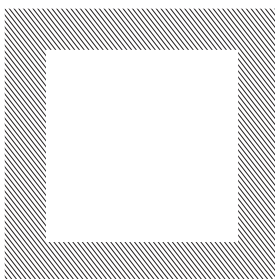
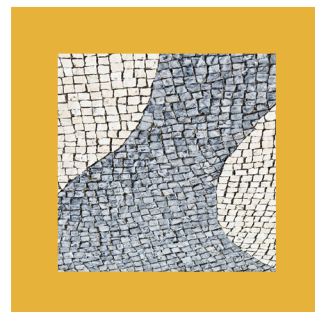
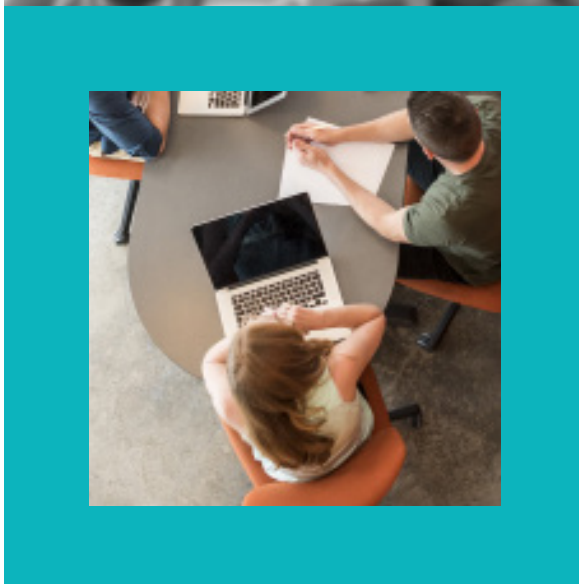
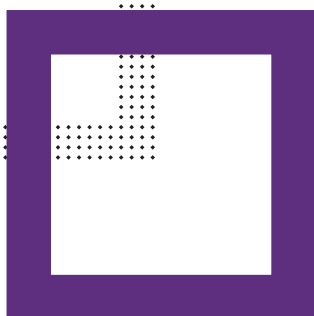
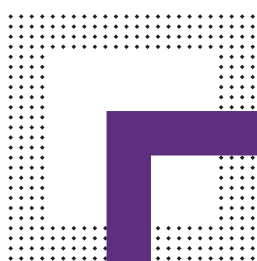


2019 SUPERVISORY PRIORITIES FOR THE AUTORITE DES MARCHES FINANCIERS





In accordance with the direction set out in the #Supervision2022 plan published in early 2018, and to supplement the associated priority actions for 2019, the AMF is publishing here the themes that will constitute its supervisory priorities for 2019.

➤ Purpose of this document

This document sets out the AMF's 2019 priorities with regard to the monitoring and supervision of professionals authorised to provide investment and collective investment management services. Publishing these thematic priorities serves to highlight certain areas of risk the regulator has identified and encourage regulated firms to look more specifically at some of their practices in light of applicable professional obligations. It is also an opportunity for the regulator to draw attention to specific areas of focus while also identifying the operational issues associated with practical implementation of the regulations.

This publication supplements efforts already underway to communicate with and reach out to the marketplace, for example by holding annual meetings with compliance officers. Where relevant, the Authority will also publish key learning from its supervisory activities as and when the need arises.

➤ Target audience

This document is intended for financial intermediaries authorised to provide investment, collective investment management or financial investment advice services (credit institutions authorised to provide investment services, investment firms, asset management companies, financial investment advisors (FIAs) and direct marketers). Supervisory priorities in connection with the ACPR-AMF Joint Unit are also mentioned at the end of the document, as are specific arrangements for financial investment advisers.

Other market participants subject to AMF supervision (crowdfunding investment advisors, intermediaries in miscellaneous goods, market infrastructures, etc.) are not directly targeted by this document, which describes thematic supervisory priorities for 2019. They are, however, monitored, and could be subject to controls regardless of the actions detailed here. Monitoring of listed companies' financial disclosures is also not addressed in this document.

