

## Chapter 6

# Enforcement Committee Decisions

*The Enforcement Committee has sole authority to exercise the AMF's power of sanction. Composed of 12 members<sup>1</sup> divided into two six-member sections, it is totally independent of the Board. It examines cases referred by the Chairman of the AMF, pursuant to a decision from one of the Board's three specialised commissions. For each case, the Chairman of the Enforcement Committee appoints one of its members to act as rapporteur and prepare the matter for hearing.*

*In 2005, to cope with the expansion of the Commission's activities and the challenges to its decisions, which are heard by State Council, the Paris Appeals Court or the Court of Cassation, depending on the case, the AMF set up a special department to examine disputes arising from its sanctions.*

### **1** Activity of the Enforcement Committee in 2005

The Enforcement Committee was highly active throughout 2005 in its prosecutorial and educational roles. Between January and December 2005, it completed 32 sanction proceedings, compared with 24 in 2004. Of these, 27 resulted in sanctions against 51 natural persons and legal entities. But despite the number of cases closed, 36 proceedings were still under way at 31 December 2005.

Most of the sanctions stemmed from proceedings involving the enforcement of rules on public disclosure (7 proceedings) and providers of investment services other than asset management (6 proceedings).

The other proceedings gave rise to sanctions on the grounds of price manipulation (4 proceedings), insider dealing (2 proceedings), custody account keepers (2 proceedings), investment services providers offering asset management services (2 proceedings), miscellaneous property intermediaries (1 proceeding), collective investment schemes (1 proceeding), regulated markets (1 proceeding) and disclosures relating to transactions on the Nouveau Marché (1 proceeding).

Appeals can be lodged against all Commission decisions, as provided for in Articles R. 621-44 *et seq* of the Financial and Monetary Code. A total of 18 persons and entities lodged appeals against sanction decisions issued in 2005; and 37 appeals against previous decisions were dealt with.

In all, between, 2004 and 2005, out of the 95 persons and entities sanctioned by the AMF Enforcement Committee since its inception, 34 entered appeals on merits. In response to these appeals, the State Council and the Paris Appeals Court handed down nine alteration decisions and two annulments<sup>2</sup>, one of which is on appeal before the Court of Cassation.

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<sup>1</sup> Article L.621-2, IV of the Financial and Monetary Code

<sup>2</sup> Data at 28 March 2006. At this writing, 16 proceedings were before the State Council and the Paris Appeals Court. Appeals are not recorded in these statistics.

**Important:** The following English text is a translation of extracts from the French version of the 2005 annual Report. Only the original French text has any legal value. The AMF expressly disclaims all liability for any inaccuracies in the translation.

## Statistical data

Number of sanction proceedings opened in 2005: **34**

Number of sanction proceedings completed in 2005: **32**, including **1** legacy proceeding from the CMF and **31** opened by the AMF<sup>3</sup>

Analysis of the **32** sanction proceedings completed in 2005:

– **79**<sup>4</sup> persons or entities concerned:

- **51** sanctions (27 legal entities, 24 natural persons)
- **28** acquittals (9 legal entities, 19 natural persons)

– **5** proceedings gave rise to no sanctions (5 legal entities, 4 natural persons)

The **51** sanctions break down into:

– **35** fines:

- from 1 euro to €600,000
- for a total of €3,833,002 euros levied against 18 legal entities
- (€2,765,001) and 17 natural persons (€1,068,001)
- together with 1 temporary ban on business activity, 3 reprimands, 3 warnings

– **1** temporary ban on business activity with no fine

– **3** reprimands with no fine

– **12** warnings with no fine

Number of sanction proceedings still under way at end 2005: **37**

Number of appeals lodged by persons or entities sanctioned in 2005: **18**

Source: AMF

<sup>3</sup> 6 decisions were not published, including three relating to acquittals.

<sup>4</sup> In one of its decisions, the Commission decided to defer a ruling on one natural person