

SKANDIA LIFE S.A.  
Procédure n° 2015-10

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Reprimand and fine of EUR 1.2 million

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Hearing of 11 July 2016  
Decision handed down on 29 July 2016

**AUTORITÉ DE CONTRÔLE PRUDENTIEL ET DE RÉOLUTION  
SANCTIONS COMMITTEE**

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Having regard to the letter dated 15 December 2015, in which the Deputy Chairman of the Autorité de contrôle prudentiel et de résolution (hereinafter, the ACPR) 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 2015-10 against the French branch of the Luxembourg company Skandia Life S.A. (hereinafter, Skandia Life), 100-101, terrasse Boieldieu, tour Franklin, Paris-La Défense;

Having regard to the statement of objections dated 15 December 2015 and the documents appended thereto;

Having regard to the defence submissions dated 22 February, 19 May and 7 July 2016, along with the accompanying documentation, in which Skandia Life argued (i) that the inspection had taken place in conditions that were in breach of the mandatory requirements set out in Article R. 622-2 of the Monetary and Financial Code, and that the inspectors acted in breach of their duty of loyalty and impartiality, as a result of which the procedure should be found invalid, and (ii) in the alternative, that the objections notified are unfounded in fact and in law and that the Committee should take into consideration the undertakings it gave during the on-site inspection and has since implemented, and requested (iii) that the forthcoming decision be published in an anonymous format, and (iv) that the Committee meeting not be held in public;

Having regard to the written submissions dated 29 April and 27 May 2016, in which Christian Babusiaux, representing the College, considered that the procedural argument raised should be dismissed and maintained all of the notified objections;

Having regard to the report dated 10 June 2016 by Rapporteur Denis Prieur, in which he found that, in view of the actual conditions in which the inspection took place, none of the allegations made by Skandia Life concerning the conduct of the on-site inspection are sufficient to constitute an irremediable breach of rights of defence vitiating the procedure before the Sanctions Committee, and that the eight notified objections are substantiated;

Having regard to the letters dated 10 June 2016 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 Skandia Life;

Having regard to the statements concerning the Rapporteur's report submitted by Skandia Life on 24 June 2016;

Having regard to the other case documents, including in particular the inspection report dated 17 April 2015 and the College's decision to open this procedure, along with the minutes of the meeting of the College at the close of which the decision was taken;

Having regard to Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the Monetary and Financial Code, and more specifically its Articles L. 612-23 and R. 612-22, L. 612-39 and R. 612-35 to R. 612-51 and L. 561-10-2, L. 561-15, R. 561-20 and R. 561-38, in the version in force at the time of the events;

Having regard to the Insurance Code, including in particular its Article A. 310-8;

Having regard to the *Ordonnance* (ordinance) n° 2009-104 of 30 January 2009 on prevention of the use of the financial system for money laundering and terrorist financing (hereinafter, *Ordonnance* n° 2009-104), including in particular its Article 19;

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

The ACPR Sanctions Committee, comprising Rémi Bouchez in the chair, Yves Breillat, Francis Crédot, Christian Lajoie and Christine Meyer-Meuret;

Having heard at the session held in camera on 11 July 2016:

- Denis Prieur, Rapporteur, aided by his deputy, Raphaël Thébault;
- Hubert Gasztowtt, representing the Director General of the Treasury, who said that he had no comments to make;
- Christian Babusiaux, representing the ACPR College, aided by the **Head of the Supervision of AML and Internal Control Procedures Division<sup>1</sup>**, the Head of the Institutional Affairs and Public Law Division and a member of that division's legal team; Christian Babusiaux proposed issuing a reprimand along with a fine of EUR 1.5 million, to be published in a non-anonymous decision;
- Skandia Life, represented by its legal representative and aided by the General Secretary of the APICIL group, Skandia Life's Head of Compliance and Risk Manager, and Isabelle Monin Lafin and Pamela Gouraud, barristers (Astrée Avocats law office) and Delphine Denievel, barrister (Allen&Overy law office);

Skandia Life's representatives had the last word;

Having deliberated in the sole presence of Mr Bouchez, in the chair, Messrs. Breillat, Crédot and Lajoie and Mrs Meyer-Meuret, and also Mr Jean-Manuel Clemmer, Chief Officer of the Sanctions Committee, who acted as meeting secretary;

1. Whereas, the insurance company Skandia Life S.A. was founded on 28 April 2011 in the Grand Duchy of Luxembourg and, until 2015, was a wholly-owned subsidiary of the UK group Old Mutual; whereas, it offers unit-linked life insurance products marketed through independent financial advisers; whereas, as at the end of 2015 it had equity of EUR 51 million; whereas, in May 2016 the French branch employed 80 people; whereas, in 2015, Skandia Life's assets under management totalled EUR 2.6 billion, compared to EUR 2.3 billion in 2014; whereas, in 2015 aggregate gross inflows totalled EUR 325 million, compared to EUR 305 million in 2014; whereas, restructuring

<sup>1</sup> NdT : titre à valider SVP

enabled Skandia Life to reduce its losses from EUR 11 million in 2012 to EUR 125,000 in 2014; whereas, its capital was sold to the APICIL group, which is the fifth largest French social protection group specialising in health, benefits, savings and pensions, on 2 February 2015;

2. Whereas, the French branch of Skandia Life was the subject of an on-site inspection between 17 July and 21 November 2014, resulting in the signature of a final report on 17 April 2015 (hereinafter, the inspection report); whereas, at its meeting held on 17 November 2015 the College decided to open this disciplinary procedure on the basis of the report;

## I. On the legality of the on-site inspection and the breach of rights of defence prior to a disciplinary procedure

3. Whereas, Article L. 612-23 of the Monetary and Financial Code provides that “*The ACPR’s Secretary General organises inspections of documents and on-site inspections (...)*”; whereas, its Article R. 612-22 provides that “*Inspectors with a permanent supervisory role have authority vis-à-vis the supervised entities. They may verify all the operations of such entities by inspecting documents or conducting on-site inspections at any time of the year. / Moreover, the Secretary General may initiate on-site inspections by means of an engagement letter stating the purpose of the inspection and designating the inspector or inspectors who will carry it out. The inspected entity shall be provided with the letter on request*”;

4. Whereas, Skandia Life’s main claim is that the disciplinary procedure is invalid as it was conducted in breach of the law and in disregard of the procedural safeguards, thus vitiating the inspection; whereas, the engagement letter in which the Secretary General appointed Mrs A as the chief inspector did not provide that she could be assisted by any other individuals; whereas, the rules of conduct applying to inspections, which allow for this, should be considered solely as a guide and cannot serve as a basis for an exception to the mandatory provisions of the Monetary and Financial Code; whereas, the administrative courts have found that infringements of rights during administrative investigations may not always be remedied during a disciplinary procedure (State Council [*Conseil d’Etat*], 15 May 2013, *Alternative Leaders France*, n° 356054); whereas, the involvement in the on-site inspection of individuals who were not designated in the engagement letter issued by the Secretary General, as demonstrated by their attendance at the initial and feedback meetings and their receipt of copies of important emails, constitutes an irremediable breach of the procedural safeguards intended to protect any entity inspected and then referred before the Committee; whereas, the State Council consistently overturns decisions taken following an illegal procedure when the nature of the irregularity has deprived citizens of the benefit of substantial safeguards (State Council, Ins., 23 December 2011, *Danthy*, n° 335033; State Council, 5 October 2015, n° 372468); whereas, in addition, the line manager of the inspector designated to carry out the on-site inspection expressed a personal opinion on the outcome of the inspection at the feedback meeting, stating that in his opinion the outcome of the inspection “*would not be typical*”; whereas, according to the company, the foregoing establishes, on the one hand, a breach of Article R. 612-22 of the Monetary and Financial Code and, on the other hand, a breach by the inspectors of their duty of loyalty and impartiality, in disregard of the charter applying to on-site inspections; whereas, these facts are also indicative of a disregard of the College decision n° 2010-C-72 of 29 September 2010 concerning the rules of conduct applicable to staff; whereas, in addition, the presence of several employees who were involved in the on-site inspection at the College meeting during which the College decided to open this disciplinary proceeding suggests that this decision was not taken impartially;