➤ Our approach to the supervision of market participants

The AMF has at its disposal a number of supervisory tools, ranging from ongoing monitoring to specific inspections. It also actively monitors financial offerings and savings products offered to retail investors, as well as service providers' marketing practices, so as to inform the regulator's thinking and actions.

The AMF continuously monitors all professionals under its supervision based on information submitted on a regular basis (annual control and compliance reports, reporting data, declarations, etc.) or on request (additional information requested from service providers, interviews, etc.). The AMF also receives information about the activities of service providers licensed in France directly through other channels (the *AMF Épargne Info Service* platform, monitoring tools, whistleblowers, exchanges of information with other regulators in France and abroad, etc.).

These monitoring actions can be:

- individual, in response to specific alerts or as part of the periodic coverage of regulated entities, calibrated according to a risk-based approach;
- thematic, in particular to ensure implementation of new regulations.

This ongoing monitoring is carried out by the Asset Management Directorate for management companies and distributors (investment services providers (ISPs) or FIAs) and by the Markets Directorate for market intermediaries.

Inspections, which are carried out according to a procedure governed by law and by the AMF General Regulation, are also undertaken by the Inspections Directorate.¹ Once an inspection has been completed, the findings are presented in a report that is sent to the supervised entity. Around 65 inspections will be carried out in 2019² (compared with 63 in 2018), more or less evenly split between two types of inspections with different aims:

- Regular inspections of large market participants or those that present particular risks or have been the subject of specific alerts (“standard” inspections carried out under a risk-based approach).
- Theme-based inspections of a sample of market participants (usually five per theme) to better understand a given activity or practice, assess implementation of applicable rules or explore potential risks to investors or the market. These inspections, conducted concurrently across a number of participants and over a shorter timescale than standard inspections, were introduced in 2018 and are known as SPOT inspections (for *Supervision des Pratiques Opérationnelle et Thématique* – “operational and thematic supervision of practices”).

Learning from these inspections is fed back to the marketplace where relevant. Such feedback, which is intended to educate the market and raise awareness, constitutes an assessment of observed market practice at a given moment in time. In some cases, it can result in existing policy being updated.

➤ Review of 2018 supervisory priorities and initial learning

Themes identified in 2018 included (i) for investment services providers, implementation of certain key provisions of MiFID (including, *inter alia*, transaction reporting and new market structures) and discretionary investment management, and (ii) for asset management companies, practices associated with stress tests, capital, asset valuation procedures, effective portfolio management techniques and socially responsible investment management. Furthermore, specific work was undertaken by the ACPR/AMF Joint Unit on the protection of ageing populations and the distribution by financial institutions of their own securities to personal customers. This work will continue in 2019.

Three first summaries of SPOT inspections carried out by the AMF were published in 2018: one on MiFID I and II clients’ knowledge and experience, one on management companies’ capital, and the last one on the valuation of unlisted holdings in private equity management companies. In addition, a third summary, to be published in early 2019, will cover the valuation of unlisted investments in professional private equity investment companies.

As regards the MiFID II provisions on transaction reporting, supervisory actions targeted at several dozen intermediaries highlighted a satisfactory overall level of preparedness, with the result that reporting achieved a good level of completeness after an initial ramp-up period of a few weeks at the beginning of 2018. The benefit of identifying the end customer in reports was also confirmed, with notable efficiency gains from a market surveillance perspective. However, efforts to improve data quality and associated governance arrangements need to continue, and this theme will remain a priority for AMF staff in 2019 (see below) as standards become increasingly strict. As regards market structure, various actions have been initiated to ensure that intermediaries implement the provisions applicable to OTFs and systematic internalisers. For example, the need to properly populate ESMA databases that serve as a baseline for transparency requirements – a system whose complexity some intermediaries had underestimated – will require greater ongoing vigilance. Actions initiated in 2018 in relation to market structure will be taken further in 2019.

