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The Autorité des Marchés Financiers publishes its 2016 annual report

On 21 June 2017, Gérard Rameix, Chairman of the Autorité des Marchés Financiers, presented the AMF 2016 activity report to the media. He took the opportunity to highlight a few challenges that lay ahead for the coming months: the negotiations between the European Union and the United Kingdom, as well as EMIR reform and the implementation of important texts, including MiFID II and PRIIPS.

"In the context of Brexit, we must stay the course; that is, focus on the goal of reducing systemic risk while developing, in an EU that will soon count 27 member states, a veritable internal financial services market," said Gérard Rameix, Chairman of the Autorité des Marchés Financiers, upon the publication of the institution's 2016 annual report.

"Negotiation with our British friends should allow us to establish a balanced relationship with the City and to maintain a clear legal framework," he added, emphasising the necessity of precisely defining the notions of equivalence and minimum substance (technical and human resources) that institutions located within the Union must possess in order to delegate activities or functions. These notions will allow the institutions located on one side of the Channel to have access to the other side or to use resources located on the other side.

It was with this in mind that the Autorité des Marchés Financiers carried out a portion of its actions in 2016, and over the past few months, in relation to its various initiatives and responses to the consultations of the European Commission.

Overview of actions in 2016

Restoring the confidence of investors

In terms of the protection of invested and private savings, major advances were made in 2016. Introduced by the 9 December 2016 Bill on Transparency, Anti-Corruption and Economic Modernisation, known as the "Sapin II" law, the ban on electronic advertising for the riskiest financial contracts (binary options, contracts for difference and contracts on the foreign exchange market) is an additional arm for fighting derivatives.

Another of this law's provisions: the new regulation aiming to control miscellaneous assets. In a low interest rate environment that pushes investors to seek new sources of yield, individuals find themselves presented with many investment offers as varied as diamonds, forestry and metals. Now, the AMF's powers in relation to this matter have expanded and it has an a priori ability to control these offers. Any intermediary in miscellaneous assets will be required to justify a broad base of guarantees in terms of skills, experience and information in order to be authorised to market this investment.

Investing for safer and more transparent European markets

The AMF continued its work with the Directorate General of the Treasury in view of transposing the European directive and regulation on markets in financial instruments. This new framework, which requires transparency on exchanges with respect to instruments other than equities and an obligation to trade equity on regulated markets or platforms, will enter into force on 3 January 2018. In light of this, the regulator continued working to inform and educate professionals (morning training sessions, guides, etc.). The AMF also opened a dialogue on the subject of funding financial research in the context of implementing MiFID II's measures.

Closely involved in the work launched internationally by the Financial Stability Board on the structural vulnerabilities of asset management in the context of a working group it co-presides over, the AMF also published a guide aimed at asset management companies on the implementation of stress tests. Through Sapin II, the regulator obtained the possibility to extend to managers the ability to introduce, under certain conditions, a restriction on redemptions of units (gates) in case of a liquidity crisis.

Making the financial market more competitive and encouraging innovation

After reforming the regulatory framework for IPOs in 2014 to make it more competitive, the Autorité des Marchés Financiers concentrated a portion of its efforts on the asset management sector. In February 2016, it launched, with the French Asset Management Association, a working group (FROG) to strengthen the international visibility of French funds and, therefore, the role of the Paris financial centre. In October 2016, seven concrete measures were introduced to facilitate, for example, the purchase of fund units by foreign investors and to improve the comparability of French funds on Internet platforms.

Based on the principle that the digital transition provides strengths in terms of traceability and transparency, the AMF decided to support innovators by enabling them to set up shop in a secure environment. In summer 2016, it created a FinTech, Innovation and Competitiveness Division and launched, with the French Prudential Supervisory Authority (ACPR) a discussion forum with relevant parties. In six months, the regulator met fifty-some innovative project initiators, with the aim of helping them to understand the regulations and licenses applicable to their activity and degree of development. At the same time, the AMF also provided its expertise to aid European work on automated advice.

Supervision, inspections, controls and sanctions

Last year, AMF's departments completed 39 controls of regulated professionals (excluding mass controls) and finalized 71 inspections, of which 47 involved assisting foreign authorities. The Enforcement Committee issued 16 decisions. It issued 32 fines totalling €9.725 million against 17 legal entities and 15 natural persons. It also issued disciplinary sanctions (warning, reprimand, temporary or permanent ban on conducting business activities) against four legal entities and five natural persons.

The AMF's financial resources

In the 2016 financial year, the AMF generated a net loss of €1.97 million, following a loss of €13.57 million in 2015. This increase is chiefly attributable to the raising of the cap on receipts allocated to the AMF budget from €74 million to €94 million in 2016. This cap translated into an exceptional contribution to the State's general budget of €10.73 million, following €25.68 million in the 2015 financial year (including an additional gift of €1.54 million noted in 2016 with respect to 2015).

Future challenges

Since the beginning of the year, the AMF has continued its efforts to ensure the protection of savings and to promote safer and more transparent European markets. It continues to

work on the transposition of the new financial markets framework (MiFID II) and the PRIIPS Regulation on pre-contractual information, and on helping professionals to prepare for their application in January 2018. At the same time, new European projects are being presented, as the European Commission has proposed avenues to reform the EMIR on derivative products and a report on the functioning of the three European supervisory authorities.

Last month, the AMF published two position papers stating its priorities in terms of the review of the EMIR regulation on derivatives. It argues that this review should be the occasion for a reform of the equivalence regime for infrastructures of markets established outside the EU (the clearing houses that assume counterparty risk and secure transactions and repositories that facilitate the centralization of reporting data for transactions on derivatives). The AMF considers that the applicable regime must take into account the importance of infrastructure for the European Union. For infrastructures of significant size, it has proposed a strict equivalence of regulations and supervision by the ESMA, which must be given a more important role in the initial process of examining this equivalence, as well as in monitoring it over time. The AMF also considers that the houses of critical importance that present a systemic risk for the EU should be located within the EU. The European Commission presents these same ideas in its proposition aiming to strengthen the supervision of clearing houses, published last week.

Tighter European regulation via supervisory convergence constitutes an important element of a Capital Markets Union. In this regard, the AMF, in its response to the consultation of the European Commission on the review of the European Supervisory Authorities, has identified several areas for improvement in the functioning of ESMA (governance, financing and powers). In this way, the AMF is arguing for the European agency to be given a more important role, not only in questions of equivalence but also in the preparation of regulations and directives.

With regard to supporting innovation, the AMF met with many project initiators over the past few months. This experience shaped its response to the consultation of the European Commission on FinTechs. If at this stage, the innovations introduced do not undermine European rules, economic models juxtaposing different types of financial services will be developed, forcing operators to obtain multiple authorisations (often domestic). In this context, the AMF would like to see a shared discussion on the creation of a European license, with a European passport that could be applied to certain platforms.

About the AMF

The AMF is an independent public authority responsible for ensuring that savings invested in financial products are protected, providing investors with adequate information and supervising the orderly operation of markets. Visit our website www.amf-france.org.


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