



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

ENFORCEMENT REPORT

2020-2021

Legal Deposit – Bibliothèque et Archives nationales du Québec, 2021

ISBN 978-2-550-89466-7 (PDF)

TABLE OF CONTENTS

MESSAGE FROM THE EXECUTIVE DIRECTOR, ENFORCEMENT	6
1 ENFORCEMENT HIGHLIGHTS	7
Sanctions	8
Inspections	9
Surveillance and investigations	10
Proceedings	11
Freeze orders and bans	12
Investor restitution	13
Fines and administrative penalties	14
Whistleblower program	15
2 AN IMPORTANT YEAR AMID THE PANDEMIC	16
3 KEY DETERRENT DECISIONS PROTECTING INVESTORS AND THE PUBLIC INTEREST	18
4 MAJOR TECHNOLOGICAL ADVANCES	21
Electronic evidence management (AÉP)	22
Data repository and analytics system	22
Data science initiatives	22
5 SUCCESSFULLY ASSUMING NEW RESPONSIBILITIES	24
6 TARGETED OFFENSIVES AND INITIATIVES TO ADDRESS EMERGING ISSUES AND TRENDS	26
Cryptocurrencies	27
FOREX	27

The mission of the Autorité des marchés financiers (AMF) is to regulate Québec's financial sector in order to promote its efficiency and protect consumers of financial products and services.

ACTIVITIES OF AMF ENFORCEMENT

- Inspect how activities are conducted by independent representatives and firms licensed by the AMF in the securities and financial products and services distribution industries, including the insurance and mortgage brokerage sectors, their respective representatives, and money-services businesses.
- Detect, investigate and seek sanctions, through appropriate proceedings and other remedies, for breaches and violations of the laws, regulations and guidelines administered or made by the AMF.
- Take conservatory measures to protect the public and maintain market integrity.



The enforcement actions undertaken by the AMF are a cornerstone of investor confidence and help ensure that markets work fairly and efficiently. Actions are based on best judgment and aimed at ensuring fairness to all stakeholders.

MESSAGE FROM THE EXECUTIVE DIRECTOR, ENFORCEMENT



Jean-François Fortin

Executive Director, Enforcement

We will always remember March 2020, when the pandemic first gripped the world. The AMF demonstrated agility by reacting quickly and continuing its operations remotely in order to protect consumers and ensure market efficiency. It also implemented all the necessary strategies to ensure the well-being of its employees and keep them engaged.

One year later, I am not only proud, but impressed by everything that the AMF Enforcement team has been able to accomplish, both operationally and in developing and implementing major initiatives and projects. The AMF relies on a knowledgeable and skilled team committed to implementing a credible, innovative and deterrent enforcement program.

When reading the AMF's 2020-2021 Enforcement Report, you will see that the organization's inspection, investigation and prosecution teams were very proactive and able to maintain their operations remotely, achieving more-than-satisfactory progress and results.

The AMF instituted a large number of prosecutions and obtained important rulings that sent deterrent messages. The courts clearly recognize that financial fraud is unacceptable and that the public interest demands tougher penalties when they are fair and proportionate.

Throughout 2020-2021, the AMF also continued its offensive on the crypto asset front and initiated major proceedings when investigations found a number of offences being committed via virtual spaces in the crypto asset ecosystem.

The inspection team was very busy this past year, particularly as it had to integrate mortgage brokerage into its inspection activities and oversee registrants' management of the pandemic.

Fiscal 2020-2021 was also a landmark year with the rollout of major projects such as electronic evidence management (AÉP) and the Market Analysis Platform (MAP). These projects have been completed (at last!), and the tools developed under them are now used daily by the AMF's market surveillance specialists, intelligence analysts, data science experts, investigators, and prosecutors. The completion of these projects is in keeping with the organization's ongoing work to build its data science expertise and develop technological tools to help it improve its performance in inspections, investigations, and prosecutions.

