



27 SEPTEMBER 2021

AMF INSPECTION GUIDE

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INTRODUCTION

Duties of the AMF

The Autorité des Marchés Financiers (AMF) is an independent public authority with legal personality established by Act No. 2003-706 of 1 August 2003 (Financial Security Act). It is charged with:¹

- protecting savings invested in financial instruments, certain assets² and certain units of account³ offered to the public or admitted to trading on a regulated market or on a multilateral trading facility, and in any other investment offered to the public;
- providing information for investors;
- ensuring the markets for financial instruments, certain assets and certain units of account operate correctly.

While carrying out its duties, the AMF takes into account the objectives of financial stability. The AMF is also responsible for ensuring the quality of the information provided by asset management companies on their climate change strategy.

The AMF is composed of a Board with sixteen members which is divided into three Specialised Commissions, as well as an independent Enforcement Committee with twelve members who are not members of the Board, and several Consultative Commissions.⁴

The AMF has statutory powers to carry out its duties. Among other things it can :

- adopt a General Regulation covering, inter alia, the professional practices of the issuers and service providers under its authority, as well the general organisation and operating principles of regulated markets and multilateral trading facilities,⁵ all with a view to protecting investors.
- issue approvals,⁶ authorisations, etc.,
- carry out inspections and investigations,⁷
- sign administrative settlement agreements,⁸
- issue formal notices,⁹
- impose sanctions subsequent to an adversarial procedure initiated by the Board.¹⁰

Investigations and inspections

In the performance of its duties, the AMF carries out inspections and investigations.¹¹

Investigations focus on activities that may constitute either market abuse (insider dealing, price manipulation, disseminating false information) or, more generally, a breach of obligations that could undermine investor

¹ Article L. 621-1 of the Monetary and Financial Code.

² Specifically, the assets referred to in Article L. 421-1 II of the Monetary and Financial Code.

³ Specifically, units of account linked to greenhouse gas emission quotas as per Article L. 229-7 of the Environmental Code.

⁴ Article L. 621-2 of the Monetary and Financial Code.

⁵ Article L. 621-7 of the Monetary and Financial Code.

⁶ Articles L. 621-8 to L. 621-8-2 of the Monetary and Financial Code.

⁷ Articles L. 621-9 to L. 621-12-1 of the Monetary and Financial Code.

⁸ Article L. 621-14-1 of the Monetary and Financial Code.

⁹ Article L. 621-14 of the Monetary and Financial Code.

¹⁰ Article L. 621-15 of the Monetary and Financial Code.

¹¹ Article L. 621-9 of the Monetary and Financial Code.

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protection and disclosure or the correct operation of the market.¹² Investigations are covered by a separate guide entitled “Investigation Guide” which is available on the AMF website.

The purpose of inspections¹³ is to ensure that the entities and persons referred to in Article L.621-9 II of the Monetary and Financial Code, as well as the individuals acting under their authority or on their behalf,¹⁴ are in compliance with their professional obligations as set forth in European regulations, that same Code, the AMF General Regulation and professional rules approved by the AMF. Inspections may target a specific topic or cover general cross-cutting, thematic issues.

In certain cases, the thematic issue underlying an inspection is applied to a broad population; these inspections are known as “mass inspections” and may be conducted partially in the form of off-site examinations of records and on-site inspections at the business premises.

Purpose of this guide

This guide sets out the procedures for carrying out inspections in accordance with the applicable legal and regulatory provisions. In addition, it describes the principles of good conduct for the inspectors and the behaviour expected of persons who are summoned during an inspection.

This guide is not intended to give an exhaustive description of all aspects of an inspection. It merely provides information on standard practice, and refers where appropriate to the applicable laws and regulations. It neither supplements nor replaces the applicable European regulations, legal and regulatory provisions or the professional rules approved by the AMF.

Compliance with the principles and conduct described in this guide by, respectively, the inspectors (AMF staff or external agents) and the persons inspected or summoned during an inspection, helps to ensure that inspections proceed in a satisfactory manner in the interests of all parties concerned.

It is important to note that certain types of inspection may be governed by specific procedures (e.g. delegated inspections and mass inspections). In these cases, the person being inspected shall of course be informed of the rules that apply.

The guide is also posted on the AMF website.

The purpose of an inspection and how it is conducted

The purpose of inspections is to check whether the persons being inspected are complying with their professional obligations.

The AMF carries out various types of inspections, all of which are in the form of off-site examinations of records and/or on-site inspections, in accordance with the inspection rules set out in the Monetary and Financial Code and the AMF General Regulation:

- “standard” inspections, which are regular inspections of large market participants or those with particular risks or points of interest or that have been the subject of specific alerts;
- short theme-based inspections conducted concurrently across a number of market participants (usually five per theme) to better understand a given activity or practice, assess implementation of regulations or

¹² Article L. 621-9 of the Monetary and Financial Code.

¹³ Article 143-1 of the AMF General Regulation.

¹⁴ Article L. 621-9 of the Monetary and Financial Code.

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explore potential risks to investors or the market. These “SPOT” inspections, introduced in 2018 as part of the drive to strengthen supervision of market participants, are carried out over a shorter period than standard inspections and their purpose is, in particular, to produce an assessment of the practices observed within the sample inspected, in the form of a summary that is made available to the public. Although the purpose of this type of inspection is not one of enforcement, the procedures of a standard inspection may be applied if the seriousness of the facts observed justifies it, and may lead to a statement of complaint being sent;

- “mass” inspections, which currently only relate to financial investment advisers and are applied to a broad population of regulated entities in collaboration with the regional departments of the Banque de France.

An inspection involves obtaining and analysing information provided by inspected persons, as well as from individuals acting under the authority or on behalf of inspected persons and from any person able to provide relevant information. Information is gathered mainly at the business premises, through written requests or during interviews and hearings.¹⁵ It may also be necessary to request information from foreign regulators.

The AMF may conduct inspections on behalf of other domestic authorities, including the Autorité de Contrôle Prudentiel et de Résolution (ACPR), or perform joint inspections with them.¹⁶ The AMF may also ask other domestic authorities, such as the ACPR, to exercise their own powers of inspection.¹⁷

The AMF may also cooperate with its fellow European regulators¹⁸ (authorities of other European Union Member States or parties to the European Economic Area Agreement) and non-European counterparts.¹⁹ If it receives a cooperation request from another European authority, the AMF may either carry out the requested actions or allow the authority that made the request to perform the actions itself.²⁰

How an inspection is followed up

Once an inspection has been carried out, the inspectors produce a report.²¹

Based on the findings of the inspection report and any comments received, the AMF decides what follow-up action to take. This may consist of one or more of the following measures:

- notifying the respondents of the complaints against them and instigating sanction proceedings with the Enforcement Committee;²²
- notifying the respondents of the complaints against them together with an offer of administrative settlement;²³
- sending a follow-up letter;²⁴
- dismissing the case;
- sending the file to the Public Prosecution Service,²⁵ and in certain cases publicly announcing this fact;²⁶
- forwarding the report to another national or foreign competent authority.

