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**Autorité
de contrôle prudentiel
et de résolution**

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ANNUAL REPORT **ACPR 2019**





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by François Villeroy de Galhau,
Chairman of the ACPR
and Governor of the Banque de France

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Le rapport annuel rend compte des différentes activités de l'Autorité de contrôle prudentiel et de résolution ainsi que de ses services.
Il sera complété au troisième trimestre 2020 par « les chiffres du marché de la banque et de l'assurance ».

Annual Report ACPR 2019 – Editorial of the Governor

François Villeroy de Galhau,
Chairman of the ACPR
and Governor of the Banque de France



This 2019 Annual Report covers the past year and therefore does not address the Covid-19 crisis and its consequences for the financial system. However, this severe crisis, which constitutes a “stress test” in real conditions, already enables us to draw three more lasting lessons in line with the actions carried out by the ACPR and other authorities:

- 1) **An efficient and robust financial system is absolutely essential to support the economy** and businesses. French banks and their employees were very rapidly operational thanks to their business continuity plans, thus demonstrating their operational resilience, in order to avoid a disruption in the financing of the economy: State-guaranteed loans, maturity extensions, continuity of services to businesses and households in bank branches... Unlike in 2008-09, banks are at the heart of the solutions and not at the heart of the crisis. Insurers are also mobilised, even if they are less on the front line, and are making an expected contribution to the collective effort.
- 2) **The soundness of banks and insurers in terms of solvency and liquidity is key in times of crisis.** It has been significantly improved thanks to their efforts and the actions taken by regulatory and supervisory authorities, in particular within the SSM (Single Supervisory Mechanism, of the Banking Union). The Covid-19 crisis is evolving without any signs of a banking crisis as evidenced by the fluidity of inter-bank transactions and the continued confidence of depositors. The ECB has given itself a great deal of flexibility with the “Pandemic Emergency Purchase Programme” (PEPP), which aims at preserving favourable financial conditions, in particular on long-term rates, through the health crisis. In addition, the SSM and the European supervisory authorities agencies have worked together to lift some of the additional capital requirements for banks, by enabling them to use the precautionary reserves that had been built up, and to lengthen the deadlines for the submission of year-end reports or to postpone stress tests for both banks and insurers.

- 3) **We must, however, remain vigilant and oversee the conditions for recovery by continuing to regularly assess, both at the French and European levels, the consequences of the economic crisis for financial institutions.** For banks, this will involve monitoring the overall quality of loan portfolios in the face of the risk of bankruptcies, as the difficulties encountered by certain businesses could jeopardise their viability. For insurers, the ACPR will continue to monitor the combined effects of lower interest rates and weaker financial markets on their solvency, their claims and their premium collection. It is crucial to maintain a strong regulatory framework as a key factor of financial stability.

In 2019, banks and insurers continued to adapt their business models to the persistently low interest rate environment and to technological challenges

Banks and insurers continued to adapt to the persistence of a historically low interest rate environment. They managed to stabilise their results and improve their solvency: the CET1 ratio of the six major banking groups stood at 14.4% and the solvency capital coverage ratio required of insurers remained above 200% on average at end-2019, taking into account an adjustment of the regulatory framework at the end of the year.

Digitalisation has resulted in certain banking activities being taken over by other economic players, including BigTechs. However, the ACPR continues to ensure, through its Fintech-Innovation Unit, that the regulatory and operational frameworks are conducive to innovation (a challenge for banks’ business model) while controlling the associated risks, in particular the sharply growing cyber-risks and the sovereignty issues for Europe.

The ACPR remains particularly active in addressing three structural challenges: compliance with business practices, the fight against money laundering and the financing of terrorism and climate change

The ACPR has continued to ensure that business practices were in adequacy with the objective of protecting the most vulnerable customers: capping bank charges, implementation of the AREAS agreement, compliance with the duty to provide life insurance advice, and monitoring of telephone solicitation. It has strengthened its measures to combat money laundering and the financing of terrorism, in particular by having recourse to artificial intelligence. Finally, the ACPR has made climate change one of its priorities: creation of the new Climate and Sustainable Finance Commission, contribution to the Network of Central Banks and Supervisors for Greening the Financial System (NGFS), monitoring of public commitments made by financial institutions jointly with the AMF, and a pilot exercise to test banks and insurers for climate change-related risks.

But the ACPR would not add up to much without the people working there. 2019 was the last year of full service for the members of the ACPR Supervisory College and the Sanctions Committee appointed in March 2015. The terms of office of most of them have since come to an end: I would like to thank them most warmly for the collective work they have done, and I would like to welcome the new members appointed last March. 2019 also saw a change in the Secretary General: Edouard FernandezBollo joined the collegial management of the SSM after six years of remarkable involvement, and Dominique Laboureix took up his post last December. May both of them find here the expression of my full support and recognition, at the head of the ACPR teams who have again made an exemplary demonstration of professionalism and efficiency.

Interview

Actions conducted in 2019

Dominique Laboureix,
Secretary General
of the ACPR



Having taken up my duties at the very end of 2019, I am able to cast a fresh look at the work of ACPR and would first like to say how impressed I am by the competence of the ACPR's staff, its commitment and its professionalism. Despite some pressure on staff that only started to diminish in the last quarter of 2019, I found a fully operational team, which showed strong commitment and great flexibility from the early days of the Covid-19 crisis to continue supervising the financial sector for the benefit of its clients and the national economy.

I would like to say a few words on the main issues addressed by the ACPR in 2019.

As regards our **prudential supervisory role**, we maintained our level of commitment in support of the ECB as the single supervisor in the euro area. For the other entities of the banking sector, which have a wide range of statutes and activities, the ACPR closely monitored their business models. In the insurance sector, the ACPR refocused its priorities on monitoring the consequences of the low interest rate environment, interest rates having seen a further sharp decline during the summer. The on-site inspection plan was adapted to take into account the available staff.

In the area of **customer protection**, the ACPR launched several investigation campaigns aimed, in the banking sector, at ensuring compliance with the legal provisions on banking inclusion and the profession's commitments regarding the invoicing of fees and, in the insurance sector, at monitoring the commercial practices of a number of intermediaries specialised in distance selling. In addition, in the framework of its close cooperation with the AMF, close attention was paid to reporting scams and to leading a market working group on adapting sales practices to vulnerable elderly customers.

As regards the **fight against money laundering and the financing of terrorism (AML-FT)**, the ACPR worked to deepen the risk-based approach by publishing its sectoral risk analysis. It also contributed to strengthening the due diligence measures that must be implemented for stakeholders who present particular money laundering risks. Lastly, it was strongly involved in the national and international work aimed at strengthening supervision, in particular at the level of financial groups, the exchange of information and cooperation between prudential supervisors and those specialising in the field of AML-FT.

In the field of **regulation**, the ACPR contributed to the work of the European supervisory authorities, preparing for the implementation in the European Union of the Basel III Accord of December 2017 for the banking sector and the revision of the Solvency 2 Directive for the insurance sector.

The ACPR continued to work on **emerging risks** and the impact of new technologies on the sectors subject to its supervision.

However, it is clear that the pandemic, which is strongly disrupting the economies worldwide, has significantly refocused our work since mid-March. This evolution, which is still underway today, has been accompanied by changes in the methods of exercising our business lines, leading once again to adaptations in the programme initially envisaged.

Finally, as regards **resolution**, the main novelty consisted in the receipt of the first preventive recovery plans from a dozen insurers. These will be followed by the development of resolution plans in 2020.

Work priorities for 2020

The priorities defined in December 2019 remain mostly valid, in particular those aimed at assessing in greater depth the effect of persistently low interest rates on business, profitability and the solvency of credit institutions and insurers, as well as on product marketing practices vis-à-vis customers.

Adaptation of the ACPR

In terms of staff numbers, thanks a very proactive recruitment drive (162 people), we were able to offset the decline observed in 2018 and to exceed the high point reached at end-2017 by end-2019. However, the continuation of this effort planned for 2020 could be partially affected by the circumstances linked to the Covid-19 crisis. In addition, the General Secretariat is pursuing its work on the formats of its inspections and the tools it needs, notably in order to make the best use of the digital transformation for supervisory purposes. The first results could materialise in 2020.

Chapter 1

About the ACPR



2019 key figures

35
SUPERVISORY COLLEGE
MEETINGS

4
RESOLUTION COLLEGE
MEETINGS

10
SANCTIONS
COMMITTEE
MEETINGS

1,078
STAFF AT
END-2019

1. Statutory objectives

The ACPR supervises the banking and insurance sectors. It is responsible for preserving the stability of the financial system, protecting customers and insurance policyholders, and supervising compliance with anti-money laundering and counter-terrorist financing (AML/CTF) rules.

In 2013, the ACPR was given powers to prevent and resolve banking crises. These powers were subsequently expanded to the insurance sector in 2017.

Since the European banking union was set up in 2014, the ACPR has discharged its banking-related prudential responsibilities

within the framework of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM).

The Act of 22 May 2019 on business growth and transformation extended the ACPR's powers to include some digital asset service providers (digital asset custody, buying or selling digital assets in exchange for legal tender). The ACPR, which must give its assent to the registration by the AMF of these service providers, is responsible for ensuring that such firms comply with AML/CTF rules.

2. Organisation

2.1 Decision-making bodies

To discharge its statutory objectives, the ACPR relies on a number of decision-making bodies, including the Supervisory College and its various configurations (plenary and restricted sessions and sub-colleges for each sector), the Resolution College and the Sanctions Committee.

To provide it with further information on some of the topics it has to address, the ACPR's Supervisory College is supported by an Audit Committee, four consultative commissions covering prudential affairs, AML/CTF, business practices, and climate and sustainable finance respectively, and a Scientific Consultative Committee. These different bodies met 20 times in 2019.

👁️ For further information on the consultative commissions, go to <https://acpr.banque-france.fr/lacpr/colleges-et-commissions/commissions-consultatives>

The ACPR Climate and Sustainable Finance Commission

At a meeting on 2 July 2019 organised by France's Minister for the Economy and Finance with representatives of the Paris financial community, the ACPR and the AMF announced that they were going to create – each within its respective area of authority – a framework to monitor and evaluate the public climate-related commitments made by financial institutions. They also said that they would publish a joint annual report starting in 2020. Following this announcement, the ACPR set up a Consultative Commission on Climate and Sustainable Finance (CCFD) on 3 October 2019. The commission is chaired by Patrick de Cambourg, Member of the ACPR College and Chairman of the *Autorité des normes comptables* (ANC – National Accounting Standards Board). The commission is tasked with evaluating the public commitments made by entities under ACPR supervision in terms of preventing climate change and promoting sustainable finance, as well as coal exit strategies, in accordance with the commitment made by the Paris financial community on 2 July.

Monitoring commitments made by the Paris financial community

The primary aims of the Climate and Sustainable Finance Committees set up by the ACPR and the AMF are to have a fully independent assessment of the commitments made by financial institutions, to foster transparency on the various types of commitments made and the true nature of these commitments and to provide assessment tools. To carry out its tasks, the ACPR's Climate and Sustainable Finance Commission (CCFD) relies on the recognised expertise of its members, who are drawn from the banking and insurance sectors, the academic community, non-governmental associations and think-tanks, and include qualified people in the areas of climate change prevention, sustainable finance and methodologies to assess climate risk exposure.

Monitoring and assessing the individual commitments made by banks and insurers

The work of monitoring and assessing the individual public commitments made by banks and insurers will focus specifically on: internal policies and carbon footprint; strategies to exit fossil fuels in the form of divestment policies, exclusionary policies covering the discontinuation of financing for certain sectors (such as coal, which is subject to specific criteria), policies aimed at excluding insurance coverage for certain

activities; commitments to “green” financing and investment or insurance for “green” activities; shareholder engagement and any other engagement designed to encourage better recognition of climate and environmental issues; commitments to reduce greenhouse gas (GHG) emissions or align with the goals of the Paris Agreement; and transparent disclosures on recognition of climate issues.

In this setting, ACPR and AMF teams are working closely together to develop shared methodologies and metrics that can be used to provide consistent monitoring over time of the commitments made by financial institutions, while also enabling commitments to be compared. The CCFD is also tasked with providing the ACPR College with guidance on procedures for taking sustainable finance targets into account and on financing the transition to a low-carbon economy.

Dynamic, forward-looking assessment

In addition to ensuring that commitments are kept, the Commission aims to be able to assess entities' efforts to reduce the carbon footprint of their activities, their contributions to greening the financial system and the consistency of their commitments with the Paris Agreement. To this end, the CCFD will consider the findings of working groups set up by the ACPR and the industry on climate risk governance and climate change scenario metrics and analysis. It will also draw on work by the Network for Greening the Financial System (NGFS) of which the ACPR is a member. In 2020, an analysis of climate scenarios will be performed as part of a pilot exercise, which should make it possible to obtain a forward-looking assessment of the consistency of the public medium-term commitments made by financial institutions. The CCFD will factor developments in the European regulatory framework into its work, including the taxonomy of environmentally sustainable economic activities, the EU Green Bond Standard and the Ecolabel for Financial Products.

The joint ACPR-AMF report, which will be published at the end of 2020, will offer an assessment of the individual commitments made by financial institutions and the coal exit strategies that signatories of the 2 July agreement said that they would draw up in 2020. It will make recommendations aimed at improving the monitoring and assessment of the commitments by industry participants and developing a regulatory framework that will support sustainable finance.



The Supervisory College
(at 31 December 2019)



François VILLEROY de GALHAU
Chairman of the ACPR



Denis BEAU
Designated Deputy Governor



Bernard DELAS
Vice-Chairman of the ACPR



Robert OPHELE
Chairman of the AMF



Patrick de CAMBOURG
Chairman of the ANC



Mme Monique MILLOT-PERNIN
Appointed by the President of the Senate



Anne EPAULARD
Appointed by the President of the National Assembly



Henri TOUTÉE
Division president appointed at the recommendation of the Vice-Chairman of the *Conseil d'État*



Francis ASSIÉ
Honorary counsellor at the *Cour de Cassation* appointed at the recommendation of the Chairman of the *Cour de cassation*



Christian BABUSIAUX
Honorary presiding judge at the *Cour des comptes* appointed at the recommendation of the Chairman of the *Cour des comptes*



Emmanuel CONSTANS
Appointed for their expertise in customer protection, quantitative or actuarial techniques, or other areas that help the Authority fulfil its statutory objectives



Thomas PHILIPPON



Jean-Luc GUILLOTIN
Appointed for their expertise in insurance, mutual insurance, provident institutions or reinsurance



Jean-François LEMOUX



Philippe MATHOUILLET



Martine LEFEBVRE
Appointed for their expertise in banking, payment services or investment services



Ariane OBOLENSKY



Christian POIRIER

Do not have a vote, but may request that matters be deliberated a second time:

Odile RENAUD-BASSO

The Director-General of the Treasury, or her representative, sits on the College in all its configurations.

Mathilde LIGNOT-LELOUP

The Director of the Social Security administration, or her representative, sits on the Insurance Sub-College or other configurations dealing with entities governed by the Mutual Insurance Code or the Social Security Code.

When considering general or specific matters concerning the Principality of Monaco, the ACPR shall include a representative from the Principality's government, who shall have a vote.