5. Whereas, however, firstly, Skandia Life is supervised by the ACPR and accordingly may be the subject of permanent and periodic inspections by this authority’s departments; whereas, the chief inspector was duly and properly designated by the ACPR’s Secretary General as the person in charge of the on-site inspection of the French branch of Skandia Life pursuant to Articles L. 612-23 and R. 612-22 of the Monetary and Financial Code, and was therefore identified as Skandia Life’s main contact person during the inspection, for which she accepted responsibility and at the end of which she signed the inspection report; whereas, the company had received advance notice from the chief inspector that she would be assisted by other ACPR staff members at the initial and feedback meetings; whereas, these individuals work for the ACPR’s General

Secretariat, and more specifically in the department responsible for verifying that entities in the insurance sector comply with their anti-money laundering and counterterrorist financing (hereinafter, AML-CTF) obligations, and were therefore duly authorised to carry out document and on-site inspections; whereas, with the exception of some general remarks, Skandia Life does not explain how the involvement of these individuals in the on-site inspection of Skandia Life, through their attendance at the initial and feedback meetings or through their receipt of copies of important emails, deprived it of the benefit of substantial safeguards; whereas, accordingly, and without any discussion of the exact scope of Articles L. 612-23 and R. 612-22 of the Monetary and Financial Code, it is clear that the circumstances put forward by Skandia Life do not vitiate this procedure; whereas, there is no subsequent irremediable breach of the rights of defence within the meaning of the case law of the State Council (State Council, 20 January 2016, *Caisse d'épargne et de prévoyance du Languedoc-Roussillon*, n° 374950, paragraphs n°s 2 and 6);

6. Whereas, in addition, the staff of the ACPR's General Secretariat cannot decide that an on-site inspection will give rise to a disciplinary procedure, as only the College has authority to take such a decision pursuant to Article L. 612-38 of the Monetary and Financial Code; whereas, in view thereof, the **Head of the Supervision of AML Procedures Division**<sup>2</sup> was only able to express a personal opinion in this connection, with the aim of informing the inspected entity of the possible consequences of the on-site inspection, and accordingly its rights of defence have not been breached; whereas, the Committee does not have authority to consider whether the facts described above constitute a breach of the rules of conduct applying to ACPR staff members; whereas, nor does it have authority to issue a decision concerning the circumstances in which the College decided to open a disciplinary procedure; whereas, it only has authority to assess the genuine nature and severity of the objections referred to it; whereas, in any event, the presence of inspectors at the College meeting during which the Skandia case was examined, which enabled College members to immediately obtain any additional information necessary to arrive at a decision as to the outcome of the inspection, cannot in itself cast any doubt on the impartiality of the decision to open this procedure; whereas, accordingly, the arguments put forward should be dismissed;

## II. On the substantive issues

7. Whereas, although Skandia Life maintains that the plaintiff authority and the Rapporteur distorted or modified the objections during the procedure, the Committee only considers the facts referred to it and their classification by the plaintiff authority in the statement of objections; whereas, moreover, maintaining in reply to the defence arguments put forward by Skandia Life that it did not have supporting documents for certain individual clients selected by the plaintiff authority to demonstrate shortcomings in its AML-CTF system does not constitute a distortion of the objection that for these client files Skandia Life was unable to provide evidence that it had complied with its due diligence or reporting obligations; whereas, these clients' files may contain certain documents, indeed as many as 12 or 13 in some cases, relating to the identity of the client, his assets or income, although documents that would have justified the transactions in question may still be lacking (c.f. *infra*, examination of the third and seventh objections); whereas, although Skandia Life argues that it was therefore forced to incriminate itself, the State Council has ruled that the principle that no one is required to self-incriminate pursuant to Article 6 § 1 of the Convention and Article 14 of the International Covenant of New York on Civil and Political Rights, cannot be raised in connection with an inspection carried out by the Commission de contrôle des assurances, des mutuelles et des institutions de prévoyance (CCAMIP), which authority was responsible at the time for “*supervising the insurance sector, with a preventive role, and in some cases imposing sanctions*” (30 March 2007, *Sté Prédica*, n° 277991); whereas, this case law necessarily applies to the ACPR, which has taken over this supervisory role, as moreover is confirmed in the above-mentioned decision of 20 January 2016, *Caisse d'épargne et de prévoyance du Languedoc-Roussillon*;

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<sup>2</sup> NDT : titre à valider SVP

## A. Organisation of the anti-money laundering and counter terrorist financing system

### 1. Definition and implementation of anti-money laundering and counter terrorist financing procedures

8. Whereas, Article R. 561-38-I paragraph 4 of the Monetary and Financial Code provides that insurance companies must “*define procedures covering the control of risk, the implementation of due diligence measures concerning its clients, the filing of documents, the detection of unusual or suspicious transactions and compliance with the obligation to report to Tracfin*”; whereas, pursuant to Article A. 310-8-II of the Insurance Code, they must also prepare “*written procedures covering management of the risk of money laundering and terrorist financing that are suited to their organisation. These procedures must cover: / terms of acceptance of new clients;/ checks to be carried out to identify clients and, if applicable, effective beneficiaries (...); / due diligence measures to be put in place for clients in business relationships pursuant to Articles L. 561-10 and L. 561-10-2 and procedures for their monitoring and updating in accordance with Article R. 561-11 and Article R. 561-12-2 of the Monetary and Financial Code; / the due diligence measures, and in particular the information necessary for an appropriate knowledge of the business relationship to be put in place in light of the other risks identified by the classification; / the frequency at which information is updated to maintain appropriate knowledge of the client and, if applicable, the effective beneficiary*”;

9. Whereas, according to the **first objection**, Skandia Life failed to include in its internal procedures — “*be it those updated on 4 July 2014 or those in use prior to that date*” — the additional due diligence measures to be put in place for politically exposed persons (hereinafter, PEP) and non-resident clients registered, residing or established in a non-cooperative country or territory that does not comply with AML-CTF requirements, according to the lists issued by the FATF (1), or indeed, for enhanced scrutiny measures, the “*additional documents*” or “*enhanced scrutiny*” that the managers should obtain or carry out before sending a file to Compliance (2); whereas, lastly, the objection is also that the system is not operational for high-risk situations, and transmission of the file to Compliance is not sufficient to compensate for this;

10. Whereas, in its defence statements Skandia Life fails to produce any evidence that its procedures cover those aspects of its due diligence obligations that it allegedly omitted; whereas, in particular, although Skandia Life states that for certain client categories, including PEP, a “Vigil” alert should be put in place and that the file should then be sent to Compliance, the exact nature of the additional checks to be carried out is not indicated; whereas, the explanations provided concerning training for its employees do not respond to the objection, which concerns shortcomings in procedures; whereas, the procedure it has produced in response to the draft report post-dates the on-site inspection and can only be viewed as a corrective measure; whereas, the individual files referred to by the plaintiff authority illustrate the shortcomings in Skandia Life’s procedures in this area; whereas, in view thereof, the objection is substantiated;