¹⁵ Article 143-1 of the AMF General Regulation. and Article L. 621-10 of the Monetary and Financial Code.

¹⁶ Article L. 631-1 of the Monetary and Financial Code.

¹⁷ Articles L. 621-9-2 and R. 621-31 of the Monetary and Financial Code.

¹⁸ Article L. 632-1 of the Monetary and Financial Code.

¹⁹ Article L. 632-7 of the Monetary and Financial Code.

²⁰ Article L. 632-2 of the Monetary and Financial Code.

²¹ Article R. 621-36 of the Monetary and Financial Code.

²² Article L. 621-15 of the Monetary and Financial Code.

²³ Article L. 621-14-1 of the Monetary and Financial Code.

²⁴ Article 143-6 of the AMF General Regulation.

²⁵ Articles L. 621-15 and L. 621-20-1 of the Monetary and Financial Code.

²⁶ Article L. 621-15-I of the Monetary and Financial Code.

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If sanction proceedings are begun,²⁷ the chairman of the Enforcement Committee appoints a rapporteur from among its members.²⁸ The rapporteur conducts a procedure during which the respondents and their advisers have access to the inspection dossier and can file a defence. At the end of this investigation procedure, the Enforcement Committee holds a public hearing and issues its decision.²⁹ It may order a financial penalty and/or disciplinary measure if one or more regulatory breaches have been confirmed. Barring the exceptions provided for in Article L.621-15 of the Monetary and Financial Code, the decision is publicly disclosed, in an anonymised or non-anonymised version, and may be challenged in the Paris Court of Appeal or in France's supreme administrative court, the Conseil d'Etat.³⁰

Contents of the guide

This guide contains:

- the principles followed by the inspectors,
- the behaviour expected of persons summoned during an inspection.

²⁷ Article L. 621-15 of the Monetary and Financial Code.

²⁸ Article R. 621-39 of the Monetary and Financial Code.

²⁹ Article R. 621-40 of the Monetary and Financial Code.

³⁰ Article L. 621-30 of the Monetary and Financial Code.

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I. PRINCIPLES TO BE FOLLOWED BY THE PERSONS RESPONSIBLE FOR INSPECTIONS

1.1 Prerequisites for appointing the inspectors and avoiding conflicts of interest

Pursuant to Article R. 621-31 of the Monetary and Financial Code, the AMF may either use its own employees to exercise its inspection powers or draw from an exhaustive list of external inspectors, subject to a memorandum of understanding as provided for in Article R. 621-32 of the Monetary and Financial Code.

The person who has been proposed to carry out an inspection must meet the following prerequisites before he can be appointed by the AMF Secretary General:³¹

- a requirement of integrity: *“No one may be [...] appointed³² to carry out [...] an inspection if they have been subject to one of the convictions referred to in Article L. 500-1 [of the Monetary and Financial Code]”*;³³
- no conflicts of interest: *“No one may be authorised or appointed to carry out an [...] inspection of a legal entity in which they have been employed on a professional basis during the previous three years”*.³⁴

“Before giving an inspection order to [an external inspector], the secretary general [of the AMF] shall ensure that the nominee is not likely to have a conflict of interests with the person to be inspected [...].³⁵ To that end, where the nominee is [a statutory auditor, an accounting or legal expert, or a person or organisation competent in financial research or consultancy], the secretary general [of the AMF] shall ask him for information about all his professional relations during the three previous years with the person to be inspected.³⁶ The Secretary General [of the AMF] may not assign the inspection to this person if, during the period in question, he or she supervised or advised the persons concerned regarding the services or transactions in question”.

The AMF is required to verify in advance that there is no conflict of interest between the inspectors and the inspected person. If the inspected person believes that there is a possible conflict of interests, that person should notify the head inspector or the head inspector’s superiors.

Before giving an inspection order to an external inspector, the secretary general of the AMF shall ensure that the nominee is not likely to have a conflict of interest with the person to be inspected.³⁷ To that end, where the nominee is a statutory auditor, an accounting or legal expert, or a person or organisation competent in financial research or consultancy, the Secretary General of the AMF shall ask him for information about all his professional relations during the three previous years with the person to be inspected. The Secretary General of the AMF may not assign the inspection to this person if, during the period in question, he supervised or advised the persons concerned regarding the services or transactions in question.³⁸

³¹ Article R.621-33 of the Monetary and Financial Code.

³² If an inspection is delegated to an external inspector, this criterion applies both to the inspector and to persons appointed by the inspector to carry out the inspection work.

³³ These include convictions for a crime, a prison sentence or a suspended sentence of at least ten months for crimes and offences involving property, laundering, active or passive corruption, and influence peddling.

³⁴ Article R. 621-33 I of the Monetary and Financial Code.

³⁵ Article R. 621-33 II of the Monetary and Financial Code.

³⁶ Article R. 621-33 II of the Monetary and Financial Code.

³⁷ Article R. 621-33 II of the Monetary and Financial Code.

³⁸ Article R. 621-33 II of the Monetary and Financial Code.

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1.2 Professional secrecy with regard to information gathered during an inspection

Article L. 621-4 II of the Monetary and Financial Code states: *“The members, staff and officers of the AMF [...] are bound by professional secrecy under the conditions and subject to the penalties provided for in Article L. 642-1 [of the Monetary and Financial Code]”*.³⁹

Pursuant to Article R. 621-32 III of the Monetary and Financial Code, where the inspection is delegated, the external inspector appointed by the AMF will take measures vis-à-vis employees to ensure that all information gathered is protected by professional secrecy rules.

The inspectors may not disclose any specific information about other institutions that they may have inspected.

Professional secrecy applies to facts, acts and information that may come to the attention of inspectors when performing their duties. It also applies to the documents and information obtained in the course of their inspection, which may not be disclosed in any way unless otherwise provided by law.

However, under Article L. 621-4 II of the Monetary and Financial Code, *“professional secrecy cannot be raised in defence against the judicial authorities acting within the scope of criminal proceedings, or in connection with judicial liquidation proceedings brought against any person referred to in II of Article L. 621-9 [of the Monetary and Financial Code]”*.

