




2010
Annual Report



The annual report reviews the activity of the Authority and its departments and provides information about its budget (dues paid to cover supervision and other main items of expenditure). It also presents noteworthy developments in terms of authorisations and restructurings of existing firms, arranged by banking and insurance sector, during the year under review.

A statistical section will be added in September-October 2011, allowing for current constraints in production of statistics.

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STATUTORY OBJECTIVES AND ORGANISATION

1 / PROFILE

The Autorité de contrôle prudentiel (ACP) was formed in March 2010 from the merger of the licensing authorities (Comité des entreprises d'assurances, for insurance institutions, and the Comité des établissements de crédit et des entreprises d'investissement, for credit institutions and investment firms) and the supervisory authorities (Autorité de contrôle des assurances et des mutuelles, in the insurance sector, and the Commission Bancaire, in banking).

The ACP's statutory objectives are to maintain financial stability and to provide protection for banks' customers and for insurance policyholders and beneficiaries. The ACP also represents France for matters within its jurisdiction in Europe as well as in international negotiations.

This new, independent authority is attached to the Banque de France. Its organisational and operating structure has been designed to endow it with the competencies needed to carry out its duties and to ensure effective, consistent decision-making and rapid responses. More than 900 staff members are working to make France's supervisory system more effective and thus serve the public interest.





2 / EDITORIALS

MESSAGE FROM CHRISTIAN NOYER

the Governor and ACP Chairman.

As the world economy showed signs of a broad-based recovery, the earnings and solvency of French banks and insurers improved

French banks posted higher earnings in 2010 as they benefited from the worldwide economic recovery. The five leading banking groups¹ reported aggregate net income after minority interests of EUR 22 billion, an 89% increase on the previous year.

Income increased in almost every sector, especially retail banking, which accounted for more than half of net banking income. However, the most noteworthy development was the substantial decline in risk-related costs, which fell by 36% compared with 2009. Lending activity in France was boosted by the economic recovery and the consequent decline in the number of business failures, which were down by 4.6% in the twelve months to the end of November 2010. Furthermore, exposures deemed to be “sensitive”, such as complex securitisation products used in corporate finance and investment banking, which had given rise to losses, asset impairment and provisions over the last three years, declined substantially; they contracted by 10%, or EUR 8.9 billion, between end-2009 and end-2010. Tensions on the sovereign debt market affected banks’ business environment, but support measures implemented in Europe, notably the creation of the European Financial Stability Facility, helped to mitigate the adverse effects.

By allocating a large share of their profits to reserves, banks pushed their solvency ratios to historic highs. The average Tier 1 capital ratio rose from 10% in 2009 to

10.4% in 2010. Credit institutions also made a commitment to continue building up their capital at a rapid pace ahead of the entry into force of the Basel 3 reforms.

The earnings of French insurance and mutual insurance companies also showed a favourable pattern, but with sharper contrasts. The life insurance sector posted a positive inflow of net new funds. Accident and liability insurance saw a slight improvement in premium income in 2010, but the year saw massive claims related to events in the first six months, notably Hurricane Xynthia and flooding in the Var region.

Under the circumstances, insurance and mutual insurance companies took care to increase their capital and improve their solvency ratios.

But persistent instability requires all market participants to be very cautious and demands heightened supervisory vigilance

Generally speaking, the institutions supervised by the ACP proved very resilient at the beginning of the crisis, but heightened vigilance is required as long as uncertainties prevail:

- banks’ ability to find market financing (i.e. other than direct refinancing from central banks) relatively quickly and at reasonable cost is a major factor in financial stability. In the short term, owing to the liquidity ratio reform introduced in France in 2010 and the gradual deployment of the future liquidity ratios proposed by the Basel Committee, starting

¹ BNP PARIBAS, SOCIÉTÉ GÉNÉRALE, GROUPE CRÉDIT AGRICOLE, BPCE, GROUPE CRÉDIT MUTUEL

in 2015, credit institutions will have to adopt strategies to cope with unforeseen needs or needs that market financing is unlikely to cover immediately. In the medium term, banks will also have to renew their long-term funding, since a substantial portion of their debt will mature in the coming years.

- the increase in claims (particularly non-life claims) and the exceptionally low long-term interest rates that have pushed down investment returns, combined with keen price competition, have squeezed insurance institutions' profit margins. If the low interest rates persist, insurance institutions, especially life insurers, may have to adapt their investment policies and financial product marketing policies to match their inflows of new funds. The ACP will be very vigilant in this regard;
- another possible weak point is the risk of a swingeing adjustment in real estate prices following a sharp run-up in recent months, caused among other things by extremely low lending rates and a mismatch between housing supply and demand;

To cope with these challenges, banks and insurers will need to continue managing their risks robustly. For this they will need to establish and follow appropriate risk tolerance policies and continue investing sufficiently in information systems so that they can analyse various risk exposures precisely and monitor appropriate risk limits rigorously and continuously. All these factors, along with effective crisis management plans, play a critical role in today's complex environment.

