

FINNIUS

Feedback AFM investigations into Wwft compliance – compliance must be improved and attention may not be weakened

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🕒 6 MINUTES

In this newsflash we discuss:

- the attention from the AFM for Wwft compliance during the coronacrisis;
- the recent feedback published by the AFM following two Wwft investigations conducted by the AFM at a number of investment firms and investment fund managers; and
- the actions investment firms and investment fund managers should take in response to the AFM's findings.

1. Wwft and the coronacrisis – attention may not be weakened

The hereafter discussed Wwft investigations were performed by the AFM during 2019. As a result of the corona pandemic the world looks different today. Yet the Wwft, especially now, remains one of the AFM's top priorities.

The AFM points out that financial institutions should pay attention to money laundering and the financing of terrorism and new forms thereof during the coronacrisis. Where necessary, institutions need to reconsider their risk assessments in the light of recent developments, especially with regard to sectors that are known to have been impacted by the economic downturn. The AFM will also keep conducting Wwft-inquiries during the coronacrisis, whereas other inquiries are currently suspended by the AFM until 1 June 2020. In giving undiminished attention to Wwft compliance, the AFM addresses EBA's call to local supervisors to ensure that the attention for Wwft compliance is not weakened.

Also noteworthy is that the Dutch FIU also points out that the coronacrisis may lead to new forms of financial crime. The FIU has shared with institutions an information sheet addressing the risks associated with the coronacrisis.

2. Feedback AFM-investigations

In 2019 the AFM performed two Wwft investigations at a number of investment firms and investment fund managers. The first investigation focused on compliance with Wwft rules on risk management (the business-wide risk-analysis). The second investigation addressed the compliance of the transaction monitoring requirement and the obligation to report unusual transactions to the FIU without delay.

The AFM has provided initial feedback on the results of both investigations in two news reports (published on its website on April [3th](#) and April [14th](#)). We highlight the main findings of the AFM below. Subsequently, we set out key action points for investment firms and investment fund managers.

Feedback investigation on compliance with Wwft rules concerning risk management

The AFM has investigated the design of the business-wide risk-analysis at 15 investment firms and investment fund managers. In its news report, this is referred to by the AFM as the systematic integrity risk analysis (SIRA).

Findings AFM

According to the AFM, 14 out of 15 investigated institutions had no sufficient SIRA and corresponding policies in place. After discussions with the AFM, these institutions have remedied the identified shortcomings.

The AFM expects from each investment firm and investment fund manager (thus also investment fund managers that operate within the AFM-registration regime) that it identifies, analyses and manages all integrity risks. An institution must ensure that procedures and measures are in order with regard to risk assessment and the policy to counter integrity risks. According to the AFM, institutions can do this by consulting the [AFM's Wwft Guideline](#), putting this into practice and applying in any case the following principles:

- the risk is not formulated too general and is focused on the nature and size of the institution;
- the risk assessment addresses all risk factors that are related to the type of (i) client, (ii) product, service and transactions, (iii) delivery channel and (iv) country or geographic area;
- the risks are estimated realistically and not estimated at “low” without substantiation;
- the policy is translated in clear and accessible procedures for, for example risk classification of clients, ongoing monitoring and monitoring of PEP's and sanction regulations; and
- the policies and procedures contain a clear description and assignment of tasks, powers and responsibilities within the institution.

Feedback investigation into transaction monitoring and the obligation to report unusual transactions

In 2019, the AFM examined the manner of transaction monitoring and compliance with the obligation to report unusual transactions, at two investment firms and four investment fund managers.

Findings AFM

According to the AFM's news report, further improvements are needed in these areas. The AFM states that:

- the investigated institutions do not sufficiently take the risk profile of their clients into account during transaction monitoring;
- many of the investigated institutions do not draw up a transaction profile for each client, whereas the AFM considers such a transaction profile a helpful tool for transaction monitoring;
- many of the investigated institutions do not use concrete or sufficiently elaborated detection rules for the detecting of 'striking' transactions;
- the quality and timeliness of reported unusual transactions are sometimes insufficient;
- institutions do not sufficiently consider measures against clients that are involved in unusual transactions, such as adjusting the risk profile or initiating specific individual monitoring.

In addition, the AFM states that a Wwft-inquiry shows that 20% of the investment firms, 9% of the licensed investment fund managers and 20% of fund managers with an AFM-registration do not have in place a system or automated system to monitor transactions of clients.

Follow-up investigation transaction monitoring and obligation to report unusual transactions

According to the AFM, the results of the investigation into transaction monitoring and the obligation to report unusual transactions, give rise to a similar follow-up examination in 2020.

3. Action points

The AFM has identified shortcomings with regard to both the SIRA/business-wide risk-analysis and the requirement to monitor transactions and report unusual transactions. We therefore recommend that investment firms and investment fund managers:

- critically examine their business-wide risk-analysis. It is of importance that this analysis is adequately tailored to the activities of the institution. Institutions can consult the [AFM's Wwft Guidelines](#) and the [Risk Factor Guidelines](#) of the European supervisors. The business-wide risk-analysis must be reviewed and updated annually;

- asses their existing transaction monitoring system. Each institution must assess how transactions should be monitored. In doing so, an institution should take into account its activities. For example, an open-end fund may need to take a different approach than a closed-end fund. Also, an online broker may need to choose a different approach than an asset manager; and
- take the findings of the AFM, although they are relatively general in nature, into account by following the above steps. Institutions should ascertain that they have addressed the findings of the AFM in a way that is commensurate with their nature and scale of activities. We recommend that institutions record internally that and in which way the findings of the AFM have been assessed and followed-up.

As part of the AFM's annual Wwft-inquiries, which so far has taken place at the end of the summer each year, the AFM will again focus on these topics. It is therefore important that institutions address these topics in the following months.

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