### 2. Introduction of a system to monitor and assess clients in business relationships

11. Whereas, according to Article A. 310-8-VI of the Insurance Code, companies must have systems to monitor and assess their business relationships based on their knowledge of their clients or, if applicable, the profile of the business relationship so that they can detect any anomalies; whereas, the systems must be adapted to the risks identified by the classification, and must enable the company to define criteria and material and specific thresholds in terms of money laundering and terrorist financing; whereas, even in the absence of any further clarifications in the laws and regulations, this article requires a comprehensive processing of the different categories of transactions;

12. Whereas, according to the **second objection**, Skandia Life’s system for monitoring and assessing clients in business relationships is primarily based on information sheets filled out by hand according to type of transaction by the Back Office staff, which are used to determine, in accordance with a predefined chart, the risk level and level of due diligence to be applied, and also whether information needs to be sent to Compliance; whereas, it also relies on the introduction of a so-called “Vigil” alert in the management tool for

those cases defined in the AML-CTF procedure or when requested by the Compliance Officer; whereas, as at the date of the inspection certain information sheets failed to take into consideration all of the high-risk criteria defined by the company in its risk chart; whereas, in addition, some of them contained material errors meaning that the appropriate due diligence measures were not put in place (including but not limited to files B1, B2, B3, B4, B5, B6, B7, B8); whereas, in addition, in some cases Vigil alerts should have been put in place but this was not done (files B9, B8 and B7 for non-resident clients, files B10 and B11 for “French PEP”); whereas, lastly, the alerts were not always acted upon, as is illustrated by file B12; whereas, in view thereof, Skandia Life’s due diligence system was inadequate as regards high-risk situations;

13. Whereas, the existence of information sheets is not sufficient in itself to refute the objection; whereas, Skandia Life has failed to validly refute the shortcomings in its information sheets identified in the inspection report, namely that they do not take into consideration all the high-risk criteria defined in the “*risk chart*”, in particular those listed by the plaintiff authority such as “*cases of early surrender (within two years of the subscription date) that are not justified or are incoherent (i.e. that lead to disproportionate penalties or substantial losses)*”; “*a large number of unplanned surrenders over a short period of time*”; “*when the policyholder holds more than three policies*”; “*a beneficiary clause in favour of a legal entity or a person with no apparent family ties*”, or a change in the beneficiary in the cases listed; whereas, this is also true for the non-exhaustive list of unusual transactions included in the entity’s AML-CTF procedure; whereas, an internal audit report dated July 2013 shows that it was aware of the situation; whereas, lastly, with regard to the difference in the number of pages of information sheets submitted by the company and those appended to the statement of objections raised by Skandia Life, this is due to the fact that they only existed in Excel format and were printed out in landscape format; whereas, accordingly, the sheets submitted by the company and those appended to the statement of objections are identical and contain the same information (“*initial payment*”, “*additional payment*”, “*partial surrender*”, “*full surrender*”, “*advance request*” and “*death*”); whereas, in addition there can be no doubt as to the timescale of the second objection, which expressly refers to individual files examined by the inspection team in light of the legislation applicable at that time; whereas, in view whereof, the objection is substantiated;

## B. Compliance with due diligence obligations in terms of anti-money laundering and terrorist financing

### 1. The obligation to implement additional due diligence measures for politically exposed persons

14. Whereas, Article R. 561-20-II of the Monetary and Financial Code provides that when a client is a person referred to in Article L. 561-10 paragraph 2 of the Code or becomes such a person during the business relationship, the reporting entities must implement the following additional due diligence measures: “*1° They must define and implement procedures covering the risk of money laundering and terrorist financing that enable them to determine whether the client is a person referred to in Article R. 561-18 of the Monetary and Financial Code; 2° The decision to create a business relationship with that person can only be taken by a member of the executive body or a person authorised for that purpose by the executive body; 3° In order to assess the risk of money laundering and terrorist financing, they must establish the origin of the assets and funds involved in the business relationship or transaction*”;

15. Whereas, according to the **third objection**, Skandia Life failed to comply with its additional due diligence obligations concerning client B2, a cardiologist and president of the national parliamentary assembly of a foreign state until February 2013 and a member of the political group Union C; whereas, when the client took out a life insurance policy for EUR 30,000 in October 2004, he declared an income of EUR 70,000 and assets of EUR 1 million; whereas, when the client became president of the national parliamentary assembly of a foreign state in January 2010, he became a PEP; whereas, in 2012 and 2013 he carried out arbitrage transactions; whereas, his status as a PEP was only detected in January 2014, when he made an additional payment of EUR 70,000; whereas, the file does not contain any documents supporting the client’s statements concerning the origin of the funds, which he said were his savings, or his assets; whereas, the file

does not contain any record that a member of the executive body or a duly authorised person approved the continuation of the business relationship;

16. Whereas, none of the documents contained in the client file relating to the arbitrage transactions or additional payments made in 2012 and 2013 refer to his status as a PEP; whereas, the argument that the failure to detect this status was due to the fact that Skandia Life's procedures did not provide for any such checks when arbitrage transactions were carried out has no bearing on the objection; whereas, the identification of the client as a PEP on 3 January 2014 was belated as he became a PEP in January 2010; whereas, this meant that Skandia Life was unable to implement all the additional due diligence measures applying to this category of clients; whereas, moreover, although Skandia Life has stated that it did not obtain proof of the origin of the funds in paper format it has not produced proof in any other form that it held on the date of the inspection; whereas, moreover, the fact that the funds result from a cheque drawn on the client's account with another French bank does not exempt Skandia Life from carrying out its own checks; whereas, the failure to authorise the continuation of the business relationship with the client has not been disputed; whereas, the third objection is substantiated;

## *2. An obligation of enhanced due diligence in high-risk cases*

17. Whereas, Article L. 561-10-2-I of the Monetary and Financial Code provides that when they consider that the risk of money laundering or terrorist financing presented by a client, product or transaction is high, financial institutions must reinforce the measures prescribed in Articles L. 561-5 and L. 561-6 of the same Code;

18. Whereas, according to the **fourth objection**, Skandia Life failed to correctly implement the requirements of Article L. 561-10-2-I of the Monetary and Financial Code with regard to transactions carried out by eight of its clients, in view of their classification according to its "*risk chart*", as these were transactions carried out by non-residents or early policy surrenders;

19. Whereas, according to **objection 4-1**, Mrs B8, a researcher residing in England and therefore classified as high risk, declared an annual income of between EUR 100,000 and EUR 150,000, and assets of between EUR 150,000 and EUR 750,000; whereas, between July 2010 and August 2014 she made seven payments into a life insurance policy for a total amount of EUR 125,200 and also requested a partial surrender of the policy less than six months after taking it out, withdrawing EUR 45,000; whereas, the file does not contain any information justifying the origin of the funds paid; whereas, Skandia Life's internal procedures require approval by Compliance and justification of transactions from the first euro for non-resident clients, but the file does not contain any record of approval by Compliance;