At the international level, the outlines of future financial regulations are taking shape and should strengthen the resilience of participants throughout the sector

On 16 December 2010, the Basel Committee published Basel 3, a new set of rules for banks and bancassurance groups. The new

prudential requirements are aimed at increasing the level and quality of capital, as well as at improving risk measurement. For the first time at the international level, these rules deal with creating a quantitative liquidity risk framework. Before this new framework is adopted and the new rules finalised, an observation period will be needed to assess the adjustments that have to be made. Work on transposing these rules in Europe has already started. The ACP will keep close watch to ensure that similar work is under way on other continents.

In the insurance sector, preparations are continuing for technical measures needed to implement the European Directive of 17 December 2009, known as Solvency II. These measures are broad in scope and include definition of own funds, capital charges and requirements for obtaining supervisory authorisation for internal models. The quantitative impact study conducted in 2010 with large-scale participation by French insurance institutions – more than 500 entities took part – will make it possible to finalise calibration of the framework in 2011. The ACP is fully involved in this work. It has made every effort to improve standards and support participants' technical preparations to ensure that the new regulations come into force under optimum conditions.

The institutions supervised by the ACP will see major changes in their regulatory environment with Basel 3 and Solvency II. These changes are intended to improve their resilience amid uncertain economic conditions. International discussions are continuing and other measures are bound to be adopted, with regard to systemically important institutions, for example.

The ACP was founded in 2010 against the backdrop of reform of the architecture of European financial supervision, which enhances financial stability

The architecture of banking and insurance supervision has evolved consider-

ably. In France, the ACP was founded by the Executive Order of 21 January 2010 and it was inaugurated on 9 March 2010. The ACP is attached to the Banque de France and, to meet today's challenges, its powers encompass and expand those of the former Commission Bancaire, the Autorité de contrôle des assurances et des mutuelles (ACAM), the Comité des établissements de crédit et des entreprises d'investissement (CECEI) and the Comité des entreprises d'assurance (CEA).

The ACP has three core statutory objectives: maintaining the stability of the financial sector through supervision of banking and insurance risks; protecting consumers through new powers, including supervision of the marketing of financial products; and preparing international prudential standards, in a time of unprecedented regulatory change.

Thorough preparations enabled the ACP to work effectively from the outset, fully aware of the challenges facing it. The ACP worked on achieving mutual convergence of supervisory good practices, with due respect for the specific features of each sector. It has developed consistent analysis frameworks, such as the stress tests to be conducted simultaneously in the banking and insurance sectors in 2011.

In Europe, 2010 witnessed the founding of the European System of Financial Supervisors (ESFS), with the adoption on 15 December of the European Regulations implementing the recommendations of the 2009 de Larosière Report. Starting on 1 January 2011, three new supervisory authorities for banking (European Banking Authority – EBA), insurance (European Insurance and Occupational Pensions Authority – EIOPA) and capital markets (European Securities and Markets Authority – ESMA, which is also responsible for supervising rating agencies) replaced the previous committees of supervisors: CEBS, CEIOPS and CESR. The new authorities wield substantially wider powers than the previous committees, especially for drafting technical standards, sharing information and settling disputes. The new architecture will foster

enhanced cooperation between supervisors and harmonisation of practices. The new architecture is rounded out by the European Systemic Risk Board (ESRB), which is backed by the European Central Bank and deals with “macroprudential” issues and risks affecting the entire European financial system.

This new organisational structure represents a major advance for Europe. Its implementation on 1 January 2011 will strengthen financial stability. The ACP plans to play its full role in this new framework.





INTERVIEW WITH DANIELÈ NOUY

Secretary General of the ACP

1. HOW MUCH HAS BEEN ACCOMPLISHED ONE YEAR ON FROM THE FOUNDING OF THE ACP?

The ACP was inaugurated on 9 March 2010. Thanks to careful preparation, the teams from the General Secretariats of the former authorities started working together from the very first day to prepare the meetings of the ACP Colleges. Everything went very quickly, with the teams moving into the premises at 61 Rue Taitbout, the former headquarters of the ACAM, in June, and then taking over a nearby building in the Rue de Châteaudun in February 2011. The computer systems were integrated with the Banque de France's systems on 1 July 2010. The integration of the teams and systems provided the ACP with critical mass and a portfolio of technologies and security standards that are among the best in Europe. Yet, the ACP still has its own teams and its own capacity for IT development. The ACP has built up its manpower, with more than 100 new employees hired through competitive exams, internal transfers from the Banque de France and recruitment on the labour market. The recruitment drive will continue in 2011, with the priority on carrying out the ACP's new missions, such as its responsibility for supervising business practices, along with preparing and implementing regulatory reforms.

2. WHAT ARE THE ACP'S PRIORITIES IN 2011?

Let me remind you of roadmap given to the ACP at its inauguration on 9 March 2010:

A/ A successful merger to serve the general interest

The ACP was up and running from day one. Today, it has:

- a College with 19 members when meeting in plenary session, who have expertise at the highest level in many fields,
- a Sanctions Committee with six members that is totally separate from the College to ensure greater legal certainty,
- a General Secretariat with a staff of nearly 950 that is fully operational and monitors risks across the entire financial, banking and insurance sector.

B/ Successfully overcoming the crisis

The ACP stepped up its efforts to ensure financial stability by expanding its work on measuring and monitoring risk through ongoing supervision and on-site inspections. This work will be just as intense in 2011 as it was in 2010. In addition, the ACP played a very active role in conducting Europe-wide stress tests of banks and insurance institutions in 2010.

