

THE ACP : AN OVERVIEW

The French Prudential Supervisory Authority (*Autorité de Contrôle Prudentiel - ACP*) is an independent administrative authority operating under the auspices of the French central bank, Banque de France. Its mission is to safeguard the stability of the financial system (prudential supervision) and to protect banking and insurance customers (supervision of business practices).

The Prudential Supervisory Authority (ACP) was set up by Ordinance dated 21 January 2010 formed by the merger of the four previous banking and insurance licensing and supervisory authorities¹.

Greater security, improved stability and wider influence

Following discussions with the stakeholders, there was a resulted in significant reorganisation of the prudential supervision framework in France. The reforms have two main objectives: provide greater financial stability and enhance consumer protection. The aim is in addition to increase France's influence in Europe and in international negotiations.

- **Financial stability:** the supervisory authority will be in a position to monitor risks throughout the financial sectors, using micro- and macro-prudential analyses. It will build on the solid foundations formed by the insurance supervisor ACAM and the banking supervisor *Commission bancaire*, which have demonstrated their effectiveness.
- **The security of users of financial products:** this is now one of the ACP's main objectives. Based on the monitoring of compliance with the rules adopted to protect customers, this work will be carried out in cooperation with the financial markets regulator (*Autorité des marchés financiers – AMF*) given the increasing complexity of savings products and the significant interlinkage of banks and insurers.

Banking and insurance: entities subject to supervision by the ACP:

The ACP exercises control over the banking and insurance sectors in the wider sense. In the banking sector, it supervises credit, investment and payment institutions as well as banking intermediaries. In the insurance sector, it supervises insurance firms and mutuals, provident institutions and insurance intermediaries (brokers, general agents, etc.).

• Four key missions

To achieve its core objectives (financial stability and consumer protection), the ACP is active in four areas:

- 1) **Licensing of firms:** In taking over the duties of the CECEI (bank licensing authority) and the CEA (insurance licensing authority), the ACP is responsible for granting firms the licenses required to conduct banking and insurance business. It also prepares and publishes the list of banking transaction intermediaries disclosed by their principals, while the insurance intermediaries register is held by the ORIAS.

¹ The banking regulator (*Commission bancaire*), the insurance firms and mutuals' regulator (*Autorité de contrôle des assurances et des mutuelles - ACAM*), and the two authorities responsible for the licensing of banking firms (*Comité des établissements de crédit et des entreprises d'investissement - CECEI*) and insurance firms and mutuals (*Comité des entreprises d'assurance - CEA*).

- 2) **Prudential supervision:** This comprises the permanent monitoring of the financial position and operating conditions of the firms concerned, having regard to the solvency and liquidity rules applicable to their activities. The ACP's role is exercised by supervision departments specialised by sector – banking and insurance – to best take into account the specific characteristics of each sector.
- 3) **Supervision of compliance with rules intended to protect customers:** The ACP is responsible for monitoring compliance by entities subject to its authority with the rules providing for the protection of customers: legal and regulatory provisions, best practice within the industry, and the findings or outcome of its recommendations. It also checks the adequacy of the procedures and resources put in place by the entities to this effect. This role is carried out, in particular, by a new transversal department that supervises both the banking and the insurance sector: the **business practices supervision department** (*direction de contrôle des pratiques commerciales* - DCPC).
- 4) **European cooperation:** The ACP contributes to the achievement of national and European financial stability and business practice convergence objectives. It takes account of best practice and of recommendations issued by the various European community supervisory bodies, and cooperates with the competent authorities in other Member States. In particular, it provides support to the various institutions operating within the European Union.

- **Two important prerogatives**

To fulfil its role, the ACP has powers in respect of the entities and persons subject to its supervision:

- 1) **Power of recommendation:** The ACP does not set the law. Nevertheless, the controls it performs and the complaints brought to its attention enable the ACP to identify risks and deficient practices and, conversely, to recognise and to analyse best practices. It thereby plays an important preventative role, through its recommendations, by inviting banks and insurance firms to develop their practices as regards customer relations (dissemination of best practice).
- 2) **Powers of administrative investigation, sanction and notification:** The ACP has extensive powers regarding the entities and persons subject to its supervision:
 - Power to initiate administrative investigations
 - Power to issue sanctions
 - Power to bring to the public's attention any information that it deems appropriate, without being bound by professional secrecy rules.

- **Organisation and functioning:**

The ACP is an independent authority operating under the auspices of the Banque de France. This provides it with the benefit of the central bank's economic and financial expertise.

The ACP's structure is based on several imperatives: bringing together the skills required to exercise its role, ensuring that it is responsive and that decision-taking is effective, and ensuring consistency. For that reason, the ACP has a College and a Sanctions Committee, which are supported by the services of a General Secretariat.

- **The College:**

- The College is chaired by the Governor of the Banque de France, assisted by a Vice-Chairman from the insurance sector in order to take into account the specific nature of the activities in that sector.
- The College comprises 19 persons representing the industry subject to the ACP's supervision, consumers and the major judicial bodies in France (*Cour des comptes – the national Audit Court, Conseil d'État – the highest administrative court and legislative advisory body, Cour de cassation – the highest civil and criminal court of appeal ruling on points of law only*).
- The College takes decisions in several forms: in plenary session, in restricted session, through sector-based sub-colleges, and through specialised committees.

- In plenary session, it deals with general issues regarding supervision and the functioning of the ACP: macro-prudential issues, international matters, control priorities, the annual report, its position on and interpretation of various questions, cross-functional studies, budget, organisation, etc.
- Individual issues, which require the highly detailed examination of a firm's internal operations, as well as sector-specific questions, are dealt with in restricted session or through the sectoral sub-colleges.
- The Chairman of the College may decide to take legal action in the courts.

- The Sanctions Committee:

- Entirely distinct from the College, the Sanctions Committee comprises five members: two from the major judicial bodies (one of whom, a State Commissioner (Conseiller d'État), is the chairman), and three qualified persons. Deputy members have been appointed.
- Acting on a request by the College, the Sanctions Committee, working on the basis of files prepared by the ACP's various departments, rules on follow-up action to be taken in respect of deficiencies observed during inspections and on whether to impose sanctions.
- The Chairman of the ACP may contest decisions taken by the Sanctions Committee, after first obtaining the approval of the body that commenced the sanctions proceedings².

- Departments:

- The ACP's departments are managed by a General Secretary appointed by the French Minister for Economic Affairs, acting on a recommendation by the ACP's Chairman.
- These departments bring together personnel from the ACAM and the Commission bancaire, most of whom are Banque de France staff.
- The ACP is expected to have a staff of around one thousand, employed in 12 departments:
- Three insurance control departments, three banking control departments, a business practices control department, a licensing department, a market surveillance department, a legal affairs department, and two resources departments.

² The Chairman of the AMF does not have this prerogative.