The Resolution College
(at 31 December 2019)



François VILLEROY de GALHAU
Chair



Denis BEAU
Designated Deputy Governor



Bernard DELAS
Vice-Chairman of the ACPR



Robert OPHELE
Chairman of the AMF



Sébastien RASPILLER
representing
Odile RENAUD-BASSO
Director-General of the Treasury



Thierry DISSAUX
Chairman of the Deposit Insurance and Resolution Fund



Agnès MOUILLARD
Presiding judge at the Commercial, Financial and Economic Chamber of the *Cour de cassation*

The Sanctions Committee
(at 31 December 2019)



Appointed by the Vice-Chairman of the *Conseil d'État*

Rémi BOUCHEZ
member of the *Conseil d'État*, Chairman

Martine JODEAU
member of the *Conseil d'État*, alternate



Jean-Pierre JOUGUET
member of the *Conseil d'État*, full member

Denis PRIEUR
member of the *Conseil d'État*, alternate



Appointed by the Chairman of the *Cour de cassation*

Claude ALDIGÉ
Counsellor at the *Cour de cassation*, full member

Yves BREILLAT
counsellor at the *Cour de cassation*, alternate

Appointed for their expertise in matters that are helpful for the ACPR to meet its statutory objectives



Christian LAJOIE
full member

Thierry PHILIPPONNAT
alternate



Claudie BOITEAU
full member

Christine MEYER-MEURET
alternate



Elisabeth PAULY
full member

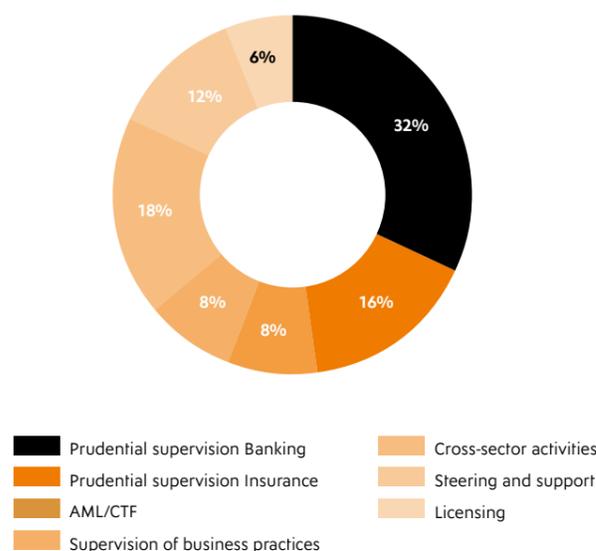
Francis CRÉDOT
alternate

2.2 General Secretariat

The operational departments are overseen by the General Secretariat.

At 31 December 2019, the General Secretariat of the ACPR had 1,078 actual employees, or 1,042 full-time equivalent (FTE) staff, comprising 547 men and 531 women.

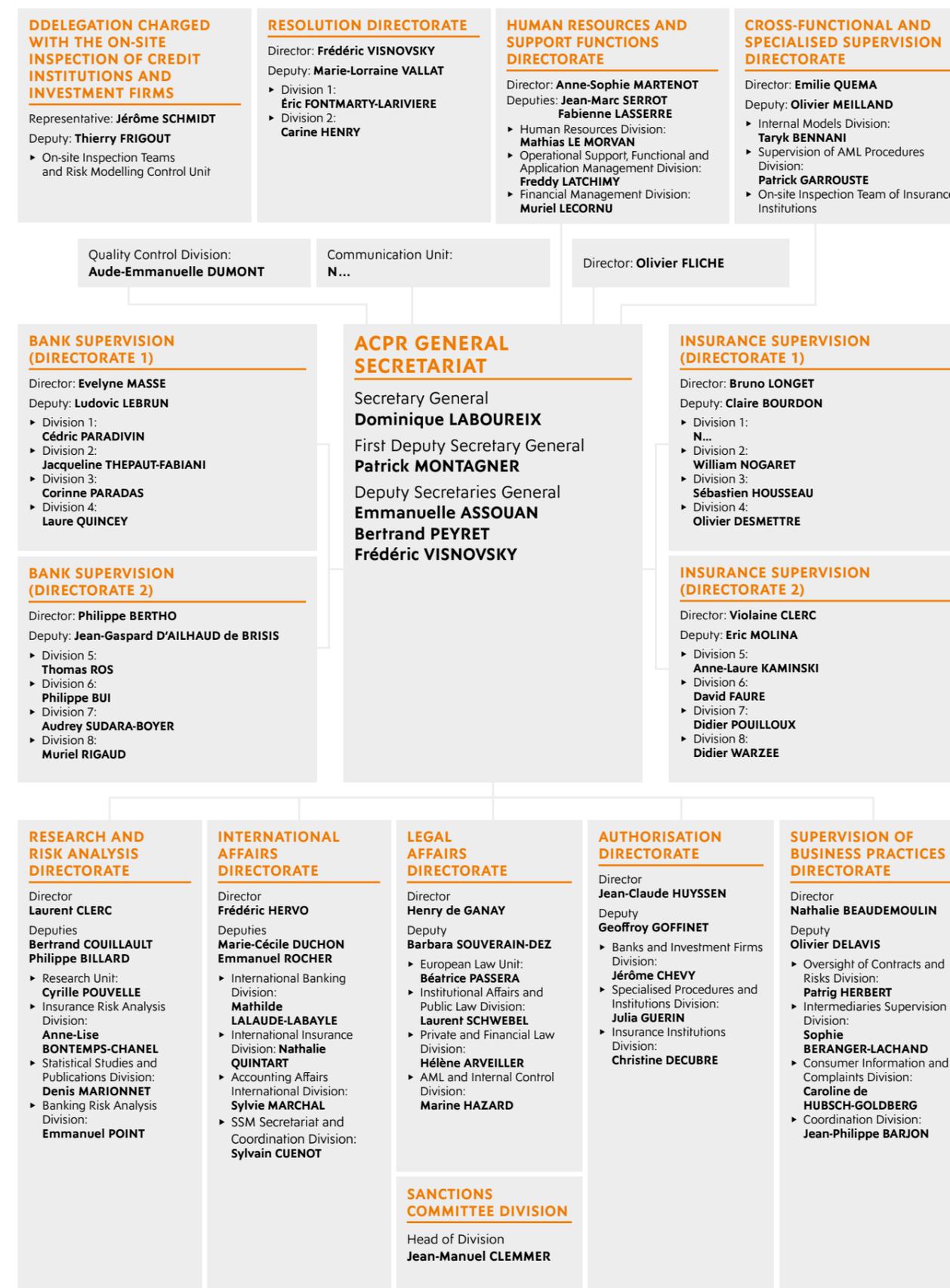
These staff members, who have a wide range of backgrounds, are distributed as follows in the Authority's different areas of activity.



- Prudential supervision Banking
- Cross-sector activities
- Prudential supervision Insurance
- Steering and support
- AML/CTF
- Supervision of business practices
- Licensing

ACPR General Secretariat

(at 1 May 2020)



Deputy Secretaries General



Patrick MONTAGNER
First Deputy Secretary
General



Bertrand PEYRET
Deputy Secretary
General



Frédéric VISNOVSKY
Deputy Secretary General



Emmanuelle ASSOUAN
Deputy Secretary
General

Directors



Seated from left to right:

Philippe BERTHO,
Bruno LONGET,
Émilie QUEMA,
Violaine CLERC

Second row, from left to right:

Evelyne MASSÉ,
Laurent CLERC,
Anne-Sophie MARTENOT,
Henry de GANAY,

Olivier FLICHE,
Jean-Claude HUYSSSEN,
Frédéric HERVO

Not present:

Nathalie BEAUDEMOULIN
and Jérôme SCHMIDT

3. Key focus areas in 2019

The ACPR's headcount remained on par with the end-2018 level for much of the year, before increasing in the final quarter as a result of various actions.

The lag in expected recruitments adversely affected the completion of several prudential supervision targets, notwithstanding the launch of initiatives aimed at adjusting practices in order to refocus inspections. As an example, the number of on-site inspections of business practices was raised by adjusting the format of these assignments to make them shorter and more targeted. Although the number of on-site inspections decreased (prudential supervision of the insurance sector), this did not prevent the introduction of specific measures from end-July onwards to enhance oversight of entities with the greatest yield curve sensitivity.

In terms of inspections of AML/CTF arrangements, virtually all the activities planned for 2019 were carried out. These covered, in particular:

- Formalisation of the risk-based approach, the review of on-site inspection handbooks, monitoring of methodological developments relating to recognition of AML/CTF in the annual Supervisory Review and Evaluation Process (SREP), and formulation of proposals for legislative improvements as part of transposing the fifth directive;
- Execution of inspections and monitoring of implementation by institutions of asset freeze measures;
- Analysis of responses to the ACPR-TRACFIN questionnaire on cryptoassets.

The business practices programme was complied with and included two rounds of on-site inspections covering monitoring of banking inclusion and fees.

The main activities relating to emerging risks were completed, including finalisation of the report on non-face-to-face customer identification, eight on-site inspections focusing on cyber-risk and contribution to work by the *Haut Conseil de Stabilité Financière* (HCSF – High Council for Financial Stability) to implement a macroprudential measure for property risk, which was adopted in December 2019.

4. Supervisory priorities for 2020

At its meeting on 2 December 2019, the Supervisory College adopted four main priorities for 2020:

- 1) Maintain the current level of commitment in its support of the European Central Bank (ECB) with regard to SSM-related work.
- 2) Monitor the consequences for sectors under its supervision of the global growth slowdown, increased uncertainty about the macroeconomic prospects for Europe and France, and the intensification of the decline in interest rates, which has further increased the risks linked to the low rate environment. This priority will cover prudential supervision of the insurance and banking sectors, including the impacts on their business models, profitability and solvency. In the area of consumer protection, it will involve monitoring the sales strategies adopted by insurers and their distributors. Meanwhile, work done jointly with the Banque de France on analysing financial stability will be strengthened by reorganising the Financial Stability Unit (FSU).
- 3) Monitor the consequences of certain cyclical events, including the effects of high valuations for several asset classes and completion of the UK's EU exit. Thematic inspections will be carried out in the area of consumer protection.
- 4) Continue structural work on i) adjusting European regulations, ii) gradually implementing a framework for analysing the consequences of climate change, iii) the effects of digitalisation and cyber-risk on the financial sector and, iv) deepening efforts to prevent money laundering and terrorist financing.

The Covid-19 pandemic, which began in February 2020, led to the Authority's priorities and resources being reassigned as at the time of writing, with resources being channelled into measuring and monitoring the risks for banking and insurance since March 2020.

Chapter 2

Supervision in 2019



2019 key figures

350

LICENSING
and authorisation
decisions

58

**ON-SITE
INSPECTIONS**
relating to
prudential
supervision

17

MEETINGS ATTENDED
of decision-making bodies
of European supervisory
authorities (EBA and EIOPA)
along with 18 meetings
of the ECB's prudential
supervisory board

13

Analyses et Synthèses
reports published

3

**FORMAL
NOTICES**

1. Changes to the structure of the French financial system

Summary of ACPR licensing and authorisation decisions

| | 2019 ACPR licensing and authorisation decisions | | |
|--|--|----------------------|------------|
| | Total | Banking ¹ | Insurance |
| Granting of licences, authorisations and registrations | 59 | 50 | 9 |
| Licence extensions | 23 | 9 | 14 |
| Waivers and exemptions from licensing and authorisation requirements | 6 | 6 | 0 |
| Amendments to licences and authorisations | 8 | 8 | 0 |
| Withdrawals of licences and authorisations | 37 | 23 | 14 |
| Risk transfer agreements | 12 | 0 | 12 |
| Administrative changes | 31 | 31 | 0 |
| Changes in ownership | 77 | 67 | 10 |
| Mergers, demergers and/or portfolio transfers – Insurance sector | 50 | 0 | 50 |
| Other (including membership of prudential groups) | 47 | 14 | 33 |
| TOTAL | 350 | 208 | 142 |

¹ Including credit institutions, investment firms, payment institutions, electronic money institutions and financing companies

1.1 Insurance sector

Nine new institutions were licensed in 2019, compared with seven in 2018:

- two institutions were licensed as supplementary occupational pension funds (FRPS):
 - The Banque Populaire group set up an FRPS – Retraite Supplémentaire Banque Populaire (RSBP),
 - Provident institution Austerlitz converted itself into an FRPS.
- Seyna was licensed to carry out property & casualty insurance transactions using an on-demand insurance model targeting niche markets,
- The Worldline group set up a captive non-life reinsurance entity, effective 1 January 2020,
- A license was issued in 2019 to Assured Guaranty Europe SA as activities conducted out of the UK were moved to France. This license took effect on 2 January 2020,
- Two insurance companies (Lourmel Solutions Assurance and MAPA RCBF Vie) and one mutual insurer governed by Book II (UNMI'Mut) were licensed, paving the way to diversifying the activities of a number of entities or groups,
- For the second time in France, a licence was granted to a sub-fund of a securitisation fund (FCT) carrying insurance risks; specifically the sub-fund of the "157 RE 20" securitisation fund co-owned by France Titrisation and BNP Paribas Securities Services was licensed in France to conduct securitisation transactions for the insurance risks of CCR Re.

14 institutions obtained licence extensions to develop new activities.

In 2019, there were 50 mergers or portfolio transfers, on par with 2018's figure of 46. Most of these transactions involved mergers of institutions not subject to Solvency II, whether backed by larger partners or not.

The ACPR also took:

- 779 decisions in 2019 concerning appointments of effective managers and key function holders in the insurance sector.
- 168 decisions on European passports enabling French institutions to do business in other European Economic Area countries.

1.2 Banking sector¹

On 15 and 16 November 2019, the ACPR and the ECB gave authorisation in their respective areas of responsibility for the takeover by *Caisse des Dépôts et Consignations* of La Banque Postale and CNP Assurances. The takeover concerned four credit institutions, three financing companies, two investment firms, one electronic money institution and eight insurance companies.

In 2019, the Crédit Agricole SA and Banco Santander SA groups were authorised to merge their custody and asset servicing businesses. This led to the acquisition of indirect qualifying holdings by the lead credit institution of the Banco Santander group exceeding 30% of the capital and voting rights of CACEIS Bank and CACEIS Corporate Trust. The merger resulted in the creation of one of the world's leading custody and asset servicing firms.

Elsewhere, bucking the downtrend of recent years in the number of credit institutions licensed in Monaco, the Pictet group was authorised to open a Monaco branch of the Luxembourg-licensed bank Pictet & Cie (Europe) SA.

The ACPR authorised six institutions to provide the following services:

- payment initiation, which allows users to perform credit transfers from a payment account through a service provider;
- account information, which allows users to retrieve information about all their payment accounts on a single interface through a service provider.

These two services were created by the second European Payment Services Directive (Directive (EU) 2015/2366 – PSD2), which was transposed into French law by Ordinance No. 2017-1252 of 9 August 2017 and supplemented by the orders published on 31 August 2017.

Two other companies were authorised to provide account information services exclusively.

In other decisions, eight exemptions were granted to credit institutions regarding the fallback mechanism required for application programming interfaces (API), as part of PSD2 implementation.

In 2019, the ACPR also took:

- 1,842 decisions on the appointments of effective managers and supervisory board members in the banking sector.
- 240 decisions on European passports enabling French institutions (credit institutions, investment firms, payment institutions, electronic money institutions) to do business in other European Economic Area countries.
- 2,140 decisions authorising the agents of investment services providers.

Open banking: common and secure open communication standards enter into application in Europe

PSD2 enabled the emergence of two new payment services that have since grown swiftly, namely account aggregation and payment initiation, which require customer accounts held with several banks to be consolidated. To do this, it is necessary to gather customers' data and obtain their authorisation.

On 14 September 2019, European Regulation 2018/389 (RTS SCA) came into application. It lays down technical standards to protect the opening-up of data linked to payment accounts, offering banks and other account-servicing payment services providers (PSPs) three options:

- Adapt their online spaces to identify third-party PSPs that use these data;
- Create a dedicated interface (API) for these third-party PSPs and offer them a fallback mechanism in the event that the interface is not working;
- Set up a dedicated interface without a fallback mechanism, an option that requires authorisation from the ACPR, which then assesses the API's compliance.

At this stage, the vast majority of banks have opted to deploy APIs with a fallback mechanism. Just a handful opted to have an API without a fallback, and the ACPR granted eight exemptions in 2019. Other exemption applications are currently being reviewed and will be submitted to the European Banking Authority for an opinion in 2020.

In 2019, the ACPR and the Banque de France made sure that all participants were able to work together on deploying the APIs. The business continuity of the new participants was thus safeguarded by the efforts of the entire sector and by the creation, within the *Comité national des paiements scripturaux* (CNPS – National Cashless Payments Committee), of a dedicated working group comprising industry professionals (professional federations, banks and new service providers) and the public authorities. Migration to these secure solutions is under way and the Authority will continue to keep a close watch on this matter.

