CNP ASSURANCES

Procedure n° 2017-01

———

Reprimand and fine
of EUR 8 million

———

Hearing of 6 July 2018
Decision handed down on 26 July 2018

AUTORITÉ DE CONTRÔLE PRUDENTIEL ET DE RÉSOLUTION
SANCTIONS COMMITTEE

———————

Having regard to the letter dated 13 March 2017, in which the Chairman of the *Autorité de contrôle prudentiel et de résolution* (ACPR – French Prudential Supervision and Resolution Authority) informed the Committee that the ACPR Supervisory College (hereinafter, the 'College'), ruling through the Sub-College with responsibility for the insurance sector, decided to open a disciplinary procedure under number 2017-01 against CNP Assurances, 4, place Raoul-Dautry, 75015 Paris;

Having regard to the statement of objections dated 13 March 2017;

Having regard to the defence submissions dated 17 July 2017, 22 December 2017 and 19 March 2018, in which CNP Assurances requests *i)* that objections 1, 3, 6, 7, 9 and 14 be dismissed and the other objections be reduced in scope, *ii)* in the event a sanction is imposed, that it comply with the proportionality rule in view of its unique business model, the small number of cases identified by the inspection team and the involuntary nature of any breach of the regulations on its part, and iii) that the hearing not be held in public;

Having regard to the statements of reply dated 30 October 2017 and 9 February 2018, in which Jean-François Lemoux, representing the College, maintained all the objections notified;

Having regard to the deposition by CNP Assurances, represented by its Chief Executive Officer, on 17 May 2018;

Having regard to the report dated 4 June 2018 by Rapporteur Francis Crédot, in which he concluded that the 14 notified objections are substantiated, but that 8 of them are substantiated subject to a reduced scope (objections 2, 3, 4, 8, 9, 10 and 14) or substantiated subject to proportionate sanctions (objection 6);

Having regard to the letters dated 5 June 2018 summoning the parties to the hearing, informing them of the composition of the Committee and indicating that the hearing would not be held in public, as requested by CNP Assurances;

Having regard to the observations on the Rapporteur's report submitted by CNP Assurances on 20 June 2018;

Having regard to the other case documents, including in particular the inspection report dated 17 May 2016;

Having regard to the French Monetary and Financial Code (*Code monétaire et financier*, hereinafter, the 'Code') and in particular its Articles L. 561-6, L. 561-7, L. 561-10, L. 561-10-2, L. 561-15, L. 561-16, L. 562-3, L. 612-39, R. 561-12, R. 561-13, R. 561-20, R. 561-31, D. 561-32-1, R. 561-38, R. 562-2 and R. 612-35 to R. 612-51, in the versions in force at the time of the on-site inspection;

Having regard to the French Insurance Code (*Code des assurances)*, and in particular its Articles A. 310-8 and A. 310-9;

Having regard to Instruction No. 2012-1-04 of 28 June 2012, as amended, on the anti-money laundering and counter terrorist financing system (hereinafter, the 'Instruction of 28 June 2012');

Having regard to the Sanctions Committee's Rules of Procedure;

The ACPR Sanctions Committee, comprising Rémi Bouchez in the chair, Claudie Aldigé, Claudie Boiteau, Jean-Pierre Jouguelet and Thierry Philipponnat;

Having heard at the session held in camera on 6 July 2018:

- Francis Crédot, Rapporteur, aided by his deputies, Marie Mallard Saïh and Fabien Patris;

- Priscille Merle, representing the Director General of the Treasury;

- Jean-François Lemoux, representing the College, aided by the Deputy Director of the Legal Affairs Directorate, the Deputy Head of the Institutional Affairs and Public Law Division, the Deputy Head of the AML Division and lawyers from the Legal Affairs Directorate; Jean-François Lemoux proposed issuing a reprimand along with a fine of EUR 10 million, to be published in a non-anonymous decision;

- CNP Assurances, represented by the Chairman of its Board of Directors and its Chief Executive Officer, assisted by the Head of Group Compliance and the Head of Group Legal Affairs, and advised by the barristers Serge Durox, Caroline Mercier-Havsteen and Cécilia Challa (Ernst & Young) and Antoine Delvolvé (SCP Delvolvé-Trichet);

CNP Assurance's representatives had the last word;

Having deliberated in the sole presence of Chairman Bouchez, Mrs Aldigé, Mrs Boiteau, Messrs. Jouguelet and Philipponnat and also Mr Jean-Manuel Clemmer, Chief Officer of the Sanctions Committee, who acted as meeting secretary;

1. Whereas, CNP Assurances is a public sector company whose main shareholder is Caisse des dépôts et consignations (hereinafter, 'CDC'), which held 40.8% of its capital at the time of the inspection, while the French State held 1.1%; in 2017 it achieved a global turnover of EUR 32 billion, EUR 23 billion of which was generated in France, while net income totalled almost EUR 1.3 billion; in the same year the group, which is France's leading provider of personal insurance, had (…) million insureds under personal risk, protection and health policies and more than (…) million savings and pensions policyholders; CNP Assurances distributes its policies in France almost exclusively through the networks of its two banking partners, Y and group Z, who act as insurance intermediaries; its own employee network, known as "Amétis", generates only (…)% of its turnover in France; since 1992, the banking networks that distribute its products are also its shareholders through the holding company Sopassure, which held 36.3% of CNP Assurances' capital at the time of the inspection; the French State, CDC and Sopassure are bound by a shareholders' agreement until 31 December 2019;

2. Whereas, an on-site inspection of CNP Assurances' anti-money laundering and counter terrorist financing system (hereinafter, 'AML-CTF') took place between 3 December 2014 and 1 February 2016; a final report was signed on 17 May 2016 (hereinafter, the 'inspection report'); on the basis of this report, the College decided to open this disciplinary procedure at its meeting of 16 February 2017;

I. General matters

A. – CNP Assurances' business model

3. Whereas, CNP Assurances first requests that its unique history and business model be taken into consideration, as this led to its two distributor bank networks, which are party to the shareholders' agreement and are in a "dominant position" with regard to it, considering until recently that they had a monopoly over relations with CNP Assurances clients, who are also their clients; that, secondly, as these networks are subject to the same AML-CTF obligations as itself, the information they held and the due diligence checks they carried out concerning these shared clients, who necessarily had to enter into a banking agreement before taking out an insurance policy, should be taken into consideration; that, lastly, the allocation of tasks had been agreed in appendices to the delegated management contracts entered into with Y and Z (hereinafter, the 'delegated management contracts');

4. Whereas, however, firstly, the holders of CNP Assurances insurance policies are its clients, and it therefore has separate due diligence and reporting obligations to the distributor banking networks; this type of "bancassurance" business is, moreover, common in France; CNP Assurances' difficulties in obtaining the information on its clients held by its distributors and shareholders at the time of the inspection constitute contextual facts, which cannot impact on the company's accountability for the alleged failures or on the assessment of their genuine nature;

