to be exempted from submitting an annual report for 2004 because they ceased to provide investment services and other regulated services.

¹² A summary of the 2003 reports was published in the AMF monthly review, issue 22, February 2006.

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- the customers' level of expertise is taken into account when the product's marketing target is defined;
- the investment service supervisor is involved in preparing advertising materials for customers and marketing literature for sales staff;
- compliance-related issues are taken into account when training sales staff and raising their awareness of the need to match services and products with the customer's profile;
- specialised teams are responsible for marketing riskier products.

However, the best practices described in many reports relate more to the rules applicable to the individual customer relationship than to the design of products and services.

Little information is given about control procedures implemented by providers to identify cases where the marketed products were unsuitable for the customers who purchased them. Investment services providers generally analyse customer complaints to make sure that the proper marketing procedures have been applied rather than conducting regular checks of the match between products customer needs or monitoring the external distribution channels they have used.

The AMF examined the reports and published a summary, which highlights the following points:

- the presentation of the products and services marketed;
- marketing policy and compliance-related considerations;
- product distribution for each type of customer;
- preparation of formal marketing rules and training of sales staff;
- marketing media for each type of customer;
- supervision of marketing policy and approach.

2 Asset Management Companies

Asset management companies, like other investment services providers, were asked by the AMF to submit a report on their control programme in 2004 to ensure compliance with regulatory requirements. To help them draft their reports, a checklist of regulatory provisions applicable to asset management companies and the investment services they perform was provided. The report is used as a guide for monitoring and auditing individual companies, when their reports contain apparently non-compliant or inconsistent responses. At 30 June 2005, the deadline for submitting the report, 463 asset management companies were concerned by this requirement.

After the publication in November 2004 of special rules¹³ on money laundering and terrorist financing, asset management companies were asked to report on progress in bringing their systems into line with the new requirements¹⁴. Dialogue between the AMF's departments and asset management companies on this issue identified various questions and difficulties in adapting control procedures to regulatory requirements. Even though the quantitative results need to be assessed with care, insofar as they are based on self-reporting, the responses show that efforts have been undertaken to combat financial crime.

The AMF also asked asset management companies to submit a special report by end-September

¹³ AMF monthly review, issue 20, December 2005 "*Dispositif de lutte contre le blanchiment dans les sociétés de gestion*" ("Procedures for combating money laundering in asset management companies"), in French only, p 59.

¹⁴ A summary of responses was published in the AMF monthly review, issue 20, December 2005.

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2005 on their control procedures. The responses are currently being examined.

3 Surveillance of Market Infrastructure

Market oversight is enhanced by holding regular monthly meetings with the investment services supervisors of Euronext Paris, LCH.Clearnet and Euroclear France.

The points monitored with Euronext included:

- supervision of market members, in particular the resources and procedures utilised by the market operator to monitor its members' activity;
- cooperation between the AMF and Euronext during supervisory missions¹⁵ relating mainly to compliance with market rules;
- technological developments associated with transaction reporting via Euronext Paris (deployment of TCS¹⁶ Web and updating technical documentation for TCS users);
- examination of proposed measures to circumscribe certain behaviours observed on the penny stocks markets;
- launch of a new market segment for French Treasury bonds (OATs);
- analysis of incidents affecting market operation.

The AMF pursued its cooperation with its fellow regulators on the oversight of Euronext markets. The AMF checked Euronext's compliance with regulatory requirements, especially the procedures used for internal control system and detection of market abuse.

Every two months, the AMF met with LCH.Clearnet SA and the central securities depository, Euroclear France, which manages the RGV2 securities settlement system, to go over the securities settlement fails recorded by clearing members as well as the major operational incidents logged by their own information systems. In 2005, in addition to monitoring members with a high percentage of fails, special scrutiny was given to the buy-in procedure applied by LCH.Clearnet SA to all Euronext markets as well as the penalties levied by the clearing house and the central securities depository for delivery fails generated by their members in the financial instrument settlement processes.

B On-Site Inspections

The decision to order an on-site inspection is taken by the Secretary General of the AMF. After the inspection mission, a written report of its findings is sent to the regulated entity for comment. The report is then forwarded to the AMF Board, which decides whether there are grounds for opening a sanction proceeding.

