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The AMF Enforcement Committee fines an asset management company for several breaches of its professional obligations

In its decision of 20 December 2021, the Enforcement Committee handed down a warning to management company Twenty First Capital, along with a fine of €100,000.

Please note that the French version of this press release was published on 21 December.

The Committee upheld two series of breaches against this investment management company authorised to provide discretionary management and UCITS and AIF management services.

The first series of breaches concerned its accounting position and its regulatory capital. The Committee found that the company did not have an accounting procedure at the time of the inspection. It also noted that the company did not have a procedure for calculating, monitoring and investing its regulatory capital, and also that there were shortcomings in the procedure established on 30 September 2019.

The Commission also considered that, for the financial years 2018 and 2019, Twenty First Capital had not been able to provide evidence of compliance with the minimum regulatory capital requirements for asset management companies, as it had only been able to provide provisional and approximate calculations in this respect as a result of successive changes to its financial statements.

The Committee also sanctioned the shortcomings of the company's internal control of regulatory capital requirements, which were due, on the one hand, to the absence of second-level control between 2017 and 2019 and, on the other hand, to the partial or late consideration of recommendations issued by the external service provider in charge of third-level controls. Conversely, it considered that the objection relating to the shortcomings of the third-level controls carried out by this service provider was not characterized.

The second series of breaches concerned the insufficient traceability of management decisions and the shortcomings of Twenty First Capital's conflict of interest management system. In this respect, the Committee first established that the company was receiving advice from third party companies for the management of some of its funds. It then noted that, in this context, its compliance function had recommended that the advice received and subsequent management decisions should be traceable to ensure that management remained independent. The Committee found that Twenty First Capital had not implemented these recommendations and therefore concluded that its compliance function was not effective.

It also sanctioned the lack of internal control between 2017 and 2019 over a business relationship that, according to Twenty First Capital's conflict of interest register, created potential or actual conflicts of interest. Lastly, the Committee sanctioned the company for failing to inform its clients, both holders of its funds under management and clients under discretionary management, of the fees and commissions it passed on to a business introducer and to third-party companies that advised it on the management of its funds.

However, it dismissed the alleged breach relating to a lack of diligence in monitoring the selection of investments, considering that the lack of traceability of a fund manager's own analysis following investment advice received from a third company is not sufficient to establish that the selection of investments was made without regard to the interests of the collective investments.

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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