Neither may professional secrecy be invoked against the national financial intelligence unit⁴⁰ (TRACFIN) when it is carrying out its duties. Professional secrecy may also be waived with regard to the other domestic authorities specified in Article L. 631-1 of the Monetary and Financial Code when they are performing their duties. Lastly, it may be waived vis-à-vis counterpart foreign authorities, as stipulated in Articles L. 632-1 to L. 632-11-2 and L. 632-16 of the Monetary and Financial Code.

During the phase following the transmission of the inspection report to the inspected person, the inspectors may not disclose to the inspected person or to any other person any information about the progress in the case, which is the remit of the AMF Secretary General and, where applicable, the AMF Board or its Specialised Commissions.

1.3 Professional, impartial and courteous attitude

The inspectors will conduct their investigations in a professional manner and ensure that they respect the imperatives of the inspection, the time frame of the investigation and the constraints of the people with whom they are dealing.

When exercising their powers, especially as regards access to information and documents, the inspectors will behave impartially and courteously at all times.

They will accommodate the operational and technical constraints of the inspected person insofar as these do not hinder the investigations. They shall refrain from expressing personal opinions or assessments.

Both during interviews and hearings and in the conduct of on-site investigations, inspectors make every effort to give the persons concerned enough time to acquaint themselves with the information they are given, understand

³⁹ Article L. 642-1 of the Monetary and Financial Code refers to Article 226-13 of the Criminal Code, which states: *“The disclosure of secret information by a person entrusted with such a secret, either because of his position or profession, or because of a temporary function or mission, shall be punished by one year’s imprisonment and a fine of €15,000.”*

⁴⁰ Articles L. 561-30 and L. 561-31-1 of the Monetary and Financial Code.

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its impact, answer questions relevantly and reread – and, where necessary, propose corrections to – the inspectors' minutes before signing them.

Shortcomings identified during the inspection are reported in a factual manner.

The inspectors do not involve themselves in the internal management of inspected persons and refrain from giving advice on how to conduct their business.

If, during an inspection, a particular difficulty arises that cannot be resolved directly by the inspectors and the representatives of the inspected person, the next person up in the AMF chain of command may have to be called in.

In the context of the inspection, the inspectors may not accept any invitation, gift or benefit from the inspected person.⁴¹

1.4 Due care and diligence when performing inspection work

As there is no regulatory or statutory deadline, inspections are not limited in time. They last as long as necessary to complete the investigations. The inspectors will however endeavour to exercise due care and diligence when performing their inspection work. However, various factors may extend the time required, including the complexity of the investigations, the time needed for international cooperation requests and delays by the inspected person in submitting documents or commenting on the inspection report.

The AMF's managers pay close attention to the time taken to carry out inspection work and also strive to ensure that inspection reports are submitted and reviewed within certain time frames.

Accordingly, AMF staff seek, as far as possible, to ensure that no more than six months on average pass between the signing of the inspection order and the transmission of the inspection report to the inspected person.

For SPOT inspections, AMF staff seek, as far as possible, to ensure that no more than four months on average pass between the signing of the inspection order, and the transmission of the inspection report to the inspected person.

1.5 Compliance with the principles of fairness and proportionality

The inspectors are guided by the principles of fairness and proportionality.

The principle of fairness means that inspectors carry out their duties in such a way as to assemble evidence both for and against the person or persons concerned. They collect factual evidence, documents and arguments that could confirm a breach of regulations but that could also reduce its scope or rule it out. The inspectors are free at all times to interview any person who might help them with their inspection, but they may also take evidence from anyone who asks to be interviewed. They shall also make every effort to interview anyone who may be implicated in the inspection report and allow that person to provide explanations and, where applicable, any additional evidence relating to the actions discovered by the inspection.

The principle of proportionality means that operational, technical and professional constraints affecting the inspected person will be taken into account, except where this may be detrimental to the investigation. As far as

⁴¹ Article 3.1.4 of the AMF's rules of procedure, published in issue 0177 of the Official Journal of the French Republic of 30 July 2017.

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possible, the inspectors endeavour to limit the impact of their activities on the work of the inspected person and on individuals summoned during an inspection.

1.6 Presenting the inspectors to the inspected person

Once the AMF Secretary General has decided to conduct an inspection, he or his representative “issues an inspection order to the persons he has placed in charge”.⁴²

The date on which the inspection order is signed marks the legal start date of the inspection, and the inspectors may from that date carry out any work required for the inspection. The inspection order indicates, inter alia, the name of the entity or body corporate to be inspected, the identity of the inspector and the purpose of the inspection.⁴³

At the start of the inspection, the AMF Secretary General or his representative issues a personal inspection order to each inspector (whether an AMF employee or an external inspector) and to any person who may be asked to provide occasional assistance with the inspection work. The inspection order, which bears the AMF’s logo, is dated and valid for the duration of the assignment. This order is presented to the inspected person before (by email) and/or at the briefing meeting that is arranged with the inspected person (cf. below) and, pursuant to Article R. 621-34 of the Monetary and Financial Code, at any time when requested during the inspection.

Inspectors who are members of the AMF staff carry a professional photo identity card issued by the AMF, which they will present, along with their personal inspection order, at the request of any person summoned during an inspection.

External inspectors must be able to provide identification for onsite visits. When making contact with the inspected person for the first time, the external inspector is always introduced by his or her contact person within the AMF, whose name appears on the inspection order given to the external inspector. For inspections delegated to an external firm, the inspector or inspectors shall receive named inspection orders signed by the AMF Secretary General or his representative.

For inspections delegated to the ACPR, the head inspector from the ACPR presents the inspected person with two types of document. First, a letter from the AMF Secretary General to the ACPR Secretary General. This letter, which mandates the ACPR to act on behalf of the AMF, names the person to be inspected and the purpose of the inspection. It also states the name of the ACPR’s contact person within the AMF (who may, if necessary, attend the main meetings with the inspected person, especially at the start and end of the inspection). Second, the ACPR head inspector, who has been officially instructed to act in relation to the inspection, presents the inspection order issued by the ACPR Secretary General, in which the head inspector is named as being in charge of the inspection. Inspection orders are not issued for any persons assisting the ACPR head inspector.

Every inspection, whether delegated or not, will be carried out by a team whose members may change over the course of the assignment if circumstances warrant. If an inspector is replaced, the AMF Secretary General or his representative must prepare, in the same way as described above, a new personal inspection order that is identical to the original inspection order but that is dated on the day on which the new inspector joins the team; the inspected persons are then informed.

