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The AMF Enforcement Committee fines a management company and its managers for failing to comply with their professional obligations

In its decision of 20 December 2019, the Enforcement Committee fined GSD Gestion €50,000 and issued a reprimand to the company for breaches of its obligations relating to the management of conflicts of interest and information provided to its clients. The Enforcement Committee also issued a five-year ban to Jacques Gautier on performing discretionary asset management and collective investment management activities and a reprimand to Thierry Gautier, managers at GSD Gestion and to which the breaches found against the company were attributable.

GSD Gestion is a management company which managed almost €76 million of assets in 2016, including €36.2 million in collective investment schemes through five UCITS and one AIF and €39.6 million under discretionary management.

Having been informed of a breach arising from the lack of operational arrangements for identifying and managing conflicts of interest, the Committee first considered that where, as in this case, a management company carries out both collective investment management and discretionary management activities, the investment of clients' assets in one of its "in-house" funds is, by its very nature, a source of potential conflicts of interest between the management company and its clients. In such a situation, the management company may

have an incentive to invest the mandates in its own funds in order to increase the assets it has under management and, consequently, the remuneration received for managing them.

The Committee noted that although GSD Gestion had identified this potential conflict of interest in its procedures, it had not provided an appropriate response. In the Committee's view, the fact that a detection and warning arrangement specific to the situation brought to light by the sanction proceedings was introduced subsequent to the regulatory breach highlights the deficiencies which, at the time of the events, affected GSD Gestion's system for identifying and managing conflicts of interest.

The Committee dismissed two of the three breaches based on deficiencies in the information provided to its clients. It considered that clients were correctly informed of the management implemented by the management company. It then considered that the regulations applicable at the time of the events did not require the management company to inform its clients, in the periodic management statement, of the fees related to the financial instruments held in their portfolio. However, it did find that the management company had failed to inform its clients, in the same periodic management statements, that a detailed breakdown of the fees incurred was available to them on request.

The Enforcement Committee took note of the AMF Board's decision during the hearing to drop a complaint against the company concerning the information provided to unitholders of the Mon Financier Epargne fund, which was managed until December 2015 by a management company taken over by GSD Gestion.

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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