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The Role of the Financial Stability Committee in Regulating Macroprudential Policy: A Study of Algerian Legislation

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Abstract: The financial system loses its function if prudential policies are not effectively implemented to ensure its stability and its ability to finance the economy. The Financial Stability Committee is the authority tasked with establishing the macroprudential policy, which aims to prevent systemic risks that could threaten the financial system as a whole.

The Committee works to monitor financial developments, identify potential sources of disruption, and take proactive measures to limit the accumulation of risks. Meanwhile, the remaining independent administrative authorities and supervisory bodies are responsible for implementing the Microprudential policy specific to each sector. This dual approach contributes to enhancing the financial system's resilience and ensuring its balance and sustainability.

Keywords: Microprudential policy, Algerian Legislation.

INTRODUCTION

In light of the escalating systemic risks that threaten the stability of global financial systems, macroprudential policyⁱ has become one of the most important tools for prevention and early intervention. This is achieved by preventing the accumulation of systemic risks and limiting their transmission within the financial sector, through building safety buffers and strengthening the capacity of financial institutions to absorb shocks. Consistent with this approach—and to consolidate the principle of transparency and keep pace with the rapid developments in the banking environment, thereby supporting the achievement of economic and financial stability—the Algerian legislator, pursuant

to Monetary and Banking Law No. 23-09, established a Financial Stability Committee to develop a comprehensive framework for monitoring the financial system, contributing to the prevention of potential crises, and identifying risks. The other sectors, meanwhile, are responsible for formulating and implementing the microprudential policy to achieve stability for the entire financial system. However, a question arises regarding the efficacy of this Committee in ensuring financial stability, and how to activate the tools of macroprudential policy in a manner that allows for the mitigation of systemic risks and prevents their transmission within the financial sector.

Firstly: The Definition of Financial Stability

The subject of Financial Stability embodies economic security and balance across all its parts and operations. It certainly differs from Banking Stability, as they are related concepts but have a different scope. Financial Stability encompasses the financial system with all its components, including banks, financial institutions, insurance companiesⁱⁱ, investment funds, financial market participants, the stock exchange, and all financial infrastructure for payment systems, meaning it relates to all institutions of a financial nature and operation generally. In contrast, Banking Stability only includes institutions of a banking nature, such as banks and financial institutions. Financial Stability can be defined as the state in which the financial system is able to resist and confront shocks by consistently and effectively performing its core functions, while maintaining the confidence of users and the public.

One characteristic of the principles of Financial Stability is its comprehensiveness (or inclusiveness), while Banking Stability has a narrow scope and aims only to ensure the stability of the banking system, including commercial banks, investment banks, and financial institutions. Consequently, it can be said that Financial Stability focuses on promoting the sustainability and balance of the economy generally, while Banking Stability works to ensure the safety of the banking system and avoid crises and risks. In other words, and in brief, Banking Stability can be considered a part of Financial Stability.

Some commentators have indicated that Financial Stability is the sum of the mechanisms that work to ensure the strength, resilience, and soundness of the components of the financial system, which positively reflects on the economic systemⁱⁱⁱ. Meanwhile, the national legislator defined Financial Stability as the combined stability of pivotal financial institutions and the stability of the financial markets operating within them^{iv}. Thus, it relates to a financial system with integrated components and activities, including capital markets linked to the stock exchange, commercial banks, and insurance companies. However, Central Banks are generally responsible for working to achieve the Financial Stability policy through the supervisory and regulatory system adopted according to comparative legislations.

Perhaps the main reason behind the great attention paid to Financial Stability by those responsible for implementing monetary policy in various global legislations is the succession of economic crises, such as the Asian Financial Crisis in 1997, and the subprime mortgage crisis in the United States of America in 2008^v, which led to the necessity of dedicating Financial Stability rules by non-governmental organizations.