5. Whereas, next, the AML-CTF appendices to the delegated management contracts show that the two banking groups acted as "third-party introducers" when they distributed CNP Assurances products; they stipulate that "CNP Assurances does not possess "client" files. Pursuant to Articles L. 561-7-I and R. 561-13 of the French Monetary and Financial Code, CNP Assurances delegates to the banks, which present the insurance policies in their branches, the identification and know-your-client obligations required by the first paragraphs of Articles L. 561-5 and L. 561-6 of the French Monetary and Financial Code."; in this type of system, if the two distributor banking networks failed to comply with the obligation imposed by Article R. 561-13-I of the Code, which the appendices do not refer to, namely to "promptly make available" to the reporting entity "information on the identity of the client and, where appropriate, that of the beneficial owner and the purpose and nature of the business relationship", CNP Assurances ran the risk of failing to meet its own due diligence obligations;

6. Whereas, lastly, it cannot, however, be inferred from the delegated management contracts that CNP Assurances delegated to its partners the performance of its other due diligence obligations and its obligations to report suspicious transactions to Tracfin (hereinafter, 'ST report'); it has stated that it tried to ensure that the various existing AML-CTF systems were complementary; moreover, in the insurance sector the manner in which the outsourcing of AML-CTF measures should be implemented is covered solely by Decree No. 2018-284 of 18 April 2018, reinforcing anti-money laundering and counter terrorist financing measures; in view thereof, CNP Assurances cannot be accused of failing to control its "outsourced" activities (cf. *infra*, objection 4); conversely, the due diligence checks made and Tracfin reports filed by Y and Z concerning those of their clients who are also clients of CNP Assurances were not made or filed on behalf of the latter, and did not therefore release it from its own obligations in this connection (cf. *infra*, objections 2, 8, 9 and 10);

B. – On the potential impact on this procedure of correspondence from the ACPR Supervisory College or its General Secretariat

7. Whereas, firstly, on 6 April 2017 the ACPR Deputy Chairman sent, in the name of the Supervisory College, a letter to the Chairman of Caisse des dépôts et consignations' Supervisory Board underlining the "serious shortcomings" in CNP Assurances' AML-CTF system, which, according to that company, gave rise to a feeling of "unease" as it seemed to suggest that the outcome was "a foregone conclusion";

8. Whereas, however, these observations by the College, which is the body within the ACPR that acts as plaintiff, and which were only brought to the attention of the Committee in CNP Assurances' submissions, will not have any impact on the Committee's assessment, which will be made on the basis of the statement of objections referred to it;

9. Whereas, secondly, the ACPR Secretary General sent CNP Assurances a "follow-up letter" on 4 July 2017, after this procedure had been opened, requesting corrective action to be implemented in accordance with a given timetable; CNP Assurances argues that this corrective action concerns the same aspects of its AML-CTF system that are concerned by this procedure, and that implementation of such action would constitute an admission on its part of the alleged breaches, which would amount to self-incrimination; that accordingly the College has prejudiced the discussions and pre-empted the outcome of the disciplinary procedure, and "in so doing has weakened the presumption of innocence" to which it was entitled;

10. Whereas, however, the implementation by an institution supervised by the ACPR of recommendations or requests made by that authority's Secretary General in a follow-up letter or in any other way does not constitute an admission of a breach; thus, shortcomings identified in a follow-up letter can overlap with those listed in a statement of objections without this impairing the institution's rights of due process; moreover, any correspondence subsequent to that letter cannot impact on this procedure as it has not been submitted; the Sanctions Committee will assess the genuine nature and severity of the breaches and shortcomings identified in the statement of objections on the basis of the arguments and the case documents, at the end of the adversarial process;

11. Whereas, these two letters do not prejudice CNP Assurances' interests in this procedure;

II. The objections

A. – Organisation of the AML-CTF system

1) Risk classification

12. Whereas, Article R. 561-38-I, sub-section 2°, of the Monetary and Financial Code provides that reporting entities must "put in place a system to classify money laundering and terrorist financing risks inherent in their activities on the basis of the level of exposure to the risks, assessed inter alia with regard to the nature of the products or services offered, the terms of the proposed transactions, the distribution channels used and client characteristics"; Article A. 310-8-I of the French Insurance Code requires reporting entities to put in place "a risk classification and assessment system. The classification shall cover: / - transactions with the persons referred to in Article R. 561-18 of the Monetary and Financial Code; / - activities carried out by subsidiaries or institutions in the States or territories listed in Article L. 561-15-VI of the same Code; / - activities carried out by subsidiaries or institutions in those States or by a State against which specific restrictive measures have been taken in application of Regulations adopted by the Council of the European Union or asset freezing measures. / Risk assessment shall cover: / - the various products or services proposed, the marketing methods used, the location or specific terms of the transactions, and the characteristics of clients; / - contract management activities, including those that have been outsourced. / The classification and assessment shall be updated regularly and in particular following any event that has a significant impact on the activities, clients, subsidiaries or institutions.";

13. Whereas, according to **objection 1**, based on this legislation, the threshold of EUR (…) set by CNP Assurances to classify a high-risk transaction for the banking distribution channel does not take sufficient consideration of the risks to which the entity is exposed; this threshold, which applies without distinction to all clients who are French tax residents, has little bearing on the average amounts of payments into policies (EUR (…)) or amounts surrendered (EUR (…)) in the case of products distributed by Y and EUR (…) for products distributed by Z); CNP Assurances belatedly updated this classification, as a result of which redemptions of capitalisation bonds in bearer form (hereinafter, 'BCP bonds') in accordance with the rules

allowing tax anonymity and by transfer to a bank account were classified as high-risk with effect from July 2015 only, although in 2014 it had redeemed (…) BCP bonds for a total of EUR (…) under these rules;

14. Whereas, firstly, CNP Assurances argues that the regulations do not require the use of quantitative criteria to determine the thresholds used in a risk classification system, and challenges the calculation method used by the plaintiff; that, moreover, the average amount of the transactions used by the plaintiff is based on an appendix, which has not been produced as evidence in the adversarial procedure;

15. Whereas, however, the reference to a single fixed threshold per transaction or per rolling 12-month period, which is not adjusted on the basis of client profile or type of transaction, is difficult to reconcile with a risk-based approach; although CNP Assurances criticises the calculation method used by the plaintiff to determine average transaction amounts, such amounts merely serve to illustrate the overly high nature of the threshold it applied in view of the transactions it processes, as is also confirmed by the fact that less than 5% of the voluntary additional payments were examined, which is not contested; as stated previously, the fact that this threshold was jointly determined with the banking partners is irrelevant; the Code does not lay down any rules or contain any provisions that require the College to base its statement of objections solely on documentary evidence obtained during the on-site inspection or discussed by both parties before the disciplinary procedure was opened; this appendix is in no way in breach of due process in that, as regards this point also, CNP Assurances was able to provide the Committee with all information it considered relevant concerning the average amount of its transactions; the measures to adjust these thresholds introduced by CNP Assurances in conjunction with its banking partners in September 2015 can be analysed as corrective actions that cannot impact on the first claim, which is well-founded;

