AUTORITÉ DES MARCHÉS FINANCIERS

Print from the website of the AMF

25 October 2023

Closing speech by Marie-Anne Barbat Layani, AMF Chair - 16th Seminar of the Enforcement Committee, Thursday 12 October 2023

Check against delivery

Chairpeople of the Board,
Ladies and Gentlemen,

It is my pleasure this evening to close this 16th Seminar of the Enforcement Committee. This is the first time I have spoken at this forum since being appointed Chair of the AMF. As his term of office draws to a close, I would particularly like to thank Chair Jean Gaeremynck for his total and unwavering commitment as Chairman of the Enforcement Committee. I would also like to thank Didier Guérin in his capacity as Chairman of the 2nd section of the Enforcement Committee.

I would also like to thank Christophe Soulard, First President of the Court of Cassation, who has done us the honour of opening these discussions, and all the speakers who have agreed to discuss the AMF's power to impose sanctions and the influence of European case law on sanction proceedings.

These are key issues for the financial markets regulator and for all actors in the financial center.

Their significance is central to financial regulation.

Last June, we presented our strategic orientations for the coming years, with a strong ambition to be a high-impact authority. Among these orientations, we have chosen a cross-cutting approach: to be a demanding regulator for a leading financial center.

Tough regulation is not incompatible with a dynamic financial centre - quite the contrary. Market integrity and investor confidence are key to the competitiveness of a major financial centre. The rise of the Paris financial centre to the top of the European league table proves this, while France has never opted for the lowest regulatory bid. The quality of regulation is one of the main assets of the Paris financial centre; I have been told this explicitly by major international financial players who, after Brexit, have chosen Paris as the headquarters of their European activities, and who will - I hope - soon be joined by others.

We have therefore set ourselves the goal of being a demanding and fair regulator, to ensure that the markets operate smoothly and that investors are protected as much as possible. This is why the effectiveness of our enforcement power is essential, even if it is only one of our tools and certainly not an end in itself.

[First part: The results] - Allow me to begin by saying a few words about our track record in law enforcement.

This afternoon's discussions, and in particular those of the first roundtable on the assessment of and prospects for the AMF's enforcement powers, illustrate just how far we have come in the last 20 years.

The AMF is currently one of the most demanding financial regulators. If we look at the consolidated statistics of the International Organization of Securities Commissions for 2020, 2021 and 2022, the AMF is one of the three authorities in the world that make the most use of the mechanisms for requesting assistance from other supervisory authorities under international cooperation and information exchange agreements. Conversely, we are also among the most sought-after by our foreign counterparts. I see this as a key indicator.

Since its creation, the AMF has constantly strengthened its ability to act as a credible regulator. It has the means to act in a manner appropriate to its environment.

This environment has undergone genuine revolutions, leading to an acceleration and globalisation of both exchanges and transactions.

Today, the AMF can be proud of its tools, but also and above all of the commitment of its teams and, thanks to the quality of its staff, of its exceptional and recognised expertise. I

would like to take this opportunity today to pay tribute to all of them, especially those in charge of supervision, but also our investigators and inspectors, our legal experts and, of course, the members of the Enforcement Committee, which, I would remind you, is independent of the Board of Directors. The Finance Bill for 2024, which is currently being debated in Parliament, provides for an increase in the AMF's staffing cap by 5 posts (known as FTEs), which I welcome. This will enable us to consolidate some of our expertise. Of course, we would like more, given the scope of our missions. But this increase in our employment cap, which is particularly rare in the public sector, is already an important recognition of our role and our needs, and I welcome it as such.

This expertise and the AMF's constant adaptation to its environment have enabled us to detect new and sometimes complex market abuse practices and to sanction them, even when they were committed abroad, while still falling within our jurisdiction. I am thinking, for example, of cases of price manipulation through high-frequency trading or insiders operating in different countries.

The decisions handed down by the Enforcement Committee over the past twelve months illustrate this assessment. In one year, as Chairman Jean Gaeremynck pointed out, the Enforcement Committee has imposed fines totalling more than €126 million.

As Chair of the Board, I can only welcome the fact that the Enforcement Committee has often followed our lead in some cases where we have requested high penalty, but always fair and proportionate to the exceptional nature of the infringements found. In fact, the Board has strongly pursued a policy of demanding high financial sanctions when faced with unusual cases.

The Board also ensures that the AMF's enforcement policy covers all areas within its remit.