C/ Involvement in reform of the international financial system

The ACP plays an active role in drafting new European and international regulations, making proposals and defending France's models and practices, which proved their resilience during the crisis. We shall continue this action within the new European supervisory agencies inaugurated at the beginning of 2011.

D/ Consumer protection

The ACP fulfils its broader responsibilities for supervising financial product marketing with great energy and vigilance. It ensures compliance not only with laws and regulations, but also with the good practices of each industry. On-site inspections focusing on these matters were carried out in several undertakings in 2010 and there will be more in 2011.

The legislature enhanced cooperation between the ACP and the AMF by setting up a Joint Body to coordinate both authorities' activities in order to assist consumers in an increasingly complex environment. The Body relies on the Banque de France network to answer consumers' telephone queries through its "Assurance Banque Epargne Info Service" hotline, which receives nearly 1,000 calls per week. This joint AMF/ACP/Banque de France structure is fully operational.

3. WHAT ARE THE CHALLENGES FACING THE INSURANCE INDUSTRY?

We should welcome the fact that French insurance institutions proved their resilience in the face of the financial crisis. Their earnings were satisfactory overall, despite a spate of natural disasters and an increase in claims that affected non-life business. New funds invested in life insurance grew substantially in 2010, benefiting from low interest rates that make short-term products less attractive to investors. However, the prospect of long-term interest rates remaining relatively low for quite some time poses risks for undertakings' financial soundness in the medium-to-long term. On the other hand, the recent jump in long-term rates shows how quickly and significantly these rates can change. Each insurance institution should continue to pay very close attention to its asset-liability management and investment choices, and the ACP will also remain on its guard.

At the same time, marketing policies must be responsible and equitable. I encourage life insurance institutions to be very cautious and vigilant when choosing what rates to pay customers. In non-life insurance, attentive management is required to ensure that premiums are adequate to cover claims. Premiums must be set to ensure that all commitments to policyholders can be fully covered.

Our priority today is adapting to the new Solvency II rules. This priority for the ACP must become a priority for insurers, too. French insurance institutions participated massively in the latest impact study, QIS5. The number of respondents was 515, double the number for QIS4. Nearly half of these were participating in their first impact study and, consequently, in their first Solvency II exercise. In view of the complexity of the technical specifications, the proportion of first-time participants also explains why the quality of the data collected can still be improved.

The phase of intensive processing and in-depth analysis of the collected data has now started, providing an opportunity to assess the reliability of the processes that undertakings have established to prepare for this major set of reforms. I would especially like to see expertise on the Solvency II Directive expand rapidly beyond the circle of specialists working in insurance institutions, since all functions are concerned, including information systems, which need to be fully operational when the reform enters into force. **For Solvency II, 2011 will be a critical year with monitoring of the pre-application process for institutions wishing to use internal models, publication of Level 2 implementing measures and transmission to the European Commission of the Level 3 measures that will supplement them by the end of the year.**

4. WHAT ARE THE CHALLENGES FACING THE BANKING INDUSTRY?

The situation of the French banking system improved markedly in 2010. French banks posted strong earnings growth compared with previous years, under the combined effects of revenue growth, lower operating costs and, most importantly, a decrease in risk-related costs.

The leading French banking groups also improved their overall solvency. This change stems mainly from a gradual shift into lines of business that are less risky and offer more sustainable earnings.

However, this improvement in the situation of the French banking system is no reason to let down our guard. **Risk-related costs are still high**, especially with regard to com-

mercial and residential real estate in several areas.

The other challenge is to adapt to changes in regulations and prudential requirements. Tighter requirements on the quantity and quality of capital were warranted. They were needed to make our financial systems more resilient. We have ensured that this change maintains the level of net lending in the economy, since banks provide 80% of such lending in Europe. We have also taken great care to make sure that the tighter requirements do not compromise our universal banking model, which has proven its worth. We shall also be especially vigilant to enforce the provisions of Basel 3 at the same time and fairly. We shall seek to preserve a level playing field in an area where major international institutions still receive a good deal of government help.

The debate about systemically important institutions is continuing. We must resist the dual temptations of over-simplification and arbitrary action. We must preserve the supervisor's capacity to use its judgement and avoid any automatic decision-making system. We also need to rely primarily on "Pillar 2", which is a mainstay of our system. The industry also needs to be actively involved in ongoing discussions on certain complex issues, such as how certain creditors should absorb losses on a going-concern basis.

But the most awkward issue, which has a direct impact on business models and financial structures in various countries, is the question of **liquidity ratios**. The level of maturity mismatch system-wide was excessive, and harmonisation of the relevant standards is a definite step forward. But the parameters for the proposed ratios warrant a closer look. Finally, prudential regulation should not result in bank financing being diverted and used mainly to covering government borrowing requirements: the events of 2010 have shown how suddenly a liquidity crisis can arise in a sovereign debt market. A discussion is needed about the structure of these ratios during the observation period in order to make the necessary adjustments.

