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DES MARCHÉS FINANCIERS

Print from the website of the AMF

13 July 2022

Publication of the SPOT inspection campaign summary on market abuse prevention systems in asset management companies

The purpose of these SPOT investigations was to analyse the systems for preventing, monitoring, detecting and reporting of market abuse among five asset management companies (AMCs). The work carried out by the inspection task force did not identify any particularly serious breaches. Nevertheless, the AMF calls on AMCs to improve their market abuse prevention systems by quickly correcting the shortcomings observed.

At the national level, a market abuse is an administrative breach, but can also, in certain cases, be qualified as a criminal offence. At the European level, the objective of the Market Abuse Regulation (MAR) is to prohibit transactions that allow (or could have allowed) an undue advantage to be gained, directly or indirectly, from a price manipulation, the dissemination of false or misleading information, or the use of inside information.

In its summary document, the AMF outlines the good and poor practices observed covering the period from January 2018 to October 2021 of five AMCs representing the diversity of the asset management industry managing between €0.2 billion and €40 billion at the end of 2021.

The AMF focused its work on the following:

- the organisation and governance of the market abuse prevention system (human resources and training programs);
- the procedural framework for preventing market abuse;
- the systems and measures for monitoring and detecting suspicious transactions (tools used, configuration and reporting of alerts);
- the practical implementation of the market abuse prevention system (watch lists, restricted lists, insider lists, analysis and reporting of suspicious transactions);
- the internal (permanent and periodic) control system implemented upon the process for preventing market abuse.

With regard to the human resources dedicated to the organisation and governance of this system, four of the five AMCs placed the compliance and internal control officer as responsible for the market abuse prevention system. The AMF notes that the same number of AMCs have set up a training programme dedicated to the risks of market abuse. As for the procedural corpus, while all the AMCs on the panel have drawn up a main document on the anti-market abuse systems, all the procedures consulted reveal gaps in their description of the operational mechanism and incomplete regulatory references, failing, for example, to mention the MAR or the suspicious transaction and order report (STOR) Regulation.

The operational management of inside information is based on three types of list which include securities under surveillance, restricted securities and insiders within the AMC. The AMF found that the audit trail explaining changes to the first two types of lists and how they interrelate was inadequate for three of the five AMCs inspected. The monitoring of transactions carried out on behalf of third parties is automated for the five AMCs, and three of them have a robust audit trail of the investigation of alerts issued. However, the inspection task force note that four of the five AMCs do not carry out an a posteriori review of alerts that have been closed without follow-up, which undermines the AMCs' ability to continuously improve their investigation process.

With regard to the practical implementation of the market abuse prevention system, the alert rules and thresholds set by the AMCs in the sample should improve. The AMF conducted a test on a sample of transactions representing an average of 5% of the trades executed during the period under review that were potentially suspicious based on the market abuse risk indicators used by the five AMCs. The rate of undetected suspicious transactions (whose non-detection was not justified by the AMC based on the configuration of their monitoring tool) was significant for two of the five AMCs. These findings make it clear that the configured alert scenarios must be reviewed on a regular basis to ensure that the monitoring system is continuously updated to take account of changes in management

activity and market abuse risks. This review must also ensure that the flow of alerts produced can still be dealt with effectively by the teams responsible for investigating them.

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