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The Enforcement Committee of the Autorité des Marchés Financiers fines an investment services provider and three financial investment advisors for breaching their professional obligations

In its decision of 2 July 2019, the Committee issued a reprimand to Invest Securities, an investment services provider (ISP), and fined it €90,000 for failing to carry out the necessary checks prior to the marketing of a British alternative investment fund (AIF) that was not authorised in France. The Committee also fined Mr Carlotta and the companies Portal Conseil and Exec Finance, €20,000, €50,000 and €60,000 respectively for having recommended this product to some of their clients, in their capacity as financial investment advisors.

In June 2015, a British AIF specialising in the acquisition and resale of real estate assets with reserve of right of use and occupation, entrusted Invest Securities with the task of placing shares in this fund with subscribers. Invest Securities also entered into several business finder contracts with financial investment advisors, who were charged with putting it in touch with potential clients liable to subscribe to this fund.

The Committee first noted that although Section I. of Article L. 214-24-1 of the French Monetary and Financial Code requires that the marketing in France of an AIF established in a Member State of the European Union be authorised by the AMF, this had not been done in this case.

It also held that for an ISP to place shares of a fund with investors without first making sure that the shares were authorised for marketing in France, constituted conduct that was necessarily contrary to its obligation to act professionally and with due care, in order to promote market integrity.

Concerning the financial investment advisors, the Committee found that they had not carried out their activity with the due competence, care and diligence that are in the best interests of their clients, since the fact that a financial investment advisors recommends such an investment without first making sure that it was authorised for marketing in France constituted conduct that was necessarily contrary to the interests of the clients, who must benefit from professional advice in accordance with the applicable regulations.

According to the Committee, for the three financial investment advisors, this breach was further aggravated by the mismatch between the product recommended and the clients' profile. For Portal Conseil, the breach was also aggravated because it had disseminated inaccurate and misleading information to one of its clients.

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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