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Investor protection: the AMF publishes a summary of the findings of a series of SPOT inspections on the governance of financial instruments

During its short thematic inspections, the AMF examined the way in which some institutions implemented the provisions of the Markets in Financial Instruments Directive (MiFID2) with regard to the distribution of financial instruments to retail investors.

Designed to provide better investor protection, MiFID2 has strengthened governance requirements for financial instruments by introducing a more detailed definition of the respective responsibilities of manufacturers and distributors of these products. Distributors must therefore ensure that they have the appropriate means to obtain from the manufacturer all the information they need to understand the characteristics of each product. Product governance requirements involve, in particular, defining a target market and an appropriate distribution strategy for a given financial instrument in order to promote the marketing of products in line with clients' needs and profiles.

This new series of short thematic inspections, conducted between October 2020 and February 2021, assessed the practical implementation of these obligations by five investment service providers belonging to a group, in their capacity as distributors of financial instruments over the period between 2018 and 2020. The AMF focused its review on firms that cater to retail investors.

Generally speaking, the AMF found that the regulatory requirements were taken into account effectively and relatively well integrated into the financial instrument marketing processes of the firms inspected. The fact that these firms are part of a group and are subsidiaries means that their obligations are taken into account in a coordinated and centralised manner at the level of the parent company, which plays a key role in the whole system. However, the firms inspected tend to adopt a passive approach, which is not in line with the regulations.

The governance system of financial instruments

The summary shows a structured distribution of the responsibilities of the business lines involved in the product governance system. The prerogatives of the committees set up are clear and well documented. Nevertheless, the non-participation of representatives of the audited companies in group committees is a poor practice because it reduces the buy-in of the system by subsidiaries and thus the effectiveness of the system. Although the procedures are clearly defined, due diligence procedures are not always very operational. Good practices observed included annual validation and certification of compliance with group procedures and annual reporting of any discrepancies and remediation plans.

Definition and monitoring of the target market

The parent company is almost exclusively responsible for defining and reviewing the target market for group financial instruments distributed by the inspected companies, and this is not necessarily in line with regulatory requirements. Only one of the five institutions inspected had defined a target market for each financial instrument, while the others had definition rates ranging from 80 to 90%. Among the poor practices observed, the AMF highlights the failure to include the risk rating of certain instruments when formalising the target market and the failure to take account of client complaints when monitoring the target market.

Definition and monitoring of the distribution strategy

It is good practice to define the distribution strategy in terms of the investment service involved, the distribution channel concerned and the categories of authorised advisers. However, adopting the distribution strategy proposed by the parent company without critically examining it is not in line with the regulations.

Non-target market sales

The AMF identified shortcomings in the implementation of "negative" target markets for all the companies. It is good practice to systematically send a warning message if a negative target market criteria is met for a transaction that has been recommended.

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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