16. Whereas, next, CNP Assurances argues that the law does not require it to classify the redemption of BCP bonds as high-risk in its risk classification system; such a classification is merely recommended in non-binding documents such as the Sector Implementation Guidelines (*Principes d'application sectoriels*, hereinafter the 'Guidelines'); furthermore, it considers that, given the specific nature of BCP bonds, which do not create a business relationship between the issuer and the bond bearer, classification as high-risk would simply result in more stringent rules on identifying the bond bearer, which CNP Assurances did on receipt of every redemption request;

17. Whereas, however, an AML-CTF risk classification system must take into consideration the level of exposure to the risk associated with each product issued or marketed; as the Committee has previously recalled, when BCP bonds facilitate anonymity within the meaning of sub-sections 3 of Articles L. 561-10 and R. 561-19 of the Code, they must be classified as high-risk in the risk classification system of the institution that issues or has issued them (cf. *Axa France Vie* decision of 8 December 2016); that furthermore, in its Guidelines on AML-CTF for the insurance sector published in 2010 the ACPR indicated, in a section on high-risk contracts, that contracts that allow the policyholder or beneficiary to remain anonymous must be classified in this risk category; although, as CNP Assurances has correctly pointed out, the ACPR Guidelines merely serve to explain regulations, they nevertheless clearly drew the attention of the reporting entities to the risks associated with this category of product; likewise, in the Mutual Evaluation of France report published on 25 February 2011, the FATF emphasised that this product presented a high risk of money laundering and terrorist financing (hereinafter, 'ML-TF') (report, §1005); the ML-TF risk associated with the portability of BCP bonds arises notably when they are redeemed; it is the existence of such a risk that justified the introduction of additional due diligence measures in connection therewith; a high-risk classification does not only require the institution to introduce enhanced measures in accordance with Articles L. 561-5 and L. 561-6 of the Code, it also facilitates the detection by the institution of unusual transactions requiring a more thorough examination or the reporting of suspicious transactions; whether the client is occasional or is in an established business relationship is irrelevant; the classification by CNP Assurances of all transactions involving BCP bonds as high-risk since July 2015, while the on-site inspection was ongoing, can be analysed as a corrective action that cannot impact on the second claim, which is also well-founded;

18. Whereas, objection 1 is substantiated in its entirety;

2) Rules and internal procedures

19. Whereas, Article R. 561-38-I, sub-section 4°, of the Code requires reporting entities to define the procedures to be followed when controlling risks and implementing due diligence measures with regard to their clients; Article A. 310-8-II of the French Insurance Code, which clarifies said requirement, provides that written procedures must be tailored to their organisation, and must set out the checks to be carried out concerning the identity of the client and, where appropriate, the beneficial owner, in particular when a third party pursuant to Article L. 561-7 of the Code is used to enter into the business relationship with a client in accordance with Article R. 561-13-I of the same Code, as well as all the due diligence measures to be implemented in connection with business relationships referred to in Articles L. 561-10 and L. 561-10-2 of the Code;

20. Whereas, according to **objection 2**, which is based on this legislation, the AML-CTF appendices to the delegated management contracts that CNP Assurances concluded with Y and Z are not sufficiently coherent with its own risk classification system; accordingly, these agreements provide that supporting documents will be required only when the EUR (…) threshold is crossed, meaning that supporting documents are collected only in a very small number of cases, representing less than 0.5% of all transactions carried out through Y and Z; furthermore, no clause in CNP Assurances' own "federal" procedure or in the appendices to the delegated management contracts sets out *i)* the full procedure for identifying a legal entity's beneficial owner, despite the institution having this type of client, *ii)* the additional due diligence measures to be implemented when a client becomes a politically exposed person (hereinafter, 'PEP') during the business relationship, or *iii)* the measures to be implemented when transactions are carried out by persons established or registered in a non-cooperative State or territory (hereinafter, 'NCST'), although the inspection identified this type of client;

21. Whereas, firstly, the section of the appendices to the delegated management contracts that describes the enhanced due diligence measures to be implemented by Y and Z, and not by CNP Assurances, cannot be considered to constitute the internal procedures of CNP Assurances as they concern an activity that has not been outsourced (cf. *supra* recital 6), meaning that any lack of coherence between these appendices and its own so-called "federal" procedure cannot be raised as a shortcoming; nor can CNP Assurances be criticised for not stating in its procedure that authorisation by a member of the executive body or a person authorised for that purpose by the executive body is necessary for the continued performance of a contract with a client who becomes a PEP during the business relationship, as this was not a requirement of the version of Article R. 561-20 of the Code in force at the time of the on-site inspection; indeed, although the November 2013 version of the guidelines defining a PEP stated, with regard to a client whose status as a PEP is detected only after the start of the business relationship, that authorisation "should be obtained" in accordance with the above-mentioned conditions, this phrase, expressed in the conditional tense, was accompanied by a reference to the need "at the very least" to inform the executive body as part of the review of existing client files required by Article 19 of Ordinance no. 2009-104 of 30 January 2009 on preventing the use of the financial system for money laundering and terrorist financing (§ 18 and 19);

22. Whereas, however, CNP Assurances' "federal" procedure did not contain an obligation to identify and verify the beneficial owner, to which concept express reference is made in the above-mentioned Ordinance of 30 January 2009, and also, for the insurance sector, in the ACPR guidelines of September 2011 (page 5); it required the regular monitoring of foreign clients to detect whether they became PEPs during the business relationship for its own Amétis network only, and not for the majority of clients introduced by the banking partners, while, moreover, French nationality clients residing abroad were also excluded from this monitoring process; lastly, although CNP Assurances argues that even if its procedure did not include a separate section on clients established in a NCST, it did systematically impose a number of checks in such cases, including when an insurance policy premium was paid from a bank account registered in a country on its "white list", the measures it describes are not sufficient to meet the legal requirements concerning such clients laid down by Article R. 561-20-III-B of the Code;

23. Whereas, the above-mentioned corrective action, which was taken after the inspection, cannot impact on the objection, which is substantiated with a reduced scope, as stated;

3) The business relationship monitoring and analysis system

24. Whereas, Article A. 310-8-VI, paragraph 1, of the French Insurance Code requires companies to put in place systems to monitor and analyse their business relationships based on their knowledge of their clients or, if need be, on the profile of the business relationship, so that they can detect any anomalies; these systems must be tailored to the risks identified by the risk classification system, and must enable the company to define ML-TF criteria and significant and specific thresholds;

25. Whereas, according to **objection 3**, which is based on this legislation, CNP Assurances' business relationship monitoring and analysis system, which is *ex ante* in the form of tools that detect unusual transactions through the use of thresholds and alert scenarios, and *ex post* in the form of scenarios configured in the "X" software tool, is inadequate, in that (i) none of the due diligence thresholds or alert scenarios integrate know-your-client data concerning wealth or income, *ii)* the scenarios used in X [the software], based on cumulative criteria, are too restrictive; accordingly, based on the scope of the inspection, the number of alerts in 2013 and 2014, namely (…) and (…), respectively, is low given the total number of insureds and active policies, namely (…) and (…) million, respectively; furthermore, in three files (A 16, D5 and F7) the alert was closed without further action on the basis of the analysis of only one of the criteria used in the scenarios configured in X;