20. Whereas, Skandia Life failed to implement any enhanced due diligence measures with regard to this business relationship; whereas, although the policy was taken out on 16 July 2010 and the first additional payment was made on 26 July of the same year, i.e., before 4 September 2010, the date on which the provisions of Article L. 561-10-2-I of the Monetary and Financial Code entered into application with regard to existing clients, none of the six other additional payments made after that date, totalling EUR 81,010 are documented; whereas, the company has not submitted any new evidence to the Committee, although the documents in the file do not establish the origin of the funds; whereas, more specifically, due to the discrepancy between the client's annual salary and the funds involved in the transactions, a statement attesting to the amount of her salary is not sufficient justification; whereas, subject to this scope, objection 4-1 is substantiated;

21. Whereas, according to **objection 4-2**, Mr B9, a sales and marketing manager employed by the subsidiary of group D in Dubai and residing in Pakistan, declared an annual household income of between EUR 100,000 and EUR 150,000 and assets of between EUR 150,000 and 750,000; whereas, in September 2011 he took out a life insurance policy for EUR 80,000, drawing funds from his account with bank E in Dubai; whereas, although he is a non-resident residing in a country listed by the FATF in 2011 as non-cooperative in terms of AML-CTF and although the funds transited via an account in Dubai, the file does not

contain any justification of their origin; whereas, in view of these facts this is a high-risk client, and enhanced due diligence measures should have been implemented;

22. Whereas, as a result of the due diligence checks it carried out Skandia Life had sufficient information to establish that the client was employed by a major French retail group and that the majority of the funds used for the initial subscription examined by the inspection team could have resulted from a bonus paid by his employer; whereas, the balance of this amount is not incompatible with the client's declared level of income and assets; whereas, the documents produced are sufficient to justify the origin of the funds in view of the specific characteristics of this client's transactions and Skandia Life's knowledge of the client; whereas, in view thereof, it has not been established that Skandia Life failed to comply with its obligations regarding this file;

23. Whereas, according to **objection 4-3**, Mr B7, an engineer and a resident of the Republic of Congo, declared an annual income of between EUR 100,000 and 150,000 and assets of between EUR 150,000 and 750,000; whereas, in December 2012 he took out a life insurance policy for EUR 125,000; whereas, following a request by Skandia Life he produced a statement dated April 2012 relating to a life insurance policy with another insurance company and showing a vested value of EUR 131,647 at that date, together with a copy of his payslip for October 2012 showing a salary of EUR 12,000; whereas, however, the file does not contain any proof that the above-mentioned life insurance policy was surrendered; whereas, he made two additional payments of EUR 100,000 and EUR 40,000 in August 2013 and June 2014;

24. Whereas, Skandia Life has failed to provide the Committee with any additional supporting documents to clearly establish the origin of the funds deposited, i.e., a total of EUR 265,000; whereas, lastly, the fact that the initial payment of EUR 125,000 was made using a cheque drawn on an institution subject to AML-CTF obligations did not exempt Skandia Life from fulfilling its own obligations relating to transactions carried out by a non-resident client; whereas, objection 4-3 is substantiated;

25. Whereas, according to **objection 4-4**, Mr B13, a jockey, declared income of between EUR 50,000 and EUR 100,000 and assets of between EUR 150,000 and EUR 500,000; whereas, in December 2010 he took out a life insurance policy for EUR 130,000; whereas, the file contains copies of the following documents: (i) a transfer from bank F of EUR 123,000 on 26 November 2010; which funds resulted from the surrender of a life insurance policy with company G less than four years after its subscription date; (ii) a transfer from bank H of EUR 7,000 on 26 November 2010; whereas, seven months after the initial subscription the client requested a partial surrender of EUR 110,000; whereas, the file does not contain any explanation for this partial surrender; whereas, in November 2011 an additional payment of EUR 27,000 was made into the policy and scheduled payments of EUR 300 per month were arranged; whereas, the file does not contain any document relating to the origin of these funds; whereas, in February and April 2012, two partial surrenders were made for EUR 15,000 and EUR 8,000 respectively, although the file does not state the purpose of these policy surrenders; whereas, the client then surrendered the full policy in July 2012, less than eighteen months after its subscription;

26. Whereas, Skandia Life has failed to provide any new evidence concerning the origin of the funds or of its investigations with regard to the documents and explanations it provided to the inspection team; whereas, the company's checks were not sufficient to understand the reasons for the transactions made by this client, and subsequently the full surrender of the policy; whereas, the fact that the funds used for the initial subscription of EUR 130,000 were drawn from accounts opened with institutions also subject to AML-CTF obligations did not exempt Skandia Life from fulfilling its own obligations in this area; whereas, objection 4-4 is substantiated;

27. Whereas, according to **objection 4-5**, Mr and Mrs B14, former restaurant owners, declared annual income of less than EUR €50,000 and assets of between EUR 750,000 and EUR 1.5 million; whereas, they took out two life insurance policies in June and November 2012 for a total of EUR 120,000; whereas, the file contains a notarised deed of sale of the restaurant business dated 12 April 2012 for a sale price of EUR 250,000 and a notarised certificate attesting to the sale of the building on the same date which does not stipulate the sale price; whereas, an additional payment of EUR 152,145 was made into the first policy on 26



September 2012; whereas, on 5 February 2013 another payment of EUR 80,000 was made into the first policy; whereas, on 5 March 2013 they requested an advance of EUR 100,000; whereas, in order to repay part of this advance they made an additional payment of EUR 82,000 on 7 August 2013; whereas, the file does not contain any proof of the origin of the funds paid in; whereas, between 7 August 2013 and 5 September 2014 four partial surrenders were made on the first policy for a total amount of EUR 73,583.89 (the reason given for the surrender made in August 2013 was “*repayment of advance*” the reason for the surrender in January 2014 was “*purchase of a car*” for EUR 10,000; no reasons were given for the other policy surrenders made in January (EUR 40,000 and EUR 4,000)); whereas, between 7 May and 29 November 2013, six partial surrenders were made on the second policy for a total amount of EUR 53,000; whereas, in all, of the 10 policy surrenders totalling EUR 126,583, justification has been produced for only two, made in August 2013 and January 2014 for a total amount of approximately EUR 30,000; whereas, over a two-year period Mr and Mrs B14 paid in EUR 456,145, of which EUR 142,000 (i.e., 31%) was not justified; whereas, despite the alert triggered by the Compliance department concerning the unusual functioning of these policies at the time of the second partial surrender, no detailed review of these transactions was performed;

28. Whereas, Skandia Life acknowledges that “*the multiple policy surrenders merited the transfer of the file to Compliance and the Tracfin reporter, and there is no record in the file of enhanced due diligence measures to justify the transactions carried out with regard to these policies*”; whereas, the documents produced by Skandia Life, which had already been seen by the inspection team, are not sufficient to establish that the company reinforced its checks in order to establish the reasons for the 15 unusual transactions, characterised by a succession of subscriptions and partial surrenders over a two-year period, for which insufficient information or no information was provided; whereas, objection 4-5 is substantiated;

29. Whereas, according to **objection 4-6**, on 14 May 2014 Miss B15, a student, declared an annual income of less than EUR 50,000 and assets of between EUR 150,000 and EUR 500,000; whereas, she took out a life insurance policy for EUR 310,000; whereas, following a request by the company she produced documents justifying a portion of the amounts paid in, i.e., EUR 232,484; whereas, on 16 July 2014 she made a partial surrender of EUR 30,000, but there is no record of the purpose of this transaction in the file;

30. Whereas, although the company has provided an explanation concerning the funds used for the initial subscription, it has failed to produce any information justifying the partial surrender or demonstrating that following these transactions it reinforced its identification and know-your-client checks; whereas, objection 4-6 is substantiated;

