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In its decision of 24 January 2020, the Enforcement Committee fined BRED Banque Populaire €500,000 for breaching several of its professional obligations under the European Market Infrastructure Regulation (EMIR) applicable to OTC derivative transactions

The Committee found BRED Banque Populaire guilty of three sets of infringements for events that took place between November 2015 and June 2017, in particular during the first half of 2017.

Non-compliance with obligations relating to the timely confirmation of uncleared OTC derivative transactions

The Committee fined BRED Banque Populaire for failing to confirm certain transactions with its counterparties, for not having a procedure and arrangement for monitoring confirmation deadlines that would enable it to measure and monitor the timely confirmation of certain transactions, and also for failing to put in place a specific procedure for monitoring any transactions that have not been confirmed after more than five days. The European Market Infrastructure Regulation (EMIR) requires the timely confirmation of the terms of uncleared OTC derivative contracts.

Non-compliance with the rules applicable to the reporting of transactions to the trade repository

The Committee sanctioned the company for failing to report all the OTC derivatives to a trade repository, for incorrectly reporting others, for incorrectly reporting modified derivatives and for failing to meet the one-day deadline for confirming certain transactions to the trade depository.

The company was also sanctioned for failing to fill out six sections correctly in the report submitted to the trade repository, and for failing to update the values of some reported derivatives on a daily basis.

Non-compliance with rules applicable to the compliance system

Lastly, the company was sanctioned for a series of deficiencies in its oversight of OTC derivative transactions. Its controls revealed shortcomings of the compliance function at the time. The Committee also considered that the compliance function did not have sufficient authority with the back office needed to obtain answers to its controls within satisfactory deadlines and to ensure the effectiveness follow-up of its recommendations.

However, the Committee dismissed the objection that the compliance function lacked resources and expertise. It also dismissed the charge that it had failed to fully inform its management bodies, considering that the analysis of the case showed that the board of directors had been informed of the institution's level of compliance with EMIR.

An appeal may be lodged against this decision.

About the Enforcement Committee

The Enforcement Committee, which is made up of judges and professionals, has total freedom to make decisions. It can impose sanctions on any person or company whose practices contravene laws and regulations that fall within the jurisdiction of the AMF. It ratifies settlement agreements signed by the Secretary General and respondents. And it takes part in the AMF's educational efforts by clarifying financial regulations when explaining its decisions.

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