26. Whereas, firstly, the fact that data concerning clients' wealth and income, which was kept by CNP Assurances' banking partners, was not input into the X software is not denied, and this constitutes a major failing on the part of CNP Assurances' system; next, although some of the 14 scenario alerts were based on just one criterion, meaning that it is impossible to make a general statement that all scenarios were too restrictive, most of them, including scenario (…) concerning the redemption of BCP bonds, did use cumulative criteria, which had a significant impact on their effectiveness and ultimately on that of the business relationship monitoring and analysis system; moreover, although the quality of the system relies on the alerts being systematically and appropriately analysed, a failure to analyse alerts has been established, after an examination of the evidence produced by CNP Assurances, in two of the three files cited by the plaintiff; objection 3 is therefore substantiated with a slightly reduced scope, as stated;

4) Internal control and the AML-CTF system

27. Whereas, Article R. 561-38-I, sub-section 5°, of the Code requires reporting entities to put in place periodic and permanent control procedures with regard to ML-TF risks; Article A. 310-9-II of the French Insurance Code also requires them to put in place permanent controls to ascertain whether internal procedures are correctly applied and, where necessary, to take appropriate action to correct any anomalies;

28. Whereas, according to **objection 4**, which is based on this legislation, CNP Assurances failed to verify that the AML-CTF appendices to the delegated management contracts entered into with its distributor networks were correctly applied; firstly, despite using a third party business introducer as allowed by Article L. 561-7 of the Code, it did not ensure that it received, at first request or no later than 15 days after said request, the documents and information obtained at the start of the business relationship by the Y and Z group banking networks that held the client files, in order to meet its due diligence obligations; in fact, the average time period necessary to obtain such information was 26 days at the time of the inspection, and the inspection team was not able to obtain all the said documents and information; CNP Assurances has acknowledged in its reply to the draft report that it was unable to obtain "all the documents or information requested from the distributor partners", but only introduced corrective actions in 2015; next, although it outsourced some of its due diligence obligations to Y and Z, CNP Assurances has acknowledged that it never audited them; more specifically, although the contract provides that the two banking networks must produce a list of CNP Assurances clients who are PEPs at the time they take out their policy, so that it can give its prior consent, the appropriate information was not forwarded (files A9 and G12);

29. Whereas, firstly, the failure to forward, at first request, the information collected by CNP Assurances' banking partners acting in their capacity as third party business introducers is not disputed; irrespective of

the nature of its relationship with Y and Z, CNP Assurances had an obligation to ensure that it effectively received the requisite information, so that it could meet its own obligations; however, as stated previously (cf. *supra* recitals 6 and 21), as CNP Assurances did not delegate all of its AML-CTF obligations to its banking partners, but only those concerning third-party business introduction, it cannot be criticised for failing to ensure they correctly applied the contracts as regards AML-CTF; accordingly, the conditions under which these contracts were applied by Y and Z cannot be the subject of a separate claim in this procedure, but can result in disciplinary action against CNP Assurances for failure to meet its own due diligence obligations (cf. *infra*, objections 5 and 6); the remedial action taken cannot impact on the finding concerning objection 4, which is therefore substantiated with a reduced scope;

B. – Implementation of due diligence obligations

1) Know-your-client obligation

30. Whereas, Articles L. 561-6 and R. 561-12 of the Code, in the versions in force before 3 December 2016, require reporting entities to collect information on the purpose and nature of the business relationship and all other relevant information concerning the client before entering into a business relationship with a client, and throughout the relationship;

31. Whereas, according to **objection 5**, which is based on this legislation, 35 client files identified by the inspection team did not contain all the information necessary for proper knowledge of the business relationship, either because information on the client's financial situation was missing or had not been updated, or because the client's occupation was not indicated or was inaccurate;

32. Whereas, it is not disputed that the requisite information had not been included in the files kept by CNP Assurances and referred to by the plaintiff, subject to the proviso that there were 30 files and not 35 (A1 to A30); when assessing this breach, the fact that information concerning 22 of these clients was present in files kept by its distributor banking partners cannot be taken into consideration, as in order to meet its know-your-client obligation CNP Assurances needed to be able to access this information immediately, which was not the case;

33. Whereas, however, the objection specifically relates to a lack of sufficient knowledge about certain clients, in that information on their financial situation was missing or had not been updated, or that their occupation had not been indicated or was inaccurate; in file A22, the missing information referred to by the plaintiff concerns the client's identity only; this file should therefore be excluded from the scope of the objection, as should all cases of inadequate client identification information in the other files;

34. Whereas, the objection is substantiated with a slightly reduced scope, namely inadequate knowledge of the business relationship in 29 files;

2) The enhanced due diligence obligation concerning politically exposed persons

35. Whereas, Article R. 561-20 of the Code provides that: "II.-When the client is a person referred to in Article L. 561-10-2° or becomes such a person during the business relationship, the entities referred to in Article L. 561-2 shall apply all of the following enhanced due diligence measures, in addition to the measures required by Articles L. 561-5 and L. 561-6: / 1° they shall define and put in place procedures covering money laundering and terrorist financing risks that enable them to determine whether their client is a person referred to in Article R. 561-18; / 2° the decision to enter into a business relationship with that person may only be taken by a member of the executive body or a person authorised for that purpose by the executive body; / 3° when assessing the money laundering and terrorist financing risks, they will determine the origin of the wealth and funds involved in the business relationship or transaction.";

36. Whereas, according to **objection 6**, which is based on this legislation, CNP Assurances did not have sufficient resources to effectively detect PEPs at the start of business relationships; in the case of the Amétis

employee network, on the one hand, policy application forms were not designed not record whether the client was a PEP and, on the other hand, the weekly and annual frequency of the *ex post* filtering checks on client databases by the X software was not sufficient to guarantee that no business relationships had been entered into with PEPs before they were detected during filtering; moreover, in the case of its banking partner networks, CNP Assurances was not in a position to authorise the start of a business relationship with a PEP client, as it was not systematically informed of their status in a timely manner; two files illustrate this failure (A16 and G12); in addition, in the case of 12 PEP files, enhanced due diligence measures were not correctly carried out (A2, A3, A4, A8, A9, A15, A21, G12, B1 to B4), even though CNP had been informed that four of them were PEPs (A8, A9, A15 and B4);

37. Whereas, firstly, the investigation has shown that the monitoring system in place within CNP Assurances on the date of the inspection did not enable it to meet its obligation to detect PEPs; in the case of business relationships arranged by the Amétis network, the ex post filtering checks by the X software at the frequencies indicated in the statement of objections were not sufficient to enable CNP Assurances to meet its obligation to detect PEPs before the start of the business relationship; however, only French nationals could purchase insurance products through this network, and although certain French nationals residing abroad might have qualified as PEPs, the plaintiff has not produced any example of a business relationship with any such person; in the case of business relationships arranged through the intermediary of its banking partners, CNP Assurances admits that it did not systematically have access to information on the PEP status of its clients before conclusion of the insurance policy; the fact that the "federal" procedures and the AML-CTF appendices contain an obligation to detect PEPs cannot impact on the objection, as these documents did not provide for any associated operational consequences; although CNP Assurances has indicated that it took corrective action after the on-site inspection, this aspect of the objection is therefore substantiated, and the consequences of its business model on the transmission of information, claimed by it, are not sufficient to merit proportionate sanctions;