⁴² Article 143-3 of the AMF General Regulation.

⁴³ Article 143-3 of the AMF General Regulation.

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1.7 Briefing the inspected person on the inspection framework

To enable inspected persons to organise themselves as efficiently as possible during the inspection (making material resources available, organising the work of affected staff members), it is customary, where circumstances permit, for the inspectors to organise a briefing meeting (which may be held remotely) with the legal representatives of the inspected person to explain the framework of the inspection. For larger entities, this briefing may be made to any other person authorised to represent the inspected person.

Since the length of an inspection depends on the scope and topic of the inspection, but also on the organisation of the inspected person and the manner in which it carries out its business, the inspectors will inform the inspected person of the estimated duration of the inspection.

For “SPOT” inspections, in the days following the inspection orders being signed, marking the start the inspection, an initial telephone call is made by the inspectors to inform the legal representative and/or the senior managers responsible for the inspected entity that an inspection has been initiated and the theme of that inspection. During this telephone conversation, an onsite or remote meeting is arranged with the inspected entity, which should usually take place within three working days. A request for documents is sent following this telephone conversation, and the inspected entity is invited to respond to this first request (relating to existing information and documents) within 8 working days via a secure electronic mailbox.

1.7.1 Request to appoint a primary contact person

At the briefing meeting, the representatives of the inspected person will give the inspectors the name of the person who will act as the primary contact person during the inspection. Any person appointed to perform this role must already have or be given the power to lawfully make undertakings on behalf of the inspected person and sign any records of findings prepared in the course of the inspection.

The primary contact person is responsible for coordinating the stages of the inspection to enable the inspected person to have a clear view of how the inspection is progressing, in particular:

- the timetable of interviews conducted with staff members, including with individuals placed under the authority or acting on behalf of the inspected person;
- documents submitted to the AMF;
- how unresolved points are being followed up.

In this regard, if the inspected person is an investment services provider and unless it expressly requires otherwise, the inspectors will consider that their primary contact person is the Investment Services Compliance Officer (RCSI) or the Compliance and Internal Control Officer (RCCI) of the inspected person.⁴⁴ However, the inspected person is free to appoint any other person to perform this role.

1.7.2 Briefing on the different stages of the inspection

At the briefing meeting, the inspectors will detail the main stages of the inspection. They will also take the opportunity to provide a copy of this Guide and explain how it applies, if necessary.

⁴⁴ Depending on whether the firm is an investment services provider in the broad sense or an asset management company.

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Depending on the circumstances, this document may be provided to the inspected entity in advance by email and/or at the same time as the inspection order is sent to the institution being inspected.

a) Investigations and interviews

Pursuant to Article L. 621-10 of the Monetary and Financial Code, inspectors may, for the purposes of their inspection, ask to receive a copy of any document whatsoever, regardless of its format.

According to Article 143-2 of the AMF General Regulation, *“to ensure the proper performance of its supervisory duties, the inspectors may order any of the persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code to retain information, regardless of the storage medium. Such a measure is confirmed in writing, with details of its duration and the conditions in which it may be renewed”*.

Inspectors are entitled to access all business premises. They may also gather on-site explanations.

Communication with the inspected person may take the form of on-site interviews or information requests (conducted via telephone, email or any other method).

Any transmission of documents can be made via the AMF’s secure messaging system. Inspectors can request that any interested party be given access to this messaging system. The inspected institution’s primary contact person automatically has access to the AMF’s secure messaging system to guarantee the confidentiality of the information.

b) Hearings⁴⁵ and presentation of findings

Inspectors may summon and take statements from any individual capable of providing information.⁴⁶

Hearings may be held:

- during an inspection,
- at the end of the inspection, when the findings are presented,
- with all potential respondents.

For all hearings, and as the Court of Justice of the European Union noted in its judgement of 2 February 2021 (C 481/19 DB v. CONSOB), the right to silence cannot justify every failure to cooperate with the competent authorities, such as a refusal to appear at a hearing planned by the authorities or delaying tactics designed to postpone it.

During the hearing, the answers to the inspectors’ questions are recorded, along with all the information that the interviewees wish to bring to their attention. The last word is given to the interviewee, who is asked by the inspectors, at the end of the hearing, to add any further comments if he or she so wishes.

To hold a hearing, a summons is sent, by any means that ensures it is received, at least eight calendar days before the hearing date. In general, the hearing date is set in advance jointly with the interviewee. The interviewee may opt to waive the eight-day notice. The summons specifies that the interviewee is entitled to be assisted by an advisor of his or her choice. It states the name of the interviewee and is sent to the registered office of the inspected person or by electronic means. If the interviewee no longer works for the inspected person, the summons is sent to the interviewee’s home address or by electronic means.

⁴⁵ The provisions relating to hearings may not apply to mass inspections.

⁴⁶ Article L. 621-10 of the Monetary and Financial Code.

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Hearings are generally held at the AMF's offices. However, a hearing may be conducted at the premises of the inspected person or at another authority's offices if the hearing is to be conducted abroad. Hearings may also take place at Banque de France branches located around the country. Hearings involving third parties may be held at the premises of the third party or at a location agreed on by both parties. Lastly, hearings may also be held remotely with the inspected institution.

Minutes are taken of the hearings, including all explanations given and documents presented by the inspectors and/or by the interviewee. These documents are then appended to the minutes. The inspectors keep the original of the minutes, and do not give copies to the persons who have been interviewed.

The inspectors and the interviewee sign the minutes. If the interviewee refuses, this is noted in the minutes.

If inspectors gather on-site explanations, minutes must be drawn up in addition to the report of the visit. These minutes shall indicate that the interviewee has been informed of his right to be assisted by an advisor of his choosing and has expressly waived the right to the notice period usually required for a summons.

Hearings may be conducted in the presence of the person or by video or audio conference if the interviewee agrees. In this case, the summons to attend the hearing must state that the interviewee has agreed for it to be recorded.

If the hearing is conducted by video or audio conference, a written transcription shall be produced from the audiovisual or sound recording. The transcription is submitted to the interviewee for signature within one month of the hearing, accompanied by the recording.⁴⁷

Hearings conducted during an inspection

Any person whose hearing may help to advance the inspection, including representatives and employees of the inspected person and any third party, may be interviewed in a hearing at any stage of the inspection where required.

Presenting the findings concerning the inspected person⁴⁸ at the end of the inspection

Every inspection involves a debriefing meeting during which the findings concerning the inspected person are presented. This meeting may take the form of a hearing or a simple interview (held either in person or by remote communications).

