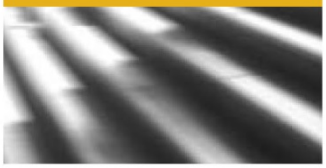
ANNUAL REPORT 2017



AUTORITÉ
DES MARCHÉS FINANCIERS
AMF

2017 ANNUAL REPORT

This annual report covers 2017 and the first months of 2018. It was prepared by departments at the AMF and the draft version was completed on 20 March 2018. It was approved on 6 April 2018 by Robert Ophèle, chairman of the Autorité des marchés financiers, and by Mr Jean-Claude Hassan, Mrs Claude Nocquet, Mr Michel Camoin, Mr Xavier Beau, Mr Patrick de Cambourg, Mr Bernard Coupez, Mr Thierry Philipponnat, Mr Christian de Boissieu, Mr Helman le Pas de Sécheval, Mr Jean-Pierre Hellebuyck, Mr Jean-Claude Hanus, Mr Christian Schricke, Mrs Sophie Langlois, Mrs Muriel Faure, and Mrs Sylvie Lucot, members of the Board.

To the President of the Republic,

The year 2017 was in many respects a year of transition for the AMF: transition for the French financial market, which was the subject of renewed interest in an environment that was overall favourable to the markets; transition towards a system of European supervision that is now more integrated since the European Commission has put in place a number of new initiatives in this area. The AMF has formulated a strategic plan for the medium term, with a view to building on these two trends. 2018 will be decisive in terms of the confirmation or not of the structural nature of these changes.

In France, the commitment to an economic and fiscal strategy based on the rectification of public accounts, support for innovation and growth, and structural reforms to strengthen businesses, has aroused significant interest among French and foreign investors.

Investors have rediscovered a taste for risk in France: net subscription flows on equity UCITS were positive in 2017 (+€13.5 billion), after having been negative since 2010. Net life insurance inflow in account units reached €20 billion, vs. €14 billion in 2016. The AMF certified 20 initial public offerings on Euronext Paris after 17 in 2016, and an average of 23 over the previous 10 years. In total, €2 billion were raised, double the amount raised in 2016. The recovery is therefore real, but it is still limited.

The CAC 40 gained nearly 9.3% in 2017; including dividends, the gain was 12.7%. These performances by the equity markets are the best since 2013. While they are not specific to France, they reflect the good outlook for European equities and the technology innovation sector, solid company results, and the central banks' monetary policies, which were still accommodative in 2017. Such an advance (double in six years, or 13% annual increase) cannot be extrapolated, although we can hope that the potential for upside is probably not exhausted in France.

However, the challenge of reconciling the requirements for financing the French economy (companies' equity capital and long-term debts, innovation, infrastructure, sustainable development) with the expectations of savers and investors has not yet been faced. Recent European regulations could, moreover, have a dissuasive effect on the market and on listings of medium-cap stocks (risk of a reduction in demand as a result of the new framework of the Markets in Financial Instruments Directive (MiFID II), difficulties in adapting liquidity contracts to recent market abuse regulations, etc.). They could also weigh on the sales of high-risk financial products to retail clients: the product-based approach, which is the preferred one, encourages the minimisation of risk, whereas an overall portfolio-based approach normally advises in favour of some degree of risk. The results of the work carried out by the government around the draft law known as "Pacte" (*plan d'action pour la croissance et la transformation des entreprises* - action plan for the growth and transformation of businesses), to which the AMF has contributed within the scope of its expertise, will be influential.

2017 was marked by the United Kingdom's invocation of Article 50 of the Treaty on the European Union. At the same time, the Commission took steps to reinforce the European dimension, particularly in the regulations on market infrastructure (EMIR) and the powers of the European Supervisory Authorities (ESAs), and especially those of the European Securities and Markets Authority (ESMA).

In fact, when the European Union's major financial market place leaves, the necessary construction of a true capital markets union numbering 27 Member States becomes a question of European sovereignty in order to give the Union the means to ensure the level of funding that corresponds to its economic power.

Although it is worth revisiting the different mechanisms for transactions with third countries, in the light of the existing relationships with the United Kingdom, what the European Union really needs is a single mechanism for supervision of the financial markets. The free provision of financial services under the supervision of national regulators requires increasingly detailed and complex European regulations, in the hope, which is regularly dashed, of achieving consistency in terms of supervision rules and practices. The MiFID II regulation, which came into force at the beginning of 2018, is an illustration of this. A single system of supervision would allow for less complex regulations, which are more largely based on principles, and more reactive.

However, such a project has aroused a degree of reticence in Europe, where there are strong attachments to national supervision fuelled by

objections that are not entirely groundless: refusal to accept the remote bureaucracy that some associate with a single supervisory mechanism; requirement for geographic and cultural proximity to ensure the protection of savers and investors as well as the monitoring of medium-sized issuers, etc. The increase in financial activities in the Union after the departure of the United Kingdom will, however, require a level of standardisation that only a single system of supervision can provide. In 2018, the outcome of the discussions between the European co-legislators on the planned reforms proposed by the Commission will play a key role in deciding the future of the financial sector in the Union and in France.

The law provides that the AMF must ensure the protection of savings invested in financial instruments, see to it that investors are kept informed, and maintain the orderly operation of the markets in financial instruments. It must lend its support to the regulation of these markets at a European and an international level.

In an environment marked by the reshaping of the European financial landscape, the rapid spread of digitisation in the financial sector, and the significant need to increase the competitiveness of the French economy, the AMF has been led to revisit its objectives and the manner in which it intends to fulfil its mandates. It has therefore established and approved its strategic plan for 2018-2022 and decided to implement it on an annual basis with respect to specific objectives and supervision priorities. All of these documents are available in the public domain, in order to ensure transparency with the Financial Centre. For example, particular emphasis has been placed on activities relating to the monitoring and control of financial institutions, with the aim of identifying good and bad practices more quickly than they are being picked up today, in order to disseminate the former more widely and put an end to the latter as soon as possible.

I would like to draw your attention to the fact that the AMF needs to reinforce the effective means and resources available to it. The financial resources available to the AMF are significantly more limited than those available to its peers in the United Kingdom, Germany and Italy. Its financial equilibrium is uncertain, despite the establishment in 2018 of a voluntary contribution from its entities. However, it faces challenges that include the overhaul of its IT systems, which is an essential task for market regulators, and the implementation of new regulations. It also needs to increase its involvement both with the Financial Centre as well as the European authorities, in the framework of Brexit. Therefore, I hope that in 2018 we can work with the State to map out a multi-year framework for our resources.

Moreover, the AMF is probably, along with the UK's Financial Conduct Authority, the most active in terms of market supervision and the fight against market abuse, particularly insider trading. Our investigations are supported by exchanges with our foreign counterparts and the analysis of connection data from telecoms operators (*fadets*). These highlight the existence of relationships between holders of inside information and persons who have been involved in transactions on the securities that are the subject of the investigation. The implementation of the new European regulation on the protection of personal data could limit very significantly any exchanges with authorities in third countries. Moreover, the ruling of the Constitutional Council in July 2017, declaring that the legal base that allowed the AMF to access connection data is against the Constitution, led to the loss of this resource. The effectiveness of the AMF's activity is therefore clearly under threat. However, in light of the consequences of this repeal, the Constitutional Council ruled that it will postpone its implementation until 31 December 2018, to allow the State some time to adjust the legislative framework. It is therefore important that the project established with the ministers concerned is completed before the end of the year.

These are the major issues relating to financial regulation that our Paris Financial Centre currently faces. You can rely on the commitment of the staff at the Autorité des marchés financiers to maintain its attractiveness and security.

I would like to take this opportunity to assure you, Mr President, of my highest regard and my deepest respect.

Robert Ophèle
Chairman, Autorité des Marchés Financiers

The AMF in profile

The Autorité des marchés financiers (AMF) regulates the French financial market, its operators, and the investment products sold thereon; it also ensures that investors are properly informed; and it supports investors, if required, via its ombudsman. It is an independent public authority, with regulatory powers and significant financial and management autonomy.

The mandates of the AMF: regulate, inform and protect

The Autorité des marchés financiers (AMF) is mandated to ensure:

- the protection of savings invested in financial products;
- that investors are properly informed;
- the orderly operation of the financial markets.

Areas of intervention

The AMF regulates the market participants and products on the French financial market:

- the financial markets and their infrastructure;
- listed companies;
- financial intermediaries authorised to provide investment or financial investment advisory services (credit institutions authorised to provide investment services, investment firms, asset management companies, financial investment advisors, and direct marketers);
- collective investment products invested in financial instruments.

Powers and jurisdiction

In order to fulfil its mandates, the Autorité des marchés financiers:

- enacts regulations;
- grants authorisation to market participants, endorses documents providing information on financial offerings, and approves collective investment products;
- supervises market participants and investment products falling within its control;
- carries out investigations and inspections;
- has the power to impose sanctions;
- keeps investors informed and offers the services of an ombudsman.

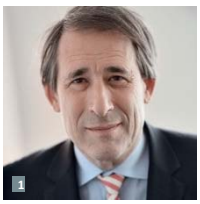
Organisation of the AMF

The Autorité des marchés financiers has tow distinct collegial bodies: the Board, , which is headed by the chairman of the AMF, and the Enforcement Committee, which can impose disciplinary and financial penalties. It also includes five consultative commissions whose principal role is to clarify decisions of the Board that are likely to have an impact on professionals or on the protection of investors' interests.

It relies on the expertise of around 470 employees and collects revenues from fees and contributions paid by the market participants under its control, which gives it financial autonomy. The AMF acts in coordination with the other French supervisory authorities, particularly those regulating the banking and insurance sectors, and cooperates actively with its European and foreign counterparts. It regularly consults professionals, investors and universities in order to develop and improve financial regulations.

The Board of the AMF

The Board of the Autorité des marchés financiers is the decision-making body of the AMF. It adopts new *regulations; takes individual decisions (compliance of tender offers, authorisation of asset management companies and collective investment schemes, approvals, etc.); reviews inspection and investigation reports. As a enforcing body, it can decide to instigate sanction or injunction proceedings. It may also propose the use of the settlement process (reserved for professional breaches) and approves any resulting agreements obtained in this regard. It signs off the AMF budget and approves its financial statement accounts.*



1. Robert Ophèle
Chairman
2. Jean-Claude Hassan
Appointed by the vice-president of the Conseil d'État (French Council of State)
3. Claude Nocquet
Appointed by the Chief Justice of the Court of Cassation
4. Michel Camoin
Appointed by the Chief Justice of the Cour des comptes (French Court of Auditors)
5. Denis Beau
Appointed by the governor of the Banque de France
6. Patrick de Cambourg
Chairman of the *Autorité des normes comptables* (French national accounting standards body)
7. Bernard Coupez
Appointed by the president of the Senate
8. Thierry Philipponnat
Appointed by the president of the National Assembly

9. Christian de Boissieu
Appointed by the chairman of the Conseil économique et social (French Economic and Social Council)
10. Helman le Pas de Sécheval
Appointed by the Minister for the Economy
11. Jean-Pierre Hellebuyck
Appointed by the Minister for the Economy
12. Jean-Claude Hanus
Appointed by the Minister for the Economy
13. Christian Schricke
Appointed by the Minister for the Economy
14. Sophie Langlois
Appointed by the Minister for the Economy
15. Muriel Faure
Appointed by the Minister for the Economy
16. Sylvie Lucot
Appointed by the Minister for the Economy

AMF Enforcement Committee

The Enforcement Committee is the judicial body of the Autorité des marchés financiers. It has full autonomy to make decisions. It may impose a penalty on any person whose practices are not compliant with the laws and regulations that fall within the AMF's area of authority and are likely to jeopardise the protection of investors or the orderly operation of the market. It rules on disputes that are brought before it by the Board of the AMF. It approves agreements for administrative settlement (limited transaction arrangement for professional misconduct) submitted to it by the Board. Finally, it contributes to the AMF's educational purpose by specifying the relevant financial regulations when explaining its decisions.

1. **Marie-Hélène Tric** 1
Appointed by the Chief Justice of the Court of Cassation

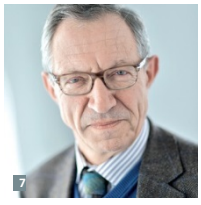
2. **Jean Gaeremynck** 2
Appointed by the vice-president of the Conseil d'État (French Council of State)

3. **Edwige Belliard** 1
Appointed by the vice-president of the Conseil d'État (French Council of State)

4. **Didier Guérin** 2
Appointed by the Chief Justice of the Court of Cassation

5. **Bernard Field** 1
Appointed by the Minister for the Economy

6. **Anne-José Fulgeras** 2
Appointed by the Minister for the Economy



7. **Bruno Gizard** 1
Appointed by the Minister for the Economy

8. **Patricia Lazard Kodyra** 2
Appointed by the Minister for the Economy

9. **Christophe Lepitre** 2
Appointed by the Minister for the Economy

10. **Sophie Schiller** 1
Appointed by the Minister for the Economy

11. **Lucien Millou** 2
Appointed by the Minister for the Economy

12. **Miriasi Thouch** 1
Appointed by the Minister for the Economy

1 First section
2 Second section

AMF departments

Chairman
Robert Ophèle

Ombudsman
Marielle Cohen-Branche

Regulatory Policy and International Affairs
Natasha Cazenave

Corporate Finance and Corporate Accounting
Martine Charbonnier

Corporate Accounting
Marie Seiller

Asset Management
Xavier Parain

Investigations
Laurent Combourieu

Investigation and Inspection
Sophie Baranger

Inspections
Nicolas Patel

Secretary General
Benoît de Juvigny

Markets
Philippe Guillot

Retail Investor Relations
Claire Castanet

Legal Affairs
Anne Maréchal

Information Technology
François Paysant

Operations, Human Resources Management and IT
François Ardonceau

Human Resources
Anne-Sophie Fior

Communications
Charlotte Garnier-Peugeot

Investigation and Sanction Proceedings
Anne-Sophie Texier

Strategy

WITH #SUPERVISION2022, THE AMF HAS SET THE COURSE FOR THE NEXT FIVE YEARS

Nearly ten years after the first signs of the financial crisis appeared, 2017 was a year of assessment and reflection for the AMF, as it defined its new strategic focuses in a world marked by rapid institutional, technological and business upheavals, and by many uncertainties.

As part of this task, the regulator sought to identify where it can add value in the future, as well as the responses that it can offer to the upcoming challenges: how to build a Europe of 27 Member States; major technological innovations; the completion of the huge post-crisis reforms and the implementation of a complex regulatory framework; financing sustainable growth and meeting savers' investment needs; maintaining cohesion at an international level to ensure financial stability; etc.

Unveiled last January, #Supervision2022 presents the way in which the AMF intends to fulfil its mandate and set itself a new course for the coming years. This strategy is based around four primary focus areas:

- a strong EU27, more integrated and more competitive, built on a regulatory framework that is firmly European;
- assist market participants, promote innovation and commit to the attractiveness of the markets and the financial centre;
- a renewed approach of our supervision of the markets and market participants;
- a modern and more agile regulator.

This medium-term plan results in shifts in approach in a number of areas and in our methods of working. It involves gradual human and financial investment in order to strengthen some teams, particularly in the area of supervision of market participants and for the analysis of data available to the regulators, as well as in developing our skills, for example in the area of cybersecurity.

The integration of the digital dimension into our scope of regulation is necessary because it is leading to significant changes in terms of financial intermediation, which are associated with various opportunities and risks.

Benoît de Juvigny

#Supervision2022 has been set out in a very concrete manner, with annual priorities, which will allow us to adapt our initiatives to changes in the environment and in the industry. The action priorities for 2018 have been defined in order to respond to the major issues of the moment, particularly on the European front, and to establish the first milestones for the transformation that the regulator is seeking to achieve.

At the same time, and for the first time, the AMF has published its supervision priorities for the professionals that it regulates (asset management companies and other investment services providers, principally). These priorities clarify its approach as well as the themes identified for the year. They are presented at the end of this report. By adopting this approach, the AMF intends to facilitate the dialogue with its different stakeholders, increase the effectiveness of its initiatives, and measure the progress it has made. The bar has therefore been set for the beginning of 2019.

Image of the AMF

In the spring of 2017, the AMF carried out an image study, to evaluate the perception of the market participants that it regulates and identify areas for improvement in order to make its action more effective. The survey, which was conducted anonymously by an external service provider, received nearly 300 responses, which demonstrates the high level of interest among professionals in engaging in this dialogue with the regulator.

Very positive results

The survey yielded good results. The quality of the relationship with the AMF is seen as very positive. It received a rating of 7.7/10 on average and is even rated 8/10 by investment services providers. The AMF personnel are particularly appreciated for their professional competence, their availability and their responsiveness.

The AMF also enjoys a positive image with regard to its performance (overall performance rated 7.1/10). This score is even more favourable when professionals are questioned on objectives that are in line with the core mandates of the AMF, such as ensuring the integrity of financial markets, investor confidence and prevention of risk (the rating varies between 7.4/10 and 7.9/10 for objectives that are directly linked to these mandates). With regard to a number of objectives that the Autorité has set more recently, the study shows that professionals would like to see the AMF go further in addressing the questions of making the Paris Financial Centre more attractive, providing assistance for innovation and helping the financing of the economy.

An institution that is seen as highly legitimate

Generally speaking, the respondents view the AMF as an independent and respected authority that plays a part in improving professionals' behaviour. Its decision-making processes are considered to be operational, transparent and predictable, and made within reasonable time frames, by 75% of respondents. Almost all respondents (91%) believe that the documents published by the AMF contribute to a better understanding of the regulations.

Sanctions and settlement agreements are relatively well perceived. 83% of participants consider that they have a deterrent effect and 82% that they play an educational role. Most of the respondents who have been aware of the disciplinary actions taken by the AMF in the last two years have taken steps within their own institutions (discussions on the ruling, implementation of training and raising awareness among personnel likely to be affected, or reviewing and modifying internal practices).

But there is still room for improvement, particularly in terms of competitiveness

Perceptions remain positive, to varying degrees based on the profiles of respondents, but are sometimes more moderate with regard to attentiveness, openness, the hierarchy of risks and influence outside France. However, regulated professionals, and more specifically investment management companies and listed companies, pointed out a need for a better understanding of their sector of activity and their business requirements. More than two thirds of the regulated professionals surveyed also consider that the AMF regulations create additional constraints in comparison with their foreign-based competitors. Finally, the study reveals a desire for greater assistance during the introduction of new regulations, and increased consideration of the size of regulated entities.

By highlighting the AMF's strong points and areas for improvement, setting its internal perception against that of its stakeholders, and enabling it to evaluate to what extent its values and work are recognised by the regulated professionals, the study offered a rich source of analysis for the discussions leading to the development of the Autorité's medium-term strategy. A summary of the results of this study was published on the AMF website in October 2017.

The AMF - a European regulator with international reach

Action at a European and international level is at the heart of the AMF's strategy. The AMF is an influential voice in the international institutions of which it has been a member since their creation, but also places great importance on its activities in Europe, particularly with the European Securities and Markets Authority (ESMA).

A EUROPEAN REGULATOR...

with great influence in debates,
For a number of years now, the regulatory framework and the regulations governing most of the supervision activities of the national authorities have been established at a European level. For this reason, the AMF develops and communicates its vision of the regulations to European institutions. In 2017, as well as being involved in the discussions on the review of the European Supervisory Authorities (ESAs), the regulator put forward some concrete proposals as part of the reform of the European regulation on OTC derivatives (EMIR) and responded to public consultations by the European Commission on FinTech firms as well as on the future of post-trading in Europe and barriers to integration. The AMF also worked with market participants and their counterparts abroad to develop practical solutions for the implementation of new rules for research funding, now governed by the MiFID directive, thus helping to define the boundaries. Finally, the AMF is taking an active part in studies conducted with other regulators in France and in Europe to enlighten the discussions on regulation. It regularly publishes analyses and studies; highlights in 2017 included studies on exchange-traded funds (ETFs) and high-frequency trading.

engaged in ESMA,
The AMF has for many years been committed to the development of a harmonised body of regulation for the Union. In this regard, the participation of AMF personnel in multiple working groups and committees for ESMA contributes to the work of the European authority. It is also very involved in the actions implemented by ESMA to increase the consistency of supervisory practices within Europe, for example via peer reviews. The chairman and secretary general of the AMF also chair two standing committees at ESMA, one on post-trade and the other on corporate finance. The chairman of the AMF has also been elected multiple times to the ESMA management Board.

and with international reach
International work is also essential, in order to ensure consistency in the implementation of reforms and maintain a dialogue with our peers. The AMF is a proactive and well-recognised authority in the international bodies in which it is a participant.
As a member of the Financial Stability Board, it represents France on the committee in charge of verifying the implementation of standards (the SCSI). It also co-chairs the sub-group on shadow banking within the committee on Supervisory and Regulatory Cooperation (SRC), which has had a great influence in recent years on international initiatives relating to risks in asset management and the mechanisms to be put in place to make the sector more robust. The AMF is also regularly elected to the head of standing committees and working groups at the International Organization of Securities Commissions (IOSCO). In 2017, either alone or jointly with a counterpart, the AMF headed up initiatives on investment leverage and on high-risk products distributed to individual investors, as well as a thematic review on the appropriateness of products distributed.

The AMF is also committed to establishing and developing relationships of trust with its peers in the area of regulation policy, cooperation for supervision, and technical cooperation. This is reflected in many bilateral cooperation agreements, such as those concluded with Abu Dhabi and Singapore in 2017, and the initiatives in which it plays a key role, notably the Institut Francophone de la Régulation Financière (IFREFI), which was established fifteen years ago to bring together French-speaking regulators from nearly thirty countries.

KEY FIGURES

+100 members of staff involved in European or international groups
10 chairs or co-chairs of international groups in 2017, including three standing committees
55 participants and **27** countries represented at the international seminar organised by the AMF for its counterparts each year for seven years now
+30 foreign delegations received in 2017

1

Promoting the further integration of European supervision

The AMF is in favour of a more integrated system of supervision in Europe. It stands out from the regulators in other Member States of the European Union in its commitment to this strategic focus. In 2017, it reiterated this view publicly several times in the work carried out by the European Securities and Markets Authority (ESMA) and in its responses to the public consultations by the European Commission on the reviews on the European Supervisory Authorities and on the EMIR regulation.

Such development is essential, in fact, to accelerate the convergence of the supervision of the financial markets and to deepen the single market in financial services. Brexit has made it even more imperative to reform supervisory practices to ensure consistency within the EU27, in order to give continental Europe a strong and original voice that can be heard among those of the other major international financial centres.

Regardless of the final outcome of the negotiations, the prospect of Brexit has already resulted in preliminary elements of a more integrated supervision in Europe. In January 2017, the national regulatory authorities created a working group within ESMA to prepare a coordinated institutional response from the regulators to the different challenges posed by Brexit. In the event that Britain exits the European Union without a negotiated agreement, the United Kingdom would become a third country and businesses established there would no longer benefit from the European passport to provide services in the other Member States. They would therefore have to establish new entities in continental Europe in order to be able to continue to provide their services. Likewise, businesses in the European Union would also lose the benefit of their current passport with the United Kingdom.

In order to meet this new challenge, in April 2017 ESMA published a preliminary opinion putting forward the general principles intended to ensure the consistency of authorisations, supervision and controls with respect to the entities that would be relocating from the United Kingdom to the EU27, regardless of their choice of location. The objective is to avoid any regulatory competition. These key general principles have been set out in three sector-based notices focusing on market infrastructures, asset management, and investment services providers. They provide details about the approach that will be adopted by the national authorities with respect to granting authorisations and to supervision, particularly in the case of delegation or outsourcing of certain functions across borders.

As well as these texts, which are not binding, the Supervisory Coordination Network (SCN) has been established; this makes it possible for the national authorities and ESMA to jointly review the applications for authorisation submitted by entities from the United Kingdom wishing to relocate in the EU27. Although the authorisation decision rests with the national authority to which the application was submitted, this mechanism, if it plays its role fully, allows the various authorities to compare their analyses of the applications and thus helps to avoid the creation of 'letterbox' entities.

These ESMA initiatives, supported by the AMF, are intended to prepare financial market participants for the possibility of a "no deal", and to specify the conditions for authorisation within the European Union. With this body of regulation, ESMA is seeking to rapidly set a course for companies to enable them to make their choices in terms of relocation, if necessary.

Beyond Brexit, the AMF's support for a more integrated system of supervision is in keeping with the continuity of the Capital Markets Union, an initiative launched by the European Commission and which aims to encourage the development of competitive and stable financial markets with a view to financing the European economy. Although the first steps taken by the Capital Markets Union focused on the development of a common regulatory framework, the priority is now to ensure the convergence of supervisory practices between the national market authorities, in order that these rules may be applied uniformly among all the Member States.

The AMF supports the reforms proposed by the European Commission that aim to improve the integration of supervision of European markets. ESMA will need to be strengthened to achieve this. The AMF believes that Europe needs a stronger ESMA, which directly supervises a greater share of regulated market activities and that is fully credible

in the relationships that it maintains with supervisory authorities outside Europe. This unified supervision is also the only way to enable a more flexible system of regulation based on principles and not on a body of excessively detailed regulations. ESMA will need to have its powers extended in order to achieve true consistency in terms of supervision. This will require the broadening of its role as coordinator between the national authorities, and even an extension of its power to impose compliance with common European regulations on the national authorities.

A more integrated system of supervision in Europe also logically involves the transfer to ESMA of the responsibility to supervise all products and entities that have a cross-border dimension or systemic importance for the European Union. Although the European Commission put forward proposed legislation in September 2017, which goes some way towards this, the AMF believes that it can go further. In particular, the AMF stands in favour of an increase in ESMA's direct supervisory powers in the area of granting visas for some prospectuses of wholesale products that are accessible to professional investors, as well as authorisation and control of pan-European investment funds, and the supervision of certain market infrastructures and critically important benchmark indices. In terms of the marketing and distribution of products or financial services to retail investors, the national supervisory authorities will still take priority in order to establish a level
playing field for domestic consumers, who must benefit from the same protection regardless of the origin of the product sold to them. With regard to data, ESMA's objective is to establish a consistent structure for the industry data requests in order to unify the data collection mechanisms within the European Union and enable centralisation of the data.

Its role also needs to be extended with respect to third countries. ESMA would thus become the single point of contact for multiple categories of entities established in third countries and wishing to obtain access to the European market, particularly issuers, administrators of benchmark indices outside Europe, and infrastructures of significantly important third countries. Besides ESMA having the opportunity to assist the European Commission in the preparation of decisions of equivalence, it would also be charged with monitoring the regulatory framework and the practices of the regulators in third countries that have been the subject of a decision of equivalence. ESMA could also be the contact point for the regulators of third countries for cooperation agreements.

In order to enable the development of ESMA's mission and responsibilities, the AMF supports a change in its governance and funding, moving towards greater autonomy with respect to authorities and national budgets.

The AMF has made the development of a more integrated supervisory mechanism in Europe one of the major priorities of its strategic focus areas adopted in 2017. It is positioning itself as a pioneer in this area to drive European integration in the financial markets sector. In this regard, it is doing its utmost to put forward proposals for European institutions and drive the European consensus so that the financial markets of the EU27 will continue to hold a leading position in the international arena in line with the economic power of the European Union.

A stronger ESMA is an opportunity for integration, security and dynamism in the European markets. This will not be achieved at the expense of the essential close ties with the regulator. This is the way to drive progress in Europe and meet the new challenges facing our industry.

Natasha Cazenave

Managing Director, Regulatory Policy and International Affairs Directorate

We have chosen to support innovation, favouring a balanced and progressive regulation rather than an approach of exemption. We believe the latter approach would unnecessarily break up the regulatory environment and fail to provide sufficient guarantees to users.

Benoît de Juvigny,
Secretary General

2

Encourage the development of innovation

Recent years have seen a rapid acceleration in innovations within the financial industry, enabled by new technologies and the arrival of new market participants. In 2016, to support innovation project initiators and guide them with respect to their obligations arising from the regulations in force, the AMF established a FinTech, Innovation and Competitiveness (FIC) division. In 2017, it expanded its undertaking, making it a recognised player in the French and European innovation landscape. It has supported a large number of innovation projects undertaken by established players or new entrants, both from France and abroad, some of these in partnership with the *Autorité de contrôle prudentiel et de résolution* (ACPR). As a result, the AMF is now in a position to foresee the consequences for the regulatory framework of the new models proposed, and to develop its responses.

In the majority of cases, the existing European and/or French regulations cover most regulatory issues faced by project initiators. Nevertheless, new issues are emerging, and subjects linked to innovation are arousing increasing interest at a national, European and international level (Financial Stability Board, International Organization of Securities Commissions, Committee on Payments and Market Infrastructures (CPMI)). Discussions initially focused on handling innovation, with the development of *sandboxes* or innovation hubs, but are now becoming more specific and initiatives in the area of data, cybersecurity and use of blockchain in the wider sense can be envisaged.

In the summer of 2017 the AMF responded to the European Commission's consultation on FinTech firms with three major proposals: the creation of a status for automated advisory platforms (European Digital Investment Solutions Platform – EDISP); the introduction of a European passport for crowdfunding companies; and the development of secure tests at a European level for companies that use advanced blockchain-type technologies.

The AMF also undertook an in-depth study into the blockchain environment, particularly by means of work linked to the preparation of the French blockchain decree, which was published in December 2017 and supplemented by an implementation order, as well as discussions centring around investment in crypto-assets in investment funds and initial coin offerings (ICOs). These initiatives - which resulted at the end of 2017 in an AMF's public consultation on the various framework options for ICOs - aim to develop the French regulatory framework and provide input to the European and international working groups on this subject. At the same time, given that certain forms of ICO could in the future constitute an alternative method of financing for a segment of the economy in conjunction with blockchain technology, the AMF has launched a programme of support for and research into ICOs. Known as UNICORN (Universal Node to ICOs Research & Network), this programme aims to provide project initiators with a framework enabling them to develop their initiatives, and to ensure the protection of market participants and investors who wish to be involved. The AMF has therefore set itself the objective of promoting academic research in this area. At the same time, it has also, along with the ACPR, established initiatives to raise awareness of the risks associated with this type of investment, as well as investments in bitcoins, among an uninformed clientèle.

Finally, the AMF has also undertaken another initiative focusing on international cooperation. Two cooperation agreements were signed in 2017, with the authorities of Singapore and Abu Dhabi, and new strategic agreements could be concluded in the future with other authorities that are seeking to make innovation one of their priorities in the area of international development. The AMF is also working with institutions such as Paris

Europlace, Business France, and Choose Paris Region, to help them move forward in areas linked to financial technology and thus to contribute to the attractiveness of the French Financial Centre in these forward-looking sectors. The Agility programme, launched in the autumn of 2016 in the context of Brexit, also offers a single AMF-ACPR one-stop shop for innovation companies offering services that fall within the scope of these two regulators, and facilitates the relocation of authorised FinTech companies across the Channel.

More generally, the new technologies and the innovations arising from them require the regulator to change its culture and open its doors to the transformations taking place. The AMF's FinTech division thus involves an internal dynamic integrating the regulator's different directorates and enabling it to monitor and manage the progress of innovations in the various financial sectors.

We have chosen to support innovation, favouring a balanced and progressive regulation rather than an approach of exemption. We believe the latter approach would unnecessarily break up the regulatory environment and fail to provide sufficient guarantees to users.

Benoît de Juvigny,
Secretary General

KEY FIGURES

153 meetings held on innovation-related subjects in 2017, of which 80% were with project initiators
14 companies contacted the AMF in 2017 on the subject of ICO projects

EDISP: ENCOURAGE A EUROPEAN STATUS FOR FINTECH FIRMS

In its response to the consultation by the European Commission held in the summer of 2017, the AMF proposed the creation of a new European status intended for market participants offering wealth management advisory services and retailing financial products, operating on digital media. This status would be associated with a passport mechanism allowing these operators to sell their services within the single European Union market. It would be based on certain existing statuses and would on the one hand simplify the process for authorisation of operators that are subject to multiple bodies of regulation, and on the other hand allow for the development of their activities across borders, from one single Member State. This change in regulation would also support the development of European platforms with a view to making them more competitive at an international level, both in terms of business volumes and of cross-border export capacity.