Recently, for example, it initiated sanction proceedings against an association of financial investment advisers.

I would like to remind you that the four associations of financial advisers play a complementary role to that of the AMF, as they are entrusted by law with the power to supervise and sanction their members.

Their professionalism and rigour are therefore key to the quality regulation of this profession, which now has 6,000 members. We want to strengthen the constructive dialogue we now have with these associations, which are key partners for the AMF.

As a regulator, our aim is not to increase the number and amount of sanctions, but to work towards market integrity, using all the tools at our disposal.

- The first tool is in a way preventive. I am referring to our sustained efforts to clarify the texts in force and to support the actors in their implementation. The aim is to give clarity to the work being carried out, and predictability to those involved.

We therefore regularly publish educational content on our website. Since 2018, the AMF has published its supervisory priorities every year. A new format of short thematic audits has been introduced (I refer to our "SPOT" audits), with the aim of producing an assessment of the practices observed among a panel of 5 or 6 actors and sharing the lessons learned with the financial center. In a few days' time, we will be publishing our 30th SPOT summary. We are also running more and more workshops, including webinars.

- The second tool has more to do with our repressive policy: administrative composition (settlement agreement). Since 2010 the AMF Board has had the option of proposing this administrative composition procedure on the basis of the investigation or inspection report and the comments of the respondents. Administrative compositions have since established themselves as a relevant and effective alternative to sanction proceedings. While the amounts involved are the same, it has the particular merit of being quicker for both the individuals concerned and the regulator, and is therefore highly complementary. These settlements are of course subject to approval by the Enforcement Committee. This year, the number of transactions passed the 100 mark. Since 2010, 106 agreements have been approved by the Enforcement Committee.

- I am also pleased with the good cooperation with the criminal justice system. This has been illustrated by the referral procedure since it was introduced in 2016. Before prosecuting facts that may constitute market abuse, the AMF consults the National Financial Prosecutor's Office (Parquet national financier). The aim is to have a choice between the criminal or administrative proceeding, whichever is more appropriate to the facts of the case. More recently, this cooperation has extended to criminal proceedings. In a recent case of price manipulation, in which the defendant was sentenced to a prison term and fined €2.6 million, the AMF's civil action was declared admissible. The AMF was awarded a symbolic €1 in compensation for moral prejudice resulting from the serious infringement of investor protection, one of our priority missions. It also received nearly €100,000 in compensation for the costs of the investigation. When the AMF has had to commit significant resources, particularly human resources, it has been recognised that it can obtain compensation.

The AMF will continue to actively participate in criminal hearings. This is essential, both to provide the courts with our technical expertise on the cases, and to enlighten the judges on the concrete consequences of the criminal offences charged.

[Second part: The future] - With the balance sheet in hand, it is time to turn our attention to the future.

This afternoon's discussions illustrate the need to look to the future in order to maintain our ambition and further strengthen our ability to act where the challenges of protecting investors and ensuring the proper functioning of markets are most acute.

Since my appointment, I have made this one of the AMF's priorities, which, as I said, is reflected in our strategic orientations. In line with these guidelines, our enforcement activities must adapt to the new challenges posed by sustainable finance and digital finance.

First of all, we need to strengthen our means of action upstream.

We must - and this is a strong desire - strengthen our ability to detect and respond to illegal behaviour and its new forms.

A number of advances have already been made:

The law of 9 June 2023 on commercial influence will provide a framework for the activity of influencers on social networks, an activity that can have considerable consequences for an often-young public.

Specifically, the law introduces a ban on influencers promoting certain risky and complex financial products, services based on digital assets where the advertiser is not registered or authorised, or offers of tokens to the public where the advertiser has not been authorised.

Our site blocking capabilities have been strengthened. We will be able to intervene in the entire range of financial instruments, and the procedure itself has been simplified for greater efficiency.

I know that this law is open to criticism, but it seems to me that it represents a major step forward on the issues that directly concern us, and one that is of great interest to our European colleagues who, like us, are faced with the difficulties associated with the role of 'finfluencers'. I hope we can maintain this progress.

We would also like to see further progress to enable us to step up our efforts to protect savers and ensure that investors are properly informed.

For example, we want to extend our use of assumed identities and equip ourselves with monitoring and surveillance tools for social networks to enable us to make automated use of public data, both in our market surveillance activities and in market abuse investigations.

We hope that a legislative vehicle will soon be found to support this major change and make our action more effective.