5. HOW DO YOU SEE RELATIONS BETWEEN THE NEW EUROPEAN AUTHORITIES AND NATIONAL SUPERVISORS UNFOLDING?

The ACP has taken part in the work of the European supervisory authorities for banking (EBA) and insurance (EIOPA) since 1 January 2011. The task of these authorities is to harmonise implementation of directives and standards in their respective sectors, harmonise the practices of national supervisors and improve coordination of supervision in both sectors. They have the power to draft technical standards that become binding on national supervisors, once they have been adopted by the European Commission.

National supervisors still have the power to supervise individual banking and insurance groups under their respective jurisdictions, but they must now coordinate their supervision and actions within a college of supervisors. These colleges were set up informally in earlier years, but they are now official entities with specific tasks.

Under special circumstances, such as an emergency or a case of failure to comply with the decisions of the European supervisor, the European authorities are empowered to make decisions that are binding on national supervisors, or even directly on financial institutions. They also have binding mediation powers to settle disputes between national supervisors involving cross-border businesses.

The European authorities are also phasing in periodic risk reviews in both sectors, which could take the form of reviews of key indicators or, less frequently, stress tests. National supervisors are closely involved in these various exercises and contribute their expert knowledge of local markets and participants. In return they benefit from a broader view of the risks incurred or likely to be incurred by the entities under their supervision. This is bound to improve their own analysis of the situation.



3 / THE FOUNDING OF THE ACP AND ITS STATUTORY OBJECTIVES

The ACP was founded by the Executive Order of 21 January 2010 and inaugurated on 9 March. The new authority has broad powers and is strong and independent.

3.1 FOUNDING OF THE ACP

As part of domestic and international discussions in the wake of the financial crisis, Act No. 2008-776 of 4 August 2008, known as the **Economic Modernisation Act** gave the government the authority to issue executive orders to implement the measures necessary to modernise the legal framework for France's financial industry. More specifically, this entailed merging the licensing and supervisory authorities for banking and insurance and redefining their tasks, powers and operations with a view to achieving the objectives of financial stability, customer protection and a stronger voice for France in international and European bodies.

The French finance minister publicly announced her choices after studying the recommendations of the report commissioned from the Inspection générale des finances (General Inspectorate of Finance)², which recommended merging the licensing and supervisory authorities for the banking and insurance sectors and maintaining two separate authorities, one for securities markets (Autorité des marchés financiers, AMF), the other for prudential supervision of regulated entities. These choices were explained in more detail with regard to the general organisation of the ACP on 27 July 2009, after consultation with the authorities and the professionals concerned.

A preliminary draft of the executive order was put out for **public consultation** in October 2009. The supreme administrative court, the Conseil d'État, handed down its opinion on 14 January 2010, after consultations with the Comité Consultatif de la Législation et

de la Réglementation Financières (Advisory Committee on Financial Legislation and Regulations), the Conseil supérieur de la mutualité (High Council for Mutual Insurance) and the European Central Bank (ECB). The Council of Ministers adopted Executive Order No. 2010-76 setting up the Autorité de contrôle prudentiel (ACP) on 20 January 2010. The order was promulgated on 21 January 2010 and published the following day in the Journal officiel de la République française (Official Journal of the French Republic).

The ACP's College, inaugurated by Finance Minister Christine Lagarde, met for the first time on 9 March 2010 and held its first plenary meeting. This came after the publication of the Conseil d'Etat Decree No. 2010-217 of 3 March 2010, provided for under the provisions of the executive order to specify various points concerning the new Authority's organisation, supervisory practices and procedures, as well as the ministerial orders appointing the members of the College, the Sanctions Committee and the Secretary General.

The Legislature **ratified the order** founding the ACP on 22 October 2010 under the provisions of the Banking and Financial Regulation Act No. 2010-1249. It took that opportunity to make the adjustments that it deemed necessary with regard to the membership of the College, the procedures for the Sanctions Committee and customer protection. The provisions regarding the ACP are codified in Articles L. 612-1 *et seq.* of the Monetary and Financial Code (CMF).

² Report delivered in January 2009 by Bruno Deletré, Inspector General of Finance, on the organisation, operation and supervision of financial activities in France.

Enhancing the stability of the financial sector is imperative for the public interest

The stability of the financial sector is a matter of cardinal importance. For consumers, it is a guarantee that their bank deposits are secure and that they are well insured against risks. For companies, financial stability means that they receive the financing and services that are essential for their business. This is why the government has decided to merge the supervision of banking and insurance risks into a single authority operating under the auspices of the Banque de France: the Autorité de contrôle prudentiel (ACP).

The ACP is responsible for licensing and supervising establishments in the banking and insurance sectors. For this purpose, the ACP is responsible for all the tasks formerly performed by the banking supervisor (Commission Bancaire), the insurance supervisor (Autorité de contrôle des assurances et des mutuelles – ACAM), the bank and investment company licensing authority (Comité des établissements de crédit et des entreprises d'investissement – CECEI) and the insurance company licensing authority (Comité des entreprises d'assurance – CEA).

Customer protection: an entirely new responsibility

Financial and insurance services are different from other services. One of their main characteristics is a high degree of informational asymmetry between customers and financial professionals. This spurred lawmakers in France and in Europe to introduce special rules to protect customers. The new authority has been given extensive powers to meet this imperative, which has been amplified by the financial crisis. The ACP enforces the customer protection rules stemming from legislation, regulations and codes of conduct that professional associations have submitted for approval, along with the good practices of the industry that it may observe and recommend. These rules govern advertising, pre-contract disclosure and the duty to provide advice, as well as the execution of contracts from their signature to their expiry. The Direction du contrôle des pratiques commerciales (Business Practices Supervision Department) with a 60-strong staff handles this broad range of tasks.