Furthermore, these crises demonstrated the need to enhance Financial Stability by adding a macroprudential approach to the microprudential approach, which, as previously noted, includes the

prudential rules specific to the banking system, to capital markets, as well as to insurance systems. The macroprudential policy aims to prevent systemic risks that could cause a breakdown in the financial system as a whole and consequently affect the real economy^{vi}. Most comparative legislations have entrusted this task to independent bodies, often called the Financial Stability Council or Committee.

Secondly: The Legal Framework for the Financial Stability Committee

It can be said that the macroprudential policy adopted by the Bank of Algeria through the establishment of the Financial Stability Committee is relatively recent and not pioneering, unlike that followed by the Bank of France, for instance, which created the High Council for Financial Stability (HCSF)^{vii} under Law No. 2013-672 concerning the separation and regulation of banking activities, issued on July 26, 2013^{viii}. The HCSF is responsible for regulating financial stability in France by defining the macroprudential policy through monitoring all financial sector actors, including credit institutions, insurance companies, the shadow banking system, and the infrastructure of the market and payment systems^{ix}.

However, Law No. 23-09 and entrusted it with macroprudential supervision and crisis management to enable the Bank of Algeria to establish the foundations of financial stability^x.

Composition and Operating System of the Financial Stability Committee

The national legislator regulated the provisions of the Financial Stability Committee within the first chapter of Title IX of Law No. 23-09, titled "Committees." Specifically, Article 157 stipulates the establishment of a Financial Stability Committee tasked with macroprudential supervision and crisis management^{xi}.

The Committee is composed of ten members and is chaired by the Governor of the Bank of Algeria^{xii}.

– Two representatives from the Bank of Algeria, holding the rank of Director General and senior positions.

– Two representatives from the Ministry of Finance, holding the rank of Director General and the highest senior positions.

– Two members from the Ministry of Religious Affairs and Endowments, holding a senior grade and possessing competence and specialization in Islamic banking.

– The President of the Committee for the Organization and Monitoring of Stock Exchange Operations (COSOB).

– A member of the Banking Commission, represented by its Secretary-General.

– A member of the Monetary and Credit Council, represented by its Secretary-General.

– The President of the Insurance Supervisory Committee.

Members are appointed by a Presidential Decree, and the Committee is provided with a General Secretariat managed by the Bank of Algeria^{xiii}.

It can be observed that the legal text establishing the Financial Stability Committee contains a strict criterion that allows for the precise and objective determination of the required competence. The composition reflects a diversity in the affiliations of its members, spanning the banking sector, insurance markets, stock exchange markets, as well as religious scholars specializing in Islamic banking. This is intended to ensure the professionalism and independence of the members, which confirms the premise of strengthening cooperation and information exchange among the country's three financial supervisory bodies: the Bank of Algeria, the Committee for the Organization and Monitoring of Stock Exchange Operations, and the Insurance Supervisory Committee.

However, the lack of a precise legal characterization of the Financial Stability Committee, and the legislator's mere description of it as an "authority"^{xiv} in an abstract manner, similar to the regulatory bodies in the banking sector, raises questions. This is particularly so because the legislator has remained hesitant in its precise characterization of most independent administrative authorities, assigning them varying and inconsistent descriptions each time. Sometimes the term "independent administrative authority" is used, other times the concept of "independent regulatory authority" is employed, while some are simply described as an "administrative authority" or an "authority," and the characterization of others is left to judicial precedents^{xv}.

In the face of this ambiguity, the Financial Stability Committee cannot be considered a traditional administrative body subordinate to the executive branch, given the legislator's explicit use of the term "Authority." Nor can it be considered a "fourth authority" added to the three powers (Judicial, Executive, and Legislative) due to the lack of a constitutional basis. Therefore, it can only be characterized as an independent administrative authority, similar to the Monetary and Credit Council and the Committee for the Organization and Monitoring of Stock Exchange Operations.