In 2005, the AMF completed 79 inspection missions initiated in 2004 and 2005, and opened 107 new missions. The inspections were divided fairly evenly between asset management companies and investment services providers.

In 2005, 13 reports written after on-site inspections prompted the specialised commissions of the AMF Board to take sanction proceedings against 22 individuals or companies and to submit a report to the judicial authorities.

To perform inspections of entities under its supervision, the AMF may also draw on external auditors in addition to its own staff¹⁷.

¹⁵ Article L. 621-9-2 of the Financial and Monetary Code.

¹⁶ Transaction Confirmation System.

¹⁷ Pursuant to Articles L. 621-9-2 and R. 621-31 to 33 of the Financial and Monetary Code.

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Roughly three-quarters of its inspection missions in 2005 were performed by outside auditors: 69 by ten audit firms, 8 by the Commission Bancaire and 1 by the Confédération Nationale du Crédit Mutuel, the central entity of the Crédit Mutuel group. When the AMF mandates outside auditors to work on its behalf – after ensuring there is no conflict of interest between the auditor and the company being audited – they have the same statutory prerogatives as the regulator. This means that information may not be withheld from them on grounds of professional secrecy. The regulator is liable to third parties for its agents' compliance with law and regulations during these missions and in any proceedings stemming from them.

The main audit topics in 2005 were the following:

- 30 inspections looked at the organisation of internal control at asset management companies and the conditions governing their business;
- 15 on-site inspections of procedures for fund subscriptions and redemptions to monitor whether investors were treated equally with respect to information on asset valuation and order registration; these investigations were conducted both at custody account keepers/clearers and at asset management companies;
- 17 inspections of asset management companies whose authorisation to provide investment services had been issued within the previous 18 months. These inspections reviewed the resources deployed to provide such services, checking for consistency with the original application submitted to the COB or the AMF;
- 4 inspections were carried out to ensure that asset management companies authorised to use credit derivatives had exercised customary professional diligence;
- 35 inspections verified that the declarations made by investment services providers in the annual report on supervision of investment services, in accordance with Article 321-22 of the AMF General Regulation, were properly justified and documented;
- 2 inspections were performed on behalf of the investment fund supervisory commission of the Principality of Monaco.

Typically, the problems found during inspection missions arise from a provider's failure to devote enough resources to supervision. Regarding the conduct of business rules governing relations between providers and their clients, shortcomings are still being identified in customer due diligence.

Certain inspections detected cross-trades that had no economic substance. This prompted the AMF to clarify¹⁸ its assessment of the various practices identified and the customary professional diligence that ISPs must exercise to ensure that these techniques are used correctly.

A series of inspections at providers that offer an order execution service for clients but are not authorised to engage in proprietary trading prompted the AMF to draw attention to the rules on the operation of "house" accounts (holding account, average price account, price spread account, error account, etc.) and the need to establish controls in this area. These recommendations were published in the AMF monthly review¹⁹.

The AMF also conducted on-site inspections of the recording and processing of orders relating to collective investment schemes (CIS). Investigations at 15 asset management companies representative of the different forms of organisation for processing CIS transactions were aimed at ensuring that:

- subscription and redemption orders were recorded and executed in compliance with the scheme's prospectus and professional obligations;

¹⁸ AMF monthly review, issue 16, July-August 2005.

¹⁹ AMF monthly review, issue 16, July-August 2005.

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- the scheme has procedures in place to reduce or eliminate the risk of unfair treatment of CIS investors, resulting in particular from knowledge of the value of the assets in the scheme before its net asset value has been calculated;
- the scheme is able to explain its responses to the questionnaire sent to it on the same issues.

These inspections showed that the operational risk relating to new subscriptions had been underestimated, both at the management companies inspected and at their paying agents. After the inspections, the management companies indicated that they would undertake corrective action to remedy shortcomings in the processing of subscriptions and redemptions.

C Surveillance of Markets and Providers

To detect market anomalies and organise investigation work with respect to providers and market infrastructures, the inspectors retrieve and analyse data on trades in financial instruments executed on the regulated markets of Euronext Paris and on trades collected by a provider operating in France for transmission to another provider or executed over the counter. When irregular trades are detected, a more detailed review is initiated, in which the provider may be questioned or an on-site inspection conducted.

