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Discretionary management: the AMF assesses the quality of the information provided to clients within the framework of its SPOT inspections

The Autorité des Marchés Financiers is publishing its review of a series of SPOT inspections (“Supervision des Pratiques Opérationnelle et Thématique”) focusing on discretionary management. The purpose of these inspections was to examine practices since the entry into force of the new European regulatory framework for Markets in Financial Instruments (MiFID 2) in January 2018.

For this new series of short thematic inspections, the AMF chose five investment services providers, targeting exclusively credit institutions authorised to provide portfolio management services on behalf of third parties.

In order to assess the systems implemented to provide clients with comprehensive, high-quality information, the regulator reviewed the practices of the five institutions over the 2018-2019 period, paying particular attention to:

- the compliance of know your client questionnaires;
- the content of periodic management statements;
- disclosures to clients relating to charges on an ex-ante (meaning before the service is provided) and ex-post (meaning annual) basis;

- the alert system used when the value of the portfolio falls by more than 10%;
- information relating to the rules on receiving any commission rebates.

Conclusions from the inspections

In the review published today, the AMF draws its conclusions from the inspections. As a general rule, they show that the investment services providers who were inspected have made an effort to comply with the provisions of MiFID 2 on discretionary management. However, the resources implemented from an organisational perspective would not always appear to be sufficient to enable the new regulatory requirements to be implemented effectively.

The rules on the frequency of providing periodic management statements are correctly implemented. Among the good practice that was identified, the AMF emphasised the fact of enhancing the content of periodic management statements by including comments on the individual management of the portfolio.

The AMF also noted a number of weaknesses, including:

- know your client questionnaires that do not enable the client's risk tolerance and ability to bear losses to be evaluated;
- the information on charges shows room for improvement (presentation format, exhaustive coverage of the fees charged, impact of the charges on the performance of the portfolio);
- alerts on falls in the value of the portfolio sometimes arrive too late and there are cases of false alarms that may have been generated by management activities (e.g. a client's withdrawal of securities or cash)
- the existence of contractual documents referring to rebates received, even though the institutions have stopped receiving any.

Points for improvement and development

Based on these observations, the AMF has identified the following points for improvement and development:

- Enhance and revise the know your client questionnaires and more generally all contractual documentation;

- Improve the content and reliability of the periodic management statements;
- Improve the content of the ex-ante and ex-post information on charges;
- Improve the timeliness and content of the information provided to clients in the event of a fall in the value of their portfolio;
- Improve the information on whether commission rebates are received and, if they are, whether they are refunded to the client.

The institutions in question have already made modifications to their management mandate and client questionnaire templates, taking account of some of the points raised by the AMF. Other modifications are underway or to come.

The supervision of the alert management system will take into account exceptional circumstances such as those encountered during the health crisis.

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