In the area of socially responsible investment management, the AMF took a number of actions in 2018 in response to the conclusions of the SRI report published at the end of 2017, notably to remind management companies of their disclosure requirements, laid down in particular in Article 173 of the Energy Transition and Green Growth Act, and to analyse reports made available. SPOT inspections were also launched in the second

¹ This legal framework is detailed in an inspection guide available from the AMF’s website.

² Inspections of asset management companies, ISPs and FIAs. This figure excludes the AMF’s “mass” inspections of FIAs, which number around 70 a year.

half of 2018, as planned. Supervision relating to responsible investment is an integral part of the AMF's sustainable finance roadmap published in November 2018. As such, the Authority will continue to exercise vigilance in this area in 2019, especially given rapid growth in the market.

Some supervisory workstreams planned for 2018 will be carried forward or supplemented (e.g. discretionary investment management); others have been postponed and incorporated into the 2019 supervision programme, notably as a result of the teams responsible for licensing and monitoring being involved in Brexit preparation work.

➤ Efforts to increase European convergence in supervision

One of the missions of the European Securities and Markets Authority (ESMA) is to foster supervisory convergence, an objective which the AMF sees as a priority. In this regard, ESMA conducts peer reviews on a regular basis, coordinated by the Supervisory Convergence Standing Committee (SCSC) and sets a joint work programme.³ The AMF supports ESMA's efforts in favour of a greater convergence of supervisory practices and might contribute to new initiatives, which could slightly modify the work planning set out in this document.



SUPERVISORY PRIORITIES FOR 2019 ASSET MANAGEMENT COMPANIES

■ **Cybersecurity**

The continually increasing threat has led to greater awareness of cybersecurity-related issues among financial market participants. At the end of 2018, the AMF undertook initial work to review asset management companies' organisation as regards IT security and assess the sector's specific characteristics relative to those of other market participants. This initial information-gathering exercise, based on interviews with companies and a questionnaire, will be supplemented with both SPOT and standard inspections in 2019.

Monitoring and supervisory actions will be aimed at assessing the market's status in terms of organisation, procedures and the effectiveness of arrangements in place for the governance and security of information systems.

■ **AIFM reporting**

One of the primary goals of the AIFM Directive was to introduce reporting requirements for asset management companies and alternative investment funds for the purposes of supervision and financial stability. As such, the Directive requires management companies to produce risk reporting, providing information about management companies and funds covering both the breakdown of assets and the level of risk carried by each fund (liquidity risk, leverage risk, etc.). This reporting also includes descriptive data on each AIF's strategy and exposure.

The quality of data received continues to be a crucial issue. Various supervisory actions have already been rolled out to analyse data quality and a first report will be soon published on the topic. SPOT inspections on data quality will be carried out in 2019, focusing in particular on fund risk indicators and the consistency of data transmitted. Work is also underway at the European level within the European Securities and Markets Authority (ESMA).

³ See <https://www.esma.europa.eu/convergence/supervisory-convergence>

■ **Anti-money laundering and counter-terrorist financing**

The fourth and fifth European directives on preventing the use of the financial system for money laundering and terrorist financing, amending the 2015 directive, entered into force on 25 June 2017 and 9 July 2018 respectively. Against this backdrop, policy elements will be updated in 2019 and new information will begin to be collected from management companies to tighten monitoring of these risks. Meetings will also be held with operators.

■ **Valuation of complex products**

An initial series of SPOT inspections in 2018 focused on valuation procedures used by private equity investment companies; in particular, the AIFM Directive introduced specific requirements with respect to independent valuation and the justification and traceability of methods used and valuations obtained. SPOT inspections in 2019 will focus on valuation procedures for complex products.