Giving France a stronger voice on the international and European stage

In a time of unprecedented regulatory developments, with Basel 3 for banks and Solvency II for all insurance activities, it is more important than ever for France to make its voice heard in the international and European bodies preparing these reforms. This is the objective of the ACP, which represents France in international insurance and banking bodies, in close cooperation with the other departments of the Banque de France and the relevant government departments.



3.2 THE STATUTORY OBJECTIVES OF THE ACP

The statutory objectives of the ACP under Article L. 612-1 of the Monetary and Financial Code stem from the merger of the duties of the four previous licensing and supervisory authorities. However, these objectives have been recast with a new outlook, which gives greater importance to financial stability and the organisation of financial supervision in Europe. The ACP's statutory objectives have also been explicitly extended to encompass customer protection. For this purpose, they have been organised around two objectives: maintaining the stability of the financial system and providing protection for the customers, insurance policyholders, members and beneficiaries of the entities under the ACP's supervision.

A single authority operating under the auspices of the Banque de France ensures more intensive dialogue, optimum coordination and higher visibility for swift and appropriate action in the event of a crisis.

The primary customer protection factor is the solvency of banking and insurance institutions.

A/ The ACP is responsible for maintaining the stability of the financial system.

To meet this objective, the ACP's supervision of the reporting entities focuses on enforcement of the provisions of the Monetary and Financial Code, the Insurance Code, Book IX of the Social Security Code, the Mutual Insurance Code and Book III of the Consumer Code, along with all other legislative and regulatory provisions, the infringement of which consists in a subsequent infringement of the above mentioned codes.

For this purpose, the ACP examines the applications for authorisation or derogation submitted to it, particularly applications for licensing, and it makes all the other decisions provided for in these laws and regulations. It also conducts ongoing supervision of the financial situation and operating conditions of these entities. More specifically, it supervises compliance with solvency requirements by credit institutions, investment firms, financial holding companies, payment institutions, insurance and reinsurance companies, mutual insurance companies and provident institutions. In the case of the relevant enti-

ties in the banking sector, it supervises the rules on maintaining liquidity and, in the insurance sector, it supervises entities to ensure they are able to meet their commitments to policyholders, members, beneficiaries or companies holding reinsurance at all times and that they live up to these commitments.

B/ The ACP also oversees customer protection.

The ACP ensures the protection for customers, policyholders, members and beneficiaries of the entities under its supervision. For this purpose, it makes sure that the entities under its supervision comply with the rules stemming from all laws and regulations applying to them. The ACP also makes sure that reporting entities implement appropriate resources and procedures to comply with these rules. Ultimately, it makes sure that the resources and procedures implemented are appropriate for compliance with Book III of the Consumer Code, which deals with consumer information and contracts.

The ACP devotes substantial resources to supervising the business practices of the entities under its supervision. It has a dedicated

THE SCOPE OF THE ACP'S SUPERVISION IS DEFINED IN ARTICLE L. 612-2 OF THE MONETARY AND FINANCIAL CODE

I. - The ACP's supervision covers:

A. - In the banking sector, payment services and investment services:

- 1° Credit institutions;
- 2° The following entities:
 - a) Investment firms other than portfolio management companies;
 - b) Members of the regulated markets;
 - c) Clearing house members;
 - d) Entities referred to in 4° and 5° of Article L. 542-1 authorised to act as custodians or administrators of financial instruments;
- 3° Payment institutions;
- 4° Financial holding companies and mixed financial holding companies;
- 5° Money changers;
- 6° The bodies referred to in 5 of Article L. 511-6;
- 7° The legal entities referred to in Article L. 313-21-1.

The ACP supervises investment services provided by the entities referred to in 1° and 2° subject to the powers of the Autorité des marchés financiers with regard to the supervision of rules of good practices and other professional obligations.

For the purposes of supervising the entities referred to in 3°, the ACP may request the opinion of the Banque de France for its supervision of the smooth operation and security of payment systems under the terms of I in Article L. 141-4. The Banque of France may bring any information to the attention of the ACP for this purpose.

B. - In the insurance sector:

- 1° Companies providing the direct insurance referred to in Article L. 310-1 of the Insurance Code;

- 2° Companies with their head offices located in France that engage in the reinsurance business;
- 3° Mutual insurance companies and unions governed by Book II of the Mutual Insurance Code and unions managing the federal guarantee systems referred to in Article L. 111-6 of the Mutual Insurance Code, along with the mutual insurance holding companies referred to in Article L. 111-4-2 of the same Code;
- 4° The mutual insurance companies and unions referred to in Book I that manage mutual insurance payments and contracts on behalf of the mutual insurance companies and unions referred to in Book II, for the purposes of Title VI of Book V of the Code only;
- 5° Provident institutions, unions and groups governed by Title III of Book IX of the Social Security Code;
- 6° Group insurance companies and mixed group insurance companies referred to in Article L. 322-1-2 of the Insurance Code;
- 7° The universal guarantee fund for rental risks referred to in Article L. 313-20 of the Construction and Habitat Code;
- 8° The securitisation vehicles referred to in Article L. 310-1-2 of the Insurance Code.