This meeting is attended by the legal representatives of the inspected person, most often accompanied by the RCSI or RCCI, and by the inspectors, and, where applicable, the external inspector's AMF contact person.

The chief purpose of this meeting is to inform the representatives of the inspected person about the principal facts and legal evidence gathered by the inspectors following investigations and to gather the interviewees' initial comments on these findings before finalising the inspection report. These initial comments as well as any additional inspection work and the internal approval process for the inspection report within the AMF may result in changes to the findings as presented in the meeting.

The ability to submit comments at this time does not remove the right⁴⁹ of the inspected person to submit further written comments following receipt of the inspection report.

⁴⁷ Article R. 621-35 of the Monetary and Financial Code.

⁴⁸ The provisions relating to presenting the findings may not apply to mass inspections.

⁴⁹ Article 143-5 of the AMF General Regulation.

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Meetings may be conducted either face to face or, if the person concerned agrees, by video or audio conference. When the meeting takes the form of a hearing, the minutes of the hearing are appended to the inspection report. However, no copy will be issued at the end of the hearing. If the interview is conducted by video or audio conference, the audiovisual or sound recording of the interview is the subject of a transcription report, which the interviewee is asked to sign. This report is sent to the interviewee within one month of the interview, accompanied by the recording.⁵⁰

No written record is kept if the meeting takes the form of a simple interview.

Hearings of potential respondents

Any potential respondent who is not present when the findings are presented is interviewed in a hearing.

This hearing is for employees (current or former) of the inspected person who may be potential respondents, as well as any senior manager who represented the inspected person at the time of the acts covered by the allegations, but who is not necessarily still a legal representative of the inspected person when the inspection report is sent.

The purpose of this hearing is chiefly to inform the interviewee of the principal facts and legal evidence gathered about him or her by the inspectors and to gather the interviewee's initial comments on these findings before finalising the inspection report. These initial comments, any additional inspection work and the internal approval process for the inspection report within the AMF may result in changes to the findings as presented in the hearing.

The minutes of the hearing will be appended to the summary letter (cf. below) but no copy will be issued at the end of the hearing. As with the inspected person, if the interview is conducted by video or audio conference, the audiovisual or sound recording of the interview is the subject of a transcription report, which the interviewee is asked to sign. This report is sent to the interviewee within one month of the interview, accompanied by the recording.⁵¹

c) Inspection minutes

Inspectors may keep minutes concerning the exercise of their right to access business premises, gather explanations, obtain documents and note any facts that may be of use in the inspection. The purpose of these reports is to describe the conduct of the investigation and the related comments, draw up a list of documents collected and, as the case may be, record any explanations, comments and unprompted statements made by the persons interviewed about the visit. These persons are given a copy of the reports, and they keep the originals of all evidence collected.

The inspectors and the interviewee sign the report. If the interviewee refuses, this is noted in the report.⁵²

⁵⁰ Third subparagraph, Article R. 621-35 of the Monetary and Financial Code.

⁵¹ Third subparagraph, Article R. 621-35 of the Monetary and Financial Code.

⁵² Article R. 621-35 of the Monetary and Financial Code.

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d) Use of assumed identities

When certain entities, a list of which is given by Article L.621-9 II of the Monetary and Financial Code, provide on-line services, inspectors may, under Article L.621-10-1 of the Monetary and Financial Code, use an assumed identity to access information about these services that could be of interest to the inspection.

The aim is to document the manner in which the service is being delivered.

When inspectors exercise this right, a report stating the way in which they consulted and used the website, the responses obtained and the findings must be prepared and sent to the concerned person or entity before the end of the inspection.⁵³

e) Issue of the inspection report and summary letters

Inspection report

Under Article R. 621-36 of the Monetary and Financial Code, *“the results of [...] inspections are the subject of a written report [which] states [...] any facts likely to constitute breaches of European regulations, the [Monetary and Financial Code], the Commercial Code, the AMF General Regulation and rules approved by the AMF, or breaches of other professional obligations or a criminal offence”*. *“[The] report produced at the end of an inspection is sent to the inspected entity or corporate entity”*.⁵⁴ It is accompanied by its annexes and a table of comments.⁵⁵ Financial investment advisers are required to send a copy of any inspection report and any follow-up documents concerning them to their professional association. This report can be sent by registered letter with return receipt or online via a secure platform.

“[The inspected person] to whom the report is sent is invited to submit comments to the AMF Secretary General within a period that cannot be less than ten days. These comments are forwarded to the Board when it examines the report in accordance with Section I of Article L. 621-15 of the Monetary and Financial Code”.⁵⁶ In practice, the cover letter accompanying the inspection report states the deadline for representatives of the inspected person to submit their written comments. This deadline may not be longer than one calendar month (or 10 working days for “SPOT” inspections). The AMF may agree to review this deadline on receipt of a justified request. Within this same deadline, the representatives of the inspected person may also ask for additional documentation provided by them to be included in the file.

To promote transparency, a letter may also be sent by registered post with return receipt or online via a secure platform to the legal representative(s) of the inspected person at the time when the letter is sent if any complaints raised by the inspection involve them personally. The letter states the deadline for submitting written comments and explains that they may consult the inspection report. The AMF may agree to review this deadline on receipt of a justified request. Within this same deadline, the representative(s) of the inspected person may also ask for additional documentation provided by them to be included in the file.

In certain circumstances, the inspection report is not submitted to the inspected entity, *“if the Board [of the AMF] alerted by the Secretary General, observes that a report describes facts which are capable of being characterised as criminal and deems that such transmittal could interfere with legal proceedings”*.⁵⁷

⁵³ Last subparagraph, Article R. 621-35 of the Monetary and Financial Code.

⁵⁴ Article 143-5 of the AMF General Regulation.

⁵⁵ Mass inspections, which are limited to an examination of documentary evidence, do not result in a written inspection report.

⁵⁶ Article 143-5 of the AMF General Regulation.

⁵⁷ Article 143-5 of the AMF General Regulation.

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Summary letter

In certain cases, a summary letter is sent to any individual likely to be charged.⁵⁸ Recipients of this letter may be (i) natural persons who are under the authority or who act on behalf of the inspected person, against whom charges may be brought under the regulations, and (ii) any senior manager who was representing the inspected person at the time of the facts contained in the inspection report but who is not or is no longer the legal representative of the company when the report is sent.