I would like to take this opportunity to thank all AMF Enforcement employees and managers, who, faced with the unusual circumstances of the past year, showed resilience and never flagged in their enthusiasm and passion for the AMF's mission.

ENFORCEMENT HIGHLIGHTS

Period from April 1, 2020
to March 31, 2021

**THE TEAMS' ONGOING EFFORTS
RESULTED IN CONTINUED SIGNIFICANT
ACTIVITY BEFORE THE COURTS,
REFLECTED IN A LARGE NUMBER OF
NEW PROSECUTIONS AND SEVERAL
DECISIONS TO ENSURE THE PROTECTION
OF THE PUBLIC.**



SANCTIONS

April 1, 2020 to March 31, 2021

63

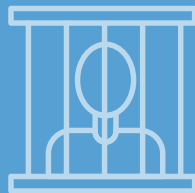
individuals and firms were sanctioned

63 individuals and firms were sanctioned by the courts for various offences under the laws administered by the AMF.

\$5,560,718

\$5,560,718 in fines and administrative penalties were imposed.

4



4 individuals were given a total of more than 5.9 years of jail time in penal proceedings.

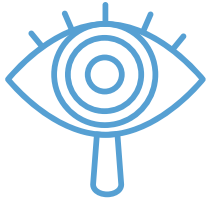


INSPECTIONS

April 1, 2020 to March 31, 2021

Opened Concluded Ongoing

	Matters processed	
<i>Act respecting the distribution of financial products and services</i>	<input type="radio"/>	60
	<input checked="" type="radio"/>	56
	<input type="radio"/>	51
<i>Securities Act</i>	<input type="radio"/>	191
	<input checked="" type="radio"/>	236
	<input type="radio"/>	41
<i>Money-Services Businesses Act</i>	<input type="radio"/>	6
	<input checked="" type="radio"/>	7
	<input type="radio"/>	2

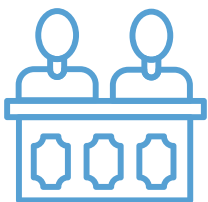


SURVEILLANCE AND INVESTIGATIONS

April 1, 2020 to March 31, 2021

○ Opened ● Concluded ◐ Ongoing

	Matters processed	
Case assessment	○	201
	●	202
	◐	45
Market surveillance	○	74
	●	58
	◐	44
Cybercrime investigations	○	15
	●	16
	◐	14
General investigations	○	58
	●	44
	◐	54
Joint investigations – financial crimes	○	16
	●	20
	◐	21
Market abuse	○	13
	●	30
	◐	24



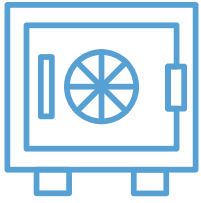
PROCEEDINGS

April 1, 2020 to March 31, 2021

Proceedings before the courts	Statements issued and receiverships	11
Proceedings before the Financial Markets Administrative Tribunal	Requests filed	32
Administrative proceedings	Requests for orders under the <i>Insurers Act</i> or the <i>Act respecting the distribution of financial products and services</i>	1

The above proceedings were instituted against 109 individuals and firms.

Offences	Number of counts filed
<i>Securities Act</i> or <i>Derivatives Act</i>	26
<i>Act respecting the distribution of financial products and services</i>	25
<i>Money-Services Businesses Act</i>	-



FREEZE ORDERS AND BANS

April 1, 2020 to March 31, 2021

10

freeze orders issued by the Financial Markets Administrative Tribunal.

Freeze orders are issued during an investigation to protect assets and prevent them from being transferred or dissipated, so that amounts may be returned to the victims.

16

bans on carrying on certain regulated activities, acting as a representative, responsible officer, compliance officer or director or trading in securities.

**These freeze orders
and bans affected
10 individuals.**



INVESTOR RESTITUTION

April 1, 2020 to March 31, 2021

\$4,253,884

**was returned
to victims.**

This year again, the AMF focused on ensuring that aggrieved investors were reimbursed when possible. The legislative changes¹ introduced by *An Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* helped the AMF meet this important objective.