31. Whereas, according to **objection 4-7**, Mr B16, a university professor, declared annual income of less than EUR 50,000 and assets of between EUR 0.75 million and EUR 1.5 million; whereas, in July 2014 he took out a life insurance policy for EUR 264,000; whereas, he produced a copy of a declaration of inheritance of EUR 197,000 dated September 2013; whereas, the document in the file justifies the origin of only part of the funds paid in; whereas, less than three months after subscription he made a partial surrender of EUR 100,000; whereas, although the company considered that this transaction was high-risk the file does not contain any reason for the surrender transaction or justification of its purpose;

32. Whereas, the documents that Skandia Life has produced for the Committee, i.e., the letter from bank I dated 26 June 2014 and the client’s post office account statement, establish the origin of the funds paid in at the time of subscription; whereas, however, Skandia Life has failed to provide any explanation or justification concerning the partial surrender of the policy on 9 October 2014, i.e., less than three months after its subscription, in an amount of EUR 100,000, although such a transaction merited enhanced due diligence measures; whereas, in view thereof, objection 4-7 is substantiated as regards the partial surrender;

33. Whereas, according to **objection 4-8**, Mr B4, a company manager in a North African country residing in France, declared an annual income of more than EUR 150,000 and assets of more than EUR 1.5 million; whereas, in March 2010 he took out a life insurance policy for EUR 115,000, but the file does not contain any document justifying the origin of the funds; whereas, less than two years after subscription he made

three partial surrenders for a total amount of EUR 53,000 in September 2011, November 2011 and February 2012; whereas, the file does not contain any explanation or justification of the purpose of these transactions;

34. Whereas, the policy surrenders covered by this objection all post-dated the entry into force of the *Ordonnance* n° 2009-104, as codified in Article L. 561-10-2 of the Monetary and Financial Code; whereas, these transactions, which were carried out less than two years after the policy was taken out in March 2010, merited enhanced due diligence measures; whereas, Skandia Life has failed to provide the Committee with any supporting documents; whereas, as regards the initial subscription on 4 March 2010, the deferred entry into force of the new due diligence obligations introduced by the *Ordonnance* n° 2009-104 put forward by Skandia Life in its defence could not apply, as this was a new client; whereas, objection 4-8 is substantiated;

35. Whereas, subject to the findings concerning objection 4.2, which is not substantiated, and the reduced scope of objections 4-1 and 4-7, this fourth objection is substantiated;

### 3. The enhanced scrutiny obligation

36. Whereas, pursuant to Article L. 561-10-2-II of the Monetary and Financial Code, reporting entities must “*carry out enhanced scrutiny reviews of all transactions that are particularly complex, involve unusually high amounts or do not seem to have any economic justification or legitimate purpose. In such a case they must ask the customer about the origin and destination of the funds, the purpose of the transaction and the identity of the beneficiary*”.

37. Whereas, according to **objection 5-1**, Mrs B6, aged 89, informed Skandia Life that she had an annual income of less than EUR 50,000 euros and assets of between EUR 150,000 and EUR 750,000; whereas, in February 2011 she took out a life insurance policy for EUR 300,000; whereas, the client declared that the origin of these funds was the “*partial surrender of a life insurance policy*”; whereas, however, the file did not contain any documents justifying the origin of the funds;

38. Whereas, the fact that the funds used for this subscription were paid by a cheque drawn on a French credit institution does not exempt Skandia Life from its due diligence obligations; whereas, more specifically, the fact that the file contained KYC data including information on the client’s identity does not exempt it from carrying out an enhanced scrutiny review of this transaction, the amount of which is high given the client’s declared income and capital; whereas, the documents produced do not constitute justification; whereas, in view of the amount of the subscription and the lack of evidence of the origin of the funds used for that purpose, Skandia Life should have asked the client to produce proof of the declared partial policy surrender; whereas, the objection is substantiated;

39. Whereas, according to **objection 5-2**, Mr B17, his wife and their son Pierre, aged 15 at the time, each took out a life insurance policy between September 2011 and June 2012; whereas, Mr B17, a teacher, declared an annual household income of less than EUR 50,000 and assets of between EUR 0.75 million and EUR 1.5 million; whereas, according to the file Mr and Mrs B were married under the ‘separation of property’ matrimonial regime; whereas, the file does not contain any documents justifying the declared assets; whereas, over a 14-month period between 2 September 2011 and 8 November 2012, family B17 made five payments into these three policies, for a total amount of EUR 340,000, of which EUR 320,000 was drawn from Mr B’s personal account; whereas, EUR 110,000 of this amount was paid into the policy taken out by the son; whereas, the declared origin of the funds was “*savings and reinvestments*”; whereas, the file only contains a record of the donation of EUR 110,000 by Mr and Mrs B to their son;

40. Whereas, the absence of an enhanced scrutiny review cannot be justified by the fact that the subscriptions fell below a threshold stipulated in the company’s procedures in effect from 17 October 2011 to 22 April 2013 (VI\_171011), as the applicable legislation resulting from the *Ordonnance* n° 2009-104 did not impose a threshold; whereas, inclusion in the file of the copies of the cheques used for these payments does not constitute enhanced scrutiny; whereas, the objection does not relate to the failure to obtain documents, it relates to the failure to conduct an enhanced scrutiny review of these clients’ transactions,

which would have resulted in the compilation of documents justifying the transactions; whereas, the documents produced by Skandia Life do not establish that any such a review, aimed at clarifying the origin of the funds paid, was carried out; whereas, the objection is substantiated;

41. Whereas, according to **objection 5-3**, Mrs B18, a company director in the real property sector, declared an annual income of between EUR 50,000 and EUR 100,000 and assets of more than EUR 1.5 million; whereas, in December 2011 she took out a life insurance policy for EUR 1 million; whereas, the majority of the funds paid in resulted from the early partial surrender of a life insurance policy in the amount of EUR 1,040,934.85 and of a policy for EUR 2,032,702.33, copies of which have been included in the file; whereas, however, although some of these funds resulted from the early partial surrender of a life insurance policy, the client terminated the policy within one month of its subscription, i.e., on 23 January 2012, and the funds were reimbursed by cheque; whereas, although Skandia Life classifies policy terminations involving a substantial amount for no apparent economic reason as high-risk, the file does not contain any information on the purpose of the transaction;

42. Whereas, although Skandia Life claims that it had received extremely precise, adequate and evidentiary documentation concerning the client's reasons for terminating the policy, the file does not contain any explanation; whereas, the letter in which the client stated that she wished to terminate the policy does not contain any explanations; whereas, although the procedure V1\_171011 which was in effect at the time did not require policy terminations to be documented, such an unusual transaction should have caused Skandia Life to question its economic justification, given that the amounts in question were high in view of the client's annual income: whereas, this objection is substantiated;

43. Whereas, accordingly, the fifth objection is fully substantiated;

### C. Compliance with obligations to report transactions or carry out enhanced scrutiny reviews

44. Whereas, Article L. 561-15-I of the Monetary and Financial Code provides that: “(...) *I. entities referred to in Article L. 561-2 have a duty (...) to report (...) amounts recorded on their books or transactions relating to amounts that they know, suspect or have good reason to suspect result from an offence punishable by a custodial sentence of more than one year or that contribute to the financing of terrorism. II. By way of an exception to I, the entities referred to in Article L. 561-2 must report to the unit referred to in Article L. 561-23 the amounts or transactions that they know, suspect or have good reason to suspect result from tax fraud when at least one of the criteria defined by decree is satisfied. III. On completion of the enhanced scrutiny review required by Article L. 561-10-2-II, the entities referred to in Article L. 561-2 must file the report provided for in subsection I of this article, if appropriate*”; whereas, Article D. 561-32-1 of the same Code lists the criteria that dictate whether a suspicious transaction report should be filed in the event of suspected money laundering of the proceeds of tax fraud; whereas, the eleventh criterion relates to “*the client's refusal to produce supporting documents justifying the origin of the funds received or the reasons for the payments, or is unable to produce such documents*”; whereas pursuant to Article L. 561-15-V of the Monetary and Financial Code: “*any fact that may invalidate, confirm or modify information contained in an initial report must be promptly reported to the unit referred to in Article L. 561-23*”;

