



AUTORITÉ
DES MARCHÉS FINANCIERS

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The AMF Enforcement Committee fines a management company and its chairman for breaches of their professional obligations

In its decision of 18 December 2020, the Enforcement Committee issued a warning to a management company in compulsory liquidation and its chairman for breaching several of their professional obligations.

Please note that the French version of this press release was published on 23 December.

In 2017, the sanctioned company was managing approximately €91 million of assets on behalf of four alternative investment funds and 11 UCITS, as well as €54 million in assets representing some 500 client accounts under its management mandate activity.

The Enforcement Committee first found breaches by the management company in the supervision and control of its individual management mandate process. It established that the company had failed to comply with the investment constraints stipulated in the mandate contracts signed with its clients and had not carried out any controls on this point.

The Committee then dismissed all the notified breaches on grounds of disregard of the investors' interests. In this respect, it considered that the investments made by the management company in its collective management activity were compliant with the management policy of the funds and their investment strategy. With regard to investments made in "in-house" funds under its management mandate activity, the Committee considered that the investigation had not shown them to be devoid of any economic

justification or non-compliant with the management objectives set out in the mandate contracts. However, the Committee did find that the management company had not fulfilled its obligation to establish and implement operational procedures to manage conflicts of interest.

Finally, the Committee found that the company had not conducted the procedures and verifications that it should have performed when it began a relationship with a new client, and then throughout the commercial relationship, when updating its clients' files. The Committee also considered that the marketing materials of the funds analysed showed an imbalance in the information on advantages and risks, and that the controls that would have revealed this breach had not been carried out.

The Committee considered that all these breaches were attributable to the chairman of the management company in his capacity as manager at the time of the events.

An appeal may be lodged against this decision.

Main appeal lodged by the AMF's Chairman before the Conseil d'Etat against decision SAN-2020-14

By decision of 24 May 2023 (no. 449983), the Conseil d'Etat (i) overturned the Enforcement Committee's decision of 18 December 2020 insofar as it dismissed the complaint that Skylar France had put its own interests ahead of those of the funds it managed and its discretionary management clients, as well as the complaint that the funds' prospectuses failed to mention the application of a high portfolio turnover rate (ii) ruled that the decision of the Enforcement Committee of the Autorité des marchés financiers and its decision, will be published, in a non-anonymous manner, for three years on the website of the Autorité des marchés financiers and (iii) rejected the conclusions of Mr. Chaboud under Article L. 761-1 of the Code of Administrative Justice.

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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SAN-2020-14 - Décision de la Commission des sanctions du 18 décembre 2020 à
↳ l'égard de la société Skylar France et de M. Cédric Chaboud (In French only)

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