II. - The ACP may extend its supervision to:

- 1° Any entity that has received a subscription or management mandate from an undertaking engaging in insurance transactions or that takes out a group insurance contract, or that acts as an insurance or reinsurance intermediary in any way whatsoever, as referred to in Article L. 511-1 of the Insurance Code;
- 2° Any entity that intervenes directly or indirectly between a body referred to in 3° or 4° of B and an entity wishing to join or belonging to said body;
- 3° All intermediaries in banking transaction and payment services.

department for the protection of consumers of banking and insurance products: the *Direction du contrôle des pratiques commerciales* (Business Practices Supervision Department). It also cooperates with the Autorité des marchés financiers (AMF) in this area through a Joint Body. This cooperation stems specifically from the need for coordinated monitoring of all savings products and from the development of entities that distribute the full range of financial, banking and insurance products. The Chair-

men of the ACP and the AMF signed an agreement setting up the Joint Body on 30 April 2010. This body is not an independent structure; it is an institutional coordination mechanism for monitoring advertising, supervising compliance with customer protection regulations, and providing a single query point for consumer inquiries.

The ACP also works closely with the Direction générale de la concurrence, de la consommation et de la répression des fraudes

Backed by the Banque de France, the ACP preserves a supervisory system that proved effective during the financial crisis, and it benefits from the Banque de France's economic and financial expertise. This model of supervisors working under the auspices of the central bank is also becoming the prevailing European model, as can be seen in the changes introduced in the United Kingdom.

(General Directorate for Competition, Consumer Affairs and the Punishment of Fraud, DGCCRF).

C/ The ACP has enhanced resources to perform its tasks.

With respect to the entities referred to in Article L. 612-2, the ACP has supervisory, policing and sanctioning powers. It also has the right to publicly disclose any information it deems necessary to fulfil its statutory objectives, without being bound by the obligations of professional secrecy.

SUPPORT FROM THE BANQUE DE FRANCE

Preserving its strong link with the central bank gives the ACP a broader view of the participants in the financial system and allows it to benefit from the economic and financial expertise that the Banque de France has successfully implemented at particularly difficult times over the last three years. This organisational structure ensures optimum handling and coordination in emergencies by institutionalising exchanges of information between central bank and supervisory functions. Such exchanges are a prerequisite for reaching quickly the most accurate diagnosis possible and for ensuring rapid and effective responses.

Similarly, the diagnosis of each financial and insurance entity's prudential situation enables the Banque de France to assess potential threats to financial stability more thoroughly. The new organisational structure also gives the Banque de France a stronger voice in debates at the European Central Bank and at the European Systemic Risk Board (ESRB).

SUPPORT FROM THE BANQUE DE FRANCE: PRACTICAL ADVANTAGES

In practice this support takes many forms:

- The Governor of the Banque de France is the Chairman of the ACP.
- The Vice Chairman of the ACP sits on the General Council of the Banque de France.
- The Banque de France is the employer of all ACP staff members.
- The insurance supervisory staff are deployed by the Banque de France.
- The ACP prepares its budget, which is an annex to the budget of the Banque de France.
- The ACP uses resources supplied by the Banque de France.

The ACP brings the contribution of French supervision to the European Union and to the international bodies coordinating the supervisors' work.

D/ The ACP carries out its tasks within a European and international framework.

The ACP represents France in the European and international bodies bringing together banking and insurance supervisory authorities. It prepares proposals, leads discussions with its partners and promotes effective supervision based on French best practices in the various areas where it is active.

It works closely with all of its foreign counterparts. It may enter into cooperation agreements with them to facilitate exchanges of information about institutions, provided confidentiality requirements are met.

4 / ORGANISATION OF THE ACP

The ACP's organisational structure reflects its status as an independent administrative authority with wide-ranging powers in both the banking and insurance sectors.

An independent authority

The ACP's institutional independence is explicitly provided for by law. This is reflected in its internal organisational structure and by the allocation of specific budgetary resources. The ACP is funded by a contribution for supervisory expenses that the Banque de France collects from licensed entities and hands over to the ACP in full. These contributions may be supplemented by additional allocations from the Banque de France.

A plenary meeting of the ACP's College votes on the budget proposed by the Secretary General. The authority's budget is an annex to the budget of the Banque de France.

An audit committee made up of four members of the College (Lucien Uzan, Chairman, Jérôme Haas, François Lemasson and Jean-Philippe Vachia) ensures that the ACP's resources are properly used.

According to the executive order, the Vice Chairman, who works alongside the Chairman of the ACP, should have "experience with insurance". Jean-Philippe Thierry, who has had a career spanning more than thirty years as a company manager and chairman of insurance professional associations, was appointed by a joint order from the finance minister and the minister in charge of social security and mutual insurance.

COLLEGE (19 members)

PLENARY SESSION (19 members)

The Chairman (the Governor of la Banque de France), the chairman of the Autorité des marchés financiers, the chairman of Autorité des normes comptables, a Conseiller d'Etat, a Conseiller at the Cour de cassation and a Conseiller-maître at the Cour des comptes, a Vice-chairman with experience in insurance, four members with experience in insurance, four members with experience in banking, two members appointed by the respective chairmen of the two Houses of Parliament and two other experts.