1. Credit institutions, financing companies, investment firms, payment institutions, electronic money institutions.

Gouvernance

With the CRD4 Directive coming into effect in 2015 for the banking sector, and the Solvency II Directive coming into effect in 2016 for insurance, supervised institutions are now required to comply with precise rules covering the organisation and operation of their internal governance arrangements. The same legislation gave the ACPR supervisory powers in this area. The ACPR has therefore been exercising these new powers for several years. Since 2015, over 14,000 applications to authorise managers, directors or key function holders have been reviewed by the Authority. On-site inspections and documentary-based audits have also been used to understand how the governance arrangements of supervised entities actually work and

to identify weaknesses, leading to the introduction of remedial measures.

Drawing on this experience, the ACPR published a report for the banking sector, taking stock of the current situation and discussing the outlook for implementation of the new rules. Work by supervisors (ACPR and the ECB for institutions under its direct supervision) has led to significant improvements in several areas, including training of senior executives/directors/heads of compliance functions, the availability of such persons, combined positions/functions, conflicts of interest and the separation of executive and supervisory functions. Other aspects are set to see improvements going forward.

Update on the United Kingdom's departure from the European Union

The postponement of the effective Brexit date to the end of the transition period, i.e. December 2020, is the reason why new licenses were issued in this regard in 2019. Banks under ECB authority and the largest investment firms were the most proactive and obtained licenses in late 2018 or early 2019, while smaller investment firms, payment institutions and electronic money institutions applied for licenses at a later stage. By the end of 2019, 39 institutions had been licensed by the ACPR to continue

doing business post-Brexit in France and also potentially elsewhere in the European Economic Area. These institutions included three credit institutions, 20 investment firms, four insurance institutions, three payment institutions, three electronic money institutions and six non-EU country branches of investment firms or credit institutions. Of these, 20 have already begun doing business, while the rest are expected to do so before the transitional period ends on 31 December 2020.

Summary of institutions authorised to do business in France

| | 31/12/2018 | 31/12/2019 | Change 2019/2018 |
|---|------------|------------|------------------|
| Insurance sector | | | |
| Insurance institutions | | | |
| Insurance companies | 260 | 258 | -2 |
| Supplementary occupational pension institutions | 3 | 5 | 2 |
| Reinsurance companies | 12 | 10 | -2 |
| Non-EU country branches | 4 | 4 | 0 |
| Insurance Code | 279 | 277 | -2 |
| Provident institutions | 35 | 33 | -2 |
| Social Security Code | 35 | 33 | -2 |
| Mutual insurers governed by Book II and not backed by larger partners | 301 | 288 | -13 |
| Mutual insurers governed by Book II and backed by larger partners | 98 | 97 | -1 |
| Mutual Insurance Code | 399 | 385 | -14 |
| Total licensed undertakings and undertakings not requiring a licence | 713 | 695 | -18 |
| | | | |
| Banking sector | | | |
| Credit institutions (licensed in France and Monaco) | | | |
| Credit institutions licensed in France | 332 | 334 | 2 |
| Institutions licensed for all banking activities | 260 | 261 | 1 |
| Banks | 162 | 165 | 3 |
| <i>o/w branches of institutions having their registered offices in non-EU countries</i> | 19 | 23 | 4 |
| Mutual and cooperative banks | 80 | 78 | -2 |
| Municipal credit banks | 18 | 18 | 0 |
| Specialised credit institutions | 72 | 73 | 1 |
| Credit institutions licensed in Monaco | 19 | 20 | 1 |
| TOTAL CREDIT INSTITUTIONS (licensed in France and Monaco) | 351 | 354 | 3 |
| | | | |
| TOTAL INVESTMENT FIRMS (licensed by the ACPR) | 79 | 92 | 13 |
| | | | |
| FINANCING COMPANIES | | | |
| Financing companies | 151 | 138 | -13 |
| <i>o/w mutual guarantee companies</i> | 33 | 31 | -2 |
| Dual status: financing companies and investment firms | 4 | 5 | 1 |
| Dual status: financing companies and payment institutions | 20 | 20 | 0 |
| TOTAL FINANCING COMPANIES | 175 | 163 | -12 |
| | | | |
| TOTAL PAYMENT INSTITUTIONS (licensed by the ACPR) | 33 | 44 | 11 |
| | | | |
| TOTAL ACCOUNT INFORMATION SERVICE PROVIDERS | 2 | 4 | 2 |
| | | | |
| TOTAL ELECTRONIC MONEY INSTITUTIONS (licensed by the ACPR) | 10 | 14 | 4 |
| | | | |
| Total licensed banking institutions | 650 | 671 | 21 |
| | | | |
| TOTAL THIRD-PARTY FINANCING COMPANIES | 2 | 4 | 2 |
| | | | |
| TOTAL MONEY CHANGERS | 177 | 186 | 9 |
| | | | |
| Total other institutions authorised by the ACPR | 179 | 190 | 11 |
| | | | |
| Branches of EEA institutions operating under the freedom of establishment | | | |
| Branches of insurance institutions | 76 | 70 | -6 |
| Branches of credit institutions | 63 | 70 | 7 |
| Branches of investment firms | 67 | 60 | -7 |
| Branches of payment institutions and electronic money institutions | 22 | 26 | 4 |
| Total branches operating under the freedom of establishment | 228 | 226 | -2 |

2. Prudential oversight

2.1 Insurance sector

Analysing risks linked to the low interest rate environment

Monitoring the risks linked to the low interest rate environment remained a priority for the ACPR. Yields on French 10-year government bonds fell again over the summer, temporarily entering negative territory. Because of the calculation mechanisms required under the directive, this decline caused a pronounced reduction in the average capital requirement coverage ratio. Lower coverage ratios mean less resilience to future shocks, necessitating greater vigilance.

The steady decline in revaluation rates for non-unit linked funds since 2013, which broke off in 2018 as the rate evened out at 1.8%, down from 2.8% in 2013, unsurprisingly resumed owing to the fall in market interest rates. The revaluation rates announced in early 2020 were lower than those of 2018. In addition, to smooth current profit-sharing and cope with scenarios featuring low rates for a protracted period, allocations to profit-sharing reserves were also made.

These reserves, which hold profits to be paid to policyholders within eight years, rose from 1.4% of outstanding non-unit linked life insurance at end-2011 to 4.3% at end-2018 among the main insurers. Customers, who are highly sensitive to equity market moves, responded to the decline observed in late 2018 by steering payments and new investments into non-unit linked products in 2019, with net inflows totalling EUR 15.3 billion (after net outflows of EUR 1.2 billion in 2018). Net inflows into redeemable unit-linked instruments came to EUR 5.1 billion in 2019 (EUR 21.3 billion in 2018), notably reflecting a catch-up effect beginning in the third quarter. Overall, at the end of 2019, the total value of life insurance policies stood at approximately EUR 1.720 trillion, with unit-linked funds accounting for EUR 339 billion of this.

The ACPR encouraged insurance institutions to keep up the preventive measures taken in recent years and introduced enhanced monitoring arrangements.

Enhanced solvency monitoring

The decline in interest rates between end-June and end-September 2019 had an especially severe impact on insurers' capital requirement coverage levels. Since valuation of the prudential balance sheet is based on market values under Solvency II, the own funds of institutions decline if the value of their liabilities increases more than the value of their assets (due to the longer duration of liabilities in life insurance and certain areas of non-life insurance).

Institutions whose capital requirement coverage ratios deteriorated took steps at once to strengthen their solvency. In addition to various balance sheet management measures, which included adjusting investment policies, narrowing the duration gap between assets and liabilities, and buying hedges, they focused on marketing products that do not offer capital guarantees, namely unit-linked products. The ACPR continues to pay close attention to the terms under which these products are sold and to the clarity of

the explanations provided to customers, especially the most vulnerable ones. Some institutions also strengthened their own funds. Many life insurance participants, meanwhile, said that they were lowering policy revaluation rates in order to consolidate their reserves in the event that interest rates remain low for a prolonged period.

The ACPR's supervisory teams set up enhanced monitoring arrangements for institutions identified as being most exposed to the risk of a decline in rates. These institutions were reminded of the need to track the level of their capital requirements closely and to ensure that their Own Risk and Solvency Assessment (ORSA) process properly integrates the new interest rate environment.

In addition, in early 2020 the ACPR specified the new procedures for calculating prudential solvency ratios following the Ministerial Order of 28 December 2019 on surplus funds in life insurance.

Health and death/disability sector

The consolidation trend continued in health and death & disability. Health insurance reforms adopted in recent years have forced market participants to make structural adjustments. These are likely to increase owing to forthcoming reforms, including the right to terminate supplementary health policies at any time. These regulatory changes are taking place at a time when financial results are deteriorating in an environment featuring low interest rates and an ageing insured population, which is leading to a structural increase in claims incurred. Meanwhile, the ability to pass these additional costs on to prices is limited in a fiercely competitive market. The ACPR therefore continues to keep a close watch on assessments of liabilities, cost control and forward-looking risk management.

Ensuring proper application of Solvency II

Some 20 or so on-site inspections were carried out to examine prudential balance sheet and risk assessments. These found that the documentation provided on calculation methods, assumptions and underlying data had continued to improve on the whole. However, significant efforts are still needed to better demonstrate the appropriateness of simplifications used in some calculations and compliance with certain regulatory requirements, including calculation of the solvency capital requirement and technical provisions.

Medical liability insurance in France

Premium income in France for medical liability insurance totalled close to EUR 600 million in 2019, with a handful of participants receiving the lion's share of this. Around 15 other participants, including foreign insurers operating under the freedom to provide services (FPS) or the freedom of establishment (FoE), also do business in the segment, where price pressures are high.

Claims have been on the rise for a number of years, leading to a technical imbalance on the market, which is characterised by long-term risks and a final figure for claims incurred that is hard to estimate. Making sure that institutions properly recognise their commitments is therefore a key challenge in this sector. For this reason, the ACPR is closely following the medical

liability insurance market in France, in particular through the analysis provided for in Article L. 4135-2 of the Public Health Code, which is used to perform detailed monitoring of market trends based on information submitted by the main participants. In addition, the ACPR conducts on-site inspections of these institutions every year.

Further, work is being conducted with the European Insurance and Occupational Pensions Authority (EIOPA) and other national supervisory authorities aimed at gaining a better understanding of the companies offering medical liability coverage in France under the FPS or FoE and making other supervisors more aware of the specific technical features of medical liability insurance in France.

Activity relating to the authorisation of certain insurers to use internal models to calculate their risks and solvency remained sustained, owing to amendments to existing models and new requests for approval. As it does with users of the standard calculation formula, the ACPR takes great care to ensure that institutions have a proper command of the many parameters and underlying assumptions used. It also monitors the governance arrangements of these models, including validation, the policy for changing models, and other aspects.

The ACPR continued to check data quality, since assessing the credibility and robustness of these data is supposed to have a major place in mechanisms for calculating prudential indicators. It looked not only at input data used to calculate technical provisions, but also the data used to set specific parameters as well as data input directly or indirectly (parameters and assumptions) into internal models. For the fourth year running, too many shortcomings were found, with the result that administrative enforcement measures were taken for the first time in this area. Insurance institutions must vigorously pursue their efforts. The ACPR will deal more harshly with breaches that persist despite its many communications on this theme and the programme of inspections conducted since 2015.

ACPR inspections likewise highlighted once again that institutions were overly confident in the control and security systems for their information systems, were not doing enough to anticipate the risks linked to digital innovation, and were less involved when outsourcing these systems, especially in the event of cloud-based arrangements.

The ACPR supplemented these inspections by conducting a questionnaire-based survey at the end of the year that looked at data quality and information system security. The results will be available in 2020.

The ACPR also continues to keep a close watch on consistency between the data that are sent to it and those that are made public. With a view to improving the information provided to the general public, analyses of solvency and financial condition reports and regular reports to the supervisor continue to highlight the need to strengthen the accessibility and consistency of qualitative assessments (multi-year perspective, assessment of effects of measures under the long-term guarantees package).

Reporting quality

Regulatory reporting and disclosure requirements are intended to inform not only the supervisor, which assesses the quality of these reports and disclosures each year, but also institutions' boards or supervisory bodies. Accordingly these requirements and the quality of the associated reporting must be understood as essential elements in steering business activity and solvency.

The ACPR considers reporting quality from several different angles. Collected data are first and foremost essential to a proper understanding of regulatory solvency ratios, the quality of prudential capital, the appropriate level of statutory provisions, the nature and quality of financial assets and underwriting quality. Reporting quality also goes beyond the analysis of quantitative data to consider governance, internal control and risk management systems, as well as the choices made when constructing models. Finally, the quality of reporting for the purposes of public

disclosure and financial communication is assessed with regard to the completeness and fairness of the information that must be provided to insured parties, analysts and observers.

Completeness and fairness are evaluated with regard to the quality of the data input to valuation models, whether these data are used to summarise the characteristics of customer portfolios, condense technical aggregates or build the assumptions and parameters used. In addition, these criteria require steps to reconcile and ensure consistency between the data and information that different teams (actuarial, finance, risk management and others) produce for quantitative or narrative reports. In this context, the ACPR continues to periodically draw insurers' attention to the information provided to the public and to the main errors or inconsistencies detected during inspections, with special attention paid to financial assets, commitments and intragroup transactions.

Governance oversight

In 2019, the ACPR largely completed the thematic review of insurers' governance arrangements that it began in 2017. The selected sample featured institutions of all different types and sizes, including insurance and reinsurance companies, provident institutions, mutual insurers and holding companies. The proportionality principle was applied to smaller institutions in the sample.

Special attention was paid to the composition and operating procedures of the board of directors or supervisory board, with a focus on the collective expertise of members, relations with specialised committees, reporting quality, interactions with senior executives, and quality of information provided. Inspections also sought to make sure that the institutions were under effective management, that the "four-eyes" principle was applied, that key function holders performed oversight and had access to supervisory bodies. The broader aim was also to assess the quality of risk management and internal control

systems, in particular by analysing the Own Risk and Solvency Assessment (ORSA) process. Outsourcing and subcontracting represented another area of focus, with special attention paid to the ability of insurance institutions to identify important or critical outsourced activities and to oversee service providers, in order to keep their risks under control.

The findings of each inspection were discussed with the institution in question, with both sides presenting their views, and the board of directors was asked to draw up an action plan to address identified breaches.

New crisis prevention regime

Under the regime for the prevention and management of individual crises introduced by Ordinance No. 2017/1608, the largest insurance groups and institutions were required to submit preventive recovery plans for the first time in 2019. These plans were reviewed by the Supervisory College.

Preventive recovery plans in the insurance sector

Ordinance No. 2017/1608 of 27 November 2017 established a national regime for the recovery and resolution of insurance institutions subject to Solvency II. Unlike in the banking sector, European regulations do not provide for this type of mechanism to be harmonised within Europe. Just four European countries, including France, have developed or are getting ready to develop a recovery mechanism for insurance, while three countries are setting up resolution mechanisms.

The preventive recovery plan must enable the group or institution to advance discussions during a non-crisis period that will enable it to manage a near-failure situation by restoring its financial and prudential balance or by organising an orderly run-off of business. While an ORSA is performed with a view to ongoing risk management, a preventive recovery plan considers a major crisis entailing exceptional corrective measures.

Insurance institutions or groups that are directly subject to the requirement to draw up a preventive recovery plan and keep it current are those whose total assets, assessed in accordance with the requirements of the Solvency II framework, have exceeded EUR 50 billion at least once in the last three financial years. Preventive recovery plans submitted in 2019 by the groups and institutions meeting this criterion were reviewed by the ACPR's Supervisory College, which, having received the opinion of the Resolution College and while highlighting several areas for improvement, did not challenge the plans submitted in this first round of reporting.

The frequency with which these plans are updated cannot be less than two years, unless there is a major change in the structure or risk profile of the group or institution, or if these plans are part of existing international work programmes. The process is thus one of continuous improvement, which will be monitored closely between now and when the next report is submitted.