3

Facilitate the implementation of a secure framework for the financial markets and asset management

THE NEW MARKETS IN FINANCIAL INSTRUMENTS DIRECTIVE (MiFID II): A CHANGED LEGISLATIVE AND REGULATORY FRAMEWORK

The new framework for markets in financial instruments (MiFID II) has been in force since 3 January 2018. It introduces increased transparency on buying and selling interests, as well as on transactions carried out (price and size) outside the equity universe. It also covers technological advances seen on the markets since the adoption of the first markets in financial instruments directive in 2004, such as algorithmic trading and high-frequency trading. Finally, this framework establishes a system of product governance so that they can be better marketed, strengthens the provisions against potential conflicts of interest, and institutes a regime of independent advice.

Aside from the implementation of the directive in the French Monetary and Financial Code[11], the implementation of the MiFID II texts, including the fifty European level-2 implementation acts, and the realisation of the separation between the legal regimes applicable to investment firms from that of asset management companies (AMCs) required the modification of Books III and V of the AMF General Regulation and the repeal of Book VII.

Book III of the AMF General Regulation reinforces the rules in the area of protection of clients' assets, sets out new requirements in terms of products governance, and contains provisions relating to inducements that have undergone significant changes.

Two different statuses for asset management companies and investment firms

Book III has been restructured to provide for the separation of the status of investment firms from that of AMCss, and to improve the reading of the provisions applicable to AMCs. In addition to Title I(bis), which already pertained provisions on AIF management companies, Title I(ter), relating to UCITS management companies, and Title I(quater), relating to collective investment management companies, have been created. This restructuring of Book III does not change the regulation on collective management activities, which have been maintained as they stand, subject to minor modifications.

New disclosure and reporting obligations

The preparations for the transition to MiFID II largely affected professionals in the market during 2017. They also affected the Autorité des marchés financiers, which continued its educational initiatives in order to make the transition as effective as possible: after two initial streams focusing on the consequences for asset management companies and distributors, the AMF organised a third special training session on the structure of the markets, and the new transparency requirements and their consequences in terms of disclosure requirements relating to the different instrument categories. It also offered practical workshops in relation to the new reporting requirements under MiFID II, and on the implementation of information of clients and client relationships' provisions.

Since 2016, the AMF has approached investment firms in order to know about their situation with respect to future transaction reporting regime. As the objective was to understand the population subject to the disclosure requirements under MiFID II and the chosen methods of reporting (direct, or via a data reporting services provider (DRS), which is a new regulated service established by MiFID II). Contacts with entities have shown that 75% of them decided to use the services of one or more DRS to report their transactions to the AMF. The remaining 25% opted for direct reporting. Consequently, the regulator has accompanied investment firms in the setting up of their reporting mechanisms. In the summer of 2017, an initial phase of tests on the brand-new ICY market surveillance system was launched with professionals. During this phase, the regulator responded to technical and regulatory questions from market participants.

The AMF has also ensured that the operating rules of each of the trading venues (regardless of its status) properly describe the conditions for trading financial instruments on its system. It has also assessed authorisation requests for new type of execution venues ahead of the effective date of the MiFID II directive on 3 January 2018. MiFID II

[1] The MiFID II directive was transposed in France by order nos. 2016-827 and 2017-1107 of 23 June 2016 and 22 June 2017 respectively, and decree nos. 2017-1253 and 2017-1324 of 9 August 2017 and 6 September 2017 respectively.

indeed recognises a new type of venue for non-equity transactions, namely *organised trading facilities* (OTFs). As such, in 2017, the AMF approved four OTFs.

With the rules applicable to commodity derivatives (France having anticipated these new rules in its law on the "separation and regulation of banking activities"), the AMF had to set position limits on commodity contracts in order to prevent market abuse and drive the convergence of the prices of the derivative and the price of the underlying asset. These limits were notified to the European Securities and Markets Authority (ESMA) in the summer of 2017 for agricultural commodity derivatives traded on Euronext and in December 2017 for energy derivatives traded on Powernext. The AMF has also worked, within ESMA, on finalising the position reporting methods to ensure compliance with the limits and the publication of a weekly position report by category of position holder, as well as on the implementation of exemptions linked to hedging activities (exemption from investment firm authorisation and exemption from position limits). Throughout the implementation process for this new system of regulation of commodity derivatives, the AMF has increased its discussions with market participants and industry representatives in order to be able to support them as effectively as possible.

MiFID II provides us with more detailed data on orders. These allow us to have an in-depth analysis of the consequences of this new framework in relation to market structures.

Philippe Guillot
Head of Markets

Reinforced governance rules

In addition to provisions regarding the structure of the markets and transparency, MiFID II also provides for increased investor protection. The governance of financial instruments is subject to new or extended obligations (the definition of a target market, for example, and the exchange of necessary information between the firms manufacturing the instrument and its distributor). In June, ESMA published guidelines that enabled the industry to move forward in terms of its operational roll-out. Best execution obligations have been reinforced with the publication of new reporting requirements in particular. Professionals must also provide information to clients on the costs of the services and products offered.

Finally, MiFID II includes a number of measures that are intended to undermine any possible conflicts of interest. When providing the service of advice on an independent basis or the service of portfolio management, investment firms may no longer receive or keep any inducements. The new system relating to inducements also has consequences for research funding.

The AMF has prepared guides for professionals to support them in the implementation of MiFID II: in February, it issued an update to its guide for management companies. In July, it tackled the subject of research funding in the form of FAQs. Finally, last October, the AMF published a guide for investment advisors. This support initiative will be continued in 2018 and the AMF will also have to complete the update of its policy. The regulator must also monitor closely the structural impacts of these reforms over the coming months, and the AMF will be careful to examine in detail their possible repercussions on the proportion of transactions between the different execution venues (regulated markets, multilateral trading facilities, systematic internalisers, organised trading facilities), on the new tick size regime, or on the quality and quantity of the research available.

Thus, in the first quarter of 2018, the AMF conducted its initial analyses. As such, a study on the impact of the new tick size regime was published in March 2018. Finally, the AMF will look into the possible effects on the variety and diversity of the products that are currently being offered to investors.

In any event, the analysis of the initial information collected by the AMF on the entry into force of MiFID II showed that this new framework has not

triggered any disruptive phenomena on the markets, or any massive changes in terms of market structure.

UCITS 5 DIRECTIVE: NEW REQUIREMENTS FOR ASSET MANAGEMENT COMPANIES AND DEPOSITARIES

In 2017, the reinforcement of the secure environment resulted, in the collective investment schemes sector, in the launching of two significant projects for asset management companies and depositaries: the review of remuneration policies within asset management companies and performance specifications for depositaries.

As a reminder, directive 2014/91/EU of 23 July 2014 relating to UCITS, known as the "UCITS 5 Directive", transposed into French law, modified the legal framework for asset management. The new rules, resulting from the transposition, entered into force the day after the publication of order no. 2016-312 of 17 March 2016 in the Official Journal, i.e. 18 March 2016. The delegated regulation (EU) 2016/438 of the Commission dated 17 December 2015 relating to the obligations of depositaries supplemented this directive and has direct application. This entered into force on 13 October 2016.

These new requirements affect primarily the function of the depositary, particularly with regard to its mandates, and the remuneration policies within asset management companies.

The AMF has continued to support these operators, directly and in collaboration with industry groups, for example by releasing a file template so that asset management companies can bring their remuneration policies into line, and a table summarising the new requirements affecting depositaries. The AMF has also supported UCITS depositaries in the new application procedure for approval of their performance specification (or terms of reference).

The AMF then handled each of these files - i.e. nearly 300 remuneration templates and around twenty performance specifications.

MEASURES PROMOTING MODERNISED AND TRANSPARENT COLLECTIVE MANAGEMENT

New liquidity risk management tools
After the introduction of the option to cap fund redemptions (gates) and the publication of a guide on stress tests, the AMF continued its work during 2017 to promote the use of the following liquidity management tools:

- notice periods for subscription and/or redemption to give managers more time to execute orders;
- redemptions in kind so that managers can reimburse investors in portfolio stocks rather than in cash, when certain conditions are met; and
- the partial or full closure of subscriptions, for example when the size of the fund is no longer in line with its strategy.

These tools enable managers to face up a potential liquidity crisis more effectively, in the best interests of investors.

A clearer framework for categories of units or shares in AIFs
The regulatory framework applicable to AIFs has been clarified, in order to introduce the option, under certain well-regulated conditions, to create categories of units or shares putting in place not only exchange risk hedging but also hedging against other risks.

A more secure framework for ETFs
The AMF has clarified the framework applicable to contributions and redemptions in kind on the primary market for exchange-traded funds (ETFs), thus enabling this market, on which only professionals operate, to run more smoothly. It has also updated its guidance with two recommendations so that managers have procedures in place to face up to extreme market situations.

Simplification of the policy on complex instruments
In order to ensure that managers have the necessary skills in the area of risk management, the AMF has issued guidance that proposes a simplified and more understandable methodology to qualify the complexity of financial contracts and financial securities that include a financial contract. It has also clarified the characteristics of strategies that may be classified as 'complex', along with the specific obligations in terms of organisation and human resources that this entails.

New best practices relating to benchmark indices
The AMF has highlighted the importance of preparing a management objective, and even more so when the fund refers to a benchmark index, with the publication of two recommendations. Furthermore, it has reiterated its position in favour of comparing the performances of a fund with a benchmark index, when the management strategy allows, in order to make it easier for investors to understand the changes in net asset value.

Regulation of investment in *CoCos*
In the face of the growing interest among asset managers in contingent convertible bonds (*CoCos*), the AMF has clarified the rules relating to organisation and transparency applicable to asset management companies wishing to invest in these instruments.

Even before the recommendations issued by the IOSCO, the AMF put in place a catalogue of liquidity risk management tools. It invites asset management companies to use them.

Xavier Parain,
Managing Director, Asset Management Directorate

4

Protect the general public from offers of toxic financial products

In 2017, the AMF's fight, undertaken in 2013 against the offer of toxic financial products to the general public, bore fruit: there was a significant drop in complaints about forex and binary options, a 70% drop in advertising on these offers, etc. This was the result of an unwavering effort by the regulator, involving raising awareness among all market participants, particularly those in advertising and publicity; the implementation of procedures to block websites offering these types of product unlawfully; and initiatives put in place to alert and inform the general public. The Sapin II Law is a major step forward for the protection of the consumer, particularly as it prohibits the electronic advertising for these offers.

With regard to diamond investments, in the last quarter of 2017 the AMF launched two campaigns of sponsored links on the Google search engine to alert investors about the dangers of this type of investment. The prevention message was distributed nearly 95,000 times on Google, with banners appearing at the top of the first page of search results. This prevention approach is all the more effective if it targets savers who are attracted by this offer, when they are in the process of seeking information.

THE BAN ON ADVERTISING: THE RESULT OF A CONCERTED EFFORT BY THE AMF

The AMF has worked hard for a number of years now to highlight the unsuitable nature of some products for retail investors. Products that sound very tempting have been offered to the general public at home, via website advertising, social media networks or email campaigns. These products often indicate substantial gains but there is no mention of the associated risks. These risks are high because, as is demonstrated by an AMF study published in 2014, 90% of the clients who subscribe for these products have lost money. Complaints received, as well as "mystery shopper" visits to platforms and the study conducted with the research team at the laboratory of social psychology at the University of Aix-Marseilles, have revealed unsuitable practices and even manipulative techniques used by a number of unscrupulous market operators.

As well as calls to educate the general public via measures to raise awareness, and court injunctions to prevent access to unlawful sites, in 2014 the regulator applied for a ban on advertising, which is the principal means used to attract potential clients towards these toxic offerings. The measure, which was introduced at the end of 2016 as part of the Sapin II Law, forbids the advertising of certain high-risk financial contracts and products by electronic means, with effect from January 2017.

PROGRESS OF THE SAPIN II LAW

This new legislative framework is the result of the shared expertise of the AMF and the French General Directorate for Fair Trading, Consumer Affairs and Fraud Control (DGCCRF). It has led to a change in the French Monetary and Financial Code and the French Consumer Code. The ban affects direct or indirect electronic advertising that is likely to be distributed to retail investors and relating to financial contracts that are considered to be speculative and risky. The categories of contract affected, as defined in the AMF General Regulation, are binary options, forex contracts, and contracts for difference (CFDs), except where they include an inherent guarantee that prevents the investor from losing more than the capital invested. This affects all market operators: investment services providers; intermediaries offering these contracts; and all participants in the advertising chain (advertising agencies, ad space buyers, media or advertising sales companies, advertising broadcasters, etc.). The measure also targets sponsorship or patronage actions promoting these products, in order to cover these companies' entire marketing strategy to the general public. Operators who do not comply with these legal provisions will incur administrative penalties imposed by the AMF's Enforcement Committee or the DGCCRF.

The AMF, the DGCCRF and the ARPP (French professional advertising regulator) have pushed for the implementation of this ban and met with the various stakeholders in the advertising industry to inform them of the implementation of the law. Regular discussions have taken place throughout the year between these three institutions, with the ARPP playing an advisory role to its members.

Since then, the AMF has developed supervisory measures relating to distributed advertisements to ensure that none contravene the legal provisions.

Since February, it has sent formal notices to any offending service providers, asking them to cease their promotional campaigns and remove the advertisements in question. Throughout the year, the AMF has called to order thirty trading platforms, most of which are located in Cyprus. Despite the implementation of the law, these illegal advertisements have been distributed by the intermediary of more than 140 websites. The AMF has issued a reminder about the law on all the distributor websites and has highlighted them to the DGCCRF, which has jurisdictional authority over all operators in the advertising chain.

Alerts, prevention, blocking websites... The AMF has used all the tools in its armoury, with determination and success, to reduce the supply and sale of toxic products.

Claire Castanet,
Head of Investor Relations

ONE YEAR LATER, A POSITIVE RESULT

Nearly 250 advertisements were discovered in 2017, of which 161 were illegal and subject to action by the regulator. Ultimately, this initiative led to a 70% drop throughout the entire year, in comparison with the three previous years.

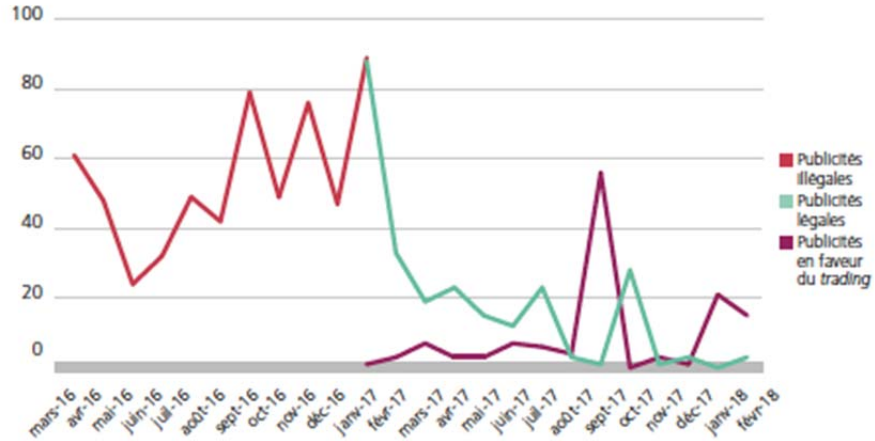
As a result, savers have received or seen fewer promotional offers for these products. After a steady increase that continued until 2015, the number of complaints dropped significantly but still remains high (566 claims sent in 2017 relating to forex contracts and binary options, compared with 1,656 in 2015).

Another consequence of this initiative is that regulated operators have developed their offerings in order to provide inherent protection with CFDs.

This means that the client will not lose any more than the initial capital invested. Only advertisements for these products with protection are still authorised, in fact, and only if the advertisements explicitly mention the protection. Nearly 100 authorised advertisements for this type of CFD were thus identified in 2017.

The entry into force of the new European framework governing activity on the markets in financial instruments (MiFID II) opens up other opportunities in terms of investor protection. MiFID II provides for a power of intervention that enables the European financial markets regulator (ESMA) or national regulators to take more drastic measures by blocking - either temporarily or permanently - the promotion of products that are considered to be toxic for the general public.

FIGURE 1. NUMBER OF NEW ONLINE BANNER ADVERTISEMENTS PROMOTING SPECULATIVE TRADING PRODUCTS DETECTED IN 2016 AND 2017 BY THE AMF



Illegal advertisements/Legal advertisements/Advertisements for trading

During October 2017, a trading platform launched a major illegal campaign, which explains the peak in the graph above. This operator was called to order by the AMF. In September, another platform conducted the largest advertising campaign for CFDs since the law was passed, which explains the green peak on the graph.

BLOCKING ACCESS TO THE WEBSITES OF OPERATORS CARRYING OUT UNLAWFUL ACTIVITIES IN FRANCE

Since 2014, the AMF has brought increasing numbers of actions before the Paris High Court (TGI) in an effort to block access to the illegal sites of unauthorised service providers that offer forex and binary options transactions.

The *Parquet de Paris* (Public Prosecutor's Office) has actively supported these applications to block illegal sites since 2014.

Until the end of 2016, the AMF based its actions on the general provisions of France's Digital Economy Law of 21 June 2004. These provisions allowed the judicial authorities to impose “temporary injunctions” to prevent such illegal practices, at the request “of any person”. The Sapin II law established a new article L.621-13-5 in the French Monetary and Financial Code, based on the same model as that used by the French online gaming authority (Autorité de régulation des jeux en ligne - ARJEL) to block illegal gaming websites, which made it possible to simplify the procedure for bringing actions before the TGI to block access to websites.

Given the scale of the phenomenon, in 2017 the TGI agreed to hold a hearing every two months, thus reinforcing the dissuasive nature of the AMF's actions by repeating them.

During 2017, five hearings took place, resulting in 20 blocking orders that imposed the closure of 42 URLs linked to the websites concerned. In addition to this number, 22 URLs were closed after the receipt of procedural documents from the AMF (formal demands, summonses, etc.) making a total of 64 URLs closed.

Since 2014, proceedings have obtained 42 blocking orders, forcing the closure of 86 URLs linked to the websites concerned. In addition to this number, 42 URLs were closed after the receipt of a formal demand from the AMF, making a total of 128 URLs closed.

Our efforts since 2014 have resulted in the closure of 128 illegal websites subsequent to our legal actions or formal demands. We intend to continue our efforts during 2018.

Anne Maréchal,
Head of Legal Affairs

1
The AMF and investors

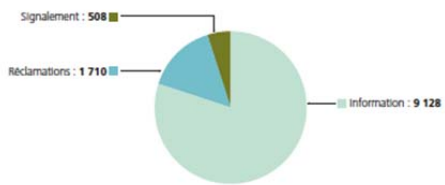
The AMF undertakes prevention, information, alert and educational initiatives for the benefit of investors. It relies on its own monitoring procedures and also feedback from the investors themselves to find out about product offerings and bad marketing practices. It has also developed a longer-term initiative that focuses on the areas that it considers to be priorities for the coming years:

- the development of long-term saving schemes, particularly in preparation for retirement and dependency;
- digitisation, which for investors presents both opportunities as well as risks;
- vulnerable populations to which the regulator pays particular attention, i.e. protected persons (under guardianship or tutelage) or the elderly, who are increasing in number due to ageing population.

KEY FIGURES FROM 2017 FOR THE AMF EPARGNE INFO SERVICE (AMFEIS)

11,346 queries were processed in 2017, of which 80% were from retail investors.

FIGURE 1. SUBJECTS APPEARING IN QUERIES DURING 2017



Reports (508)/Complaints (1710)/Information requests (9128)

FIGURE 2. INCREASE IN QUERIES AND COMPLAINTS LINKED
TO SPECULATIVE TRADING

In keeping with the trend already seen in 2016, there was a steep drop in the number of queries/requests linked to speculative trading on forex and binary options: -48% compared with 2016 and -67% compared with 2015. In 2017, 72% of these complaints related to unauthorised websites.

Queries-requests received/Complaints received

FINANCIAL LITERACY

The AMF's mandate to protect investors' savings is indissociable from the issue of financial literacy. Avoiding traps and scams; being able to make informed choices that take into account the risk/return ratio, fees, and the liquidity of the investment; understanding the relationship between savings horizon and the term of the investment, diversification, etc.... these are all essential skills and areas of knowledge that French savers need in order to be able to play an active and informed role in building their financial wealth.

In a world where people are living longer and requirements in terms of additional income and savings to face up to unforeseen circumstances are of increasing concern for workers approaching retirement, long-term savings, apart from playing an important role in financing the economy, have become a significant issue for individuals too. It is therefore essential that they have the knowledge and skills needed to manage their savings and investments.

The AMF is aware that there is still work to do in the field of financial literacy among the general public, so for a number of years it has been working to increase the level of knowledge of the French population. Its educational initiatives have now become part of the national financial literacy strategy launched in December 2016 by the public authorities and headed up by the Banque de France. This involves giving the French population the level of budgetary and financial knowledge they need to make day-to-day decisions, at all stages of their life. The AMF has therefore contributed to the construction of the web portal *Mes questions d'argent* (My financial questions), launched on 24 January 2017, on which it publishes educational content relating to finances and savings.

It is also concerned with the fact that employees are not well-enough informed about the provisions of employee savings schemes; in this regard, it has worked in partnership with the AFG (French Asset Management Association), the Treasury, the General Labour Board, and the *Finance pour tous* (Finance For All) website to establish the *Semaine pédagogique de l'épargne salariale* (Employee Savings Education Week). The first edition was held from 27 to 31 March 2017, aimed at members of employee savings schemes, companies, and employee representatives. A dedicated website, which provides practical and objective information, has been launched (www.epargnesalariale-france.fr). Events on the ground have been organised with all the partners, numbering about thirty professional institutions.

The *Semaine de l'épargne salariale* is intended to increase the level of knowledge about the benefits of these schemes by providing tools to help participants understand and manage their investments better. Businesses are encouraged to communicate more effectively with their employees about existing schemes, and to increase their level of economic and financial knowledge. This first edition of the programme provided a basic level of information to businesses and associations who are seeking to take it further. In the light of the success met by Employee Savings Education Week 2017, a second edition was held in March 2018.

More people met with its message

This year, the AMF has increased its audiovisual presence via its partnership with the INC (National Institute for Consumer Affairs).

Five new editions of Consomag were issued and distributed at the end of the year on France Télévision channels, on the following subjects: What questions should I ask my financial advisor before making a financial investment? How can my investments benefit from the AMF's services? Is investing in shares really what it seems? Why and how should I invest in funds? How can I avoid being taken in by scams? Every broadcast reached three million viewers.

A radio campaign has been launched for the first time, broadcasting short educational programmes on savings, particularly long-term savings schemes, tackling subjects such as retirement, employee savings schemes, costs involved in investment, and investment scams. This campaign, broadcast during October, reached more than two million listeners across 112 radio and digital radio stations.

The AMF has continued its move towards digitisation of its communication to retail investors. In this regard it has developed Finquiz, a smartphone app that enables savers to test and improve their financial knowledge and awareness. This game was launched during World Investor Week, which was organised by the International Organization of Securities Commissions (IOSCO). Finquiz is available free of charge on the App Store and Google Play, and was downloaded 10,000 times during the three months following its launch. It is aimed at the 60% of the French population who regularly use the internet on their phones.

During May, the AMF launched its online newsletter, Lettre Épargne Info Service, aimed at retail investors. This publication, issued every two months, is a complement to the Épargne Info Service Facebook page that has nearly 6,000 followers. It informs subscribers about any new online content posted on the regulator's website for retail investors.

INFLUENTIAL EDUCATIONAL INITIATIVE TO IMPROVE UNDERSTANDING AND KNOWLEDGE OF SAVERS' BEHAVIOUR

Direct educational initiatives for savers are effective but could, nevertheless, appear to be insufficient on subjects as complex as investment scams or long-term saving schemes. The AMF wanted to go further, and share its analyses of these subjects by documenting them and framing them in an educational format. In 2017, it published two studies aimed at different audiences, who could be seen as very good intermediaries for relaying the regulator's message within their zone of influence.

Analysis of techniques used for marketing online trading platforms

In order to gain a better understanding of the techniques used in investment scams, the AMF published a study[2] into the techniques used to promote speculative trading in forex and binary options. In this study, the AMF combined the views of researchers in social psychology, specialists in persuasion and willing submission techniques, with

[2] "Perspectives on the techniques used to market speculative trading on the Forex and binary options markets", available on the AMF website (www.amf-france.org/en_US > Publications > Newsletters & other publications > Risk and trend mapping), May 2017.

its own observations and analyses of legal and regulatory texts related to the promotion of investment services. This analysis fuelled the regulator's initiatives with its international counterparts and stakeholders in the framework of studies into toxic financial products.

Study on the blocks and drivers for long-term equity investment

This publication[3] looks at the list of possible initiatives that could stimulate diversified long-term equity investment. In order to gain a deeper understanding of the psychological blocks that many people have when it comes to investing on the stock market, the AMF conducted interviews with savers, particularly those aged between 30 and 45 years. This qualitative study highlighted some common myths around equity investments. On the strength of this new insight, the AMF was able to identify ways in which to change investors' beliefs and attitudes, especially with respect to preparing for retirement.

MONITORING THE PROMOTION OF FINANCIAL INVESTMENTS

Besides offering the financial education that savers need in order to make informed choices, the AMF has, for many years now, worked to ensure that the promotion of financial products falling within its jurisdiction complies with regulations, and especially with the fundamental principle that all information provided should be objective, clear, accurate and not misleading. This monitoring continues throughout the life of the product. Ahead of the promotion of the new product, at the time of its initial approval or when the transformation of existing products takes place, the AMF ensures that the legal documentation (particularly the Key Investor Information Document - KIID) sent to investors is drafted using clear language that allows investors to obtain a proper understanding the product and thus make an informed decision. During 2017, around 400 promotional campaigns were reviewed during the marketing approval and authorisation phases.

The AMF's activity in this area is adapted to the market environment and current trends. Therefore, it is committed to continuously monitoring the increasing numbers of flexible funds on the market, known as "wealth funds". It has also continued to monitor communications from crowdfunding operators. This level of monitoring remains high on crowdfunding as well as on flexible funds, but there have been clear improvements in terms of the objectivity of the information provided. The AMF reviewed the structure of marketing communications planned for distribution on around ten internet platforms, before they were registered. In addition, roughly fifteen campaigns conducted by operators in this sector were monitored and the content modified after distribution.

Post-distribution activities consist in continuous and overall monitoring of different media (websites of banking and financial institutions, videos, banner ads, forums, etc.) as well as, increasingly, social media networks. As well as its ongoing monitoring activities, the AMF continues to hold discussions with financial operators in order to raise their awareness of best practices in the area of marketing. These discussions take the form of meetings, visits to asset management companies, forums such as Patrimonia, Actionaria, etc. Over time, by observing good marketing practices among professionals, the AMF has been able to extend its vigilance in other areas. Its approach now consists in reducing the risks associated with poor marketing practices, particularly when the products in question are distributed to uninformed customers and present characteristics that make it difficult to understand their risk/return profile.

Different monitoring themes

Once again this year , the AMF is focusing on funds with an environmental theme (reducing the carbon footprint, "green" bonds, etc.), at socially responsible investment (SRI) offerings, and at "sustainable" investment offerings that take into account environmental, social and governance (ESG) factors in their asset allocation decisions. An increase in the number of these offerings was observed during 2016 and this trend continued into 2017. Based on observations made in 2016, the AMF published a report on socially responsible investment listing current practices in collective management and measuring the progress made since the previous report, published in 2015.

[3] "Stimulating long-term equity investment", available on the AMF website (www.amf-france.org/en_US > Publications > Newsletters & other publications > Risk and trend mapping), July 2017.

The use of indices is another area for vigilance, firstly because of the continued growth of the exchange-traded funds (ETFs) market, and secondly due to the development of "green" indices that are sometimes used as underlying indices for structured products (formula funds or Euro medium-term notes - EMTNs).

The AMF also continues to review the promotion of structured debt securities (structured auto-call EMTNs, listed products, etc.) to non-professional clients by public offering. As such, in 2017 it investigated more than 741 advertisements relating to complex financial products presenting a risk of capital loss. As far as these products are concerned, the AMF is now seeing a high level of standardisation in terms of the advertisements and an overall satisfactory presentation of the benefits and risks associated with the products. The number of warning notices served to operators on each document has declined substantially in recent years, reflecting increased awareness among operators and a satisfactory level of integration of the requirements in this area.

In an environment where the European markets are opening up, monitoring of advertisements has also focused on the commercial information provided, both for French investment vehicles and for foreign funds authorised for sale in France, thus ensuring generally fair competition between the different operators and, above all, standardised presentation of information to investors. This consistent supervision is all the more important as the number of foreign funds sold in France continues to increase.

In March 2017, with the increase in inflows into real estate products (real estate investment companies - SCPIs - and real estate mutual funds - OPCIs), the AMF and the ACPR jointly reminded distributors of expectations in order to encourage good marketing practices for these products, via:

- more accurate targeting of the client base to which they offer the products;
- not making past performances the single or primary message in the advertisement.

In this regard, it is worth noting the significant increase in the number of advertisements for SCPIs during 2017, after the very high inflows seen in 2016.

Finally, noting the increase in the number of simulation tools, and taking account of the real educational benefit of the innovative digital techniques used in the world of investment, the AMF published a recommendation (DOC-2017-07) on future performance simulations with respect to the sale of investment solutions (financial instruments, management mandates, etc.) whether these be offered by traditional market participants or not. The information provided to savers must not lead them to think, mistakenly, that there is some form of guarantee or pledge of performance. The AMF also highlighted good practices for the development of models, with realistic scenarios based on current market data and not on past economic scenarios or unrealistic future scenarios.

Offerings in miscellaneous assets must now be registered with the AMF

Besides the ban on advertising for high-risk speculative trading products (see page 24), the Sapin II law supplements the existing laws covering intermediation in miscellaneous assets. Any offering in miscellaneous assets must now be registered with the AMF before it can be sold. In addition, given the large number of non-compliant offerings and the risks of fraud, the AMF has established a new blacklist. This is both dissuasive for the companies concerned and at the same time has the benefit of alerting savers. In this regard, on 24 July 2017, the AMF published a blacklist of companies offering investments in diamonds.

In the first instance, the decision to target diamond investment offerings from among the wide range of products concerned by the system of intermediation in miscellaneous assets was based on a reflection of the urgent need for action against offerings that, in many cases, are simply scams. Forty-six platforms appeared on this first blacklist. This number has continued to increase, with the blacklist numbering more than eighty names at the end of 2017. At the time of writing, no diamond investment offerings have been registered, since they are all illegal.

In addition, on 1 December 2017, the AMF created a blacklist of intermediaries in miscellaneous assets. This list is larger than the blacklist of those offering diamond investments. Six companies offering investments in wine and also in rare earths (oxides), for example, have just been added to this list.

The effort has borne fruit: whereas requests for information on diamond investments had increased significantly since 2016 (14% of total queries received and 34% of complaints), this trend slowed towards the end of the year.

Finally, with the upsurge in the price of bitcoin in the autumn, the AMF started to notice very many more information requests about crypto-assets towards the end of the year. It would appear that fraudulent websites offering diamond investments started to transform themselves very quickly into phoney cryptocurrency trading sites. Based on these findings and reports received by the AMF's information service for investors, the Epargne Info Service (AMFEIS), the AMF observed how many fraudulent investment offerings follow major trends that would appear to be related to each other: if on the one hand there were more reports received from savers on diamond investments, on the other the number of reports linked to fraudulent forex or binary options platforms declined. Similarly, when diamond investment offerings were added to the AMF's blacklist, such offerings shrank in number, and they seemed to be replaced by offerings in other products such as crypto-assets.

