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Speech by Marie-Anne Barbat-Layani, AMF Chair, The AMF: "a pivotal position at the heart of financial regulation" - General Assembly of the French Association of Corporate Treasurers - 20 April 2023

Check against delivery

Mr President, dear Daniel Biarneix,
Ladies and Gentlemen,

I would like to thank you very much for inviting me to speak this morning as the new Chair of the AMF, before your General Assembly. We have worked together to define the theme of my speech: "The AMF: a pivotal position at the heart of financial regulation". The purpose is to give your members a clear insight into the challenges facing the AMF, some of which concern them very directly.

First of all, I would like to commend the dynamism and professionalism of your association and the importance of the role played by corporate treasurers, who maintain excellent relations with the AMF's departments, especially the Corporate Finance Directorate.

I shall do all I can to uphold these good relations because one of my objectives is to strengthen the AMF's ties with its stakeholders and partners.

Introduction to the market context

1 - I would like to begin by briefly reviewing the market context of the last few weeks.

Just six weeks ago, on 10 March, market participants learned of the failure of Silicon Valley Bank, which some had probably never heard of before. Five days later, all eyes turned to Credit Suisse. I will not revisit these events, the analysis of which falls more within the scope of prudential regulators who actually reacted quickly to contain the problem, both in the United States and in Switzerland.

In any case, a banking crisis, however small, is always an event that must be taken seriously. We therefore stepped up our monitoring of the markets and financial risks, as well as exchanges with our regulatory counterparts in Europe and globally.

The situation on the markets has improved since then, as attested by the recent performance of the CAC 40, which has reached 7,500 points. The trend in net short positions, which we are monitoring closely, has not given rise to particular concern, and we have not observed any tensions on the interbank market. On the asset management side, while the increase in inflows observed by money market funds invested in government securities is interpreted as a sign of a temporary quest for "quality" in the United States, we have not observed such a trend in France or any major impact on the other asset classes.

However, the market continues to be volatile and nervous. We therefore remain highly attentive because the adjustment of players to a new interest rate environment, which some have never experienced, may change the risks or their perception.

The bond market

Given our area of expertise, in such a situation we pay particular attention to the quality of the information disseminated in the market. We also make sure that French issuers enjoy access to capital markets in good conditions. On the primary bond market for Euro Medium Term Notes (EMTN), we saw a temporary closure of the window for issues, without any great surprise. It reopened quickly and we have no particular concerns at this stage.

However, the issue of the increase in the cost of financing for companies is a fact, given the rise in interest rates over the last year in an inflationary context which naturally leads central banks to adapt their monetary policy.

For a year now, as interest rates and geopolitical tensions have increased, issuance windows on the primary bond market have tended to be more uncertain. The timing of transactions and ability of issuers to seize market opportunities quickly are key success factors that are

becoming even more important. We are fully aware of this when we examine a bond prospectus.

We have been able to gain your trust in your bond issue projects over the past few years by adhering to agreed appraisal schedules, demonstrating agility and responsiveness, ensuring full compliance with regulations without reading them too literally, and ensuring investor protection while maintaining sufficient attractiveness. In ten years, the number of EMTN programmes approved by the AMF has doubled.

I can assure you that if the need arises, the AMF will continue to adapt its approach, always seeking a balance between sometimes conflicting but always complementary objectives in the interests of good regulation and quality supervision. We have done so in the past, during the Coronavirus epidemic, with a very agile approach to the timetable for examining bond prospectuses to enable you to seize market windows.

The role of the AMF and its priorities

2 - This brings me naturally to the question of market attractiveness, the competitiveness of the Paris financial centre and our supervisory priorities. I am convinced, and I hear this a lot from all my French and foreign contacts, that the quality of the regulator is a crucial part of the equation. We are obliged to be agile. I intend to make the quality of the service provided by the AMF one of the key drivers of our future strategic plan.

Naturally, this agility must not be pursued at the expense of compliance with regulations. The AMF has a well-established role as a beacon in a recognised and respected financial centre that has never fallen prey to the damaging game of regulatory undercutting. The AMF must be a recognised and credible point of reference that ensures compliance with the European and national legal framework.

In many areas, we need to strike the right balance between the competitiveness of the financial centre and the need for regulation, between financial innovation and investor protection. The two are not necessarily contradictory, but are at the heart of the search for a balance in appropriate financial regulation

— Investor protection

One of the AMF's core missions is to protect investors and provide them with accurate information. It is one of our priorities for 2023 and will remain the number one priority in our future strategic plan.

— Supporting and securing innovation

We must also give due consideration to innovation. For several years now, the AMF has chosen to be a regulator that is open to innovation, which it supports, while at the same time making it secure through appropriate regulation. We see this openness as a necessary analysis of market trends and the opportunities they may represent, but also the risks they are likely to generate. We need to assess whether it is necessary to adapt national and European regulations or our own policies accordingly.

For example, the AMF has sought to attract crypto players to France by bringing them under the regulatory umbrella. This initiative is based on adapted regulatory requirements, supplemented by an optional incentive regime for both digital asset service providers (DASPs) and initial coin offerings (ICOs). However, this was only the first phase, and today we now need to move to the next one.

