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The AMF Enforcement Committee fines a shareholder for several breaches of its reporting obligations in the context of a takeover bid

In its decision of 17 June 2021, the Enforcement Committee fined Consellior SAS €80,000 for filing late reporting of its disposals of Baccarat shares, which was the target of a public takeover bid at the time, and for a late declaration of a change in intention regarding the tender of its shares to the ongoing bid.

First, the Committee found that on 3 January 2019, Consellior SAS had sold 12,005 Baccarat shares, which was the target of a takeover bid at the time. Consellior SAS did not declare such disposals until 11 January 2019, i.e. five business days later, thereby failing to comply with the obligation to report such transactions the next trading day at the latest. The Committee also mentioned that Consellior SAS' good faith could not prevent the characterisation of the breach.

It also found that, given the level of its stake in Baccarat in January 2019, Consellior SAS should have declared its intention with regard to the ongoing bid. In this regard, the Committee pointed out that in the event of a change of intention, a declaration must be made "without delay", i.e. even before implementing the decision as to whether the securities at stake should be tendered to the bid, and indicated that this declaration must comply with the formalities laid down by the AMF.

In this case, the Committee noted that Consellior SAS had sold almost all of its Baccarat shares, which in view of the choice expressed by the bidder in the offering document, amounted to a tender of the shares to the bid. However, these disposals were not preceded by a declaration of a change of intention, even though at the end of 2018, Consellior SAS had declared that it intended to continue acquiring Baccarat shares, that it had not taken a decision on whether to tender them to the bid, and had stressed that in its view, the bid did not reflect the company's value.

The Committee added that this failure to disclose had deprived other investors of important information as Consellior SAS was the main minority shareholder of Baccarat at the time of the facts and had publicly expressed its dissatisfaction with the terms of the bid, such that its intention whether or not to tender its shares to the bid was necessarily of interest to the market.

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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