#### 1. Regarding the initial suspicious transaction reports

45. Whereas, according to **objection 6-1**, Mrs B19, born in 1942, took out two endowment policies for EUR 311,000, one on 8 January 2013 for EUR 270,000 and the other on 14 January 2013 for EUR 41,000; whereas, in September 2014 two additional payments totalling EUR 460,000 were made by cheque drawn on the client's account with bank J; whereas, funds had been transferred into this account from bank K on 23 July 2014; whereas, the client stated that she was in the process of regularising her situation with the French

tax authority (DGFIP) regarding assets held in two accounts opened with that bank; whereas, she was the holder of the first account (n° 1), closed in April 2013, and the economic beneficiary of the second account (n° 2), which was held by a foundation called “L”; whereas, another account (n° 3) held with the same bank had nevertheless been used to repatriate assets in February 2014 when the foundation was wound up; whereas, Mrs B19’s financial adviser stated that the DGFIP had never been informed of the existence of this third account, as it was a transit account used when the first one was closed and the assets had been transferred to account n° 2 on the date the DGFIP was notified; whereas, following an enhanced scrutiny review which did not establish that accounts “3 and/or 4” had been regularised as regards taxation, suspicions remained concerning these transactions and Skandia Life should have sent a suspicious transaction report to Tracfin in accordance with Article L. 561-15-III of the Monetary and Financial Code or Article L. 561-15-II and Article D. 561-32-1 of the same Code, more specifically on the basis of the eleventh criterion;

46. Whereas, Skandia Life has argued that it compiled a well-documented file on this client, that the tax authorities had been informed, and that the client’s financial adviser had been asked for and had produced a certificate; whereas, at the request of Skandia Life, Mrs B19 produced a letter from the DGFIP on the regulation of accounts 1 and 2 as well as a transaction notice from bank J confirming the receipt on 23 July 2014 of EUR 478,052.17 from account n° 4, also opened with bank J; whereas, however, the certificate issued by a third party is not sufficient evidence of the tax regularisation of the above-mentioned accounts 3 and 4; whereas, no other supporting documents have been produced in connection with these accounts; whereas, accordingly, as Skandia Life had not obtained sufficient explanations and documents concerning the origin of the funds used by the client by the end of its enhanced scrutiny review, it should have sent a suspicious transaction report to Tracfin pursuant to Article L. 561-15-III of the Monetary and Financial Code; whereas, objection 6-1 is substantiated;

47. Whereas, according to **objection 6-2**, the non-trading company M, incorporated on 13 March 2013 with a share capital of EUR 3 million, the object of which is the administration of the private assets of Mr and Mrs B20, took out an endowment policy on 21 February 2014 for EUR 550,000 and made an additional payment of EUR 1.5 million on 13 March 2014; whereas, the funds paid in were drawn from M’s account with the private bank N; whereas, the client has produced copies of M’s account statements with that bank dated 19 and 21 February 2014 showing a credit balance of more than EUR 3.3 million; whereas, these documents only indicate the client number for company M, not the account number; whereas, after receipt of these copies of account statements the company requested additional information concerning both the origin of the funds paid into M’s account with bank N at the time of the company’s incorporation and on the tax regularisation of the repatriated funds; whereas, the client’s financial adviser has stated that the funds derived from the estate of Mr B20’s mother, recently deceased; whereas, the file does not contain any proof that tax regularisation of the funds repatriated from Switzerland was requested; whereas, the enhanced scrutiny review was not sufficient to allay all the suspicions concerning the origin of the funds, and the company should have filed a suspicious transaction report pursuant to Article L. 561-15-III of the Monetary and Financial Code or Article L. 561-15-II and Article D. 561-32-1 of the same Code on the basis of the eleventh criterion;

48. Whereas, the typo concerning the additional payment on 13 March 2014 of EUR 1,150,000 and not EUR 1.5 million, as wrongly stipulated in the statement of objections, has no bearing on the objection; whereas, although the amounts are consistent with the assets declared by Mr and Mrs B20 on their wealth tax return for 2013, i.e., EUR 19.4 million, and the statement of account for the estate of Mr B20’s mother dated 28 December 2012 issued by a firm of notaries, which showed a balance of EUR 2,560,000, the information and documents in Skandia Life’s possession were not sufficient to allay all suspicions that the amounts were the proceeds of an offence punishable by a custodial sentence of more than one year; whereas, as the plaintiff authority has pointed out, the above-mentioned wealth tax return refers to two securities accounts with bank E but does not indicate whether they are held in another country or whether they were opened in the name of Mr B20, his wife, both of them or the non-trading company M; whereas, the references of these accounts (n° 5 and 6) do not correspond to the account held by company M with private bank N (n° 7), which was used to pay funds into the Skandia Life endowment policy; whereas, accordingly, Skandia Life should have

sent a suspicious transaction report to Tracfin pursuant to Article L. 561-15-II or –III of the Monetary and Financial Code; whereas, objection 6-2 is substantiated;

49. Whereas, according to **objection 6-3**, Mrs B21, a company director in the transport sector, informed Skandia Life that she had an annual income of between EUR 50,000 and EUR 100,000 and assets of between EUR 0.75 million and EUR 1.5 million; whereas, in July 2012 she took out two life insurance policies for EUR 260,000; whereas, she stated that this amount corresponded to the proceeds of the sale of company shares, but the file does not contain any evidence of such a sale; whereas, moreover, the funds were paid from the client's husband's account with bank O; whereas, on 16 December 2013 she made an additional payment of EUR 425,000 from her personal account with bank H; whereas, she stated that she had inherited this money from her father, who died in January 2013; whereas, in addition, she stated that a cheque for EUR 116,975.84 corresponded to funds received from a notary in settlement of her father's estate; whereas, the total is therefore EUR 497,846.33; whereas, she stated that she had inherited anonymous capital bonds totalling EUR 143,000, although the notarised deed of succession does not make any mention of this; whereas, on 23 December 2013, Mrs B21 made an additional payment of EUR 125,000 but the file does not contain any document justifying this payment; whereas, between 27 March and 22 April 2014 she made three partial surrenders totalling EUR 810,000; whereas, she declared that the purpose of these policy surrenders was to repay loans; whereas, Skandia Life transferred the funds to the client's account with bank H and an account held by the client and her husband with bank O; whereas, in view of the foregoing, the company should have filed a suspicious transaction report pursuant to Article L. 561-15-I of the Monetary and Financial Code;