The European MiCA Regulation will soon replace the French regime under the PACTE Act, providing more safeguards. Once this happens, DASPs that are not yet registered will be required to obtain authorisation. Trading venues that are already registered will be allowed a transition period. The AMF will support market participants as they adapt to this new framework.

Recent events involving several crypto players - FTX comes to mind - have highlighted the need for the ecosystem to move to a more regulated environment to better guarantee investor security, both in terms of conflicts of interest and cybersecurity risks, and to better combat money laundering and terrorist financing. The transition to a strengthened framework, now enshrined in law with enhanced registration, is a key condition for restoring public trust in the crypto ecosystem. This trust is necessary to allow the development of markets in crypto-assets.

Blockchain can also contribute significantly to the functioning of financial markets. We must also be careful to ensure that the potential risks to investors are taken into account as far as possible. Here again, the AMF is striking a balance between innovation, security and protection.

Since this sector is covered by European regulations, these had to be amended to allow for experimentation with financial securities on blockchain. From the outset, our ambition was to set up a derogatory regime to allow the exchange of these "tokenised" financial securities on suitable markets, providing the same degree of security as a traditional market.

This has now been achieved with the European regulation establishing a pilot scheme for market infrastructures based on blockchain technology, which will enable the approval of projects. At the AMF, we supported the introduction of this pilot scheme, which is open enough to attract new and ambitious project developers who could boost innovation on financial markets.

We shall see whether the scheme is a success. If this experimentation is successful, it could eventually lead to very interesting developments in the structure of financial markets. It will provide players, particularly market infrastructures, with new technological development opportunities while maintaining - and we will pay close attention to this - efficient and protective markets for retail investors.

— Sustainable finance

Lastly, we need to respond to the expectations of our society: I am referring to sustainable finance, which is another major priority for the AMF. It is a major and legitimate demand from investors. It is also a demand of the public authorities, and France, and also Europe, is particularly committed to it, as embodied in the Paris Agreement.

For the European Union, these objectives consist in reducing greenhouse gas emissions by 55% by 2030 and achieving carbon neutrality by 2050. To achieve these objectives, over and above public policy actions, there is a need for a profound and rapid transformation of the economy, which requires the commitment of all. Collectively, we all have an important role to play in this respect. One of the expected contributions of finance in this context is the redirection of financial capital towards sustainable investments and economic activities.

To do this, it is essential for investors to know precisely whether what is presented to them as sustainable really is sustainable. It is also important that the companies you represent make a strong commitment to the transition, and report on their non-financial risks, impacts and opportunities. The European Union has developed a range of tools and regulations to support this transition and the need for transparency that goes with it.

I will come back to this later.

The AMF strongly supports the need to strengthen and clarify these European regulations, and will bring all its expertise to this issue. In the meantime, it will continue to support financial players and issuers and maintain its high standards.

— European and international action

Our vision of regulation is based on our supervisory practice, on the behaviour of investors and regulated players and on market trends, of which we are a privileged observer. It fuels the positions we defend in our international activities.. The AMF is a driving force for change. It is involved in governance bodies and numerous working groups at the European Securities and Markets Authority (ESMA), the International Organization of Securities Commissions (IOSCO) and other bodies. This is a demanding job, especially as there are often many legislative and regulatory developments.

Legislation under review

3 -This year, the revision of the Markets in Financial Instruments Regulation (MiFID) and the Derivatives Regulation will be two of the major projects on the European agenda. In the first case, with regard to the post-trade publication of transaction details, the European Commission has proposed a review of the deferred publication regime applicable to financial instruments that do not fall into the category of "shares and similar instruments", including bonds.

The current regime has failed to provide an optimal and consistent transparency regime across countries for bonds.

We therefore hope that the new initiative will lead to greater harmonisation at the European level. This is all the more necessary as Europe is currently considering a consolidated database of transaction data (a Consolidated Tape) on the bond market.

The definition of deferral periods for each category of bond is a complex exercise. If the text is adopted, ESMA will have to find the right balance between transparency and the needs of liquidity providers. ESMA will definitely need your feedback and that of all market participants.

As part of the review of EMIR, in December the Commission proposed to review the issue of the reporting exemption for intra-group transactions involving non-financial groups. Today, it considers that this exemption limits the ability of regulators to clearly identify and assess the risks taken by non-financial groups. This is a point we are following up as we do not share this concern.

As regards money market funds, in the aftermath of the March 2020 market crash, prudential and market authorities initiated work at the international level to identify possible vulnerabilities specific to them, given their important role as investors in the short-term funding market. The Financial Stability Board (FSB), in association with IOSCO, is now starting work on the broader topic of market functioning in short-term funding.

At the same time, the European Commission is due to carry out an assessment of the Money Market Fund Regulation this year and to decide whether or not it should be amended. The European Systemic Risk Board (ESRB) and ESMA have already sent a recommendation and an opinion to the Commission respectively, which confirm that the net asset value of money market funds invested in private debt should be variable. The money market fund model prevailing in France is therefore not called into question, in fact, quite the contrary.