This hypothesis is confirmed by the Financial Stability Committee's independence in formulating and approving its internal regulations^{xvi} as well as its possession of regulatory power through issuing organizational decisions and directives and preparing annual activity reports, which are submitted to the President of the Republic^{xvii}. By

comparing these elements with the functions and competencies of the Monetary and Credit Council, the Competition Council, or the Committee for the Organization and Monitoring of Stock Exchange Operations, we find them consistent, suggesting the legislator's intent to consider it an independent administrative authority.

However, what distinguishes the Financial Stability Committee established under Law No. 23-09 is that it enjoys very limited operational independence, given its lack of legal personality, even though this criterion is not decisive in confirming the entity's independence, as most independent administrative authorities do not possess legal personality^{xviii}. The second point relates to the complete absence of freedom in financial and human resource management, which is a crucial element for the efficient and effective execution of its tasks^{xix}. It appears that the Bank of Algeria is responsible for the financial and human resource management of the Committee, given its supervisory authority over the General Secretariat^{xx}.

Moreover, the failure to precisely define the term of office for its members and the procedures for its termination may raise several operational risks that weaken the Committee's organic independence, potentially affecting the transparency and integrity of its decisions. It appears that the legislator only specified the term of office and mandate for some members, such as the Governor, the President of the Committee for the Organization and Monitoring of Stock Exchange Operations, and the President of the Insurance Supervisory Committee, as their functional mandates are predetermined within the legislative texts establishing and organizing the sectoral regulatory authorities to which they belong, while the legislator neglected to specify the term for the remaining seven members.

Competencies and Regulation of the Financial Stability Committee

The legislator deliberately granted the Financial Stability Committee a set of functions and tasks to activate its role in macroprudential supervision^{xxi}. This is achieved through its authority to issue decisions and directives, whether to banking supervision and regulatory bodies, such as the Monetary and Credit Council and the Banking Commission, or to the financial market regulatory authority, represented by the Committee for the Organization and Monitoring of Stock Exchange Operations (COSOB), or to the Insurance Supervisory Committee.

These tasks require a proactive analysis of developments within the financial system and their potential short- to medium-term consequences. These objectives are achieved by utilizing all available means to the Committee's council, which often operate within a preventive, proactive

approach^{xxii}.

The ten Committee members must attend meetings in person, and proxy or delegation is prohibited. The Committee may seek the assistance of one or more persons deemed qualified, given their competence and professional experience, to address a specific subject on a consultative basis, provided they adhere to the duty of professional secrecy^{xxiii}.

The Committee's Chairman (the Governor) is responsible for calling the council to convene and setting the agenda. The council meets in ordinary sessions at least every three months in normal circumstances or whenever necessary. In the latter case, the meeting is called either by the Chairman or at the request of two-thirds of the members. Decisions are taken by simple majority, with the Chairman's vote being decisive in case of a tie^{xxiv}.

The Financial Stability Committee deliberates particularly on matters related to macroprudential supervision, which specifically include:

✓ Defining and evaluating the nature and scope of systemic risks likely to harm the stability of the financial system and arising from each regulated sector, while taking into account useful statistical information provided by the key entities in the financial system to improve macroprudential supervision.

✓ The Financial Stability Committee is responsible for issuing directives, instructions, and opinions capable of preventing any risk or threat to financial stability and ensuring the smooth running of its effectiveness, as well as formulating proposals when necessary and submitting them to the key entities, such as the Bank of Algeria, the Committee for the Organization and Monitoring of Stock Exchange Operations, or the Minister of Finance.

✓ The Committee must ensure it follows up on the implementation of all measures reinforcing the prevention of systemic risks and mitigating their effects, while taking the necessary actions to address observed and monitored negative points^{xxv}.

In the event of a crisis and its subsequent ramifications, the Financial Stability Committee is tasked with presenting and reporting the likely and potential impacts of the crisis on the financial system and the various regulated sectors within the economic field. It must also develop a roadmap for overcoming the crisis by taking procedural measures to mitigate the negative effects, and coordinating with the key entities to propose a strategy for restoring financial stability^{xxvi}.

