

Chapter 7

The AMF and the public

1 – Ombudsman's report

2 – Relations with the general public

3 – Relations with professionals

4 – Cooperation with the Banque de France

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As well as regulating, authorising, monitoring and determining disciplinary sanctions, the AMF participates in the financial education of investors and may propose a mediation procedure if a dispute arises between them and a financial firm.

It also maintains an ongoing dialogue with the financial community through five consultative commissions, set up in 2004 and composed of investment services providers, experts (including statutory auditors, lawyers, and economists, etc.), issuers and investors. The AMF can also call on the expertise of specialised working groups, as well as a Scientific Advisory Board, set up in 2004. Furthermore, over the course of the year, AMF organises events that enable it to meet and hold discussions with market participants.

1 – Ombudsman's report

A – Ombudsman's department

1 > Aims

Pursuant to Article L. 621-19 of the Monetary and Financial Code: " The authority is authorised to receive claims relating to matters within its jurisdiction from any interested party and to deal with them appropriately. When necessary, it proposes amicable resolution of the disputes brought to its attention, via conciliation or mediation.

It may formulate proposed amendments to the laws and regulations concerning disclosures to holders of financial instruments and the public, the status of investment services providers, and financial instruments markets ".

Article L. 621-19 has been supplemented by Executive Order 2007-544 of 12 April 2007 transposing the Markets in Financial Instruments Directive (MiFID). The law now states that "The submission of a dispute to the Autorité des marchés financiers to find an out-of-court settlement, implies the suspension of the statute of limitations for civil and administrative proceedings. The statute starts to run again when the Autorité des marchés financiers declares the mediation to be terminated" and that "the AMF cooperates with foreign authorities in the resolution of cross-border disputes."

The Ombudsman's activity is carried out in the broader context of Europe, based on Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of disputes.

Those principles are independence, transparency, effectiveness (the procedure must be easily accessible, free and quick), legality and liberty (both parties must accept the procedure). Also, the procedure must be adversarial.

A Europe-wide network for out-of-court settlement of disputes was created through a European Council Resolution on 25 May 2000. Under this mechanism, the Commission is informed of all national bodies responsible for out-of-court settlement and mediation that comply with the principles of the 1998 and 2001 recommendations (on out-of-court bodies involved in the consensual resolution of consumer disputes not covered by the 1998 Recommendation). These bodies can then become full members of the European Consumers Centres Network (ECC-Net).

Alongside ECC-Net, the European Commission set up the FIN-NET network in February 2001 as part of the Financial Services Action Plan (FSAP). The AMF Ombudsman is a member of FIN-NET.

Within this framework, the Ombudsman's department helps the AMF to keep a watchful eye on financial markets and to protect public savings and investment effectively.

The department endeavours to analyse queries and mediation requests in an appropriate fashion and to supply reliable answers as quickly as possible.

When scrutinising investor complaints, most of which come from non-professionals, against investment services providers (ISPs) or issuers, the department weighs up the interests of both parties through an objective, adversarial analysis of all factual and legal aspects.

The Ombudsman's department also takes part in the AMF's education and training activities, contributing to its image and its policy of communicating with investors.

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2 > Organisation

The department has two main roles: consultation and mediation:

- > In its consultation role, the department provides retail investors with answers to technical inquiries relating to all aspects of the AMF's activities;
- > Requests for mediation arise out of attempts to reach an out-of-court settlement by both parties in a dispute between a client/shareholder and an ISP/issuer.

In addition, a telephone helpline is open on Tuesday and Thursday afternoons to respond to the most urgent queries or answer questions about ongoing cases.

Some matters are outside the AMF's jurisdiction, such as queries relating to life insurance contracts, including unit-linked policies. These policies are regulated by insurance legislation, and the AMF has no power to enforce legal compliance or punish infringements. Although the specialised regulators may share related concerns, for example about providing investors with information about the funds underlying insurance investments or about transparent fee structures, this has nothing to do with the way their powers are apportioned.

However, the public may be confused about the way these powers are shared. For example, one investor submitted a mediation request that was framed as a complaint about the way a unit-linked insurance policy had been marketed, but that was actually about poor management. After numerous exchanges with the complainant, the Ombudsman's department queried the management company after first referring the case to the Autorité de contrôle des assurances et des mutuelles/insurance control commission (ACAM).

Questions relating purely to banking, such as practical issues concerning current accounts or lending, also fall outside the AMF's jurisdiction, as do tax matters.

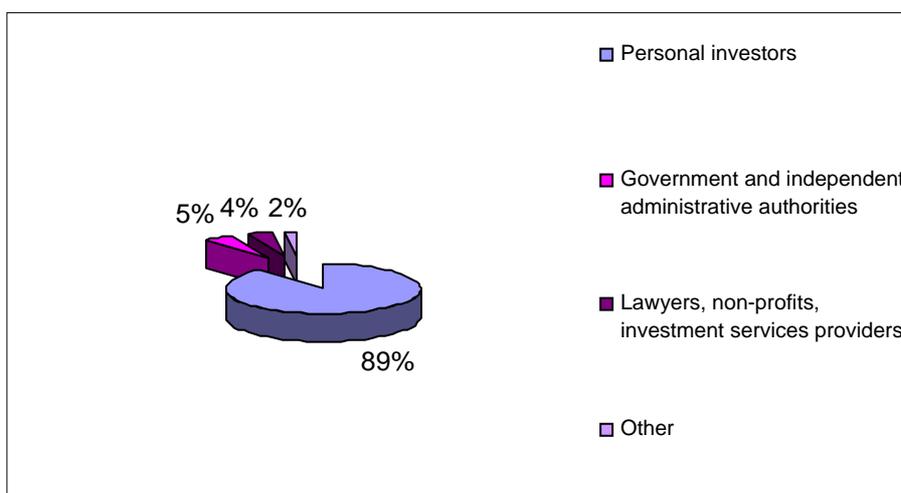
In this regard, 2007 saw an increase in queries about order processing relating to inheritances and about difficulties relating to asset management under guardianship arrangements.

If the department is not competent to deal with a request, it steers complainants toward the correspondents or agencies that can best answer their queries or intervene, and sometimes forwards cases directly to save time. Of all the referrals received in 2007, 189, or 8.7% of the total, were outside the AMF's jurisdiction.

Most referrals originate from mainland France and its overseas territories. However, in 2007 there was an increase in referrals from outside the country, mainly owing to FIN-NET's increased role in dealing with cross-border financial disputes.

Applications are submitted by post, email or fax.

Origin of cases handled in 2007



Source : AMF

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B – 2007 in figures

1 > New inquiries and mediation requests

A total of 2,155 cases were handled in 2007, comprising 1,449 inquiries and 706 requests for mediation.

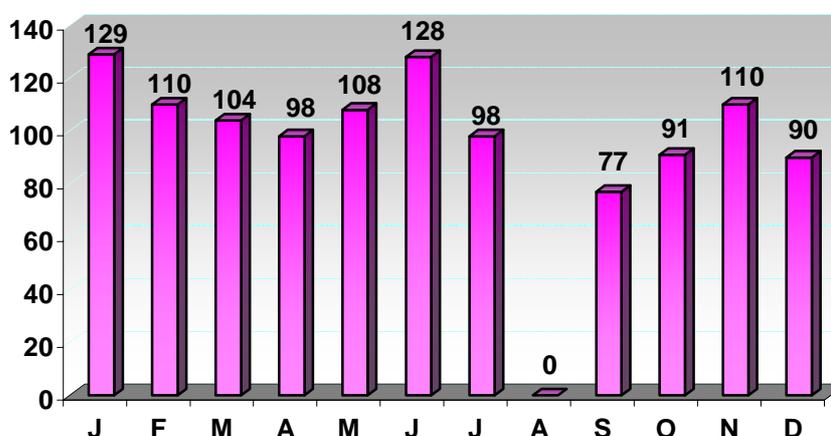
The annual caseload therefore increased compared with 2006, when a total 1,908 cases were handled (1,262 inquiries and 646 requests for mediation).

The breakdown between the two categories was more or less unchanged from 2006, with inquiries making up 67% of the total caseload and mediations 33%, after 66% and 34% respectively in 2006.

These figures testify to the success of the mediation process. They also reflect the confidence of individual investors in the AMF's ability to address their inquiries.

The helpline took 1,143 calls, up from 1,105 in 2006.

Telephone inquiries between 1 January and 31 December 2007



Source: AMF

2 > Inquiries and mediation cases handled

a) Inquiries handled

As at 31 December 2007	
No. of inquiries handled	1,268
o/w inquiries received within the month	88%
o/w inquiries received more than one month earlier	12%

Source: AMF

Between 1 January and 31 December 2007, 1,268 inquiries were answered.

A query is closed once the initial question and any subsequent questions or clarification requests have been answered.

Naturally enough, inquiries reflect market developments and changes to the laws and regulations, and are becoming increasingly complex. Although work remains to be done in terms of financial literacy, investors are certainly becoming better acquainted with the workings of financial markets.

In 2007, 88% of inquiries were closed within one month.

Although the inquiries dealt with complex and wide-ranging issues, none of the AMF's response letters, which spanned all areas under its purview, was challenged, either by the applicants themselves or by third parties in subsequent legal proceedings.

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b) Handling of mediation cases

As at 31 December 2007	
Number of mediation cases closed	493
o/w cases less than six months old	84%
o/w cases more than six months old	16%

Source: AMF

In all, 493 mediation cases were closed between 1 January and 31 December 2007, with a full 84% of these cases being closed within six months.

It must be stressed that this six-month period begins when the Ombudsman receives the initial letter of complaint, which is never enough on its own to initiate the actual mediation procedure. When acknowledging the letter, the Ombudsman always asks applicants for additional documents and clarifications, and sends them the Mediation Charter, which explains how their case will be examined.

The majority of cases still open after six months involve procedures that have been suspended to allow for an investigation.

They may also be cases involving multiple participants, such as an account keeper and an asset management company, or an issuer and a financial intermediary. Mediation meetings with the main parties are often necessary in such situations, which means the case stays open for longer.

Sometimes, the information or documentation requested is hard to obtain for some reason – for example, the events in question occurred a long time ago or the service provider has changed in the meantime.

Of the 493 mediation cases closed in 2007, agreements were reached in 66% of the cases that were considered on their merits, i.e. that pertained to issues within the AMF's jurisdiction and were backed up by relevant supporting evidence.

Of the mediation cases handled in 2007, the AMF did not have jurisdiction in 16 cases, while in 46 instances, the complainant abandoned the procedure and the review was not completed.

The success rate for mediation cases is calculated by excluding this type of case.

Out-of-court settlements may take the form of a rectification (i.e. the contested transaction is cancelled), total or partial compensation for loss, or a conciliatory gesture towards the customer.

The mediation procedure must be accepted by both parties and, once under way, can be abandoned at any time.

Regarding cases involving an adversarial process overseen by the Ombudsman, it is especially gratifying to note that more than half of those dealt with in 2007 resulted in an out-of-court settlement.

The success rate in mediation cases was therefore maintained at 66%, the same as in 2006.

Furthermore, no mediation case was closed because a respondent to a complaint failed to answer the Ombudsman's request for explanations. This goes to show that the mediation process is almost unanimously accepted by the industry.

Admittedly, "success" is a qualitative factor that should be seen in perspective, firstly because neither of the parties in a mediation procedure can be forced into an agreement and secondly because agreeing to an Ombudsman-led procedure can help improve relations between complainant and respondent, even if no formal agreement is reached. Even so, the success rate shows that the mediation approach is effective.

This is encouraging in view of the regulatory situation, and notably given the transposition of MiFID, which recommends more use of out-of-court settlements for financial disputes.