¹ Sections 262.2 of the *Securities Act* and 127.1 of the *Derivatives Act*.



FINES AND ADMINISTRATIVE PENALTIES

April 1, 2020 to March 31, 2021

\$5,560,718

Fines imposed by courts	<i>Securities Act or Derivatives Act</i>	\$2,736,080
	<i>Act respecting the distribution of financial products and services</i>	\$1,086,638
	<i>Money-Services Businesses Act</i>	\$40,000
Administrative penalties imposed by the Financial Markets Administrative Tribunal	<i>Securities Act or Derivatives Act</i>	\$1,376,000
	<i>Act respecting the distribution of financial products and services</i>	\$172,000
Administrative penalties imposed by the AMF	<i>Securities Act,² Act respecting the distribution of financial products and services³ or Insurers Act⁴</i>	\$150,000

3,142

hours of compensatory work

3,142 hours of compensatory work were completed by 8 offenders.

² Section 274.1.

³ Sections 115.2 and 419.

⁴ Sections 491 to 494 of the *Insurers Act* (section 405.1 of the *Act respecting insurance* prior to June 13, 2019).



WHISTLEBLOWER PROGRAM

April 1, 2020 to March 31, 2021

241

reports received

The purpose of the AMF whistleblower program is to obtain new and relevant information from the public about offences being committed under the laws and regulations administered by the AMF. Whistleblowers, who make an invaluable contribution to the AMF's efforts by sharing information not otherwise readily available to investigators, can make reports in complete confidence and are protected through anti-reprisal measures.

Since its launch in 2016, the whistleblower program has generated an ever-growing number of reports. It leads to concrete results: in the 2020-2021 fiscal year, the AMF received 241 reports containing information that was used in 26 ongoing investigations and resulted in the opening of 23 new investigations.

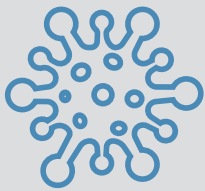
15

investor warnings issued

The AMF published 15 investor warnings to caution and protect Québec consumers against the risks associated with emerging schemes, fraudulent representations or illegal solicitations, particularly in connection with fraudulent trading platforms in the crypto assets sector, and securities promotions attempting to exploit the situation caused by the pandemic.

**AN IMPORTANT YEAR
AMID THE PANDEMIC**

2



The past year was marked, of course, by the pandemic. Despite everything, AMF Enforcement team worked quickly and efficiently to organize its operations so that it could continue its enforcement activities.

Although investigators were able to work remotely and interviews with witnesses and victims could be held virtually, AMF Investigations' teams developed work policies and procedures to enable them to safely resume field operations on a gradual basis. Drawing on the practices put in place by other law enforcement agencies, AMF Enforcement staff were able to gradually return to in-person interviews and start executing search warrants again.

The tribunals and courts suspended their activities in March 2020. Within less than a month, the Financial Markets Administrative Tribunal (Tribunal) established a virtual hearings process. In the past year, AMF Enforcement was very proactive with the Tribunal in preserving assets and stopping illegal activities by seeking freeze orders and bans.

The prosecution team took advantage of the suspension of hearings to complete its matter analysis, which resulted in several new statements of offence being issued and in new proceedings being filed. Starting in June, court hearings gradually resumed, and the pace of court activity has progressively increased since September 1, 2020. Hearings without witnesses can be held remotely, while trials with witnesses are generally being held at a courthouse in an order of priority determined by the Court and in compliance with the public health measures imposed by public health authorities.

The inspection team was forced by the pandemic to adjust its planning and methodology; however, it was able to maintain its activities remotely and properly supervise the clientele regulated by the AMF using, in particular, the technological tools available and procedures in place. The AMF's inspection team also launched an on-line survey to assess the impacts of COVID-19 on the activities of Québec-based companies.

This report not only demonstrates the scope of the work performed by the teams despite the pandemic, but also shows their agility in developing new initiatives.

