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The Enforcement Committee of the AMF fines a company for breaching its professional obligations as a financial investment advisor, and imposes a financial penalty on its chief executive officer

In its decision of 24 January 2019, the Committee fined Novactifs Patrimoine – known as Ageo Patrimoine at the time of the facts – €250,000 for breaches of several of its professional obligations. It also imposed a financial penalty of €100,000 on its CEO, Mr A, and issued a warning against him.

Novactifs Patrimoine provided advice on a range of different financial products, including securities issued by the Maranatha hotel group. The Committee found Novactifs Patrimoine guilty of four series of violations relating to events occurring between March 2014 and July 2016.

Failure to exercise the due care required of financial investment advisors

The Committee penalised the company for its failure, with regard to some of its customers, to:

- provide several mandatory documents (initial contact document, letter of engagement and /or written report),

- specify its remuneration terms,
- provide adequate information about risks associated with the products it recommended,
- gather the required know-your-customer information.

Failure to comply with the obligation to transmit information that is clear, fair and not misleading

The Committee considered the breaches to be characterised due to mistakes in the identification of the guarantors of the repayments provided for by the recommended products, and the failure to transmit information to its customers that could have drawn their attention to some financial weaknesses in the entities in which they were investing, or which guaranteed the reimbursement of the sums invested.

Disregard of the obligation to practise within the limits of Financial Investment Advisor (FIA) status

The Committee found that the company was carrying out a placing of financial instruments without a firm commitment basis activity on behalf of an issuer of products that were recommended to its customers, in disregard of the obligation for FIAs to practise their profession within the limits defined by their status, which prohibits the exercise of a placing of financial instruments without a firm commitment basis activity. The Commission also penalised the company for its lack of a procedure to prevent, manage and address conflicts of interest that might arise from the incentive remuneration provided for by the contract binding the company to the said issuer.

Failure to conform to the rules applying to direct financial marketing mandates assigned to third parties

The Commission deemed the breaches to be characterised as the company had signed two mandates with legal entities even though an FIA can only appoint natural persons to carry out a direct marketing activity in its name, as the direct marketing activity concerned unlisted securities, which is prohibited by the applicable regulations, and as it must under all circumstances be performed within the limits of the services, transactions and products for which an accreditation is held, which was not the case on this occasion, as both third-party companies were recommending products to their customers without possessing FIA status.

The Committee considered that the CEO was responsible for the breaches committed by the company.

An appeal may be lodged against this decision.


About the Enforcement Committee

The Enforcement Committee, which is made up of judges and professionals, has total freedom to make decisions. It can impose sanctions on any person or company whose practices contravene laws and regulations that fall within the jurisdiction of the AMF. It ratifies settlement agreements signed by the Secretary General and respondents. And it takes part in the AMF's educational efforts by clarifying financial regulations when explaining its decisions.

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