RESTRICTED SESSION (8 members)

The Chairman (the Governor of the Banque de France), the Vice-chairman, Two of the four members with experience in insurance, two of the four members with experience in banking, and two members chosen from among the following: the chairman of the ANC, the Conseillers d'Etat, the Conseillers at the Cour de cassation, the Conseiller-maître at the Cour des comptes and the two other experts.

Sanctions Committee

(6 members)

*The chairman (a Conseiller d'Etat)
A 2nd Conseiller d'Etat*

A Conseiller at the Cour de cassation

Three expert members nominated by the Minister for the Economy

Banking sectoral sub-college
(8 members)

Insurance sectoral sub-college
(8 members)

Consultative committees. A majority of whose members are professionals from the banking and insurance sectors



Members of the two

COLLEGE
(19 members)

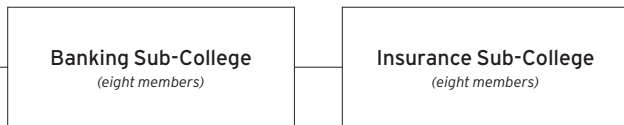
**THE NINETEEN MEMBERS OF THE COLLEGE
IN PLENARY SESSION**

**THE EIGHT MEMBERS OF
THE RESTRICTED COLLEGE**

- | | | |
|---|---|---|
| <p>01 <i>Christian Noyer</i>, Governor of the Banque de France, or the Deputy-Governor that the Governor has appointed to represent him;</p> <p>02 <i>Jean-Paul Redouin</i>;</p> <p>03 <i>Jean-Philippe Thierry</i>, Vice-Chairman;</p> <p>04 <i>Jean-Pierre Jouyet</i>, Chairman of the <i>Autorité des marchés financiers</i>;</p> <p>05 <i>Jérôme Haas</i>, Chairman of the <i>Autorité des normes comptables</i> (accounting standards authority);</p> <p>06 <i>Olivier Fouquet</i>, <i>Conseiller d'Etat</i>, appointed following proposal from the Vice Chairman of the <i>Conseil d'Etat</i>;</p> <p>07 <i>Francis Assié</i>, <i>Conseiller at the Cour de cassation</i> (court of cassation), appointed following proposal from the Chairman of the <i>Cour de Cassation</i>;</p> <p>08 <i>Jean-Philippe Vachia</i>, <i>Conseiller-maître</i> (senior auditor) at the <i>Cour des comptes</i> (court of auditors), appointed following proposal from the Chairman of the <i>Cour des comptes</i>;</p> | <p>09 <i>Philippe Auberger</i>, appointed by the Chairman of the National Assembly;
<i>A member to be appointed by the Senate</i></p> <p>10 <i>Emmanuel Constans</i>
11 and <i>Hélène Rey</i>, appointed for their expertise in customer protection or quantitative or actuarial techniques or in other matters that are helpful for the performance of the Authority's statutory objectives;</p> <p>12 <i>Jean-Marie Levaux</i>,</p> <p>13 <i>Philippe Mathouillet</i>,</p> <p>14 <i>Dominique Thiry</i> and <i>Lucien Uzan</i>, appointed for their expertise in insurance, mutual insurance, provident institutions and reinsurance;</p> <p>15 <i>Thierry Coste</i>,</p> <p>16 <i>Dominique Hoenn</i>,</p> <p>17 <i>François Lemasson</i>
18 and <i>Christian Poirier</i>, appointed for their expertise in banking transactions, payment services and investment services.</p> <p>19 <i>Danièle Nouy</i>, Secretary General of the ACP</p> <p>20 <i>Maya Atig</i>, representative of the Director General of the Treasury</p> | <p><i>Christian Noyer</i>, Governor of the Banque de France, represented by <i>Jean-Paul Redouin - Jean-Philippe Thierry</i>, Vice Chairman;</p> <p><i>Philippe Mathouillet</i> and <i>Dominique Thiry</i>, members chosen for their insurance expertise;</p> <p><i>Thierry Coste</i> and <i>Dominique Hoenn</i>, members chosen for their banking expertise;</p> <p><i>Jérôme Haas</i>, Chairman of the <i>Autorité des normes comptables</i>;</p> <p><i>Jean-Philippe Vachia</i>, <i>Conseiller-maître</i> (senior auditor) at the <i>Cour des comptes</i>.</p> |
|---|---|---|



sectoral Sub-Colleges



Christian Noyer,
 Governor of the Banque de France,
 represented by **Jean-Paul Redouin** -
Jean-Philippe Thierry,
 Vice Chairman;
Thierry Coste, Dominique Hoenn,
François Lemasson and
Christian Poirier,
 members chosen for their
 banking expertise;
Olivier Fouquet,
 Conseiller d'Etat;
Emmanuel Constans,
 member chosen for his customer
 protection expertise;

Jean-Philippe Thierry,
 Vice-Chairman of the ACP,
 Chairman of the Insurance
 Sub-College;
Christian Noyer, Governor
 of the Banque de France,
 represented by **Jean-Paul Redouin**
Jean-Marie Levaux,
Philippe Mathouillet,
Dominique Thiry
 and **Lucien Uzan**, members chosen
 for their insurance expertise;
Francis Assié,
 Conseiller at the Cour de Cassation
 (court of cassation);
Jean-Philippe Vachia,
 Conseiller-maître (senior auditor)
 at the Cour des comptes.