**KEY DETERRENT
DECISIONS PROTECTING
INVESTORS AND
THE PUBLIC INTEREST**

3



THE AMF SOUGHT TO HAVE SANCTIONS IMPOSED BY THE COURTS FOR FAILURES TO COMPLY WITH THE LAWS IT ADMINISTERS AND, AGAIN THIS YEAR, OBTAINED SOME IMPORTANT RULINGS, SENDING A DETERRENT MESSAGE AND REMINDING REGISTRANTS OF THEIR OBLIGATIONS, AS ILLUSTRATED BY THE FOLLOWING DECISIONS.

Autorité des marchés financiers v. Desjardins Financial Services Firm Inc., 2021 QCTMF 2

In January 2021, the Tribunal handed down a decision approving the agreement entered into between the AMF and Desjardins Financial Services Firm (DFSF) proposing an administrative penalty of \$1 million against DFSF for various regulatory breaches.

In this matter, the AMF's investigation found that, in 2009, DFSF had established a compensation program that favoured the sale of Desjardins funds over non-Desjardins funds. The program, which became mandatory in 2016, was likely to create conflicts of interest for representatives.

The incentive compensation structure contravened Regulation 81-105 respecting Mutual Fund Sales Practices (Regulation 81-105), which prohibits dealers from adopting, for their representatives, measures that encourage them to recommend investing in certain mutual funds rather than others.

The investigation also found that DFSF had failed to keep the proper registers showing the representatives who had enrolled in the compensation plan between 2009 and 2015 and the compensation amounts received. By not keeping such registers, it failed in its obligation as a registered firm to put in place controls to manage the risks associated with its operations, especially as regards conflicts of interest.

This decision is a reminder that registrants must always put the client's interests first.

Pierre Donaldson, et al. v. Autorité des marchés financiers, et al., 2020 CanLII 97858 (SCC)

In December 2020, the Superior Court of Canada dismissed two applications filed by the officers and directors of Nstein Technologies Inc. for leave to appeal from a Québec Court of Appeal judgment upholding a Court of Québec decision.

The Court of Québec decision had imposed administrative penalties on officers and directors of the public company for committing an offence under the *Securities Act* by authorizing the granting of (or by receiving and accepting) stock options while in possession of privileged information.

The Québec Court of Appeal judgment confirmed that the receiving of options by officers or directors of a firm may be spring loading within the meaning of securities legislation and may therefore constitute insider trading.

The Québec Court of Appeal decision also confirmed that the prescription in civil liability, set out in article 2925 of the *Civil Code of Québec*, does not apply to requests to impose administrative penalties filed by the AMF under section 273.1 of the *Securities Act*.

Autorité des marchés financiers v. Daniel Duval and Jean-Claude Sénécal, C.Q., June 22, 2020

In June 2020, the Court of Québec sentenced Daniel Duval and Jean-Claude Sénécal to 24 months of jail time and fined them a total of \$1,103,040.

The Court of Québec had found the defendants guilty of some 20 counts of making a distribution without a prospectus and one count of illegally practising as a securities dealer under the *Securities Act*, and six counts of illegally practising as a derivatives adviser and one count of fraud under the *Derivatives Act*.

In this matter, the AMF demonstrated that the defendants had developed a charitable donations scheme allowing investors to obtain a tax credit for a higher amount than the actual donation and that such a scheme constituted an investment contract within the meaning of the *Securities Act*. Furthermore, in contravention of the *Derivatives Act*, the defendants had solicited investors to get them to entrust the defendants with the management of their FOREX accounts.

In sentencing the defendants, the judge cited as aggravating factors the objective seriousness of the offences, the large amounts solicited, the injury caused to investors, the planned and premeditated nature of their acts, the harm to the integrity of the financial markets, the breach of trust, the inability to reimburse the victims, the profits realized from the offence involved in the count of fraud, and the post-offence conduct of the defendants.

Autorité des marchés financiers v. Réjean Presseault, C.Q., September 1, 2020

In September 2020, the Court of Québec sentenced the defendant to 18 months of jail time and fined him a total of \$464,000.

