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## The AMF Enforcement Committee fines Natixis Asset Management €35 million

**In a decision handed down on 25 July 2017, the Enforcement Committee has issued a warning to Natixis Asset Management and fined the company €35 million – the largest fine ever imposed by the Committee – for having breached its professional obligations in the management of formula funds between 2012 and 2015.**

The AMF inspected 133 formula funds designed and managed by Natixis Asset Management, a portfolio management company.

On maturity, these funds offered a total guarantee on the initially invested capital as well as a performance predetermined by a mathematical formula. For each fund, Natixis Asset Management constituted a "cushion" reserve fed by a "structuring margin" and a part of the fees owed by unit holders in the event of early redemption. According to the management company, this practice was primarily intended to protect unit holders against regulatory, operational and tax risks not covered by the guarantee subscribed so as to ensure the reimbursement of the capital at maturity.

The Enforcement Committee determined four regulatory breaches concerning the redemption fees corresponding to some of the funds inspected:

- the inexact and misleading information provided in the fund prospectuses, according to which half of the redemption fees were "vested" in the funds and served to offset the

fees incurred in investing or divesting the entrusted assets, whereas these fees benefited the funds only in certain cases and were only in part intended for the payment of fees, of a lower average amount;

- the breach of the obligation to act in the sole interest of unit holders and the imposition on these last of undue and unjustified charges evaluated at €15.6 million through the practically immediate transfer of net redemption fees from the net assets of the funds to a liability account, a transaction having led to a decrease in the net asset value of the funds and the entry in an account of which Natixis Asset Management was the sole beneficiary;
- exceeding the maximum rate of management fees set out in the prospectuses to the tune of €3.6 million, calculated by reintegrating in these fees, in respect of the financial years concerned, the redemption fees held in the liability account of the funds, and through this transaction having constituted remuneration for Natixis Asset Management;
- the issuing of information that is not accurate, clear and not misleading via the annual reports of the funds, by failing to include the amount of the redemption fees in the management fees.

The Enforcement Committee also determined, for some of the inspected funds, two regulatory breaches relative to the structuring margin:

- exceeding in the last financial year of the funds the maximum rate of management fees set out in the prospectuses by €12.5 million, calculated by re-integrating in these fees the remainder of the structuring margin, which Natixis Asset Management disposed of freely upon the maturity of the funds where the guaranteed formula was attained, which can thus be considered as remuneration.

In this regard, the Committee considered that the maximum rate of management fees should be assessed by financial year and not over the lifespan of the funds, and also that once the maximum rate of management fees provided for in the prospectuses had been attained, Natixis Asset Management should have enabled the unit holders to benefit from the remainder of the structuring margin rather than appropriate it for itself.

- the issuing of information that is not accurate, clear and not misleading via the annual reports of the funds in question, by failing to include the amount of the remainder of the structuring margin in the management fees.

In determining the fine, the Committee took into account the gravity and duration of the breaches as well as the substantial amounts involved.

This decision may be subject to an appeal.

### About the AMF

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### Press contact:

AMF Communication Directorate - Christèle Fradin - Tel: +33 (0)1 5345 6029 or +33 (0)1 5345 6028

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Head of publications: The Executive Director of AMF Communication Directorate. Contact:  
Communication Directorate – Autorité des marchés financiers 17 place de la Bourse – 75082 Paris  
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