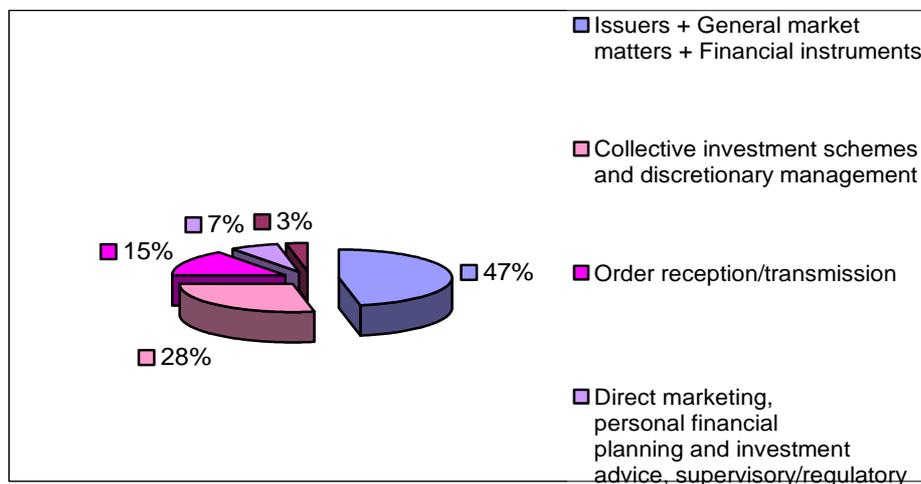
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C – Cases dealt with by the Ombudsman

The caseload is broken down into ten broad subject areas in the department's database:

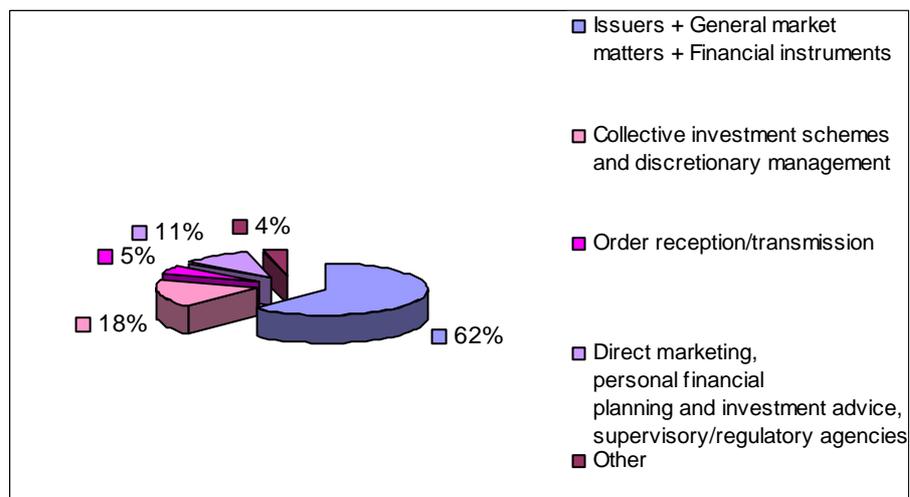
- > collective investment schemes
- > discretionary management
- > order transmission/execution
- > custody account keeping
- > issuers
- > general market matters
- > financial instruments (other than collective schemes)
- > direct marketing, advice on asset management and financial investment
- > supervisory and regulatory agencies
- > miscellaneous topics

Chart 1: Inquiries and mediation requests by subject area, 1 January to 31 December 2007



Source: AMF

Chart 2: Inquiries by subject area, 1 January to 31 December 2007



Source: AMF

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Inquiries covered a range of subjects, including the following:

a) Corporate financing and market anomalies

- > Corporate financing transactions always elicit numerous requests for explanations, particularly concerning price setting methods and the scope of AMF approvals. Some transactions are extremely complex and thus hard to follow.

This was true of the Eurotunnel offer of exchange, which was part of the rescue plan drawn up by the Paris Commercial Court on 15 January 2007. Under the terms of the offer, shareholders were entitled to receive one share and one GET SA warrant, issued subsequently, per unit tendered. However, the offer was subject to at least 60% of units being tendered (this was subsequently lowered to 50%).

The Ombudsman answered around 300 inquiries. Among other things, it provided shareholders, mostly in the UK, with information about the fare discounts they would be entitled to if they took part in the offer of exchange.

With the public offer underway, the Paris Commercial Court extended the deadline given to Eurotunnel SA to convene a general meeting of shareholders to rule on the accounts for the financial years ending 31 December 2005 and 31 December 2006. The new deadline was set at 15 June 2007. In view of the timing, some shareholders asked the AMF to intervene in order to put the exchange offer on the agenda of the general meeting. The Ombudsman had to inform them that such action was outside the AMF's purview.

As a reminder, in cases like this involving companies making public issues of securities, the AMF's role is not to comment on the merits of transactions referred to it, but rather to ensure that members of the public have access, through the documents made available to them, to clear and appropriate information so that they can make informed investment decisions.

As in 2006, many of the complaints concerned subscription rights.

ISPs and issuers were reminded that, under current regulations, care must be taken to ensure that shareholders are properly informed about how rights are exercised and what happens if they are not exercised. First, information on implementation of protective clauses must be given in account agreements and in each corporate action notice. Second, where a shorter subscription period has to be set, it must be the same for all account holders and must leave shareholders enough time to send instructions if they want to subscribe for new shares. Third, investors that acquire rights in the market after the exercise deadline set by the custodian will be sent a warning, either through the ISP's website or by the department responsible for order transmission/reception.

- > As in previous years, many investors asked the Ombudsman to investigate what they believed to be market anomalies, sometimes claiming price manipulation or insider trading.

The internet generally, and particularly online broker forums, can be used to organise mass mailing campaigns in an effort to draw the Ombudsman's attention to a particular security.

Correspondence of this kind is passed on to the AMF's specialised departments

In 2007, the Investigations and Market Surveillance Division thus received 117 complaints from retail investors about allegedly suspicious transactions, along with requests for investigations or appraisals of unusual price movements.

b) Malpractice reports

Sometimes investors report suspect direct marketing or investment services practices. This may be because they have been the victim of such practices, because they want additional information before subscribing, or because they want to warn the AMF.

Following reports of malpractice received by the Ombudsman, four news releases were published in 2007 on the AMF website and repeated in the press in order to warn the public. Such reports are dealt with using a rationalised procedure that ensures a meticulous examination of the reported facts and respects the rights of defence of the persons or entities referred to in the report.

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c) Trading halts

Pursuant to Article 4404/2 of Book I of the Euronext Rules, the market undertaking may suspend trading in any security in order to prevent or halt disorderly market conditions, either on its own initiative or at the reasoned request of the relevant issuer. It may also suspend trading at the request of a competent authority. These trading halts are published in a Euronext Paris market notice, which describes the origin of and reasons for the halt, the date it takes effect and the conditions in which trading may resume. Failing this, it stipulates that trading has been suspended until further notice. There is no maximum time limit for trading halts.

As in 2006, many retail investors complained that they had received no information following a trading halt or suspension. This is the case when trading is suspended pending a press release from the issuer or when news of court-ordered reorganisation or winding-up proceedings is released belatedly.

Difficulties in this area are exacerbated if the shares are delisted from Euronext Paris's Eurolist but the company is not removed from the Trade and Companies Register. In such cases the holdings cannot be deleted from customer accounts and customers have to pay custody fees to their custodians.

In responding to retail investors, the Ombudsman's department reiterated the current regulations. In situations where a court had ordered the company to be reorganised or wound up, and if the AMF had the necessary information, it provided investors with contact details for the liquidator who would be able to supply more comprehensive information.

Investors with tax-related questions are told to contact the Tax Legislation Directorate of the Ministry for the Economy, Industry and Employment.

d) Access to the Marché Libre and the Alternext private placement compartment

Many investors had queries about the procedures for accessing the Marché Libre. They complained to the Ombudsman that their intermediary had refused to let them buy certain stocks on the Marché Libre during initial public offerings or capital increases because the shares were reserved for qualified investors.

The Ombudsman's department based its response on the rules for financial instruments traded on the private placement compartment of Alternext Paris. The Ombudsman was consulted on numerous occasions about these rules, which were clarified in an AMF news release on 15 October 2007.

The Ombudsman said that when an individual investor asked an intermediary to transmit an order for a stock in the private placement compartment of the Marché Libre, the intermediary was required to exercise the necessary due diligence to ascertain whether the investor had the experience and knowledge to be fully aware of the specific risks associated with the financial instrument in question, in accordance with Articles 314-43 *et seq.* of the AMF General Regulation. The Ombudsman also stressed that ISPs were prohibited from engaging in any solicitation concerning such stocks.

e) First questions arising in connection with MiFID application

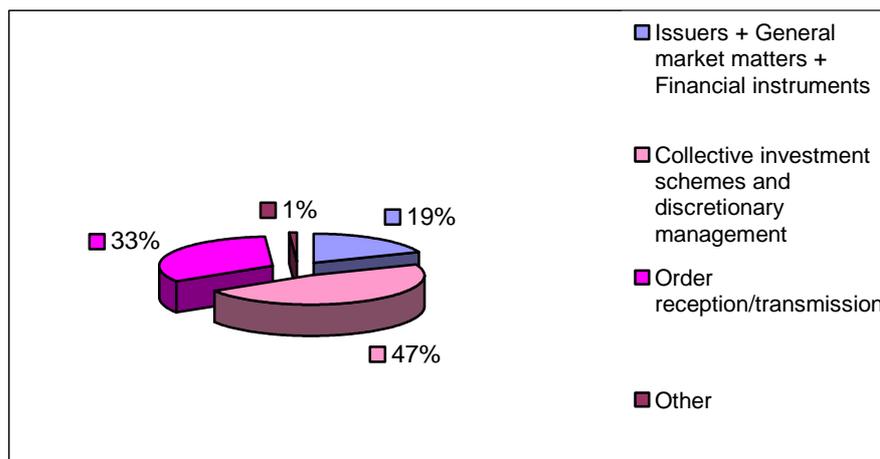
In the final quarter of 2007, as MiFID began to be applied, the Ombudsman's department started to receive inquiries from investors about the way their financial intermediary had interpreted the new rules introduced under MiFID.

Many long-term customers had questions about the transmission by ISPs of changes to account agreements, pursuant to Article 314-58 of the AMF General Regulation.

Similarly, there were requests for clarification about the questionnaires used to assess customers' knowledge, experience, financial position and investment goals.

Explanations were also provided on the classification of customers into different categories and the effects of this classification on customer protection.

Chart 3: Mediation cases by subjects area, 1 January to 31 December 2007



a) Mediation requests in relation to corporate actions

As well as submitting inquiries, some Eurotunnel shareholders also filed requests for mediation. These shareholders had instructed their intermediaries to tender their shares to the offer of exchange but had then sold the shares to take advantage of the rising price between 29 and 31 May 2007. Trading had been suspended from 22 to 29 May pending the results of the offer of exchange.

By selling their Eurotunnel shares, even though the tender order had become irrevocable – a point that the AMF was forced to reiterate in a news release on 30 May 2007 – customers found themselves with a debit balance on their share account.

When approached about this situation, the three banks named in the requests for mediation reacted differently:

- > two felt that because tender orders were irrevocable, a fact that customers must have been aware of, those customers would have to rectify the situation by buying back shares on the market.

The resulting trades were conducted at different prices and generated significant capital losses for some investors. Some goodwill gestures were made, however. For example, one customer who sold shares at the beginning of the trading session on 29 May, before the intermediary web-posted a message reiterating that tendered shares were unavailable, was compensated for the losses incurred.

- > the third bank agreed to simply cancel the sales, meaning that there were no financial consequences and no tax impact, as applicable, for affected customers.