38. Whereas, next, CNP Assurances argues that in 10 of the individual files cited as regards PEPs, the start of the business relationship predated the entry into force of the obligation to obtain authorisation from a member of the executive body or a person authorised by that body; however, in actual fact several of these business relationships (files A9, B2 and B3) postdated the introduction of this obligation by Decree no. 2009-1087 of 2 September 2009; in the other seven cases, it is true that CNP Assurances cannot be criticised for having failed to arrange for such a person to decide whether to maintain the business relationship, as the obligation was introduced after the inspection; the corrective action that resulted in all PEP files being reviewed by CNP Assurances' Compliance team cannot impact on the objection, which is substantiated but the scope is reduced to three files;

39. Whereas, objection 6 is substantiated with a reduced scope, as stated; however, the Committee acknowledges the small number of PEP clients that had purchased CNP Assurances products as at the date of the on-site inspection;

3) Enhanced due diligence obligation concerning clients registered or established in a non-cooperative State or territory

40. Whereas, Article L. 561-10, sub-section 4°, of the Code requires the entities referred to in Article L. 561-2 to apply enhanced due diligence measures with regard to their client, in addition to the measures provided for in Articles L. 561-5 and L. 561-6, when "the transaction is a transaction for their own account or on behalf of third parties entered into with individuals or legal entities, including their subsidiaries or branches, domiciled, registered or established in a State or a territory in the lists published by the Financial Action Task Force whose legislation or practices hinder the fight against money laundering and terrorist financing or by the European Commission in application of Article 9 of EU Directive 2015/849 of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing."; Article R. 561-20-III of the Code requires them to assess the ML-TF risks associated with any such transactions that they carry out; in that case, the decision to enter into or maintain a business relationship must be taken by a member of the executive body or a person authorised for that purpose by the

executive body; additional know-your-client information and information on the purpose and nature of the business relationship must also be obtained;

41. Whereas, according to **objection 7**, which is based on this legislation, CNP Assurances' system does not enable to it to identify transactions carried out by a person residing in a non-cooperative State or territory (hereinafter, 'NCST') and holding a bank account in France; two files (C1 and C2) illustrate this objection, in that no enhanced due diligence measures were implemented although, as at the date of the transactions, the clients resided in a NCST;

42. Whereas, CNP Assurances has not disputed this failure; the corrective action it has reported cannot impact on the objection, which is substantiated;

4) Enhanced due diligence obligation when risk is high

43. Whereas, Article L.561-10-2-I of the Code requires the entities referred to in Article L. 561-2 to intensify the measures provided for in Articles L. 561-5 and L. 561-6 when they consider that a client, a product or a transaction presents a high risk of ML-TF;

44. Whereas, according to **objection 8**, enhanced due diligence measures were not implemented in seven files (D1 to D7);

45. Whereas, firstly, although the above-mentioned legislation does not require that the origin of funds be systematically ascertained, reporting entities have a duty to implement due diligence measures that can be considered to be enhanced; as stated previously (cf. *supra* recitals 6 and 21), the due diligence checks carried out by CNP Assurances' banking partners cannot be taken into consideration;

46. Whereas, next, in the various files cited in this objection, the transactions carried out should have resulted in enhanced due diligence checks, considering the amount of the transactions and the thresholds used in CNP Assurances' risk classification system or the know-your-client information on file (files D1 to D6); however, as regards file D7, the documents produced by CNP Assurances, including a confidential report dated December 2012, establish that enhanced due diligence checks were carried out;

47. Whereas, objection 8 is therefore substantiated, but the scope is reduced to 6 files;

5) Failure to carry out a thorough examination

48. Whereas, Article L. 561-10-2-II of the Code requires reporting entities to carry out a more thorough examination of any transaction that is particularly complex or is of an unusually large amount or that does not appear to have any economic justification or lawful purpose; in such cases, they must make inquiries of the client as to the origin of the funds and the intended use of the funds, the purpose of the transaction and the identity of the beneficiary;

49. Whereas, according to **objection 9**, which is based on this legislation, a more thorough examination was not carried out in seven cases (files E1 to E5, A17 and A28);

50. Whereas, as previously stated (cf. *supra* recitals 6 and 21), once again CNP Assurances cannot rely on the due diligence checks carried out by its banking partners, unless the documents they obtained were present in its own files when the transactions concerned by the inspection were executed;

51. Whereas, on the basis of evidence produced by CNP Assurances, the College has decided to withdraw the claim as regards transactions executed in file E1; this withdrawal shall be duly noted;

52. Whereas, in file E2, a client took out a life insurance policy in 2014, making an initial payment of EUR 500,000, which appeared to be unusual given the scarce information on file concerning the client, whose 2009 income tax return shows annual taxable income of EUR 3,628, corresponding to investment

income only; no documentary evidence was produced in support of the explanations given; whereas, as previously stated, the information held by Z and the checks it carried out following an alert generated by its own detection tool cannot be taken into consideration; the claim is therefore well-founded;

53. Whereas, in file E3, a retired client whose 2009 income totalled EUR 32,494, redeemed 30 BCP bonds for a total amount of EUR 163,500 over a two-year period while benefiting from tax anonymity, which should have given rise to a thorough examination because of the unusually large amounts involved in these transactions; moreover, although CNP Assurances obtained some explanations from the client, the identity of the person who purchased the bonds between 2002 and 2004 and the conditions under which the client entered into possession of these bonds remained unknown; the absence of "regulatory leverage" enabling it to oblige the client to produce such information did not prevent CNP Assurances from attempting to obtain the information and drawing the necessary consequences from a refusal to reply; the presumption of the good faith of a BCP bond bearer which, according to the civil courts (Court of Cassation, Commercial Division, 21 January 2004, *Sté Optima conseil vs. Sté Axa Conseil Vie*) restricts the right to refuse payment, has no bearing on the issuer's obligation to carry out a thorough examination of certain redemptions where appropriate; the claim is therefore well-founded;

54. Whereas, in file E4, the client, who was the manager of a private limited liability company (SARL) performing vehicle roadworthiness tests paid an initial amount of EUR 50,000 into a life insurance policy followed by two additional payments of EUR 100,000 in 2011 and EUR 400,000 in 2014, which appeared to be unusually high amounts in view of the know-your-client information, given that in 2013 the client had declared investment income of EUR 85,000 and property income of EUR 142,000; no documents were produced in support of the information that the client had received slightly more than EUR 240,000 following the sale of real property; CNP Assurances was unaware of the economic justification for the seven partial surrenders carried out by the client, totalling EUR 540,000; even though CNP Assurances was aware of the client's income, which enabled him to finance relatively large transactions, the characteristics of those transactions justified a more thorough examination; the claim is therefore well-founded;