Nevertheless, it appears that the decisions and instructions issued by the Financial Stability Committee are only addressed to the key entities regulating the financial sectors. In contrast, the

French legislator, through the French Monetary and Financial Code, granted the High Council for Financial Stability (HCSF) the possibility of directly issuing obligations, proposals, and instructions to entities subject to economic regulatory authorities, such as credit institutions, insurance companies, and stock exchange intermediaries^{xxvii}.

Furthermore, the provisions of the national Monetary and Banking Law No. 23-09 establishing the Financial Stability Committee include no mention of international or regional cooperation with regional bodies tasked with ensuring financial stability. This is despite Algeria's membership in the Regional Consultative Group for the Middle East and North Africa of the Financial Stability Board (FSB), which includes the region's countries and is represented by the Bank of Algeria^{xxviii}.

Thirdly: Macroprudential Policy and its Role in Ensuring Financial Stability

The strategic framework for Macroprudential Policy is established based on international metrics and standards from the "Basel" Committee principles, as well as the experiences of pioneering Central Banks in this field. This approach is enshrined in the provisions of Law No. 23-09, which defined the scope, objectives, and instruments of this policy.

What is Meant by Macroprudential Policy?

Macroprudential policies first appeared modestly in the 1970s. However, the explosion of financial system activities and the development of complex digital technology led to a loss of financial control, marked by the recurrence of financial crises. The most recent was the Global Financial Crisis of 2008, related to the subprime mortgage crisis in the United States, following which the world's Central Banks adopted a new strategy for macroprudential policy to promote lasting financial stability^{xxix}.

Scholars, both legal and economic, have not agreed upon a comprehensive definition for macroprudential policies. Nevertheless, the term Macroprudential Policy (macroprudentielle) refers to an orientation or perspective involving regulatory and forward-looking measures aimed at controlling general risks rather than focusing on the security and soundness of individual sectors or institutions on an isolated basis^{xxx}. This policy is designed to detect and limit risks that could affect the stability of the financial system.

From an economic perspective, it can be said that this policy consists of indicators and data that contribute to enhancing the security and soundness of the financial system by avoiding economic shocks^{xxxi}. Macroprudential Policy differs from Microprudential Policy in the means, objectives, and mechanisms employed^{xxxii}.

Objectives of Macroprudential Policy

The Financial Stability Committee possesses broad competencies in determining the annual Macroprudential Policy objectives for the financial system, which are published through resolutions. Since the Committee has not yet commenced its work, there are no instructions or resolutions clarifying these macroprudential objectives. However, this does not prevent us from drawing parallels with pioneering countries in setting these standards, such as the French High Council for Financial Stability (HCSF), which established a dual policy.

The first objective focuses on enhancing resilience by providing sufficient safety buffers within the financial system to absorb systemic risks^{xxxiii}. This strategy relies on maintaining financial stability after crises occur. The second objective is to limit excessive risk-taking and the accumulation of financial imbalances, which relies on the prevention of financial crises before they occur^{xxxiv}.

Generally, the objectives of Macroprudential Policy center on:

- Mitigating the intensity of credit growth and preventing the occurrence of excessive expansion in debt resulting from loans.

- Limiting excessive reliance on short-term financing and working to ensure necessary liquidity in the markets.

- Mitigating and preventing the direct and indirect exposure of economic actors to the factor of common risks.

- Enhancing the resilience of the financial infrastructure^{xxxv}.

Instruments of Macroprudential Policy

Over recent years, developed and emerging economies alike have utilized a diverse array of macroprudential instruments. This has been driven by the framework of the "Basel III" reforms or other international initiatives for reforming the financial system, or due to the desire of the governing authority in each country to confront systemic risks. It is well-known that economic systems may be exposed to financial shocks, and under these circumstances, Macroprudential Policy needs to play a proactive role aimed at mitigating the impact of these shocks. Consequently, it was essential for the Financial Stability Committee to utilize these instruments^{xxxvi}.

