

**Decision 2010-06 (warning and EUR 800,000 fine; decision in which the institution was not publicly named)**

For the first time, even though the bank in question had not experienced any notable incidents in its capital market activities, in November 2010 the ACP opened a disciplinary proceeding for breaches affecting internal control arrangements pertaining to such activities. On 16 December 2011, the ACP's Sanctions Committee handed the bank a warning and an EUR 800,000 fine. Since the problems to which the sanctions related did not justify mistrust on the part of the institution's counterparties or of the public, whose reactions could, at a time of financial instability, be disproportionate, the decision was published without naming the company.

However, it is important to highlight that this case provided an opportunity to interpret a number of provisions of CRBF Regulation 97-02 of 21 February 1997 on internal control at credit institutions. Having conducted a detailed examination of arrangements in place at the institution in question, in light of the specific circumstances, the Committee affirmed the following principles:

(a) Economic profit calculated daily in a trading room should be checked daily by a department independent of the front office to ensure the reliability of this crucial benchmark as quickly as possible.

(b) The unit in charge of conducting (independent) second-level checks on the risks resulting from the activities of a trading room should be in a position to exercise functional authority over the middle office and have the appropriate resources to be able to do so.

(c) Internal audit should have a sufficient number of trading specialists to be able to carry out such audits by itself or, at the very least, help prepare the annual inspection programme, assess the need for outside assistance and provide guidance to management.

(d) Banks must implement, within a reasonable period clearly defined in internal procedures, all recommendations made by the supervisor following an on-site inspection, as well as those made following an internal audit, unless management explicitly chooses not to follow the recommendations, giving a reasoned explanation for so doing.

(e) The complex nature of market transactions, no matter how small, means that the associated risk – particularly counterparty risk – must be fully measured by the institution conducting the trade. While the accuracy of risk measurement may be adjusted to reflect the nature and scale of the trades in question, the requirement to fully measure all components of market risk means that a bank cannot opt out of measuring – even approximately – certain trades, however marginal they may be.

(f) Banks should undertake second-level checks on all data used to prepare prudential disclosures submitted to the supervisor. They may deviate from this obligation by undertaking a standard first-level check only in the case of information whose accuracy can be easily verified with reference to a clear and precise methodology that may be used to easily retrace the calculations used to compile the disclosures.