50. Whereas, although Skandia Life maintains that the initial subscription of EUR 260,000 has been justified by the sale of company shares and produced the deed of sale for the Committee, this does not explain why the subscription was paid from an account held by the client's husband, although they are married under the 'separation of property' matrimonial regime; whereas, the email from a financial adviser concerning the additional payment on 16 December 2013 is not sufficient to establish the origin of funds; whereas, regarding the additional payment of EUR 125,000, the fact that payment was made by a cheque drawn on an account opened with an institution that is also subject to AML-CTF obligations did not exempt Skandia Life from carrying out its own checks and is not sufficient to establish the origin of these funds; whereas, validation by Skandia Life's AML-CTF Officer of a partial surrender request for EUR 507,028.17 is not sufficient in itself to establish that the reasons for the request were verified, as this amount only corresponds to a fraction of the early policy surrenders made; whereas, objection 6-3 is substantiated;

51. Whereas, according to **objection 6-4**, Mr B 22, a pilot residing in Angola, declared assets of EUR 483,000; whereas, the file does not contain any information on his income; whereas, in 2007 he took out a life insurance policy for EUR 5,000 and, between January and April 2007, made four additional payments totalling EUR 75,000 by cheques drawn on two accounts with bank P and bank Q; whereas, the file does not contain any document justifying the origin of the funds; whereas, in August 2008 he made a partial surrender for EUR 40,000, which was paid into an account opened with bank R; whereas, in August 2010 and October 2011 he made two partial surrenders for EUR 40,000 and EUR 4,000, respectively, which were paid into an account opened with the foreign bank H; whereas, this client's file does not contain any information as to the reason for these partial policy surrenders; whereas, Skandia Life should have filed a suspicious transaction report pursuant to Article L. 561-15-I of the Monetary and Financial Code;

52. Whereas, Skandia Life correctly maintains that the payments made by this client, and his first partial policy surrender, were made prior to the entry into force of Article L. 561-15 of the Monetary and Financial Code; whereas, however, this legislation does apply to the partial policy surrenders made in 2010 and 2011; whereas, Skandia Life's "documented file" contains documents (passport, identity card, certificate of residence, record of assets and information sheet) that do not adequately justify the client's transactions; whereas, more specifically, the record of assets, which was prepared on 29 December 2006 on the basis of declarations that had not been updated, does not state the client's employer or income; whereas, although Skandia Life has declared with regard to the partial surrender of EUR 4,000 in October 2011 that it was fully compliant with its internal procedure V1\_171011, in view of the client file it should have fulfilled its

reporting obligations, in effect from publication of the *Ordonnance* n° 2009-104; whereas, subject to the scope described by the plaintiff authority in its statements of reply, objection 6-4 is substantiated;

53. Whereas, according to **objection 6-5**, Mr B5, a director with company S residing in the Republic of Congo, informed Skandia Life that he had an annual household income of more than EUR 150,000 and assets of more than EUR 1.5 million; whereas, in September 2008 he took out a life insurance policy and paid in EUR 50,000 by a cheque drawn on bank T; whereas, the subscription file contains a sworn statement of residence in the Republic of Congo; whereas, in September 2011 he made an additional payment of EUR 300,000 by transfer from bank U; whereas, the file only contains a copy of an online account statement with this bank showing a credit balance, at 30 August 2011, of EUR 903,000; whereas, the file does not contain any other information or documents justifying the origin of funds or explaining why the funds were paid from a foreign bank account; whereas, Skandia Life should have filed a suspicious transaction report or, at the very least, carried out an enhanced scrutiny review;

54. Whereas, contrary to Skandia Life's claims, the objection only concerns the above-mentioned additional payment, made after entry into force of Articles L. 561-10-2 and L. 561-15 of the Monetary and Financial Code, from an account opened with a bank established in another country, given that the information in Skandia Life's possession concerning the client's place of residence cannot justify this transaction; whereas, the information that the company has stated it obtained, namely concerning the origin of the funds ("*savings including reinvestment of savings from a previous policy*") was too vague to enable it to establish their exact origin; whereas, this evidence was not sufficient to allay the suspicion that the sums used were the proceeds of an offence punishable by a custodial sentence of more than one year; whereas, it should have filed a suspicious transaction report; whereas, objection 6-5 is substantiated;

55. Whereas, according to **objection 6-6**, Mr B12 took out a life insurance policy in July 2010 for EUR 310,000; whereas, when the client requested a new advance on the policy in June 2012, the Compliance Officer requested enhanced due diligence measures for this business relationship as "*[evidence of] the origin of funds at the time of subscription is rather unconvincing*"; whereas, the file contains a copy of an account statement for an 18-month term deposit of EUR 300,000; whereas, after the Vigil alert system was put in place in June 2012, the client carried out a number of transactions; whereas, however, there is no record of the reasons for two advances made in 2013 totalling EUR 50,000; whereas, likewise, the file does not contain any document justifying the origin of the funds paid in on 4 July 2013, totalling EUR 190,000 and corresponding to the reimbursement of the advance and an additional payment, explained by the client by "*sale of taxi licence*"; whereas, the company should have filed a suspicious transaction report pursuant to Article L. 561-15-I of the Monetary and Financial Code, or at the very least should have carried out an enhanced scrutiny review of the unusually high payments into the policy, given the client's occupation and declared annual income;

56. Whereas, in its defence Skandia Life correctly pointed out that there was a material error in the objection, as the advances made in April and November 2013 actually concerned a total of EUR 12,600 and not EUR 50,000; whereas, however, although the company considers that "*only a very small part of the objection is substantiated*", this error cannot result in the dismissal of the objection as no justification has been given for the policy surrenders; whereas, the origin of the funds used for the initial subscriptions and additional payments have not been justified; whereas, the fact that the internal procedure in effect at the time provided that due diligence measures were only necessary for transactions in excess of EUR 150,000 has no bearing on the objection; whereas, no justification has been provided for the additional payment of EUR 190,000; whereas, the discrepancy between the declared income of less than EUR 50,000 and the assets declared by the client (between EUR 0.75 and EUR 1.5 million) should have been taken into consideration when assessing the client's transactions; whereas, in view of the foregoing, the company was not able to rule out a suspicion that the amounts were the proceeds of an offence punishable by a custodial sentence of more than one year; whereas, the failure to report a suspicious transaction is substantiated;

57. Whereas, according to **objection 6-7**, Mr B23, a retired engineer residing in France who declared income of more than EUR 150,000 and assets of more than EUR 2.5 million, took out a life insurance policy in July 2013 for EUR 5,000; whereas, 22 days later he made an additional payment of EUR 1.5 million and

produced copies of partial surrenders of five life insurance policies taken out with insurance company V (five partial surrenders totalling EUR 308,860.10); whereas, the file does not contain any other information to justify the origin of the funds; whereas, in September 2014 the client surrendered the policy in full and asked for the funds to be transferred to an account he held in another country; whereas, when questioned by Skandia Life he stated that the reason for the surrender was a desire to invest in another policy abroad; whereas, the file does not contain any other documents to justify this; whereas, in view of the foregoing, the company should have reported a suspicious transaction pursuant to Article L. 561-15-I of the Monetary and Financial Code or, at the very least, should have carried out an enhanced scrutiny review of the transaction;

58. Whereas, the documents obtained by Skandia Life were not sufficient to establish the origin of the funds used by the client at the time of subscription; whereas, although the KYC information in the file concerning, in particular, his occupation, income and assets could ultimately be considered consistent with the transactions carried out, this should at the very least have been confirmed by an enhanced scrutiny review, which was not done; whereas, a breach of Article L. 561-10-2-II of the Monetary and Financial Code is therefore established;

## 2. Regarding additional suspicious transaction reports

59. Whereas, Article L. 561-15-V of the Monetary and Financial Code provides that “*any fact that may invalidate, confirm or modify information contained in an initial report must be promptly reported to the unit referred to in Article L. 561-23*”;