■ **Outsourcing of certain real estate services within a group and associated potential conflicts of interest**

Around a hundred French management companies are licensed to manage real estate investment within their funds and as part of their discretionary management. Within this specific field of investment, companies may call on affiliated entities, notably for sourcing, asset management and property management purposes. SPOT inspections will be carried out in 2019 to identify good practices for selecting and monitoring such external providers.



SUPERVISORY PRIORITIES FOR 2019 **MARKET INTERMEDIARIES**

■ **Markets in Financial Instruments Directive (MiFID II): implementation of reporting and record keeping, transparency and market structure, and best execution provisions**

In 2019, the AMF will continue with efforts made throughout 2018 to help firms implement these new rules. Three areas at the heart of the market reform introduced by the Directive were the focus of the regulator's attention over the first few months of implementation, and will continue to be closely monitored:

- Transaction reporting, to ensure the completeness and quality of reports submitted to the regulator.
- Compliance with post-trade transparency requirements; actions initiated on equity, ETF and bond transactions will be continued across this scope.
- Compliance with the obligation to trade on organised and regulated trading venues for equities and certain derivatives and monitoring of transactions carried out on organised trading facilities (OTFs) and by systematic internalisers (SIs). Implementation by OTF operators of all applicable provisions of MiFID II will be the focus of particular attention.

Record keeping arrangements put in place by intermediaries will also be the subject of on-site investigations by inspection teams through a campaign of SPOT inspections.

Lastly, implementation of the best execution principle as defined in the Directive is another core element of the MiFID framework. The AMF will continue to monitor measures put in place by intermediaries to adapt their execution arrangements and comply with best execution requirements, with a particular focus on certain practices known as "payment for order flows".

■ **EMIR requirements**

A number of inspections have already been carried out over the past two years to check market participants' compliance with the requirements arising from EMIR (European Market Infrastructure Regulation). These will continue in 2019, including through theme-based SPOT inspections focusing on governance and organisational control arrangements put in place for reporting transactions to trade repositories.

■ **Compliance of branches of French institutions within the European Union**

Supervision of cross-border business is one of the themes addressed by ESMA as part of its convergence work, notably in light of identified investor protection issues. The AMF will aim at assessing whether French institutions' compliance arrangements properly take into account business undertaken by their European branches.

■ **Securities lending and short selling**

Short selling is helpful to the smooth running of markets: it tends to add liquidity to the market, thus contributing to the price formation process. To ensure a high level of investor protection, short sellers must take steps to safeguard against settlement default, in accordance with regulations in force. Such measures may, in particular, involve borrowing securities. The relevant rules are supplemented by transparency requirements under which holders of short positions exceeding a 0.2% threshold must report their positions to the AMF. Furthermore, this information is made public whenever a position exceeds a threshold of 0.5%. As part of its mission of market surveillance, the AMF may request additional information. In exceptional circumstances, it may place restrictions on short selling.

Short selling, and the creation of short positions more generally, is monitored particularly closely by the AMF's supervisory teams, as reiterated in 2018, with prospective use of data resulting from implementation of the Securities Financing Transactions Regulation (SFTR).

■ **Voting at general meetings**

General meetings held by a number of major French companies in summer 2018 were affected by IT problems and errors in counting votes. Such issues put the credibility of the marketplace at stake. The AMF recommended that the various relevant stakeholders draw up a guide to handling votes to avoid operational difficulties before, during and after general meetings. Closer monitoring was also instigated, and inspections are underway.



SUPERVISORY PRIORITIES FOR 2019 **DISTRIBUTION**

■ **Markets in Financial Instruments Directive (MiFID II): product governance**

MiFID II contains new obligations relating to the identification of a target market and distribution strategy. From the AMF's perspective, these new obligations must not impede open-architecture distribution; rather, they must allow participants to find the best way to distribute products to the right clients, including, where appropriate, for the purposes of diversifying client portfolios. Responses to the annual compliance questionnaire will provide fresh information to help evaluate the extent to which institutions are meeting their obligations. Further mystery shopper visits will also be undertaken in 2019 to obtain an indication of the evolution in the products offered by advisers based on client profiles.