As well as highlighting the need to remind investors that tender orders are irrevocable once the offer period closes, no matter how the share price subsequently performs, these cases demonstrated the technical feasibility of such trades and the potential risks in the systems used by institutions that do not use a share blocking mechanism.

After reviewing the individual cases, the affected institutions told the Ombudsman that they were either taking steps to prevent customers from carrying out irregular sales or were strengthening their internal warning systems and enhancing customer information arrangements.

There were also many requests for help concerning the ISIN codes assigned to Eurotunnel shares. Three days before the close of each offer period, intermediaries were supposed to use different codes to distinguish regular Eurotunnel units from those quoted ex-rights to participate in the offer.

Mistakes were made and some orders were not executed. All the problems were cleared up once the Ombudsman approached the intermediaries in question.

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b) Marketing of financial products

- > The Ombudsman's department once again received numerous complaints about the marketing of collective investment schemes (CIS) and particularly structured funds, chiefly by bank networks.

All too often, subscribers once again complained that they had invested in CISs without receiving a simplified prospectus or being warned of the risks associated with the investment. Complainants said that they were unable to take properly informed investment decisions and often followed their advisor's recommendations.

Cases involving structured funds were especially striking as they revealed that subscribers were unaware of the specific characteristics of these products. Many investors discovered at maturity that the capital guarantee offered type of fund excludes entry fees, and that additional returns over and above the guarantee are based on the performance of one or more indices or of a basket of shares. The guarantee, coupled with an attractive name that suggested the initial outlay would be doubled or that the product was certain to be successful, plus the recommended investment horizon led investors in structured funds to think that they were assured of making gains at maturity.

As a result, in 2007 there was an increase in mediation requests concerning structured funds whose performance was such that subscribers merely recouped their initial investment at maturity, minus entry fees. The institution responsible for one of the funds agreed to pay many of its unhappy investors compensation equivalent to the annual interest on a Livret A passbook, also refunding custody fees in numerous cases.

While some requests highlighted marketing conditions, they also reflected a desire among investors to obtain management information in order to make sure that the results at maturity were correct and that the structuring arrangements had been properly implemented.

These investors were invited to contact their management company to obtain explanations. In the event of problems, the Ombudsman contacted the company for the investors.

Investors were also reminded that they are entitled to request regular statements and an annual report for CISs.

This new kind of request shows that more and more investors are trying to understand how their investments are progressing. They are no longer shy of demanding explanations not just from the intermediary that marketed the product but also from the company that manages it.

As in 2006, the Ombudsman's department received complaints concerning the Bénéfic fund range. A dozen or so cases were successfully settled, with some EUR 50,000 paid to subscribers as full or partial compensation for their capital losses.

- > The crisis on the US mortgage lending market resulted in substantial write-downs on assets backed by these loans, which impacted CISs invested in this asset class.

Beginning in August 2007, the Ombudsman's department was contacted by investors who were uncertain about what would happen to their investments. Other investors were concerned about not being able to access funds after their CIS was closed.

A review of the 30 or so complaints revealed that customers had been given the impression, either verbally or via marketing materials, that the funds were risk-free, since they were classified as short-term investments with a dynamic component to enable them to outperform money market rates. The name given to these funds – "enhanced cash" – was responsible for some misunderstanding and confusion.

Furthermore, some investors who had expressly instructed their advisor to invest in money market CISs, pending a house purchase for example, found themselves holding enhanced cash CISs that were treated as diversified products under the AMF's classification system.

The department subsequently received complaints about the redemption terms and timetables introduced by fund marketers.

Since most of these cases are still being processed, final conclusions cannot be drawn at this stage. The 2008 report will include an assessment of the impact of the liquidity crisis for investors that appealed for mediation.

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- > There were some difficulties in connection with loans granted for the purpose of carrying out a financial transaction. These problems exposed insufficient information and advice.

In one instance, funds were placed in an equity savings plan as part of a loan intended to finance renovation work. The value of the assets in the portfolio fell sharply, leaving the customer unable to fully repay the loan at the due date. The bank agreed to take over the outstanding loan amount of EUR 6,892.

In another case, shortly after opening an account, a retail investor made an investment in warrants, claiming to be familiar with the characteristics of these products. He conducted numerous transactions even though there were insufficient funds on the account. His bank granted a personal loan and then a revolving credit facility before finally blocking his internet access.

An apparent failure to check the funds on the account led the customer to believe that he could continue to place orders even though the account was in debit. If blocking and warning mechanisms had been activated from the outset, the customer would not have found himself in debit.

In light of the evidence, the mediation procedure resulted in a compromise in which the bank abandoned its claim under the revolving credit facility.

- > In the area of private equity, the Ombudsman's department again received complaints in 2007 from investors who, having applied to redeem shares in certain private equity funds (FCPIs), were refused by the management company, even though they were asking for their funds to be released under the circumstances provided for in the General Tax Code.

A review of these cases revealed that if the FCPI's bylaws do not include the tax code's provisions on making funds available in the event of death, disability, dismissal, or retirement of the investor or the investor's spouse, then the management company is allowed to refuse redemption requests.

Insofar as investments in FCPIs are mainly carried out for tax reasons, fund marketers should therefore make special efforts to draw investors' attention to the fund's bylaws concerning the period during which redemptions are blocked and the options for exiting before maturity.

c) Discretionary management

Requests for mediation in the area of discretionary management exposed situations where ISPs had provided inadequate information and advice.

In one case, although the discretionary management agreement authorised only the purchase and sale of shares in SICAVs or units of FCPs other than FCIMTs, **and, in a later version, only French investment funds, investment funds that complied with Directive 85/611/EEC, and collective investment schemes, other than futures and options funds and venture capital funds, that had been authorised to be marketed in France, the manager bought units in a foreign investment fund that was not authorised to be sold in France and was, moreover, reserved for "sophisticated" investors.

Since this acquisition contravened the agreement, the customer approached the Ombudsman, seeking assistance in obtaining compensation for the capital losses attributable to the fund as well as for management and custody fees.

Following a meeting to hear the parties, the various management companies and the custodian, the Ombudsman steered the parties to agreement on compensation in the amount of EUR 15,000.

In another case, after cancelling his discretionary management agreements, a customer asked for virtually all his securities to be sold and for the proceeds of the sale and the three remaining holdings to be transferred to another bank.

The delay in executing these instructions had an adverse effect on the investor, who therefore turned to the Ombudsman. A review of the case found that the intermediary had not exercised due care. The firm agreed to pay its former client EUR 4,900.

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d) Workplace saving schemes

These cases often deal with complex situations involving many parties whose responsibilities are not always clearly defined.

In one case, the prospectus and bylaws of a structured workplace savings scheme said that unitholders could opt to redeem their assets at maturity or transfer them by way of a merger to another fund also invested in listed securities of the company. However, the merger took place four months after the maturity date, a delay that caused an earnings shortfall for unitholders. Because the acquired fund was invested during the interim period in money market CISs whose value increased by less than that of the acquiring fund, the exchange ratio became less favourable.

Out-of-court proceedings failed to produce an agreement on the compensation for unitholders, since the companies managing the acquired and acquiring funds both felt that they had exercised due care.

This case reveals the need for cooperation between professionals during mergers of schemes managed by different companies, in order to properly complete the merger and safeguard the interests of unitholders.

As regards savings schemes invested in company stock, the Ombudsman was, as in previous years, asked to intervene in instances where unitholders were prevented from redeeming their investments.

In one case, for example, although these funds are required under the regulations to establish a liquidity mechanism, in fact this mechanism could no longer be applied. While ensuring adequate liquidity is the responsibility of the management company and is one of the principles of sound management, the management firm had no way to make the company take steps to organise its liquidity. The introduction of a liquidity mechanism was further complicated because the company had not had its securities valued.

Given these structural problems, the Ombudsman ruled that an out-of-court solution could not be reached for the 110 unitholders that had contacted it.

In light of the above, employees wishing to invest in the unlisted securities of their company via workplace savings schemes should be encouraged to obtain details about these investment vehicles and closely monitor their performance.

D – Recent developments in mediation

1 > At European level

a) Cooperation within FIN-NET

In February 2001, the European Commission set up a network to allow Member States of the European Economic Area to cooperate on the out-of-court settlement of disputes in the field of financial services.

Called the Financial Dispute Resolution Network, or FIN-NET, the network aims to assist consumers in finding a quick, simple and inexpensive solution – avoiding legal action where possible – to disputes with financial service providers such as banks, insurance companies and investment firms based in a Member State other than their home state.

By helping actively to promote alternative dispute resolution methods, FIN-NET is contributing to the development of the European market in retail financial services.

At present the network has 48 members. Most are either ombudsmen or heads of "dispute commissions" or "consumer arbitration panels", depending on the country.

They meet regularly under the auspices of the European Commission in Brussels. The main aim of the first meeting of 2007, held on 6 March, was to share information about regular problems encountered by members within their own jurisdictions and to strengthen cooperation with the European Consumer Centres Network (ECC-Net). Set up by the European Commission in 2005, ECC-Net deals with cross-border disputes in areas other than financial services.

Members are linked by a memorandum of understanding (MOU) that sets out the procedures for cross-border cooperation and states the basic principles for out-of-court settlement. The MOU

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includes a declaration of intent whereby participants undertake to apply the quality standards in Commission Recommendation 98/257/EC of 30 March 1998, which lays down seven principles:

- > the independence of the decision-making body is ensured in order to guarantee the impartiality of its actions;
- > the procedure is transparent;
- > the procedure is adversarial;
- > the effectiveness of the procedure is ensured through measures guaranteeing that:
 - the consumer has access to the procedure without being obliged to use a legal representative,
 - the procedure is of moderate costs or free of charges,
 - the procedure is swift,
 - the competent body is given an active role.
- > legality: the decision taken by the body may not result in the consumer being deprived of the protection afforded by the mandatory provisions of the applicable consumer protection law;
- > liberty: the decision taken by the body concerned may be binding on the parties only if they were informed of its binding nature in advance and specifically accepted this.
- > representation: if they wish, the parties have the right to be assisted or represented at all stages of the procedure.

FIN-NET has set itself the tasks of:

- > improving the quality of settlements reached within the existing out-of-court mechanisms in the European Union;
- > providing consumers with more comprehensive information about methods for out-of-court settlement of cross-border disputes.

This objective is set out in Article 53 MiFID, which states that:

"Member States shall encourage the setting-up of efficient and effective complaints and redress procedures for the out-of-court settlement of consumer disputes concerning the provision of investment and ancillary services provided by investment firms, using existing bodies where appropriate.

"Member States shall ensure that those bodies are not prevented by legal or regulatory provisions from cooperating effectively in the resolution of cross-border disputes."

This article was transposed into French law through the amended version of Article L. 621-19 of the Monetary and Financial Code, which came into effect on 1 November 2007.

The UK financial ombudsman organised the 2007 annual conference of the International Network of Financial Ombudsmen (INFO) in London on 27-28 September 2007, building on the success of previous conferences in Canada and Australia. Thirty-two countries participated.

The goal of the event was to enable participants to share their experiences, with a view to improving domestic systems for the out-of-court settlement of financial disputes and to facilitate cooperation among ombudsmen.

Participants attended workshops at which they discussed a range of issues, including confidentiality, alternative dispute resolution methods, and ombudsman independence.

Following these discussions, participants agreed that the development of a European retail financial services market and more use of alternative dispute resolution methods, as called for by MiFID, would inevitably lead to an increase in the number of cross-border cases brought before ombudsmen, thus confirming their European reach.

During the conference, FIN-NET ombudsmen also worked to prepare a joint response to Question 5 of the European Commission's Green Paper on Retail Financial Services in the Single Market, which deals with improving the way that cross-border complaints are handled.