The summary letter provides excerpts from the inspection report to inform the person of the factual and legal evidence that is likely to serve as the basis for action against him or her. The key evidence from the inspection report is appended to the summary letter. The inspection report itself is not appended to the summary letter.

The letter specifies that the individual has one month to submit written comments. The AMF may agree to review this deadline on receipt of a justified request. The individual may also ask for additional documentation that he or she wishes to provide to be included in the report.

f) How an inspection is followed up⁵⁹

*“Having due regard for the conclusions of the inspection report and for any observations that may be submitted”,*⁶⁰ the AMF determines what action needs to be taken following an inspection, which may include one or more measures.

*“The [inspected person] is informed [...] of the measures it is required to put in place”*⁶¹ to address the issues found during the inspection. This notification takes the shape of a follow-up letter sent to the legal representatives of the inspected person who are *“[...] requested to forward the report and the aforementioned [follow-up] letter to [the] board of directors, or executive board and supervisory board, or the equivalent decision-making body, as well as to the statutory auditors [of the inspected person]”*.⁶²

If, following the review of the inspection report pursuant to I of Article L. 621-15 of the Monetary and Financial Code, *“[the AMF Board] decides to initiate sanction proceedings, it shall notify the complaints to the individuals concerned and forward the statement of complaints to the Enforcement Committee, which shall appoint a rapporteur from among its members”* to handle the case. During these proceedings, the respondents and their advisers have access to the inspection file and can file a defence. The Board representative may also submit written comments. The respondents and the Board representative may be heard, at their request, by the rapporteur or if the rapporteur deems this useful, as provided for by Article R. 621-39 of the Monetary and Financial Code. On the basis of this procedure and an adversarial hearing, the Enforcement Committee hands down its decision and may issue a fine and/or disciplinary sanction if one or more breaches have been confirmed. Barring the exceptions provided for in Article L. 621-15 of the Monetary and Financial Code, the decision is publicly announced, in an anonymised or non-anonymised version, and may be challenged in France’s supreme administrative court, the Conseil d’Etat or in the Paris Court of Appeal.

Under Article L. 621-14-1 of the Monetary and Financial Code, *“where the [...] inspection report drawn up by the departments of the Autorité des Marchés Financiers indicates breaches committed by any person referred to in point 9 of paragraph II of Article L. 621-9, paragraph II of Article L. 621-15, [...] or the professional obligations*

⁵⁸ By post or online.

⁵⁹ These provisions do not apply to the first phase of mass inspections (examination of documentary evidence).

⁶⁰ Article 143-6 of the AMF General Regulation.

⁶¹ Article 143-6 of the AMF General Regulation.

⁶² Article 143-6 of the AMF General Regulation.

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*referred to in Article L. 621-17, the AMF Board may, when it notifies the complaints [...], send [to the affected persons] a proposal for the opening of an administrative settlement procedure”.*⁶³

The Board may send the inspection report to the Public Prosecutor and decide to make that fact public.⁶⁴ In general, Article L. 621-20-1 of the Monetary and Financial Code specifies that *“if, in the performance of its duties, the AMF has knowledge of a crime or an offence, it must inform the Public Prosecutor without delay”*.

Finally, the inspection report may be sent to another competent domestic authority, such as TRACFIN or the ACPR, or to a foreign authority (cf. below).

If a person who was called to attend a hearing on the grounds of possible charges against him or her on a personal basis is not ultimately charged by the AMF Board, a letter will be sent to notify him or her of this fact after the specialised commission of the AMF Board has met. However, the rapporteur may refer the matter to the Board if he or she believes that one or more persons other than the respondents could be notified of the complaints.⁶⁵

g) Right to access and rectify data

To exercise its power to inspect, the AMF has compiled databases of personal information. These databases have been authorised by France’s Data Privacy Commission and may be accessed by certain authorised AMF employees who receive the processed data. In accordance with Articles 15 and 16 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (“GDPR Regulation”), any person concerned by an inspection whose personal data are processed in such files has a right to access the personal data contained therein and a right to rectify any personal data concerning them that are inaccurate or incomplete.

These rights to access and rectify data are exercised by writing to the AMF at the following address: AMF - Data Protection Officer - 17 Place de la Bourse, 75082 Paris Cedex 2; or by email: acesdopers@amf-france.org.

The AMF Personal Data Protection Policy can be accessed from the following link:
https://www.amf-france.org/fr/donnees-personnelles#Champ_dapplication.

1.7.3 Presenting the progress of the inspection

The inspectors provide regular updates on the progress of the inspection, when they deem it necessary or at the request of the inspected person. If the inspectors anticipate a significant difference between the likely length of the inspection and the initial estimate, they will inform the inspected person accordingly.

Once the inspection is completed, the inspectors inform the inspected person of the approximate date when the inspection report will be released.

⁶³ Using this approach, the AMF Board may, even though it has issued a statement of complaint, avoid taking the matter to the Enforcement Committee and instead offer the respondents the opportunity to enter into an administrative settlement. Settlement results in an agreement with the respondent, under the terms of which the respondent agrees to pay a sum of money to the Treasury, which may not be greater than the fine established by Article L. 621-15 II of the Monetary and Financial Code. If no agreement is approved or if there is a breach of this agreement, the statement of complaint is sent to the Enforcement Committee. Once finalised, the agreement is submitted to the AMF Board for validation and then to the Enforcement Committee for approval.

⁶⁴ Last paragraph of I of Article L. 621-15 of the Monetary and Financial Code.

⁶⁵ Article R. 621-39 1° of the Monetary and Financial Code.

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1.8 Destruction of media containing electronic mailboxes

Media containing electronic mailboxes collected during the inspection, together with any copies that may have been made, are destroyed by the AMF at the end of the inspection (this process does not relate to messages that may have been attached to the report). The person who initially provided the media containing electronic mailboxes is informed of this destruction by any means that can be used to verify the date of receipt of this information.