MEDIATION

The presentation below is an extract of the annual report of the AMF Ombudsman for the year 2017, which is available on the AMF website. The presentation shows only the key figures from 2017.

After five years of continuous increase, the number of files received by the ombudsman was down in 2017. The number of cases received dropped 9%, but in 2016 there were nearly 100 files relating to the same dispute case. Disregarding this mass lawsuit, the drop in numbers between 2016 and 2017 is 2.5%. Last year, the opinions of the ombudsman again saw a high adhesion rate: 96% of favourable opinions were followed by both parties, and only 3% of unfavourable opinions were contested by the plaintiffs.

The lawsuits handled by the ombudsman related to a broad range of subjects falling within the AMF's jurisdiction. However, two subjects came up very frequently: speculation on the foreign exchange market (forex) - which is a major concern for the ombudsman because of the use of very aggressive sales policies - and, in a completely different area, employee savings schemes, because of their widespread distribution to the general public.

In order to increase the visibility of the AMF's mediation activities and help retail investors to better understand the subjects that can be brought before the ombudsman, the department has developed a number of communications initiatives.

Every month, the ombudsman discusses a real mediation case study (maintaining the anonymity of the parties involved) in her online diary (available on the AMF website) as well as in her monthly digest on the *Intégrale Placements* TV programme, broadcast on the BFM Business channel. This has continued for the last three years.

In 2017, she especially presented her analyses and recommendations on files relating to:

- cases where an ordinary securities account cannot be transferred because it contains securities of companies in court-ordered liquidation;
- the risk of attrition of a modest employee savings scheme due to the imposition of management fees when the employee changes company;
- cases of mergers of FCPs (mutual funds) where exit free of charge is the only right open to the holder.

TABLE 1. AMF OMBUDSMAN - KEY FIGURES

	2015	2016	2017
Files received	1,406	1,501	1,361
Files falling within the AMF's jurisdiction	62%	58%	51%
Files handled	1,284	1,515	1,406
Ombudsman's opinion	364	534	506
Favourable opinion	62%	47%	54%

HOW MEDIATION WORKS

Mediation is a free public service that provides for the out-of-court settlement of financial disputes. It is aimed at savers and investors, both individuals and corporate entities (a retirement fund or an association, for example). The range of disputes eligible for mediation corresponds to the AMF's jurisdiction, i.e. disputes with an investment services provider (a bank, a management company, etc.), a financial investment adviser or a listed company. The ombudsman also has jurisdiction over crowdfunding investment advisers. On the other hand, she has no jurisdiction in the areas of taxation, life insurance or banking.

The AMF ombudsman has, under the law, exclusive jurisdictional authority over financial lawsuits with investment services providers or listed companies. The law also provides for the opportunity to establish agreements between the AMF ombudsman and any ombudsman of another establishment, in order to handle mediation cases for financial disputes. In the event that such an agreement is signed, in the case of a financial lawsuit, a client of any establishment may choose to bring their claim before the ombudsman of that establishment or the AMF ombudsman. The *Commission d'évaluation et de contrôle de la médiation de la consommation* (National Commission on the Assessment and Supervision of Consumer Mediation — CECMC) must be informed whenever such an agreement is signed. At the end of 2017, three such agreements had been signed.

Through her position as a legally recognised public ombudsman, signifying that she is an independent third party, and drawing on her own experience and the technical expertise of her dedicated AMF team, the AMF ombudsman will, once the claim has been investigated and appears justified, propose an out-of-court solution to the financial disputes submitted to her. She does this in accordance with law and equity and as efficiently as possible.

If the ombudsman's recommendation, which is strictly confidential, finds in favour of the saver, the recommendation, once accepted by both parties to the dispute, takes the form of a total or partial payment or compensation for the loss suffered.

2

Financial intermediaries and savings products

Overall, the trend observed in 2016 continued into 2017 for these operators and the undertakings for collective investment (UCIs) that they manage.

The number of players in the field of management in France has remained stable, in fact. Creations of asset management companies are still driven by private equity and real estate, and withdrawals are linked to mergers and amalgamations of operators.

The number of products dropped again in 2017, but to a lesser extent. Although the number of undertakings for collective investment in transferable securities (UCITS) and retail investment funds (FIVGs) has declined, the number of alternative investment funds (AIFs) excluding FIVGs is still increasing, driven by specific vehicles or targeted at professionals. The different types of UCI are seeing an increase in their assets under management. Assets under management in UCITS, FIVGs and AIFs excluding FIVGs have increased by around 11%, 3% and 13% respectively, reaching 875 billion, 348 billion and 417 billion.

SUPERVISION OF MARKET PARTICIPANTS

Asset management companies

During 2017, legislative and regulatory changes played a large part in transforming the French asset management landscape, particularly with the gradual implementation of the Markets in Financial Instruments Directive (MiFID II), and especially the distinction introduced between asset management companies and investment firms. To a lesser extent, the legislative, regulatory and policy changes affecting the granting of loans or use of contingent convertible bonds also contributed to this transformation. Furthermore, the movement towards consolidation in the sector continues, with the main effect being a stabilisation in the number of asset management companies in business, which now amount to 630, as in 2016.

This stability in the number of asset management companies can be explained both by the good level of creations of new companies (35, as in 2016) and a high number of withdrawals of authorisation (35, vs. 32 in 2016; only 2015 saw a higher number of withdrawals, with 38).

Creations of new management companies are once again driven by private equity and real estate, which represent 66% of launches (23 out of 35); however, there is a marked return towards sophisticated management techniques (20%) relating to strategies based on a mainly quantitative treatment. The remaining 14% relate to traditional management companies (private banking or traditional collective investment schemes). Entrepreneurial projects are still in the majority this year, but to a lesser extent (51% vs. 60% in 2016) given the increasing number of files driven by groups, mainly financial and real estate.

TABLE 1. AUTHORISATION FOR ASSET MANAGEMENT COMPANIES IN 2017

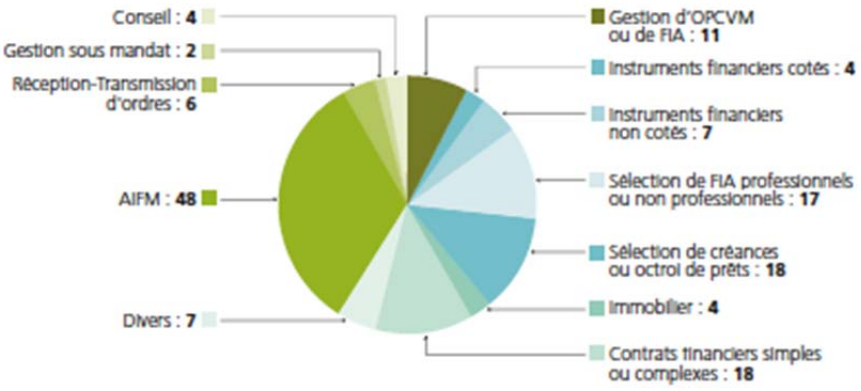
Companies existing on 31/12/2016	**630**
New asset management companies (companies receiving final approval in 2017)	**35**
Withdrawals adopted	**35**
Companies existing on 31/12/2017	**630**

The consolidation of the sector accelerated in 2017, confirming the trend observed in 2016. Withdrawals of authorisation after industry mergers or group restructures represent more than 63% of the withdrawals adopted during the year, whereas only seven withdrawals resulted from failure of the business (20% in 2017 vs. 28% in 2016). Finally, the new legislative and regulatory distinction between investment firms and asset management companies also explains these figures, in part. Effective 3 January 2018, asset management companies are no longer considered as investment firms but are now defined as realising at least one collective management activity under the influence of one of the sector-based directives (AIFMD in full or in part, or UCITS). In addition, asset management companies that do not conduct a collective management activity have had to find a solution (either create a collective management business, or request authorisation as an investment firm or even cease to operate). Thus, nine asset management companies in this case requested a withdrawal of authorisation (by merger, cessation of activity, or, in one case, transformation into an investment firm).

Furthermore, the AMF observed a very significant increase in applications for extension of approvals in 2017. These involve modifications to programme of operations (updates to the programmes of operations of asset management companies with respect to the UCITS 5 directive in the area of remuneration policy are not covered here). 119 files were submitted, covering 146 programme of operations. Considering the legislative and regulatory changes, and the new opportunities arising in the area of loans or even clarifications made to policies relating to the classification of contingent convertible bonds in complex financial contracts, for example, the three principal themes in the requests for extensions are the following:

- authorisation with respect to the AIFM Directive (33% of requests);
- use of financial contracts (12%, including 13 out of 18 files relating to complex financial contracts);
- selection of debts and granting of loans (12%, including 10 out of 18 files relating to direct granting of loans).

FIGURE 1. BREAKDOWN OF REQUESTS FOR EXTENSION OF PROGRAMME OF ACTIVITY BY THEME IN 2017



UCITS or AIF management (11)/Listed financial instruments (4)/Unlisted financial instruments (7)/Selection of AIF professionals or retail (17)/Selection of debts or granting of loans (18)/ Real Estate (4)/Simple or complex financial contracts (18)/Miscellaneous (7)/AIFMD (48)/Reception and Transmission of Orders (6)/Portfolio management (2)/Advisory services (4)

Registered managers

Since 2014, the AMF registers unauthorised AIF managers as asset management companies. This option, resulting from the AIFM directive, is only available to managers, very often in the form of self-managed funds, that do not exceed the thresholds for assets under management provided for in the directive and are only intended for professional investors under the terms of the MiFID.

At the end of 2017, 36 managers were registered (vs. 34 in 2016, 32 in 2015 and 25 in 2014).

Market intermediaries

The AMF supervises around 160 market intermediaries on an ongoing basis (investment banks, brokers, research firms, post-trade operators).

This supervision has been based for a number of years on a graduated approach to supervising the implementation of new regulations by professionals, with an initial focus on support and

monitoring. In this regard, the AMF carries out various monitoring activities, which may be:

- subject-based, particularly to ensure the implementation of new regulations, at the end of an initial phase of supporting professionals;
- individual, in response to specific alerts or as part of the periodic coverage of regulated entities, calibrated according to a risk-based approach.

The monitoring teams are made up of "portfolio managers", on the one hand, who are the preferred contact points for the establishments under their supervision with regard to the regulations applicable to these establishments and their practical implementation; and on the other, analysts in charge of the collection and analysis of the data that are systematically submitted (e.g. transaction reports, annual reports).

The supervision of market intermediaries focused on three major themes in 2017:

- supporting professionals in the implementation of the MiFID II directive;
- the implementation of the European regulation relating to benchmark indices (the "Benchmarks Regulation");
- discussions with market participants on the implications of Brexit on the organisation of their activities in Europe.

Discussions also continued with the Financial Centre on the application of the provisions of the law relating to the separation and regulation of banking activities with regard to market making.

SUPPORTING PROFESSIONALS IN THE IMPLEMENTATION OF MiFID II

For a number of years ahead of the implementation of MiFID II on 3 January 2018, the AMF has provided support to professionals by organising conferences and monthly Financial Centre meetings, and distributing educational content on its website. 2017 was the "home stretch" in terms of the operational implementation. This resulted in increasingly technical and complex discussions, in the form of meetings with industry groups as well as bilateral meetings with establishments facing various issues that are specific to their business.

The discussions on the subject of reporting transactions to the AMF were particularly intense. The AMF received more than 2,000 emails to the email address that was set up especially for discussions on this subject with the 215 French intermediaries affected. There have also been regular discussions between the AMF and the seven Approved Reporting Mechanisms (ARMs) that are authorised to send reports for nearly 75% of French intermediaries.

The new provisions relating to market structures also raised multiple issues. Ultimately, the implementation of MiFID II resulted in the authorisation of several market intermediaries as organised trading facilities (OTFs) on different asset classes (derivatives subject to the trading obligation or not, sovereign bonds, and corporate bonds). Around ten intermediaries also notified the AMF of their intention to act as systematic internalisers with effect from 3 January 2018.

In total, more than one third of the 150 bilateral meetings held this year between the AMF's supervision teams and the market intermediaries were exclusively dedicated to their preparation for the MiFID II effective date. These extremely fruitful exchanges enabled the AMF to offer professionals an interface with ESMA, which at the same time provided ongoing clarifications about the regulators' expectations by means of FAQs. As the implementation of MiFID II required significant IT upgrades to be made during a short time window, it was essential that professionals validate their working scenarios as soon as possible; some of these were not confirmed until very late, with specifications still being added right up until the end of the year.

In December, bilateral meetings with the principal establishments provided the AMF with good visibility of the degree of readiness of the Paris Financial Centre; this was satisfactory overall with regard to the scale of the adaptations required for MiFID II.

IMPLICATIONS OF BREXIT ON THE ORGANISATION OF MARKET INTERMEDIARIES IN EUROPE

Brexit represents a major challenge for all market participants in the financial industry, who will have to ensure the continuity of their activities post-Brexit in an environment with a high degree of uncertainty about the conditions of the future relationship between the United Kingdom and the EU27. Given the level of uncertainty,

intermediaries must be prepared for the most disruptive scenario, i.e. that of a “hard Brexit” involving the total loss of the European passport from the end of March 2019, with no transition period.

Market intermediaries are very affected by the intensity of cross-border exchanges between the United Kingdom and the EU27, particularly on the wholesale markets (services provided to institutional clients). The sixty or so British intermediaries that have branches in France, and reciprocally the fifteen French intermediaries that have branches in the United Kingdom, must therefore anticipate the changes that will be required for their organisations to be able to serve clients located in the EU27 from a country within the EU27 and no longer from the United Kingdom, with effect from the end of March 2019. The same restriction is imposed on all intermediaries providing remote services from the United Kingdom under the passport for the free provision of services.

These changes naturally raise complex legal and operational questions, about which the AMF has endeavoured to provide clarification, in close cooperation with the Autorité de contrôle prudentiel et de résolution (ACPR) and the Directorate General of the Treasury. The initial applications for authorisation to relocate to Paris activities that are currently exercised in London were also filed by the AMF.

Finally, with the major financial markets in the EU27 bidding competitively for the largest firms, ESMA set up the Supervisory Coordination Network to reduce the risk of regulatory arbitrage. This body meets every month and all the major relocation applications are presented for review. The AMF strongly supports the creation of this body and participates actively since it was established in June 2017.

EUROPEAN REGULATION ON INDICES

The European regulation on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds, known as the “Benchmarks Regulation”, is intended to govern - with effect from 1 January
2018 - the provision of a benchmark, the use of a benchmark index, and contribution to a benchmark. The Benchmarks Regulation imposes requirements on administrators, especially in terms of governance, prevention of conflicts of interest, supervision, quality of underlying data, methodology, and obtaining authorisation or registration from national competent authorities depending on the type of benchmark provided (critical benchmark, significant benchmark, or not not significant benchmark). The Benchmarks Regulation contains transitional provisions, effective until 1 January 2020, to allow bodies that already provide benchmark some additional time in which to meet the requirements of this regulation.

In anticipation of its application, with the support of national regulators including the AMF, ESMA finalised its work developing the technical advice and technical standards that the European Commission still has to adopt. To ensure the consistent interpretation of its regulations, in July 2017 ESMA published a series of Q&As and has updated this list multiple times since then.

The AMF is appointed as the competent authority in France for the Benchmarks Regulations and has updated its policy in order to provide for the operational implementation of the requirements imposed by this regulation, particularly those relating to:

- information to be presented in the prospectuses for UCITS and AIFs using a benchmark;
- the process for application for authorisation or registration of an asset management company and an investment services provider (ISP) as administrator of benchmarks.

In addition, the provisions of the Benchmarks Regulation that govern the administration of and contribution to critical benchmark were already effective as of 30 June 2016 and the European Commission successively designated the Euribor, the Eonia and the Libor as critical benchmarks.

This resulted in the AMF departments participating in the supervisory colleges of the Eonia and the Euribor, which meet regularly in Brussels under the chairmanship of the Belgian FSMA, the national competent authority of the EMMI (European Money Markets Institute), which is the administrator of these two indices. The AMF participates in these two boards as the national competent authority of the French banks that contribute to these indices.

For the same reason, the AMF will participate, as from February 2018, in the supervisory board of the Libor, which will meet regularly in London

under the chairmanship of the British Financial Conduct Authority (FCA), the national competent authority of the IBA (ICE Benchmark Administrator), which is the administrator of the Libor.

The work carried out by these colleges relates to the changes in the methodologies used to calculate these indices, the supervision of their administrators, and the supervision of the contributing banks, with a view to standardising the supervisory practices. Supervision of the contributing banks' compliance with their obligations in respect of the Benchmarks Regulation falls under the jurisdictional authority of their respective national authorities (the AMF for the French banks), but it is essential that the supervisory practices are standardised and as such, ESMA is also involved in these colleges.

With effect from 2018 and until January 2020 at the latest, the AMF will also have to register the administrators of non-critical benchmarks operating in France. This is especially the case for the major banks that design proprietary indices used as benchmarks for structured products or derivative contracts: initial discussions with these operators were held during the second half of 2017.

Financial investment advisors

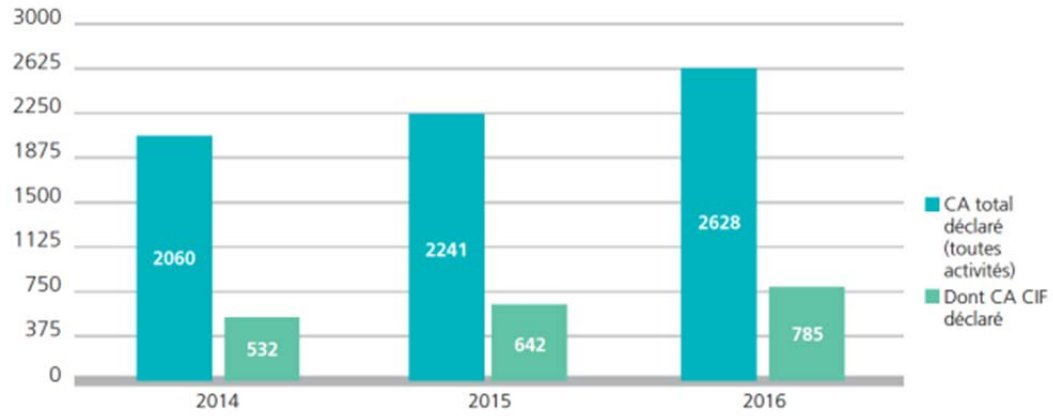
For the third year in a row, FIAs have seen an increase in their activity. In 2017, they reported a total of €2.6 billion in turnover for 2016, up 17% compared with the previous year. Within this total turnover (FIA firms are generally multi-status operators; for example they may also carry out mediation in insurance, banking services or payment services), the share of business relating to the FIA status as reported by these operators amounts to €785 million, up 22% compared with the previous year.

The increase in total turnover essentially arises from the largest players, with an increase of nearly €330 million (83% of the rise) posted by the 25 largest firms. This can be explained in part by the arrival on the market in 2016 of new operators opting for FIA status, including three major firms (+€221 million) but also by the widespread increase in the level of activity among existing FIA firms.

Information gathered from operators, particularly their positioning in terms of business line (each one positioning itself in the category that it considers relevant), means that they can be grouped by category of business line according to whether the firm's principal advisory activity is in wealth management (WM), corporate finance (CF) or aimed at institutional investors, asset management companies or other financial intermediaries (Institutional and AMC). As a result of this breakdown, the trends observed in 2016 (on the activities carried out in 2015) remain almost identical in 2017 (on the activities in 2016).

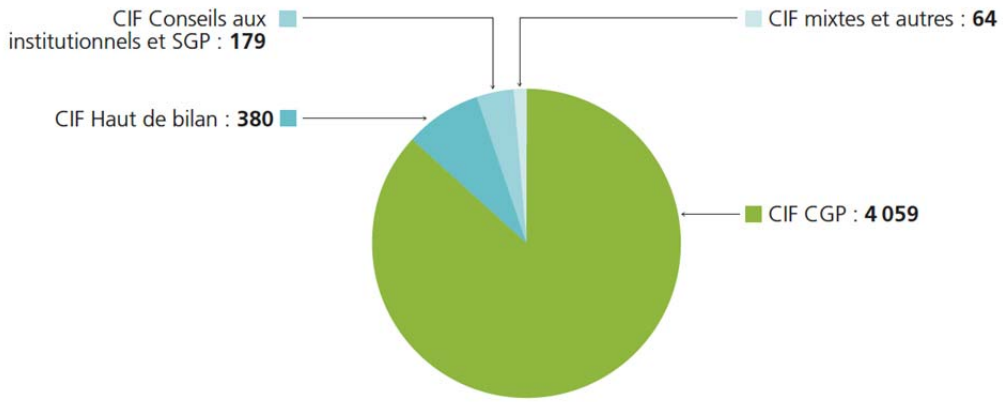
As at 31 December 2017, 5,232 FIAs were registered with the ORIAS. One year earlier, there were 5,044.

FIGURE 2. CHANGE IN ACTIVITIES REPORTED BY FIAs INCLUDING SPECIFIC FIA ACTIVITY FOR THE FISCAL YEARS 2014 to 2016 (in millions of €)



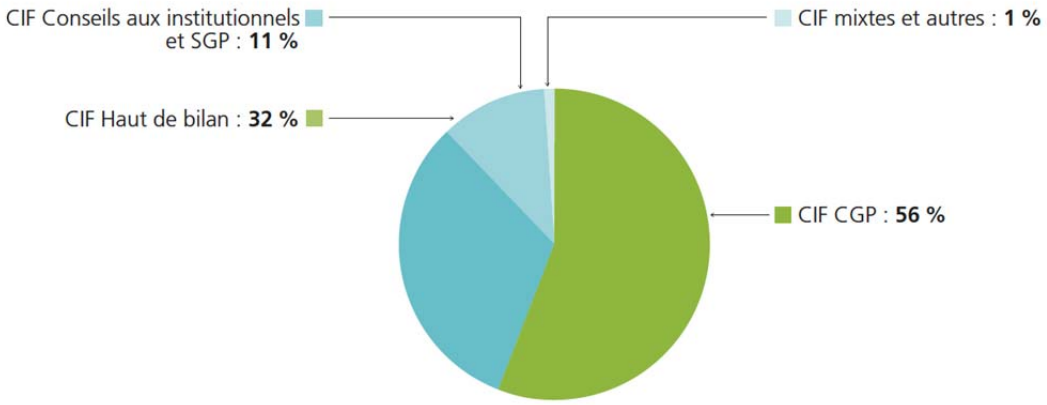
Total turnover reported (all activities)/FIA turnover reported

FIGURE 3. NUMBER OF FIRMS PER CATEGORY OF BUSINESS



Mixed and other FIAs (64)/WM FIAs (380)/Institutional and AM FIAs (179)/CF FIAs (4059)

FIGURE 4. REPRESENTATION OF FAMILIES OF BUSINESS LINE WITHIN FIA TURNOVER



CLARIFICATION OF CHANGES IN CORPORATE FINANCE ADVISORY ACTIVITY

For historical reasons, firms that offer corporate finance advisory services operate under the status of FIA (known as “corporate finance FIAs”).

In terms of discussions held and work carried out with operators, the AMF, jointly with the ACPR, defined to what extent and under what conditions the parties who assist, advise and support undertakings and/or their shareholders with disposals, acquisitions or IPOs are providing a corporate finance advisory service, falling within the scope of ancillary service No.. 3 of MiFID II, which may be exercised freely, and not investment services that require authorisation, such as placement without a firm commitment basis, and investment advice. As a reminder, ancillary service No. 3 corresponds to the provision of advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings.

This position (AMF-DOC-2018-03 Placing without a firm commitment basis, investment advice and advice to undertakings on capital structure, industrial strategy, mergers and purchase of undertakings issued on 14 March 2018) highlights that the sole and strict exercise of the corporate finance advisory activity does not count as an FIA activity and therefore does not require authorisation.

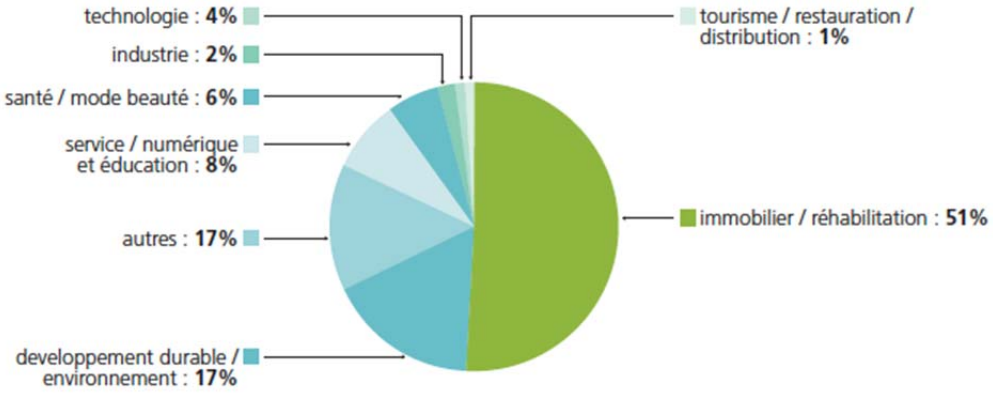
Crowdfunding advisors

In 2017, the number of crowdfunding advisors (CIPs) continued to increase: 10 platforms were registered by ORIAS[4] and two applied to withdraw their registration, bringing the total number to 52 as at 31 December. In the absence of an authorised CIP association, all requests for registration as a CIP with ORIAS require that an application be filed

[4] Single register of insurance, banking and finance intermediaries.

with the AMF, which will make a decision and approve it, as necessary. Of the 10 platforms registered, four specialise in real estate and three others in minibons, which brings to five the number of platforms specialising in minibons (a new activity established after the implementation of the decree on crowdfunding of 28 October 2016). The interest of existing crowdfunding platforms in the status of investment services provider (ISP) (currently four active), which is more established and provides access to the European market, is still limited.

FIGURE 5. BREAKDOWN OF FUNDRAISING BY SECTOR ON 2016 DATA



Real Estate, Renovation (51) / Sustainable Development, Environment (17) / Others (17) / Service, IT and Education (8) / Healthcare, Fashion & Beauty (6) / Industry (2) / Technology (4) / Tourism, Food & Beverage, Supply (1)

A number of actions were undertaken by the AMF over the last year, as part of initiatives to increase the monitoring of this population:

- the launch of a second campaign of annual regulatory reports (FRA) relating to data for the fiscal year 2016. These files showed that the projects financed related to various sectors of the economy, including real estate development, which is still very common. Four long-established operators continue to dominate the market. According to the reports submitted by the platforms, the number of investors has practically doubled (around 25,000 people at the end of December 2017[5], almost all of which were retail banking customers) and amounts invested also increased, reaching around 122 million in securities and minibons;
- the update of the practical guide that sets out the framework of crowdfunding. The document was updated to take into account the subject of subscription for minibons (integration of the ruling on savings bonds establishing the minibons system and its implementing order, the provisions of which are set out in the AMF's General Regulation and guidance);
- monitoring of marketing and promotional practices. In this regard, the AMF has observed that the platforms are trying to improve the balance of information around risks and benefits, particularly on the home page and the pages showing the details of the projects. In particular, the AMF highlights that:
  - an appropriate sequence of gradual access to the information is one of the conditions for registration of CIP platforms;
  - and the quality of the information provided, particularly that relating to fees and risks linked to any investment in unlisted financial products and that contained in the regulatory information documents (especially relating to financing schemes for an undertaking by a holding company) confirms compliance with the rules of best practice required by all registered platforms.

[5] This figure is overestimated, as it does not take into account the fact that some people invest on multiple platforms.

Other than its vigilance in the area of marketing and promotional practices, the AMF considered it necessary to specify its expectations so that operators can better understand the requirements for presentation of the information on their websites, the methods used for calculating default rates, and the run-off management of platforms. This led to an overall improvement in practices and to consistency in their application by the platforms.

As such, the AMF undertook a consultation at the end of 2017 for a position-recommendation document relating to the promotion of crowdfunding offerings and the run-off management of platforms selling minibons, covering these themes. This text was published at the beginning of 2018 (position-recommendation DOC-AMF-2018-02). The work was managed under the Joint Unit that coordinates the activities of the AMF and the ACPR in this area.

SUPERVISION OF PRODUCTS

2017 confirmed the trend observed over a number of years. Total assets under management increased nearly 10% (9.7%), from €1,497 billion to €1,642 billion. At the same time, the number of undertakings for collective investment (UCIs) continued to decline, but at a slower rate than in previous years. It stood at 10,222 in 2017 vs. 10,284 in 2016, dropping 0.6% (vs. -2.2% the previous year). The most significant reductions were again in the number of undertakings for collective investment in transferable securities (UCITS) (-2.0%) and the number of retail investment funds (FIVGs) (-4.6%). At the same time, the number of alternative investment funds (AIFs) excluding FIVGs increased (+2.7%) as did their assets under management (+13.1%). These overall trends confirm the dynamic trend in the creation of AIFs excluding FIVGs, and the consolidation of the range of funds available, although the latter is happening at a slower rate than in recent years.

FIGURE 6. ASSETS UNDER MANAGEMENT PER PRODUCT CATEGORY (millions of €)

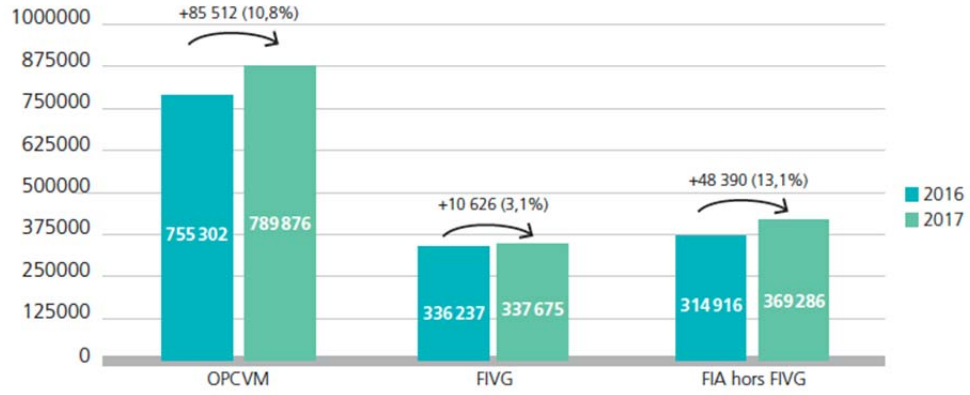
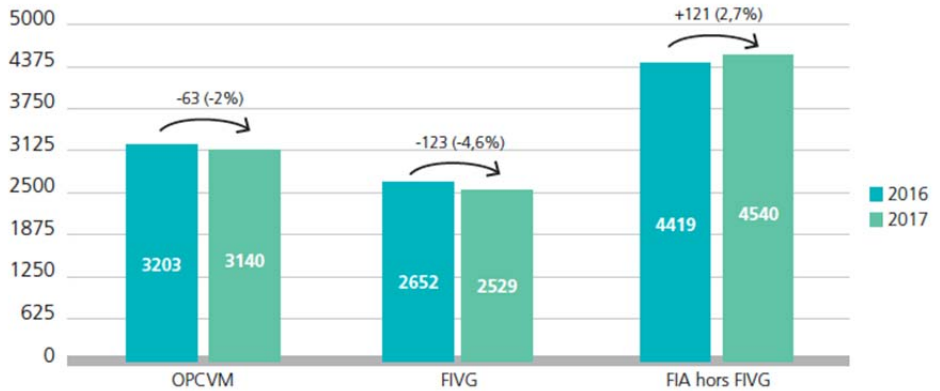


FIGURE 7. NUMBER OF PRODUCTS* PER CATEGORY



(*) As at 31 December, 13 funds were awaiting allocation in 2017 and 10 in 2016.