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b) Draft directive on mediation in civil and commercial matters

The European Parliament and Council have prepared a directive on mediation based on a proposal by the Commission. The new legislation, which marks the final stage in a long process of negotiation with EU Member States and the EU Parliament, will go a long way to facilitating the use of mediation in Europe. The directive seeks chiefly to:

- > frame the concept of mediation and define mediation procedures and guarantees;
- > make it clear where mediation fits in with respect to judicial proceedings.

Only mediation, i.e. efforts by the parties to reach an agreement with the aid of a third party, is covered by the scope of the directive, which deals with all civil and commercial matters.

Mediation will be used in cross-border disputes, for example where the two parties are ordinarily resident in two different Member States.

The directive defines mediation as a structured procedure that meets credibility and feasibility criteria and that allows two parties to try voluntarily to reach an agreement with the aid of a neutral third party.

The Ombudsman must be able to provide assistance in an effective, impartial and competent way.

Each Member State may choose to prepare an exhaustive list of dispute resolution schemes. In certain types of dispute, a scheme would then have to be selected from this list. Member States should also introduce supervisory arrangements and promote training for ombudsmen.

Although mediation is a voluntary process, judges may encourage parties to opt for it. Parties may also be required by law to use mediation before seeking a legal solution to their dispute.

Agreements reached through mediation must be put down in writing. A verbal agreement is not enough to ensure enforceability in a cross-border situation. An agreement reached in one Member State may be recognised and enforced in other Member States insofar as it complies with the requirements established in the directive.

In all Member States, the mediation process must be confidential. If the process has not ended, the ombudsman may not divulge information that has come into its possession.

In a radical new departure for many Member States, the mediation process will affect limitation and prescription periods for judicial proceedings, which may be suspended to enable the mediation process to have full effect.

Each Member State shall inform the public by any means deemed appropriate about the content of the directive and its scope of application. Similarly, Member States must also inform the European Commission of the authorities that they view as competent to make mediation agreements enforceable. Furthermore, an implementation period of three years is being provided, given that the directive may require some Member States to modify their statutory arrangements.

A review of application will be carried out once the directive has been implemented for five years.

2 > At domestic level

a) Club of Public Service Ombudsmen

The AMF Ombudsman has been part of the Club of Public Service Ombudsmen since February 2007.

Set up in April 2002, this informal group is designed to provide a forum for sharing ideas about functions and practices, fostering debate and proposals, and promoting mediation in France as well as at European level, since some of the members also belong to FIN-NET.

The organisation's activities last year included leading an Economic and Social Council symposium on 27 September 2007 and taking part in the first ever Mediation Congress, which was arranged by the Paris Chamber of Commerce and Industry in November 2007.

Members take turns to organise meetings, which are held approximately once every two months.

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b) Better Regulation

Under the Better Regulation approach, it was felt that steps should be taken to raise awareness about the AMF Ombudsman, in an effort to provide uniform protection for investors and accommodate the needs of professionals.

The message about the AMF's Ombudsman is being conveyed to professionals:

- > meetings were held to present the role and activities of the Ombudsman to two industry groups, the French Asset Management Association (AFG) and the French Association of Investment Firms (AFEI), whose members were given the opportunity to learn about the mediation process and the types of issues tackled by the department.

The two groups warmly welcomed these initiatives. Commitments were made that paved the way for further discussions, notably on how best to tell professionals about the AMF Ombudsman.

Since any interested party is entitled to refer a matter to the AMF Ombudsman, the out-of-court dispute settlement procedure overseen by the Ombudsman is open to any individual or entity that does not want to get involved in legal proceedings;

- > in addition to these meetings with trade groups, the Ombudsman's department is in daily contact with talking partners at financial institutions, including investment services compliance officers, compliance and internal control officers and customer managers. It handles officers' requests for regular briefings on cases affecting their institutions, addresses recurring questions of interpretation and discusses possible avenues for improvement;
- > the Ombudsman's department also continued its fruitful cooperation with the Financial Sector Consultative Committee on the marketing of financial products. As well as addressing the marketing issue *per se*, this work programme, which began in 2006, has provided a way to inform the members and working groups of the consultative committee about the Ombudsman's activities.

The Ombudsman's department also upgraded its procedures

- > Three online complaint forms for use by the public were introduced to make it easier to contact the department. The forms cover inquiries, mediation and provision of information.

These forms should mean that the subject of the referral is more clearly identified. Time will thus be saved, and investors will find it easier to formulate their requests;

- > The Mediation Charter was updated to reflect MiFID transposition.

Article 53 MiFID recommends increasing the use of out-of-court settlement procedures for financial disputes. When MiFID was transposed, measures suspending the limitation period while settlement is under way were added to Article L. 621-19 of the Monetary and Financial Code, which came into effect on 1 November 2007.¹

The updated charter incorporates this key new measure, which is designed to promote this type of out-of-court dispute settlement. It also sets out and details a number of principles in this area.

The AMF published a news release when the new charter came into effect.

3 > Outlook

Efforts will be made to build on these improvements in 2008, in order to further enhance investor protection.

Close attention will be paid to the possible impact of measures introduced by Act 2008-3 of 3 January 2008 on promoting competition for the benefit of consumers, which extended the scope of banking mediation to savings products. Transposition into French law of the Directive on mediation in civil and commercial matters will be another area of focus.

There is no doubt that extending the scope of responsibility assigned to bank ombudsmen will lead credit institutions to take communication initiatives. It will be vital to keep step with these initiatives, in order to clarify the role of the different ombudsmen, but also, and more importantly, to

¹ It will doubtless be necessary to align the measures with the framework for banking mediation, which covers all types of proceedings, i.e. civil, criminal and administrative.

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propose appropriate ways of providing information so that investors are aware of all the out-of-court options available to them.

As things stand, participants are coordinating extremely well. It is essential to safeguard this coordination at a time when the legal and regulatory landscape is changing.

It must be emphasised, though, that investors' interests cannot be served without the support of professionals. Steps must be taken to further nurture the fruitful dialogue with professionals. This issue is especially important because ongoing discussions, notably those being taken forward by the working group on the decriminalisation of business law, are recommending, like MiFID, more use of alternative dispute mechanisms in business and finance as a quick, confidential way to compensate injured parties more swiftly.

2 – Relations with the general public

One of the AMF's main missions is to ensure that investors are protected. This assignment has an educational component. The AMF thus provides professional and retail investors and the industry with a range of tools such as a website and educational publications (factsheets, guidebooks, FAQs). It also publishes a monthly review and quarterly newsletters for professionals and holds briefing meetings.

The AMF has set up telephone helplines to serve retail and professional investors at:

- > the documentation centre;
- > the Ombudsman's department;
- > the Legal Affairs division.

These helplines field question from the AMF's different constituencies.

AMF representatives also attend a wide variety of public events, such as forums, investment fairs and conferences, both in France and abroad.

Furthermore, the AMF runs a decentralised nationwide network through the Banque de France's regional delegations, where people can go for information and literature about the regulator and its missions. In 2007, three of these branches teamed up with universities to organise conferences, preceded by meetings with bankers, at which AMF Board member Jacques Delmas-Marsalet explained what MiFID meant for the marketing of financial products.

A – Educating the general public

1 > Educational guides

To keep investors informed, the AMF publishes a collection of factsheets and guidebooks on range of issues, including disclosures by listed companies, workplace saving, and financial investment advisors (FIAs). These guides may be obtained on request, free of charge, and can be downloaded from the website². In 2007, the AMF updated and supplemented its collection, adding a new factsheet explaining the golden rules of wise investment.

2 > Attendance at forums and investment fairs

Every year, the AMF attends the Investment Forum, an annual event dedicated to investing, the stockmarket and wealth management. The AMF also takes part in Actionaria, a shareholder fair. These events give the AMF a chance to get out and meet the public.

3 > Institute for Public Financial Education

The AMF contributed actively to the establishment in April 2006 of the Institute for Public Financial Education (IEFP). In fact, the Institute was set up following the recommendations of an AMF-led working group and an AMF-sponsored study by TNS Sofres that highlighted the lack of financial literacy among French investors as well as their desire to be better equipped to face up to their responsibilities. The AMF supports the IEFP as part of efforts to engage in closer dialogue with the general public, one of the components of the Better Regulation approach³.

² Publications > Guides > Educational guides

³ See below

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Organised as an independent not-for-profit body, the IEFP is run by a board of directors composed of some 20 experts from the worlds of economics, finance, community action, academia and education.

The IEFP's main task is to help French people to take better informed investment decisions by providing them with the knowledge they need to understand and choose between the financial products offered to them. The Institute conducts initiatives that seek to:

- > gradually develop an overall policy for training the public in finance and investment;
- > analyse the public's general needs in order to promote appropriate responses, by encouraging networking and the endorsement of different types of training programmes, both existing and future;
- > conduct nationwide communication campaigns to raise public awareness of economic and financial issues;
- > encourage academic research and contacts with international organisations in the field of consumer financial education;
- > initiate constructive dialogue with the public authorities, the regulator and all other parties interested in the question of financial literacy.

The Institute went online with its own website in June 2007, <http://www.lafinancepourtous.com>.

B – Regulatory alerts

Another facet of investor protection is the warnings and alerts issued by the AMF and its fellow regulators when they identify financial products and services that infringe prevailing laws and regulations.

1 > AMF alerts

In general, the AMF reminds investors residing in France of the need to use utmost caution if they are contacted by an unauthorised individual or company, whether by telephone or unsolicited electronic or postal mail, and offered financial services or products that have not been approved for marketing in France.

The AMF reminds investors who may be tempted by these illegal offers that they will have only limited means of redress if they decide to proceed.

In a dedicated area of its website, the AMF also reminds investors that, before deciding to invest in a product, they should check whether it and the company offering it have been duly authorised.

On the "Warnings" page of the website, a section entitled "Basic rules of caution" allows investors carry out these checks by querying the following databases free of charge:

- > Geco, to check whether a management company or product is authorised;
- > the FIA and direct marketer database, to check the identity of professionals that contact the investor or that he or she wishes to use, as well as the services and products they are authorised to offer;
- > the CECEI can be contacted to check authorisations for other types of provider, such as investment firms and credit institutions⁴.

This section of the website also describes the most common scams and swindles, including:

- > the Nigerian advance fee scheme
- > "Congratulations, you've won the jackpot!"
- > "An interesting career opportunity"
- > phishing⁵
- > high-yield investment programmes

⁴ CECEI is the Credit Institutions and Investment Firms Committee: <http://www.banque-france.fr/fr/supervi/agrement/popetscred/1i.htm>.

⁵ Phishing: identity theft. The word is formed from "fishing" and "phreaking" (hacking into phone networks).

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> e-mail investment tips about US companies

The site tells investors how the schemes work and how to protect themselves.

The AMF also issues news releases to warn French investors about unauthorised products or services or direct marketing by unauthorised persons. In 2007, it issued three warnings further to complaints or queries sent to the Ombudsman's department or incidents detected by the Market Surveillance division or the Banque de France's regional representatives. As part of cooperation between the members of the Committee of European Securities Regulators (CESR), these news releases are also sent to European regulators.

2 > Alerts issued by European regulators

The AMF regularly receives warnings from its fellow regulators about persons or entities offering investment services without the necessary authorisations or offering products that have not received regulatory approval. In 2007, the AMF received 91 such warnings. Investors can go to the "Warnings" section of the AMF website, where hyperlinks are provided to take them to the appropriate sections on the websites of other regulators where the warnings are posted.

C – The website: www.amf-france.org

The website is one of the most important tools that the AMF makes available to individuals and professionals. In 2007, the site attracted 4.5 million visitors (32% more than the previous year), who appreciate⁶ the wealth of information available and daily updates. In all, 74 million pages were viewed in 2007.

