

Paris, 25/02/2020

The governance framework in the banking sector has been strengthened since the crisis

The Autorité de contrôle prudentiel et de résolution (ACPR) has today published a report summarising the outcome of a thematic review in which the ACPR assessed the governance and risk appetite frameworks of the institutions that it supervises directly.

The report identifies key governance changes and provides an assessment after five years of implementing post-crisis regulations in the banking sector.

The report concludes that the governance framework for French institutions has been strengthened since the crisis, but that progress remains to be made in order to achieve best practices.

Thus, on the composition of the supervisory bodies, the report invites banking institutions to:

- formalise the selection process/recruitment/appointment of directors;
- establish training actions for administrators in order to enable them to adapt to constant developments, including regulatory arrangements;
- pursue gender improvement in the boards/supervisory boards.

With regard to the presence of independent directors in the supervisory bodies, the report calls in particular on mutualist and cooperative groups to define criteria to identify members of the Board with a level of independence equivalent to that provided for by the common guidelines of the European Securities and Markets Authority (ESMA) and the European Banking Authority (EBA). They should ensure that the members of the Board thus identified are sufficient in number to carry out a review of the decision-making of the management body guaranteeing a «sound and prudent management of the activity».

In the light of the functioning of the supervisory bodies, the report insists that:

- the communication to administrators of documents to be considered and discussed in a meeting shall be made with a minimum period of five days before the meeting;
- the contents of the proceedings of the supervisory body's meetings are enriched for the purpose of tracing the exchanges of proceedings in the meetings;
- a clear separation of the executive and supervisory functions is implemented in order to ensure sound and prudent management of the business.

On risk management and internal control, the report invites banking institutions to:

- formalise the risk-appetite framework to be approved by the supervisory body;
- to verify, when approving decisions relating to significant transactions, such as the determination of Internal Capital Adequacy Process (ICAAP), the formalisation of the preventive recovery plan or the budget, that such decisions conform to the risk appetite framework and to revise it if necessary;
- improve the quality of information submitted to the supervisory body against «qualitative» risks, such as risks of non-compliance, legal, IT, conduct/reputation;

- ensure the regular presence of key function managers, such as the Head of Ongoing Supervision or Risk Management, within the Boards during discussions on topics within their scope.

Finally, the ACPR recalls that, in accordance with Article L. 511-59 of the Monetary and Financial Code, the supervisory bodies are responsible for carrying out a formalised periodic assessment of their governance arrangements and ensuring that corrective measures are implemented to address possible shortcomings. For institutions that have established a Nomination Committee, the nominating committee must periodically assess and at least annually assess the knowledge, skills and experience of members of the supervisory body, both individually and in accordance with Article L. 511-100 of the Monetary and Financial Code.

About the ACPR: the Autorité de contrôle prudentiel et de résolution (ACPR) is the administrative authority operationally attached to the Banque de France that supervises the banking and insurance sectors and ensures financial stability. The ACPR is also responsible for protecting the customers of the supervised institutions and ensuring the fight against money laundering and the financing of terrorism. It also has resolution powers. The ACPR's operational departments come under its General Secretariat

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