A breakdown of the funds aimed at professional clients and those open to non-professionals confirms the trends already identified, i.e. more growth in the funds aimed at professionals. Their assets under management increased 16.3% in 2017 after a record year in 2016 with growth of 24.7%, while assets for funds open to non-professionals increased 4.3% in 2017 vs. 2.8% in 2016.

As regards funds aimed at retail investors, retail investment funds represent the greatest increase in absolute terms with +€10.6 billion over the year, but only 3.1% in relative terms. Real estate investment funds (OPCIs) and real estate investment funds (SCPIs) increased by 2.1 billion (+16.2%) and 3.8 billion (+14.8%) respectively. This growth reflects the success of inflows for the "real estate" asset class. Private equity funds for the general public increased only very slightly during 2017 (€0.5 billion).

SOCIALLY RESPONSIBLE INVESTMENT (SRI)

Socially responsible investment is becoming increasingly important in French collective investment schemes. In particular, themed funds and funds with a low carbon footprint have seen a significant increase in their assets under management. After an initial study conducted in 2015, the AMF issued a new list of practices with respect to socially responsible investment (SRI) in collective investment schemes in 2017. The objective is to improve the quality of the information provided to investors.

The AMF is currently seeing an improvement in the information provided as a result of the recommendations set out in the first report. In 2015, 26% of funds presented both detailed information on environmental, social and governance criteria (ESG) and a definition of the SRI investment policy in application. In 2017, 71% provided a level of information enabling investors to better understand the responsible strategy implemented.

To help investors differentiate more easily between so-called SRI funds and those managed under more conventional conditions, the AMF, in its second report, highlighted new best practices for asset management companies, such as the publication of the votes of these management companies at the general meetings of the main companies that they hold in the portfolio, a report on the shareholder dialogue held with the companies in the portfolio and the publication of a list of the stocks held in the portfolio on the asset management companies' websites.

The AMF also recommended that SRI funds sold to retail investors undertake initiatives to obtain the public SRI certification (this was established in January 2016 with the support of the public authorities). At the end of November 2017, 119 funds sold in France were certified as SRI.

The 2017 edition of the SRI report also set out an initial assessment of the application by asset management companies of the energy transition law for green growth. By 30 June 2017 at the latest, management companies and institutional investors were required to provide a detailed report on the integration of environmental, social and governance criteria in their investment policies. Management companies whose funds have assets under management greater than €500 million also had to provide information on their exposure to climate risks and their contribution to the achievement of the energy transition objectives. The AMF observed that 68% of the management companies actually issued a report and 38% of operators, representing 78.5% of the assets under management (nearly €3,000 billion) effectively integrated environmental, social and governance criteria in their investment policies

EXCHANGE-TRADED FUNDS (ETFs)

The increase in exchange-traded funds (ETFs) has raised a number of issues in recent years, particularly with regard to their impact on the price formation mechanism. Some market events, such as the ETF crash in the United States on 24 August 2015, led to fears that these funds cannot keep their promise of liquidity and raised questions about the role that they are likely to play with regard to the liquidity of their underlying assets.

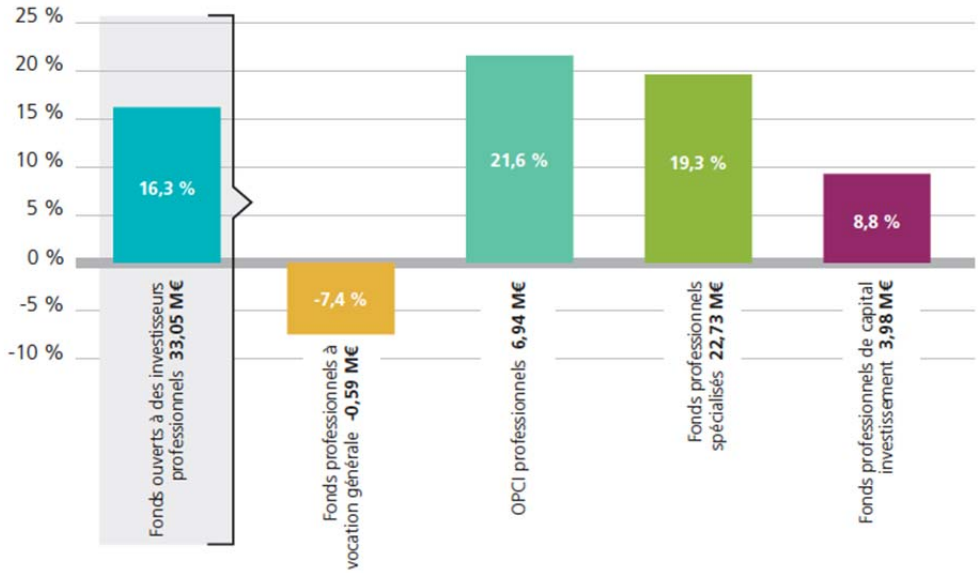
ETFs have experienced explosive growth in recent years: at the end of 2017, their assets under management reached €3,870 billion, i.e. 9% of total assets under collective management worldwide, as the result of a 20% average annual increase in assets under management over the last four years. The market has seen growing interest among investors seeking low-cost products in an environment of low interest rates.

Against this background, the AMF analysed these risks for the French market, on which ETFs currently represent 4% of assets under collective management, with €82 billion in assets under management. In February 2017, it published the results of this analysis in a study entitled "ETFs: characteristics, overview and risk analysis - The case of the French market", which demonstrated that the risks associated with ETFs in France were still limited, at this stage.

The results also show that the circuit-breaker mechanisms in place on Euronext Paris help limit the risk of large gaps between the traded price of an ETF and the indicative net asset value of the underlying basket when these are traded on exchanges, and that the primary flows appear to be countercyclical, serving to dampen rather than magnify major price moves.

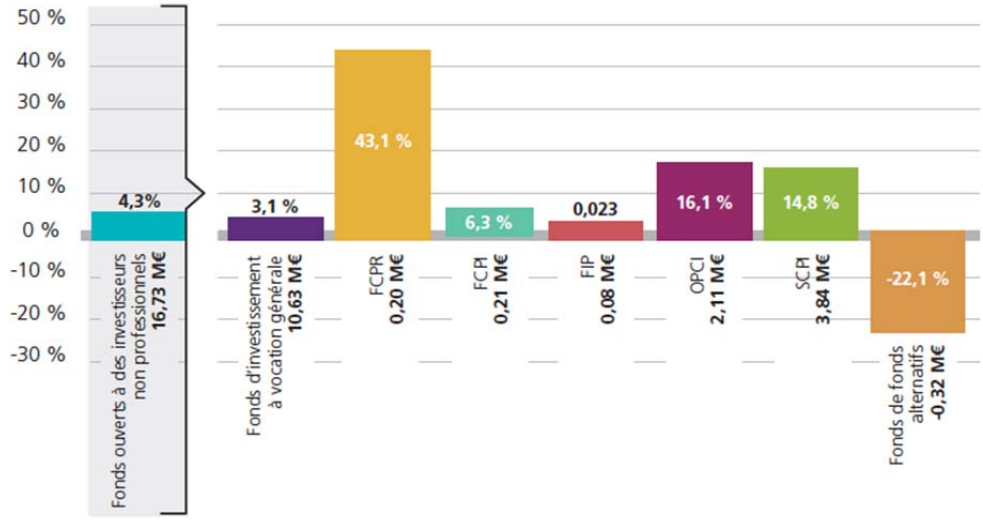
The AMF nevertheless intends to remain vigilant in the event that interest in these products continues to grow, particularly in periods of market stress, when ETF unit prices are likely to show a significant discount against their underlying baskets.

FIGURE 8. AIFs (EXCLUDING EMPLOYEE SAVINGS SCHEMES) OPEN TO PROFESSIONALS: variation in assets under management by product range between 2016 and 2017



Funds open to professional investors/Professional investment funds/Professional real estate funds/Specialised professional funds/Professional private equity investment funds

FIGURE 9. AIFs (EXCLUDING EMPLOYEE SAVINGS SCHEMES) OPEN TO NON-PROFESSIONALS: variation in assets under management by product range between 2016 and 2017



Funds open to retail investors/Retail investment funds/Venture capital funds/Innovation funds/Retail local investment funds/Real estate investment funds (OPCI)/Real estate investment funds (SCPI)/Funds of alternative funds

Although assets under management are increasing overall across all categories, the number of vehicles is tending to decrease. This downturn is primarily due to restructures and optimisations of the range of products, which have been carried out for a number of years.

Management products aimed at professional investors are following a very different path, as in previous years. Over the last two years, they grew 73.3 billion, or 45% in relative terms. Although this growth was more pronounced in 2016, it remains high this year. Assets under management increased from 203.1 billion to 236.1 billion in 2017 (+16.3%).

This increase results primarily from the rise in specialised professional funds (FPSs), which increased in 2017 from €117.8 billion to €140.6 billion (+19.3%). In second place were professional OPCIs, with assets under management increasing from 32.2 billion to 39.1 billion (21.6%). Private equity products also continued to rise steadily, with assets under management increasing from 45 billion to 49 billion (+8.8%). These figures only represent net assets, as gross assets under management are very significantly larger because of leverage, which is very common particularly on professional OPCIs. With estimated average debt of 40% for all OPCIs, gross assets under management for professional OPCIs, which generally have higher debt levels, can be considered as greater than 65 billion.

The trend observed on the increase in unlisted and real estate asset classes is consistent with the nature of the activity of newly authorised asset management companies. In fact, a large share of the creations of new asset management companies was in these sectors.

Finally, 2017 confirmed the recovery observed in 2016 in employee savings schemes, with the number of creations of employee mutual funds (FCPEs) increasing (133). Assets under management for FCPEs rose from €119.0 billion to €128.2 billion (+7.8%). Investment in company shares increased, both in the SME sector via FCPEs invested in shares of unlisted companies and in the large-caps sector, with an increase of more than 2 billion for this last category of FCPE.

Miscellaneous assets

Law no. 2016-1691 of 9 December 2016 relating to transparency, the fight against corruption and the modernisation of economic life (known as “Sapin II”) modified the system of intermediation in miscellaneous assets (articles L.550-1 *et seq* of the Monetary and Financial Code). Prior to any advertisement or direct marketing campaign, offerings of investment in miscellaneous assets must now be sent to the AMF, which will verify in particular whether the offer meets the ““minimum guarantees required for an investment intended for the general public” provided for in Title IV of

Book IV of its General Regulation (articles 441-1 to 441-3).

The AMF issued instruction AMF-DOC-2017-06 in which it indicates, in particular, the resources that intermediaries in miscellaneous assets must have available, defines the terms and conditions for registration of the information documents that have to be filed with the regulator, and specifies the content of these documents.

It presents the guarantees that the intermediary must offer in terms of organisation, good repute, competence and experience for operators involved in the offer, the offer itself, and the information provided to investors.

Since the implementation of these texts, the AMF has handled multiple cases relating to investment in miscellaneous assets, with none resulting in the issue of a registration number in 2017.

3

Activity and regulation of market infrastructure

With continued sweeping change and sustained competition, a key feature of 2017 was the provision of support to market infrastructures to enable them to adjust their technical and regulatory provisions to meet the new requirements arising from the MiFID II framework.

On the initial public offering of Euronext in June 2014, a group of European financial firms invested in the group's share capital and signed an agreement under the terms of which they committed to maintain this investment for a period of three years. When the agreement expired in 2017, these shareholders initiated discussions with a view to extending it. The Euronext College of Regulators[6] monitored these negotiations carefully. The discussions resulted in a restructured group of reference shareholders, with a new agreement for a period of two years, guaranteeing a degree of stability in the group's shareholders.

The College of Regulators continued for the entire year to supervise the implementation by Euronext of its Optiq programme to upgrade the technical trading architecture. This vast project was particularly intended to streamline and standardise the trading systems for the cash and derivatives markets and increase their stability. The new system of market data distribution (Market Data Gateway - MDG) was released into production mid-July for the cash markets and at the end of August for the derivatives markets, having received the go-ahead from the College of Regulators.

This first stage must be followed by the migration to the new trading system for the cash markets, which is planned for March 2018, and then for the derivatives markets. At the same time, the College of Regulators monitored carefully the changes made on the Euronext IT systems in order to meet the provisions of the Markets in Financial Instruments directive (MiFID II) relating in particular to pre- and post-trade transparency and the organisational requirements applicable to trading platforms.

[6] The Euronext College of Regulators includes, besides the AMF, the financial markets authorities of Belgium, Great Britain, the Netherlands and Portugal.

In anticipation of the implementation of MiFID II, Euronext adapted its operating guidelines in 2017, as well as some of its trading practices. The College of Regulators conducted reviews in a number of areas, in order to verify compliance with MiFID II: pricing policy, market making agreements, methods of trading on applications, use of pre-trade transparency waivers, circuit-breaker mechanisms, etc.

Along with the increased obligations in the area of reporting and disclosure of transactions, MiFID II introduces a new concept: that of the data communication service provider. Euronext Paris filed an application with the AMF, which approved it, for the use of an approved publication arrangement (APA) and an approved reporting mechanism (ARM) with effect from 3 January 2018.

Euronext's strategic choices for the clearing of its cash and derivatives markets were also a key area for monitoring by the College of Regulators throughout the year, given the approaching expiry of contracts in place with the clearing house LCH SA at end-2018. After the European Commission's rejection of the planned merger between the London Stock Exchange Group (LSEG) and Deutsche Börse led to the abandonment of the planned 100% acquisition of LCH SA by Euronext, Euronext Group then looked into a partnership with ICE Clear Netherlands for clearing on its derivatives markets. In the end, it opted to renew the derivatives clearing contract with LCH SA. After reviewing the new provisions, the College of Regulators gave the go-ahead for the implementation of this new contract, at the end of October 2017.

Finally, Euronext decided in 2017 to extend its Euronext Fund Service offering to the Paris market (Euronext Paris and Euronext Access). This service allows trading of units in non-index funds at their net asset value. The AMF welcomed the roll-out of this new service, which represents a new solution for cross-border distribution and should enable management companies to increase the visibility of their funds.

The regulated market Powernext Derivatives, managed by Powernext, actively prepared itself during 2017 for the implementation of MiFID II. Powernext has adopted a trading system for futures that is compatible with the new regulatory requirements, submitted an application for authorisation to manage an organised trading

facility (OTF), and adapted the operating guidelines for Powernext Derivatives. The corporate form and share ownership of Powernext also changed in September 2017. Powernext became a simplified joint-stock company, wholly owned by EEX AG. The AMF approved all of these changes.

CHANGES IN DENOMINATION AND RULES ON MULTILATERAL TRADING FACILITIES (MTFs)

Alternext was renamed Euronext Growth in 2017. Moreover, the AMF approved changes in the MTF's operating rules; these changes were intended to reinforce the guidelines applicable to listing sponsors (more rigorous eligibility conditions and more specific standing obligations with respect to issuers).

Like the changes made to Euronext Growth, the Free Market also changed its name, becoming Euronext Access. The MTF's operating guidelines were substantially revised, and then approved by the AMF. They now require the presence of a listing sponsor when a new instrument is admitted to trading, thus leading to the production of an information document. This MTF also offers a premium segment, Euronext Access +, which issuers may access if they fulfil certain conditions (two years of financial statements, communication commitments, assistance of a listing sponsor outside the pure admission framework, etc.).

The market rules of MTS France, an MTF that is authorised by the Market Committee of Primary Dealers (SVT), on which participants fulfil their listing obligations on negotiable debt securities issued by the French government, have been changed. They now integrate the changes in the SVT Market Committee rules, which were modified to align the methods for calculating performance of SVTs with respect to their listing obligations on French treasury bills (BTFs) with those relating to fungible Treasury bonds (OATs) and inflation-linked bonds (OATi). The AMF accepted these changes.

At the beginning of 2017, AM France, which operated the multilateral trading facility Alternativa, wound up its activity. The AMF monitored closely the terms and conditions for the end of the activity, as well as the associated communications from AM France.

Other than the OTF implemented by Powernext, the AMF has authorised three investment services providers to manage OTFs. The implementation of MiFID II resulted in the authorisation of a number of market intermediaries as organised trading facilities on various asset classes (derivatives subject to the trading obligation or not, sovereign bonds, and corporates).

NEW PRODUCTS CLEARED BY THE LCH SA CLEARING HOUSES

In 2017, the clearing house LCH SA was seeking to extend its clearing service offering to a number of new products:

- options on credit default swaps (CDSs) denominated in € and relating to the iTraxx Main and Crossover2[7] indices;
- Total Return Futures on the CAC 40 index traded on the Euronext markets;
- repos on German and Belgian sovereign debt securities.

The French authorities, the ACPR, the AMF and the Banque de France have approved these developments.

The AMF approved the changes to the operating guidelines of the clearing house, the objective of which was to achieve compliance with the MiFIR body of regulations. These modifications primarily related to the methods of accessing clearing services, the automated processing of transactions, and indirect clearing agreements.

Moreover, the AMF took an active part in the annual crisis simulation exercise carried out by the European clearing houses, led by ESMA, as well as in the various initiatives undertaken by the international and European authorities on this subject. With regard to the European exercise for 2017, which covered both credit risk and liquidity risk, LCH SA was able to demonstrate its resilience in each of the scenarios undertaken.

The EMIR College of the clearing house met in September 2017, with the authorities involved discussing the activity and supervision of LCH SA.

In application of the EMIR regulation, the AMF participated in ten colleges of regulators of European clearing houses, as well as that of LCH SA. During the year, these colleges gave their opinion on various extensions of activity or significant modifications to the risk models of the clearing houses concerned.

[7] CDSs on these indices are subject to the obligation to clear under certain conditions.

Finally, in 2017, Euroclear France, the French central securities depositary (CSD) that manages the settlement system for ESES France securities, prepared its initiative for compliance with European regulation no. 909/2014 of 23 July 2014 concerning the improvement in settlement of securities in the European Union and between central securities depositaries (CSDR). This preparation resulted, in September 2017, in the submission by Euroclear France of an authorisation application with respect to the CSDR. The AMF and the Banque de France are responsible, as the competent authorities, for reviewing this application.

At the end of 2017, the AMF also undertook a public consultation on the review of the provisions in its General Regulation relating to the central depositaries and the securities settlement systems, in order to bring them in line with the CSDR.

EXCHANGE OF EURONEXT HOLDING

On 8 August 2017, Euronext NV announced that it has concluded an in-principle agreement with LSEG, LCH Group, and LCH SA for the renewal of the "derivatives" contract and an exchange of the 2.3% stake held by Euronext Paris in LCH Group Ltd for a direct holding of 11.1% in LCH SA owned by Euronext NV. The AMF ruled on this acquisition of interest by Euronext NV in LCH SA, in the framework of EMIR and the AMF General Regulation, following the signature of the contracts between the counterparties involved.

4

Operations and financial information of listed companies

2017 developed in a context of flourishing growth, with a rate of 2.5% observed within the European Union and 2% in France. The environment of low interest rates in the eurozone persisted with monetary policy still very accommodative, as the European Central Bank maintained its key rate at 0%.

This favourable environment resulted in much higher performances on the European equity markets than in 2016, despite the political tensions observed at the end of the year, such as the referendum on the independence of Catalonia and the difficulties experienced in forming a coalition government in Germany. In Paris, the CAC 40 index gained
12.7% (dividends reinvested) over the year, thus doing slightly better than the eurozone's flagship index, the EURO STOXX 50 (+10.1%).

On the bond markets, yield spreads for companies continued to decline, regardless of the credit category in question. Thus, during November 2017, premiums on the safest companies (investment category) and the less safe ones (high-yield category) reached their lowest point since the implementation of the ECB's asset purchase programme in 2012.

The macrofinancial environment was favourable overall to fundraising in Europe, which increased in 2017 to nearly €44 billion according to PWC, representing an increase of 57% compared with 2016. The number of initial public offerings also increased, by 30% between 2016 and 2017. This growth environment could be seen on the French market, particularly at the beginning of the year, even though the number of transactions remained relatively stable.

Activity on the bond market was still particularly dynamic in the context of news on subjects such as the reform of the regulatory framework relating to bonds, the ascendancy of green bonds, and questions linked to the possibility of issuers providing for negative interest rates.

AMF INITIATIVES LINKED TO REGULATION

During the year, the Autorité des marchés financiers focused in particular on the subjects of market information and the operation of general meetings.

After an incident involving false information about the Vinci stock, AMF reminded companies, in a communication published on 23 February 2017, about the provisions of the European regulations on transparency and market abuse relating especially to effective and full dissemination and the communication of inside information. It also invited issuers to improve their best practices in the area of dissemination of information and encouraged news agencies and journalists, as distributors of this information, to tighten up their operational procedures. In order to facilitate the verification of sources by journalists and news agencies, the Autorité des marchés financiers provided, on its website, for information purposes, a list of the primary information providers used by each issuer listed on Euronext. This list will be updated every year. Finally, the rules relating to the reservation thresholds on the Euronext Paris market have been modified.

As part of the implementation of the new Prospectus Regulation[8], the AMF sought to facilitate the Financial Centre's responses to consultations by the European Securities and Markets Authority (ESMA). Workshops have been organised in order to present to issuers the public consultation relating to the draft delegated acts on the content and format of prospectuses.

The AMF also set up a working group to reflect on the report by its Consultative Commission for Retail Investors “For a transparent and effective vote at general meetings in the digital era”. The group put forward 31 proposals intended to improve the transparency and effectiveness of shareholder votes. The AMF decided to endorse several proposals from this report and to incorporate them, in the form of

[8] Regulation (EU) no. 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC and its implementing regulations, that will enter into force on 21 July 2019. Some provisions entered into force early. A threshold of 20% is now established for exemptions from the obligation to produce a listing prospectus. The AMF issued a press release dated 19 July 2017, entitled “Entry into force on 20 July 2017 of certain provisions of the Prospectus regulation: information from the AMF for companies listed on a regulated market”.

recommendations, into its guidance relating to general meetings of shareholders of listed companies[9]. These proposals are intended to increase the transparency of votes at general meetings.

In the lead up to the transposition of the revised Shareholders Rights directive[10] relating to the encouragement of long-term shareholder engagement, the AMF decided to look deeper into the proposals concerning votes by correspondence, votes by proxy, and rejected votes. A working group, limited in size, has been set up. It is composed of members in equal numbers from the AMF's consultative commissions for Retail Investors and Issuers, as well as representatives from the asset management and securities industries.

Finally, on 23 October 2017 in support of the initiatives already undertaken with SMEs and mid-tier firms listed on Euronext and Euronext Growth (previously Alternext), the regulator published a guide summarising the principal obligations of these companies. Organised by topic and listed market, the guide is a practical, informative and easy-access resource for gaining a firmer grasp of the key obligations and recommendations issued by the regulator and Euronext.[11]

FALSE INFORMATION ON THE VINCI SHARE: OVERVIEW OF THE FACTS

On 22 November 2016:
> Distribution of a bogus press release indicating a restatement of Vinci's annual and half-yearly financial statements and the immediate dismissal of its Chief Financial Officer, causing the Vinci share price to fall by more than 18% between 4.06pm and 4.20pm.
> Certain major news agencies published this press release.
> A false denial was released at 4.27pm followed by an authentic one published by Vinci Group at 4.46pm.
> The Vinci share finished down nearly 4% at the close of the session.

[9] Recommendation AMF DOC-2012-05 General meetings of shareholders of listed companies.
[10] Directive (EU) 2017/828 of the European Parliament and of the Council of 17 May 2017 amending Directive 2007/36/EC as regards the encouragement of long-term shareholder engagement.
[11] Overview of the principal obligations of listed companies: a guide for SMEs and mid-tier firms.

FINANCIAL TRANSACTIONS

Initial public offerings

In 2017, the funds raised by initial public offerings resulting in the issue of a visa amounted to €2 billion, after €1 billion in 2016 and €5.3 billion in 2015. In total, there were 12 IPOs on the Euronext regulated market
(vs. 9 in 2016 and 23 in 2015) and 8 on Euronext Growth (vs. 8 in 2016 and 16 in 2015). With the number of write-offs throughout the year, the number of companies listed on a regulated market stood at 513 at the end of 2017. This was down slightly (538 in 2016 and 547 at the end of 2015).

A key feature of the initial public offerings was the use of cornerstone investors, who are investors that benefit from specific capital entry conditions on an IPO.

Commonly, companies listing on the stock market have already carried out fundraising during the year or months prior to their flotation. This is particularly the case for many biotech firms, whose economic models require successive external financing operations. In this regard, the AMF is especially keen to ensure that any possible price discrepancy between the price of the various capital increases during the year before the IPO and the price at the time of listing are clearly indicated in the prospectus.

In the case of Inventiva, for example, at the time of the IPO some investors benefited from an advantage over all the subscribers invited to invest, at the same time, in the flotation. And this was right at the beginning. The IPO, which was concluded on 15 February 2017, was marked by the conferral of a benefit by the two founders and sole shareholders in the company, at that time, on two specific investors, in the form of a free issue of options to buy shares representing a significant share of the equity capital. These options were granted in return for the commitment, subject to the effective completion of the IPO, to subscribe to the capital increase for significant amounts ahead of the finalisation of the listing.

The AMF did not call into question the validity of the transaction with regard to regulations, as it was not the issuer that offered the benefit to certain investors; the subscription price was the same for all.

However, the AMF requested that the value of the share options received free of charge by the two investors be assessed by an independent expert. The value ranges obtained were therefore represented in the offer prospectus as well as the commercial documents distributed to the general public. This highlighted the fact that in return for their commitment to subscribe for significant amounts and thus contribute to the success of the initial public offering, the free issue of share options by the shareholders allowed these two investors to obtain a total cost price for their investment that was discounted compared with the IPO price (the amount of their subscription was indeed the IPO price, but this was reduced by the fair value of the share options). The risk factors indicated in the securities note relating to the offer of shares and admission to Euronext Paris also referred to these share options.

Issues of equity securities or securities giving access to share capital

With respect to capital increases of listed companies, the AMF identified 45 transactions (vs. 44 in 2016) resulting in the issue of a visa, for a total amount of €14 billion, up 133% over one year. The preferential rights issue by EDF contributed €4 billion to this total amount.

THE GROWTH OF THE BIOTECH SECTOR

The biotechnology and medical equipment (biotech/medtech) sector of companies listed in Paris on Euronext and Euronext Growth has seen a great deal of vitality on the stock market. On the one hand, a feature of the companies in this sector is the high level of volatility in their stock prices; failures or successes observed during research phases can result in very significant fluctuations in the share price. On the other hand, their economic model requires, in the majority of cases, regular fundraising operations.

2017 was thus particularly active for the sector with around fifty structuring transactions: stock market listings, fundraising operations, and tender offers. Although there was only a modest number of stock market listings: (6, of which 4 were on Euronext and 2 on Euronext Growth), they represent no less than 30% of the number of companies listed on the Paris market during the course of the year[1]. In addition, one company (Erytech), already listed in Paris, was floated on NASDAQ with a public offering in the United States.
With regard to fundraising, other than those operations resulting from a stock market listing, companies in the biotech/medtech sector used a very wide range of financing tools and issue methods depending on their size, their status on the market, or the investor profile that they are likely to attract. The following operations were realised:
> 27 capital increases, including 5 with maintenance of preferential subscription rights, 2 with priority deadlines, 6 reserved for designated persons or categories of person (including 3 as payments in kind), and 14 as private placements;
> 3 issues of ABSAs (shares with warrants attached) (Txcell, Medicrea, and Neovacs);
> 3 issues of convertible bonds, including one of €180 million (which represents a first: a large-scale debt over 5 years for a biotech firm that does not realise any revenue) (Genfit, Novacyt and the Spinguard issue of convertible bonds with an investment programme);
> 13 issues of capital lines (equity lines, convertible bonds with share purchase warrants, bonds redeemable in cash or new or existing shares with share purchase warrants);
> two free issues of share purchase warrants to all shareholders.
Finally, two companies in the sector, listed in Paris (Vexim and Euromedis) were the subject of tender offers.
1 With issue of a visa.
2 Convertible bonds with an investment programme.
3 Convertible bonds with share purchase warrants.
4 Bonds redeemable in cash or new or existing shares with share purchase warrants.

Acquisitions using a delegation of authority granted by the general meeting of shareholders
2017 saw many acquisition transactions carried out by French companies. Some major transactions, although not extremely large by the yardstick of the size of the acquiring companies, were realised by the issue of new equity securities or securities giving access to share capital on the basis of delegations of authority granted by the general meeting of shareholders.

At this time, the AMF recalled its position-recommendation DOC 2015-05 on major asset disposals and acquisitions, inviting the development of best practices to demonstrate the compliance of a major asset acquisition with the company's interest.

For acquisitions making use of delegations of authority granted by the general meeting of shareholders, the AMF encourages companies to report, in the announcement of the completion of the transaction as well as in the description of the work of the board in the reference document or in the board's report to the general meeting:

- the methods and procedures used to identify and manage potential conflicts of interest, if applicable;
- the assessment of the relevant estimated figures relating to the transaction (particularly its price, circumstances and consequences, as well as any other information considered to be important). With regard to the acquisition price, the AMF invites companies, when there is a contributions auditor, to extend the auditor's assignment on a voluntary basis to include an assessment of the fair nature of the exchange report. With regard to the assessment of the circumstances, it is recommended that all external growth transactions be positioned in the context of the company's previously stated strategy. In fact, this information is often expected by some

investors. If they provide the information unasked, listed companies on the one hand improve their standards of governance and on the other, ensure fair and equal access to information.

Independent fairness opinion in financial restructures

Some financial restructures (SOLOCAL in 2016, CGG in 2017) were the subject of large-scale disputes by shareholders. The sophistication of the restructure schemes adopted can sometimes mean that shareholders find them difficult to understand. Intervention on the debt by funds that specialise in restructures also changes their economies. That being the case, the independent fairness opinion is intended to provide clear information to shareholders explaining the context and background to the financial restructure, so that they can vote at the general meeting. It is especially recommended that fairness opinions adopt approaches that include the economic value of the debt, present any possible conflicts of interest among certain parties involved in the restructure, and set out the structure and the financing conditions after the restructure, along with their terms and conditions for granting and repayment.

DEBT FINANCING

Principal trends observed in 2017

This year again, companies raised large amounts of funds on the debt markets (bond markets). Financing of non-financial companies by the debt market increased 6.5%[12]. Issuers profited from market environments that remained favourable with a context of low interest rates (decline in spreads) fuelled primarily by the European Central Bank's monetary policy and asset purchase programme in corporate bonds.

This trend can also be seen in the requests for approval by the AMF of bond prospectuses realised by issuers in 2017. 163 prospectuses[13] relating to issues of debt securities were approved during the year[14], representing an increase of 4% compared with 2016. Most of the visas granted for bond issues concern base prospectuses (54% in 2017 vs. 58% in 2016) from issuers with a programme of euro medium term notes (EMTNs) and seeking frequent and repeated access to the market. The number of prospectuses realised for the requirements of one single bond issue is increasing, however (+9% compared with 2016).

The increase in bond issues submitted for approval to the AMF can be seen in the corporate segment as well as the financial segment (especially banks).

Bond issues realised by non-financial companies (corporates) and local authorities

Corporate issuers and local authorities represent 48% of bond prospectuses approved by the AMF in 2017 (39% corporate/9% local authorities). The number of prospectuses approved is stable compared with 2016. These transactions, benefiting from favourable market conditions, generally enabled corporate issuers to either finance specific projects (particularly acquisitions of other companies) or to refinance existing debt under better financial conditions (continued decline in spreads) and/or over a longer period. Most of these operations consisted in the issue and listing on regulated markets of so-called "vanilla" bonds at a fixed rate, with a senior ranking, and intended only for professional investors (known as wholesale issues).