55. Whereas, in file E5, the client, who was the director of a number of companies in the hotel sector in French Polynesia, made an initial payment into a life insurance policy of EUR 2.2 million in April 2010, followed by an additional payment of EUR 1 million, which might have seemed consistent with the client's declared assets, namely over EUR 18 million of real property assets and savings of EUR 2.2 million; however, the client's statements concerning the origin of the funds, namely the proceeds of the sale of a company in Tahiti, were received after the on-site inspection; at the time of the transaction, the amounts involved and the unclear origin of the funds should have led CNP Assurances to carry out a more thorough examination; the claim is therefore well-founded;

56. Whereas, in file A17, a single student aged 18, with no known income or assets, made an initial payment of EUR 170,000 in October 2013, which was cause for a more thorough examination; whereas, in addition, the client withdrew from the initial policy one month later and then took out a second life insurance policy on 17 January 2014, with an initial payment of EUR 480,000; on 10 June 2014, she effected a partial surrender of EUR 300,000; CNP Assurances did not obtain any supporting documents establishing the origin of the funds used to make the payments or the purpose of the surrender transaction; the information forwarded by Z, namely that following the death of her father the student inherited the sums that she had invested, was not in CNP Assurances' possession at the time of the on-site inspection; the inspection report states that it was noted in the distributor's file that banking alerts had been processed "in conjunction with a succession (death of father) – investment - purchase of real property", without any other information or supporting documents"; the claim is therefore well-founded;

57. Whereas, in file A28, a client whose occupation, income and assets were not known to CNP Assurances made an initial payment of EUR 300,000 into a life insurance policy in January 2012; in view of the unusually large amount, a more thorough examination should have been carried out; CNP Assurances was unaware of the purpose of the surrender of the policy in July 2012, or its economic justification, after which the client took out a new life insurance policy with an initial payment of EUR 150,000 in February

2013; the documents submitted to the Committee by CNP Assurances concerning the origin of funds were not present in the file at the time of the on-site inspection; the claim is therefore well-founded;

58. Whereas, objection 9 is therefore substantiated, but the scope is reduced to 6 files;

C. – Compliance with reporting obligations

1) Failure to report suspicious transactions

59. Whereas, Article L. 561-15-I of the Code requires reporting entities to report to Tracfin: "the sums entered in their books or the transactions relating to sums which they know, suspect or have good reasons for suspecting are the proceeds of a criminal offence punishable by a custodial sentence of more than one year or are linked to terrorist financing"; paragraph II of the same Article provides that "As an exception to I, the entities referred to in Article L. 561-2 shall declare to the unit referred to in Article L. 561-23 the sums or transactions which they know, suspect or have good reasons for suspecting are the proceeds of a tax fraud, where at least one of the criteria defined by decree is present"; one of the criteria referred to in Article D. 561-32-1 is "15° the deposit of funds by an individual unrelated to his or her known activities or financial situation"; lastly, Article L.561-15-III provides that in such case the entities must file the report on completion of the thorough examination;

60. Whereas, according to objection 10, which is based on this legislation, ST reports were not filed in connection with transactions in ten files (F1 to F10);

61. Whereas, as a preliminary point, CNP Assurances initially argues that the plaintiff goes beyond the scope of the above-mentioned legislation when it considers that a breach is established whenever it cannot be excluded that a transaction involved funds obtained from a criminal offence punishable by a custodial sentence of one year or that might be linked to the financing of terrorism, but in any event the Committee has a duty to assess the facts brought before it on the sole basis of the legislation applying to ST reports;

62. Whereas, CNP Assurances then argues that the professional obligations of an issuer of BCP bonds should be assessed in light of its other obligations under the common law rules applying to such products; it cites on this point the above-mentioned decision of the Court of Cassation's commercial division (cf. *supra* recital 53), in which the court found that "an issuer of a bearer bond may only be released from its repayment obligation, in the absence of a due and proper challenge, when the disputed bond has been misappropriated; the simple fact of the bearer not acting on its own behalf and refusing to supply the information required by Article 12 of the Law of 12 July 1990, subsequently Article L. 563-1 of the Monetary and Financial Code, is insufficient to characterise such a risk and constitute serious grounds for challenging the obligation"; however, as the Committee has already stated, the assumption that said bonds are held lawfully "shall not release a reporting entity from its due diligence and reporting obligations, which are of a different nature" (*Axa France Vie* decision of 8 December 2016, recital 71);

a) The four files involving redemptions of BCP bonds

63. Whereas, although CNP Assurances believes that a claim of inadequate monitoring of this product would be difficult to justify, as the applicable laws are designed to prevent the traceability of the person, when transactions are suspicious due to the circumstances in which a redemption was requested, it nevertheless has an obligation to inform Tracfin; files F1 to F4 concern BCP bond redemptions made between 2010 and 2014, for amounts ranging from slightly more than EUR 50,000 to slightly more than EUR 500,000; CNP Assurances was not aware of the holder's identity; these bonds were purchased in accordance with the rules allowing tax anonymity, and were redeemed in accordance with the same rules, even though all or some of the bonds could have been redeemed on a disclosed identity basis (file F2); the know-your-client information in these files was inadequate; although the contract allows redemption of the bonds in cash, this further increases the suspicious nature of such transactions (file F4); although in one case there is some uncertainty concerning redemptions for less than the initial value (file F1), the above facts are

sufficient to establish failure to make a ST report; in addition, in file F4, payment via a transit account enabled a cash redemption; the breach is therefore established in all four files;

b) The other files

64. Whereas, in file F5 the client's initial payment of EUR 2.5 million into a life insurance policy, followed two months later by the surrender of almost the entire amount, was not justified or documented at the time of the transaction; it was only after the inspection that explanations, obtained during a more thorough examination, revealed that the funds corresponded to part of the proceeds of a property sale, as confirmed by a notary statement; moreover, the information concerning this client's income was not consistent with a transaction of this scale; the breach is therefore established;

65. Whereas, in file F6, a former manager of a coffee grinding company located in Tunisia took out a life insurance policy in September 2013, making an initial payment of EUR 1 million followed by two partial surrenders just over a year later, of EUR 420,000 and EUR 400,000, respectively, which should have resulted in an ST report being sent to Tracfin, as CNP Assurances did not have any information on its client's income, the purpose of the surrenders, or any supporting documents establishing the origin of the funds used for the initial payment; the checks it carried out on these transactions only started in July 2015, during the inspection; the ST reports filed in September and December 2014 by its banking partner did not exempt CNP Assurances from meeting its own obligations, all the more so as there is nothing in the file to suggest that CNP Assurances was aware of this; the claim is therefore well-founded;