60. Whereas, according to the **seventh objection**, in the case of three individual clients, namely Mr B24, Mr B25 and Mrs B26, Skandia Life informed Tracfin that it had refused to execute transactions but failed to send it additional suspicious transaction reports to notify it of the subsequent execution of the transactions;

61. Whereas, the execution of the transactions that Skandia had initially refused to execute and had reported to Tracfin, after the attachments of accounts in favour of the tax authority had been lifted, modified the information contained in the initial suspicious transaction report; whereas, although Skandia Life argues that “*pursuant to the guidelines on application in the insurance sector [principes d’application sectoriels], version 2010, p. 41, “Tracfin could therefore deduce from the fact that it had not exercised its right of opposition that the transaction had been executed. Only information likely to invalidate the suspicions or information relating to specific features of the reported transactions or to knowledge of the business relationship should be reported to Tracfin”*”, this is not stated in the guidelines; whereas, moreover, the joint guidelines dated 21 June 2010 issued by the ACP and Tracfin provide that “*information that may invalidate the suspicions or that relates to the specific features of the reported transactions or to knowledge of the business relationship must be promptly reported to Tracfin, irrespective of the amount of the transaction*” ( p. 12), which in no way reduces the obligation to file an additional suspicious transaction report for such information; whereas, Tracfin should therefore have been informed of the execution of the transactions in all three cases cited by the plaintiff authority, even though Tracfin did not respond to the initial suspicious transaction reports and irrespective of Skandia Life’s internal procedures at that time; whereas, the objection is substantiated;

## D. The system covering frozen assets

62. Whereas, according to Article A. 310-8-VI paragraph 2 of the Insurance Code, insurance companies must have systems enabling them to detect any transaction benefiting an individual or entity who is the subject of specific restrictive measures or whose assets have been frozen; whereas, Article R. 562-2 of the Monetary and Financial Code requires reporting entities “*that hold or receive funds, financial instruments or economic resources on behalf of any client whose assets have been frozen to immediately implement this measure and promptly inform the Minister of the Economy*”;

63. Whereas, according to the **eighth objection**, Skandia Life’s system for detecting transactions benefiting any person who is subject to specific restrictive measures or whose assets have been frozen relies on a tool that crosschecks the client databases against the European and national lists of individuals and entities whose assets have been frozen; whereas, however, the company has not introduced a procedure for handling homonyms detected by this tool; whereas, the alerts relating to homonyms in the client database between February 2012 and July 2014, on which date the company changed its tool, have not been processed and total more than 1,000 alerts; whereas, the filter produced an excessive number of incoherent and inoperable alerts, which led the company to change its tool in July 2014; whereas, the new tool still generates a considerable number of alerts (600 between July 2014 and the time of the inspection); whereas, the alerts produced by the previous tool and the new tool (i.e., a total of 1,600 alerts) had not all been analysed by the company as at the beginning of November 2014, when the on-site inspection ended; whereas, in an email dated 5 November 2014 it stated that it “*was awaiting results of the last adjustments to settings before analysing the alerts on a case-by-case basis*”; whereas, as Skandia Life had failed to process the homonyms identified in its client database it was unable to detect whether any transactions had been carried out that benefited individuals or entities subject to restrictive measures or whose assets had been frozen and to therefore immediately freeze their assets and inform the French Treasury, as required by the European regulations concerning restrictive measures and by Article R. 562-2 of the Monetary and Financial Code;

64. Whereas, Skandia Life did not deny the shortcomings in its system covering frozen assets during the on-site inspection; whereas, in particular it acknowledged that it was “*experiencing difficulties analysing databases Y and now Z in a timely manner in view of the homonym problems concerning frozen assets*”; whereas, without refuting the allegation that it had failed to put in place a procedure for handling homonyms, it told the Committee that processing had been made impossible due to the fact that a large number of alert feedbacks were inoperable, and that although the data had nevertheless been processed it could not guarantee its accuracy; whereas, although after integrating the APICIL group’s system no restrictive measures or cases of frozen assets were detected, this is a corrective measure that has no bearing on the objection; whereas, the same applies to the filtering carried out as at 31 December 2015, whereas, the objection is substantiated;

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65. Whereas, in view of the foregoing it is clear that the organisation of Skandia Life’s AML-CTF system at the date of the on-site inspection was in breach of the regulations that fall within the remit of the ACPR; whereas, the fact that the Luxembourg supervisory authority did not open a disciplinary procedure against Skandia Life SA following its inspection at the company’s registered office has no bearing; whereas, the shortcomings identified concern both internal procedures (objection 1), and monitoring of the business relationships (objection 2); whereas, these led to breaches of the company’s due diligence and reporting obligations; whereas, the company failed to fully comply with its additional due diligence obligation concerning PEPs (objection 3), and several individual files that merited classification as high risk — as admitted by the company — were not processed in an appropriate manner (objection 4); whereas, likewise, enhanced scrutiny reviews were not carried out on several client transactions although this should have been done (objection 5, objection 6-7); whereas, the use until 2013 of an internal procedure that required the justification of the origin and destination of the funds above a threshold of EUR 150,000 only although the *Ordonnance* n° 2009-104 introduced a risk-based approach excluding any reference to set thresholds cannot constitute an excuse for the shortcomings observed in a number of individual cases, and instead is indicative of a negligent delay in implementing the legislation resulting from the transposition of Directive 2005/60/EC of 26 October 2005, known as the “third anti-money laundering directive”; whereas, in addition it has been established that the company failed to file a number of initial and additional suspicious transaction reports (objections 6-1 to 6-6, objection 7); whereas, the shortcomings in the area of freezing of assets are particularly serious (objection 8); whereas, the restructuring operations between 2012 and 2014, which led in particular to a reduction in staff, cannot justify the company’s deficiencies in this area;

66. Whereas, when determining the appropriate sanctions the Committee needs to take into consideration the clarifications concerning the scope of certain objections and the fact that one of them has been dismissed (objections 4-1, 4-2, 4-7 and 6-4); whereas, although breaches in the handling of PEPs have been established,



they are based on only one individual case and on transactions that do not involve material amounts (objection 3); whereas, Skandia Life now works only with the better organised independent financial advisers; whereas, the Committee also needs to take into consideration, to a certain extent, the corrective action taken since the end of the on-site inspection, in line with Skandia Life's undertakings, which corrective action has essentially concerned training, improved resources in France and Luxembourg, improvements in the company's knowledge of its clients and its checks on their transactions, and the distribution of a new AML-CTF procedure following Skandia Life's integration into the system operated by its new shareholder, APICIL, which has more specifically resulted in the use of new AML-CTF compliance software, thus demonstrating the company's commitment to improving its AML-CTF systems;

67. Whereas, in view of the scale of the deficiencies observed, which resulted in particular in a significant number of failures to report suspicious transactions and, as regards the freezing of assets, delays in the processing of a large number of alerts, the company should be issued with a reprimand; whereas, in view of the foregoing and Skandia Life's financial situation, a fine of EUR 1.2 million should also be imposed;

68. Whereas, in view of the nature of the breaches observed by the Committee, the injury caused to Skandia Life by the publication of this decision in a non-anonymous form is not likely to be disproportionate;

### **FOR THE FOREGOING REASONS**

#### **[THE ACPR] DECIDES:**

**ARTICLE 1** – A reprimand and a fine of EUR 1.2 million shall be imposed on Skandia Life.

**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.