1.9 Exchanging information with other authorities or national or international administrations

1.9.1 Exchanging information with the judicial authorities

Article L. 621-20-1 of the Monetary and Financial Code states: *“If, in the performance of its duties, the Autorité des Marchés Financiers has knowledge of a crime or an offence, it is required to inform the Public Prosecutor thereof without delay and to send him all the relevant information, statements of offence and other documents”.*

This same article states that *“the Public Prosecutor may obtain from the Autorité des Marchés Financiers all the information it holds in connection with the performance of its duties. Information may not be withheld from him on grounds of professional secrecy”.*⁶⁶

1.9.2 Exchanging information with other national administrations

The AMF may cooperate and exchange information with other authorities, including Banque de France, IEDOM (the central bank for French overseas departments), IEOM (the central bank for issuing currency to overseas departments), ACPR, the Haut Conseil du Commissariat aux Comptes and the administrative authorities for competition and consumer affairs.⁶⁷ Information may also be exchanged with the Commission de Régulation de l'Énergie.⁶⁸

In addition, the AMF may ask the tax authorities to supply information and documents relevant to its work.⁶⁹ Reciprocally, the AMF is required to provide the tax authorities, at their request and without refusing to do so on grounds of professional secrecy, *“any document or information obtained in the course of carrying out its duties and responsibilities”*⁷⁰ unless these documents or this information come from a foreign authority tasked with similar responsibilities to those of the AMF, where said authority has not given explicit permission for the exchange.⁷¹

Likewise, the AMF and the national financial intelligence unit TRACFIN may exchange any information relevant to their respective missions. However, if the AMF discovers *“facts potentially linked to money laundering or terrorist financing or any sum or transaction referred to in Article L. 561-15”*,⁷² it must inform TRACFIN *“promptly”*.

⁶⁶ Subject to consent from the foreign counterparts of the AMF if the information was obtained through them.

⁶⁷ Article L. 631-1 of the Monetary and Financial Code.

⁶⁸ Article L. 621-21 of the Monetary and Financial Code.

⁶⁹ Article L. 135 F of the Book of Fiscal Procedure: *“For the purposes of its duties, the Autorité des Marchés Financiers may obtain information and documents pursuant to the first subparagraph of I of Article L. 621-9 to Article L. 621-9-1, the first subparagraph of Article L. 621-9-3 and Articles L. 621-10 and L. 621-20-6 of the Monetary and Financial Code”.*

⁷⁰ Article L. 84 E of the Book of Fiscal Procedure.

⁷¹ Article L. 632-7 of the Monetary and Financial Code.

⁷² Articles L. 561-28 II, L. 561-31 and L. 561-36 of the Monetary and Financial Code.

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1.9.3 Exchanging information with foreign counterparts and European supervisory and resolution authorities

As part of its inspections, the AMF may exchange information with its counterparts, irrespective of whether they are from countries that are members of the Union European or parties to the European Economic Area Agreement.⁷³

The AMF may also, for the purposes of its inspections, exchange information with the European supervisory and resolution authorities, in particular the European Securities and Markets Authority (ESMA).⁷⁴

1.10 Whistleblower procedure

Pursuant to the Sapin 2 Law 2016-1691 of 9 December 2016 on transparency, anti-corruption and economic modernisation, the AMF has set up a system for receiving and processing alerts about potential breaches of the regulations that it oversees. This system guarantees the confidentiality of the person reporting the alert and of the persons concerned.⁷⁵ AMF Instruction DOC-2018-13 sets out the circumstances and procedures for reporting the above-mentioned breaches.

⁷³ Articles L. 632-1 and following of the Monetary and Financial Code; Article L. 632-7 and following of the Monetary and Financial Code.

⁷⁴ Articles L. 632-6-1 of the Monetary and Financial Code; Article 24 of Regulation 596/2014/EU of 16 April 2014 on market abuse, which requires the competent authorities, without delay, to provide ESMA with all information necessary to carry out its duties, in accordance with Article 35 of Regulation (EU) No 1095/2010 establishing ESMA.

⁷⁵ <https://www.amf-france.org/fr/formulaires-et-declarations/lanceur-dalerte>

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II. BEHAVIOUR EXPECTED OF PERSONS ASKED TO COOPERATE WITH AN INSPECTION

To ensure that the inspection proceeds smoothly, the inspected person, its employees and any individuals acting under its responsibility or on its behalf, and specifically the person who will be the primary contact person during the inspection, as well as any third party summoned during an inspection (together referred to as “persons summoned during an inspection”), must comply with certain obligations (2.1) and principles of good conduct (2.2).

2.1 Obligations of persons asked to cooperate with an inspection

2.1.1 Not obstruct the inspection

*“Where the proper performance of an AMF inspection has been hindered, this fact is mentioned in the inspection report or in a special report setting out these difficulties”.*⁷⁶

Anyone who obstructs the inspectors’ investigations may incur an administrative penalty.

The *“Enforcement Committee may, after an adversarial procedure order a sanction against whoever, in the context of [...] an investigation carried out pursuant to paragraph 1 of Article L. 621-9, in response to a request from [...] inspectors and subject to the preservation of a legally-protected secret that may be withheld from the Autorité des Marchés Financiers, refuses to provide access to a document, regardless of its medium, and to provide a copy thereof, refuses to provide information or answer a summons, or refuses to give access to business premises”.*⁷⁷

Furthermore, pursuant to Article L. 621-10 of the Monetary and Financial Code, *“[...] inspectors may, for the purposes [...] of their inspection, ask to receive a copy of any document whatsoever, regardless of its format”* (e.g. hard or soft copies of documents). Inspectors may exercise this right to information against any person they believe able to provide information or documents that relate to the inspection. If they think it relevant, the inspectors may ask to be given a copy of the requested document.

The inspectors’ requests for information should be fulfilled as quickly as possible, taking into account the constraints of the inspected person but without slowing down the inspection unnecessarily, to ensure that the inspection does not last too long. All documents and files requested must be sent in a format that is easy to process, which will be determined with the inspectors.

2.1.2 Not use professional secrecy in defence against the inspectors

*“Within the scope of the inspections [...], professional secrecy may not be raised in defence against the AMF [...], except by officers of the law. [...]”*⁷⁸

Officers of the law means any professional whose primary and habitual occupation is to administer justice, in particular lawyers, court bailiffs and agents acting for the court (court-appointed administrators and agents).

⁷⁶ Article 143-4 of the AMF General Regulation.

⁷⁷ Article L. 621-15 II f) of the Monetary and Financial Code.

⁷⁸ Article L. 621-9-3 of the Monetary and Financial Code.

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Act no. 71-1130 of 31 December 1971 introducing reforms to certain judiciary and court-related occupations extends the scope of the lawyer's professional secrecy to include correspondence between a lawyer and his client.⁷⁹

Furthermore, statutory auditors are specifically released from their duty of professional secrecy when dealing with the AMF.⁸⁰

2.2 Principles of good conduct that apply to the inspected person

2.2.1 Cooperation with the inspection

- Under Article 143-1 of the AMF General Regulation, "*the AMF carries out off-site examinations of records and on-site inspections [...] at the business premises of [inspected persons]*".

To this end, inspected persons must facilitate effective access to all their business premises.