Several corporate issuers realised their inaugural issues on the international bond market (Euronext Paris), which reflects the increasing access to this source of financing by companies (Bel, Danone) (undated deeply subordinated notes).

In 2017, the AMF observed that there were no "Euro PP" issues submitted for visa[15], in keeping with the significant drop in number of these transactions observed in 2016. This seems to be explained by a number of factors:

- direct competition from the German *Schuldschein* market, which currently offers spreads that are lower overall due to the types of investors. A *Schuldschein*, under German law, is a loan; investors are banks that can therefore offer, in an environment of very accommodative monetary policy, competitive financing conditions, at the same time as maintaining a minimum level of profitability. Conversely, a significant number of investors in Euro PP issues are insurance companies and asset managers, who seem to have reached a

[12] Annual increase as at October 2017. Source: Banque de France, 12 December 2017, Loans to NFCs October 2017 annual increase as at October 2017.
[13] Excluding supplements.
[14] Number of visas granted for bond prospectuses in 2017, excluding supplements established in accordance with Article 212-25 of the AMF General Regulation. In 2017, the AMF also approved 209 supplements (+23% compared with 2016). Source: AMF, Corporate Finance.
[15] Euro PP issues without application for listing of the bonds on a regulated market are not subject to AMF visa.

floor in terms of the financing conditions that they can offer without damaging their profitability;

- the admission of issues on Euronext Access;
- finally, arrangers are awaiting clarification regarding the impact of new market abuse regulations on the status of market surveys carried out in the framework of Euro PP bond issues.

Repatriation from Luxembourg to France of base prospectuses relating to EMTN programmes continued (repatriation in France by two issuers: Kering and Unibail Rodamco). Likewise, a number of issuers that had decided to implement an EMTN programme in 2017 selected the AMF to approve their base prospectuses.

Bond issues by financial companies

Financial companies issued 52% of the bond prospectuses approved by the AMF in 2017, i.e. an increase of 11% compared with 2016, in terms of number of prospectuses approved. Banks were the most active issuers, issuing a wide variety of debt products (vanilla bonds, structured debt, covered bonds, certificates, warrants, hybrid debt, etc.) and carrying out a large number of public offerings. 2017 was marked by two key elements:

- firstly, the issue of non-preferred senior debt (NPS), which is a new category of debt issued by banks established by the Sapin II law in December 2016. It sits between the bank's traditional senior debt and subordinated debt[16]. This new category of debt must allow French banks to meet their future obligations with respect to the MREL (Minimum Requirement for own funds and Eligible Liabilities)/
- TLAC (total loss-absorbing capacity) ratio, which results from European and international regulations in the area of crisis resolution concerning credit institutions. Most of the large French banking institutions realised their inaugural issue of non-preferred senior debt in 2017. This was followed, for many of them, by repeated issues. Although almost all of these issues were generally realised by means of private placements with professional investors, one establishment decided to market them via multiple public offerings (these public offerings were, however, reserved for informed investors with a nominal value per unit of €15,000);
- then, an increasing number of transactions relating to negotiable medium-term notes (NMTNs). The AMF is the competent authority for approval of the prospectuses enabling the admission of these securities for trading on a regulated market[17]. The increase in number of NMTN transactions must be seen in the light of the decision handed down on 21 June 2016 by the Paris Court of Appeals in the "Generali" case, which led to a legal question about the eligibility of certain structured bonds for life insurance policies. Thus, a number of transactions traditionally carried out in the form of EMTNs were replaced by NMTNs, as their sale in connection with life insurance raises fewer questions with regard to jurisprudence in the Paris Court of Appeals. Note that the Court of Cassation, in its decision handed down on 23 November 2017, overruled the ruling of the Paris Court of Appeals and brought the case back before the same court for trial by a different judge[18].

Finally, banking institutions and some insurance companies continued to issue hybrid debts, i.e. debt securities eligible for the calculations of different levels of prudential equity capital (AT1, Tier 2, etc.).

Particular focus areas for the AMF

During 2017, the AMF dealt with a number of significant subjects related to bond issuance and led discussions intended to provide active support for market initiatives (modernisation of bond laws, green bonds, etc.) and to specify expectations in terms of information to be provided to investors. The solutions proposed favour pragmatic approaches, aiming to improve the information provided and increase investor protection, at the same time as taking into account issuers' practices and requirements.

[16] Should the bank go bankrupt, the NPS debt will be repaid after the full repayment of the senior debt, but before the subordinated debt and in the event of a bail-in, the NPS securities will be converted, if necessary, after the subordinated securities but before the senior debt securities.

[17] The Banque de France is the competent authority for approval of the financial documentation relating to the issue of these securities.

[18] Court of Cassation, second civil chamber, decision handed down on 23 November 2017, no. 16-22.620. Paris Court of Appeals, decision handed down 21 June 2016, no. 2016/230.

MODERNISATION OF BOND LAWS ESPECIALLY VIA REFORM OF THE REGULATORY FRAMEWORK: FIRST CONCRETE APPLICATIONS

Ruling no. 2017-970 of 10 May 2017 and decree no. 2017-1165 of 12 July 2017 favouring the development of bond issuance are intended to modify certain provisions and increase the flexibility of certain rules inherent in the issuance of bonds offered to institutional investors. The modifications are very close to the proposals of the working group set up by Paris Europlace, in which the AMF participated. The new article L.213-6-3 of the French Monetary and Financial Code introduces, for bonds with a nominal value of at least €100,000, the possibility of setting up the relationship between the issuer and the bondholders directly in the issue contract. In practice, for such bonds, the issue contract (i.e. the prospectus) can therefore either continue to refer back to the body of regulation as defined by the French Commercial Code (this refers to the "legal body", or the application of all the articles of the French Commercial Code, or a "reduced body", i.e. a selection or restatement of the articles of the French Commercial Code relating to the body), or define a purely contractual system to govern and fully adapt the relationship between the issuer and the bondholders.

Several corporate and banking issuers began, during the second half of 2017, to implement this reform in their bond prospectuses approved by the AMF, which supports these changes.

FLOATING-RATE BONDS AND NEGATIVE INTEREST RATES: THE NEED TO KEEP INVESTORS INFORMED

The Autorité des Marchés Financiers (AMF) approves numerous prospectuses allowing the issuance of floating-rate debt securities for which the coupon amount is generally indexed to money-market indices such as EURIBOR and EONIA. The current interest-rate environment has led the regulator to consider the possibility of a coupon bond having a negative nominal rate and the existence of an implied-zero floor rate. In a press release on 27 June 2017, the AMF set out its expectations in terms of information to be provided to investors in the prospectuses concerned.

In the firm belief that there is now a widespread trend towards green finance in the financial sector, the AMF is supporting this development by the promotion of standards and best practices, which are essential in maintaining investors' trust.
Martine Charbonnier
Managing Director, Corporate Finance Directorate

In view of the issues and uncertainties associated with the problem of negative interest rates, especially with regard to ensuring that investors are properly informed and without ruling on the legal aspects of the matters raised, the AMF has decided to adopt a pragmatic approach to its review of draft prospectuses for floating-rate debt securities submitted for its approval:

- either the prospectus expressly provides for a floor rate of 0%; such a stipulation will not require any specific comment from the AMF insofar as clear information is provided for the investor and the application of a "negative interest rate" is formally excluded;
- or the prospectus expressly provides for a "negative interest rate" or the possibility of such a rate; such a stipulation does not require further comment from the AMF if its implementing instructions are clearly specified (including the method used to calculate and charge this rate) and if this stipulation is supplemented by a "risk factor" highlighted to the investor.

If the issuer is free to choose either one of these two options, the AMF will ensure that the issuer expressly states in the prospectus whether it intends to apply a contractual floor rate of 0%, or if it intends to apply a negative rate, if applicable, depending on the trend in the index concerned. The AMF considers that the prospectus may not remain silent on this point.

Since the publication of this press release, on 27 June 2017, all issuers presenting a prospectus for the issue of floating-rate debt securities have taken the approach of fixing a floor rate of 0%.

GREEN BOND ISSUES

Green bonds have been a highlight of the year, following a notable market trend. The issues presented for visa to the AMF were all intended for professional investors; no issuer has opted to offer this type of security to the general public.

A prospectus for the issue and/or admission for trading of green bonds is very similar to the standard bond prospectus. No specific legislative framework currently governs these securities, which are "traditional" bonds; their qualification is based on the particular allocation of the funds raised to financing projects and assets that are known as "green". This difference remains important. Thus, the destination of the funds becomes an essential component of the investment decision and can consequently be extremely important when these bonds are promoted. In this regard, the AMF reiterated its recommendation to issuers to ensure the transparency, accessibility and reliability of the information provided when green bonds are issued[19]. In line with the "Green Bond Principles" set out by the International Capital Markets Association (ICMA), the AMF has identified four best practices that are essential in maintaining the necessary confidence of investors in this type of issue:

- clear information in the prospectus on the planned use of the funds raised from the issue;
- clear identification of the projects that are eligible to receive the funds raised. Prospectuses generally refer to a "Green Bond Framework" published on the issuer's website. The AMF supports this practice, as long as the information is sufficiently specific, and easily accessible to investors;
- the ability to track the actual allocation of the funds raised in order to demonstrate compliance with commitments made at the time of issue of the green bonds. Several issuers have thus appointed an external auditor or third party, to verify internal methods used to track and allocate the funds raised; and
- publication of an ad hoc report every year, including information such as a list and brief description of the projects financed, as well as the amounts actually allocated to these various projects. The AMF encourages the publication of these reports and invites issuers to specify, in the prospectus, how these reports will be distributed to investors.

[19] AMF 2016 report on social, societal and environmental responsibility, published on 17 November 2016 (DOC-2016-03).

TENDER OFFERS

Waiver of the requirement to file a tender offer

In 2017, the AMF returned 22 decisions waiving the mandatory filing of a tender offer, including 15 alone in application of articles 234-9 6° and/or 7° of the General Regulation[20] (holding of a majority of the company's voting rights by the applicant or by a third party, and internal reclassification within the same group).

Three decisions relating to reviews conducted in application of article 234-7 of the General Regulation (consequence of acting in concert) and one decision relating to article 236-6 of the General Regulation (review of the implementation of a buyout offer (OPR) following, in particular, a merger or disposal of most of the assets) were also returned.

[20] In the case of Cardety, the AMF returned one decision based on two foundations (article 234-9, 3° and 7° of the General Regulation).

TABLE 1. TYPE OF DECISION

	2013	2014	2015	2016	2017
Waiver decision	27	27	41	24	22
Reviews concert art. 234-7	7	7	8	5	3
Reviews art. 236-6	4	4	5	5	1

REVIEW OF THE CONSEQUENCES OF A DISPOSAL WITH REGARD TO THE PROVISIONS OF ARTICLE 236-6 OF THE GENERAL REGULATION:
ASSYSTEM CASE

On 11 May 2017, Assystem announced its intention to dispose of its outsourced R&D division, Global Product Solutions (GPS), to Ardian. This division represented a significant asset under the terms of AMF recommendation DOC-2015-05 of 15 June 2015, since at least two of the five quantitative criteria set out in this recommendation would be fulfilled in the event of disposal.

Assystem also announced to the market its intention to use the net proceeds from the disposal to finance a share buyback offer (OPRA) and its development projects in the remaining activity, namely the Energy & Infrastructure division.

The case was brought before the AMF by Assystem's majority shareholder, under the provisions of article 236-6 of the General Regulation, for an assessment of the consequences of the planned disposal in view of the possible obligation to file a buyout offer by the said shareholder, should the announced disposal actually take place.

The provisions of article 236-6 of the General Regulation require the presence of three elements at once in order to assess whether a buyout offer is necessary:
> the fact that the company concerned is controlled under the terms of the provisions of article L.233-3 of the French Commercial Code;
> the existence of one or more modifications to the company's legal or financial characteristics or to its assets. In the present case, the change to the characteristics of the company consisted in the disposal of the GPS division, which was likely to be considered as the disposal of most of Assystem's assets;
> negative consequences for the rights and interests of the minority shareholders.

The notion of most of the assets, which is different to that of the core assets and/or significant assets, must be understood to mean assets of such importance that, after disposal, the characteristics of the company are radically different. The importance of these assets is determined by a multidimensional analysis that takes into account the characteristics of the company. In this regard, the sole fact that the weighting of the ratios used (criteria applied to the assets sold/criteria applied to all assets) amounted to around 50% did not suffice to qualify the assets concerned as being most of the company's assets. It could in fact be a question of a cyclical trend that has no correlation with the real weighting of an activity within a company. Furthermore, a “qualitative” analysis comparing the situation with the company's history and that of its activities, as well as its strategy, can also influence the qualification of the assets as “most of the assets”.

Moreover, supposing it is indeed most of the assets that will be sold, the use of the proceeds of the sale, whether for the continuation of the remaining activity or for distribution to the company shareholders, is a significant element to be taken into account in the analysis of the consequences of the transaction with regard to the rights and interests of the majority shareholders.

In this case, the AMF pointed out that, in the event that the disposal went ahead,
Assystem would make a significant payment out of the proceeds of the sale to the company shareholders, in the form of a reduction in share capital by means of a share buyback offer. The AMF also considered that

although the planned disposal had a significant impact on Assytem's activity and asset base, this had been anticipated by the market for a number of years in an environment where the company no longer had the financial capacity to support the development of its GPS activity appropriately at the same time as that of its Energy & Infrastructure activity. Consequently, this would not lead to any modification for Assystem in its legal structure, its articles of association, its corporate form, its governance or the composition of its corporate bodies.

Besides, the AMF pointed out that after the proposed sale, Assystem would ultimately retain a substantial activity and the transaction would allow it to refocus on its previous core business and develop via a number of identified projects, particularly with an investment in the region of €125 million in the share capital of New Areva NP.

All these points therefore led the AMF to consider that the proposed sale could not be qualified as being the disposal of most of Assystem's assets and likely to affect the rights and interests of minority shareholders in this company, and that consequently, there was no need to implement, prior to the disposal, a buyout offer on Assystem's shares.

Takeover bids

In 2017, 41 compliance decisions were taken by the AMF relating to tender offers launched during the year. This is close to the number of decisions in 2016 (39).

The number of tender offers involving the acquisition of control (in the sense of a holding of more than 50% in the share capital and voting rights of the target company) was 22[21] in 2017 (21 in 2016); these included 17 changes in control prior to a mandatory bid and 5 changes in control after a tender offer following normal procedure.

The number of offers falling within normal procedure (5 in 2017) has dropped significantly (13 in 2016). Note that 2 of these offers concern companies listed on the Euronext Growth Market (3 in 2016). Among the normal procedure bids in 2017, none was unsolicited (2 in 2016).

In 2017, the number of simplified procedure offers (26) was significantly higher than in 2016 (17 offers).

The number of withdrawals from the list after a tender offer was 25 in total[22] (17 in 2016), including 6 as a result of a buyback offer with compulsory squeeze-out and 17 in the framework of a squeeze-out after a tender offer[23].

The number of tender offers on companies listed on Euronext Growth is down at 8 (14 in 2016). These include one voluntary offer falling within the simplified procedure (closure offer), one was a share buyback offer with compulsory squeeze-out, four were simplified compulsory takeover bids and two were voluntary offers falling within normal procedure (acquisition of control).

[21] Takeover bids involving acquisition of control: offers following normal procedure that led to a change of control, and simplified offer procedures following the acquisition of a controlling stake.
[22] Including the write-offs of Radiall and Valtech in 2017 (no compulsory squeeze-out).
[23] The two other withdrawals from the list concern the write-offs of Radiall and Valtech in 2017 (no compulsory squeeze-out).

TABLE 2. TENDER OFFERS LAUNCHED IN THE YEAR UNDER REVIEW

	2014	2015	2016	2017
Offers falling within normal procedure including public exchange offers	10	9	13	5
Simplified procedure offers	14	17	17	26
Buyout offers	4	1	1	1
Buyout offer with compulsory squeeze-out	6	2	7	6
Buyback offers	4	3	1	3
Compulsory squeeze-outs with compliance	0	1	0	0
Compulsory squeeze-outs without compliance	10	10	10	17
TOTAL (excluding compulsory squeeze-outs without compliance)	**38**	**33**	**39**	**41**

SOME EXAMPLES OF TENDER OFFERS IN 2017

Simplified takeover bid on the shares of Christian Dior

On 22 May 2017, Rothschild & Cie Banque, Crédit Agricole Corporate and Investment Bank, Natixis, and Société Générale, acting on behalf of Semyrhamis (Arnault Group), filed a proposed simplified takeover bid with the Autorité des marchés financiers on the shares of Christian Dior, in application of article 233-1, 1° of the General Regulation.

The family-owned group Arnault thus held a stake representing 74.08% of the share capital and 84.68% of the voting rights in Christian Dior. The planned simplified takeover bid was broken down into a principal mixed offer and a subsidiary offer made up of a public cash offer and a public exchange offer, with the following terms:

- principal mixed offer: for one Christian Dior share, €172 in cash and 0.192 shares in Hermès International held in the portfolio by the initiator[24];
- subsidiary public cash offer: €260 per Christian Dior share;
- subsidiary public exchange offer: for one Christian Dior share, 0.566 shares in Hermès International held in the portfolio by the initiator.

The subsidiary offers were capped in order to comply with the overall proportion of 66.11% in cash and 33.89% in Hermès International shares.

The shareholders could surrender their Christian Dior shares either for the principal offer, or for one and/or the other of the subsidiary offers, or for the principal offer and one and/or the other of the subsidiary offers.

The offer was for all the shares issued by Christian Dior that were not held by Arnault, representing 25.65% of the share capital of the company.

This transaction was realised against a specific background since Christian Dior had decided to sell, to LVMH Moët Hennessy-Louis Vuitton[25], its holding of 100% of the share capital of Grandville (for a price of €6 billion), which notably held all the share capital and voting rights of the company Christian Dior Couture, based on an enterprise value of the latter of €6.5 billion. This sale could only be completed subject to a final decision by the AMF on the compliance of the tender offer, on the understanding that, in any case, the sale could not be completed before 3 July 2017. Furthermore, the structure of the offer enabled the initiator of the

[24] The family-owned group Arnault thus held 8,955,471 shares in Hermès International representing 8.48% of that company's share capital (including 8,771,914 shares held by Semyrhamis and 183,557 shares held directly and indirectly by the Arnault family). In the framework of the simplified takeover bid, Semyrhamis had to surrender ordinary shares (2016 ex-dividend) in Hermès International held in the portfolio for up to 8,891,150 Hermès International shares. To that effect, Semyrhamis concluded a fixed-term purchase contract with a company controlled by Arnault, for a maximum of 119,236 shares in Hermès International to be acquired at a unit price equal to the opening share price of Hermès International on the completion date (in order to be able to hold a maximum of 8,891,150 shares in Hermès International on settlement of the bid).

[25] The family-owned group Arnault thus held, directly and indirectly, in particular via Christian Dior, 46.69% of the share capital and 62.60% of the voting rights of LVMH.

tender offer to exchange the shares in Hermès International held in the portfolio. In order to account for this specific feature:

- the offer document established by Semyrhamis contained, as well as a multi-criteria evaluation of the Christian Dior share, a multi-criteria evaluation of the Hermès share based on information in the public domain (taking into account the fact that the principal mixed offer and the subsidiary public exchange offer included the Hermès shares and in order to allow Christian Dior shareholders to understand the equivalent value of these two offers);
- the document containing the information relating to the characteristics, particularly the legal, financial and accounting ones ("other information") of the initiator included in particular a specific section on Hermès, with the company's reference document as well as its press releases published in the framework of standing reporting requirements since the date of publication of the said reference document.

Moreover, the initiator did not intend to implement a compulsory squeeze-out on the company's shares after the takeover, nor to request the write-off of the shares in the company.

The tender offer was declared compliant by the AMF on 6 June 2017 and was open from 8 June to 28 June 2017 inclusive. At the end of this period, Arnault's holding in Christian Dior represented 94.22% of the share capital and 96.52% of the voting rights of the company. Moreover, given the Hermès International shares surrendered as part of the tender offer, at that date it held no more than 1.87% of the share capital and 1.13% of the voting rights of the company
Hermès International.

The simplified takeover bid on the shares in Blue Solutions (and announcement of a new tender offer in 2020 subject to conditions)

On 19 June 2017, BNP Paribas and Natixis, acting on behalf of Bolloré SA, filed a proposed simplified takeover bid with the Autorité des marchés financiers on the shares of Blue Solutions, in application of article 233-1,
1° of the General Regulation.

On this date, Vincent Bolloré held, directly and indirectly, via the companies that he controls, 25,666,602 shares in Blue Solutions representing 51,333,204 voting rights, i.e. 89% of the share capital and 94.17% of the voting rights in this company.

Bolloré SA committed irrevocably to acquiring, at a unit price of €17, all of the existing 3,171,714 Blue Solutions shares not held directly and indirectly by Vincent Bolloré, representing 11% of the share capital and 5.83% of the voting rights of this company.

Bolloré SA did not intend to implement a compulsory squeeze-out on the company's shares after the takeover, nor to request the write-off of the shares in the company.

Since 30 August 2013[26], Blue Solutions had had seven call options expiring on 30 June 2018, on the shares making up the capital of nine companies controlled by Bolloré SA and whose activities made up the natural outlets of the Lithium Metal Polymer (LMP) technology that it develops. On 23 March 2017, Blue Solutions announced that it would not exercise these call options, considering that the investments still to be made in these companies were still very large and preferring to concentrate its efforts on improving its technology.

Under these circumstances, Bolloré reiterated to the market its confidence in the prospects for this technology, at the same time as seeking to maintain a reasonable rate of development and continuing to invest over the long term. It therefore voluntarily proposed a cash offer to the Blue Solutions shareholders who no longer wished to keep their shares.

Furthermore, Bolloré SA committed to buying the Blue Solutions shares that were not held by Bolloré Group, by means of a new tender offer at a price of €17 per share, in 2020. This second tender offer will be filed if, on the reference date, which corresponds to the 41st trading day after the public announcement of the Blue Solutions financial statements for 2019, the reference price of the Blue Solutions share is less than €17. This second offer will be filed within three months of this price observation.

Bolloré also specified that it will not implement a compulsory squeeze-out on the Blue Solutions shares before this potential second tender offer.

[26] Therefore, prior to the visa being granted by the AMF (16 October 2013; the base document having been registered by the AMF on 12 September 2013) for the prospectus established by Blue Solutions for its initial public offering.

The tender offer was declared compliant on 4 July 2017 and was open from 6 July to 19 July 2017 inclusive. At the end of this period, Vincent Bolloré held directly and indirectly, via the companies that he controls, 96.60% of the share capital and at least 98.20% of the voting rights in this company.

Simplified takeover bid on the shares of Euro Disney SCA

On 30 March 2017, the concert party formed of US company EDL Holding Company along with the companies Euro Disney Investment SAS and Euro Disney Corporation SAS, all three wholly owned indirectly by the umbrella company The Walt Disney company, filed a proposed simplified takeover bid on the shares in Euro Disney SCA in application of article 233-1, 1° of the AMF General Regulation. This was a voluntary tender offer, separate from the compulsory bid filed in 2015 (see below). The initiators held 86.07% of the share capital and voting rights of the company, and committed irrevocably to acquire the shares in Euro Disney SCA not held by them, at a price of €2.00 per share.

The initiators of the tender offer had indicated their desire to implement a compulsory squeeze-out after their takeover. Given that an *ut singuli* action[27] was brought in December 2015 before the Meaux Commercial Court by a minority shareholder, for the purposes of compensation for the damage suffered by Euro Disney SCA regarding its past and future commercial relations with the umbrella company The Walt Disney Company, and given that the outcome of this action was still unknown, the valuation of the Euro Disney SCA share had to incorporate the potential effects of such an action.

In this regard, and without ruling on the validity of the *ut singuli* action, the AMF pointed out that the fairness opinion envisaged multiple scenarios relating to the potential effects of the *ut singuli* action on the valuation and the asset base of the company, if this action resulted in a favourable outcome for the company, by considering several cases depending on the possible consequences of the legal rules of limitation and a simulation of the effects of the *ut singuli* action on the company's future cash flows. These scenarios showed an impact on the Euro Disney SCA share of between €0.26 and €1.94 per share.

Thus, if the upper end of the valuation range arising from the discounted future cash flow method only was used, i.e. €0.40 per Euro Disney SCA share, it would appear that the offer price of €2.00 per share integrated, to a large extent, i.e. up to €1.60 per share, the consequences that the *ut singuli* action could have had on the asset base of the company Euro Disney SCA. Therefore, the possible implementation of a compulsory squeeze-out would not be likely to lead to irreversible harmful consequences for the shareholders. The proposed tender offer was thus declared compliant on 9 May 2017.

An identical methodology was used for the valuation of the Grande Paroisse shares in the tender offer filed in 2004 (see AMF annual report for 2004, pages 111-112).

Order of the Court of Cassation relating to the powers of the Paris Court of Appeals, in the framework of an appeal relating to a tender offer

The order of 5 July 2017 of the Court of Cassation brought to an end the policy debates resulting from the rulings of the Paris Court of Appeals returned in the Legrand case (2003) and the Hyparlo case (2005). In these rulings, the Paris Court of Appeals on the one hand specified that the appeal filed was “a full jurisdiction appeal exercised however within the limits of the competences and powers assigned to the authority controlled by the judge” and, on the other hand, after annulling a waiver for the mandatory filing of a tender offer, ordered that the said offer be filed within three months of the notification of the ruling. Based on this jurisprudence, some authors have considered that in the area of disputes concerning tender offers, the power vested in the Paris Court of Appeals was not limited solely to the power to annul the contested decision, but could be analysed as being also a power to amend the said decision.

With respect to the proceedings arising from the compulsory tender offer on the shares in Euro Disney SCA declared compliant by the AMF on 31 March 2015 (see AMF annual report 2015, pages 85-86), an appeal against the ruling of the Paris Court of Appeals on 8 November 2015, dismissing the appeal annulling the decision of compliance, was filed with the Court of Cassation.

The Court of Cassation, called to rule on the application of the provisions of article 6.1 of the European Convention on Human Rights (ECHR) in the appeals against the decisions of the AMF

[27] This is an action to obtain compensation for damages suffered by a company, initiated by its shareholders on behalf of the company.

relating to the tender offer that were filed with the Paris Court of Appeals, which, according to the plaintiff, is limited to a formal review of the tender offers with no real power to amend the decisions of the AMF in such a way as to guarantee the parties a fair hearing, ruled for the first time on this question in an order dated 5 July 2017.

By this order, while recalling that the objective of article 6 of the ECHR is not to guarantee access to a court that may substitute its own opinion for that of the administrative authorities, the Court of Cassation considered that if the Paris Court of Appeals is called to rule on an effective contentious appeal that presents all the guarantees set out by article 6 of the ECHR, its power in terms of the tender offer is a power of annulment and not of amendment.

5

Market supervision, inspections and investigations

In 2017, the AMF undertook 47 inspections, vs. 36 in 2016. This increase is due in particular to the implementation of a series of short, targeted inspections on selected subjects, targeting a single population of entities. These inspections represented 15 cases in 2017.

The number of disciplinary proceedings undertaken was stable: 19 inspections (vs. 18 in 2016) gave rise to a decision by the Board to file a statement of objections, of which 12 were accompanied by an offer of administrative settlement.

The AMF also undertook 68 investigations vs. 75 in 2016. Of the 24 investigations conducted by the AMF and completed in 2017, 9 cases gave rise to a decision by the Board to file a statement of objections, of which 4 were accompanied by an offer of administrative settlement. Finally, on 31 December 2017, 2 investigations were in the process of referral by the AMF to the national financial prosecution service (PNF). The other 44 investigations were undertaken as a result of requests for assistance from by foreign authorities.

During 2017, the AMF rolled out a new technical infrastructure for supervision of the markets. This infrastructure, known as ICY, was designed to process very large volumes of information and uses innovative technologies such as big data.

MARKET SUPERVISION

The AMF analyses, on a daily basis, transactions realised on the markets in order to identify any unusual event or behaviour that could be qualified as market abuse. In particular, these would be cases of price manipulation, insider dealing, and distribution of false information, but can also include breaches of transparency obligations or professional obligations applicable to financial intermediaries. The AMF thus ensures the orderly operation of the markets by reviewing the transactions realised by market participants against all the other sources of information available to it.

This ongoing supervision is based on a daily feed of transaction reports sent by financial intermediaries via the direct transaction reporting (RDT) system, by market infrastructures, and by the other regulators, as well as a daily data feed of orders executed on French trading platforms.

This feed is supplemented by information obtained from various data providers, the clearing house, the central securities depositary (CSD), and trade repositories for derivatives traded over the counter. This system of supervision also relies on tools that store the information exchanged on internet forums and social media networks.

Furthermore, the AMF uses external alerts, including reports of suspicious transactions from investment services providers and European counterparts (1,018 reports of suspicious transactions in 2017 including more than 250 from European regulators). In 2017, the AMF used more than 90 alerts received from whistleblowers provided for by law no. 2016-1691 relating to transparency, the fight against corruption and the modernisation of the economy, known as the “Sapin II” law.

FIGURE 1. ANALYSIS OF MARKET ALERTS RAISED BY AMF SYSTEMS

Alerts generated/Situations analysed/Investigations undertaken

In order to be able to analyse such a high volume of information, the AMF has developed a platform for the automatic identification of potential anomalies. Based on alerts produced by this platform, the AMF analysts cross-reference the information and add to it as required with requests for information sent to financial intermediaries, to identify end-investors or obtain details on orders placed, for example. It is only by identifying the behaviour patterns of beneficiaries of transactions over an extended period, and developing an in-depth knowledge of the values and determining factors for changes in behaviour, that the anomalies identified can be considered as sufficiently suspicious or not to require a more in-depth investigation.

Mid-2017, the AMF rolled out its new platform for surveillance and supervision of the markets. The ICY platform uses leading-edge technologies such as big data, and has been designed to process the very high volumes of reports on transactions and orders required by the European regulation on the markets in financial instruments (MiFIR[28]) and to meet the AMF's stated objective to use the data available from the trade repositories in connection with EMIR[29]. ICY is intended to gradually replace the old supervision platform, by integrating all the data available in order to be able to extract as much relevant information as possible by the use of new technologies such as machine learning, in future.

The AMF maintained its international presence during 2017, firstly with ESMA, where it played an active role in the work to implement European regulations such as MiFIR and EMIR on subjects linked to transaction reporting. In particular, these works contributed to setting the reporting standards in the ESMA guidelines. Likewise, the AMF participated in the work by ESMA concerning the requirements relating to commodity derivatives and transparency on the financial markets. Finally, the AMF also took part in the international project to standardise transaction reporting on OTC derivatives, particularly on the definition of unique transaction and product identifiers.

Based on the market experience of its analysts as well as the mine of information at its disposal, the AMF conducted a strategic watch to identify new behaviour patterns or the development of new trading techniques, which can result from changes in regulation or the operation of the markets, or even certain financial innovations. It can thus detect new trends or identify the emergence of possible new risks, and adapt its organisation in line with these trends and practices.

In 2017, it continued with its market analyses. In particular, at the beginning of the year, it published a detailed analysis of the activity of the major market participants engaged in high-frequency trading (HFT). The objective of the work carried out by the AMF was to analyse liquidity making and taking by high-frequency traders, who now act as the leading market makers for liquid stocks on the Paris market, and to examine how their behaviour changes in periods of high stress. This analysis showed, in particular, that high-frequency traders are important contributors to liquidity during normal market conditions, but clearly reduce their presence in the order book ahead of announcements that are likely to affect

[28]Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments, amended by Regulation (EU) 648/2012 of the European Parliament which entered into force on 03 January 2017.

[29]Regulation (EU) No. 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories.

share prices. Furthermore, the study highlighted the fact that high-frequency traders, during periods of market stress, consume more liquidity than they provide to the markets.