2.2 Banking sector

Assisting the ECB in the supervision of major banking groups

The ACPR provides significant support in the ongoing supervision of France's 11 major banking groups, or significant institutions (SIs), which are directly supervised by the ECB. This supervision is performed by Joint Supervisory Teams (JSTs) made up of staff supplied by the ECB, the ACPR and the other national authorities from countries where these banks do business. ACPR staff are also involved in the work of six other JSTs in charge of supervising European SIs operating in France through subsidiaries or branches.

Reporting to the JST coordinator at the ECB and the local coordinator at the ACPR, the ACPR's staff implemented the annual supervision programme, which was designed to reflect the size and risk profile of each banking group and SSM priorities for 2018.

As in past years, the work done in 2019 was organised around the annual Supervisory Review and Evaluation Process (SREP). Under this approach, each institution is assigned an overall score, which may give rise to additional Pillar 2 capital requirements (P2R). Note that the capital demand resulting from the SREP also includes Pillar 2 guidance (P2G), which informs banks of the level of capital that they should hold in order to have sufficient capital over the entire business cycle.

More information at: ECB SREP publications

En 2019, en l'absence d'exercice de test de résistance (« stress test ») organisé au niveau européen par l'Autorité bancaire européenne (EBA), la BCE a conduit un test de résistance destiné à évaluer la situation de liquidité des établissements sous sa supervision directe, en complément des autres informations dont elle dispose en la matière, notamment le ratio de couverture des besoins de liquidité (Liquidity coverage ratio, LCR).

Banks subject to liquidity stress tests

On 7 October 2019, the ECB published the results of the stress test on the resilience of euro area banks in the event of an idiosyncratic liquidity crisis affecting them all. In all, 103 banks, including France's ten largest, representing total assets of more than EUR 21 trillion, took part in the exercise conducted by the ECB.

Stress test assumptions

The last two scenarios, the so-called adverse and extreme scenarios, combined a shutdown of the wholesale refinancing market with a steady outflow of deposits from the commercial segment (retail customers and non-financial corporations), set against an unchanged monetary policy framework. Specifically, the exercise was based on a projection of stressed liquidity flows over a time period ranging from one day to six months. The stress coefficients used reflected the assumption that market resources were not rolled over, while depositor behaviour was calibrated based on the liquidity crisis experiences of certain euro area banks in recent years. Faced with the challenge of these liquidity shocks, banks had to be sufficiently resilient, measured on the basis of available liquid assets or assets that were readily convertible to cash.

Conduct of the stress test

The execution phase of the stress test took place between mid-February and end-July, including an extensive quality assurance phase. A number of indicators were prepared to measure bank resilience, including survival horizon, measured across the entire balance sheet or by main currency, development curves for the liquidity position by business model and by bank, capacity to mobilise collateral as a proportion of total assets, and deterioration in the liquidity position after 30 days (used to identify any weaknesses immediately beyond the horizon covered by the regulatory liquidity ratio).

Main results and findings

The exercise confirmed that French banks had satisfactory positions in each of the scenarios across the various risk indicators used in the stress test.

The findings enabled the SSM to supplement and refine its individual assessments of the quality of liquidity management and the sensitivity of balance sheet items to a liquidity crisis. They form part of the ongoing process of supervision conducted by the JSTs made up of the ECB and the national supervisory authorities, including the ACPR.

The JSTs also completed cross-cutting thematic reviews decided on and executed based on the SSM's 2019 priorities. Specifically, these reviews covered credit risk, risk management, covering a wide range of areas including the target review of internal models (TRIM), and internal capital and liquidity adequacy assessment processes (ICAAP and ILAAP), stress testing for liquidity and IT risk, and cross-cutting themes such as Brexit. A major focus was credit risk analysis, which was approached from two complementary angles. The first programme was aimed at keeping up the efforts by institutions and supervisory authorities to reduce the proportion of non-performing exposures on credit institutions' balance

sheets, with reference to EBA [guidelines](#) on managing these exposures, which came into application on 30 June 2019, and the ECB [communication](#) on supervisory coverage expectations. The second programme, which was launched in 2019, seeks to analyse credit standards in order to make an ex-ante assessment of the potential existence of practices that could cause a significant volume of non-performing exposures to be built up again.

Specific in-depth analyses tailored to the risk profiles of individual institutions were also conducted, for example on the valuation of complex financial instruments.

ECB inspection campaigns

For some years, the ECB has been promoting a "campaign" approach to inspection scheduling, in order to build convergence in the practices used by national supervisors and harmonise the scope of investigations and methodologies

applied to similar inspections. In 2019, several French SIs were involved in four general inspection campaigns launched by the ECB (on residential property, leveraged finance, prudent measurement of market assets, and cybersecurity).

On 10 January 2019, the ACPR and the ECB stepped up their cooperation aimed at ensuring that money laundering and terrorist financing risks are properly taken into account when assessing the overall risk profiles of major banking groups, by signing a multilateral agreement on the exchange of information. Under the agreement, the ACPR will inform the ECB of any material weaknesses in anti-money laundering and counter-terrorist financing (AML/CTF) systems that it has discovered during its inspections, while the ECB will send the ACPR any relevant information in this area, particularly relating to governance, internal control or operational risk, that it has identified in the exercise of its tasks. These exchanges between prudential and AMF/CTF supervisors are set to continue within the AML/CTF supervisory colleges due to be set up by authorities in 2020 and which the ECB will attend as an observer.

Supervision of less significant institutions

The ACPR is also responsible for supervising 112² less significant institutions (LSIs) in France, out of the 3,000 or so such institutions in the SSM as a whole that are subject to indirect ECB supervision. The ECB is working to harmonise supervisory practices for this population among the 19 affected national authorities by developing shared standards, procedures, tool and projects and by conducting close oversight of work done locally in order to ensure equal treatment within the SSM.

As part of these efforts, the SREP methodology for LSIs was refined and enhanced, notably to build in feedback from national authorities that have been using it since 2018, in particular with the ECB's sample of "high-priority" LSIs, and to test a module focused on IT risk and cyber-risk, which are of critical importance to many smaller institutions. Modelled on the methodology applicable to SIs, the LSI SREP incorporates the proportionality principle and includes more room for supervisory judgement in order to recognise the specific activities and wide diversity of LSIs. The ECB and the national authorities have therefore begun discussions to flesh out the proportionality principle, notably by drawing on the concept of "small and non-complex institutions" introduced by European lawmakers as part of the latest Banking Package (CRD5/CRR2), which opens up options for simplification and provides encouragement to prioritise supervisory activities according to the actual risks presented by each institution. The SREP methodology for LSIs, whose principles are largely consistent with the approach customarily taken by ACPR staff, was deployed by the ECB on an information management system (IMAS) for LSIs that has been made available to national authorities and is currently in the test phase. The medium-term goal is to be able to accommodate a huge sample of SSM LSIs in order to facilitate the cross-cutting analyses steered by the ECB, as well as information-sharing and cooperation among SSM stakeholders. In 2019, 16 French LSIs were assessed using this tool and a special workshop was organised for ACPR and ECB staff with a view to a gradual but much wider deployment by 2021-2022.

This assessment exercise confirmed that profitability, operational and governance risks (including risk management and internal control aspects) dominate the profiles of French LSIs. Moreover, these risks have been exacerbated by the current economic environment of prolonged low interest rates and numerous uncertainties.

More information at: SREP methodology for SSM LSIs and link to booklet

In addition, ACPR staff contributed, alongside the ECB and other affected national authorities, to work on potential easing of credit standards, echoing analyses done on this topic for large groups. These analyses will continue in 2020 and be supplemented, as they were for SIs, by a second set of analyses on the management of existing non-performing exposures by smaller institutions. Some of these entities have an extremely high proportion of such exposures, owing, for example, to the specific nature of their customer base or product positioning, requiring close monitoring of the associated financial balances.

In 2019, it was also found that the quality of European reports (FINREP/COREP reports) submitted by French LSIs was not always adequate, creating major difficulties in establishing reliable SSM-level statistics and hence in making comparisons with other smaller euro area banks. Given that increasing use is going to be made of the quantitative tools developed by the ECB on the basis of these European data, reflecting the determination to publish more quantitative and comparative information on LSIs, it is vital that the entire French sector take steps beginning in 2020 to improve the quality of FINREP/COREP reporting so that institutions provide accurate information about their situations. This question is all the more pressing because, in compliance with the latest EBA guidelines on the subject, the ACPR is set to introduce Pillar 2 guidance (P2G, as defined above for SIs) in FY2020, based on the results of a stress test conducted by the ACPR in accordance with the framework established by the SREP methodology for SSM LSIs and using these data. With this in mind, the ACPR continued to be actively involved in the SSM working group on LSI stress testing; the group has developed a toolbox designed to support national authorities in each stage of the process and promote best supervisory practices in this area.

2. These include:
14 non-SSM EEA branches,
20 subsidiaries of French LSIs and
78 lead companies or independent LSIs.

Supervision of institutions not covered by the SSM

In the banking sector, besides LSIs, the ACPR also supervises a range of institutions with a variety of business activities and risk profiles, such as financing companies, investment firms, payment institutions, electronic money institutions and account information service providers, whose number has increased over recent years owing to Brexit, the rise of fintechs and implementation of the Second Payment Services Directive (PSD2).

The ACPR thus conducted a full review of the additional prudential capital requirements (Pillar 2) applied to financing companies and worked with these entities to get to grips with the new definition of default. Analysing the preventive recovery plans of the largest such institutions was also a key work area.

In the case of investment firms, the ACPR paid particular attention to analysing systems for ring-fencing customer assets set up by institutions holding public funds. In the course of this work, a number of investment firms were instructed to contact the credit institutions with which they had placed customer funds to update their ring-fencing account agreements. In 2020, the ACPR will check that these compliance measures are executed, while performing enhanced monitoring of the operational procedures introduced by investment firms to ensure appropriate coverage of customer funds.

At the same time, the ACPR launched a first analysis of the impact of the future prudential regime for investment firms³ and raised awareness among affected participants about the new requirements, notably in terms of monitoring large exposures and liquidity or resulting from the suspension of exemptions from monitoring on an individual basis (which will affect future class 2 institutions).

ACPR staff were also kept busy with the oversight of payment institutions and electronic money issuers, with the regular arrival of new participants offering innovative and flexible models, in a setting where some institutions, with untested business models, could encounter difficulties in reaching adequate levels of profitability, potentially eroding their financial base and their capacity to establish appropriate internal control systems. In this regard, the adequacy of systems to prevent money laundering and terrorist financing and to safeguard customer funds is a major focus area for the ACPR.

Likewise, as with institutions covered by the SSM, special attention was paid to data and reporting quality at all institutions.

As part of its responsibilities as bank supervisor, and under EMIR⁴ provisions, the ACPR also oversees central counterparties based in France. These are entities that interpose themselves between buyers and sellers of financial securities. In this area, supervisory work in 2019 focused in particular on Brexit-related impacts and CCP resilience, especially towards cybersecurity risks. While keeping up its routine supervisory work, notably within the EMIR Supervisory College, which includes supervisory authorities, market surveillance authorities and central banks, the ACPR continued to assess specific recovery tools for central clearing activities.

3. Established by the European Investment Firms Directive and Regulation published on 5/12/2019.

4. EMIR: European Market Infrastructure Regulation. Regulation No. 648/2012 on OTC derivatives, central counterparties and trade repositories, which entered into effect on 16 August 2012.

3. Active involvement in efforts to adapt the regulatory framework

3.1 Insurance sector

Internationally, the ACPR provided input to the work of the International Association of Insurance Supervisors (IAIS), which led to the Abu Dhabi agreement of November 2019. The agreement introduced a five-year observation period during which an international capital standard applicable on a voluntary basis to the main international insurance groups will be used as the basis for exchanges between supervisory colleges. At the end of the observation period, IAIS will discuss the standard once again. In November 2019, the IAIS also adopted an international framework for the prevention of systemic risk in insurance.

In Europe, the ACPR contributed to work by EIOPA as part of the Solvency II review, while also offering input to several other major workstreams, including the review of the European Supervisory Authorities. With impetus from the ACPR, several measures were taken to increase EIOPA's involvement in monitoring cross-border activities, and advice was published

on long-term non-life insurance products (construction insurance and medical liability insurance) marketed on this basis. EIOPA set up a working group on sustainable finance in the insurance sector, which is chaired jointly by the ACPR and the Dutch supervisor. At the European Commission's request, a proposed amendment to Solvency II was submitted to recognise sustainability risk and environmental, social and governance (ESG) criteria in the risk management of insurance institutions. This work is continuing following a second request from the European Commission, this time covering the integration of sustainability in Solvency II capital requirements.

The ACPR was also involved in EIOPA's work on drafting advice on the remuneration policies of insurance institutions.

Furthermore, the ACPR continued to analyse the amendments to IFRS 17 proposed by the International Accounting Standards Board (IASB) and provided input to work and comment letters by the National Accounting Standards Board (ANC) and EIOPA.

2020 Solvency II Review

The ACPR has been actively involved since 2018 in work by EIOPA to review the Solvency II delegated regulation, also known as the 2020 review. EIOPA's final advice, provided in response to the request for advice published by the European Commission in February 2019, was initially scheduled for June 2020 and will be pushed back by several months. This advice will cover all aspects of the regulation. A public consultation on the amendments proposed by EIOPA took place between October 2019 and January 2020.

In December 2019, EIOPA published the fourth annual report on the long-term guarantee package, which was intended to assess the use of these measures and their impacts on insurer solvency. In addition, following a request for information from the European Commission on the impact of Solvency II on the long-term activities of insurers and reinsurers, in December 2019 EIOPA published a report assessing the liquidity of insurance liabilities. The work done in connection with these two reports, in which the ACPR has been very actively involved, will help to inform the advice that EIOPA provides for the 2020 Solvency II Review.

3.2 Banking sector

The Basel Committee Accord of 7 December 2017, which was designed to finalise the Basel III reform of bank capital rules, was completed in January 2019 with the revision of the prudential framework for market risks. The ACPR was heavily involved in the work done to assess and implement this major reform. The ACPR also contributed to more targeted regulatory developments that were launched or finalised in 2019, notably relating to the leverage ratio and the treatment of credit value adjustment (CVA) risk. The ACPR played an active role in work done to analyse and prevent emerging risks, such as the impact of technological innovation on the banking sector, the treatment of cryptoassets, the strengthening of operational resilience and interactions between the prudential framework and benchmark reforms.

In terms of European-level workstreams, several pieces of legislation with a major bearing on the banking sector were adopted in 2019, including legislation dealing with the risk reduction package (CRR2, CRD5, BRRD2),⁵ investment firms and the review of the European Supervisory Authorities. ACPR staff were involved in efforts to finalise the legislation. The ACPR also provided input to efforts to draft EBA technical standards and guidelines, notably in response to the many mandates assigned to EBA to ensure proper implementation of the new legislation. The ACPR's technical expertise was brought into play in preparations for EU implementation of the revised Basel III Accord, and in particular in EBA's response to the European Commission's request for advice.

5. Cf. glossary at the end of the report.

In the area of accounting standards, the ACPR was involved in European and international working groups with a view to promoting consistent IFRS 9 application by banks. It contributed to the July launch by EBA of the comparative assessment of accounting impairment models, which aims to identify sources of non-uniformity in the calculation and recognition of provisions and their consequences for prudential ratios. At the same time, the ACPR helped to prepare a practical guide for supervisors

on implementing accounting standards on expected loss (EL) provisioning.

In addition, the ACPR took part in preparing a draft note to the Basel Committee guidance on external audits of banks published in March 2014, to clarify its expectations in terms of auditing EL models. The note is expected to be finalised some time in 2020.