The AMF website provides access to a wide range of information, including:

- > general information published by the AMF such as,
 - educational guides, a lexicon and warnings for retail investors;
 - regulations, guides and FAQs for professionals, as well as newsletters, reports and studies;
- > disclosures by listed companies in the Decisions and Disclosures database, including prospectuses, registration documents, major shareholding disclosures, trading and other statements by senior managers, plus links to the websites of listed companies;
- > information relating to AMF decisions;
- > AMF decisions on bid compliance, approvals, and recording of registration documents;
- > AMF-approved information about funds (prospectuses, net asset values) and management companies (authorisation, programme of operations, products under management) in the Geco database.

The homepage provides individuals and professionals with access to dedicated areas that contain the information that they need. Retail investors can obtain key information such as practical advice, warnings, educational guides and information about mediation. Professionals, including issuers, ISPs, investment services compliance officers and compliance and internal control officers, can access areas from the homepage that focus on the information they need to carry on their business, such as regulations and forms.

A new press room was launched in November 2007. Offering service in French and English, the new facility is designed to help steer journalists to the information they are looking for. A single page provides links to all the most commonly requested information, i.e. AMF news releases, Enforcement Committee rulings, the description and organisation of the AMF, access to the Geco and Decisions and Disclosures databases, forthcoming AMF events and the latest publications.

A number of services and tools are available to help online visitors find information;

- > free subscriptions to:
 - mailing lists, which inform subscribers whenever relevant documents are web-posted;
 - AMF newsletters, which include *Financial Regulation Newsletter*, *Economic and Financial Newsletter*, *Regulation & Asset Management Newsletter* and *AMF Working Papers*;

⁶ According to the findings of 2006 surveys by Accenture of professionals and investors and a 2007 user-friendliness study

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> tools:

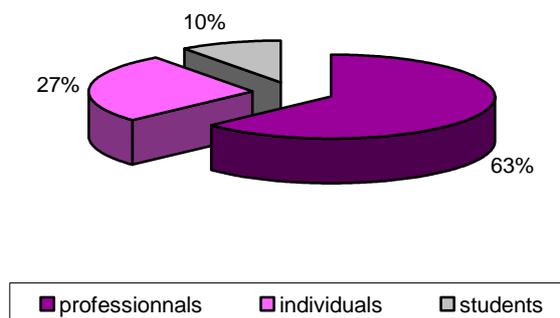
- the English language website;
- a search engine with basic and advanced search functions;
- Really Simple Syndication (RSS) feeds: visitors with an RSS aggregator are informed in real time whenever materials are web-posted (excluding the Geco and disclosure databases);
- contact and assistance facilities allowing visitors to get in touch with departments directly or leave messages with the webmaster;
- links to other authorities, fellow regulators in other countries and finance industry associations;
- an FAQ section;
- a lexicon of financial terms.

D – The Documentation and Information Centre

Professionals, retail investors and students wishing to research the AMF's areas of activity, listed companies or regulated markets can use the documentation and information centre.

Professionals, including issuers, management companies and especially legal firms, are responsible for two-thirds of the external demands received by the centre. This proportion has stayed relatively stable, although the proportion of requests from individuals did increase from 23% in 2006 to 27% in 2007. Most of the requests are for information about funds, ISPs (checking authorisations) and equities (prices, trading halts). Around one-third of individuals have questions about a dispute with a financial intermediary and are referred to the Ombudsman.

Chart 4: Analysis by type of inquiry



1 > Remit of the documentation centre

Aside from serving the AMF itself, the documentation centre deals with requests for information received by phone, email or letter. People can also make an appointment to visit the centre to look for information that is not available on the AMF website, such as old regulations, COB and CMF archives, and prospectuses approved by the COB before 1999 and not posted online.

Where necessary, the documentation centre refers people to the AMF's operational divisions and to the Legal Affairs and Ombudsman's helplines

2 > Services

The documentation centre helps the public to find information about investment regulation and financial markets. It also provides web addresses and contact details for a wide variety of organisations. If necessary, the centre refers callers to other specialised documentation centres. And it provides details of articles and publications on financial topics to help students and professionals in their research or business activities.

Copies of offer documents, opinions, net asset values, stock prices and educational publications can also be sent on request by email. They can be faxed or posted to people without internet access.

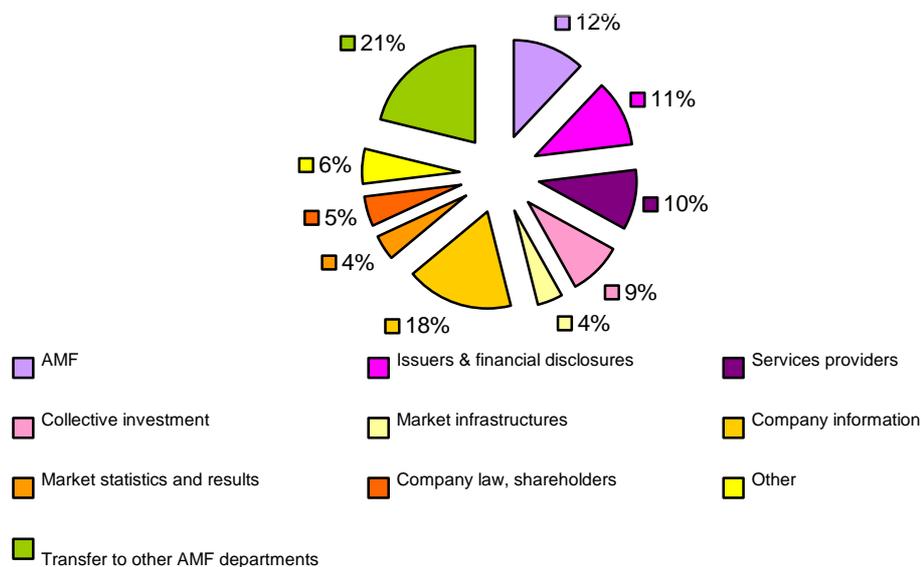
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Internet users who have difficulty accessing information can turn to the centre, which provides a guide to using the AMF website.

In 2007, the documentation centre answered 3,058 telephone inquiries, compared with 3,443 in 2006, a decline of approximately 10%. It also dealt with more than 1,350 emails and letters, after 1,600 in 2006, a 15% reduction.

Most of the visitors to the centre come to read prospectuses and offer documents that were approved between 1968 and 1999 and are not available in full on the AMF website

Chart 5: Breakdown by topic of inquiries handled by the documentation centre in 2007



In 2007, the breakdown of requests by subject area was virtually unchanged from that of 2006.

Requests for company information fell slightly. Online users are increasingly familiar with the AMF website and so need less help in obtaining this kind of information.

Some questions concerned documents that are not available online because they are old or obsolete, including regulations, enforcement rulings, bulletins, brochures and company prospectuses.

Given the many amendments to the General Regulation, there were numerous requests from professionals about the current regulations.

The documentation centre helpline is open for longer than those operated by the Ombudsman and Legal Affairs. It therefore regularly takes calls that come in when the other two lines are closed. The documentation centre was able to answer most of the questions put to it in 2007. However 20% of callers had to be referred either to the Ombudsman or to Legal Affairs.

3 – Relations with professionals

A – Cooperating and consulting with the financial community

1 > The Better Regulation approach

In 2006, the AMF undertook an extensive consultation of the financial community and investors. Entitled "Promoting Better Regulation" the consultation prompted the AMF to make a series of commitments in late 2006 to rationalise its activities and make them more commensurate with goals. In 2007, it began a number of work programmes designed to make good on these commitments. The members of the financial community have played an active part in this process of renewal, helping to make it a success through their involvement in a host of working groups. Some of these groups are described in detail elsewhere in the report, but it is worth summarising the results.

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a) Regulatory amendments

1 – A new segment on the regulated market for listings without a prior public offering

The regulations that apply to this segment have been adapted to reflect the professional nature of the participating investors. Companies listed on the new segment are therefore exempt from certain specific obligations contained in the AMF General Regulation. However, all companies still have to comply with the legal and regulatory provisions arising from EU Directives (notably the Prospectus, Market Abuse, Transparency and Accounting Directives) that apply to issuers whose financial instruments are admitted to trading on a regulated market. The new segment is open to French and foreign companies.

2 – Changes to procedures and regulations governing listed mid-caps

AMF Board member Yves Mansion was asked to chair a market advisory group on changes to the financial regulations governing small-cap and mid-caps. The group, which released its report in November 2007, made a series of recommendations designed to accommodate the specific needs of these companies.

3 – Reforming the framework for funds of hedge funds

The market advisory group chaired by AMF Board member Philippe Adhémar put its proposals out to consultation until 19 November. The AMF Board is expected to issue its conclusions in early 2008. The process of reforming the framework will then begin, in conjunction with the Directorate General for the Treasury and Economic Policy. The working group proposes giving fund managers more freedom in return for making management companies more accountable.

4 – Streamlining procedures and regulations for small management companies

AMF Board member Jean de Demandolx was tasked with exploring this issue. A report is expected in early 2008.

b) Revisiting procedures

1 – Reforming fund authorisation procedures

The market advisory group set up to examine this issue completed its work in Autumn 2007. The general idea is to simplify procedures in return for making management companies more accountable for ensuring that their authorisation applications are regulation-compliant. The Board endorsed the group's final conclusions on 30 October following a two-month consultation.

The reformed fund authorisation procedures should enable the regulator to refocus on key fund characteristics when examining applications for authorisation, resulting in swifter, smoother procedures.

A fast-track authorisation mechanism was also introduced for clone funds. The new arrangements halve the time required to issue authorisation if the fund in question is similar to funds that have already received AMF approval and are managed by the same company. Alongside these changes, administrative costs have been drastically reduced through the introduction of electronic authorisation procedures and other measures. The requirements for delegating administrative, accounting and financial management have also been simplified. These efforts to recentre the authorisation procedure made it possible to step up fund monitoring, with special emphasis on marketing. The new arrangements have been operational since January 2008 (cf. Chapter 4).

2 – A more predictable approval procedure for corporate finance prospectuses; introduction of the "simple track" procedure

A working group set up by the Consultative Commission on Disclosures and Corporate Finance proposed a procedure to provide better predictability on approvals for standard transactions by issuers with a sufficient track record, including three years of registration documents and compliance with market disclosure requirements. To qualify for the procedure, the issuer must provide written confirmation of compliance, as must the ISP taking part in the transaction.

3 – Providing information to people interviewed during an investigation

The AMF looked at the procedures for informing people interviewed during an investigation that the investigation is over, that they have been exonerated and that the Board will not send them a statement of complaint or a letter of observation. It was decided that interviewees should be informed when the investigation is closed. If the investigation leads to proceedings before the

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Enforcement Committee, then interviewees who have been exonerated will not receive notification until the Committee has reached its decision.

c) Clarifying and strengthening relations with professionals

1 – Charter for the Consultative Commissions

The role of the consultative commissions was clarified at the request of practitioners. The charter explains that the commissions provide expert advice to the Board but that their involvement is neither automatic nor obligatory. Their relationship with industry groups was also clarified.

2 – Inspection Charter

Published on 30 October 2007, this new charter sets out the powers and obligations of AMF investors and of inspected institutions and their staff during inspections. The charter recognises the right of inspected entities to be kept abreast of progress in on-site inspections.

3 – Initiatives targeting compliance officers to reflect their role in promoting compliance

Three days of Q&A sessions on MiFID implementation were organised in October and November. The AMF also met with the investment services compliance officers of the main groups to examine their needs.

4 – Publication of MiFID Q&A

On 7 November 2007⁷ just as MiFID was coming into force, the AMF published a set of Q&A that detailed its interpretations of some of MiFID's most delicate provisions. This helped participants to adjust more efficiently to the new legal framework resulting from MiFID transposition.

d) Improving the information provided to shareholders

1 – Recommendation on the summary prospectus provided during public issues of securities

The recommendation, published in October 2007, seeks to improve the quality and clarity of information provided by listed companies to investors in the summary prospectus (cf. Chapter 3)

2 – Reforming the simplified fund prospectus

The AMF is jointly chairing a European working group on this issue. The group, which did the bulk of its work in 2007, provided the European Commission with a number of possible ways to create a condensed document that would be refocused on key investment information. The options will be tested with European investors in 2008.