The AMF also published a study on the propagation of market shocks via the analysis of seven recent events. Besides a strong correlation between the CAC 40 and the EURO STOXX 50, the study of a case of suspension of the EURO STOXX 50 futures shows that CAC 40 prices wavered and volumes were down during this period of suspension, and underscored the important role that the pan-European index can play in decision-making by French market participants.

UPDATE OF THE INVESTIGATION GUIDE AND THE INSPECTION GUIDE

To take account of the implementation of new texts but also to streamline certain procedures, the AMF updated its investigation and inspection guides. These guides are intended to be informative and aim to provide specifications on the objectives for carrying out investigations and inspections on site, and the methods of doing so. They are provided to persons who are asked to cooperate with an investigation or inspection instigated by the AMF. They are available in English on its website (www.amf-france.org/en_US/ > Regulation > In-depth > The AMF > AMF functioning & financial sector reforms).

The principal changes to the Investigation Guide focused on the following:

- reference to the implementation of the European regulation of 16 April 2014 on market abuse;
- integration of the law of 21 June 2016 reforming the system for the punishment of market abuse, which introduced a system of referral between the AMF and the national financial prosecution service (PNF) intended to avoid double punishment via both criminal and administrative proceedings;
- reference to administrative settlement, which is now open to investigation since the law of 9 December 2016.

The changes to the Inspection Guide focused mainly on the following:

- clarification that findings may be presented at the end of an inspection by way of a simple interview or a hearing;
- the introduction of the option to request by email data that entities are bound to retain;
- reference to the offence of obstruction, extended by the law of 9 December 2016 to cover inspection procedures, such that the AMF can now sanction this offence, characterised by the refusal to cooperate of a person summoned in connection with an inspection.

INSPECTION OF PROFESSIONAL INVESTORS

The AMF ensures compliance by service providers that fall within its jurisdictional authority with the regulations by which they are bound, particularly in the following areas:

- ensuring that investment services providers (ISPs), custodians of undertakings for collective investment (UCIs), asset management companies (AMCs), financial investment advisors (FIAs), and market infrastructures exercise their activities under conditions that comply with regulation;
- supervising inspections of FIAs carried out by their professional associations;
- ensuring that approved collective investment products comply with the applicable regulations and the restrictions defined on approval;
- ensuring compliance with the rules adopted by the market infrastructures;
- ensuring compliance by regulated entities with the professional codes by which they are bound;
- staying informed about the conditions for the provision of investment services, current practices, and the adaptation of regulations to these changes;
- contributing to the identification of risky behaviour that requires intervention by the regulator.

The population of service providers regulated by the AMF is composed of:

- 630 asset management companies;
- 200 credit institutions authorised to provide investment services;
- 79 investment firms, financing companies/investment firms;
- 15 branches of foreign asset management companies authorised to operate in France under the free establishment provisions of the UCITS and AIFM directives;

- 108 branches of foreign investment services providers authorised to operate in France under free establishment provisions, including 57 investment firms and 21 credit institutions;
- 1 custody account keeper that is not an investment services provider;
- 5,232 financial investment advisors and 5 industry groups charged with representing them collectively and defending their rights and interests;
- 52 crowdfunding investment advisors.

Inspections carried out in 2017

TABLE 1. INSPECTIONS AND THEIR OUTCOMES

	2015	2016	2017
Number of inspections undertaken	36	36	47
including short, subject-based inspections			15
Number of inspection reports sent	33	39	49
Number of follow-up letters	29	14	29
Number of statements of objection	12	18	19
accompanied by offer of administrative settlement	8	9	12

How an inspection is conducted?

Initiating an inspection

The Secretary General of the AMF orders an inspection based on a proposal submitted by the departments. The Secretary General establishes the inspection order, specifying the identity of the inspection manager and the objective of the inspection.

Gathering information

The inspectors gather the information required for their mission, from the inspected person. They may visit the premises, send written requests, and carry out interviews and hearings.

Inspection report

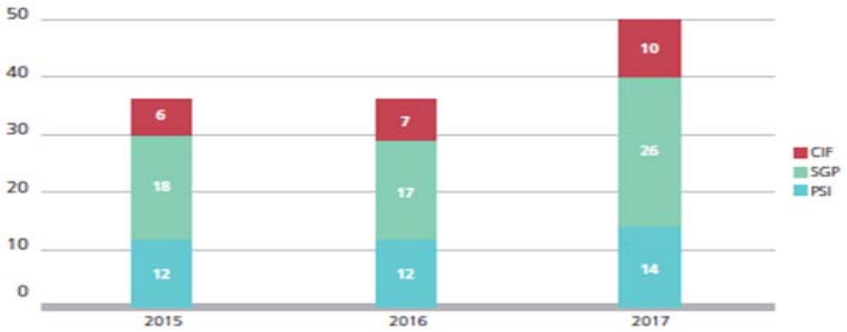
The inspectors analyse the information gathered and prepare an inspection report.
This report is sent to the inspected person, who may provide comments.

Possible outcomes of an inspection

After reviewing the inspection report and any comments provided on this report by the inspected person, the Board may decide to::

- notify the respondents of the complaints against them and instigate sanction proceedings with the Enforcement Committee;
- - notify the respondents of the complaints against them and propose an administrative settlement;
- send the inspection report to the Public Prosecution Service if it raises any suspicion of criminal offences;;
- send the inspection report to another national or foreign competent authority, if it contains elements that do not fall within the jurisdictional authority of the AMF;
- send a follow-up letter to the inspected person to request that they comply with regulations;
- - close the case.

FIGURE 2. BREAKDOWN OF INSPECTIONS UNDERTAKEN BY CATEGORY OF PROFESSIONAL



FIAs / Asset management companies / Investment service providers

	PSI	SGP	CIF
Inspections undertaken in 2017	12	24	11
Inspections closed in 2017 by sending inspection report	8	15	7
Inspections undertaken in 2016 and closed in 2017 by sending inspection report	6	10	3

With the support of the regional departments of the Banque de France, the AMF also undertook 70 inspections called “mass inspections” on FIAs covering five regions. The streamlined format of these inspections, focusing on specific audit points, enabled a good understanding at a realistic level of a population of FIAs totalling 5,232 natural and legal persons in 2017.

During the year, on two occasions, the AMF delegated an on-site inspection targeting investment firms to the Autorité de contrôle prudentiel et de résolution (ACPR).

Types of inspection undertaken in 2017
The inspections related to market operators of very different sizes and covered various topics depending on the nature of the entity being inspected.

In 2017, four inspections targeting investment services providers were undertaken on the subject of marketing; two inspections related to previous FIAs that had been recently approved; one inspection related to financial analysis; and one was carried out on the subject of discretionary management.

In addition, four inspections were undertaken following alerts: two of these were based on an alert about marketing practices, one followed an alert about EMIR transaction reporting requirements, and one was the result of an alert on best execution.

Among asset management companies, ten inspections were undertaken on the following subjects: anti-money laundering and terrorist financing (three inspections); newly approved entities (three inspections); and the system for control and management of conflicts of interest and risk management (four inspections). Three inspections, which targeted market-leading establishments based on their size, related to the system for control and management of conflicts of interest. In addition, 11 inspections were undertaken following alerts, focusing in particular on independent management, management of conflicts of interest, compliance with regulatory ratios, and financial management.

Finally, two financial investment advisors were inspected on the subject of their compliance with professional obligations (operation of marketing networks and FIA advice for institutional investors), and nine inspections were undertaken as a result of alerts relating to the marketing of financial instruments.

Action taken after inspections
19 reports established after inspections relating to compliance with professional obligations led the Board to decide to send a statement of objections to:

- five investment services providers (excluding asset management companies);
- four asset management companies; and
- 10 financial investment advisors (FIAs).

For 12 of these inspections, the AMF decided to send one or more statements of objections accompanied by an offer of administrative settlement. For the other seven, it decided to instigate sanction proceedings without offering settlement. Finally, 29 inspection files resulted simply in a follow-up letter.

Principal lessons learned from inspections undertaken in 2017
Firstly it is worth noting that the existence of an operational organisation as well as appropriate procedures and systems for internal control promote the success of inspection missions. This means that the duration of the inspections can be shorter, without increasing the work necessary to meet the demands they impose on the inspected entity. Most of these demands relate to documents that must be available and easily accessible because they are required by regulation.

MARKETING AMONG BANKING NETWORKS

The AMF has undertaken a series of five inspections of investment services providers relating to the promotion of EMTNs, units in real estate investment companies (SCPIs), and redeemable subordinated securities (TSRs) among banking networks, to a population aged mainly over 70 years. These inspections were the subject of a coordination exercise with the ACPR in the framework of the joint unit.

In particular, the inspections highlighted shortcomings, which were more or less obvious depending on the establishments inspected, in terms of their understanding of clients' knowledge and experience.

Among these establishments' practices that did not comply with regulations, the inspections revealed:

- the use of incomplete KYC questionnaires, with no mention of the client's level of experience, and the exclusive use of the client's self-assessment, which does not provide a satisfactory indication of the client's real level of knowledge and experience;
- the use in the KYC questionnaires of wide investment horizons, particularly over the long term, which does not allow a sufficiently detailed identification of the client's desired investment horizon;
- the delivery of investment advice even though the client file presented an unsigned questionnaire or a questionnaire signed after subscription;
- the delivery of investment advice even though all the required information relating to the client was not found in the client file;
- the existence, in some files for elderly clients who received investment advice, of a document signed by these clients in which they state they did not receive any investment advice;
- the delivery of investment advice for subscription to euro medium term notes (EMTNs), real estate investment companies (SCPIs), or redeemable subordinated securities (TSRs) even though the clients had stated that they were seeking "almost zero or limited" risk, or a "regular investment scheme", or a shorter investment horizon than that of the recommended instruments;
- a lack of any audit trail for the service provided by the ISP or evidence of the suitability of the advice.

In some cases, the marketing documents relating to TSRs intended for the distribution network were biased, inaccurate or misleading, or even contradicted the regulatory documents. Furthermore, the detailed information relating to the principal risks associated with TSRs was not systematically provided to the client.

With regard to the system of compliance and internal control, there appeared to be very few audits of the service providers with regard to the marketing of financial instruments, and many shortcomings. In other cases, the resources allocated and access to information were too restricted for the compliance function. Finally, some inspections showed that where a system was in place to regulate the promotion of high-risk financial instruments to elderly clients, the internal control did not result in the appropriate due diligence procedures that would ensure compliance with this system.

MARKETING VIA DISTRIBUTION CHAINS

The AMF also undertook inspections targeting operators involved in product distribution chains. These inspections revealed that the risks associated with bad marketing practices could be accentuated by the multiplication of participants.

The AMF conducted two inspections focusing on investment services providers acting as intermediaries between issuers of products or funds, and the distributors of these products. Among the practices that did not comply with regulation, the inspections revealed the following:

- the remuneration policy of the investment services provider (ISP), based on the fees paid by the SCPI management companies and retroceded for the most part to financial investment advisors (FIAs) and associated partner agents via progressive remuneration rates (depending on volume of business realised), was contrary to the AMF position in DOC-2013-24 relating to the remuneration policies and practices of investment services providers, and potentially generated conflicts of interest between the interests of the partner agent and the financial investment advisors, on the one hand, and those of the subscribing clients, on the other. Furthermore, the method of calculating this remuneration was not clearly indicated to investors prior to the provision of the investment service;
- with regard to the provision of the investment advisory service by the investment services provider's associated agents, the KYC questionnaire on the client's knowledge and experience about financial investment presented shortcomings, particularly in terms of information to be gathered to evaluate the level of knowledge of the investor about the financial markets, as well as their experience in terms of financial investments;
- based on a sample of client files, there were discrepancies revealed between the client profile and the high concentration of the investment in their portfolio;
- the investment services provider did not provide a satisfactory level of information to the clients: in particular, the website did not contain any information on the nature of the investment services provided;
- the investment services provider presented biased information with regard to the benefits and risks of SCPI investment;
- the marketing documents did not present comprehensive information on the fees retroceded to intermediaries by the investment services provider;
- with regard to the investment advisory services provided, the investment services provider did not correctly document the experience and knowledge of the clients, and did not document the personalised recommendation or investment horizon of the clients.

MARKETING OF FINANCIAL INSTRUMENTS NOT AUTHORISED IN FRANCE

In 2017, the AMF also undertook a series of inspections targeting operators who had been involved in the marketing of a fund governed by British law that was not authorised for sale in France. It also inspected an investment services provider acting as intermediary between the fund in question and a network of FIAs charged with selling the product to their clients, and five financial investment advisors who had promoted the fund. The investment services provider had concluded an agreement with the fund, which gave it an exclusive mission to sell the fund in return for a fee amounting to 9% of the amounts subscribed. The investment services provider and the financial investment advisors then concluded business provider contracts providing for remuneration to the financial investment advisors of 7% of the amounts subscribed.

In all these six inspections, the AMF noted that the operators in question had not carried out the due diligence in order to verify whether the fund was authorised for sale in France. Information on the risks associated with the fund (especially the risk of capital loss) did not systematically appear in the written advice reports. The due diligence with regard to adequacy and client knowledge was not always properly completed by the FIA.

MARKETING OF COMPLEX OR UNCONVENTIONAL FINANCIAL INSTRUMENTS

Three financial investment advisors who promoted high-risk or unconventional financial instruments (especially units in companies investing in the hospitality industry, solar panels, or structured EMTNs) were subject to targeted inspections by the AMF. The inspections revealed a lack of due diligence by the FIAs with regard to the nature and characteristics of the products proposed, shortcomings in the area of gathering KYC information and submission of regulatory

documents (new business relationship documents, statements of work, written advice reports), non-existent or incomplete information with regard to the remuneration paid to the FIA from the issuers of the products in question, and biased information about the risks and benefits of the products.

PERFORMANCE FEES

The AMF also continued with a series of subject-based inspections, begun in 2016, relating to performance fees. These fees remunerate the management company when the UCITS exceeds its fixed objectives, and are thus deducted from the assets of the UCITS. For collective investment schemes, performance fees are regulated by article 314-78 of the AMF General Regulation, therefore applicable, which specifies that the management fees of a fund may include a variable element, provided that:

- it does not incite the asset management company to take excessive risks in the hope of increasing the performance of the UCITS;
- it is compatible with the objective of the fund and its risk profile, as presented to investors;
- the calculation of performance can be verified, to prevent any possible manipulation. Unitholders must be informed of the existence of a performance fee and of its potential impact on the return offered by the UCITS.

The AMF allows management companies the freedom to determine the methods used to calculate reserves for performance fees within the limits imposed by the regulation set out above. In 2017, the inspections conducted by the AMF identified various methods of deduction of variable management fees that led to structural inequalities in the treatment of unitholders, particularly with regard to subscriptions/redemptions.

MARKET SOUNDINGS ON BOND ISSUES

The AMF has also undertaken inspections on the practice of market soundings on bond issues within two establishments. These inspections revealed, in particular, that the qualification of information as being inside information, which leads to the regulatory obligation to establish a list of insiders and to registration on the watchlist for the purposes of verifying the distribution of information linked to the issue, was assigned to the front office. The practice observed highlighted that the lists of frequent issuers included sovereign issuers, supranationals and agencies, and also included, for one of the establishments, the name of several banking institutions. The fact that an issuer regularly carries out issues on the bond market should not preclude the establishments from having to analyse the nature of the information received, nor the characteristics of the issue.

In 2018, we will implement subject-based SPOT inspections: these are shorter and cover more operators, and they enable us to step up our preventive role and improve our knowledge of the reality of the market.

Sophie Baranger,
Managing Director, Investigations and Inspection Directorate

MARKETING OF COMPLEX OR UNCONVENTIONAL FINANCIAL INSTRUMENTS

Three financial investment advisors who promoted high-risk or unconventional financial instruments (especially units in companies investing in the hospitality industry, solar panels, or structured EMTNs) were subject to targeted inspections by the AMF. The inspections revealed a lack of due diligence by the FIAs with regard to the nature and characteristics of the products proposed, shortcomings in the area of gathering KYC information and submission of regulatory documents (new business relationship documents,

statements of work, written advice reports), non-existent or incomplete information with regard to the remuneration paid to the FIA from the issuers of the products in question, and biased information about the risks and benefits of the products.

PERFORMANCE FEES

The AMF also continued with a series of subject-based inspections, begun in 2016, relating to performance fees. These fees remunerate the management company when the UCITS exceeds its fixed objectives, and are thus deducted from the assets of the UCITS.

For collective investment schemes, performance fees are regulated by article 314-78 of the AMF General Regulation, therefore applicable, which specifies that the management fees of a fund may include a variable element, provided that:

- it does not incite the asset management company to take excessive risks in the hope of increasing the performance of the UCITS;
- it is compatible with the objective of the fund and its risk profile, as presented to investors;
- the calculation of performance can be verified, to prevent any possible manipulation. Unitholders must be informed of the existence of a performance fee and of its potential impact on the return offered by the UCITS.

The AMF allows management companies the freedom to determine the methods used to calculate reserves for performance fees within the limits imposed by the regulation set out above. In 2017, the inspections conducted by the AMF identified various methods of deduction of variable management fees that led to structural inequalities in the treatment of unitholders, particularly with regard to subscriptions/redemptions.

MARKET SOUNDINGS ON BOND ISSUES

The AMF has also undertaken inspections on the practice of market soundings on bond issues within two establishments. These inspections revealed, in particular, that the qualification of information as being inside information, which leads to the regulatory obligation to establish a list of insiders and to registration on the watchlist for the purposes of verifying the distribution of information linked to the issue, was assigned to the front office. The practice observed highlighted that the lists of frequent issuers included sovereign issuers, supranationals and agencies, and also included, for one of the establishments, the name of several banking institutions. The fact that an issuer regularly carries out issues on the bond market should not preclude the establishments from having to analyse the nature of the information received, nor the characteristics of the issue.

VALUATION

The AMF conducted inspections targeting private equity management companies, relating to the valuation of shares in unlisted companies held by the funds. The inspections highlighted the following main trends:

1. the valuation procedures were generally insufficiently clear with regard to the methods used and the criteria used to select a method, so that the relevance and consistency of the methods used could not be guaranteed *a priori* (consistency over time for a single investment and consistency between different investments);
2. most of the asset management companies inspected did not provide sufficiently clear and documented evidence of the choices made in terms of valuation, which meant that the relevance of the calculation of the net asset value and thus the performance of the funds over its life could not be guaranteed;
3. the role of the independent valuer was not always sufficiently documented in advance, or correctly understood by the management company, assigning it the task of ensuring consistency rather than actually carrying out the valuation;
4. in most cases, the control mechanism for these management companies was deficient and did not allow the detection of methodological errors during valuation.

SECURITISATION

In 2017, the AMF finalised the inspections targeting the managers of securitisation vehicles (OT) launched in 2016. Generally speaking, the inspections show that the activity of OT managers is unconventional and stands out from that of “traditional” asset management companies in a number of ways. In particular, where a discretionary selection strategy is in place with regard to debts, in practice this is realised by an advisor. Thus, the activities carried out by these managers essentially involve the verification of compliance with the provisions of the fund's regulation, and leave little room for discretionary decisions.

FINANCIAL ANALYSIS

The AMF undertook two inspections relating to compliance with the AMF position-recommendation DOC-2013-25 relating to analysis. The inspections highlighted shortcomings both in terms of the specific system in place for the exercise of financial analysis by establishments and in terms of the compliance mechanism, which proved to be inadequate in terms of alerts and management of professional misconduct by analysts.

These inspections also revealed a lack of information and indications contained within the analysis documents, which did not systematically present the principal methods of valuation used to establish the recommendation, nor the conflicts of interest relating to certain transactions in which the establishment had been involved as lead manager or associate lead manager on the securities covered by the analysts. In some cases, the analysis documents included information other than the factual data contained in the draft analysis documents sent to the issuers before publication, and inaccurate indications about the price objective and about the market making or liquidity contribution of a security.

The inspections also revealed, with regard to the compliance function, shortcomings and failures in the compliance mechanism of these establishments, illustrated by the incomplete nature of the control plan relating to financial analysis, the fact that some controls provided for in the control plan were not undertaken, the shortcomings in the controls that were carried out, insufficient documentation of the controls that were carried out, the failure to detect certain breaches relating to the financial analysis activity such as situations likely to give rise to the distribution of inside information that was not subject to any check.

The inspections also noted shortcomings in the system in place to monitor the distribution of inside information; this was illustrated for one of the establishments by insufficient physical separation of the activities of the analysts and the vendors.

INVESTIGATIONS

Investigations are usually the result of observations made in the framework of market supervision, the monitoring of listed companies, or complaints. They may also be conducted after a request from a foreign authority.

How an investigation is conducted?

Initiating an investigation

The Secretary General of the AMF orders an investigation if any behaviour likely to represent a breach of stock market rules is observed. The Secretary General specifies the scope of the investigation and the date from which the facts analysed would be likely to give rise to disciplinary proceedings.

Gathering information

The investigators gather the information required for their mission. They may visit the premises, send written requests, carry out hearings, or send international requests.

Detailed letter

A “detailed letter” is sent to any person likely to be investigated so that they may respond with their

TABLE 2. OPEN AND CLOSED INVESTIGATIONS

	2012	2013	2014	2015	2016	2017
Investigations undertaken by the AMF	80	77	83	65	75	68
Investigations closed	74	83	68	75	71	55
Number of statements of objection*	14	15	10	8	17	9
accompanied by offer of administrative settlement					2	4

Grounds for and nature of investigations in 2017
In 2017, among the 68 new investigations undertaken, 24 were at the initiative of the AMF and 44 were undertaken in the framework of international cooperation, vs. 49 in 2016.

22 of the 24 investigations undertaken at the initiative of the AMF were proposed by the Market Supervision Directorate, with the others initiated by other AMF departments.

Investigations may be proposed by the Corporate Accounting and Auditing Directorate, the Asset Management Directorate, the Retail Investor Relations Directorate, the Corporate Finance Directorate, or the Markets Directorate, or even the Investigations Directorate itself. They may also result from complaints or requests for information sent by the judicial authorities.

55 investigations were closed during 2017. Among these, 22 had been undertaken at the initiative of the AMF and 33 in the framework of assistance provided to foreign authorities.

As at 31 December 2017, of the 22 investigations initiated by the AMF and closed in 2017[30]:

- nine resulted in statements of objections, four of which were accompanied by an offer of administrative settlement;
- two investigations are undergoing analysis by the PNF under the referral procedure;
- ten resulted in the sending of one or more letters of observations;
- six were closed.

The majority of the investigations undertaken related to possible stock market offences considered as market abuse: insider dealing, distribution of false information, or price manipulation. Cases of insider dealing represented more than half of the investigations undertaken.

Cases of cybercrime linked to market abuse appeared in 2015. Some were disclosed in the public domain. These included, in particular, cases of insider trading such as the case of hacking of information providers used by US companies with more than 100 million dollars in illegal profits, the distribution of false information (such as the false takeover bid on Avon Products, or the false press release announcing the revision of the financial statements and the dismissal of the Chief Financial Officer at G4S in the United Kingdom), or cases of price manipulation such as the hacking into a computer at Kazakh bank Energo Bank, which affected the rouble/dollar exchange rate.

The incident of the false Vinci press release on 22 November 2016 confirmed that France is also affected by this stock market cybercrime.

This new type of market abuse requires specific technical knowledge and ad hoc tools in order to be able to conduct investigations effectively. The AMF has therefore undertaken an initiative to raise awareness among its teams on these issues, as have other regulators. The US Securities and Exchange Commission is a pioneer in this area.

[30] Some investigations resulted in a letter of observations with regard to certain persons and the instigation of disciplinary proceedings with regard to other persons investigated.

TABLE 3. BREAKDOWN OF INVESTIGATIONS UNDERTAKEN IN 2017 BY SUBJECT

Subject of the investigation*	2014	2015	2016	2017
Equities and bonds markets				
(insider behaviour or manoeuvres jeopardising the proper functioning of the market)	27	20	19	21
Financial information	11	9	11	3
Others (FIAs, direct marketing, etc.)	1	3	2	0
International cooperation	50	40	49	44

* The total is greater than the number of investigations undertaken, because some investigations related to the equities market (price manipulation or insider dealing) as well as to financial information.

INTERNATIONAL COOPERATION

In 2017, the AMF continued to cooperate with its foreign counterparts in the areas of investigation, inspection, market supervision, and exchange of information on financial intermediaries.

In this regard, it sent 416 requests for assistance to around fifty foreign regulators.

More than 30% of the requests for assistance presented by the AMF were sent to the UK regulator. In addition, there were many requests sent to the Luxembourg, Swiss, US, German and Italian authorities this year.

The AMF received 215 requests for assistance from its foreign counterparts in 2017, 44 of which led it to initiate an investigation. These requests concerned transactions falling within the jurisdictional authority of foreign regulators but realised by persons located in France. The principal countries asking for help from the AMF were Italy, Belgium and the United States.

International cooperation requests linked to insider dealing are still the most common. On average, 80% of requests, relating to all types of market abuse, involve an international component.

REFERRALS TO COMPETENT AUTHORITIES

In 2017, 14 cases were referred to the French judicial, administrative or professional authorities. Three cases were referred to the national financial prosecution service (PNF), one to the French council for statutory auditors (HCCC), seven to the ACPR and three to Tracfin. Finally, five cases were referred to other European regulators.

Eleven investigations were submitted to the national financial prosecution service (PNF) and, as at 31 December 2017, two were still in the referral phase between the AMF and the PNF. One investigation, which was referred to the PNF in 2016, was closed in 2017.

6

Settlements, sanctions and appeals

The Enforcement Committee, which is separate from the Board, is the AMF's disciplinary body. It rules on complaints made against persons subject to enforcement actions. It has the power to impose financial penalties and disciplinary sanctions on institutions that come within the AMF's jurisdictional authority and on natural persons under the control of these institutions or acting on their behalf, with respect to any breach of their professional obligations. It may also impose penalties on any natural or legal person, regardless of their activity, who has breached or attempted to breach regulations relating to market abuse, or who has committed any other offence that is likely to jeopardise the protection of investors or the proper functioning of the market.

Financial penalties imposed may extend to €100 million or ten times the amount of the profit made as a result of the breach, and may, in some cases, be as much as 15% of the annual turnover of the sanctioned entity.

The Enforcement Committee is made up of twelve members, divided into two sections.

During 2017, the Enforcement Committee issued 18 decisions, 15 of which were published on the AMF website. It also approved 13 administrative settlement agreements. In total, the Enforcement Committee issued 31 decisions in 2017.

SETTLEMENTS

The administrative settlement procedure (or "*transaction*") is an alternative to disciplinary proceedings, established by the law of 22 October 2010 relating to banking and financial regulation.

A settlement may be proposed, as deemed appropriate by the Board, to market intermediaries (investment services providers, asset management companies, financial investment advisors and persons under their authority or acting on their behalf) who have breached their professional obligations, to services providers managing market infrastructures, to issuers, or to any person who has committed an offence relating to market abuse.

The benefit of administrative settlement resides primarily in the fact that the proceedings take less time to complete, since the settlement agreement, which is always made public, must be concluded within four months. Settlement also plays an educational role, particularly because of the specific commitments made by the professionals concerned in order to comply with regulations. The amounts to be paid to the Public Treasury are set by the AMF Board, which uses those imposed by the Enforcement Committee for similar cases as a benchmark.

Finally, administrative settlements may, in some cases, include the payment of compensation to clients or unitholders who have suffered harm or damages due to their investment.

The administrative settlement procedure

At the same time as it issues a notification of complaints to a person subject to an enforcement action, the AMF Board may propose that they reach an administrative settlement. The person concerned then has one month to respond to the Board's proposal.

The person concerned refuses to participate in settlement discussions.

The person concerned agrees to participate in settlement discussions. Once reached, the settlement agreement is submitted to the Board for approval.

The agreement must be reached within four months from the time the person concerned accepted to participate in discussions exploring possible settlement. If not agreed within four months, disciplinary proceedings will be undertaken. The settlement agreement is negotiated between the AMF Secretary General and the person concerned, who commits to paying the Public Treasury a sum that may not exceed the amount of the financial penalty incurred.

The Board does not approve the negotiated agreement.
It may request that the Secretary General submit a new proposal to the person concerned.
In that case, this new agreement must be reached within one month of the notification of the Board's refusal to approve the initial settlement. A settlement may only be renegotiated once

The Board approves the settlement agreement. It must be submitted to the Enforcement Committee for approval

The Enforcement Committee does not approve the settlement

The Enforcement Committee approves the settlement

The settlement is published on the AMF website. The person concerned and the Chairman of the AMF may appeal the decision of the Enforcement Committee on the settlement agreement.

The settlement agreement summarises the complaints made against the person concerned and, if applicable, such person's comments. It provides for a commitment to pay a financial penalty to the Public Treasury (payment must be made within 15 days of the settlement being approved). It also indicates that the agreement will be published on the AMF website. It may indicate the obligations imposed on the person concerned t to bring them into line with regulations as soon as possible. The AMF monitors the person concerned's compliance with their obligations at the end of the period provided for. Finally, the agreement may provide for the compensation of investors who have incurred damages.

If the person concerned does not comply with the approved settlement agreement

Disciplinary proceedings are initiated.

In 2017, activity relating to settlements increased significantly:

- 13 administrative settlement agreements were executed (vs. 10 the year before);
- 16 settlements were approved by the AMF Board (vs. 7 in 2016; 3 of these approved settlements related to agreements executed in 2016);
- 13 (vs. 4 the previous year) were approved by the Enforcement Committee and then published (7 of these related to agreements executed in 2016).

One settlement procedure had to be referred to the Enforcement Committee, due to a failure to reach an agreement.

The total amount of the financial penalties paid to the Public Treasury as a result of these thirteen agreements approved by the Enforcement Committee was €2,515,000. This sum does not include the cost of carrying out remedial measures incurred by providers, nor does it include the costs, chargeable to the persons concerned, of any audits that may have been undertaken to monitor such persons' compliance with their obligations.

In 2017, for the first time, two settlements dated 29 May and 7 June related to market abuse cases - one concerned market manipulation; the other, insider dealing. The procedure for processing these administrative settlements is very similar to that applicable to professional misconduct by service providers (investment services provider, asset management company, financial investment advisor, etc.). Unlike administrative settlements resulting from an inspection, settlements for market abuse generally do not include a commitment to carry out remedial measures, since market abuse offences constitute a violation of a rule of abstention (i.e. to refrain from engaging in market manipulation, or using inside information, etc.), it may be difficult to provide for such a commitment that would result in the persons concerned's being asked to ensure they comply with the law.

Examples of settlement agreements published in 2017

SETTLEMENT CONCLUDED ON 26 NOVEMBER 2016: SYSTEM FOR DETECTION OF SUSPICIOUS TRANSACTIONS - MARKET ABUSE

An investment services provider was accused of not having implemented an appropriate and operational system to identify suspicious transactions on the equities and fixed income activities, and particularly the lack of an automatic alert system for the detection of market abuse. As such, controls relating to the equities activity did not cover all the securities handled, nor the most common types of scenarios of suspicious transactions. Likewise, the control measures relating to the fixed income activity were not appropriate. They focused exclusively on the verification of buy-sell transactions, margins and prices; the scope of the automatic system for detection of alerts (APAMA) was therefore insufficiently broad.

The second complaint was that the service provider had no system in place to identify suspicious transactions on the derivatives activity. These elements appeared even more serious in that the AMF had alerted the service provider in the past on the requirement to establish an appropriate structure and controls to identify certain types of manipulation.

Other than the agreed commitments to achieve compliance, the investment services provider committed to pay the sum of €300,000 to the Public Treasury.