This judgment was rendered after the defendant pleaded guilty to 28 of 30 counts of making a distribution without a prospectus, illegally practising as a securities dealer and making misrepresentations, in contravention of the *Securities Act*.

In this case, the defendant met the investor concerned in the course of his work. A relationship of trust and friendship developed between them. Over the years, the defendant solicited the investor to make various investments in private loans. While he received a portion of the interest on the invested capital, the investor suffered a net loss of \$512,000.

In sentencing the defendant, the judge cited as aggravating factors the premeditated nature of the defendant's actions, his criminal record, the breach of trust, and the devastating consequences for the investor, who tragically committed suicide a few days after testifying on sentence.

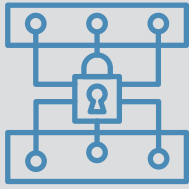
Autorité des marchés financiers v. Alexandre Barta C.Q., October 1, 2020

In October 2020, the Court of Québec approved a joint suggestion by the parties and sentenced the defendant to five months of jail time.

The defendant had pleaded guilty to one count of making misrepresentations about securities transactions. Specifically, he had represented to five investors that their money would be invested in various companies. The evidence revealed that, of the \$324,000 contributed by the investors, \$256,000 was used by the defendant for personal expenses.

**MAJOR TECHNOLOGICAL
ADVANCES**

4



Electronic evidence management (AÉP)

In the fall of 2020, AMF Enforcement proudly rolled out the electronic evidence management (AÉP) project, which has been the focus of considerable effort over the past few years. It was an important milestone for AMF investigations and prosecutions. As part of this project, AMF Enforcement reviewed all of its matter and evidence management processes used in investigations and prosecutions, taking into account the growing complexity of the matters it handles and the proliferation and complexity of the information it has to gather, process and analyze. AÉP allows the AMF to optimize its processes for managing matters and gathering, storing, processing, analyzing, disclosing and presenting before administrative or judicial bodies the evidence collected during investigations and administered in connection with prosecutions.

Specifically, AMF Enforcement successfully deployed a new tool for closely managing matters, including processing times, time invested in matters and real-time individual matter tracking. In addition, the electronic evidence collection and administration tool was phased in on its teams.

AÉP—a major advance that meets the highest standards for investigative and prosecutorial agencies—will result in efficiency gains and enhance the AMF’s capacity to process a larger number of matters.



Data repository and analytics system

The AMF, working with the other members of the Canadian Securities Administrators (CSA), continued to provide leadership on the national Market Analysis Platform (MAP) project, which involves building a computing architecture capable of hosting a multi-source data repository and implementing analytical tools for detecting, investigating and prosecuting offences related to stock market trading. The AMF is proud of the deployment of the initial phase of this innovative project, which will significantly improve efficiency in analyzing market offences.

Data science initiatives

AMF Enforcement has a team of data science specialists who are working to develop tools that will enable it to use and process data better in the context of the AMF’s enforcement efforts.

a) Registrant audits

Specifically, specialists from the inspection team developed an iterative computer-tool-assisted audit project to improve the AMF’s capacity to process, analyze and understand the data obtained from registrants during inspections. Data standardization, transformation, analytical and visualization tools were created, tested and fine-tuned. The tools were developed to enhance the relevance, effectiveness and sophistication of the AMF’s inspection techniques.

b) Market abuse and insider trading

Data science specialists from the AMF's investigation team designed an analytical framework, a methodology and a set of tools specifically to facilitate the prosecution of matters involving market manipulation, on both securities and derivatives markets. They developed an algorithmic approach that makes it possible to analyze data using settings and filters and thereby detect more schemes and intervene more effectively.

c) Collaboration with counterparts

In order to stay relevant and ahead of the curve, the AMF's data science specialists are working with their Canadian and international counterparts to share experience, know-how and technological tools.