Regarding access for inspectors to business premises, a representative of the entity may be named as the inspectors' primary contact person. Such representatives must be empowered, either personally or by way of delegation, to commit the entity and sign any records of findings and document submissions.

During the subsequent course of the inspection, such representatives are likely to be the inspectors' main contact when requesting information. They will pass on such requests to the relevant departments, collate the information and issue reminders, where necessary, to ensure that the inspectors' questions are answered as quickly as possible.

Where the entity being inspected is an investment services provider, the inspectors will consider – unless expressly informed to the contrary – that their correspondent is the compliance officer. The inspectors take particular care to inform the correspondent of any difficulties encountered when performing their duties (cf. above).

If the inspected person wishes, the primary contact person for the inspection may attend all interviews between the inspectors and employees of the inspected person or individuals acting under its responsibility or on its behalf. However, that contact person may not answer the inspectors' questions on behalf of the interviewee.

Lastly, the AMF encourages the good practice of having at least one legal representative of the inspected person attend the debriefing meeting during which the findings are presented.

- Article 143-3 of the AMF General Regulation states that "*persons subject to inspection shall cooperate diligently and honestly*" (cf. 2.1.1 above).

In order to respect this principle, the individuals or employees of entities asked to cooperate with an inspection should answer questions or requests for information diligently, fairly and clearly.

They must endeavour to answer comprehensively, accurately and as quickly as possible. They must also provide substantiating evidence to the inspectors and refrain from providing incomplete or misleading documents. They shall also provide access to their information systems at the request of inspectors, through the use of appropriate user permissions.

⁷⁹ Article 66-5 of Act no. 71-1130 of 31 December 1971.

⁸⁰ Second subparagraph, Article L. 621-9-3 of the Monetary and Financial Code.

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The inspected person shall supply the inspectors with the details of any employee, anyone related to the inspected person (e.g. members of the Board of Directors, Supervisory Committee, Management Board or Audit Committee) or of any third party (e.g. statutory auditors, depositaries, external consultants, clients of the inspected person, external service providers or former employees) who the inspectors believe it would be necessary or useful to meet or contact to help their investigations.

2.2.2 Preservation of information

“To ensure the proper performance of its inspections, the inspectors may order any of the persons referred to in Section II of Article L. 621-9 of the Monetary and Financial Code to retain information, regardless of the storage medium. Such a measure is confirmed in writing, with details of its duration and the conditions in which it may be renewed.”⁸¹

If the inspectors decide to apply this provision to, for example, the recordings of phone conversations as per Article 76 of Delegated Regulation (EU) No. 2017/565, they must send the inspected person a written request in which the AMF may order these recordings to be retained.

2.2.3 Acting professionally, impartially and courteously throughout the inspection

Persons summoned for an inspection are expected to adopt a professional, impartial and courteous attitude in their dealings with the inspectors, as are the inspectors themselves.

In case of any problem, persons summoned during an inspection can contact the AMF’s main switchboard (tel: +33 (0)1 53 45 60 00), who will pass on the request to the relevant person in the AMF hierarchy. The AMF Inspections Directorate is part of the Inspection and Investigations Directorate, which in turn reports to the Managing Director for Investigations and Inspections and the AMF’s Secretary General.

References (click on the link):

[AMF organisation chart: The AMF departments:
http://www.amf-france.org/L-AMF/Organisation/Organigramme](http://www.amf-france.org/L-AMF/Organisation/Organigramme)

[2019 Annual Report Chapter 5: Market supervision, inspections and investigations and Chapter 6: transactions, sanctions and recourse:
https://www.amf-france.org/sites/default/files/2020-04/ra-amf-2019-vf.pdf](https://www.amf-france.org/sites/default/files/2020-04/ra-amf-2019-vf.pdf)

⁸¹ Article 143-2 of the AMF General Regulation.

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GLOSSARY

Hearing: A hearing is a formal interview of any person whose evidence is deemed relevant to the inspection.

Debriefing hearing on inspection findings: The purpose of this hearing is to present the findings and conclusions of the inspection to the inspected person and to obtain the inspected person's initial reactions. If the debriefing hearing takes place as part of a hearing, minutes will be produced of the proceedings. A debriefing hearing is not systematically held in order to present the findings of the inspection.

Hearing of potential respondents: The purpose of this hearing is to present to an individual who does not otherwise have access to the inspection report, the main findings of fact and of law on the grounds of which he or she may be personally charged.

At this stage, the AMF Board has not made its decision and so the person is not classed as a "respondent".

Interview: An inspection may entail interviews. The interview format is recommended especially for the inspected person to present its track record, organisational structure, processes and so on, since the particular nature of inspections lies in the need to obtain an accurate understanding of how the inspected person is organised or the specific nature of the topics covered. No formal invitation is sent for meetings.

Follow-up letter: In a follow-up letter, the AMF informs the inspected person of the measures that it needs to take to address the issues observed. A follow-up letter does not constitute in and of itself any charges against the inspected person who is the recipient of the letter.

Summary letter: In a summary letter, the AMF informs an individual who does not otherwise have access to the inspection report of the acts for which he or she may be personally charged, by sending excerpts from the inspection report concerning that person. The recipient of this letter may be an employee (current or former) of the inspected person who does not have access to the inspection report, or any other person, including a senior manager who represented the inspected person at the time of the acts covered by the allegations, but who is not necessarily still the legal representative of the inspected person when the inspection report is sent. This person must have previously given evidence in a hearing. At this stage, the AMF Board has not made its decision and so the person is not classed as a "respondent".

Statement of complaint: In a statement of complaint, the AMF informs the inspected person of the breaches of the professional rules for which charges have been brought under Article 621-15 II of the Monetary and Financial Code. From this point on, an inspected person or individual who has been served a statement of complaint is classed as a "respondent".

Inspection order: When the AMF decides to launch an inspection, an inspection order, signed by either the AMF Secretary General or his representative, is produced and issued to the persons designated to carry out the inspection. No contact may be made with the inspected person until the inspection order has been signed. The inspectors may, upon request, present or send the original of the inspection order along with their professional identity cards during their first exchange with the inspected person.

Inspection report: The results of the inspection results are written up in a report. The report states any facts that may constitute a breach of European regulations, the Monetary and Financial Code, the Commercial Code, the AMF General Regulation or other rules approved by the AMF, a breach of any other professional requirements or a criminal offence. It summarises the findings of the inspection, once the investigation phase is completed. It is sent to the inspected person, but only after the main findings have been presented to it verbally.