SETTLEMENT CONCLUDED ON 12 DECEMBER 2016: ASSET MANAGEMENT COMPANY - INTERNAL CREDIT QUALITY RATING FOR SECURITIES APPEARING ON THE ASSETS OF MONEY MARKET FUNDS - VALUATION OF SECURITIES HELD

An asset management company was accused of shortcomings in its internal credit quality rating procedure for stocks appearing in the assets of existing and audited money market funds. In particular, the internal rating procedure incorrectly reconciled the ratings applied to short-term issues and those applied to long-term issues, from the rating agencies.

Furthermore, it relied exclusively on a combination of ratings issued by the rating agencies, where these existed, without any credit analysis or internal verification by the risk controller. The internal procedure did not provide for back-up of the ratings on the securities, moreover; this meant that an appropriate and documented risk management policy could not be maintained in operation.

The second complaint focused on the lack of appropriate procedures to ensure the fair, accurate, precise and independent valuation of the

assets of the funds analysed, which gave the asset management company too much leeway to calculate the valuation of the securities. Errors were also revealed in the application of the methods used to value the securities, as well as inaccuracies in the presentation of the methods in the funds' prospectuses, and insufficient traceability of information. A deficiency in internal control relating to the application of the procedure used for the valuation of securities was also highlighted.

Other than the agreed commitments to achieve compliance, the asset management company committed to paying the sum of €320,000 to the Public Treasury under the terms of this settlement.

SETTLEMENT CONCLUDED ON 5 APRIL 2017: FINANCIAL ANALYSIS AND INVESTMENT RESEARCH - COMPLIANCE MECHANISM - FAILURES IN THE SYSTEM USED FOR MANAGEMENT OF INSIDE INFORMATION

An investment services provider was accused of regulatory breaches concerning non-compliance; first, with respect to provisions relating to the production of analysis documents, especially with regard to their content and control by the provider's compliance department, and second, with respect to provisions relating to the implementation of a system for managing inside information in the framework of the research and investment and analysis activities.

Other than the agreed commitments to achieve compliance, including an undertaking to engage an external audit firm to verify the effectiveness of the corrective measures, the investment services provider committed to pay the sum of €450,000 to the Public Treasury.

SETTLEMENT CONCLUDED ON 29 MAY 2017: PRICE MANIPULATION - MARKET ABUSE

An investment services provider was accused of having repeated, multiple times over a period of nearly 18 months, a manipulative sequence under the terms of articles 631-1 and 631-2 of the AMF General Regulation, applicable at the time of the offence. The transactions in question identified as having been carried out by the trader, which consisted in entering large volumes of orders at the best prices on the order book, which effectively created an imbalance between supply and demand, before then cancelling them, were considered as likely to give false or misleading signals as to the supply of or demand for the securities, and secure their prices at an abnormal or artificial level.

The investment services provider committed to paying the sum of €300,000 to the Public Treasury with respect to this administrative settlement. This was the first settlement concluded in the area of market abuse since the implementation of the law of 21 June 2016 that extended its scope of application.

SETTLEMENT CONCLUDED ON 6 SEPTEMBER 2017: FAILURE OF INFORMATION BARRIERS CONTROL MECHANISM - FAILURE OF SYSTEM GOVERNING THE SOLICITATION OF INVESTORS - INSUFFICIENT COMPLIANCE REPORTS

An investment services provider was accused of breaches relating to the organisation of its branch in London, particularly in the framework of the Fixed Income-Debt-Capital Markets activity, under which the branch provides underwriting service to issuers. The inspection revealed shortcomings in the control mechanism for information barriers at the branch. The provider had not carried out any checks to ensure that the front office manager was properly communicating details of all new proposed fixed-rate bond issues to the compliance department as soon as possible. In this regard, the provider had not exercised enough care to ensure that no inside information could be unduly communicated to investors by the front office teams, with respect to new fixed-rate bond issues. Moreover, the provider had not ensured that no exchange of information was taking place between investors and the front office teams, even in the absence of market soundings announced by them.

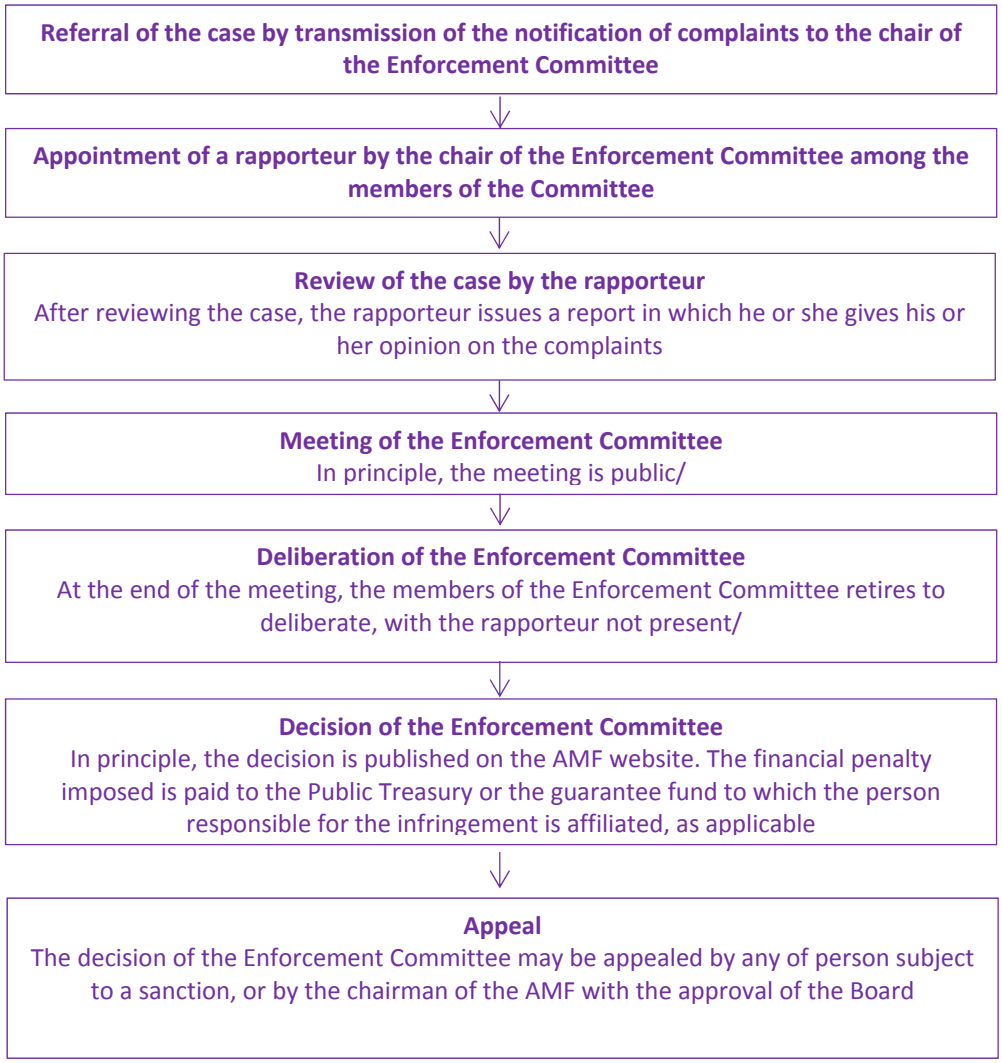
The second complaint related to the failure of the mechanism governing solicitation of investors insofar as the market sounding procedure did not specify that, even in the absence of inside information, the provider was still subject to the obligation to gain agreement from the issuer, to inform the issuer of the result of the assessment of the inside nature of the information, and to store the information relating to all market soundings.

The third complaint was based on the fact that there were insufficient compliance reports specific to the activity of the London branch to be able to keep the directors of the provider properly informed (over the period from June 2015 to November 2016).

Other than the agreed commitments to achieve compliance, the investment services provider committed to paying the sum of €390,000 to the Public Treasury under the terms of this settlement.

SANCTIONS

The procedure before the Enforcement Committee is set out in the following diagram:



During 2017, with respect to sanctions, the Enforcement Committee issues three decisions relating to challenges of the rapporteur appointed by the chair of the Enforcement Committee and 15 decisions on the merits.

These 15 decisions on the merits concerned 28 persons, including 12 legal entities and 16 natural persons.

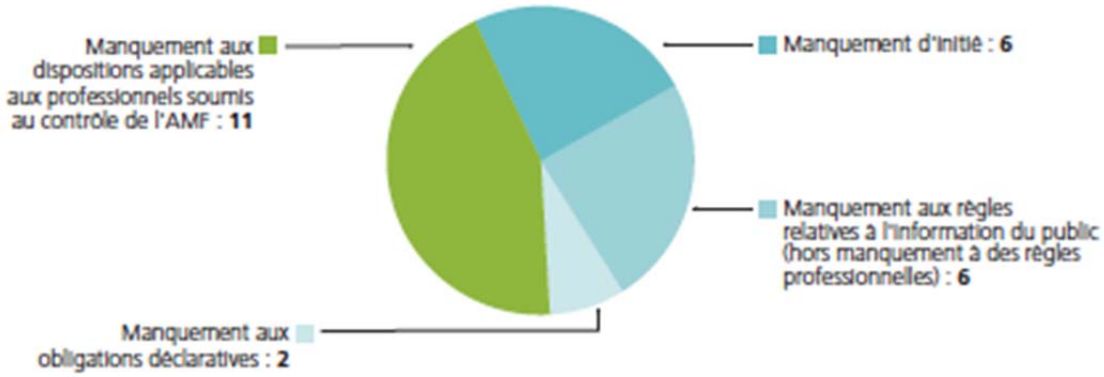
These resulted in the clearing of two legal entities and three natural persons, and the imposition of 23 financial penalties, ranging from €10,000 to €35 million, for a total of €40,756,000 paid by 10 legal entities and 13 natural persons.

Along with these financial penalties, the Enforcement Committee also imposed disciplinary sanctions on seven persons (two legal entities and five natural persons), as follows:

- two reprimands;
- two warnings;
- one ban on exercising the profession of financial analyst for ten years;
- one ban on execution of orders on behalf of third parties for ten years;
- one ban on exercising the activities of a financial investment advisor for ten years.

All decisions returned by the Committee in the area of sanctions, excluding those that rule on challenges of the rapporteur, were published on the AMF website.

FIGURE 1. BREAKDOWN OF REGULATORY BREACHES SANCTIONED*



(*) A single decision may relate to multiple breaches.

Insider trading (6)/ Breach of regulations relating to information in the public domain (excluding breach of professional regulations) (6)/ Breach of disclosure requirements (2)/ Breach of provisions applicable to professionals subject to AMF inspection.(11)

Among the decisions of the Enforcement Committee that were notable in 2017, seven are presented below, including four that were issued as a result of inspection procedures, and three after investigation procedures.

REGULATORY BREACHES BY AN ASSET MANAGEMENT COMPANY IN ITS MANAGEMENT OF FORMULA FUNDS: DECISION HANDED DOWN ON 25 JULY 2017

After an inspection relating to 133 formula funds structured and managed by an asset management company, the Enforcement Committee, meeting in plenary session, imposed a warning and a financial penalty of €35 million.

The funds inspected offered a total guarantee on the initially invested capital at maturity, excluding the subscription fee, as well as a performance defined by a mathematical formula. For each fund, the asset management company had constituted a "buffer" fed by a "structuring margin" and a part of the fees owed by unitholders in the event of early redemption.

The Enforcement Committee upheld all the complaints, which related to the deduction of redemption fees "vested" in the funds and also to

the deduction at maturity of the difference arising from the “structuring margin”.

First, it ruled that the information provided in the fund prospectuses, according to which half of the redemption fees were “vested” in the funds and served to offset the fees incurred in divesting the entrusted assets, was inaccurate and misleading.

Second, it ruled that by crediting the net redemption fees to a debt account of which it was the sole beneficiary, the asset management company had caused a reduction in the net asset value of the funds in order to protect its own commercial interests, thus breaching the accounting principles and regulatory rules applicable to UCITS and AIFs. It also ruled that the asset management company, which had imposed undue and unjustified charges on unitholders that were evaluated at €15.6 million, was thereby in breach of its obligation to act in their sole interest.

The Enforcement Committee also decided that the deduction of net redemption fees constituted a remuneration for the asset management company that should be integrated in the management fees borne by the fund, which as a result exceeded the maximum rate of management fees set out in the prospectuses to the tune of €3.6 million, in violation of the management company's obligation to act in the sole interest of unitholders.

Finally, the Enforcement Committee ruled that by failing to include in the annual reports for the funds the amount of the redemption fees in the management fees, the asset management company was in breach of its obligation to provide unitholders with accurate and clear information containing no misleading content.

The Committee then examined the complaints relating to the remainder of the structuring margin, which corresponded to the difference between the net asset value at maturity and the guaranteed net asset value.

First, it observed that the asset management company had free access to this remaining amount, where the guaranteed formula was attained at maturity of the fund. It therefore constituted a remuneration that should be integrated into the management fees borne by the fund during the previous period. Having determined that the maximum rate of the management fee indicated in the prospectus should be assessed by financial period and not over the total life of the fund, it ruled that the asset management company had exceeded this rate.

Finally, the Committee ruled that by failing to include in the annual reports for the funds the amount of the remaining structuring margin in the management fees, the asset management company was in breach of its obligation to provide unitholders with accurate and clear information containing no misleading content.

In determining the penalty imposed on the asset management company, which is considered as “one of the leading asset management operators in France”, the Committee took into account the gravity and scale of the violations committed.

BREACHES BY AN ASSET MANAGEMENT COMPANY OF ITS PROFESSIONAL OBLIGATIONS IN THE AREA OF PERFORMANCE FEES: DECISION HANDED DOWN ON 13 DECEMBER 2017

The Enforcement Committee issued a warning and imposed a financial penalty of €50,000 on a second asset management company for breaches of its professional obligations with respect to performance fees.

Firstly, the Enforcement Committee ruled that the method used by the asset management company, which consisted in including new subscriptions in the calculation base of the provision for its performance fees, led in this case to a weakened or broken link between the provision and the performance of the fund, in breach of article 314-78 of the AMF General Regulation. It determined that the share of the performance fees linked to new subscriptions constituted an individual cost, evaluated at €204,901, which led to a breach of the company's obligation to act to prevent the imposition of undue costs on unitholders, to act in the sole interest of the unitholders, and to act in an honest, trustworthy and professional manner.

The Committee then determined that the provision for the performance fees was calculated by taking into account the performance of the fund since the beginning of the financial period. Consequently, new subscribers were contributing to a provision that corresponded to the period prior to their entry as existing unitholders, without having benefited from this performance at the time of their subscription. The Committee ruled that this situation constituted a breach of the company's obligation to treat unitholders in an equitable manner.

The Committee also ruled that the removal by the company of the cap on the performance fees of one of the funds on 19 December 2014, backdated to 1 January 2014, had a multiplier effect on the method of calculation described above, leading to an undue additional cost with respect to 2014 amounting to €207,301 and amplifying the unequal treatment of entering and existing unitholders.

Finally, it decided that the asset management company had breached its obligation of information to unitholders, first by omitting to indicate in the Key Investor Information Document (KIID) for some financial periods the rate of performance fees actually deducted with respect to the previous period, and second, in the letter sent to unitholders informing them of the removal of the cap on the performance fees, by using wording to suggest that this was only applicable in the future whereas in fact it was backdated to the beginning of that year.

BREACHES BY AN INVESTMENT SERVICES PROVIDER OF ITS PROFESSIONAL OBLIGATIONS IN EXERCISING AN ACTIVITY CONNECTED WITH FINANCIAL ANALYSIS: DECISION HANDED DOWN ON 14 DECEMBER 2017

A fine of €900,000 was handed down to an investment services provider for having failed to comply, in the exercise of its financial analysis activity, with its obligations relating to the system in place for prevention of the undue distribution of inside information, the system for regulating personal transactions carried out by financial analysts, and the compliance mechanism.

The Enforcement Committee firstly ruled that the investment services provider was in breach of its obligation to implement an operational system to prevent the undue disclosure of inside information, for the following reasons:

- the lack of physical separation between the financial analysis activity and the brokerage activity in its Paris office and three of its European branches, with the three required conditions relating to the small size of the establishment concerned, reasonable grounds for the choice not to establish physical separation, and the adoption of effective alternative measures not all being met;
- the lack of indication, on the list of securities placed on the watchlist during 2014, of the reason for this and the identity of the insider parties;
- the lack of evidence relating to five employees in the financial analysis department that they had been informed of and were aware of the procedure relating to financial analysis.

The Committee then ruled that the investment services provider was in breach of its obligation to maintain a system regulating personal transactions by analysts. As an example of this violation, it noted that a financial analyst had been authorised to sell securities even though the procedure relating to financial analysis forbade it. It also observed that the investment services provider, at one of its branches, had two contradictory procedures in place: one provided for an exemption from the general ban on transactions by financial analysts, and the other, which was actually applied, instituted a general ban on such transactions.

Finally, the Committee ruled that the compliance mechanism was not operational and that the compliance function was inefficient, highlighting that:

- there was no audit trail of controls carried out by the investment services provider in seven of its eight branches;
- three audits provided for in the annual audit plan for 2014 had not been carried out;
- the said audit plan was incomplete;
- there was insufficient documentation of controls relating to securities on the watchlist and to changes in recommendations in research projects;
- three situations existed that were likely to give rise to the distribution of inside information that had not been subject to checking;
- the fact that the controls implemented by the investment services provider had failed to detect the incomplete nature of the indications on the list of securities on the watchlist.

BREACHES BY AN ASSET MANAGEMENT COMPANY OF ITS OBLIGATIONS OF INFORMATION AND RELATING TO ITS SYSTEM IN PLACE FOR VALUING INVESTMENTS: DECISION HANDED DOWN ON 29 DECEMBER 2017

The Enforcement Committee imposed a fine of €300,000 on an asset management company that was accused of various violations relating firstly to the quality of the information communicated to investors, directly or via the information sent to its distributors, and secondly to shortcomings in its

procedures and methods used for valuing its investments.

Having stated that information appearing on an independent page of a website or available via download must be regarded as being released in a separate document, the Enforcement Committee ruled that certain information appearing on the website of the asset management company presented the funds in a biased manner, in violation of articles L.533-12 of the Monetary and Financial Code and 314-10 and 314-11 of the AMF General Regulation, and that other information did not meet the requirements of article 314-16 of the same regulation, failing to provide a warning as to the conditions to be fulfilled in order to benefit from the preferential tax conditions indicated.

With regard to the information disseminated by the asset management company to its distributors via brochures provided to these distributors, the Committee ruled that, although the brochures themselves were not intended for circulation to non-professional investors, it was likely that in order to promote the fund, the distributors would communicate the information contained within the brochures to such investors, in writing or verbally, such that article 314-10 of the AMF General Regulation was applicable. It then upheld various complaints relating to information provided in these brochures, noting in particular the lack of any mention of the specific risks associated with the funds being marketed, the lack of important warnings, the fact that the scenarios used to calculate the internal rate of return (IRR) of the transactions realised were unreasonable and not based on objective information, and the lack of any disclaimer indicating that past performance is not a guide to future performance.

Finally, the Committee upheld the complaints relating to the system used to value the investments of the management company, noting that:

- procedures were imprecise, incomplete and not operational;
- the valuation methods were imprecise, unreliable and likely to be arbitrary;
- the internal control mechanism was not operational, standing controls were not documented or auditable, and the frequency of internal audits was insufficient.

INSIDER DEALING, PROFESSIONAL MISCONDUCT AND DISTRIBUTION OF FALSE INFORMATION BY A FINANCIAL ANALYST: DECISION HANDED DOWN ON 29 MAY 2017

The Enforcement Committee dismissed the complaint relating to the use of inside information communicated to a financial analyst.

The financial analyst was accused of having realised transactions on 28 securities while possessing, for each one, inside information relating to the future publication of a change in investment recommendation or an initiation of a hedge by his employer, with the investment services provider benefiting from a certain reputation with regard to its financial analysis activity.

The Committee ruled that this information was not likely to have a significant effect on the prices of the securities concerned at the time of the transactions in question, on the grounds that:

- it was not evident from the file that the analysis documents from which these recommendations arose and which were the justification for the recommendations had themselves been published. Therefore, it was not possible to assess the potential impact of the publication of said recommendations on the investment decisions of a reasonable investor;
- the information obtained during the proceedings did not allow an assessment of the market situation for the securities concerned before the distribution of the documents in question, whereas the criteria of significant influence is assessed at the time of the event and with regard to information available *ex ante*;
- the investment services provider is undoubtedly one of the leading analysis firms in France and in Europe but its reputation with regard to each security in question or that of each of the financial analysts who were the originators of the documents in question was not established.

Consequently, the Committee ruled that the information in question, as it failed to meet at least one of the three cumulative criteria for inside information set by article 621-1 of the AMF General Regulation, could not be qualified as such.

The respondent was nevertheless fined the sum of €100,000 for the following violations: firs, having breached his professional obligations by contravening the rules adopted by his employer relating to personal transactions by financial analysts and declaration of their securities accounts, and second, having disseminated false information by publishing an analysis document on a financial instrument after having taken positions on the said instrument without mentioning the resulting conflict of interest.

The chairman of the AMF appealed this decision before the Council of State.

ACCUSATION OF INSIDER DEALING DISMISSED DUE TO LACK OF INSIDE INFORMATION: DECISION HANDED DOWN ON 29 SEPTEMBER 2017

The Enforcement Committee dismissed the complaint relating to the use of inside information by a company and its director.

Two respondents were accused of having sold securities issued by a biotech company just before the publication of its first half results, while possessing inside information relating to the significant decline in its current operating income, in a proportion that was significantly greater than the market had anticipated.

The Committee firstly noted that the criteria of significant influence was assessed with regard to the information available *ex ante* and taking account of the activity and the context specific to each issuer. It then pointed out that the issuer was a biotech company in its development phase, presenting structurally loss-making results in its first years. This fact is well-known and expected by the market. Furthermore, the publication of its current operating income had not in the past represented a determining factor for analysts. Finally, the Committee indicated that at the time of the events, the issuer benefited from a favourable market environment resulting from positive developments in its most advanced compound and the procurement of funds enabling it to increase its cash resources, which are two indicators that are considered important by analysts. Consequently, the Committee ruled that the information in question was not likely to have had a significant influence on the price of the issuer's security.

INSIDER DEALING AND THE FRAUDULENT USE OF ORDERS AWAITING EXECUTION: DECISION HANDED DOWN ON 18 DECEMBER 2017

The Enforcement Committee held that information relating to the principal characteristics (value, volume and highest price limit) of buy orders on securities constituted inside information and imposed penalties on two persons for unlawful disclosure of that inside information and insider dealing, amounting to €450,000 plus a ten-year ban on exercising the order execution activity on behalf of third parties, and €496,000, respectively.

In this case, the first respondent, a sales who received instructions from an asset management company acting on behalf of a mutual fund, was accused of having disclosed 36 items of inside information relating to the principal characteristics of future buy orders on this fund to one of his acquaintances, who used them to place sell orders in line with these future buy orders.

The Committee ruled that 34 of the 36 pieces of information in question constituted inside information.

However, it dismissed the claim of unlawful disclosure of inside information by the sales to the user in 27 cases, on the grounds that the latter placed orders on these securities at a time when the information was no longer inside information or had become obsolete due to the execution of the fund’s orders.

The Committee ruled that the sales was privy to the remaining seven items of inside information, and also, based on a set of facts relating primarily to the terms and conditions of orders passed by the second respondent, calibrated and placed at the most appropriate time to meet those of the fund, and on the behaviour of the latter in the order book before and after the fund's transactions, that the these seven items of inside information had been unlawfully disclosed. Finally, the Committee ruled that the positioning and characteristics of the second respondent's sell orders could only be explained by their possessing inside information, and that they knew or ought to have known that the information in question was inside information. The claims of unlawful disclosure and use of these seven pieces of inside information were therefore deemed to be confirmed.

The Committee also upheld a second breach with regard to the sales, based on the unlawful use of 36 items of information relating to orders on the fund awaiting execution, in violation of article 314-66, III of the AMF General Regulation. It held that using such information for one's own purposes constitutes an unlawful use of that information, even if the person did not, directly or indirectly, carry out any own account transaction or made a profit.

APPEALS

The decisions of the Enforcement Committee can be appealed by the respondents or by the chairman of the AMF (known as a "principal" appeal) within two months from their notification. The chairman of the AMF may also file an appeal, known as a "cross-appeal", in response to an appeal filed by a respondent, within a period of two months from the notification of such appeal.

Appeals against decisions of the Enforcement Committee are filed:

- before the Council of State for decisions handed down with regard to professionals subject to inspection by the AMF (investment services providers, financial investment advisors, depositaries, members of regulated markets, etc.) or with regard to persons placed under their authority or acting on their behalf;
- before the Paris Court of Appeals in other cases.

Out of the fifteen decisions handed down in 2017 by the Enforcement Committee imposing sanctions, three were appealed by the person subject top a sanction and one was subject to a principal appeal filed by the chairman of the AMF.

Decisions handed down by the Council of State

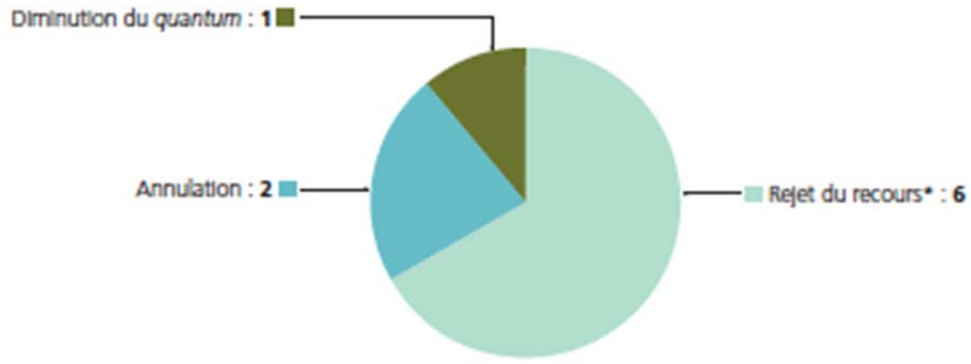
In 2017, the Council of State issued four decisions ruling on nine appeals filed by parties sanctioned by the Enforcement Committee.

These four decisions resulted in the solutions presented in figure 2 below: two decisions out of the four handed down will be presented.

By decision of 19 May 2017, the Council of State dismissed the appeals filed by a company and its director, who were sanctioned by the Enforcement Committee on 7 June 2016 for having breached the professional obligations applicable to financial investment advisors.

The Council of State first upheld the Committee's findings with regard to the nature of the activity exercised by the company, that it had acted as a financial investment advisor, and approved the Committee's jurisdiction to impose a penalty on the company, including with respect to its other activities of wealth management advisory services. It also upheld the Committee's finding that the company was in breach of its obligation to provide clear and accurate information that is not misleading.

FIGURE 2. TYPES OF RULING ISSUED BY THE COUNCIL OF STATE WITH REGARD TO APPEALS FILED AGAINST DECISIONS HANDED DOWN BY THE ENFORCEMENT COMMITTEE (BY APPEAL)



* One decision dismissed the appeals filed by the persons subject to a sanction but partially amended the decision of the Enforcement Committee in that it ordered the non-anonymised publication of this decision on the AMF website without a time limit.

Reduction of quantum (1)/ Dismissal of appeal* (6) / Annulment (2)

With regard to the director, who was bound by an obligation to ensure that the company complies with the law, regulations and professional obligations relating to it, the Council of State ruled that he could be sanctioned without having to establish his personal involvement in the violations.

By a second decision on 19 May 2017, the Council of State dismissed the appeals filed against a decision of the Enforcement Committee handed down on 4 December 2015, imposing two penalties of €5 million each on a high-frequency trading company and a stock market operator, except with respect to the amount of the fine imposed on the trading company, which was reduced to €3 million.

The trading company, which benefited from an exemption granted by the stock market operator allowing it to cancel an unlimited number of orders without being liable for the financial penalties applicable for exceeding the ratio between orders and transaction, was accused of having set up an arbitrage strategy intended to take advantage of the price differences between five trading platforms, which constituted two instances of market manipulation.

The Council of State ruled that the violations were confirmed. With regard to market manipulation by the placing of orders which give, or are likely to give, false or misleading signals as to the supply of, demand for, or price of, financial instruments, it ruled that there was no requirement to investigate whether the alleged behaviour was the result of an intention to manipulate the market where its originator was aware that the orders it was placing were necessarily going to give false or misleading signals. However, in order to reduce the amount of the fine, the Council noted that the violations had been made possible by the exemption granted by the stock market operator.

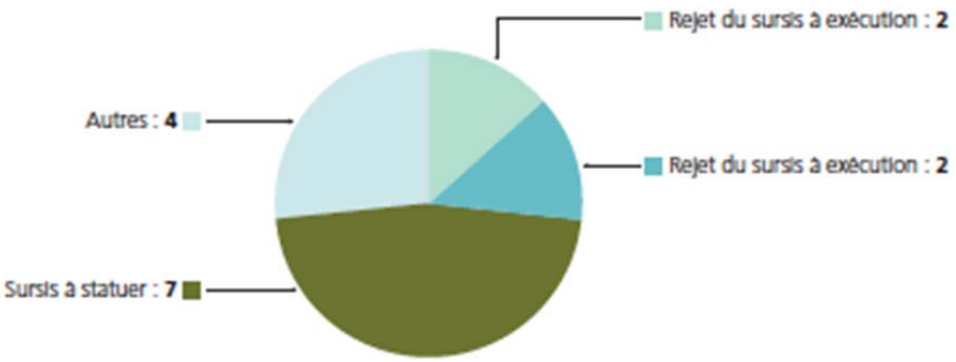
With regard to the stock market operator, the Council of State upheld the Enforcement Committee's decision that the aforementioned exemption, which was not disclosed to the market's members and was significantly more favourable than those granted to other members, constituted a breach of its obligation to exercise its activity in a neutral and impartial manner, and created a disparity of treatment that threatened the integrity of the market. The Council also upheld the Committee's finding that the operator was in breach of its obligation to detect, prevent and manage the potentially damaging effects of conflicts of interest.

Decisions handed down by the Paris Court of Appeals

In 2017, the judge delegated by the president of the Paris Court of Appeals issued a ruling relating to two requests for stay of execution of a decision handed down by the Enforcement Committee.

The Paris Court of Appeals ordered a suspension relating to four appeals filed by the sanctioned parties and three principal appeals filed by the chairman of the AMF, pending a decision in a foreign jurisdiction.

FIGURE 3. TYPES OF RULING RETURNED BY THE PARIS COURT OF APPEALS WITH REGARD TO DECISIONS HANDED DOWN BY THE ENFORCEMENT COMMITTEE



Dismissal of stay of execution (2)/ Dismissal of appeal on the merits (2)/ Suspension (7)/ Others (4)

It also returned three other decisions not ruling on merits and two orders relating to two appeals filed by the sanctioned parties.

These decisions resulted in the following outcomes:

Of note among the decisions handed down in 2017 was the order of 28 September 2017 by which the Court of Appeals dismissed the appeal filed against two decisions of the Enforcement Committee on 12 April and 18 October 2013. Having ordered an additional review, the Enforcement Committee then, in its second decision, imposed a fine of €14 million on the appellant for having used inside information relating to a proposed takeover bid, disclosed by his cousin, who was employed by an investment bank and was himself fined €400,000.

Ruling on the appeal filed by the latter and on the incidental appeal filed by the chairman of the AMF, the Council of State, in a decision handed down on 6 April 2016, increased the amount of the financial penalty from €400,000 to €600,000 and also issued a reprimand.

The Court of Appeals, which had suspended its ruling pending the decision of the Council of State, first dismissed all the claims raised by the appellants, in particular that relating to the irregularity of the investigation, upholding that the AMF may lawfully obtain information from a foreign authority for the purposes of an investigation, even in the absence of a written agreement concluded in advance.

