

Authorisation of financial institutions: ACPR or AMF?

The protection of savings, the quality of the information provided to investors and the proper functioning of financial markets require that the players who participate in them be properly supervised: the Prudential and Resolution Authority (ACPR) and the Financial Markets Authority (AMF) have, depending on the approvals or authorizations requested by these financial institutions, distinct but complementary missions and responsibilities.

I. The Prudential and Resolution Authority (ACPR)

- Created in 2010, the [ACPR](#) is an independent administrative authority which has financial autonomy without having legal personality. It is backed by the Banque de France which provides it with the resources, particularly HR and IT, necessary for its operation. Mainly, it protects the customers of credit institutions and insurance companies, by ensuring that the management of these institutions complies with prudential rules¹.
- Generally speaking, an approval is subject to compliance with several criteria, in particular the suitability of the legal form to the planned activity, the minimum capital released, the activity program and the technical and technical means implemented, the quality of capital providers and guarantors, as well as the good reputation of the members of the corporate body and those responsible for key functions.
- However, given that the criteria, the applicable regulations and the processing times differ, the procedure relating to these approvals varies depending on the category to which an institution will be attached. One thus distinguishes:
 - The [credit institutions](#) (such as banks), whose essential activity consists of granting credit and collecting funds from the public. The ACPR notifies the European Central Bank (ECB) of these authorization requests, since the prudential supervision of credit institutions is shared with the ECB within the single supervisory mechanism. On the other hand, [branches](#) established in France of credit institutions whose head office is located in a country not part of the European Economic Area (EEA) are subject to specific authorization criteria;

¹ <https://esurfi-banque.banque-france.fr/>

- [finance companies](#), which carry out credit operations as their usual profession as well as one of the following activities: provision of investment services, provision of payment services or issue and management of electronic money;
 - [Insurance institutions](#), with specific rules in the event of a [portfolio transfer](#) or in the event of a [merger without](#) a portfolio transfer;
 - [Investment firms](#) which are not portfolio management companies (the latter being approved by the AMF): depending on the investment services requested, the AMF will be invited to transmit its observations to the ACPR or to approve the corresponding program of activities;
 - [payment institutions](#), only authorized to provide payment services. However, if the only service envisaged is that of account information, the requesting institution will be registered as a provider of account information services;
 - [electronic money institutions](#), which issue, manage and make available electronic money, and may also provide payment and related services;
 - [money changers](#), who either immediately exchange notes or coins denominated in different currencies, or accept, in exchange for cash delivered to a customer, payment by another means of payment denominated in a different currency;
 - in general, [FinTechs](#) and other innovative financial project leaders are invited to contact the ACPR to be directed to the relevant contacts, as part of a one-stop shop set up in 2016 with the AMF..
- In other cases, specific procedures exist:
 - registration (and authorization of certain operations) for [financial holding companies](#) and agents providing [payment services](#);
 - authorization for market infrastructures based on distributed ledger technology (DLT) and wishing to request the exemptions permitted by the European [pilot regime](#);
 - authorization for [microcredit organisations](#);
 - declaration for [representative offices](#) and [counters](#) (opening, closing, modification or transfer);
 - authorization or declaration for modifications resulting from [other changes](#) in circumstances.

In total, the ACPR publishes the register of these financial agents ([REGAFI](#)), with a specific directory for insurance ([REFASSU](#)), but also the [register](#) of financial conglomerates, that of EEA establishments having mandated an agent linked French within the framework of the European passport, and that of systemically important establishments,

II. The Financial Markets Authority (AMF)

- The AMF, created in 2003, is an independent public authority with legal, functional and financial autonomy. It ensures in particular the protection of savings invested in any

investment offered to the public, the information of investors and the proper functioning of financial instrument markets.

- As such, the AMF regulates financial markets and their infrastructures, listed companies, financial intermediaries authorized to provide investment services or financial investment advice (credit institutions authorized to provide investment services, companies investment companies, portfolio management companies, financial investment advisors), collective savings products invested in financial instruments, token offerings to the public (as part of an Initial Coin Offering operation) and digital asset service providers.

- Consequently, the AMF has, upstream, authorization power relating to both certain financial institutions and certain types of transactions:

- With regard to financial markets and their infrastructures, the AMF approves the rules set by operators of regulated or organized markets, as well as the rules for the operation of infrastructures (clearing houses, settlement-delivery system managers, central depositories), while, for these infrastructures, it issues a professional card to the persons responsible for the supervision of operations, the control of members and the ethical control;
- With regard to listed companies and issuers of financial instruments (for example during an IPO, a capital increase or a public takeover offer), the AMF grants its visa if the information documents comply with the regulations, in particular if they are complete and understandable to the public;
- For financial services professionals, the AMF approves portfolio management companies (SGPs) and approves the activity program of investment service providers (PSIs other than SGPs) which are then approved by the ACPR: in fact, if management under individual mandate is an investment service approved by the ACPR, the management of collective investment vehicles carried out within the framework of the UCITS or AIFM directives falls under the AMF. Furthermore, the AMF issues professional cards to compliance officers responsible for internal control of the investment services of PSIs and SGPs, and approves professional associations of financial investment advisors;
- In terms of collective savings products, the AMF approves the creation and marketing of UCITS (SICAVs and FCPs) and FIAs (open to professional or non-professional investors, but also employee savings funds), issues its visa for certain products in the event of an offer to the public and registers “miscellaneous” goods before any promotional action or communication;
- For the attention of digital asset service providers, if approval is optional, AMF [registration](#) is mandatory for entities providing custody services in France (and even if they are established outside France), buying/selling digital assets in legal tender, exchanging digital assets for other digital assets and/or operating a digital asset trading platform;

- Finally, an AMF visa is mandatory for public offerings of tokens that must be canvassed (the visa is optional in other cases).

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For more information:

<https://acpr.banque-france.fr/en>

<https://www.amf-france.org/en/homepage>

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