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The AMF Enforcement Committee fines a Polish investment service provider for breaches of its professional obligations

In its decision of 8 November 2021, the Enforcement Committee handed down a warning to the Polish company X-Trade Brokers Dom Maklerski and fined it €300,000 for breaches of its professional obligations in connection with the activities of its French branch.

At the time of the events, between November 2013 and February 2020, X-Trade Brokers Dom Maklerski proposed to its clients to subscribe to contracts for difference (CFD) via trading accounts, through its branch in France (XTB France) acting within the framework of order execution for third parties.

The Committee upheld three series of breaches against this company.

First, it considered that by using certain commercial banners, XTB France had breached the prohibition on sending promotional messages concerning the provision of investment services relating to certain financial contracts such as CFDs to clients who were likely to be retail clients. It also found that a number of Google ads placed by this provider did not contain a visible, clear and precise statement of the risks of capital loss inherent in CFDs.

The Committee also found that XTB France's questionnaire to assess the client's knowledge and experience was inadequate and that the calculation algorithm associated with this



questionnaire did not make it possible to determine whether the client or potential client had the level of experience and knowledge required to understand the risks inherent in the product or service being offered. It also found that the branch had circumvented the restrictions imposed by the European Securities and Markets Authority (ESMA) and later by the AMF on the marketing, distribution or sale of CFDs to retail clients, by making incorrect changes to the categorisation of clients.

Lastly, the Committee found that XTB France, contrary to its general terms and conditions, had not informed its clients of a technical incident on its platform, although this incident constituted a material difficulty relevant to the proper carrying out of orders. It also considered that the branch was not always in a position to ensure by itself that orders were properly executed in the absence of complaints from its clients.

However, the Commission dismissed the alleged breaches regarding the insufficient font size of the warning messages in the commercial banners, and also the inadequate wording of the general terms and conditions of the brokerage service.

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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