66. Whereas, in file F7, the client, a salesman, declared that he earned EUR 12,503 per year and held assets in the amount of EUR 58,000 as at July 2014; he took out a life insurance policy in September of the same year, making an initial payment of EUR 243,000; two days later, he withdrew from the policy, triggering an alert within CNP Assurances; it closed the alert with no further action after receipt of a copy of the cheque issued by the CARPA retirement fund on 21 July 2014 to the order of SARL (…); CNP Assurances does not dispute that said document did not enable it to ascertain the origin of the funds, as the relationship between its client and that company was not established; however, a decision to take no further action was made, although an ST report should have been sent to Tracfin in accordance with Article L. 561-15-II of the Code and with Article D. 561-32-1 criterion 15 of the same Code, in view of the inconsistencies between the data concerning the client's financial standing and the amount invested; the claim is therefore well-founded;

67. Whereas, in file F8, the origin of the funds used for the initial payment under the policy of EUR 173,000, taken out on behalf of this client, who was a minor, was not documented; at the time of the payment, CNP Assurances was not aware that the funds came from the client's father; in view of the information in its possession, CNP Assurances should have sent Tracfin a report in accordance with Article L. 561-15-III of the Code; the claim is therefore well-founded, even though evidence obtained subsequently removed all doubts that the origin of the funds might be unlawful;

68. Whereas, in file F9, the initial payment of almost EUR 470,000 in September 2012, followed by additional payments over the next two years totalling over EUR 500,000, were inconsistent with the occupation and income of the client, an employee of a wholesale company and a Swiss tax resident, who had declared a monthly income of EUR 7,000; CNP Assurances did not have any information on his assets and received no explanation of the origin of the funds; although CNP Assurances argues that all the payments into the insurance policy were made from its client's bank account with Z, and that payments were made into this account from his parents' bank account, held with the same bank, this is not sufficient to remove all doubts that the origin of the funds might be unlawful; the claim is therefore well-founded;

69. Whereas, in file F10, the initial payment of over EUR 400,000 in December 2013 was inconsistent with the know-your-client information held by CNP Assurances; the client had no known occupation and her taxable income in 2013 was less than EUR 20,000, she had financial assets totalling EUR 165,000 and was a tenant of the property she occupied as her main place of residence; the explanation that the funds corresponded to winnings from games was not supported by documentary proof; as has been stated

previously (cf. *supra* recital 6), the information about these transactions obtained by Y cannot be taken into consideration, all the more so as CNP Assurances was unaware of that information at the time of the on-site inspection; the claim is therefore well-founded, even though evidence obtained subsequently shows that the origin of the funds was not unlawful;

2). The quality of the suspicious transaction reports

70. Whereas, Article R. 561-31-III of the Code provides that "the report shall contain the following information and facts: 1° the occupation of the person making the report, by reference to the categories listed in Article L. 561-2; 2° proof of identity and business contact details of the reporter designated in accordance with Article R. 561-23-I; 3° the reporting scenario, by reference to the scenarios listed in Article L. 561-15-I, II and V; 4° proof of identity of the client and, where appropriate, the beneficial owner of the transaction that is the subject of the report and, when a business relationship exists with the client, the purpose and nature of this relationship; 5° a description of the transaction and the analysis that led to the report being made; 6° when the transaction has not yet been executed, the execution deadline";

71. Whereas, according to **objection 11**, which is based on this legislation, 12 of the 42 ST reports filed by CNP Assurances in connection with its "life insurance" business in 2014 failed to state the purpose and nature of the business relationship (files G1 to G12); 30 of them did not contain know-your-client and other information obtained by CNP Assurances, including in particular information on assets and income, even when this information was present in the file (files A1, A6, A7, A19, A22, A25, A29, G1 to G4, G7 to G25); furthermore, CNP Assurances asked Tracfin to contact its distributor banking partners to obtain the necessary additional information, although it had a duty to provide all relevant information to that body in its ST reports;

72. Whereas, CNP Assurances does not dispute the shortcomings detailed in this objection; it argues, in an attempt to reduce the scope, that Tracfin did not find that any of the files referred to by the plaintiff were not admissible, but that body's silence cannot impact on the breaches; the difficulties that its distributor networks encountered when attempting to obtain this information, as described by CNP Assurances, also have no impact on the objection; a reporting entity has an obligation to include in the ST reports it sends to Tracfin all the requisite information, even when it considers that certain information is not essential; the improvements made in this area as a result of amendments to the partnership agreements cannot impact on the objection, which is substantiated;

3) The late filing of ST reports

73. Whereas, Article L. 516-16 of the Code requires financial institutions to promptly inform Tracfin whenever a transaction that should have been the subject of a report in accordance with Article L. 561-15 of the Code has already been executed, either because it was impossible to defer execution or because its deferral might have hampered investigations into a transaction suspected of ML-TF, or when it is discovered after execution that it should have been reported;

74. Whereas, according to **objection 12**, which is based on this legislation, 22 of the 42 ST reports filed in connection with its "life insurance" business in 2014 were filed, on average, six months after execution of the suspicious transaction reported by the insurer; moreover, five files particularly illustrate the delays in reporting, as the reports were sent more than one year after execution of the suspicious transaction (A7, A10, A11, G13 and G22);

75. Whereas, CNP Assurances does not dispute the objection, but requests that it be subject to proportionate sanctions in view of the impact of CNP Assurances' business model, in particular as it was at times difficult for it to obtain relevant information from its partner banking networks, and also of the time needed to investigate and analyse the facts prior to filing a ST report; as previously stated, the argument based on its relationship with its banking partners at that time cannot exempt CNP Assurances from meeting its own obligations; furthermore, CNP Assurances has not described the checks carried out in the 22 files cited by the plaintiff that might justify the observed lapse of time, nor has it explained why, in five files,

reports were delayed by more than one year; in file 3, in which several suspicious transactions were observed, the delay corresponds to the time period between the first of these transactions and the date the report was sent; the objection is therefore substantiated;

D. - Failure to meet the obligation to detect transactions benefiting a person or entity whose assets have been frozen

76. Whereas, Articles L. 562-3 and R. 562-2 of the Code require entities who hold or receive funds, financial instruments and economic resources on behalf of a client to apply the asset freezing measures and bans imposed on the client, and to promptly inform the Minister of the Economy; a decree adopted by the Minister of the Economy and Finance dated 28 September 2012 froze the assets of Mr H1;

77. Whereas, according to **objection 13**, which is based on this legislation, CNP Assurances' system does not enable it to promptly detect all transactions benefiting persons whose assets are the subject of restrictive measures, as no controls are carried out prior to the redemption of BCP bonds subject to tax anonymity via the distributor's transit account, which thus enables cash payments; in addition, the system does not enable it to promptly detect funds held in a life insurance policy by a client whose assets have been frozen; the use of particularly restrictive spelling match criteria in the two antiterrorism scenarios (hereinafter, the 'Scenarios') (100%, or 95% if the match is based on the last name and first name only), does not factor in variations in spelling between client identification data in its databases and the official documents freezing assets; moreover, until April 2015 only an annual filtering check was used for all clients, instead of a check at the time of every transaction; in 2014, the system only generated 33 alerts under the "weekly Scenario" and seven under the "annual Scenario", which is very low in view of CNP Assurances' 9.4 million clients; six clients identified by the inspection team as having the same name as persons whose assets had been frozen in application of national decrees or European regulations imposing restrictive measures were not the subject of alerts (files H2 to H7); lastly, CNP Assurances only detected Mr H1, whose funds were frozen as an anti-terrorism financing measure by a decree dated 28 September 2012, one month after entry into force of the decree; furthermore, it failed to notify the French Treasury (*Direction générale du Trésor*, hereinafter, the 'Treasury') of the policy or the surrender on 13 February 2013;