On the merits of the case, the Court of Appeals held that there were indeed specific and consistent grounds, especially taking into account the unprecedented and massive transactions realised by the appellant on the shares in the target of the takeover bid a couple days before it was announced to the public, the fact that the appellant made such an investment was unusual in light of the liquidity of the stock, and the disclosure of the information by his cousin (such disclosure having been established based on a body of evidence). Such grounds demonstrated that the transactions realised by the plaintiff could only be explained by the fact of his holding inside information.

The plaintiff filed an appeal before the Court of Cassation against this judgment.

Decisions handed down by the Court of Cassation

During 2017, the judge delegated by the First President of the Court of Cassation issued two orders dismissing appeals filed against two decisions handed down by the Paris Court of Appeals.

The Commercial Chamber of the Court of Cassation issued four rulings dismissing the appeals filed by the sanctioned parties.

It also handed down a decision referring two priority issues of constitutionality to the Constitutional Council.

At the time of writing of this report, 27 appeals were pending before the Court of Cassation, relating to 12 decisions.

Decisions handed down by the Constitutional Council

DECISION ON DETAILED INVOICES

The Constitutional Council, in a decision handed down on 21 July 2017, ruled that the legal provisions allowing the AMF to analyse connection data in the context of of its investigations into market abuse were unconstitutional. Connection data allows (without access to the content of conversations) the identification of telephone calls made by one person from a detailed invoice (a *fadet*) that includes the list and duration of calls or the details of websites visited by an IP address. The Autorité des marchés financiers is awaiting a new law that should specify the legal framework for its use of connection data. A change in the Monetary and Financial Code is proposed as a result of this decision, the objective being to reconcile the right to privacy with the effective prevention of market abuse, by allowing the AMF to access this information, which is essential in identifying the perpetrators of these market abuse. This change should be adopted before the end of 2018, with the Constitutional Council having deferred the effective date of the ruling of unconstitutionality to 31 December 2018. This mechanism is essential insofar as the AMF's ability to ensure the detection and prevention of market abuse is a key element in terms of confidence in the proper functioning of the markets.

PRIORITY ISSUES OF CONSTITUTIONALITY

Two priority issues of constitutionality (QPCs) were referred to the Constitutional Council, which on 2 June 2017 issued a decision on compliance with the constitution of the challenged provisions of articles L.621-14 and L.621-15 of the Monetary and Financial Code.

The appellants first argued that these two articles violated the principle of legality of crimes and punishments due to an insufficiently clear definition of the offences for which penalties may be imposed.

The Council first held that in administrative terms, the requirement for a definition of sanctioned offences is met as long as the applicable laws refer to the obligations binding the parties in question by virtue of the activities that they exercise, the profession in which they operate, the institution of which they are a part, or the job function that they hold. It then ruled that in this case, the legislator had only intended to punish the violations of obligations defined by legislative or regulatory provisions or by professional rules enacted in order to protect investors on the financial markets and ensure the proper functioning of the markets. Finally, it specified that the fact that the legislator provided for an administrative penalty, penalising violations defined by regulatory authority, was not contrary to the principle of legality of crimes and punishments.

The plaintiffs then argued that the same articles were contrary to the principle that the penalty shall be proportionate to the offence, because of the establishment of a single cap on fines of €100 million for offences of different levels of gravity.

On this point, the Council held that the necessity for penalties to be associated with offences comes under the power of assessment by the legislator but that it is incumbent upon the legislator to ensure there is no manifest discrepancy between the offence and the penalty imposed. The Council also considered that in this case, in providing for the punishment of violations that are likely to jeopardise the protection of investors or the proper functioning of the market by a financial penalty capped at €100 million, the legislator had not instituted a manifestly disproportionate penalty with regard to the nature of such offences, the risks of disruption of the financial markets, the size of the gains that could be made, and the losses that could be incurred by investors.

Decision handed down by the European Court of Human Rights (ECHR)

In an order of 23 February 2017, the ECHR declared that the request presented by an asset management company and its director, alleging the violation of the presumption of innocence due to the publication of the decision by the AMF Enforcement Committee imposing penalties on them for breaches of their professional obligations, before the decision was finally confirmed, was manifestly ill-founded.

The Court first pointed out that the principle of presumption of innocence, enshrined in article 6, point 2 of the Convention on Human Rights and Fundamental Freedoms (the Convention) provides that no representative of the State may declare a person guilty of an offence before said person's guilt has been established by a court. It then specified that this article did not, however, prevent the competent authorities from making reference to the plaintiff's existing conviction, even if the question of their guilt had not yet been finally established.

The ECHR finally ruled that the publication of a decision handed down by the AMF Enforcement Committee before all appeal procedures were exhausted did not violate the principle of presumption of innocence, as long as, first, such publication had been the subject of a proportionality test by the Enforcement Committee and the Council of State and second, that internal law ensured, in the event of annulment or partial amendment of the initial decision, the equivalent publication of the decision of the authority handling the appeal, and provided for compensation for damages suffered as a result of the publication of the initial decision.

↗ **2018 PRIORITIES**

↗ **2018 SUPERVISORY PRIORITIES**

1 Europe: support a stronger ESMA and prepare for Brexit

The UK's departure from the EU is forcing us to redefine Europe as a 27-member block and work out a new Capital Markets Union in order to ensure both the independence and efficacy of our financing structures. It will require us to improve the supervision, integration and competitiveness of the EU27 financial markets. This year will be crucial for presenting a Europe that is fully prepared and ready for action.

Review of the European Supervisory Authorities (ESA) and Capital Markets Union (CMU)

Strengthening ESMA is essential to structure the Capital Markets Union, make supervision more efficient and uniform, and ensure that Europe's voice is heard when dealing with other countries. As the national authority for one of the EU's main financial markets, the AMF is committed to playing its part. The very concept of equivalence regimes as previously defined has also been called into question by the departure of the UK and needs to be revised.

OBJECTIVE FOR 2018:

- ↗ support an ambitious reform of ESMA as part of the discussions on the review of the European Supervisory Authorities (ESA) and the review of the European Market Infrastructures Regulation (EMIR);
- ↗ determine how third country regimes need to change in order to guarantee the competitiveness and safety of the European market;
- ↗ develop proposals for strengthening the EU27 Capital Markets Union, especially in terms of innovation, cross-border barriers, and sustainable finance.

Preparing for Brexit and welcoming institutions wishing to develop activities in Paris

Throughout 2017, a number of financial institutions based in the United Kingdom began investigating relocating options post-Brexit and the most suitable solutions for their business model. Within ESMA, European regulators have aimed at promoting consistency to prevent these decisions being based on regulatory arbitrage. Teams will continue being involved in these discussions into 2018.

OBJECTIVE FOR 2018:

- ↗ respond to requests from entities wishing to set up activities in Paris;
- ↗ strengthen the teams in charge of the supervision of market intermediaries within the context of Brexit;
- ↗ increase our involvement within the ESMA, via its committees and working groups – the AMF chairs the Corporate Finance and Post-Trading Standing Committees of ESMA.

2 Assist with the implementation of rules and contribute to the financing of the French economy

Faced with a regulatory landscape that has become considerably more complex, the role of the regulator is to assist companies in implementing the new rules. It also has a duty to ensure the markets remain attractive. In 2018 we will also work to facilitate access to the AMF General Regulation, with new educational resources and search functions.

The Markets in Financial Instruments Directive (MiFID II) and other major legislation for financial players

The arrival of MiFID II posed a considerable challenge for market participants. AMF's teams will continue to provide daily support by answering questions and explaining the legislation. We will also analyse how the implementation of the new rules is affecting the markets and keep a keen eye on any risks of regulatory loopholes.

Several other major pieces of legislation will also require our attention over the coming months, with the arrival of regulations governing PRIIPs (January 2018), Securitisation (January 2018), Benchmarks (January 2018) and Money Markets Funds (July 2018).

OBJECTIVE FOR 2018:

- ↗ answer questions from market participants and publish guides or other educational material designed to explain the current rules, working in liaison with the other European regulators and the ESMA (publication of ESMA's Q&As);
- ↗ update and review all parts of the AMF policy (instructions, positions, recommendations, questions and answers) affected by MiFID (around 100 texts, some of which will be consolidated or withdrawn);
- ↗ incorporate the new reportings required by the directive and ensure their reliability;
- ↗ by the end of 2018, evaluate the impact of the new rules, especially on the supply of investment research and the ecosystem, and monitor potential changes in terms of market structure and liquidity.

Assisting listed companies

Faced with an increasing number of rules, listed companies are expressing a strong need for assistance. We therefore must continue our efforts alongside companies wishing to access capital markets and explore, both within the French context (entry into force of the European Prospectus Regulation, transposition of the Shareholders Rights Directive, French Action Plan for the Growth and Transformation of Companies) and at European level (CMU), the best conditions for guaranteeing diverse funding for companies and suitable protection for investors.

OBJECTIVE FOR 2018:

- ↗ adapt the AMF's report on governance and remunerations, taking stock of the progress made by issuers in recent years;
- ↗ organise technical workshops for issuers to assist them with their implementation of the Market Abuse Regulation (MAR);
- ↗ continue with initiatives directed at listed SME-MSBs, and set up a dedicated discussion forum;
- ↗ adapt the applicable framework for issuers, ensuring its attractiveness for businesses.

3 Set out the basis of a redefined supervisory approach

Adapting our supervisory model is a fundamental dimension of our 2018–2022 strategy. It will require significant human and financial investment over time and close collaboration with the industry to explain our expectations and our approach. The aim is to make our supervisory model more robust, more transparent, and better able to meet the challenges represented by the new regulatory framework, the expansion of our remit or the growth of cross-border distribution and the rapidly changing face of industry.

An initial change to our approach involves publishing our annual supervisory priorities, which are described separately. Other initiatives will also be introduced in 2018.

Implementing shorter inspections

For some of the issues identified as part of our annual supervisory priorities, the AMF will implement shorter formats of inspections allowing to cover a larger number of companies for any given thematic topic, and thus to compare practices across a greater number of players. In some cases, short inspections may also be triggered by an alert. Our usual inspections will continue alongside these shorter ones.

OBJECTIVE FOR 2018:

- ↗ conduct about thirty short inspections of investment service providers (asset management companies and distributors) on the issues identified among our supervisory priorities.

Greater accountability of financial institutions for their marketing material

Several years ago, the AMF began carrying out prior reviews of marketing material aimed at the general public. The objective was to correct imbalances in the way the information was presented, in particular when there was too heavy a focus on performance to the detriment of information about risks as well as regarding the transparency over fees. Special attention has also been focused on complex products or for certain target audience. This work has improved the quality of the marketing material produced, allowing the AMF to progress its approach.

OBJECTIVE FOR 2018:

- ↗ work with the marketplace to consolidate the AMF policy on marketing material and explain the consequences for businesses when the documents they publish do not meet the regulator's expectations in terms of clarity of the information provided;
- ↗ conduct ex-post checks of marketing material, using a sampling system.

Strengthening our risk-based approach

Intensifying our post-authorisation supervision of businesses must go hand-in-hand with the strengthening of our risk-based approach and alert mechanisms. Consistently with our other projects, especially technology and data-related initiatives (see below), special efforts will be made this year to facilitate the work of monitoring teams and improve our methods' robustness.

OBJECTIVE FOR 2018:

- ↗ define the strategy for using newly available data for supervisory purposes;
- ↗ build on our methods for scoring market participants;
- ↗ deploy new analytical tools for supervisors, as required.

4 Develop a cross-functional approach to innovation within the AMF and continue our support

Innovations, especially of a technological nature, are having a massive impact on the financial sector and causing a paradigm shift; they are making it possible to cut costs and offering benefits in terms of greater transparency, better risk management and easier traceability, for example. The arrival of these innovations has created the need for a secure environment, one that instils confidence. In 2018, the AMF will continue to provide assistance for companies with innovative projects, in particular through its Fintech, Innovation and Competitiveness division (FIC) which was created in 2016.

Furthermore, certain technologies are no longer mere prototypes but are now in the deployment phase. The work of the regulator therefore needs to be expanded to include supervision of how these innovations are being deployed. This is necessary to better grasp the ensuing changes and potential risks. We must also continue our efforts to educate savers and maintain our vigilance. AMF teams will work on the various legal and operational issues raised by these developments, some of which are profoundly disruptive. Further impacts are also being felt in our enforcement actions, due to the arrival of new types of crime (in particular cybercrime) as well as new issues related to data protection.

OBJECTIVE FOR 2018:

- ↗ continue to provide support for innovative projects and advise on their compliance with regulatory requirements, in particular by building up the FIC team;
- ↗ continue to discuss changes in the regulatory framework due to new types of offer, in particular Initial Coin Offerings (ICOs), and promote the approach adopted by the French regulator to deal with innovations within Europe;
- ↗ expand the AMF's cross-functional approach to innovation, inform and train teams and establish a basis for monitoring changes within market participants.

5 Incorporate the more towards sustainable finance into the AMF's remits and activities

The impact of climate change and the emergence of sustainable finance are two major challenges for companies, investors, and the financial markets as a whole. As well as the AMF's vigilance over the information provided to investors, the regulator has a role in the development of a sustainable finance based on a common language, which can meet the expectations of an increasing number of investors, and respond to the risks and the funding issues that have been identified. This topic will be tackled within the AMF using a cross-functional approach.

OBJECTIVE FOR 2018:

- ↗ participate in European discussions as part of the European Commission's Action Plan for Sustainable Finance, in particular by drawing on the AMF's experience from implementing the French Energy Transition and Green Growth Act;
- ↗ gradually expand the technical expertise in the field of Corporate Social Responsibility (CSR) and Socially Responsible Investment (SRI) within the teams in charge of monitoring issuers and asset managers – as a continuation of the work undertaken in the AMF's 2016 CSR Report, further analyse the development of integrated reports by listed companies.

6 Our major IT projects and our data strategy

The AMF launched two IT major projects in 2015 and 2016 with a view to acquiring the systems and tools needed to perform its role. A third initiative will be added in 2018 on the use of reporting data.

Big data tools for transaction monitoring: the ICY project

In order to cope with the considerable increase in data flows in the wake of new European legislative texts, which has demanded significant investment from market participants, the AMF launched a major project to overhaul its market surveillance tool at the end of 2015, dubbed "ICY". This five-year project will modernise our systems and introduce a range of new technologies offering better performance and innovative functionalities.

OBJECTIVE FOR 2018:

- ↗ finalise the replacement of the market surveillance system and continue training the various platform users;
- ↗ ensure efficient use of new reporting data.

Modernisation of interfacing tool with asset management companies: the BIO 3 project

In 2016, the AMF also embarked upon a programme for upgrading the software it uses to communicate with management companies. This resource is used by the AMF both as an extranet and to process files and distribute information to the public and our partners. The new tool will in particular be able to adapt to changes in the legislation, whilst better meeting the expectations of companies when communicating with the AMF. It will also allow us to monitor regulated entities more robustly. Final deployment is scheduled for 2020.

OBJECTIVE FOR 2018:

- ↗ finalise the general design of the tool and identify what data will eventually be required;
- ↗ select the integrator and begin implementation in preparation for the initial launch in 2019

Data strategy

Data is essential for the work of the regulator, since it allows us to supervise the markets, monitor entities, and identify risks at both a macro- (financial stability, functioning of the market) and micro-prudential level (participants and products). With the massive increase in data being sent to the regulator, suitable resources and skills must be developed to be able integrate, secure, and use the new reporting data to the full. Actions already undertaken, for example to incorporate EMIR reports, must continue and contribute to a broad and coherent strategy which will help developing a true data culture within the AMF. This will entail defining the different requirements, overall governance and data protection within the institution, as well as means to share and exchange data, with other authorities or other stakeholders (such as researchers).

OBJECTIVE FOR 2018:

- ↗ develop a general data strategy for the AMF and the relevant implementation plan.

7 Monitor changing saving habits in a context of tax reforms and continue our work for retail investors

In the wake of the Household Savings Observatory overhaul and a series of mystery shopping campaigns – especially within the digital investment world – it will be more straightforward to monitor post-MiFID II marketing practices and the impact of changes such as tax reforms for savers, as well as to identify of barriers and drivers to swivel savings towards productive finance. A new internet website dedicated to savers will also be available in 2018.

OBJECTIVE FOR 2018:

- intensify our surveillance tools and methods to be able to issue warnings faster for the riskiest or fraudulent products, notably by strengthening our partnerships (police, Signal Spam, Competition and Fraud Directorate, etc.), and closely monitoring the products impacted by national and European product intervention decisions (binary options, Forex, CFD);
- conduct work on the elderly as part of the Joint Unit with the French prudential supervisory authority (ACPR) in order to increase awareness among financial institutions and prevent product mis-selling;
- propose changes to save-as-you-earn schemes, – schemes emphasised to promote long-term savings, and build on the project for a Pan-European Personal Pension Product (PEPP);
- improve our knowledge of savers, by setting up a panel of investors and by better integrating the principles of behavioural finance into our strategy;
- monitor whether the recent changes in tax laws are having an impact on savings allocation.

8 Undertake the digital transformation of the AMF and review our internal procedures

Changes are coming about rapidly and regulators must, as must market participants, contend and make decision despite an uncertain future, and therefore improve their agility. This means changing the way we work, to free up time to focus on tasks with higher added value and on specific risk areas. Several initiatives will be undertaken to review our working methods and procedures. Extra efforts will also be made to maintain our ability to recruit the best candidates and train our teams to develop the new skills now required. As regards our external relations, we also need to simplify our communication and modernise our interfaces. The transformation plan will span several years.

In order to ensure the necessary visibility over the medium term, we will begin talks with the government in 2018 with a view to obtaining a multi-year funding commitment for the AMF.

OBJECTIVE FOR 2018:

- continue our digital transformation for both our internal and external communication – for listed companies, finalise the process for paperless filing;
- review our fee and contribution mechanisms to make them simpler and more efficient for both companies and market participants, as well as for the AMF;
- review our internal operating procedures for greater efficiency and flexibility.

In accordance with the guidelines published in its 2018-2022 strategy, and as a supplement to the associated 2018 priority actions, the AMF is keen to share its thematic supervisory priorities for the current year.

↗ Purpose

This document presents the Autorité des Marchés Financiers' 2018 supervisory priorities for professionals authorised to provide investment services and collective investment management services. Publishing these thematic priorities helps to highlight certain areas of risk the regulator has identified and to encourage regulated firms to look more specifically at a number of their practices, in light of applicable professional requirements. With the entry into force of several crucial pieces of legislation for the industry, chief among them the Markets in Financial Instruments Directive (MiFID), it is important for the regulator to draw attention to specific areas of focus while also identifying the operational issues associated with practical implementation of the regulations.

The publication of these priorities is but one in a series of changes in the AMF's supervisory practices that aim to strengthen the monitoring of market participants and the effectiveness of the actions taken. This publication supplements efforts already underway to communicate with and reach out to the industry, for example through our annual meetings with compliance officers.

↗ Who should read this document?

This document is intended for financial intermediaries authorised to provide investment, collective investment management or financial investment advice services (credit institutions authorised to provide investment services, investment firms, asset management companies (AMCs), financial investment advisers (FIAs) and direct marketers).

Other market participants subject to AMF supervision (crowdfunding investment advisers, intermediaries in miscellaneous property, market infrastructures, etc.) are not directly targeted by this document which describes the thematic supervisory priorities for 2018. They are monitored, however, and could be subject to inspections regardless of the actions covered here. The monitoring of listed companies' financial disclosures is also not addressed in this document.

↗ Our approach to the supervision of market participants

The AMF has a number of supervisory tools, ranging from ongoing monitoring to specific inspections. It also carries out active upstream monitoring of the financial offers and savings products proposed to retail investors, as well as of the marketing practices of intermediaries, in order to inform the regulator's thinking and action.

The AMF continuously monitors professionals under its supervision based on information sent on a regular basis (annual control and compliance reports, reporting data, declarations, etc.) or upon request (requests for additional information sent to intermediaries, interviews, etc.). The AMF also receives information about the activities of investment services providers authorised in France directly through other channels (AMF Épargne Info Service platform, monitoring tools, whistleblowers, exchanges of information with other regulators in France and abroad, etc.).

These monitoring actions can be:

- individual, in response to specific alerts or as part of the periodic coverage of regulated entities, calibrated according to a risk-based approach;
- thematic, in particular to ensure implementation of new regulations.

This ongoing monitoring is carried out by the Asset Management Directorate for management companies and distributors (investment services providers (ISPs) or FIAs) and by the Markets Directorate for market intermediaries.

The work of the monitoring teams uses a risk-based approach to determine, where necesssary, the market participants and the scope of the inspections, which are carried out according to a procedure governed by law and by the AMF General Regulation.[1] Once the inspection has been completed, its findings are detailed in a report sent to the audited entity. In 2018 it is planned to conduct the inspection of about 60 entities[2]. These have two objectives, each of which represents a roughly equal share of the inspections conducted:

- first, the regular inspection of large participants or those that present particular risks or have raised specific alerts,
- second, a thematic approach involving a sample of market participants to better understand a given activity or practice, assess the implementation of applicable rules or explore potential risks for investors or the market.

Feedback will be provided to the industry on the findings of these inspections. The supervision teams will, if necessary, recommend updates to existing policy and will share with market participants the lessons learned from the different supervisory actions performed throughout the year in order to clarify, if need be, the regulator's expectations towards regulated entities.

↗ A gradual approach to new regulations

Several years ago, the AMF adopted a gradual approach to supervising professionals' implementation of new regulations, with an initial focus on assistance and monitoring.

It will continue to take this approach in 2018, a year marked in particular by the entry into force of MiFID II and PRIIPs. Against this backdrop, the AMF intends to continue its efforts to support professionals in the first few months of 2018. It will, moreover, adopt a proportionate approach, with its supervisory actions taking into consideration the efforts institutions have made to comply and the ongoing issues of interpretation on certain topics.

SUPERVISORY PRIORITIES FOR 2018
ASSET MANAGEMENT COMPANIES (AMCs)

Five themes have been identified for management companies. These companies must also implement several new texts, in particular MiFID II and PRIIPs.

ASSET VALUATION

The valuation processes at management companies are a fundamental aspect of investor protection. The AIFM Directive introduced specific requirements with respect to independent valuation and to the justification and traceability of the methods used and valuations obtained. The regulator will seek, through its monitoring and its inspections, to assess the organisation implemented and the robustness and reliability of the procedures, as well as the internal control systems put in place.

SRI MANAGEMENT

In mid-December, the AMF published the second edition of its report on socially responsible investment (SRI), which highlights a number of observations about the information provided to investors on SRI and provides an initial assessment of management companies' implementation of the French law on Energy transition for green growth. The report also shows the growing importance of this segment in the French collective investment management industry. The regulator's objective in 2018 will be to supplement the work done when preparing the SRI report with additional monitoring and specific inspections to ensure that the information provided to investors is clear, accurate and not misleading.

[1] A recently updated Inspection Charter available on the AMF's website clarifies this legal framework.

[2] Controls of asset management companies, investment services providers (ISPs) and FIAs. This figure excludes the AMF's so-called "mass inspections" of FIAs, which number about 70 per year.

MANAGEMENT COMPANIES' OWN FUNDS

Own funds are a key indicator of the financial health and sustainability of the activity of asset management companies. Monitoring own funds levels and how they are invested is one of the checks performed by the regulator. In addition to compliance with own funds requirements, the investment of regulatory and surplus own funds must be subject to specific precautionary measures, which were clarified in 2016 in the AMF General Regulation and Position-Recommendation 2012-19, mainly to exclude investments that involve "speculative positions".

Supervisory actions will aim to verify AMCs' procedures and their monitoring and control of minimum levels and of the management of own funds, and to verify and analyse how the funds are invested. A particular emphasis will be placed on analysing the adequacy of additional own funds required by the AIFM Directive.

EFFICIENT PORTFOLIO MANAGEMENT TECHNIQUES: PRACTICES FOR SECURITIES FINANCING TRANSACTIONS

A number of provisions in the AMF General Regulation, supplemented by the 2012 publication of ESMA's guidelines which have been incorporated into domestic law, govern the use of efficient portfolio management (EPM) techniques, in particular with regard to risk management, the breakdown of revenues arising from these transactions and the *ex ante* and *ex post* disclosure requirements. These regulations were clarified with the entry into force in 2017 of the Securities Financing Transactions Regulation (SFTR), which supplemented the information to be provided to investors.

In 2018, supervision will concern, in particular, the organisation of securities financing transactions (SFTs) implemented by the funds, the related controls and the information provided to investors.

STRESS TEST PRACTICES

In February of last year, the AMF published a guide to the use of stress tests as part of the risk management of asset management companies. The purpose of this guide was, among others, to facilitate the implementation of applicable regulatory provisions and provide a number of good practices that can be useful to management companies. In 2018, following on the discussions held in order to prepare this guide, the regulator will assess stress test practices of a broader population of management companies by analysing, for example, the inclusion of stress tests into their risk management policy and the scenarios used in liquidity stress testing.

SUPERVISORY PRIORITIES FOR 2018

MARKET INTERMEDIARIES

MIFID II: SUPPORT FOR AND MONITORING OF THE IMPLEMENTATION OF THE REPORTING, TRANSPARENCY AND MARKET STRUCTURE PROVISIONS

The entry into force of the Markets in Financial Instruments Directive on 3 January 2018 was a considerable challenge for market intermediaries. In 2018, the AMF will continue the efforts made in recent months to assist firms implement these new rules. The regulator will initially first on three areas at the centre of the market reform introduced by the directive:

- Reporting of transactions to the regulator: the completeness and quality of the reportings transmitted are crucial to the regulator's ability to perform its duties of detection of market abuse and supervision.

- Compliance with post-trade transparency requirements, with special attention paid to information on equity, bond and ETF transactions: this information, which is now more detailed for equities and completely new for bonds and ETFs, will help inform market participants' investment and execution decisions. Moreover, it will be used by ESMA to periodically calibrate the transparency requirements. Its completeness and quality are therefore critical to the orderly functioning of these markets.
- Compliance with the obligation to trade on organised and regulated trading venues for equities and certain derivatives and monitoring of transactions carried out on organised trading facilities (OTFs) and by systematic internalisers (SIs): in particular, the AMF will rely on transaction reporting to ensure that the transactions carried out over the counter do not conflict with the trading obligation and that the transactions carried out on OTFs and SIs comply with the applicable rules for these platforms.

MIFID II: BEST EXECUTION OBLIGATION

Implementation of the best execution principle as newly defined should help strengthen compliance with clients' interests when executing their orders.

The execution venue landscape will evolve significantly in the first few months of 2018, requiring high-quality data from and active monitoring by intermediaries so they can analyse the changes and gradually adjust their execution systems to this new environment. The AMF will observe these changes through both transaction reporting and its regular interviews with intermediaries.

The AMF will also continue to help professionals produce the new reports that will have to be published periodically.

EMIR REQUIREMENTS

Inspections of certain market participants will be carried out in 2018, using a risk-based approach, to verify their compliance with the requirements created by the European Market Infrastructure Regulation (EMIR), building on the work done with the industry in recent years. These inspections could focus, in particular, on the provisions relating to the reporting of transactions to trade repositories and to techniques for mitigating operational risk. The AMF will also continue to perform ongoing supervision and the changes considered in the context of the discussions around the EMIR review will be taken into account.

MARKET ABUSE

The effectiveness of the suspicious transaction and order reporting (STOR) systems remains a key focus of the fight against market abuse. The number of suspicious transaction reports sent to the regulator has increased steadily since 2014. The AMF will continue the actions it has been taking for several years, through monitoring, inspections or investigations, to verify institutions' compliance with the requirements set out in the Market Abuse Regulation and related texts (Delegated Regulation 2016/957 and ESMA Q&A 2016/1129).

SUPERVISORY PRIORITIES FOR 2018

DISTRIBUTION (AMCs AND ISPs)

MIFID II AND PRIIPS: ASSISTANCE FOR AND MONITORING OF THEIR IMPLEMENTATION

MiFID II contains a significant investor protection component requiring that distributors make substantial changes to their information systems and pay close attention to traceability.

As part of its efforts to assist firms in implementing the new rules, the AMF will pay specific attention to two themes:

- product governance: MiFID II contains new obligations relating to the identification of a target market and the distribution strategy. The AMF's goal being to prevent these new obligations from impeding open-architecture distribution, such requirements should allow participants to find the best way to distribute products to the right clients, including, where appropriate, for client portfolio diversification reasons.

- costs and charges: MiFID II introduces new requirements relating to the disclosure of costs and charges. The driving ambition behind these requirements is to improve transparency on costs, and they call on participants to perform more complex calculations than they did before by using forward-looking assumptions, where applicable.

The PRIIPs regulation introduces new obligations related to the pre-contractual disclosures to be provided to retail investors who invest in certain financial products. As is the case for the costs and charges disclosure requirements set out in MiFID II, this regulation raises important issues for market participants in terms of complexity and operational implementation.

With regard to these issues, the AMF will continue its actions to assist market participants in implementing these new rules.

IMPLEMENTATION OF NEW MIFID II INTERVENTION POWERS

As part of its investor protection remit, the AMF has been working for several years to warn of the risks associated with certain speculative financial contracts. The AMF welcomes the initiative from ESMA which, on 15 December 2017, issued a statement indicating that it is considering measures that aim in particular to:

- prohibit the marketing, distribution or sale to non-professional clients of binary options; and
- restrict the marketing, distribution or sale to non-professional clients of certain CFDs, including rolling spot forex.

Without prejudice to its actions in relation to unregulated participants and those operating under the free provision of services, the AMF will actively supervise the relevant stakeholders' implementation of the intervention measures that may be taken by ESMA at the European level and by the AMF at the national level. If necessary, targeted inspections will also be carried out in this area, in light of the significant investor protection challenges.

DISCRETIONARY MANAGEMENT

Although its share has decreased since 2013, discretionary management represents 46% of total assets under management for third parties, or more than EUR 1.6 trillion in 2016. This is a highly concentrated market, as the top five firms account for nearly 70% of gross assets under discretionary management. The AMF would like to explore the structure of this market more deeply, notably existing practices and potential risks in terms of investor protection. The themes analysed when performing monitoring and conducting inspections will include, in particular, the conformity of the management mandate (conformity of the model, procedures for updating mandates).

COLLECTION OF INFORMATION ABOUT CLIENTS' FINANCIAL KNOWLEDGE AND EXPERIENCE

A series of inspections conducted in 2017 revealed deficiencies in the collection of information about clients' financial knowledge and experience. In 2018, monitoring and inspections will be expanded to other financial institutions that market financial instruments to retail clients, and will focus on both the know-your-customer questionnaire templates and the procedures in effect. The analyses carried out will also help facilitate the implementation of new provisions set out in MiFID II in this area which further strengthen the requirements already applicable.

MAIN SUPERVISORY PRIORITIES OF THE AMF-ACPR JOINT UNIT

The AMF and the French prudential supervisory Authority (ACPR) are concentrating particular focus on vulnerable populations and on the prevention of mis-selling of banking, insurance and financial products. Following a focus on the relationships between protected adults and their insurance and financial institutions in 2017, in 2018 the Joint Unit will turn its focus to the elderly and will rely not only on academic research, but also on observations of institutions' practices.

The regulator will remain vigilant with regard to the placement by financial institutions of their own securities with retail clients. In the context of the development of resolution systems and the creation of new financial securities (non-preferred subordinated debt), supervisors are concerned that clients be adequately informed about the actual risks and possible conflicts of interest. The topic will be addressed in greater detail in 2018.

Contacts

Communication Directorate
Tel. 33 1 53 45 60 25
www.amf-france.org

Follow us on the social networks

AUTORITÉ
DES MARCHÉS FINANCIERS
AMF

17 place de la Bourse - 75082 Paris Cedex 02 - France
Tel. 33 1 53 45 60 00
www.amf-france.org

Graphic design and production : AMF - © Plainpicture