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The Enforcement Committee of the Autorité des Marchés Financiers fines a management company and its senior manager for failing to comply with their professional obligations relating to the management of forestry groups

In its decision of 25 July 2019, the Enforcement Committee imposed a fine of €200,000 on Forest Invest and issued a warning to the company and its senior manager for breaches of their obligations relating to the management of forestry groups.

Forest Invest is a company specialising in investment in forests and management of forestry groups, and has been authorised since April 2014 to manage alternative investment funds (AIF). In 2016, Forest Invest managed 34 forestry groups owning a total of 8,000 hectares of forests, the units of which were held by more than 3,500 investors, mostly retail investors.

After noting that the forestry groups were AIFs, the Committee found Forest Invest guilty of five series of violations relating to events that occurred between April 2014 and August 2017, for which its senior manager was also responsible.

The Committee first considered that the company had failed in its obligation to appoint a depositary for 11 of the forestry groups it managed. In those cases where a depositary had been appointed, it noted that the management company had not provided the depositary with permanent access to the accounting information relating to the forestry groups, thus

preventing the depositary from carrying out its task of verifying the reality of the assets held and the forestry groups' cash flow.

Next, the Committee held that Forest Invest, which had delegated its second-level permanent control to two external Compliance and Internal Control Officers (RCCI), had not sent the first external RCCI the relevant information necessary to carry out its duties, had not established a risk map and had not ensured that inspection plans were properly implemented. The Committee concluded that it had therefore failed to fulfil its obligation to establish and maintain an appropriate and operational control system.

The Committee also considered that the management company did not have an operational procedure for the preparation, validation and dissemination of commercial documentation and that some of the information disseminated to investors via diverse media (including commercial brochures, website and minutes of general meetings) was not very clear or was even misleading.

The Committee also considered that Forest Invest did not have a procedure for managing conflicts of interest and had neither kept nor updated a conflicts of interest register. It held that the management company had not complied at any time with the requirements of its authorisation, insofar as its senior manager was also the manager of a forestry consulting company, contrary to the undertaking given in the authorisation application to devote himself exclusively to Forest Invest.

Lastly, the Committee, which had noted that the inspectors had sent several reminders to the management company to obtain documents required for their inspection and that professional secrecy had been invoked by the company in order to avoid complying with this obligation, although this cannot be raised in defence, considered that Forest Invest and its senior manager had not diligently assisted the AMF's inspectors.

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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