

2008

Annual
Report





Report

to the President
of the Republic
and the Parliament

2008



The Chairman

9 June 2009

Mr President,

It is my honour to present this sixth annual report of the Autorité des marchés financiers (AMF) to you and to Parliament.

I took up my duties at the end of 2008 in an arduous environment marked by an unprecedented crisis of confidence within the financial community and among investors.

Given this thoroughly exceptional context, I am convinced that the AMF must pursue its activities with four main thrusts: protecting investors more effectively; helping to channel saving and investment into optimal financing for our economy; promoting a regulatory model that addresses these demands; and making the French financial market more attractive.

These concerns have already been taken into account, as this report explains in detail. The AMF has thus taken steps to ensure that the market is transparent and operating normally and to protect investors' interests. In view of the upheavals that have occurred, these considerations have become our policy priorities for future action.

One of the first steps taken by the AMF was to ban short selling of financial stocks. Clearly this technique, which allows market participants to sell securities they do not already own, needs to be closely supervised; and such transactions must be transparent. To that end the AMF consulted the industry on measures aimed at creating a permanent regulatory framework for short selling. In parallel, the ban was kept in place.

The AMF also initiated discussions on creeping takeovers. As a result, the procedure for disclosing major holdings has been adjusted to make it more detailed. In a similar vein, the AMF consulted on a proposal to lower the trigger point for mandatory takeovers from 33% to 30% in order to enhance market transparency.

Furthermore the AMF put forward proposals to revise the definition of money market funds, using stricter criteria better suited to investor protection. It also pursued its Better Regulation initiative – and will continue to do so in future – to ensure that its demands are both commensurate with the size of the firms to which they apply and germane to the issues at stake. Supervision of risky activities and behaviours will also be stepped up.

Hefty sanctions were imposed for abusive short selling, insider conduct and mis-selling of financial products. In addition, inspections and investigations into the conduct of some market participants during the crisis are now being finalised.

Internationally the AMF aligned its action with the political momentum created by the two G-20 meetings. It co-chairs the Task Force on Unregulated Products and Markets set up by the International Organization of Securities Commissions. In this role the AMF played an active part in drafting recommendations to ensure the effective regulation of complex products, such as credit derivatives, and the transparency of the markets that trade them. In addition, it is absolutely vital that the work carried out through the newly created Financial Stability Board succeeds in establishing the principle of overall transparency in trading, regardless of the type of platform or the market (regulated or over-the-counter). This would apply not only when trades are made directly or indirectly in securities listed on regulated markets but also when they impact on these securities.

The proposals set out in the Larosière report should lead to closer integration of financial regulation in the European Union. In particular, the proposal to turn the Level 3 committees into European authorities with proprietary powers is a promising way of achieving convergent supervisory practices. Implementing the report's recommendations as fully as possible would thus guarantee better investor protection. The first step in this direction is the European agreement on the regulation of credit rating agencies.

The G-20's efforts have shown that the EU ought to adapt its financial supervision model to bring about closer integration of the internal market. In light of the initiatives being prepared by our partners, especially in the United States, Europe must forge ahead if it is to have its say in the policies adopted at global level and also to remain competitive.

The Madoff affair, which came to my attention as soon as I took office, has highlighted the key issues involved in marketing financial products in Europe. It has also shown the need to ensure that EU directives and regulations are implemented in exactly the same way throughout the EU. Integrating the internal market and rebuilding confidence within Europe hinges on Member States applying EU statutes and rules in uniform fashion, starting with those on deposit guarantee schemes.

On the domestic front, the AMF was able to quickly assess – with regard to the products under its jurisdiction – the risks to French investors who had invested in Madoff-linked funds. It instructed the investment management companies concerned to warn their clients about their exposure to this risk.

The report submitted to the Finance Minister sketched out a goal-based architecture for financial supervision in France, with special emphasis on the oversight of the industry's sales and marketing practices. The Minister tasked Mr Bruno Deletré with a special assignment in this area. The AMF has been closely involved in these efforts and stands ready to assume the responsibilities that the government may wish to entrust it with.

One of the AMF's overarching concerns is the attractiveness of the Paris financial centre. Let me be perfectly clear: making the French markets more attractive and secure is not just a question of consolidating financial activities. It concerns service activities as a whole. And it means ensuring that industrial decision-making centres remain in France.

By multiplying the number of cooperation agreements with its foreign counterparts, the AMF has demonstrated, among other things, its determination to raise the profile of our financial markets and their advantages. One such example is a partnership charter for cooperation with southern Mediterranean countries and certain Gulf states.

I am convinced that Paris has considerable strengths to face up to international competition. Our regulatory and supervisory practices have given the French markets an undeniable edge in maintaining investor confidence. The AMF's powers of investigation and sanction are vital to its credibility in this respect. Thus the security of our financial centre makes it more competitive. For the medium term, however, competitiveness will also depend on our ability to control market infrastructures. One crucial aspect of this is the active involvement of market participants in the standardisation and clearing of credit derivatives, particularly in the euro area.

A powerful, independent financial centre needs long-term savings to provide sustainable financing for the economy and its corporate sector – the crisis has starkly illustrated the damaging effects of some participants' short-termist behaviour. Likewise care must be taken to maintain satisfactory market financing conditions.

The AMF's new strategy proposals, which I am putting out to public consultation this summer, will allow us to gear up to play a full role in these ongoing issues. Our entire staff, the Board and the members of the consultative commissions are ready and willing to tackle the challenges raised by the financial crisis and to help implement the solutions defined at both national and international levels.

Restoring optimal financing for our economy is essential for renewed growth. This cannot be achieved unless investors – both institutions and individuals – regain and maintain their confidence. Ultimately that confidence depends on the ability of the public authorities, especially those in Europe, to

guarantee effective regulation. The orientations adopted at the June meeting of the European Council on the EU's supervisory architecture will be important, not only for regulators but for all participants in the economy.

Yours sincerely,

Jean-Pierre Jouyet