EU implementation of the accord finalising the Basel III reform

The accord finalising the Basel III reform, which was announced on 7 December 2017, marked the culmination of an unprecedented regulatory effort that began back in 2009. The accord changes the prudential requirements for calculating risk-weighted assets for credit risk, operational risk and CVA risk, and introduces an output floor set at 72.5% of capital requirements measured using standard approaches. The overall objective is to improve the robustness of the results produced by internal models as well as the appropriateness of standard approaches, while complying with the framework established by the G20 so that the reform does not significantly increase overall capital requirements. Following adoption of the accord, in January 2019 the Basel Committee also published its Fundamental Review of the Trading Book, which proposes a revised market risk framework. According to the Basel

Committee's timetable, which was revised in April 2020, these rules are set to apply from January 2023, with the output floor gradually being implemented through to January 2028. Although these accords are not legally binding, each signatory country promises to apply them in full. In the European Union (EU), they will be transposed through amendments to CRR2 and CRD5. The ACPR supports faithful implementation of these accords in the EU, and its teams are playing an active part in the preparatory work, which began in 2018 before stepping up in 2019. In August and December, EBA published two reports in response to the request for advice from the European Commission, and the ACPR responded to the Commission's public consultation in January 2020. Feedback to the public consultation and EBA's advice will inform the European Commission's impact analysis as it prepares to publish a legislative proposal in 2020.

Chapter 3

Customer protection



2019 key figures

104
ON-SITE INSPECTIONS

1,800
ADVERTISEMENTS
ANALYSED

The ACPR supervises business practices in a market comprising several hundred institutions, along with over 60 thousand intermediaries registered in the single register kept by ORIAS of brokers, general agents and representatives doing business in the banking and insurance sectors. To guide its supervisory activities effectively in order to zero in on priority topics and improve practices in the areas of greatest risk, the Authority has introduced a wide variety of innovative monitoring tools, including analysing letters from customers, advertisements and consumer views on social media, monitoring innovation and harnessing information from the customer protection questionnaire that it sends to supervised institutions each year. It cooperates with the AMF through the ACPR/AMF Joint Unit, as well as with European partners, consumer associations, industry organisations and ombudsmen. It informs and warns customers regularly about improper practices.

ABEIS expands its audience as it strives to keep customers safe and informed

The Assurance Banque Épargne Info Service – ABEIS website

(www.abe-infoservice.fr) provides practical information on banking, insurance and financial products, offers guidance to customers on the right steps to take and warns about scams.

The website greatly expanded its audience in 2019, with almost 1.7 million pages viewed, a 45% increase. There was particular interest in the warnings published on the site, including the warning¹ about the rise of fraudulent clone online banking websites as well as in the blacklist of entities or websites without

authorisation to offer loans, savings passbooks, payment services or insurance policies. The list, which added over 300 new names this year, was checked 45,000 times. In all, more than 1,200 names are included in the five blacklists² regularly updated on the ABEIS website, in partnership with the AMF.

In 2020, the ACPR will continue working hard to keep people protected against and informed about financial scams. ABEIS is mentioned on Mes Questions d'Argent, a nationwide portal set up as a starting point to promote public financial literacy.

1 <https://www.abe-infoservice.fr/alerte/lacpr-met-en-garde-le-public-contre-un-phenomene-de-duplication-de-masse-de-sites-frauduleux-de>

2 <https://www.abe-infoservice.fr/vos-demarches/se-proteger-contre-les-arnaques/les-listes-noires-des-sites-internet-et-entites-non-autorises/credits-livrets-paiements-assurances-liste-noire-des-sites-ou-entites-douteux>

1. Product marketing: inspection findings

1.1 Aggressive canvassing practices in the insurance sector

The sale of insurance policies, which are inherently complex products, through unsolicited phone calls remains a key focus area. It forms part of one of the ACPR's priorities, which is to protect people who are vulnerable, whether financially or because of their age. Building on work done since 2016, inspections continued on the theme of marketing through unsolicited phone calls. One inspection led to a broker being punished⁶ for failures to provide precontractual information to solicited customers.

Given the persistence of a number of business practices that show little concern for customers' interests (false claims, failure to fulfil the duty to provide information and advice, failure to secure consent for the policy), communication campaigns were conducted to raise awareness not just among members of the public, but also in the industry: among other things, the ACPR called on all those involved in the distribution chain,⁷ including insurers, wholesaler brokers and local distributors, to implement systems to control sales quality, based on keeping phone records. It also played an active part in work by the Comité consultatif du secteur financier (CCSF – Consultative Committee for the Financial Sector)⁸ to improve the regulation of sales through unsolicited phone calls.

1.2 Distribution of funeral insurance

The ACPR continued its inspections of participants that specialise in marketing funeral insurance policies. These inspections showed that the quality of information on product characteristics and the advice provided to customers need to be improved further. Professionals must provide clearer information to their customers about the nature and amount of all fees charged throughout the term of the policy, so that customers can properly assess the total cost. Special attention should be paid to information provided on the frequency and duration of proposed payments, notably taking into account the age of the insured party and the amount of capital that he or she wishes to build up. Likewise, the value of capital guaranteed when the policy is taken out, the ability to redeem amounts paid and

the terms applicable to this, and the existence of a cooling-off period or coverage exclusions need to be highlighted in the advice provided to customers.

In late October, the ACPR published a document reminding the general public of what to do⁹ before taking out such a policy.

1.3 The duty to provide advice in an environment of low interest rates

In a prolonged environment of low interest rates, the ACPR noted that advertisements and offerings of life insurance products have shifted to promote offers that seek to redirect some or all customer savings into unit-linked products.

The ACPR remains particularly attentive to the conditions under which such products are marketed. Professionals must ensure that the information and advice provided to customers are clear. In particular, they need to support customers to make sure that the products proposed to them suit their profile. The Authority also pays attention to compliance with governance rules governing the design of new products and changes to existing products, and to proper management of conflicts of interest, including in the remuneration policy for distributors. It is important that this policy does not promote a product or type of instrument that does not suit the customer's needs over other products or instruments.

6. <https://acpr.banque-france.fr/sites/default/files/medias/documents/provitalia.pdf>

7. https://acpr.banque-france.fr/sites/default/files/medias/documents/20191018_cp_assurance_obseques.pdf

8. https://acpr.banque-france.fr/sites/default/files/medias/documents/20191126_cp_demarchage_acpr_ccsf.pdf

9. https://acpr.banque-france.fr/sites/default/files/medias/documents/20191018_cp_assurance_obseques.pdf

Lessons from inspections of crowdfunding participants: practices need to improve further

Once again this year, the ACPR continued efforts to support crowdfunding intermediaries under its supervision¹ and remind them of the rules applicable to business practices.

Inspections were conducted at lending-based crowdfunding intermediaries to check publication of the default rates needed for contributors to assess risks, as well as procedures for run-off management aimed at ensuring that transactions are conducted through to their term and that public funds are safeguarded in the event that the intermediary ceases to do business.

Particular attention was paid to donation-based crowdfunding intermediaries, which comprise a diverse group (wide range of business models, highly concentrated market). Inspections looked especially at the information made publicly available by these platforms. In this regard, efforts are still needed to ensure that the online community has clear, complete and accurate information on the projects to which they are donating (clarity of the project, duration of fundraising, what happens to funds if the transaction does not go ahead) and on the platform

administrators (identification of crowdfunding intermediaries and their governance arrangements, contact information to provide in the event of a dispute, publication of an annual report meeting regulatory criteria).

Crowdfunding participants are also subject to due diligence obligations in the area of AML/CTF.

1 82 donation-based crowdfunding intermediaries and 72 lending-based crowdfunding intermediaries at 1 January 2019.

2. Supervision of specific procedures

2.1 Financially vulnerable customers

The ACPR conducted 16 on-site inspections in the main banking networks in mainland France and in the overseas territories to check the mechanisms used to identify financially vulnerable customers as well as compliance with commitments on capping fees made in September and December 2018 by the industry.

These inspections revealed that the industry has worked hard to introduce caps on charges for account-related incidents.

However, the ACPR discovered varying practices among institutions in the application of criteria to identify people in financially vulnerable situations. In addition, systems to spot vulnerable customers could usefully be expanded with tools for earlier detection, combining internal warning systems and KYC-related criteria. Some institutions, meanwhile, still need to make an effort to be more rigorous in applying the capping mechanisms provided for by the rules or industry commitments.

New on-site inspections will be carried out in 2020 to monitor compliance with fee capping commitments and make sure that vulnerable customers are being properly identified.

2.2 AERAS Agreement

The purpose of the AERAS (*s'Assurer et Emprunter avec un Risque Aggravé de Santé*) Convention is to allow people with an increased health risk to take out insurance and obtain bank loans under optimal conditions. The ACPR conducted a survey of representative banks and insurers to see how people in the professions were applying and following the convention (procedures used to implement the rules on the right to be forgotten, the AERAS reference table,¹⁰ the capping mechanism for additional premiums and the distribution of insurance cover for disability as a supplement to death cover).

The survey highlighted the benefits of the convention, which provides a flexible framework that can be adjusted to reflect medical progress, enabling loans to be obtained by people who would otherwise be prevented from doing so because of the nature of their health risks or the cost of cover. It also resulted in several other findings. Quantitative indicators tracking implementation of various convention provisions varied across providers and could usefully be supplemented in some cases. Further, the procedures for assessing insurance applications through a three-tier review process varied across firms and were not always clearly defined.

The ACPR thus proposed a number of avenues for discussion regarding potential improvements to the AERAS convention, which it submitted to Commission in charge of monitoring and making proposals concerning the convention.

10. The AERAS reference table lists the pathologies (cancer pathologies and other pathologies, including chronic pathologies) for which loan insurance may be obtained under standard or almost-standard conditions. The table describes:

- the characteristics of the pathologies and the time period beyond which price increases (additional premium) and coverage exclusions may not be applied for certain pathologies to people who have had these conditions;
- maximum additional premium rates that may be applied by insurers for certain pathologies that prevent people who have these conditions from obtaining loan insurance at standard prices.

Work by the ACPR in response to failures affecting institutions doing business in France under the freedom to provide services (FPS)

There were further failures of European insurance companies doing business in France under the FPS in 2019. The ACPR issued a warning about this to EIOPA, which published recommendations, notably concerning the specific features of construction insurance in France. EIOPA also set up cooperation platforms, with the dual aim of detecting problems as early as possible (there were failures in other countries too) and of monitoring developments in the situations of struggling

companies. The role of the ACPR, in its capacity as host country supervisor, is delineated by European legislation. Responsibility for the prudential supervision of participants operating under the FPS lies with the home country of the insurer. Aware that insured parties affected by these failures had encountered significant difficulties, the ACPR took action to provide them with information and also met, as often as possible, with liquidators and court-appointed administrators to explain

the specific features of French contracts and to ask them to use French when communicating with insured parties. It also urged French customers to promptly find other insurers¹ and raised awareness among brokers about the due diligence that they need to perform when distributing insurance offered by firms operating under the FPS, particularly when the national market uses highly specific contracts.

1 <https://acpr.banque-france.fr/news/communiqu-e-de-presse> and <https://www.abe-infoservice.fr/assurance/assurance-construction/gable-insurance-ag-elite-insurance-company-limited-cbl-insurance-europe-dac-alpha-insurance-quodos>

Chapter 4

Anti-money laundering and counter-terrorist financing (AML/CTF)



2019 key figures

34

ON-SITE
INSPECTIONS

8

DISCIPLINARY
PROCEEDINGS OPENED

8

FORMAL NOTICES
ISSUED

1. Individual supervision

The ACPR makes sure that the entities under its supervision, including large credit institutions supervised directly by the ECB as regards prudential aspects, comply with their anti-money laundering and counter-terrorist financing (AML/CTF) obligations.

Risk-based approach

The ACPR continued work aimed at strengthening its risk-based supervisory approach, in accordance with the joint guidelines issued by the European Supervisory Authorities (ESAs) in 2017.¹¹ Institutions and entities from the banking, payment services, investment services and life insurance sectors are subject to an annual assessment of the risks to which they are exposed. This provides an overall assessment of the AML/CTF risk profile of each financial institution, which is used to determine supervisory measures. Assessments are conducted in two stages:

- the first stage consists in assessing the institution's inherent risk. Risk exposure is essentially measured based on activity and four key factors: products, customer types, distribution channels and the geographical areas where the firm operates. The assessment draws in particular on the ESAs' joint guidelines on risk factors in the financial sector¹² published in January 2018, the national risk assessment¹³ published in September 2019 by the AML/CTF Advisory Committee, and the sector risk assessment published by the ACPR in December 2019;¹⁴
- the second stage consists in assessing the AML/CTF risk management arrangements of each institution, and especially internal control procedures. In this regard, the ACPR relies particularly on the annual AML/CTF questionnaire, which is regularly updated to reflect regulatory developments. The questionnaire is an important component in the ongoing supervision of financial institutions, and is rounded out with information gleaned from interviews with institutions, reports from on-site inspections carried out by the ACPR, information-sharing with Tracfin, and any other relevant notifications.

Close and ongoing cooperation between Tracfin and the ACPR, which takes a variety of forms, is important in helping the ACPR to implement risk-based supervision. In particular, information received from Tracfin on the reporting practices of financial institutions or the due diligence measures that they implement, is one of the factors considered by the ACPR when determining its annual programme of on-site inspections. Furthermore, the ACPR and Tracfin organise cross-market gatherings with financial institutions to talk about institutions' reporting activities and to inform them about money laundering and terrorist financing typologies. Tracfin also took part in the supervisory conference organised by the ACPR in June 2019, which provided an opportunity to underline the importance that both Tracfin and the ACPR set by the relevance and quality of suspicious transaction reports.

Supervisory priorities in 2019

The ACPR continued inspections initiated to assess management by groups of the AML/CTF risks inherent in the activities of their subsidiaries both in France (including overseas territories) and abroad. A report on the supervisory activities conducted on this theme in the banking and insurance sectors was published in October 2019¹⁵ and reiterated the main focus areas for the coming years. Asset freeze arrangements were another supervisory priority for the ACPR: an update of the joint guidelines prepared with the French Treasury was presented to the industry at the supervisory conference organised in June 2019 and a series of interviews was conducted with the main French banks at the end of the year. Thematic reviews were also conducted on crowdfunding intermediaries, correspondent banking activities, activities relating to cryptoassets in the banking sector based on the questionnaire drawn up with Tracfin (cf. box), and on the internal control systems of the main banking and insurance groups covering implementation of the OECD mechanism for the automatic exchange of tax information.

On-site inspections also targeted payment and electronic money distribution services, plus online banking services. Overall, the inspections revealed that progress had been made in procedures and the effective implementation of due diligence obligations, particularly in terms of Know Your Customer (KYC) aspects, as well as in systems to monitor transactions and in institutions' reporting practices. A report on inspections in the money remittance sector was also published in October 2019.¹⁶

All in all, 34 on-site AML/CTF inspections were carried out in 2019, four of which were performed overseas.¹⁷ Following the on-site inspections, the ACPR notified Tracfin of any STR failures and

11. https://esas-joint-committee.europa.eu/Publications/Guidelines/Joint%20Guidelines%20on%20risk-based%20supervision_FR%20%28ESAs%202016%2072%29.pdf

12. https://esas-joint-committee.europa.eu/Publications/Guidelines/Guidelines%20on%20Risk%20Factors_FR_04-01-2018.pdf

13. <https://www.tresor.economie.gouv.fr/Institutionnel/Niveau3/Pages/f9887677-51fc-4dd7-9f85-6aef74a0af67/files/e4ff08b4-82d3-4fa0-9969-c985547b555d>

14. https://acpr.banque-france.fr/sites/default/files/medias/documents/20191218_asr_lcbft.pdf

15. https://acpr.banque-france.fr/sites/default/files/medias/documents/190924_bilan_controls_acpr_pilotage_lcb-ft_groupes_vf.pdf

16. https://acpr.banque-france.fr/sites/default/files/medias/documents/190926_note_bilan_transmission_fonds_vf.pdf

17. Not including four more general assignments with an AML/CTF component and a shorter on-site inspection.

informed the tax authorities if any tax evasion criteria were found. In 2019, the Sanctions Committee imposed six AML/CTF-related disciplinary sanctions, including one striking-off of a money changer, bringing to 43 the total number of sanctions imposed

by the ACPR in this area since 2011, including 27 in the last four years. The sanctions handed down in 2019 included fines totalling EUR 4.2 million. The ACPR also issued eight formal notices and 18 action letters.