The AMF adapted the reporting requirements in Instruction 2005-08 of 6 September 2005, which requires authorised providers, branches and market operators to report financial instrument transactions to the AMF, pursuant to Title I of the AMF General Regulation. The instruction changed the reporting channels by cutting out securities settlement systems.

In 2005, the market operator reported 245 million orders (excluding warrants and derivatives) and 80 million trades to the AMF. ISPs reported 23 million transactions via the RDT direct transaction reporting system. At year-end 2005, 316 firms were using RDT, compared with 270 at year-end 2004.

On 30 June 2005, the conclusions of the 36 inspections conducted in 2004 on compliance with reporting requirements with respect to trades in financial instruments admitted to trading on a French regulated market, including over-the-counter trading, were presented to the Board. The quality of reporting by the investigated firms was generally found to be poor. The reasons for the disappointing outcome are:

- poor understanding of the AMF instruction;
- lack of involvement of investment services supervisors due to the highly technical nature of the issue;
- technological solutions that do not meet regulatory specifications.

The deployment of SESAM²⁰, the new market surveillance system, and the creation of a single AMF department specialised in market surveillance have increased the resources available for monitoring reporting companies and the quality of data received.

²⁰ See Chapter 5

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4 Investigations

The Secretary General of the AMF decided to open 88 investigations in 2005. This figure is slightly higher than in previous years, as was the number of investigations completed in 2005. The proportion of investigations that subsequently result in sanction proceedings is also on the rise.

Table 2

Investigations opened and completed

	2003	2004	2005
AMF investigations opened ²¹	85	83	88
Investigations completed	79	90	91

Source: AMF

A Origin and Classification of Investigations

More than half the investigations were initiated on the basis of anomalies detected by the market surveillance department. Most frequently, these investigations concern offences or rule violations: insider dealing, dissemination of false information and price manipulation.

Others were initiated in response to indications forwarded by other AMF divisions, particularly Corporate Finance, Corporate Accounting and Auditing, and Investment Services and Asset Management.

Lastly, some investigations originated from sources outside the AMF, such as investor complaints, requests for advice from judicial authorities in cases involving securities issuers or infringements committed during takeover bids²², disclosures by other French government authorities, or requests from foreign authorities with regulatory responsibilities equivalent to the AMF's²³.

The 88 investigations in 2005 were opened for the following reasons:

Reason ²⁴	TOTAL 2005*
Market (insider behaviour or dishonest conduct impairing orderly markets)	35
Financial disclosure	11
Improper acts related to asset management	1
Unauthorised direct marketing	0
International cooperation	48
Total*	94

Source: AMF

* The total is greater than number of investigations opened (88) because six investigations concerned both the market in a security (price manipulation and insider dealing) and financial disclosures.

²¹ In 2003: 75 by the COB and 10 by the AMF (from 25 November 2003).

²² Article L. 466-1 of the Financial and Monetary Code.

²³ Article L. 621-21 of the Financial and Monetary Code.

²⁴ The reason given relates to the facts that prompted the investigation, not the results of the investigation.

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Ninety-one investigations were completed in 2005²⁵, confirming the appreciable increase already recorded in 2004. The uptrend has occurred even though the scope and complexity of investigations has tended to rise, mainly because they are becoming increasingly international and involve large issuers.

Of those 91 investigations completed in 2005, 28 resulted in sanction proceedings from one of the specialised commissions of the AMF Board (21 of those cases were also referred to the public prosecutor), 11 cases were closed, 17 resulted in one or more letters of comment, 3 to a referral to the public prosecutor (without sanction proceedings); 28 were forwarded to foreign counterparts under international cooperation arrangements.

B International Cooperation

The AMF continued to cooperate with foreign regulators on matters involving market surveillance, investigations and exchanges of information on financial intermediaries. In 2005, 48 investigations were opened at the request of foreign authorities, primarily concerning transactions made by intermediaries in France in securities listed on foreign markets.

The table below summarises the requests for assistance received by the AMF from foreign authorities and made by the AMF to foreign authorities.