We also want the power to issue injunctions under penalty of law. Today, the AMF Board can order any person to put an end to a breach of its obligations to protect investors and, for example, to remedy a false information to the market. The AMF rarely makes use of this power, mainly because it is not possible to impose a penalty if the injunction is not complied with. Here again, this will require a change in the law, which I would like to see.

Modernising our enforcement resources is also a key issue. I wanted us to think very openly about strengthening and modernising our enforcement resources and their impact. But before that can happen, we need to be able to preserve what already exists, which is sometimes called into question.

Like all actors, the AMF is regularly challenged on the way it exercises its powers. This is the rule of the game in a state governed by the rule of law.

Part of our action is therefore to maintain or, if necessary, adapt our means of action.

Since the last seminar of the Enforcement Committee, there have been a number of important decisions in our favour, which have strengthened both our legal arsenal and our practices.

A ruling by the Court of Cassation in December 2022 re-examined the concept of "occupant of the premises", thereby confirming the AMF's practice. It reaffirms that during a visit authorised by a judge, documents and information media relating to the subject of an investigation and located on the premises designated by the judge or accessible from those premises may be seized. It is not necessary for these documents or media to belong to the occupier of the premises.

Secondly, connection data (fadets) are an important investigative tool. They were again called into question by the courts last year. This issue has been discussed at length during your work this afternoon, particularly during the second round table.

I am pleased with the rulings of the Court of Cassation on 10 May, which uphold our legal system and confirm that we can use connection data in market abuse investigations within the strict limits set by case law.

On the other hand, a new risk now hangs over our investigations and controls: the creation of a legal privilege for legal advice given by in-house lawyers. This kind of privilege could potentially affect the effectiveness of our investigations. We now need to assess whether the safeguards in the legislation will prevent any potential negative impact on our investigations.

Developing tomorrow's tools.

As well as preserving what we already have, we want to broaden our range of responses to the shortcomings we have identified and make our actions more effective.

The aim is manifold: for us, it will be a way of ensuring that each case is followed up as effectively and quickly as possible.

We would like to have a "simplified" settlement procedure to deal with simple breaches of reporting obligations, for example.

We hope that a legislative vehicle will be found in the near future that will allow us to include this response option and thus even more effectively ensure that the market is properly informed.

We also pay close attention to the way in which our counterparts, both in France and abroad, effectively conduct their respective missions. Certain practices can be a source of inspiration. And work like this afternoon's is very useful in stimulating our thinking about new tools and best practices.

In conclusion, I hope I have shown you through a few examples that we are proactive and keen to move forward. And yet I regularly read criticism of the AMF's supposed inaction. I can assure you that it is completely wrong to believe that the AMF is inactive. Its actions take many different forms. Some are visible, but others are by nature more confidential, which does not make them any less effective.

Take, for example, the supervision of regulated entities and listed companies. In addition to its approval and authorisation activities, the AMF is active on a daily basis, maintaining a close dialogue with market participants to ensure that the information provided to investors

is accurate, fair and not misleading, that it is appropriate and that it is provided within the deadlines set by the regulations. This action is essential. Yet it is invisible from the outside.

The AMF is bound by professional secrecy in individual cases. This is undoubtedly a prerequisite for our ability to maintain this demanding dialogue with the actors we regulate and with listed companies.

Moreover, when our actions go as far as initiating enforcement proceedings, it is clear that we are acting in a timeframe that is different from that of the markets.

The regulator's repressive action only becomes 'visible' at the very end of the procedure, when the Enforcement Committee holds a public hearing and publishes its decision on the AMF website. It can be frustrating, as I am well aware. However, I can assure you that the AMF is fully committed to its missions, using all the public and private means at its disposal.

Thank you for your attention.

Keywords INSTITUTIONAL

ON THE SAME TOPIC

Subscribe to our alerts and RSS feeds

ARTICLE AMF ACTIVITY

28 May 2026

Promoting more sustainable finance

ENFORCEMENT COMMITTEE NEWS RELEASES

SANCTIONS & SETTLEMENTS

22 May 2026

The AMF Enforcement Committee fines two individuals for insider dealing breaches

NEWS APPOINTMENT

13 May 2026

Christophe Bonnet appointed Data and Surveillance Director at the Autorité des Marchés Financiers

Legal information:
Head of publications: The Executive Director of AMF Communication Directorate. Contact: Communication Directorate – Autorité des marches financiers 17 place de la Bourse – 75082 Paris cedex 02