


DIRECTION DES SERVICES JURIDIQUES

SERVICE DU DROIT COMMUNAUTAIRE ET DES
MARCHES FINANCIERS-DCMF

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CONFIDENTIEL

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Re: Questionnaire on assigning powers to the NCB to assess competition and issue directions to lenders with regard to interest rates (LS/16/1114) – First WP

Dear Colleagues,

Please find our answers to questions regarding powers of the NCB to assess competition and issue directions to lenders with regard to interest rates.

1. Has your central bank been assigned with tasks relating to the protection of competition? Has it been assigned similar powers to regularly assess the state of competition? Please describe briefly the scope of those tasks, also referring to the legal basis.

Banque de France has no tasks relating to the protection of competition.

The Autorité de Contrôle prudentiel et de résolution (ACPR), which is the French supervisory Authority regarding prudential supervision and financial consumer protection for banking and insurance sectors, does not have any power to deal with competition matters.

Nevertheless, the ACPR must check, notwithstanding the control of competition authorities, if the conditions of the banking authorization are still met, regarding the concentration rules applicable to financial institutions (article L. 511-12-1 of the Monetary and Financial Code).

2. Has your central bank been assigned with powers to regulate the interest rates charged by banks in respect of loans and/or the savings remuneration offered by banks in respect of deposits; and/or the application of usury laws in your respective jurisdictions? Please describe briefly the scope of those powers, also referring to the legal basis.

In France, usurious rates are prohibited by the consumer code. Article L. 314-6 paragraph 1 of consumer code indicates that “any contractual loan granted at an annual percentage rate which, at the time of its granting, is more than one third higher than the average percentage rate applied

by the credit institutions and finance companies during the previous quarter for loans of the same type presenting a similar risk factor, as defined by the administrative authority after consulting the Comité consultatif du secteur financier, constitutes a usurious loans". ACPR is responsible for monitoring the enforcement of usury laws and interest rates legislation by financial institutions.

For the purposes of this provision, article D. 314-16 of the same code entitles Banque de France to calculate the average actual rate in order to determine the usurious rate.

In addition, Banque de France calculates the rate of the regulated savings products and communicates the results to the Director of the Treasury (article 3 paragraph II of the regulation n° 86-13 regarding the remuneration of funds received by credit institutions). The governor of Banque de France is heading the Observatory for Regulated Savings which monitors the evolution of regulated savings products (article R.221-12 of the monetary and financial code). The Minister of Finance decides the rates applicable on the regulated savings products.

3. Has another public authority, such as the national competition or consumer protection authority, been conferred with such tasks to assess competition, or to regulate interest rates on loans or deposit rates offered by financial institutions? How do these authorities interact with the central bank and/or the prudential supervisor in carrying out such tasks? Please describe briefly the scope of those powers, also referring to the legal basis.

The direction générale de la concurrence, de la consommation et de la répression des fraudes (DGCCRF) and the Autorité de la concurrence (ADLC) have competences with respect to competition monitoring.

ADLC, the Competition Authority, is an independent administrative authority responsible for ensuring free competition. ADLC has an enforcement power against anti-competitive practices and is competent in concentration operation (article 430-3 of the commercial code).

The tasks of ADLC cover the banking sector but it has no explicit power regarding regulations concerning interest rates on loans or deposit rates offered by financial institutions.

ACPR's staff is subject to a legal duty of professional secrecy but this duty doesn't apply regarding information exchanges with DGCCRF. However, ACPR does not handle competition issues with DGCCRF given that ACPR does not have any powers regarding this matter.

Nevertheless, ACPR and ADLC shall cooperate and exchange information.

The President of ACPR informs European or national competition authorities when anti-competitive practices are identified (article L. 612-29 of the monetary and financial code). Conversely, ADLC shall inform the ACPR on any issue falling within its competence (article R. 463-9 of the commercial code).

Moreover, where a concentration operation, involving a person subject to the control of ACPR, is subject to a detailed assessment of ADLC, ADLC consults ACPR before taking any decision (article L. 612-22 of the monetary and financial code).

We circulate these comments to LEGCO Members (extended composition).

Kind regards

[signed]



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