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The AMF Enforcement Committee warns a financial investment advisor for breaches of its professional obligations

In its decision of 18 March 2021, the Enforcement Committee issued a warning to La Financière de Diane.

Between 2015 and 2017, La Financière de Diane advised clients on, among others, several Euro Medium Term Notes (EMTN), a Credit Linked Note (CLN) and two alternative investment funds.

The Enforcement Committee upheld the four breaches alleged against the company, related to the marketing of these products.

It first found that La Financière de Diane had not provided its clients with initial contact documents, letters of engagement or written reports prior to their subscription to the Euro Medium Term Notes, the Credit Linked Note or units in one of the two funds.

Next, it found that the company had disseminated inaccurate information to its clients who had subscribed to the Credit Linked Note, by sending them an email that presented this product without mentioning its risks as prominently as it did its advantages, and without stating that there was a risk of total loss of their capital. However, the Committee

considered that the other objections made against this email, as well as those relating to a commercial brochure on the Credit Linked Note, were not established.

It also held that the information relating to one of the two funds published at the time of the facts on the website of the company managing these funds amounted to an offer of securities to the public, and that this offer was irregular since the relevant fund was in the form of a non-trading partnership and as such was not authorised to issue such an offer. The Committee concluded that by marketing securities that had been the subject of an irregular offer to the public, La Financière de Diane failed to act in compliance with its clients' interests.

Lastly, the Committee noted that although the manager of La Financière de Diane was, at the time of the events, also an employee of the company managing the two funds, the financial investment adviser was unable to demonstrate that it had a procedure requiring it to inform its clients of this. The Committee concluded that the relationship of subordination resulting from the above-mentioned position as an employee was likely to generate a potential conflict of interest between these clients and La Financière de Diane and that in the absence of such a procedure, La Financière de Diane had breached its obligation to have the resources and written procedures to enable it to prevent, manage and deal with any conflicts of interests that might be detrimental to the interests 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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