Summary of responses to the ACPR-Tracfin questionnaire on cryptoassets

As the Financial Action Task Force (FATF) said in its [report to members of the G20](#) in November 2018, cryptoassets present money laundering, fraud and terrorist financing risks. A questionnaire designed jointly by the ACPR and Tracfin was sent out in April 2019 to the main banking institutions and to a number of smaller institutions likely to be concerned by cryptoassets.

The questionnaire comprised two parts. Part One asked institutions about the direct or indirect provision of services linked to cryptoassets and their use by customers, as well as about measures taken to capture the development of cryptoassets in AML/CTF mechanisms. Part Two presented AML/CTF typologies linked to the use of cryptoassets, with real-life examples taken from France and abroad, and asked institutions how these typologies would have been identified and dealt with by their systems.

- At the time when the questionnaire was carried out, respondent institutions did not appear to have significant appetite for cryptoassets: none of the respondent institutions provided services linked to cryptoassets. However, most institutions said that they had engaged in transactions on behalf of customers linked to the use of cryptoassets in France, chiefly transfers to or from cryptoasset service providers.
- All respondent institutions had taken the risks linked to cryptoassets into account, but the methods used could be

improved. Most respondent institutions had integrated cryptoassets specifically in their risk classification. However, some had integrated them in just one category (typically customers), while others also included them in the products & services or operational categories. A handful of institutions integrated them only via a broader category, such as products that promote anonymity. Due diligence measures gave a key role to customer advisors. The most advanced systems were based primarily on screening customers and flows linked to platforms specialising in cryptoassets: these systems provide the most effective detection and generate a significant number of Tracfin reports.

- Most respondent institutions said that they had begun efforts to improve the detection and surveillance of cryptoassets with regard to AML/CTF. This work is focused around three areas:
 - specific integration of this risk in risk classifications;
 - creation of scenarios or improvements to existing scenarios;
 - enhancement of detection resources thanks to these scenarios, and expansion of indicators used to detect flows linked to cryptoassets (names and IBANs of platforms and brokers).
 The development of more structured due diligence systems looks necessary so that institutions can make sure they are effectively applying their policies for accepting customers and cryptoasset transactions.

2. Regulatory developments

Implementing the risk-based approach in AML/CTF

The ACPR assisted in efforts to draft the national AML/CTF risk analysis, which were led by the AML/CTF Advisory Committee, of which the ACPR is a member. The document,¹⁸ which identifies, at national level, the main threats, vulnerabilities and associated risk levels, was published by the French Treasury on 20 September 2019.

Meanwhile, the ACPR published its risk analysis for the financial sector on 18 December 2019.¹⁹ The ACPR's analysis clarifies the national risk analysis for institutions under the Authority's supervision.

Prepared using a shared methodology the national risk analysis and the risk analysis for the financial sector are reference documents for institutions subject to AML/CTF obligations.

They are designed to help these institutions better identify, understand and assess the risks to which their activities expose them and to implement appropriate mitigation measures.

At European level, the ACPR contributed actively to work on updating European guidelines on risk factors,²⁰ which specify the risk factors to be taken into consideration and appropriate customer due diligence measures to implement. These guidelines apply to all financial institutions as well as supervisory authorities, which are invited to refer to them when conducting risk-based supervision. They are intended to be supplemented and expanded to reflect amendments introduced by the Fifth Anti-Laundering Directive, particularly as regards due diligence measures applicable to business relationships and transactions involving high-risk third countries,²¹ and to more effectively capture activities involving specific risks, such as digital asset services and crowdfunding platforms.

Strengthening the AML/CTF framework

In 2019, the ACPR was involved in drafting legislation to transpose the Fifth Anti-Laundering Directive. In particular, the legislation incorporates the conclusions of a working group set up within the ACPR-AMF Fintech Forum to overhaul the procedures for non-face-to-face customer identity verification by harnessing technological innovation while at the same time ensuring a high level of security for AML/CTF purposes. The new legislation also provides for steps to strengthen the due diligence measures implemented by financial institutions with regard to products or transactions posing specific risks, such as transactions involving high-risk third countries. Due diligence arrangements for electronic money issuance are also specified. In addition, the legislation ensures greater transparency on legal entities and other legal structures through measures to modernise beneficial-owner registers to make them more accessible and reliable.

The ACPR also contributed to work to strengthen the regulation of digital asset service providers. Internationally, it provided input, alongside the Treasury, to work that paved the way to apply FATF standards to these entities. It is also a member of the FATF contact group tasked with assessing implementation of the standards in this area. Nationally, in accordance with the PACTE Act, the ACPR is now responsible, along with the AMF, for ensuring that digital asset service providers subject to a registration obligation²² comply with AML/CTF requirements before starting to do business. In this regard, work with a number of service providers began in 2019.

Acting in close consultation with affected professionals within the framework of its AML/CTF Consultative Commission, the ACPR published several soft-law instruments intended to make it easier for financial institutions to implement their legal obligations. First, in June 2019 the ACPR published an update of the asset freeze guidelines drawn up jointly with the French Treasury. The amendments made it possible to take account of recent regulatory changes²³ and learn the lessons from inspections by the ACPR in this area. Furthermore, work was initiated at the request of the industry to prepare guidance on consolidated group-level management of AML/CTF arrangements. The importance of this management, which contributes to the effectiveness of the overall AML/CTF system, has been stressed by the FATF, European authorities and the ACPR, which has identified this aspect as a supervisory priority in recent years.

18. https://www.economie.gouv.fr/files/files/directions_services/tracfin/analyse-nationale-des-risques-lcb-ft-en-France-septembre-2019.pdf
19. https://acpr.banque-france.fr/sites/default/files/medias/documents/20191218_asr_lcbft.pdf
20. https://esas-joint-committee.europa.eu/Publications/Guidelines/Guidelines%20on%20Risk%20Factors_FR_04-01-2018.pdf
21. Countries identified by the European Commission as presenting high AML/CTF risks.
22. Service providers that provide: (i) the service of buying or selling digital assets in exchange for legal tender or (ii) services to safeguard digital assets or access to digital assets for third parties, where applicable through private cryptographic keys, with a view to holding, storing and transferring digital assets.
23. Resulting from Ordinance No. 2016-1575 of 24 November 2016 and Decree No. 2018-264 of 9 April 2018.

Strengthening European and international supervision

At European level, the ACPR provided its expertise as work was done to amend the regulations establishing the European Supervisory Authorities, with a view to strengthening the effectiveness of supervisory arrangements for AML/CTF in Europe. It was actively involved in drawing up European guidelines on the creation of AML/CTF supervisory colleges for cross-border groups and in drafting the agreement signed in January 2019 on the procedures governing the exchange of information between the ECB and AML/CTF authorities.

Internationally, the Authority contributed to work on revising Basel Committee guidance on the sound management of risks relating to money laundering, aimed at strengthening the exchange of information and cooperation between AML/CTF and prudential supervisors.

The FATF assessment of France's AML/CTF framework got under way in late 2019 and will continue in 2020 with a view to adoption of the final report by the FATF in 2021.

Chapter 5

Innovation and new technologies



Innovation driven by new technologies is playing a major role in the transformation of the financial sector today. To support this innovation, in 2016 the ACPR set up a dedicated structure, the Fintech Innovation Unit, and a space for dialogue with the innovation ecosystem, the ACPR-AMF Fintech Forum. Its goals are to promote the emergence and command of technological innovation in the financial sector, to help to identify and reduce any obstacles, and to anticipate and adjust to developments affecting the sector and participants.

1. Dialoguing with the Fintech community

The primary task of the Fintech-Innovation Unit is to be a gateway for innovators, whether they come from start-ups or established firms. Dialogue is designed to be open, informal and instructive: the aim is to make the regulations understandable and accessible in order to help entrepreneurs integrate regulatory aspects in their projects and prepare their licence applications. The unit has now established more than 500 bilateral contacts, including 100 or so in 2019.

The Fintech-Innovation Unit also makes a point of reaching out to entrepreneurs by regularly organising presentations around the country, speaking at incubators and accelerators (Station F, Le Swave, Finance Innovation), industry events (Paris Fintech Forum, Vivatech, Regtech Forum) and universities. An ACPR Fintech conference on facilitating innovation held in December attracted over 500 participants and was attended remotely by a further 600 people. With presentations by the European Commission, the Treasury, France's Data Protection Agency (CNIL), Tracfin, the national cybersecurity agency (ANSSI) and private sector participants, the event was an opportunity to

present the new approaches to dialogue and experimentation implemented by the ACPR with innovators.

The ACPR was also active internationally. In Europe, it took part in the European Forum for Innovation Facilitators (EFIF), which was led by European agencies, and also in the European Commission's EU Fintech Lab. In Asia, in 2019 it signed two new cooperation agreements with sister authorities in Taiwan and Hong Kong, adding to those already signed with Singapore, South Korea and Japan. These agreements are designed to make it easier for innovative French businesses looking to set up in these countries to make contact with the competent supervisory authorities, while conversely helping Asian firms to get in touch with the Fintech Innovation Unit. In a similar vein, the ACPR was represented in November 2019 at the Singapore Fintech Festival; it also took part in an event put on by Business France and the French Consulate at Hong Kong's Fintech Week. In the United States, the ACPR partnered with the Banque de France to organise the second annual French Fintech Symposium, which attracted 120 participants.

2. Observe, support and anticipate the development of innovative technologies

Co-led by the ACPR and the AMF, the ACPR-AMF Fintech Forum is a body for monitoring, dialogue and proposals. Participants can come to the forum to take part in dialogue and contribute, through their expertise and different perspectives, to an informed view of the interactions between regulation and innovation. They can then suggest avenues for improvement on this basis.

(i) Identification rules for the non-face-to-face establishment of a business relationship

In 2019, two working groups led by the ACPR conducted a stocktaking of the problems encountered when establishing a relationship and conducting identification of individuals and legal entities in a non-face-to-face setting. Based on this assessment, amendments to the regulatory framework were proposed to make new customer journeys smoother while maintaining strict AML/CTF arrangements. These proposals were largely taken up during the process of transposing the Fifth European Directive on AML/CTF.²⁴

(ii) Artificial intelligence

In 2019, the ACPR continued its work on artificial intelligence (AI), following on from a report published on the subject in late 2018. Building on feedback to the public consultation on the report, the ACPR set up "workshops" with volunteers, selected through a call for applications, to examine real-life cases where AI algorithms were used in the financial sector. The selected use cases covered AML and CTF, risk modelling and customer protection. The aim was to clarify, in each case, challenges relating to the ability to audit and explain these new algorithms, as well as their governance. This work is going to be reported on in 2020. To round out these insights and compare the various perspectives of supervisors, practitioners and researchers, the ACPR is also in contact with the academic world: this was the idea behind, for example, the Big Data & AI seminar organised in March 2019 with Paris 1 Panthéon Sorbonne University as part of the European HO2020 programme.

24. Ordinance No. 2020/115 of 12 February 2020, Decree No. 2020-118 and Decree No. 2020-119 of 12 February 2020.

(iii) Blockchain

The ACPR is also contributing to legal and regulatory discussions linked to the development of blockchain technology. As part of this, it took part in a lecture series on this topic put on by the *Cour de cassation* and participated in discussions led by the Ministry of the Economy on the national blockchain strategy.

It is working with the AMF on preparations to welcome and process the applications of future digital asset services providers, whose regulatory framework was set down by the PACTE Act. Alongside these efforts, the ACPR and the AMF set up an AML/CTF working group within the Fintech Forum. The aim is to make the sector more aware of these issues and especially FATF recommendations, and also to identify the

available technical solutions that can be used to comply with the recommendations.

(iv) Involvement in European and international discussions

The ACPR also participates in the working groups set up by European and international bodies to monitor technological developments in the financial sector. Highlights in 2019 in this regard included the reports by EIOPA²⁵ and EBA²⁶ on big data and advanced data analysis techniques, the Basel Committee report on open banking²⁷ and the reports by the Financial Stability Board (FSB) on bigtech²⁸ and cloud services.²⁹

3. Preparing the supervisory methods of the future

To provide effective support to an evolving sector and anticipate the conditions under which it will be required to perform its tasks in the future, the ACPR needs to identify the possibilities offered by new technologies for its own supervisory methods and processes, an approach widely referred to as *suptech*. The ACPR's priority is to harness innovation in data analysis and artificial intelligence.³⁰

(i) Step one: adoption of an intrapreneurial approach

To launch its first hands-on *suptech* projects, the ACPR decided to experiment with an intrapreneurship approach. This method gives employees the opportunity to conduct innovative projects from start to finish, acting with the independence of an entrepreneur, but staying within and acting on behalf of the company.

This approach is well suited to the following objectives:

- Respond to actual business line needs;
- Promote an approach that is itself innovative and inspiring, sending a strong signal about the corporate culture;
- Get quick and tangible results.

(ii) Stages in the intrapreneurship programme

The first stage in the intrapreneurship programme was to design and organise a call for projects, which took place over three months. Initially, ACPR staff got to present and freely discuss their ideas. A process designed to support and build on these ideas, which included learning expeditions and discussions with data scientists, then enabled the intrapreneurship candidates to structure their projects. This period was also used to assemble teams around the candidates and find sponsors. On 1 July, the ten preselected candidates presented their ideas. Four projects were chosen: one based on votes by ACPR staff in attendance and three others by the jury.

Data management was at the heart of all four selected projects. The amount of data received by the ACPR is rising exponentially and harnessing this information is a key component of its inspections. The proposed projects are designed to make it easier to manage, access and visualise these data, in order to make inspections more effective and more targeted.

Stage two of the programme was launched in September 2019 and is scheduled to last for one year. The new intrapreneurs are now 100% focused on developing their projects. They are getting support in two forms:

- Methodological support (design thinking, innovation methods, coaching). To take this aspect forward, the Banque de France Lab has partnered with Le Swave, an incubation platform. This original solution will allow intrapreneurs to be in direct weekly contact with Paris's Fintech ecosystem.
- Technical support from the Banque de France's data scientists and ACPR business line experts.

25. Big data analytics in motor and health insurance: a thematic review.

26. EBA report on big data and advanced analytics.

27. Report on open banking and application programming interfaces (API).

28. BigTech in finance: Market developments and potential financial stability implications.

29. Third-party dependencies in cloud services: Considerations on financial stability implications.

30. As part of this priority, the ACPR's data science expertise was also strengthened in 2019.

Chapter 6

Resolution in 2019



2019 key figures

55

PREVENTIVE
RESOLUTION
PLANS ADOPTED

5

MEETINGS OF
THE SINGLE RESOLUTION
BOARD ATTENDED

1. Strengthening the institutional and operational framework of the bank resolution regime

Implementation of the Single Resolution Mechanism (SRM) continued in 2019, with major support provided by the ACPR in planning efforts and work on establishing an operational definition for the management of banking crises. The preventive resolution plans of the most important French credit institutions were updated and supplemented by Internal Resolution Teams (IRTs), which are made up of staff from the Single Resolution Board (SRB) and National Resolution Authorities (NRAs). The ACPR is involved in the IRTs for French banks and foreign banks with a material presence in France.

Resolution plans are drawn up as part of the European mechanism for managing banking crises (BRRD³¹ in the European Union, SRM Regulation for the Banking Union), which gives supervisory and resolution authorities the means to take action to prevent and manage crises. This mechanism is intended to cover the five objectives of resolution, namely to ensure the continuity of critical functions, avoid significant adverse effects on financial stability, protect public funds, protect covered depositors and protect client funds and assets. A resolution plan is drawn up for each systemically important bank, including a preferred resolution strategy.

The ACPR also continued drafting a national handbook containing all the decision templates and operational and legal procedures applicable during resolution proceedings. The handbook covers institutions under the direct responsibility of the ACPR or the SRB. Within this framework, the ACPR continued work aimed at implementing the resolution tools provided for by the BRRD. This included stepping up preparations for the implementation of bail-in and asset separation tools.

Resolution plans are supplemented by the minimum requirement for own funds and eligible liabilities (MREL), which corresponds to the loss-absorbing and recapitalisation capacity of affected institutions or groups in a crisis. This year, the SRB set strict requirements concerning the level of subordination for the consolidated MREL but also, for the first time, MREL targets, which apply to certain subsidiaries of affected groups. Taken together, these provisions should help to ensure that, in the event of resolution and immediately afterwards, institutions are able to continue to perform functions identified as critical, without threatening financial stability and without the use of public funds.