Requests for assistance, by country:

Country	Requests 2004		Requests 2005	
	Received	Sent	Received	Sent
Belgium	5	7	24	13
Germany	10	10	11	7
Italy	6	11	2	21
Luxembourg	7	9	1	9
Monaco	0	3	1	9
Netherlands	7	11	11	21
Spain	4	1	1	10
Switzerland	1	27	0	45
UK	4	56	11	85
USA	9	17	2	27
Others	23	29	24	41
Total	76	181	88	288

Source: AMF

The number of requests received by the AMF grew by 15% between 2004 and 2005. The largest number came from Belgium.

The number of requests sent by the AMF to its foreign counterparts increased by more than 60%²⁶ in 2005, reflecting the increasingly global nature of financial markets.

Nearly one-third of all requests made by the AMF in 2005 concerned the United Kingdom. A large number of requests were also sent to Switzerland. Requests to Italy, the Netherlands and the USA were also up sharply.

²⁵ See Appendix 5.

²⁶ In 2005, a new statistical method was applied to requests sent. For a valid comparison of 2004 and 2005, the 2004 figures were recalculated using the new method.

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Requests for assistance served a variety of needs, as shown in the table below.

Requests for assistance, by type:

	Requests 2004		Requests 2005	
	Received	Sent	Received	Sent
Authorisation: Requests for information on intermediaries	27	33	26	31
Surveillance and investigation of infringements: Requests for information on intermediaries/transactions/ legislation	0	0	4	0
Use of inside information	23	112	44	163
Dissemination of misinformation	7	18	0	45
Infringements associated with offers of securities to the public	0	0	2	0
Price manipulation	7	15	2	38
Unauthorised direct marketing	0	1	2	3
Infringements via the Internet	2	0	0	0
Other	10	2	8	8
Total	76	181	88	288

Source: AMF

Of the investigations calling for international cooperation, those concerning insider dealing remain the most numerous.

5 Cases Referred to Other Authorities in 2005

When the AMF finds evidence of acts that could fall under the jurisdiction of other judicial, administrative or self-regulatory authorities, it transmits its findings or reports to them for appropriate action.

A Referral to the Judicial Authorities

There are two main legal requirements to refer matters to the judicial authorities: firstly, any authority, public office holder or civil servant who obtains knowledge of a crime or offence is required to notify the public prosecutor;²⁷ secondly, the AMF Board must submit an investigation or inspection report immediately to the prosecutor for the Paris Court if one of the complaints may constitute an offence under Articles L. 465-1 and L. 465-2 of the Financial and Monetary Code²⁸. A referral may also be prompted by a request for advice from the judicial authorities in court cases relating to public companies or offences committed in connection with "stock market

²⁷ Article 40 of the Criminal Procedure Code and 621-20-1 of the Financial and Monetary Code.

²⁸ Article L. 621-15-1 of the Financial and Monetary Code.

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transactions²⁹, or when a judicial investigation has been opened into the same facts. Lastly, a matter may be referred to the competent prosecuting authorities so they can decide whether to take disciplinary action against one or more statutory auditors for dissemination of false, inaccurate or misleading information.

In 2005, the AMF referred 24 investigation reports and one inspection report involving possibly criminal acts. Twenty-two of those twenty-five reports have led to AMF sanction proceedings and thus cannot be commented upon here. The remaining three involve situations in which the AMF's investigation must be supplemented by action from the judicial authorities to establish the facts by evidence and impose a valid punishment.

The court decisions on these reports are completely independent of AMF sanction proceedings.

B Referrals to Administrative or Self-Regulatory Authorities

In 2005, the AMF forwarded six investigation and inspection reports to other French administrative or professional authorities: four to the Commission Bancaire and two to the insurance control commission (renamed ACAM). These figures are lower than in previous years simply because of the merger of the COB, CMF and CDGF, each of which transmitted numerous audit and investigative reports to the others.

Table 3

Summary table of investigation and inspection reports referred by the AMF in 2004 and 2005

Transmissions:	AMF 2004	AMF 2005
– to administrative and self-regulatory authorities	4	6
– to judicial authorities	18	25*

Source: AMF

* Of which five, concerning statutory auditors, were also referred to one or more prosecuting authorities.

²⁹ Article L.466-1 of the Financial and Monetary Code.