Focus on Sustainable Finance (CSRD, EU Green Bonds, etc.)

I would like to come back to the subject of sustainable finance. The ecological and energy transition is a strategic challenge for the companies in which you work as treasurers. It is an obligation, which the regulatory framework aims to clarify, support, organise and facilitate.

European lawmakers have put in place a common grid for reading and classifying sustainable activities, a central piece in the regulatory architecture: the taxonomy. The taxonomy defines sustainability criteria for each economic activity in order to identify those that are already environmentally sustainable. It also serves as a benchmark for companies wishing to engage in the ecological transition and to set clear sustainability objectives.

The legislator has also imposed transparency obligations in sustainability, through the CSRD and its detailed reporting standards for companies, but also through the SFDR for financial market actors and financial products.

The aim is to provide investors and all stakeholders with relevant information on companies on the one hand and on financial products on the other, enabling them to make informed decisions.

You must prepare for this, given the ongoing transposition of the CSRD via an ordinance that should be published by the end of the year, and its application planned from 2024. This will be a more rigorous transparency exercise in terms of corporate ESG reporting. It will also apply to a larger number of companies. For example, small and medium-sized listed companies will be affected, but with reduced standards and with reporting expected only from 2026 onwards.

This transparency exercise will require a genuine commitment by your companies: they will have to understand the new applicable framework, collect the necessary data, set up a cross-cutting internal organisation, train the players and adapt the information systems, while involving the governance bodies.

This exercise will require companies to provide accurate, detailed and forward-looking information. With respect to the transition plan, companies will have to disclose, in particular, their long-term objectives and intermediate targets, their levers for action, the financial resources mobilised in this perspective and information on the monitoring of progress over time.

This transparency should not be perceived or experienced as a purely regulatory compliance exercise. It is essential that your companies find meaning in it, for themselves. This new framework must be a vehicle for transformation, a compass to guide the efforts of ecological and energy transition. Meeting the obligations of the CSRD will have to be accompanied by strategic thinking to adapt business models, strategies, policies and actions to ESG risks and opportunities.

The issue of financing for this transition is key. And this is the core business of financiers and corporate treasurers.

For several years now, we have seen a boom in the market for green bonds, issues designed to finance green projects.

The questions raised by these issues, for example on the real sustainability of the assets they finance or on the related transparency, have motivated the proposal of the European Green Bonds Standard which will constitute an ambitious framework and should allow those who wish to do so, as the application of this standard will be voluntary, to continue to move upmarket in green bond issues. The alignment of the use of funds raised through these issues with the taxonomy will undoubtedly be the most ambitious contribution of this instrument.

We are also seeing the rise of financing instruments whose financial characteristics (e.g. the coupon) change depending on whether or not the issuing company achieves the sustainability targets set: sustainability linked bonds (SLBs).

Over the past two years, the AMF has assisted some fifteen issuers with their SLB issues by approving their prospectuses. SLBs are attractive financing tools because they create a financial incentive for the issuer to pursue the transition of its business model. The credibility of the information given to the investor in this type of issue is fundamental for the credibility of the issuer, as well as for the entire new segment. Here too we need to find the right balance between innovation, attractiveness, investor protection and prevention of the risk of money laundering.

To achieve this, this type of issue must lead your companies to ask themselves the right questions: are the chosen key sustainability indicators the most relevant to the implemented climate and sustainability strategy? Are the targets set - which will affect the financial terms of the issue - credible and sufficiently ambitious?

The credibility of these issues also requires greater transparency, both about the instrument and its characteristics, and about the company, its strategy for sustainable transition, and its historical and temporal sustainability performance. The AMF will monitor the quality of the information provided and ensure its consistency with the issuer's overall financial and non-financial disclosure.

These initial fundamental texts are not enough to provide a clear framework. This is why work is continuing at European level on the legal framework for sustainable finance.

In the case of financial products, for example, it seems crucial to take new steps to avoid any ambiguities there might be in the application of the SFDR and to better meet investors' expectations. The AMF has proposed a targeted revision of the Regulation to characterise responsible investment more clearly. This proposal aims to introduce minimum environmental criteria that financial products would have to meet in order to be classified as "Article 8" or "Article 9". We have also proposed introducing the notions of transition and commitment policy into the approach.

As we can see, ESG data is becoming central to both fund-raising and investor decision-making. The quality, reliability and comparability of data are therefore becoming major issues. The AMF continues to call for European-level regulation of ESG data, ratings and service providers. The European Commission is expected to submit a legislative proposal in this respect, and it is important to ensure that the scope of the players covered is as broad as possible, including not only ESG ratings providers but also ESG data and service providers more generally.

Finally, the AMF will continue to intensify its regular dialogue with the Paris financial community on forward-looking topics in order to make sustainable finance as much of an asset for the Paris financial community as possible. This subject is also on the agenda at national level. The Minister of the Economy, Finance and Industrial and Digital Sovereignty, Bruno Le Maire, is in the process of preparing an ambitious bill on green industry.

It will include a section on the financing of green industry, in particular with regard to European Long-Term Investment Funds (ELTIF). Businesses, financial players and their regulators must be there and we will be there!

Thank you for your attention.

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