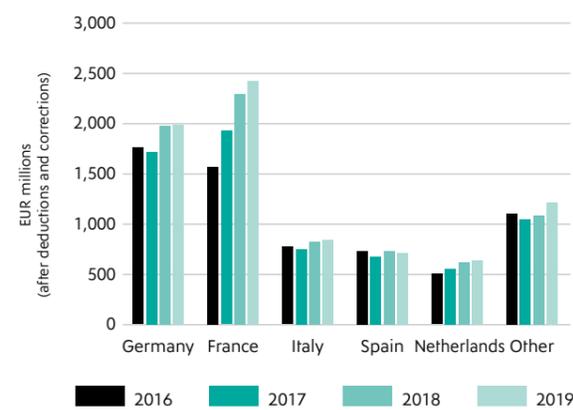
Adoption of Europe's revised Banking Package in April 2019 enabled MREL to be developed, notably by clarifying its application to banking groups. The revised package also introduced the power for authorities to impose moratoria to prevent excessive outflows of resources during a bank resolution process.

Work on transposing BRRD2 into French law has begun, and the ACPR will continue to collaborate with the Treasury on this.

To cover the costs of crises at banking institutions, a Single Resolution Fund (SRF) was set up for institutions within the Banking Union and a National Resolution Fund (NRF) for institutions that remain under the ACPR's exclusive responsibility.

In 2019, institutions licensed in France, the overseas territories and Monaco contributed over EUR 2.4 billion to the two resolution funds. France remains the Banking Union's largest national contributor to the SRF (see chart). Differences in national contributions are attributable to the underlying calculation methods, which are based on the size of the domestic banking sector, the size of individual institutions and risk indicators. The ACPR also calculated and notified institutions of their contributions to the guarantee schemes for deposits, securities and bank guarantees managed by the *Fonds de garantie des dépôts et de résolution* (FGDR – Deposit Insurance and Resolution Fund). Approximately EUR 430 million was raised for the largest of these mechanisms, namely the deposit guarantee scheme. The ACPR also provided input to work by EBA on application of, and potential avenues of improvement for, the Second Deposit Guarantee Schemes Directive.

SRF contributions by licensed institutions in Banking Union member countries



31. All acronyms are explained in the glossary at the end of the report.

The ACPR is responsible for drafting plans for the 114 institutions that remain under its direct supervision. This includes less significant credit institutions (LSIs), investment firms, institutions in overseas territories outside the EU and those based in Monaco.

Continued work paved the way for plans to be adopted for all of the institutions under the ACPR's direct supervision, in

compliance with the SRB's resolution standards. With individual analyses performed for half the population each year, a round of plans for 55 entities was adopted by the Resolution College in 2019. The remaining plans for institutions under ACPR supervision are scheduled to be examined in 2020. To this end, the ACPR adopted an instruction providing for streamlined reporting for institutions covered by the simplified obligations regime.

2. Resolution of insurance groups and institutions

France was one of the first EU countries to introduce a recovery and resolution regime for the insurance sector. The Ordinance of 28 November 2017 handed new powers to the ACPR, which was appointed the resolution authority for insurers.

The regime, which is modelled on the existing regime for credit institutions and investment firms, applies to all institutions subject to the Solvency II prudential regime. It allows the ACPR's Resolution College to obtain enhanced powers over struggling insurers and to take resolution measures to maintain the institution's functions that are considered to be critical to the real economy or to financial stability.

The "preventive" component of the regime, which applies only to the largest institutions (institutions whose total assets have exceeded EUR 50 billion at least once in the past three financial years), includes an obligation for these institutions to prepare preventive recovery plans and for the Resolution College to draw up preventive resolution plans.

In 2019, for the first time, the Resolution College gave its opinion to the Supervision College on the preventive recovery plans submitted by 13 insurance institutions subject to the preventive component. In 2020, with a view to drafting preventive resolution plans, work will be done to deepen the criticality analysis of functions performed by insurance institutions and workshops will be organised with these institutions.

3. Establishing the regime for the resolution of central counterparties (CCPs)

CCPs remain under the direct responsibility of national authorities in Europe.

The ACPR therefore continued its work in this area, notably by organising the fourth meeting of the authorities in the crisis management group for the French CCP, LCH SA. In accordance with the international standards in this regard (cf. FSB Guidance on CCP Resolution, 2017), at the meeting the ACPR presented two resolution strategies for LCH SA. In this respect, the ACPR is currently the only authority in the Banking Union to comply with the targets set by the Financial Stability Board (FSB) in this area.

The ACPR paid special attention to this topic because a draft European regulation on CCP recovery and resolution has been under negotiation since 2016. In 2019, EU Member States adopted a general approach to the draft legislation in the Council, making it possible to launch the trilogue procedure. The regulation is expected to come into effect in 2020.

Internationally, the ACPR took part in work by the FSB's specialist group, which drafted supplementary guidance to the 2017 guidance on CCP resolution. The new guidance deals in particular with the treatment of shareholders and the financial resources needed to support resolution, and was put out to public consultation in 2019. It is expected to be published in 2020.

Chapter 7

Activity of the Sanctions Committee



2019 key figures

8

NEW CASES

10

RULINGS
HANDED DOWN

11

MONTHS TAKEN TO HANDLE
AN AVERAGE CASE

1. Overview

Eight sets of disciplinary proceedings were referred to the Committee in 2019, up from seven in 2018 but down from around ten in the four previous years. The Committee handed down ten decisions,³² including nine rulings on the merits and one ruling on a request for anonymity in a decision published on the ACPR website. Of the nine rulings on the merits, six had to do with AML/CTF breaches, while the other three concerned customer protection. The Committee ordered one striking-off, one two-year ban on selling insurance contracts on French territory, and seven reprimands, six of which were accompanied by fines. Fines issued in 2019 ranged from EUR 20,000 to EUR 2 million. Total fines came to EUR 4.72 million, which was considerably lower than in the previous two years (EUR 69.8 million in 2018 and EUR 25.9 million in 2017), due to the nature of the cases and the size of the affected institutions.

Two of the ten rulings handed down this year were not published on the ACPR website:

- Ruling No. 2018-07 of 13 March 2019 with regard to the above-mentioned application to review a final ruling;
- Ruling No. 2018-06 of 11 July 2019, which was the subject of an application for suspension before the *Conseil d'État*. This application resulted in the urgent applications judge ordering execution of the decision to publish the sanction ruling in non-anonymous form in the ACPR register to be suspended.³³ These two rulings are now the subject of appeals on the merits before the *Conseil d'État* (see below).

The average time between when a case was brought before the Committee and when notification of the sanction ruling was provided was 11 months compared with 12 months in the previous year.

2. Main lessons from the 2019 rulings

2.1 Duty of insurance intermediaries to provide information in non-face-to-face sales

In its *Provitalia Ruling No. 2018-02 of 15 May 2019* (reprimand and fine of EUR 20,000), the Committee once again ruled on the duty of intermediaries to provide information during non-face-to-face sales of insurance contracts.³⁴ During such sales, the applicable legal provisions require that the consumer must receive certain information in writing or in another durable medium before making any commitment. An exemption is however permitted to this obligation if the contract was entered into at the consumer's request using a remote communication technique not allowing such information to be transmitted. In its ruling, the Committee reiterated that, in the case of an unsolicited phone call, the intermediary is not covered by the exemption if it initiated the telephone conversation that led to the sale of the insurance policy. In this situation, the intermediary must provide the requisite precontractual information in a durable medium before signing the contracts, or face a disciplinary sanction.

2.2 Obligation to execute insurance contracts

In its *Elite Insurance Company Limited Ruling No. 2019-01 of 25 November 2019* (two-year ban on selling insurance contracts on French territory), the Committee deemed that a participant doing business in the French construction insurance market under the freedom to provide services had failed to meet its obligations under Article L. 113-5 of the Insurance Code after it stopped handling claims submitted in France over several months. The Committee pointed out that while this article is derived from long-established laws and couched in general terms, it nevertheless forms the basis for the requirement placed on the insurer to pay the agreed benefits after the risk materialises or the contract matures.³⁵

2.3 Compliance with the requirements to identify deceased life insurance policyholders and conduct a search for beneficiaries

In its *Tutélaire Ruling No. 2019-02 of 10 December 2019*³⁶ (reprimand and fine of EUR 500,000), the Committee reiterated³⁷ that obligations placed on insurers in terms of identifying deceased policyholders and conducting a search for beneficiaries, which were introduced into the Mutual Insurance Code and also in the Insurance Code by Act No. 2007-1775 of 17 December 2007 and amended by Act No. 2014-617 of 13 June 2014, apply to commitments "whose execution depends on the length of human life", without any restriction. Their scope, which cannot be solely reduced to life insurance contracts with a saving component, thus encompasses permanent and total disability / death and term death insurance. These types of arrangements qualify as commitments whose execution depends on the length of human life, even if they are incorporated in death and disability contracts including non-life coverage.

32. [The Committee's rulings, which are published in the ACPR's official register, may also be consulted in the compendium of previous decisions posted on the Authority's website.](#)
33. [Conseil d'État, urgent applications judge, Ordinance No. 432874, Bank X..., of 7 August 2019.](#)
34. Cf. also [Santiane Ruling No. 2015-09 of 22 December 2016](#) and [SGP Ruling No. 2017-09 of 26 February 2018](#).
35. [Allianz Vie Ruling No. 2014-01 of 19 December 2014.](#)
36. Tutélaire is appealing this ruling before the *Conseil d'État*.
37. The Committee has previously stressed the wide scope of obligations arising from the Act of 17 December 2007, in particular regarding the obligation to determine whether the policyholder has died (see [Allianz Vie Ruling No. 2014-01 of 19 December 2014](#) and [Groupama Gan Vie Ruling No. 2014-09 of 25 June 2015](#)).

2.4 Compliance with AML/CTF obligations

In its *Transaction Services International (TSI) Ruling No. 2018-03 of 2 July 2019* (reprimand), the Committee ruled for the first time on the exemption from certain AML/CTF due diligence obligations available to electronic money media that may be loaded with cash, when such cash is used to acquire goods and services "within a limited network of accepters" or to purchase "a limited range of goods and services" [point 5° of Article R.561-16 of the Monetary and Financial Code (MFC)]. The Committee stressed that these two notions were not recent, obscure or ambiguous. It said that an institution that was unable to satisfy either one of these criteria would not be entitled to the exemption from due diligence obligations placed on electronic money issuers under c) of point 5° of MFC Article R. 561-16. Furthermore, as regards the traceability of loading transactions for electronic money media, which is required by Article 67 of the Order of 3 November 2014, the Committee considered that, to meet its obligation, an institution issuing electronic money should retain the characteristics of loading transactions and in particular the settlement method, i.e. cash or another means.³⁸ Overall, the Committee ruled that all the complaints were substantiated and found that the institution had substantially

failed to meet its AML/CTF obligations. The fact that no fine was imposed was due to the financial position of the institution at the ruling date.

In its *Raguram Ruling No. 2018-05 of 8 April 2019*, the Committee struck off a money changer after finding comprehensive and persistent shortcomings in its AML/CTF system and determining that planned corrective actions were inadequate and would not allow the institution to comply quickly with its core obligations. The Committee has previously pointed out³⁹ that the money changing business is highly exposed to the risk of being used for money laundering and terrorist financing, with the result that money changers must be especially watchful for this risk.

Three other AML/CTF rulings were published: *Western Union Payment Services Ireland Limited Ruling No. 2017-10 of 10 January 2019* (payment institution – reprimand and fine of EUR 1 million); *Caisse d'Épargne Provence Alpes Corse Ruling No. 2018-04 of 13 June 2019* (credit institution – reprimand and fine of EUR 2 million); and *Prepaid Financial Services Limited Ruling No. 2018-08 of 24 September 2019* (electronic money institution – reprimand and fine of EUR 1 million).

3. Appeals against Sanctions Committee rulings

- [Order of 15 November 2019, Société La Banque Postale, No. 428292](#)

In 2019, the *Conseil d'État* considered just one appeal against a Committee ruling, which it rejected. In *La Banque Postale (LBP) Ruling No. 2018-01 of 21 December 2018*,⁴⁰ LBP, a credit institution, was handed a reprimand and a fine of EUR 50 million because of shortcomings in the asset freeze arrangements applied to its national money orders business. The *Conseil d'État* considered that the provisions governing asset freeze arrangements did indeed require LBP to conduct a preliminary check on transactions involving this product carried out on behalf or at the request of a person or entity, whether or not said person or entity was an account-holder with the bank. It also considered that corrective measures had not been taken in a timely manner. The *Conseil d'État* also ruled that the ACPR was competent to issue Instruction No. 2012-I-04 of 28 June 2012 on information about the AML/CTF system and that the transmission of faulty information to the ACPR under this instruction constituted a sanctionable breach. Regarding the proportionality of the fine, the *Conseil d'État* reiterated that,

when asked to consider an appeal against a fine handed down by the ACPR Sanctions Committee, it was required to check whether the amount of the fine was, at the time when it was handed down, proportionate to the severity of the breaches committed, as well as to the behaviour and position, particularly the financial position, of the person being sanctioned. On this point, it considered that LBP could not refer to the amount of fines imposed by the Committee in other cases. It then stressed that the legislation governing asset freeze arrangements in the context of AML/CTF was designed to meet "the overriding general interest of preserving law and order and public safety". In this regard, the claims against LBP were deemed to be "particularly serious, even if, after the fact, only a handful of non-compliant transactions, involving a small combined amount, were discovered".

Au 31 December 2019, two appeals against Committee rulings were pending before the *Conseil d'État*. These appeals were launched against the abovementioned Rulings No. 2018-07 of 13 March 2019 and No. 2018-06 of 11 July 2019.

38. On this point, see also [Prepaid Financial Services Limited Ruling No. 2018-08 of 24 September 2019](#).
39. Cf. [Quick Change Ruling No. 2015-07 of 4 July 2016](#) and [Société d'exploitation Merson Ruling No. 2016-03 of 15 December 2016](#).
40. See ACPR 2018 annual report, p.57.

Chapter 8

Budget and activity monitoring



2019 key figures

EUR 199.2

MILLION TOTAL BUDGET

1. Budget of the ACPR

In accordance with MFC Article L. 612-18, the ACPR is financially independent within the limits of the contributions paid by institutions under its supervision. The ACPR's budget consists of all of its receipts and expenses, and is an annex to the budget of the Banque de France.

Pursuant to MFC Article L. 612-19, the ACPR relies on support functions provided by the Banque de France in order to benefit from the pooling of certain services (property management, IT, personnel management, etc.) whose costs to the ACPR are measured on the basis of the Banque de France's cost accounting.

The Banque de France also incurs capital expenditure, with the ACPR budget including the associated depreciation and amortisation expenses.

The report on the ACPR budget outturn for 2019 was submitted to the Audit Committee on 20 February 2020 and approved by the College at its plenary meeting of 2 March.

The Authority ended 2019 with a surplus of EUR 11.7 million. After taking into account the surplus, the balance of contributions carried forward totalled EUR 38.5 million.

Summary of 2018 and 2019 expenses and income

| Expenses and income in EUR millions | 2018 | 2019 | 2019 / 2018 | |
|--|---------------|---------------|--------------|-------------|
| | | | Amount | % |
| Contributions from supervised institutions | 195.0 | 195.00 | 0.00 | 0 |
| Caisse des dépôts et consignations | 2.60 | 2.50 | -0.10 | -3.8 |
| Other income | 1.79 | 1.73 | -0.06 | -3.5 |
| Income (A) | 199.39 | 199.23 | -0.16 | -0.1 |
| Personnel costs | 107.94 | 110.36 | 2.43 | 2.2 |
| IT | 25.28 | 25.30 | 0.02 | 0.1 |
| Property | 29.11 | 19.96 | -9.15 | -31.4 |
| Other expenses | 27.78 | 29.84 | 2.06 | 7.4 |
| Amortisation and depreciation | 3.00 | 2.09 | -0.91 | -30.3 |
| Expenses for the year (B) | 193.10 | 187.55 | -5.55 | -2.9 |
| Budget balance (A)-(B) | 6.29 | 11.68 | 5.39 | 85.7 |

1.1 Receipts

Receipts from contributions for the cost of supervision were up 3.5% at EUR 204.8 million and were recorded in the amount of the tax allocation cap set by the 2019 Budget Act (EUR 195 million). The amount exceeding the cap, which is substantially larger than it was last year (EUR 9.8 million versus EUR 2.9 million), will be paid back to the general State budget.

