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The Enforcement Committee of the Autorité des Marchés Financiers fines a portfolio asset management company for breaches of its professional obligations

In its decision of 25 June 2019, the Enforcement Committee fined Octo Asset Management €70,000 for breaching several of its professional obligations, taking into consideration the many corrective measures implemented by the company after the audit.

The Committee upheld objections pertaining to five series of violations relating to events that occurred between January 2014 and December 2016 concerning the management by Octo Asset Management of three money market and bond funds for institutional investors.

Breaches concerning obligations applicable to the valuation of assets

The Committee sanctioned the fact that the procedures for valuing Octo Asset Management's assets and validating its net asset values made no provision for the traceability of the sources of valuation of the assets of the managed funds. It also sanctioned the absence of traceability of the justifications for the valuation sources used for unlisted assets, and the deficiencies of related second-level controls, i.e. controls to ensure that first-level controls carried out by the operational functions were properly performed.

Breaches concerning the calculation of outperformance fees

The Committee noted the existence of a method for calculating outperformance fees that included in its base assets from new subscriptions with retroactive effect from the beginning of the financial year. The Committee thus reiterates the prohibition of outperformance fees based on an illegitimate "volume effect" that creates a difference in treatment between unitholders and does not correspond to management in their best interests.

Breaches concerning many regulatory obligations

The Committee sanctioned breaches concerning the following : traceability of the implementation of the credit rating procedure, compliance with the minimum rating levels required by the funds for the securities held, exceeding of regulatory ratios and compliance with the programme of operations with respect to the management of complex financial futures.

Breaches concerning conflicts of interests

The Commission noted that the company's register of conflicts of interests was incomplete and that there was no strict separation between the activities of Octo Asset Management and those of a company controlled by its principal shareholder, in which it was domiciled, despite potential conflicts of interest having been identified, together with the existence of interactions between the two companies during arbitrage transactions despite the prohibition recommendations established by Octo Asset Management's risk mapping.

Lastly, the Committee sanctioned the absence of second-level controls relating to the risk of potential conflicts of interest.

An appeal may be lodged against this decision.

About the Enforcement Committee

The Enforcement Committee, which is made up of judges and professionals, has total freedom to make decisions. It can impose sanctions on any person or company whose practices contravene laws and regulations that fall within the jurisdiction of the AMF. It ratifies settlement agreements signed by the Secretary General and respondents. And it takes part in the AMF's educational efforts by clarifying financial regulations when explaining its decisions.

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