Most financial stability authorities in global financial systems employ varied macroprudential policy instruments in accordance with international standards issued by the Basel Committee on Banking Supervision. There are two prominent types of instruments:

- ❖ **Type 1: Entity-Targeted Instruments (Micro-Targeting):** This type focuses on targeting institutions, banks, and financial entities

by working to enhance their financial resilience. This is achieved by strengthening their capacity to absorb unexpected shocks, such as those tools designed to counter liquidity risks, credit risks, concentration risks, and market risks.

- ❖ **Type 2: Client/Segment-Targeted Instruments (Macro-Targeting):** This type targets various segments of clients and counterparties dealing with the financial system. It seeks to protect them by setting ceilings on loans granted to natural or legal persons, as well as restricting loans granted to certain economic sectors. This is done to shield them from the shocks of improbable crises and to reduce the likelihood of project failure. Furthermore, they are used to diminish the severity of risks faced by major clients and financiers of economic sectors.

All these instruments are used to achieve intermediate objectives centered on controlling various financial risks, ultimately leading to the final objectives of reinforcing and maintaining financial stability^{xxxvii}.

Conclusion

In conclusion, it is evident that the Financial Stability Committee is one of the most crucial modern mechanisms for confronting the escalating challenges that threaten the financial system. It achieves this by directing the macroprudential policy toward the prevention of systemic risks. It undertakes the mission of monitoring the national financial system and submitting recommendations concerning it. To realize this, it coordinates work among the national sectoral financial authorities, while the latter seek to develop stringent policies in regulation, supervision, and other financial sector-related policies.

However, the efficacy of this Committee remains dependent upon its ability to effectively activate its macroprudential supervision instruments, its integration with the other regulatory bodies in the financial sector, and the availability of accurate and timely information that allows for the monitoring of imbalances before they worsen.

Consequently, achieving financial stability does not depend solely on the Committee's existence as an institutional structure; it also requires the development of its instruments, the enhancement of its independence, and the raising of the level of coordination among the various economic and regulatory actors. Only then can its macroprudential policy transform into a practical system capable of absorbing shocks, limiting the propagation of risks, and ensuring the resilience and sustainability of the financial sector. Thus, the Committee becomes better able to perform its duties in protecting the financial

system and supporting overall economic stability.