Under the aegis of the International Organization of Securities Commissions (IOSCO), the AMF led the 5th international Technology Applied to Securities Markets Enforcement Conference (TASMEC) in November 2020, an event that was held virtually because of the pandemic. The conference, which focused on the use of data science to facilitate the detection of market misconduct, drew over 100 participants from the world's most influential regulators.

The AMF's data science specialists used the event to present tools that had been developed internally. Participants once again spoke about how useful the conference is for generating innovative ideas and learning from their peers about how to make optimal use of cutting-edge technology in investigations of securities violations.

**SUCCESSFULLY
ASSUMING NEW
RESPONSIBILITIES**

5



Since May 1, 2020, the AMF has been responsible for supervising the mortgage brokerage sector. To properly carry out its new mandate, the inspection team trained new inspectors and used a variety of tools to assess and support the compliance of over 500 mortgage brokerage firms.

Registrants were sent a first wave of self-assessment questionnaires on the measures in place to ensure mortgage brokerage transaction, personal information protection and IT security compliance. This was followed by simultaneous firm inspections. These two initiatives were combined with a webinar entitled “Conformité en courtage hypothécaire” (in French only), which attracted the interest of more than 1,250 mortgage brokers from across Québec. The purpose of this webinar was to raise awareness about the AMF’s inspection activities and the new regulatory requirements resulting from the passage of Bill 141.

The AMF successfully took over several investigation matters that were also transferred to it from the Organisme d’autoréglementation du courtage immobilier du Québec (OACIQ). In addition, it received a number of reports that led to investigation matters being opened, mainly for ethics violations. Investigators and prosecutors worked closely together to establish the legal guidance required to process these matters, which can be somewhat complex owing to the transitional measures determined by law. They also provided ongoing support to the operational teams, including those responsible for compensation, certification and registration.

**TARGETED OFFENSIVES
AND INITIATIVES TO
ADDRESS EMERGING
ISSUES AND TRENDS**





Cryptocurrencies

Over the past year, the AMF continued its efforts to detect offences in the crypto asset ecosystem. Following an investigation, the AMF initiated legal proceedings related to the illegal solicitation of investors in the field of cryptocurrency mining and the illegal solicitation of funds involving the purchase of coins for a promise of a return in order to finance the launch of an on-line platform. The AMF also obtained freeze orders and cease trade orders in connection with cryptocurrency mining and cloud computing service and cryptocurrency trading service proposals made by promoters who were not registered with the AMF and had never prepared a prospectus subject to a receipt issued by the AMF.

The AMF also cautioned Québec consumers about the risks associated with cryptocurrencies or other crypto assets, which are being offered in an environment conducive to manipulation and fraud and attract investors with promises of a quick windfall.

Finally, as part of the same cryptocurrency offensive, the AMF was active on many internal and external committees where the crypto asset ecosystem is a major focus of reflection. Furthermore, it contributed to the inter-agency committee on cryptocurrencies, made up of Revenu Québec, the Ministère des Finances du Québec, the Sûreté du Québec, the Agence du revenu du Québec and the AMF, the purpose of which is to further develop expertise in the field of cryptocurrencies and propose innovative solutions to better regulate this sector.

FOREX

The AMF noted an increase in reports of FOREX market distributions where investors were solicited by so-called “expert” brokers who were not registered. FOREX (the abbreviation of “foreign exchange”) is a market in which investors exchange currencies with one another at exchange rates that are constantly fluctuating. Five matters were opened in connection with distributions involving more than 160 investors and representing over \$7 million.

The investigations into these distributions revealed that young people between the ages of 18 and 25, attracted to the image of success and wealth projected by the investment and quickly convinced by the promise of large returns, made up a huge percentage of the victims.

The magnitude of this trend led the AMF to quickly roll out several strategies to protect investors:

- Obtained cease trade and freeze orders that preserved close to \$300,000;
- Coordinated matters with police forces that had received complaints in connection with investment activities in the FOREX market;
- Launched a fraud awareness campaign to better inform young people about the risks associated with this type of investment.