3 – Supervising advertising for funds and structured products

Following an initial assessment, a consultation was held in third-quarter 2007 on the principles that will guide the AMF when it reviews the advertising materials of financial products. Discussions on this topic will continue in 2008 with affected industry groups.

2 > The Consultative Commissions

Using the powers provided for in Article L. 621-2 III of the Monetary and Financial Code, the AMF decided in February 2004 to set up five standing consultative commissions to assist it in its deliberations and help it formulate policy in light of changes in techniques, products and market structures, as well as the legal and financial environment, both domestic and international.

The five commissions are made up of experts appointed by the AMF's Board and are chaired by Board members, who coordinate the work programmes and report back to plenary meetings of the Board. The members of the commissions are appointed for a three-year term.

The commissions' role was clarified in 2007 as part of Better Regulation and in the context of changes to the make-up of the commissions. Notably, an operating charter was introduced that sets out the following principles:

- > the work done by the commissions forms part of a consultation process designed to aid the Board. In other words, the main role of these expert commissions is to provide guidance on Board decisions that are likely to impact participants in the affected market areas. The

⁷ Available on the AMF website under Publications > Guides > Professional guides

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commissions must therefore provide AMF divisions with advice on issues under review and lend support on issues identified by their members;

- > the commissions are consulted on draft regulations in their area as and when required, rather than systematically. Acting in a consultative capacity, they provide opinions on regulations submitted to them by AMF divisions. The commissions do not deal with individual cases;
- > the commissions provide advice on draft regulations being reviewed by AMF divisions (AMF General Regulation, reports, etc.), in-depth topics proposed by their members, and positions proposed by AMF divisions. The AMF will give the commissions a bigger role as part of commitments made in terms of formalising and disseminating its positions on the application of regulations. Furthermore, the commissions may alert AMF divisions to matters of concern that fall within the AMF's jurisdiction. In addition, the expert commissions may be consulted on strategic developments in the AMF's business areas and operating environment.

The charter also explains how the commissions interact with industry groups, emphasising a complementary and coordinated approach rather than competition.

a) Retail investors and minority shareholders

Commission members⁸

Jean-Claude Mothié, Chair

Jacques Delmas-Marsalet, Vice-Chair

Bernard Camblain (Meeschaert, Association Française du Family Office), Bernard Coupez (ASRAS BNP Paribas)⁹, Jacques Coutance (member of individual shareholder committees), Vincent Dutfoy (CLAS)¹⁰, Olivier Eon (Testé pour Vous), Agnès Gaultier de la Ferrière (FAS)¹¹(11), Marcel Jayr (member of ANSA¹² and Euronext individual shareholder committees), Pierre-Henri Leroy (Proxinvest), Viviane Neiter (APAI)¹³, Colette Neuville (ADAM)¹⁴, François Perrin-Pelletier (FAIDER)¹⁵, Guillaume Prache (ARCAF)¹⁶, Fabrice Remon (Deminor), Daniel Richard (lawyer), Marie-Claude Robert (first COB Ombudsman), Aldo Sicurani (FFCI)¹⁷, François de Witt (France Info).

The Consultative Commission on Retail Investors and Minority Shareholders continued its work in 2007, meeting eight times, roughly the same as the previous year. It provided opinions on specific AMF positions as well as on strategic regulatory issues.

International issues were a key focus in 2007, with some of the members forming an ad hoc working group to engage with topics being debated by CESR and the European Commission. For example, the commission represented itself in discussions on reforming the simplified fund prospectus held by the European Commission and then CESR. Its members conveyed the commission's position in this area by addressing the public hearings organised by the institutions. It also gave its opinion to the Board on other European questions, such as draft reforms to the UCITS Directive and a level playing field for savings products.

The commission considered the level playing field issue on several occasions, in particular when it heard from representatives of the insurance control commission (ACAM). The commission was also consulted on the AMF's response to European Commission consultations on priorities for retail financial services in Europe, and competition for products that are equivalent from the perspective of investors but are actually subject to different jurisdictions.

The commission wants to inform its thinking by taking a cross-sector view of the products that fall within the AMF's jurisdiction. To achieve this, a major cooperation agreement was signed in 2007 aimed at stepping up dialogue with the Financial Sector Consultative Committee (CCSF). Under the agreement, the partners talk regularly about their agendas and work programmes. Also, as

⁸ Many members of this commission took part in the working group on investor education (cf. 2006 Annual Report)

⁹ BNP Paribas Group Retired and Former Employees Shareholders Association

¹⁰ Crédit Lyonnais Employee Shareholders Association

¹¹ French Federation of Employee and Pensioner Shareholders

¹² National Association of Joint-Stock Companies

¹³ Association for the Promotion of Individual Share Ownership

¹⁴ Association for the Defence of Minority Shareholders

¹⁵ Federation of Independent Associations for the Defence of Retirement Savings

¹⁶ National Civil Servants Retirement Savings Association

¹⁷ French Federation of Investment Associations

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and when required, members of the commission are invited to address the CCSF, or CCSF representatives come to voice their concerns to the commission.

The practice of organising hearings reflects the openness of the Commission on Retail Investors and Minority Shareholders. In addition to ACAM representatives, the commission heard from the Chair of the French Asset Management Association (AFG) and the Chair of the Institute for Public Financial Education. The commission has worked hard to implement recommendations in this area, which were made by a working group built around its members.

The commission paid particular attention to MiFID implementation in the area of financial product advertising. The AMF used the commission's efforts as a starting point for talks with the industry about appropriate positions on performance reporting and fair presentations of product risks/rewards and related costs. This work will be continued in 2008.

In more conventional business, the commission was consulted on amendments to regulations in areas that could affect investors, minority shareholders and their representative associations, such as storage of regulated information.

It also responded to proposals made in reports published under the supervision, or with the participation, of the AMF. The commission paid particularly close attention to the report by the working group on the regulatory framework for funds of hedge funds, which was chaired by AMF Board member Philippe Adhémar.

Furthermore, the Commission on Retail Investors and Minority Shareholders held talks with the AMF's divisions and Secretary General on the initial lessons of the financial crisis and in particular the impact of the crisis on certain funds.

b) Disclosures and Corporate Finance

Commission members¹⁸

Yves Mansion, Chair

Bernard Field, Vice-Chair

Olivier Assant (Bredin Prat), Olivier Azières (Cabinet Azières Conseil), Jean-François Biard (BNP Paribas), Philippe Bougon (Schneider Electric), Jean-Régis Carof (L'Oréal), Franck Ceddaha (Odco Corporate Finance), Jean Cedelle (Calyon), Martine Charbonnier (NYSE Euronext), Christophe Clerc (Shearman & Sterling), Marie-Noëlle Dompé (Darrois), France Drummond (academic), André Dupont-Jubien (Lazard), Jacques Espinasse (company director), John Glen (Air Liquide), Philippe d'Hoir (Fidal), Christian Labeyrie (Vinci), Philippe Lagayette (JP Morgan), Michel Léger (Léger et Associés), Alain de Marcellus (Cap Gemini), Patrice Marteau¹⁹ (Acteo), Marie-Christine de Nayer (Freshfields), Hervé Philippe (Havas), Gilles Requillart (Peugeot), Jacques Rossi (Cabinet Rossi), Eliane Rouyer (Accor/CLIFF), Lionel Verdouck (Bouygues), Caroline Weber (MiddleNext)²⁰.

The Consultative Commission on Disclosures and Corporate Finance met ten times in 2007.

As promised in 2006, the commission began the year by examining its operating procedures and discussing the initiatives that would allow it to:

- > assess the impact of the extensive regulatory changes that have taken place in recent years;
- > learn more about the uncertainties and difficulties encountered by issuers when implementing new regulations, in order to deliver an appropriate response or to inform the AMF Board;
- > identify topics that will have a significant impact on issuers in the near to medium term and that will require the AMF to take a position or adopt a course of action.

These initiatives come under the umbrella of commitments made in November 2006 as part of the AMF's Better Regulation approach. To take them forward, the commission set up several ad hoc working groups:

- > one group was set up in February 2007 to examine the costs and benefits associated with introducing the Extended Business Reporting Language (XBRL) standard. The aim of the

¹⁸ On 17 April 2007 the Board approved the commission's new composition. Two members (J.-F. Biard and P. Marteau) also sit on the Consultative Commission on Markets and Exchanges

¹⁹ Joined the Consultative Commission on Disclosures and Corporate Finance in November 2007

²⁰ Replaced Guy Mamou-Mani as from the November 2007 session

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group, which was led by two members of the commission, Olivier Azières and Franck Ceddaha, was to take stock of XBRL's position in Europe and consider the benefits that the standard could deliver to companies and market users generally, while at the same time identifying costs and constraints. The working group presented its report to the commission at its October meeting and to the AMF Board at the end of 2007. Given the growing importance of XBRL and in view of the functionalities that it can deliver to users, the Board decided that the AMF should support these developments, in conjunction with other relevant public authorities. AMF staff are currently working on initiatives to be presented to the Board;

- > in February 2007, it was proposed to create a second working group, to examine the impact of amendments to the rules in the AMF General Regulation on reporting major shareholdings, pursuant to transposition of the Transparency Directive. The group was chaired by Yves Mansion and made up chiefly of commission members. Once the group had completed its work, the AMF published an initial set of Q&A on 17 July 2007 concerning the basis for calculating voting rights;
- > a third group was set up in May 2007 under the chairmanship of Bernard Field. It was tasked with examining how the AMF could put in place a streamlined procedure for examining issuers' prospectuses under certain conditions. Based on the group's findings, on 18 December 2007 the AMF published a proposal to reform the procedures, which it put out to public consultation until 31 January 2008.

The commission also examined the findings of another working group set up in April 2007 by the AMF Board in partnership with MiddleNext. The group, chaired by Yves Mansion, was asked to consider possible adjustments to the regulations and procedures applicable to small-cap and mid-cap issuers. The commission received the draft version of the group's report for discussion in October, followed by the AMF's draft position on the issue in December 2007 (cf. Chapter 3).

The commission was consulted on amendments to the AMF General Regulation needed to create a new segment on Euronext Paris for listings without a prior public offering. Securities on this segment are listed directly or through a private placement (cf. Chapter 3). Furthermore, the commission was consulted on the draft General Regulation that transposes the implementing directive of the Transparency Directive.

The Consultative Commission on Disclosures and Corporate Finance played an active part in efforts by the AMF in 2007 to clarify its rules and regulations and was closely involved in the AMF's published positions on corporate finance transactions. As part of this, it was asked to provide opinions in the following areas: the position on capital increases conducted through the distribution of equity warrants, Q&A on profit forecasts, AMF recommendations on preparing 2007 financial statements, equity lines and step-up equity financing (cf. Chapter 3).

The commission also considered a number of international issues, including briefings on the work of the CESR contact group on prospectuses and draft amendments by the US Securities and Exchange Commission (SEC) to prevent short-selling before public offers and to eliminate IFRS/US GAAP reconciliation requirements.

For the fourth year running, in November and December 2007, the commission reviewed the AMF's draft reports on credit rating agencies (CRAs) and on corporate governance and internal control procedures, which were published in 2008. The review of the 2007 AMF report on CRAs took on particular significance given the upheaval on the US subprime market in 2007 and the way the agencies responded to these events. The AMF conducted a special study of this issue²¹.

²¹ Available on the AMF website under Publications > Letters and Working Papers > Risk and trend mapping.