■ **Markets in Financial Instruments Directive (MiFID II): discretionary investment management**

In 2019, the AMF will be continuing with the analyses and inspections undertaken in 2018 (particularly on compliance of investment management agreements and fees), this time to evaluate implementation of the new provisions introduced by MiFID II (in particular notifying clients when the value of their portfolio depreciates by 10%, changes in the management report, and the end of inducements). A campaign of SPOT inspections will be run in 2019.

■ **Monitoring of financial investment advisers (FIAs)**

The regulator's main concern in relation to the monitoring of FIAs is the risk of mis-selling, notably of unregulated or unusual products. Responsibility for supervising these entities is shared between FIA industry associations and the AMF. The AMF and the industry associations are therefore in ongoing dialogue over the checks carried out by each, the inspection methodologies used by the associations and the marketing practices observed. Extending this cooperation to cover individual cases and alerts raised by both the AMF and the industry associations is a priority for 2019. This goes hand in hand with the increased powers granted to the associations, and will be accompanied by implementation of an appropriate framework for the transmission of information from the AMF to the associations.

■ **Action taken by the ACPR-AMF Joint Unit**

The ACPR-AMF Joint Unit, set up in 2010, enables staff from both authorities to work together on customer protection issues in the banking, insurance and financial services sectors.

Work that began in 2018 on two themes in particular will continue in 2019: self-placement of securities by banks following the creation by the "Sapin II" Act of "non-preferred senior debt" securities that can be marketed to retail clients, and marketing of financial products to vulnerable elderly people following research published by the Joint Unit at the end of 2018.

A new working group on digital customer journeys will also be set up to consider risks specific to each stage of the customer journey, at a time when digital solutions are on the increase.

Annex: Overview of the themes covered by short SPOT inspections

As explained, not all supervisory priorities involve SPOT inspections but might involve other forms of supervision (information requests, data analysis, dedicated questionnaires or meetings with firms, etc.) or standard inspections. Besides, SPOT inspections are not conducted in isolation but are part of the different supervisory actions undertaken by the regulator, enabling to augment its understanding of market practices.

	2018	2019
ASSET MANAGEMENT COMPANIES	<ul style="list-style-type: none"> ▪ Asset valuation: valuation procedures used by private equity investment companies (closed – see summary published in December 2018) ▪ Capital: compliance with regulatory capital requirements and investment of capital (closed – see summary published in November 2018) ▪ « Efficient portfolio management techniques »: practices for securities financing transactions and information to investors (on-going) ▪ Socially responsible investment management (on-going) 	<ul style="list-style-type: none"> ▪ Cybersecurity ▪ AIFM reporting: data quality and consistency of data transmitted ▪ Asset valuation: valuation procedures for complex products ▪ Outsourcing of certain real estate services within a group and associated potential conflicts of interest
MARKET INTERMEDIARIES		<ul style="list-style-type: none"> ▪ MiFID 2: implementation of requirements regarding record keeping arrangements ▪ EMIR requirements: governance and organisational control arrangements in place for reporting transactions to trade repositories
DISTRIBUTION	<ul style="list-style-type: none"> ▪ Discretionary investment management: compliance with management mandates (on-going) ▪ Discretionary investment management: fees (on-going) ▪ MIFID I / MIFID II clients' knowledge and experience (closed – see summary published in October 2018) 	<ul style="list-style-type: none"> ▪ MiFID 2 : discretionary investment management (cont'd): implementation of new requirements (notably notifications of clients when the value of their portfolio depreciates by 10%, changes in the management report, and the end of inducements)

Note: Summaries of SPOT inspections are available in English on the following page of the AMF's website: https://www.amf-france.org/en_US/Publications/Controles-SPOT?langSwitch=true





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