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17 February 2023

The AMF Enforcement Committee fines a financial investment advisor for breaches of its professional obligations

In its decision of 15 February 2023, the Enforcement Committee imposed a fine of €120,000 on the financial investment adviser Capexis.

The Committee found that Capexis had granted loans to its clients, which they had paid back. It held that by collecting these loan repayments, Capexis had failed to comply with the ban on financial investment advisers from receiving payments other than those intended to remunerate their activity.

It also noted that Capexis had recommended the subscription of the bare ownership of SCPI units to its clients and had subscribed on its own behalf to the usufruct, which allowed Capexis to receive subscription fees in this regard. The Committee ruled that Capexis had received commissions in connection with the provision of an investment advisory service and that it should therefore have informed its clients of the nature and amount of these commissions (or how they were calculated).

The Committee also found that Capexis had provided an order reception-transmission service (hereinafter RTO) without having first provided formal investment advice and without having drawn up an RTO agreement.

It also deemed that the information provided by Capexis in suitability statements on costs and fees, product performance and risks was insufficient inaccurate and misleading.

Lastly, the Committee found that Capexis' anti-money laundering and anti-terrorist financing procedure was not operational and that it had failed to adopt a risk-based approach by not carrying out an enhanced review of any transaction that did not appear to have an economic justification or a legitimate purpose.

However, the Committee ruled that it had not failed to fulfil its obligation of diligence and loyalty towards the inspectors.

An appeal may be lodged against this decision.

Main appeal lodged by the AMF's Chairwoman before the Conseil d'Etat against decision SAN-2023-03

The AMF's Chairwoman has lodged an appeal before the Conseil d'Etat against the Enforcement Committee's decision of 15 February 2023.

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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En savoir plus

SAN-2023-03 - Décision de la Commission des sanctions du 15 février 2023 à

↳ l'égard de la société Capexis (In French only)

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