REFERENCES

- ⁱThe concept of macroprudential policy will be explained later.
- ⁱⁱThe term "Insurance Market" or "Insurance Systems" is used for the organized market of insurance companies in many countries. In some countries, this market is regulated by specialized supervisory bodies, such as the "Financial Regulatory Authority" in Egypt. In France, it is integrated with the banking system subject to the supervision of the Prudential Control and Resolution Authority (ACPR). In Algeria, the Insurance Supervisory Committee regulates active insurance companies according to Ordinance No. 95-07 of January 25, 1995, concerning insurance, Official Gazette, Issue No. 13, published on March 8, 1995, as amended and supplemented by Law No. 06-04 of February 20, 2006, Official Gazette, Issue No. 15, published on March 12, 2006.
- ⁱⁱⁱSTOUFFLET Jean. ROUAUD Anne-Claire, *Droit bancaire*, LexisNexis, 10e édition, Septembre 2023, p 180.
- ^{iv}Article 156 of Law No. 23-09 of June 21, 2023, comprising the Monetary and Banking Law, Official Gazette, Issue No. 43, published on June 27, 2023.
- ^vIn mid-1997, some Southeast Asian countries were exposed to an economic crisis whose negative effects were devastating on the economies of these countries, including: South Korea, Indonesia, Thailand, Malaysia, and the Philippines.
- ^{vi}LAURENCE Scialom, *Stratégies et instruments d'une régulation macroprudentielle*, *Revue d'économie financière*, Association Europe Finances Régulations, N° 103, 2011, p 172.
- ^{vii}HCSF: Haut Conseil de Stabilité Financière
- ^{viii}LOI n° 2013-672 du 26 juillet 2013 de séparation et de régulation des activités bancaires, JORF n°0173 du 27 juillet 2013 - Voir L'Article L 631-2 du Code monétaire et financière français.
- ^{ix} STOUFFLET Jean. ROUAUD Anne-Claire, *op.cit.*, p 180.
- ^xArticle 157, paragraph one, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xi}Article 157, paragraph one, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xii}The Governor may delegate one of his deputies to represent him in the chairmanship of the Financial Stability Committee pursuant to Article 158, paragraph one, of Law No. 23-09; the deputies referred to in this article are the deputies of the Governor of the Bank of Algeria, not the Financial Stability Committee.
- ^{xiii}Article 158 of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xiv}Cheraa Kaddour, *The Legal Nature of Independent Administrative Authorities*, PhD Thesis in Public Law, Faculty of Law and Political Sciences, University of Ghardaia, 2019 – 2020, p. 117.
- ^{xv}Cheraa Kaddour, *Ibid.*, p. 119
- ^{xvi}Article 159, paragraph three, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xvii}Article 157, paragraphs three and four, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xviii}Such as the Monetary and Credit Council.
- ^{xix}Kherchi Ilhem, *Independent Administrative Authorities in the Regulatory State*, PhD Thesis in Public Law, Faculty of Law and Political Sciences, University of Setif 2, 2014 – 2015, p. 172.
- ^{xx}Article 158, last paragraph, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxi}Article 161, paragraph one, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxii}L'Article L 631-2-1, alinéa 2 du Code monétaire et financière français
- ^{xxiii}Article 160 of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxiv}Article 159, paragraphs one and two, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxv}Article 161, paragraph one, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxvi}Article 161, paragraph two, of Law No. 23-09 comprising the Monetary and Banking Law.
- ^{xxvii}Article L 631-2-1 of the French Monetary and Financial Code
- ^{xxviii}The Financial Stability Board (FSB) is an international body established in 2009 following the G20 summit in London, headquartered in Basel, Switzerland, which works to promote global financial stability by monitoring the financial system and providing necessary recommendations.
- ^{xxix}LAURENCE Scialom, *Stratégies et instruments d'une régulation macroprudentielle*, *Revue d'économie financière*, Association Europe Finances Régulations, n° 103, 2011, p 172.
- ^{xxx}BORIO Claudio, *La mise en œuvre d'un cadre macroprudentiel : un juste équilibre entre audace et réalisme*, *Revue d'économie financière*, N° 101, 2011, p 158.
- ^{xxxi}LAURENCE Scialom, *op.cit.*, p 173.
- ^{xxxii}Microprudential Policy is a supervisory approach focused on the safety and stability of individual financial institutions, such as banks and insurance companies. It aims to ensure that each

regulated entity follows adopted regulatory standards and manages its risks efficiently to guarantee the continuity of its activity and protect the rights of depositors and investors.

^{xxxiii}*Systemic risks are the risks of a widespread disruption in the financial system as a whole, or in a large part of it, including credit risks, concentration risks, interbank operation risks, liquidity risks, interest rate risks, exchange rate risks, and settlement risks.*

^{xxxiv} *BORIO Claudio, op.cit. ,p 161.*

^{xxxv}*Ibid., p 162 - 163.*

^{xxxvi} *LAURENCE Scialom , op.cit. ,p 172.*

^{xxxvii}*Financial Stability Report for 2024 issued by the Central Bank of Egypt, published on the website: <https://www.cbe.org.eg/ar/financial-stability/macroprudential/policy-tools> - Date accessed: 25 – 08 – 2024*