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c) Markets and Exchanges

Commission members

Jean-Michel Naulot, Chair

Jean-Pierre Pinatton, Vice-Chair

Jean-François Bay (Seeds Finance), Jean-François Biard (BNP Paribas), Françoise Bonfante (UBS France SA), Alban Caillemer du Ferrage (Gide Loyrette Nouel), Didier Demeestere (Ampléo Gestion) Gérald Harlin (Axa), William Higgons (Siparex), Catherine Langlais (NYSE Euronext), Jean-Bernard Laumet (HSBC/CCF), Patrice Marteau (Acteo), Hubert Massiet du Biest (LCL Crédit Lyonnais), Jean-Pierre Mattout (Kramer Levin Naftalis & Frankel LLP), Alain Moynot (BNP Paribas), Christian Nesi (Banque de France), Catherine Patou (Natixis), Didier Rolland (SG Securities Paris SAS), Hubert de Vauplane (Calyon).

The membership of the Consultative Commission on Markets and Exchanges changed substantially as the terms of office of the first set of members appointed in 2004 came to an end.

The commission met seven times in 2007.

The commission's agenda was largely given over to issues relating to MiFID implementation. Accordingly, the commission devoted several meetings to discussions aimed at providing a clear, operational and practical interpretation for best execution rules. For this, it drew on the work and recommendations of CESR as well as the working document published by the European Commission on this issue.

The commission also examined the final amendments to the AMF General Regulation transposing MiFID provisions on reporting trades to the competent authority, along with the related draft instruction. Discussions were held in this context on criteria to guide ISPs that divide reporting on branch transactions between the home and host countries.

The commission held an initial round of discussions on draft amendments to the AMF General Regulation that are to be finalised in the first quarter of 2008. The first series of changes concerns the management of privileged information (Book III, Title I, Chapter 5, Section 2). The second involves market trading by ISPs during public offerings.

More generally, the commission was consulted on the initial set of Q&A that the AMF web-posted on implementation of MiFID and the General Regulation²². The exchanges held as part of this played a valuable part in clarifying the draft answers before they were definitively adopted by the Board.

The commission was also consulted on the requirements for capital increases conducted by way of free allocations of equity warrants that resemble pre-emptive rights, and on the requirements for the sale of securities acquired during the stabilisation period to benefit from the safe harbour status provided for by European Regulation 2273/2003, which deals, among other things, with stabilisation transactions (cf. Chapter 3).

Furthermore, the commission played a consultative role in examining changes to the rules and plans of the market undertaking, which require regulatory approval. The main development considered was Euronext's introduction of a new internal matching facility, which entailed a change to the order execution algorithm (cf. Chapter 4). The commission also discussed developments on the warrants and certificates market.

d) Individual and collective asset management

Commission members

Philippe Adhémar, Chair

Thierry Coste, Vice-Chair until 11 April 2007

Francis Ailhaud (Groupama AM), Christian Boisson (Crédit Agricole AM), Dominique Carrel-Billard (Axa IM), Raymond de Courville (AM Capital), Gilles Glicenstein (BNP Paribas AM), Guillaume Jalenques de Labeau (SPGC)²³, Pierre Jolain (Haas Gestion), Jean-Louis Landais (Banque de France), Gérard Pfauwadel (Unigestion AM), Alain Pietrancosta (Paris I), Hélène Ploix (Pechel

²² Available on the AMF website under Publications > Guides > Professional guides

²³ Société Privée de Gestion et de Conseil

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Industries), Bruno Prigent (Société Générale), Antoine de Salins (FRR)²⁴, Patrick Sellam (Cabinet Patrick Sellam), Etienne Stofer (CRPN).

The Consultative Commission on Individual and Collective Asset Management is a forum for dialogue with professionals from all sectors of the asset management industry – not just asset managers, but also depositaries and institutional investors. It met eight times in 2007.

The commission continued to play a consultative role in the regulatory area by scrutinising and debating the main changes to the AMF's General Regulation. The commission examined a host of issues, including the following: finalisation of the General Regulation on real estate collective investment schemes, procedures for the early dissolution of set-maturity funds, performance swaps, structuring of actively managed products, as well as various proposals to modify AMF instructions on authorising funds, management companies, etc.

The application of MiFID to the asset management industry was a central concern for the commission, which examined several draft texts on MiFID transposition. It also considered draft interpretations of the more delicate provisions of the directive by examining the Q&A and special analyses in this area.

Regulatory developments at European level were a key focus in 2007. The commission considered the consequences of EU work on eligible assets for CISs, the European Commission's draft modifications to the UCITS Directive, efforts overseen by CESR to reform the simplified prospectus, and the debate over products that can compete with CISs but are subject to a less stringent regulatory regime.

Regular briefings were held to keep the commission's activities in step with groups working on specific issues relating to asset management, particularly the group chaired by Philippe Adhémar on reforming the framework for funds of hedge funds.

The commission began to act as a forum for discussing AMF positions. The AMF wants it to gradually step up this role under commitments to do more to disseminate positions. As part of this, the commission examined not just the Q&A on MiFID implementation, but also positions on delegating management and reviewing fund marketing literature.

The commission was also consulted on reforms to the fund authorisation procedure introduced as part of the Better Regulation approach

e) Clearing, Custody and Securities Settlement

Commission members

Dominique Hoenn, Chair

Jean de Demandolx Dedons, Vice-Chair

Robert Baconnier (ANSA), Philippe Castellanelli (HSBC Bank PLC), Emmanuel de Fournoux (AFEI)²⁵, Michel Germain (Paris II), Christophe Hémon (LCH.Clearnet SA), Anne Landier Juglar (CACEIS), Philippe Langlet (Société Générale), Christophe Lepitre (ADI Alternative Investments), Yvon Lucas (Banque de France), Guy Mengin (Crédit Suisse), Daniel Mesure (Crédit Agricole Titres), Philippe Pauzet (Arlis), Marcel Roncin (AFTI), Yann de Saint-Meleuc (Groupama Asset Management), Pierre Slechten (Euroclear France).

The Consultative Commission on Clearing, Custody and Securities Settlement comprises 15 members representing post-trade infrastructures, banks, investment firms and supervisory authorities. Its membership was modified in June 2007.

The commission met twice in 2007 and issued opinions on various initiatives pertaining to the post-trade market and to custody account keeping.

As part of this, the commission noted the findings of the working group set up at its request in 2006 to consider the treatment of exercises of options, with respect to tax and social security levies, bonus share plans and capital increases reserved for employees.

The commission was consulted on changes to market infrastructure rules requiring regulatory approval. For example, it examined the draft amendment to the non-harmonised rules of Euronext Paris on dividend payment cycles and on delisting debt securities, in connection with Euroclear

²⁴ Fonds de Réserve des Retraites

²⁵ French Association of Investment Firms

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France's introduction of the ESES system. In addition, the commission was asked to provide an opinion on draft amendments to the operating rules of Euroclear France in the latter's capacity as central depository and operator of a securities settlement system.

The commission was consulted on the draft amendment to the AMF General Regulation on the CIS depository function, with a view to accommodating certain specific aspects relating to the property assets eligible for real estate CISs.

The commission also discussed the report by AFTI²⁶ and CFNOB²⁷ on the provisions applicable to transfer agents. It looked in particular at the time requirements imposed on custody account keepers processing corporate finance transactions and potential related difficulties.

The commission was also informed that CESR had set up a post-trade working group and held its first discussions on the future for LCH.CLearnet SA and for clearing in Europe, with a particular focus on implementation of the new European code of conduct for infrastructure providers.

3 > Market advisory groups

Alongside the consultative commissions, the AMF also conferred with working groups of market professionals and experts on specific issues.

a) Working group on introducing a simplified review and approval procedure

Under its Better Regulation approach, the AMF raised the possibility of introducing simplified ex ante procedures for reviewing the corporate finance transactions of listed companies. It proposed to work with professionals to introduce the new procedures, which would be based on eligibility statements.

In May 2007, a working group was set up at the initiative of the Consultative Commission on Disclosures and Corporate Finance to consider the introduction of a simplified procedure for reviewing and approving the prospectuses prepared by certain companies when issuing securities to the public. Chaired by AMF Board member Bernard Field, the working group comprised representatives of listed companies, banks and auditors.

The group's findings were published on 18 December 2007 and put out to public consultation until 31 January 2008. As a result, an amendment was made to Article 5 of AMF Instruction 2005-11 of 13 December 2005 on disclosure requirements for public offerings pursuant to Book II, Title I of the AMF General Regulation.

As part of these reforms, the AMF made a number of commitments to issuers that have had their registration documents registered – and therefore reviewed – three years running and that are up to date with their periodic and permanent disclosure requirements. Accordingly, the AMF has undertaken to:

- > examine applications within a short, predetermined timeframe;
- > ensure that issuers know within two business days whether they qualify for the simplified procedure and hence whether their registration document, as well as updates to that document, will subject to a new detailed review when the transaction is carried out;
- > review only clauses identified as non-standard when examining the securities note. Non-standard clauses are determined with reference to the standard frameworks prepared by the AFEI and approved by the AMF. Standard frameworks have been prepared for three types of issues: capital increases with pre-emptive rights, capital increases without pre-emptive rights, and issues of convertible bonds redeemable in new or existing shares.

b) Working group on changes to the financial regulations applicable to small-cap and mid-cap issuers

Since Eurolist was set up, disclosure requirements have increased for all companies listed on the Paris regulated market, irrespective of size. Recognising that this situation could ultimately undermine the appeal of the regulated markets, and in accordance with its Better Regulation approach, the AMF formed a working group in April 2007 to examine the situation of small-cap

²⁶ French Association of Securities Professionals

²⁷ French Committee for Banking Standards and Organisation

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and mid-cap issuers²⁸. Chaired by Board member Yves Mansion, the group was set up in collaboration with MiddleNext.

The group's report was published on 6 November 2007 and put out to public consultation until 5 December 2007.

The report and its recommendations benefited from the expertise of MiddleNext and AMF representatives. Expert input was also provided by representatives of medium-sized listed companies, associations representing issuers (Medef, Croissance Plus), Euronext, the French directors' institute (IFA) and auditors, as well as lawyers and intermediaries who regularly work with small-cap and mid-cap issuers.

The working group had the following goals:

- > establish a definition for small-cap and mid-cap issuers;
- > create a more consistent framework that is better suited to the circumstances of such companies while ensuring investor protection;
- > identify and propose measures to ease restrictions on these companies at AMF level;
- > identify proposals for legislative improvements at national and European level.

Based on the group's recommendations and feedback from the public consultation, the AMF decided, in a position published on 9 January 2008²⁹, to:

- > define small-cap and mid-cap issuers as companies capitalised at less than €1 billion, thereby aligning itself with the criteria set by NYSE Euronext for the B and C compartments of Eurolist. The companies account for nearly 80% of all listings on Eurolist Paris but for less than 5% of total market capitalisation. The AMF therefore opted for a higher maximum capitalisation than the €750 million proposed by the working group;
- > recommend, for financial years beginning on 1 January 2007 or later, that small-cap and mid-cap issuers use the two special guides produced by the working group, one for preparing the registration document, the other for drafting the internal control report;
- > simplify dealings between companies and the AMF's operational divisions by proposing new organisational arrangements, including more extensive use of the single point of contact principle, more effort by the AMF to communicate on its internal organisation, and educational initiatives for small-cap and mid-cap issuers. The AMF intends to provide information before Summer 2008 about the action taken on these projects;
- > support the legislative changes called for by the working group both at domestic level (eliminating requirements to publish in the legal gazette (BALO)³⁰, extending the share buyback regime to shares listed on Alternext) and at European level (lengthening the deadline for publishing the half-yearly financial report from two to three months, pursuant to the Transparency Directive). Furthermore, the AMF favours taking the special circumstances of smaller companies into account so that the requirements for these firms are not needlessly made more burdensome when the European directives are transposed in 2008.