The increase in contributions from banks (3.4% increase) and insurers (3.7% increase) was due to increases in their respective bases (capital requirements for banks and life and non-life premiums and contributions for insurers).

At the end of the period, the overall collection rate for contributions due in 2019 was 99.5%, on par with the rate in 2018.

1.2 Expenses

Expenses came to EUR 187.5 million in 2019, a 3% decrease. At 1,042 FTE staff, the year-end headcount was sharply up on 2018 and close to the target of 1,050 thanks to 162 hires over the year. On an annualised average basis, however, the headcount fell by 11 FTE (985 in 2018, 974 in 2019), as many hires were finalised at the end of the year. Despite the negative volume effect, personnel expenses rose by 2.2%, for two reasons:

- a 2.2% increase owing to the age and job skill coefficient, which was offset by negative noria effect linked to the replacement of departing employees with staff members earning lower wages, and
- the impact of a number of financial measures implemented by the Banque de France in 2019, including the new profit-sharing agreement and the special purchasing power bonus.

An ambitious hiring drive in 2019

The ACPR took an innovative and ambitious approach to hiring in 2019. To meet its goal of 150 hires through competitive examinations or on contracts, the ACPR stepped up efforts to increase its appeal. It held its first ever jobdating event in April. Buoyed by the success of the event, which

attracted 120 candidates, the ACPR held another one six months later and involved the Banque de France this time. The ACPR also attended job fairs organised by leading business schools around the country. And it put on an innovative campaign based around social media videos and

messages, which helped to raise the profile of the ACPR's policy. These efforts resulted in 162 hires (80 women, 82 men) with a wide variety of backgrounds, including engineers, finance specialists, auditors, legal experts and actuaries, and offering different levels of expertise and experience.

Overheads declined primarily because of savings on property expenses following the ACPR's move to new offices, which led to a significant reduction in rents and related expenses.

The end of accelerated amortisation related to the old offices is the reason for the sharp reduction in amortisation and depreciation expenses.

2. Activity monitoring

The ACPR's strategy derives from its statutory objectives, which are to ensure the stability of the financial system and protect the customers of institutions under its supervision. The ACPR has broken this strategy down into five strategic themes:

- Undertake prudential supervision aimed at preventing systemic risks (Goal 1 below)
- Strengthen protection for financial consumers (Goal 2)

- Strengthen the ACPR's proactive role in the area of AML/CTF (Goal 3)
- Help define and implement financial system regulations (Goal 4)
- Monitor the efficiency of the ACPR's actions (Goal 5)

Goal 1

Monitor the impact of changes in the risks of supervised entities, and more specifically those of the largest or most vulnerable institutions

The ACPR General Secretariat initially planned to conduct 119 on-site prudential inspections, including 49 for the ECB. The vast majority of these inspections, whose number was adjusted over the year to reflect current developments and staffing, were carried out. In the **banking sector**, 47 inspections requested by the ECB were begun, compared with 50 in 2018. The programme of risk and solvency inspections at institutions under the ACPR's direct supervision was executed (8 in 2019, compared with 18 in 2018). In the **insurance sector**, the ACPR carried out 46 inspections, compared with 74 in 2018. Although the initial inspection programme was not executed in full, inspections were carried out in all the thematic areas identified under the supervisory priorities (low interest rates and risk of an increase in rates, governance, Solvency II, technical balance in health/death & disability).

Indicator 1.1: Completion rate of prudential inspection programmes in insurance



Indicator 1.2: Completion rate of prudential inspection programmes in banking



Goal 2

Monitor business practices

A total of 104 inspections were begun in 2019 compared with 77 in 2018, while the completion rate was slightly higher. These investigations cover a huge range of themes and a large number of entities, including over 53,000 intermediaries.

Indicator 2.1: Completion rate of inspection programmes in the area of business practices





Goal 3
Strengthen the ACPR's AML/CTF activities through inspections and measures in support of new standards

The ACPR published two sets of guidelines: one with the Treasury on implementing asset freeze measures, the other on customer identification, ID verification and knowledge.

Reflecting a more ambitious initial programme, 34 on-site inspections were carried out, more than in 2018 (23). The thematic areas covered by the inspections included oversight of asset freeze obligations and AML/CTF risks associated with using cryptoassets.

Indicator 3.1: Number of sector enforcement principles and guidelines published by the ACPR

| Multi-year target | 2018 actual | 2019 actual |
|-------------------|---------------------------------------|----------------------|
| 3 | 3 sets of guidelines and 2 principles | 2 sets of guidelines |

Indicator 3.2: Completion rate of AML/CTF inspection programmes



Goal 4
Monitor regulatory developments and how well supervised institutions adapt to them

On the banking side, the priority was to promote European convergence by lobbying for a risk-based approach and completion of the Banking Union, while maintaining international standards for Basel III transposition. In insurance, efforts were directed towards encouraging uniform application of the Solvency II regime and preparing for the review of the directive in 2020. The ACPR supported efforts to strengthen EBA's role in AML/CTF and continue fostering convergence

in European supervision in this area towards a subsidiarity approach that leaves the requisite room for European-level intervention, once again based on risk analysis. Convergence was also promoted in relation to the Capital Markets Union initiative and the supervision of firms doing business under the freedom to provide services.



Goal 5
Manage the time taken to undertake inspections

The total time taken to undertake inspections increased in 2019, as the ACPR worked through the stock of past years' inspections.

Indicator 5.1: Total time taken to undertake inspections



Acronyms used – 2019 annual report

| | |
|---------------|---|
| ACPR | <i>Autorité de contrôle prudentiel et de résolution</i> (Prudential Supervision and Resolution Authority) |
| AMF | <i>Autorité des marchés financiers</i> (Financial Markets Authority) |
| API | Application programming interface |
| CCP | Central CounterParty |
| COREP | COmmon solvency ratio REPorting |
| CRR | Capital Requirements Regulation |
| EBA | European Banking Authority |
| ECB | European Central Bank |
| EIOPA | European Insurance and Occupational Pensions Authority |
| EMIR | European Market Infrastructure Regulation |
| FATF | Financial Action Task Force |
| FINREP | FINancial REPorting FinTech Financial technology |
| FSB | Financial Stability Board |
| HCSF | <i>Haut Conseil de stabilité financière</i> (High Council for Financial Stability) |
| IFRS | International Financial Reporting Standards |
| LCR | Liquidity Coverage Ratio |
| MREL | Minimum Requirement for Own Funds and Eligible Liabilities |
| PACTE | <i>Plan d'action pour la croissance et la transformation des entreprises</i> (Action Plan for Business Growth and Transformation) |
| SRB | Single Resolution Board |
| SSM | Single Supervisory Mechanism |

Annexes

Annex 1: Decisions taken by the Supervisory College concerning individual entities in 2019

Annex 2: List of decisions on general issues published in 2019 in the ACPR's official register or on its website

ANNEX 1

Decisions taken by the Supervisory College concerning individual entities in 2019

| | TOTAL | of which | BANKING SECTOR | INSURANCE SECTOR |
|--|-------|----------|----------------|------------------|
| Licences and authorisations | 229 | | 152 | 77 |
| Supervision (monitoring of prudential ratios, exemptions) | 97 | | 60 | 37 |
| Administrative enforcement measures | 10 | | | |
| <i>Warning</i> | | | | |
| <i>Formal notice (issued by the Chairman acting under delegated authority)</i> | 11 | | 9 | 2 |
| <i>Request for recovery programmes</i> | | | | |
| <i>Placement under special supervision Limitation of activity</i> | | | | |
| <i>Placement under provisional administration</i> | | | | |
| <i>Reappointment of a provisional administrator</i> | | | | |
| <i>Other</i> | | | | |
| Other binding measures | 57 | | | |
| <i>Appointment of a liquidator</i> | 2 | | 2 | |
| <i>Reappointment of a liquidator</i> | 1 | | 1 | |
| <i>Injunction on capital requirement</i> | 51 | | 51 | |
| <i>Request for short-term funding plans</i> | | | | |
| <i>Injunction with coercive fines</i> | | | | |
| <i>Other</i> | 3 | | | 3 |
| Initiation of disciplinary proceedings | 9 | | 5 | 4 |
| Other measures concerning individual entities (including initiation of joint decision-making processes, opening of <i>inter partes</i> proceedings, etc.) | 36 | | 20 | 16 |
| Total decisions concerning individual entities | 438 | | 299 | 139 |

ANNEXE 2

List of decisions on general issues published in 2019 in the ACPR's official register or on its website

INSTRUCTIONS

| | |
|------------------------------|--|
| Instruction 2019-I-01 | creating the application form for an exemption from the fallback mechanism applicable to a dedicated interface for access to accounts held by an account-managing payment service provider, amended by Instruction 2019-I-21 of 23 April 2019 |
| Instruction 2019-I-02 | repealing several instructions |
| Instruction 2019-I-03 | amending Instruction 2016-I-01 of 14 January 2016 establishing application thresholds for quarterly information submissions for supervised institutions and Instruction 2016-I-02 of 14 January 2016 setting out terms of exemption for institutions referred to in Article 3 of Instruction 2016-I-01 |
| Instruction 2019-I-04 | amending Instruction 2016-I-16 of 27 June 2016 on annual prudential reports to be submitted by institutions under the ACPR's supervision covered by the "Solvency II" regime |
| Instruction 2019-I-05 | amending Instruction 2018-I-12 of 11 July 2018 on the prudential documents to be provided annually and quarterly by supplementary occupational pension institutions |
| Instruction 2019-I-06 | on the prior notification of the ACPR in the event of the outsourcing of activities or important or critical functions or of material changes affecting these arrangements |
| Instruction 2019-I-07 | amending Instruction 2017-I-24 of 21 December 2017 on the submission to the ACPR of various accounting, prudential and disclosure documents (banking sector) |
| Instruction 2019-I-08 | amending Instruction 2011-I-14 of 29 September 2011 on the supervision of risks to home loans in France |
| Instruction 2019-I-09 | amending Instruction 2015-I-12 of 21 April 2015 on the communication to the ACPR of the international Legal Entity Identifier by insurance institutions |
| Instruction 2019-I-10 | amending Instruction 2015-I-15 of 30 June 2015 on the contents of applications for administrative licences, or licence extensions, for insurance and reinsurance institutions |
| Instruction 2019-I-11 | amending Instruction 2015-I-17 of 30 June 2015 on the contents of the notification pack prior to the affiliation, withdrawal or exclusion of a group mutual insurance company (SGAM), a mutual insurance union group (UMG) or a group social protection insurance company (SGAPS), amended by Instruction 2018-I-15 of 11 July 2018 |
| Instruction 2019-I-12 | amending Instruction 2015-I-34 of 17 December 2015 on information to be submitted to the ACPR in connection with the acquisition or extension of an ownership interest in an insurance or reinsurance undertaking, or in a group insurance company, amended by Instruction 2018-I-08 of 11 July 2018 |
| Instruction 2019-I-13 | amending Instruction 2016-I-06 of 11 March 2016 on the content of applications to enter into or amend risk transfer agreements, amended by Instruction 2018-I-10 of 11 July 2018 |
| Instruction 2019-I-14 | amending Instruction 2017-I-07 of 19 July 2017 on the contents of applications for administrative licences, or changes to licences, for supplementary occupational pension funds, supplementary occupational pension institutions, mutual insurers and occupational pension unions, amended by Instruction 2018-I-14 of 11 July 2018 |
| Instruction 2019-I-15 | amending Instruction 2017-I-20 of 23 November 2017 replacing Instruction 2015-I-16 on documents to be produced in connection with the carrying on of insurance business under the freedom of establishment or the freedom to provide services in another European Economic Area country |
| Instruction 2019-I-16 | amending Instruction 2013-I-09 of 12 July 2013 on the forms for licence applications, agent disclosures, notification under the freedom of establishment and the freedom to provide services, notification of use of an agent or distributor in a Member State of the European Union or in another State party to the European Economic Area Agreement, for electronic money institutions |
| Instruction 2019-I-17 | amending Instruction 2013-I-13 of 12 November 2013 on the forms for reporting a credit institution licence exemption for the provision of banking payment services, reporting an electronic money institution licence exemption for the issue and management of electronic money, and reporting a payment institution licence exemption for the provision of payment services, amended by Instructions 2018-I-01 and 2018-I-02 of 21 February 2018 |

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| Instruction 2019-I-18 | amending Instruction 2013-I-16 of 12 December 2013 on the communication by certain reporting institutions of their international Legal Entity Identifier to the ACPR |
| Instruction 2019-I-19 | amending Instruction 2014-I-05 of 2 June 2014 on the information to be provided pursuant to Article 47 of the Order of 2 May 2013 on the prudential regulation of electronic money institutions |
| Instruction 2019-I-20 | amending Instruction 2018-I-07 of 9 July 2018 on licence withdrawal, authorisation and registration of credit institutions, financing companies, third-party financing companies, investment firms, payment institutions, account information service providers and electronic money institutions |
| Instruction 2019-I-21 | amending Instruction 2019-I-01 of 18 February 2019 creating the application form for an exemption from the fallback mechanism applicable to a dedicated interface for access to accounts held by an account-managing payment service provider |
| Instruction 2019-I-22 | repealing Instruction 2011-I-17 of 23 November 2011 on the forms for licences and simplified licences for payment institutions, for registration as an account information service provider, for reporting a payment services provider agent and requesting a licence exemption under the terms set down in Articles L. 521-3-1 and L. 525-6-1 of the Monetary and Financial Code |
| Instruction 2019-I-23 | on the business practices and customer protection questionnaire |
| Instruction 2019-I-24 | amending Instruction 2017-I-11 of 26 June 2017 on information about anti-money laundering and counter-terrorist financing arrangements |
| Instruction 2019-I-25 | repealing Instruction 2015-I-20 of 2 October 2015 on the deadline for submitting the market-making indicators laid down in the Order of 9 September 2014 implementing Title I of Act 2013-672 of 26 July 2013 (the Banking Separation and Regulation Act) |
| Instruction 2019-I-26 | on the submission of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees |

POSITIONS

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| Amendment to Position 2012-P-02 | on placement and marketing of financial instruments |
| Amendment to Position 2014-P-08 | on placement without a firm commitment and crowdfunding |
| Position 2019-P-01 | on assessing the reputation of members of the board of directors or supervisory board of insurance sector institutions |

RECOMMENDATIONS

Recommendation 2019-R-01 on advertising communications for life insurance policies
Amendment to Recommendation 2016-R-04 of 13 December 2016 on marketing of unit-linked life insurance policies consisting of complex financial instruments
Amendment to Recommendation 2016-R-02 of 14 November 2016 on handling of complaints
Amendment to Recommendation 2014-R-01 of 3 July 2014 on life insurance policy distribution agreements
Amendment to Recommendation 2015-R-04 of 2 March 2015 concerning the marketing to retail customers of loans exposed to foreign exchange risk
Amendment to Recommendation 2013-R-01 of 8 January 2013 on gathering customer information in the framework of the duty to provide advice and a personalised recommendation service in life insurance
Amendment to Recommendation 2012-R-02 of 12 October 2012 on the marketing of time deposit accounts
Amendment to Recommendation 2011-R-03 of 6 May 2011 concerning the marketing of unit-linked life insurance contracts, with debt securities issued by an entity that is financially linked to the insurance undertaking

GUIDELINES

Update of joint guidelines by the Treasury and the ACPR on implementing asset freeze measures



Director of publication: Dominique Laboureix
Photos: Emilie Albert – Philippe Jolivel / Banque de France –
Arnaud Kehon
Design and production: Diadeis
Registration of copyright: mai 2020
ISSN: 2416-8114