78. Whereas, firstly, the *ex ante* controls on individuals whose assets had been frozen did not enable CNP Assurances to comply with its obligations in this area, as they were carried out on the basis of lists updated on a monthly basis until April 2015; next, it is clear that the ex post checks on all its clients, carried out on an annual basis and not whenever a new measure was published, were inadequate; CNP Assurances has moreover stated that it is now aware of the shortcomings of its automated control system; with the exception of file H2, for which the difference between the client's age and that of the person whose assets had been frozen could justify the absence of an alert after an analysis, CNP Assurances acknowledges that it did not immediately detect homonyms in those cases cited by the plaintiff, and failed to notify the Treasury in the case of Mr H1; however, it seems happy to simply state that the absence of alerts was due to a number of technical failures, which is it has since corrected, and that it subsequently identified all homonyms; in file H1, the funds were only made available after the asset freezing measure had been lifted, but this cannot be raised as a mitigating factor, as the objection concerns the delay in detecting the client; the objection is therefore substantiated, subject to a slightly reduced scope in view of the processing of file H2; the improvements put in place subsequently cannot constitute mitigating factors;

E. – The transmission of incorrect information to the ACPR

79. Whereas, the Instruction of 28 June 2012 concerning information on the AML-CTF system requires reporting entities to send charts (entitled 'BLANCHIMT' [money laundering]) to the ACPR General Secretariat, containing information on the AML-CTF systems;

80. Whereas, according to **objection 14**, which is based on this Instruction, CNP Assurances replied incorrectly to the questions contained in the 'BLANCHIMT' chart for 2014, in that it incorrectly declared

that *i)* it had put in place enhanced due diligence measures for clients residing in a NCST or with PEP status, *ii)* its system enabled it to identify funds, financial instruments or economic resources of clients that were the subject of asset freezing measures, and to immediately implement the measures, and *iii)* it had put in place controls to ensure its intermediaries met their due diligence obligations;

81. Whereas, firstly, the above-mentioned Instruction, which implements Article L. 612-24 of the Code, forms part of those regulations in respect of which the ACPR is responsible for verifying compliance pursuant to Article L. 612-1 of the Code; contrary to CNP Assurances' claims, it is mandatory in nature; the fact that such incorrect information was discussed with the inspection team, and documents were produced, prior to the start of this procedure, is irrelevant;

82. Whereas, next, although CNP Assurances explains that it incorrectly understood the question concerning transactions in NCST and therefore indicated that this was "not applicable", its answer is nevertheless inaccurate; likewise, in any event, its system did not allow it to identify the funds, financial instruments or economic resources of clients whose assets had been frozen; its reply concerning controls of insurance intermediaries was also incorrect, given its actual relationships with them; conversely, CNP Assurances did indeed have a procedure providing for additional due diligence checks on PEPs, and the shortcomings of that procedure and any failures to detect clients with PEP status are not covered by that question; this last claim should therefore be dismissed;

83. Whereas, subject to this proviso, **objection 14** is substantiated;

*
* *

84. Whereas, in view of the foregoing, on the date of the inspection the distribution of functions between CNP Assurances and its two distributor banking networks, as a result of which it did not physically hold client files and relied to a very large extent on the networks' AML-CTF systems, constituted a major structural risk of non-compliance by CNP Assurances with its own due diligence and Tracfin reporting obligations; whereas, although CNP Assurances' history and business model, and more specifically the particular nature of its relationship with these two partners, who are shareholders, can explain this situation to some extent, this does not justify it; whereas, the above analysis establishes that this risk occurred on several counts; accordingly, firstly, in a certain number of cases CNP Assurances failed to obtain the necessary know-your-client information (**objection 5**); at the same time, it was not always able to detect clients with PEP status at the start of the business relationship, and did not always carry out the enhanced due diligence checks applicable in such cases (**objection 6**); likewise, it was not capable of detecting transactions with certain clients located in a NCST (**objection 7**) or of implementing enhanced due diligence measures when risk was high (**objection 8**); moreover, several failures to carry out more thorough examinations (**objection 9**) and breaches of its reporting obligations were also observed (**objections 10, 11** and **12**); these shortcomings were essentially due to organisational failings that, on the date of the inspection, affected CNP Assurances' risk classification system (**objection 1**), its internal procedures (**objection 2**), its business relationship monitoring and analysis system (**objection 3**) and its controls to verify that its distributors sent it the requisite information (**objection 4**); its system for dealing with frozen assets was also lacking (**objection 13**); in addition, CNP Assurances provided the ACPR with inaccurate information (**objection 14**); accordingly, as CNP Assurances has acknowledged, on the date of the inspection that is the subject matter of this procedure its AML-CTF system was not of the quality that can be expected from a public sector personal insurance provider that is a market leader in France;

85. Whereas, however, the Commission has reduced the scope of certain objections; in particular, there is cause to take into consideration, to a certain extent, the fact that CNP Assurances has made use of the time that has lapsed since the start of the on-site inspection in December 2014 to introduce important measures to address the weaknesses in its system; these measures, based on a renegotiation of the delegated management contracts with the two distributor banking networks, include in particular a review of risk classification, the creation of a client database, improvements to its due diligence checks to detect PEPs and persons whose assets have been frozen, and the introduction of a fully automated system, and have enriched its know-your-

client data; the institution has also stated that the checks, in particular those on thresholds and country lists, which are still currently carried out ex post on the next day (with the exception of those concerning frozen assets), will soon become ex ante checks; the cost of these measures should significantly exceed EUR 20 million over the 2016-2018 period; at the hearing, CNP Assurances' senior managers emphasised the changes that have been made and their firm commitment to continue to roll out actions in order to bring the AML-CTF system into compliance;

86. Whereas, in view of their nature, their number and their severity, and on the basis of the above-mentioned facts, the breaches and shortcomings identified by the Committee justify a reprimand; for the same reasons, and in compliance with the principle of proportionality in view of CNP Assurances' financial standing, a fine of EUR 8 million will also be imposed;

87. Whereas, CNP Assurances has not produced any evidence to suggest that publication of this decision in non-anonymous format would cause it disproportionate harm; whereas, nor would such publication seriously disrupt the financial markets; whereas, this decision shall therefore be published in that form;

FOR THE FOREGOING REASONS

DECIDES:

ARTICLE 1 – A reprimand and a fine of eight million euros (EUR 8 million) shall be imposed on CNP Assurances.

ARTICLE 2 – This decision will be published in the register of the ACPR and may be consulted at the Committee Secretariat.

Chairman of the
Sanctions Committee

[Rémi Bouchez]

This decision may be appealed within a period of two months from its notification, in accordance with Article L. 612-16-III of the Monetary and Financial Code.