Other market advisory groups were set up in 2007 in the AMF's business areas. Their activities are reported on in the chapters that deal with the AMF's different sectors of activity.

²⁸ See Chapter 3

²⁹ Available on the AMF website under Texts > Access by category of text > AMF Positions

³⁰ *Bulletin d'annonces légales obligatoires*

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4 > Scientific Advisory Board

Board members

Michel Aglietta (Paris X Nanterre University), Michel Albouy (Grenoble PMF-ESA University), Noël Amenc (EDHEC), Patrick Artus (IXIS-CIB), Christian de Boissieu (Paris I University), François Champarnaud (French Government Shareholding Agency – APE), Patricia Charlety (ESSEC), Jean-Michel Charpin (INSEE), Olivier Davanne (Partner, DPA Conseil), Thierry Foucault (HEC), Olivier Garnier (Société Générale Asset Management), Edith Ginglinger (Paris Dauphine University), Christian Gourieroux (Paris IX University and ENSAE), Carole Gresse (Paris Dauphine University - CEREG), Ruben Lee (Oxford Finance Group), Jean-François Lepetit (Chair, Conseil National de la Comptabilité), François-Serge Lhabitant (HEC Lausanne University), Albert Menkveld (Vrije Universiteit Amsterdam), André Orléan (CNRS), Olivier Pastré (Paris VIII University, GP Banque), Jean-Charles Rochet (Toulouse University - Institut d'Economie Industrielle), Benn Steil (Council on Foreign Relations), Marc-Olivier Strauss-Kahn (Banque de France), Xavier Vives (IESE Business School).

The AMF's Scientific Advisory Board met three times in 2007 to discuss work on topics of concern to the AMF.

The first session, which was held in March, was given over to the question of complex and/or illiquid assets. Patrick Artus (Natixis) reviewed the risk, return and liquidity characteristics of private equity, hedge fund and property assets. He drew attention to the difficulties in properly identifying all the risks associated with holding such instruments, and therefore emphasised that conventional investors should take great care when including such products in their portfolios. Gunther Capelle-Blancard (Paris X Nanterre University) presented the findings of research on factors that determine the location of financial activities and on the link between the development of the financial sector and overall economic growth. This research took a unique multidisciplinary approach combining aspects of sociology, finance and economic geography.

The Board held its second session on 22 June. Raphaëlle Bellando of Orléans University presented a paper on the risk-taking behaviour of French investment fund managers. The purpose was to see whether fund managers have a tendency to expose their portfolios to greater risk at certain times in order to generate additional inflows of new money. The findings, which are not definitive, tend to corroborate this idea: funds that perform poorly take on more risk at the end of the year so that their full-year performance is in line with the results of competitors. Henri Servaes (London Business School) presented an international study on the factors that determine asset management fees. The study found that fees may depend on various factors, including fund size and investment objective, the number of countries in which funds are distributed, the competitiveness of the asset management industry and the quality of the regulatory environment.

The Scientific Advisory Board held its final meeting of 2007 on 13 December. The Board heard presentations on three issues. Patricia Charlety (ESSEC), Marie-Cécile Fagart (Paris V University) and Saïd Souam (Paris Nord University) presented a paper on the links between the acquisition of equity interests and corporate governance. Based on the academic literature and empirical observations, Ms Charlety described different types of acquisition, explaining their benefits, costs and consequences for company shareholders. Mr Souam then presented an empirical analysis of stock acquisition strategies, based on a calculation of abnormal returns to the shares targeted by these strategies.

Michel Aglietta, Sabine Montagne (CBRS - IRISES, Paris IX Dauphine University) and Antoine Rebérioux (Paris X Nanterre University) presented the findings of their research on long-term investors and governance. They talked about several issues relating to institutional investors, including determinants of strategic portfolio allocations, management delegation, and different corporate governance approaches.

Benn Steil of the Council on Foreign Relations compared the organisation of electronic trading systems for public debt securities in the USA and Europe. He emphasised the potential benefits of authorising hedge funds to become members of the European electronic trading system, as is the case in the USA, while measuring the consequences of such a move for market organisation.

After the success of its first conference in 2006, the AMF's Scientific Advisory Board devoted its 2007 one-day conference to the structure of financial markets and the related challenges for regulators. Reflecting current events on the international scene, the event, which was held on 14

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May 2007 at the Palais du Luxembourg in Paris, was co-organised with the US Securities and Exchange Commission (SEC). Following a welcome from AMF Chairman Michel Prada and SEC Commissioner Annette Nazareth, the morning session began with a paper from Hans Stoll (Vanderbilt) on factors affecting the competitive structure of markets. Thierry Foucault (HEC) then took the debate further with a paper on questions of competition between regulated markets. Albert Menkveld (Vrije Universiteit Amsterdam) presented a paper on alternative market structures for market making in Dutch small caps, while Carole Gresse (Paris Dauphine University) examined the threat from alternative trading platforms. A panel of experts, with Annette Nazareth as moderator, then used these presentations as a starting point for assessing strategic implications for markets. In the first paper of the afternoon, Roger Huang (University of Notre Dame, Indiana) examined factors of liquidity in emerging markets. Terrence Hendershott (University of California at Berkeley) then examined the impact of changes in trading technology. This was followed by presentations of regulatory views. Albert Kyle (University of Maryland) explored a number of aspects relating to futures markets. Chester Spatt, the SEC's Chief Economist, extended this view, while Erik Sirri, SEC Chief of Market Regulation, outlined a forward-looking approach to the transatlantic debate on these issues. Hubert Reynier, AMF Managing Director and Head of Regulatory Policy and International Affairs then led a panel of eminent market practitioners in a debate on these regulatory challenges³¹.

B – Providing information to professionals

In line with the commitments made under its Better Regulation approach, the AMF pursued its efforts to inform professionals about regulatory developments and the transposition of EU directives. It organised a series of educational initiatives, which included the following:

- > briefings about MiFID transposition (cf. Chapter 4);
- > the seventh annual information day for compliance officers. Over the years, the information day has become a key event for these professionals, providing a forum for ongoing, organised dialogue between the regulator and industry. The meeting gives the regulator an opportunity to provide information on regulatory developments and precedents. Transposition of MiFID into French regulations was also covered;
- > the fourth AMF annual conference, whose theme in 2007 was "The New Challenges Facing Financial Markets". The event looked at the opportunities created by MiFID for market participants, financial innovation and new risks, efforts by the industry to meet these challenges so as to maintain optimum efficiency, and the regulatory response to the new challenges. The topics provided an opportunity for financial market participants to take stock of MiFID implementation one month on from the directive's entry into force, and to look at questions of shareholder activism, as well as participants' analysis of new risks such as liquidity risk;
- > a new guide to offering prospectuses³². The publication, which adds to the AMF's collection of information guidebooks, is designed to inform companies making public issues of securities about the contents of a prospectus and assist them with the formalities, from filing the proposal to closing the offer;
- > *Regulation and Asset Management*, a new quarterly electronic newsletter in French and in English aimed at asset management professionals³³.

4 – Cooperation with the Banque de France

The AMF and the Banque de France work closely together. A representative of the Banque de France appointed by the governor sits on the AMF Board. Likewise, the AMF Chairman is a member of the Committee on investment firms and credit institutions (CECEI). AMF divisions have a long-standing history of cooperation with their Banque de France counterparts in the areas of banking disclosure, and have traditionally worked closely with the staff of the Commission bancaire. The institutions share reports, exchange views and provide each other with specialised personnel on secondment. Exchanges of information are governed by statutory provisions on shared secrecy.

³¹ Papers, reports and videos of the speeches are posted on the AMF website under Publications > Presentations, press conferences

³² Available on the AMF website under Publications > Guides > Professional guides

³³ See Chapter 4

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The supervisory authorities collaborate in three main areas:

- > information sharing;
- > local cooperation;
- > oversight of investment services providers.

Cooperation between the two authorities worked well during the subprime crisis. AMF and Banque de France staff met from Summer 2007 onwards, keeping each other regularly informed about developments on securitisation and credit markets and about the situation of management companies, credit institutions and investment firms. This close collaboration resulted in a joint written contribution to the work of the Financial Stability Forum on the subprime crisis. The aim of the report was to identify areas in which regulators can help to restore confidence in the market.

A – Information sharing

The AMF and the Banque de France share information in a number of areas. The exchanges can either be informal (e.g. with the Commission bancaire on the appointment and re-appointment of statutory auditors of publicly listed credit institutions) or formalised through memoranda, agreements, charters and other such instruments, such as:

- > the 1998 agreement (now being updated) between the Banque de France and the COB on registration details of CISs;
- > the 2000 memorandum of understanding (MOU) establishing the arrangements for using the database on the directors and shareholders of credit institutions and investment firms (FIDEC);
- > the 2004 agreement on administering the database of direct marketers (FIDEM)³⁴ (34);
- > the 2005 charter on supervisory cooperation of cross-sector financial groups.

Furthermore, the AMF is in the process of signing an agreement with the CECEI and the Commission bancaire on the legal and accounting information it needs to oversee ISPs and collect the fees and contributions they owe.

B – Local cooperation

Under a new agreement signed in 2005, the regional directors of the Banque de France are also the regional representatives of the AMF and can take part in AMF missions within the limits of the activities that the Authority is entitled to delegate to them. These include:

- > Financial reporting. Regional delegates are the AMF's correspondents for all matters relating to periodic and ongoing disclosures made by listed companies operating within their bailiwick. They inform the AMF if any of these companies runs into difficulties. And they are consulted systematically when a new company in their region plans to go public;
- > Supervision of direct marketing of financial instruments, financial investment advice, and the marketing of investment services;
- > Market surveillance;
- > Questions and complaints from retail investors, which are forwarded to the Ombudsman. If the query does not come within the AMF's jurisdiction, the regional delegate refers the investor to the appropriate agency or government department.

Several Banque de France regional offices also operate public documentation centres, supplying members of the public with reference material, including AMF publications and, in many cases, information on listed companies.

Furthermore, the AMF Chairman can ask the regional delegate to represent him at regional events relating to financial markets.

Annual meetings are organised with regional delegates to review the events of the past year and inform them about major regulatory developments. In the course of the meeting, the regional delegates meet the heads of AMF divisions for activity briefings. The meetings are also an opportunity to provide information about the year's main events and about work in progress that

³⁴ <https://www.demarcheurs-financiers.fr>

Important: The following English text is a translation of extracts from the French version of the 2007 annual Report. Only the original French text has any legal value. The AMF expressly disclaims all liability for any inaccuracies in the translation

may impact current cases. The main items on the agenda of the 2007 meeting were the Better Regulation approach and its regulatory consequences and the regulatory implementation of MiFID.

C – Cooperation on the oversight of investment services providers

The AMF shares responsibility for the oversight of investment services providers with the Commission bancaire. The AMF is responsible for enforcing the rules on investment service provision, while the role of the Commission bancaire is mainly to monitor the security of public deposits and of banks generally. To ensure this security, it is essential that the French banking and financial system be managed profitably and prudently. The Commission bancaire is also in charge of making sure that reporting institutions comply with the regulations on preventing money laundering and terrorist financing. The Commission bancaire informs the AMF of any incidents that are likely to breach the General Regulation, and vice-versa. The two authorities cooperate closely together and with other financial authorities, especially the CECEI, which is responsible for authorising investment services providers other than asset management firms.

The AMF can ask the Commission bancaire to inspect authorised services providers on its behalf. In most cases, the team appointed by the General Secretariat of the Commission bancaire to inspect an investment services provider carries out work for both authorities at the same time. The AMF and the Commission bancaire can also set up joint teams.