AUTORITÉ DES MARCHÉS FINANCIERS

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The AMF publishes a summary of its short thematic inspections on liquidity contracts

In 2020, the AMF carried out a series of inspections at five firms to analyse how they have implemented liquidity contracts on behalf of listed companies as part of its accepted market practice. Its investigations highlighted many good practices together with some poor practices and shortcomings.

The accepted market practice for liquidity contracts on shares came into force on 1 January 2019. These contracts set out the conditions under which a listed company delegates to an investment services provider the task of executing transactions on its behalf in order to stimulate the market for its securities and promote liquidity. When implemented in accordance with the accepted market practice instituted by the AMF, these contracts establish the assumption that intermediaries and issuers who comply with market manipulation regulations are acting legitimately (known as “Safe Harbour”). This corresponds to the exemption framework provided in Article 13 of the Market Abuse Regulation (MAR).

The accepted market practice established by the AMF imposes restrictions on the management of liquidity contracts regarding:

- volume of trading in a day;
- price limit for orders presented to the market;

- resources allocated by the issuer to the liquidity contract.

As part of its review of this practice, the AMF carried out a series of short, thematic “SPOT” (Supervision des Pratiques Opérationnelle et Thématique – operational and thematic supervision of practices) inspections at five investment services providers in 2020.

These inspections focused on:

- the service providers’ organisational structure (independence of the operator responsible for liquidity contracts, service provider’s compensation, managing potential conflicts of interest, technical resources and facilities, and liquidity account management);
- the management of volume and price limits and limit exceedances;
- the internal control system implemented to support this liquidity management activity;
- the information provided to the listed company and compliance with transparency obligations imposed by the regulator.

The AMF found that the organisational structure put in place by the firms inspected was satisfactory overall in terms of meeting the requirements established for the accepted market practice, and in its summary it highlights a number of good practices. However, there is room for improvement in relation to managing limits and justifications, and in some situations the monitoring systems implemented have shortcomings that require corrective measures.

The summary report shows that the price and volume trading limits set by the AMF are not always complied with by the firms in the sample. Up to a certain level, any crossing of the limits imposed must be justified in order to benefit from the exemption framework provided for in the MAR. Above this level, transactions carried out on the market are not prohibited, but they lose the benefit of the exemption framework.

Among the good practices identified, the AMF noted the implementation of monitoring or blocking control mechanisms integrated into the order management system, a specific reporting system for monitoring limit exceedances, and an exhaustive periodic control of the resources allocated by issuers.

Widely used in France (more than 400 French companies have entered into a liquidity contract on their securities), this practice is considered essential for the satisfactory functioning of the French equities market for small and medium-sized issuers. As part of the review of its accepted market practice, and in addition to this series of SPOT inspections, the

AMF will publish a study on the abovementioned limits by the end of the first quarter with a view to their possible recalibration.

About the AMF

The AMF is an independent public authority responsible for ensuring that savings invested in financial products are protected and that investors are provided with adequate information. The AMF also supervises the orderly operations of markets. Visit our website https://www.amf-france.org URL = [https://www.amf-france.org/]

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