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The Legal High Committee for Financial Markets of Paris: a unique and independent body that has just celebrating its first birthday

Michel Prada, Chairman of the Legal High Committee for Financial Markets of Paris tells us on the first existing year of the Legal High Committee and presents its prospects for 2016.

The Legal High Committee for Financial Markets of Paris (Haut Comité Juridique de la Place Financière de Paris (HCJP) met for the first time in January 2015. What is your assessment of the work of the High Committee after one year of existence?



Michel Prada- Its work has been unquestionably promising.

The Legal High Committee for Financial Markets of Paris (the “Legal High Committee”) was established under the leadership of the AMF and the Bank of France. It is composed of recognised experts from the fields of academia, law enforcement, the legal profession and financial professions. Its meetings are attended by representatives of the French Treasury (Direction Générale du Trésor), the French Prudential Supervisory and Resolution Authority (Autorité de Contrôle

Prudential et de Résolution (ACPR) and the Ministry of Justice (Chancellerie). The Legal High Committee is a unique and independent body in the Paris Financial markets.

Its objectives are:

- to propose reforms promoting French legal competitiveness,
- to assist and support authorities in their negotiations over European and international laws and régulations,
- to contribute to legal certainty by providing answers to legal issues relating to all Financial players, both public and private.

The year 2015 was devoted to setting up its structure (one employee) and a bilingual website (<http://www.hcjp.fr> URL = [http://www.hcjp.fr]), and to engage substantive work.

A letter was sent to the actors of the Paris financial Markets to collect their suggestions.

Five working groups were created: Securities law, banking monopoly, financial control methods, TLAC, and non-banking corporate insolvency law in the European Union. Each of them is headed by a Committee member and is composed of other associate members and external correspondents.

The Legal High Committee has provided legal opinions when requested by the Authorities: an opinion on the “re-use” of securities, another on the principle of proportionality under European law, and a third on the principle of a “stay” in the event of a bank resolution. These opinions are published on its website.

The Legal High Committee has held six plenary meetings, and its working groups more than 40 meetings: 2015 was active, and it will not take long for participants to see their work recognized.

Could you give us an example of how the Legal High Committee produces its “opinions”?

M.P. - The opinion on proportionality that the Legal High Committee issued on 18 June 2015 is illustrative.

The UCITS Directive provides that the European Securities and Markets Authority (ESMA) shall issue guidelines on the application of principles related to remuneration policies. It

provides that the ESMA shall cooperate closely with the European Banking Authority (EBA) when drafting these guidelines to ensure that they are consistent with the requirements set for other financial services sectors.

In accordance with CRD IV, the EBA must also issue guidelines on remuneration policies. The EBA's predecessor, the Committee of European Banking Supervisors (CEBS), adopted guidelines in December 2010 that left open the possibility, in accordance with the principle of proportionality, to "neutralize" or "disapply" of certain rules on remuneration.

However, the EBA, referring to a letter from the European Commission, has overturned the interpretation that had prevailed since 2010. This letter stated that the principle of proportionality could in no way be used to justify the disapplication of one or more of the rules laid out in CRD IV.

On June 4, 2015, the AMF asked the Legal High Committee for its opinion on this new interpretation.

The Legal High Committee established a group to analyse the issue. The group concluded that the scope of the proportionality principle is not one-sided, and that it may allow the neutralisation of one of the principles of the remuneration policy if justified by one of the reasons specified in the formulation of the proportionality principle. This principle was reflected in the legislation applicable to financial services in a specific way that confirms that proportionality works in both directions.

These conclusions were approved by the Legal High Committee on 18 June in an online consultation procedure. The opinion was made public the same day, sent to the AMF and then published on the Legal High Committee website.

What are the Legal High Committee's main projects for 2016?

M.P. - The year 2016 will be devoted to completing most of the projects started in 2015.

For example, the group on banking monopoly is expected to deliver its report on March 14, 2016. Other working groups will turn their attention to other topics, such as "the corporate lawyer" ("avocat en entreprise") and "the role of local authorities with respect to the freedom to provide services" ("le rôle des autorités locales en matière de libre prestation de service").

The processing of requests for opinions submitted to the Legal High Committee by the Authorities or by other market participants will represent an important part of the Legal High Committee's activity.

A Permanent Commission on company law will be created and chaired by a French lawyer, Didier Martin. The law governing French listed companies has evolved as a result of issuer proposals and changes to European texts. The conditions under which certain reforms have been passed highlight the need for support from a committee that can consider how new texts dealing with listed companies law are drafted and implemented, and what their impact will be. Without global thinking and overall vision, it is hard to effectively grasp the full range of reforms in this field and to defend French positions within European bodies.

For the Legal High Committee, 2015 was a quiet year, because its work was just getting under way. The year 2016 will give the Legal High Committee a chance to be recognized through various educational and communications actions, especially when it will publish.

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