Furthermore the Director General of the Treasury or his or her representative sits on all of the bodies of the College, and the Director of the Social Security administration, or his or her representative, sits on the Insurance Sub-College or other sessions when they deal with the entities governed by the Mutual Insurance Code or the Social Security Code. They do not have a vote, but they are entitled to ask for matters to be deliberated a second time.

The College met 30 times in 2010, including six plenary meetings, seven restricted meetings, eight meetings of the Banking Sub-College and nine meetings of the Insurance Sub-College.

In contrast to the former banking supervisor or the former insurance supervisor, the provisions of Executive Order No. 2010-76 of 21 January 2010, which founded the ACP, establish a Sanctions Committee, in addition to the College.

4.1 COLLEGE

The plenary session of the College is chaired by the Governor of the Banque de France, Christian Noyer. It has 19 members, including members appointed by national representatives, judges appointed by the high courts, other experts and members appointed for their expertise in banking and insurance matters. The plenary meetings of the College deal with general supervisory and financial stability issues, along with general issues affecting the authority's operations, such as setting supervisory priorities, voting on the budget and defining organisational and operating principles.

There are two sectoral Sub-Colleges within the College:

- A Banking Sub-College made up of the Chairman, the Vice Chairman, the four banking experts and two members appointed by the College from among the other mem-

bers who are not from the banking and insurance sectors.

- An insurance Sub-College made up of the Chairman, the Vice Chairman, the four insurance experts and two members appointed by the College from among the other members who are not from the banking and insurance sectors.

The restricted College is made up of eight of the nineteen members of the College in plenary session. It deals with individual issues that have a significant impact on either sector or overall financial security. It also deals with issues relating to the supervision of financial conglomerates and the supervision of changes in share ownership that may have a significant impact on banking and insurance entities, as well as with other individual cases of particular importance because of their potential impact on the overall financial system.

4.2 ORGANISATION OF THE SANCTIONS COMMITTEE

The Committee's task is to sanction violations of the laws and regulations applying to licensed institutions.

This new organisation of disciplinary powers with regard to banks and insurance companies was introduced to meet the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHRFF), as interpreted by the European Court of Human Rights (ECHR). In its ruling on *Dubus v France* 5242/04 handed down on 11 June 2009, the Court relied on the theory of appearance to find that the procedure followed by the Commission Bancaire in a disciplinary case violated the principles of independence and impartiality stemming from Article 6 para-

graph 1 of the European Convention on Human Rights, because there was no clear distinction between the policing, investigation and sanction functions in the exercise of its jurisdiction.

A/ Independence and impartiality of the Committee

a) Independence

Article L. 612-9 of the Monetary and Financial Code states that the "functions of members of members of the Sanctions Committee are not compatible with the functions of a

member of the College”. This reflects the organic separation of policing and sanction functions within the Authority. The same article³ lists the conditions for appointing the members of the Committee, which had five members and five alternates when it was inaugurated. The Committee was chaired by a Conseiller d’Etat and its other members at the time were a Conseiller at the Cour de cassation (court of cassation) appointed following proposal from the Chairman of the Cour de cassation (court of cassation) and three members chosen for their expertise. The members of the Committee are appointed for a five-year term. Their term can be renewed once. The members of the Sanctions Committee were appointed by a ministerial order of 5 March 2010 that appointed the members of the ACP.

b) Impartiality: challenge and withdrawal

A member of the Committee may be challenged by the entity appearing before the Committee if there are serious grounds for questioning his or her impartiality (*Article L. 612-38 and Articles R. 612-40 to R. 612-43 of the Monetary and Financial Code*). Furthermore, if one of the Committee members finds a reason for withdrawing from a case, or if the member feels that in good conscience he or she must withdraw, they are required to notify the Chairman that they will not take part in a hearing. These provisions are sim-

ilar to those applying to the AMF Enforcement Committee.

B/ Disciplinary procedure

a) Pre-hearing phase

The executive order founding the ACP makes a distinction between the power to instigate the disciplinary procedure, which rests with the College, and the investigation and judgment functions, which rest with the Sanctions Committee. Cases are referred to the Committee by the Chairman of the relevant College session, who also notifies the entities concerned of the complaints and forwards the statement of objections to the Sanctions Committee. The Committee ensures that both sides are heard during the disciplinary procedure, with the College acting as the prosecuting authority through its designated representative and the entity or entities presenting their defence.

With a view to achieving convergence with the AMF disciplinary procedure, the legislature stated in the Banking and Financial Regulation Act No. 2010-1249 of 22 October 2010 that the Chairman of the Sanctions Committee should appoint a rapporteur whose functions are similar in spirit to those of an examining magistrate⁴. A decree sets forth the procedures for the investigation phase before the hearing. This investigation is intended to inform the Committee’s deci-

SANCTIONS COMMITTEE MEMBERS AT THE END OF 2010

Appointed following proposal from the Vice Chairman of the Conseil d’Etat:

- Bruno Martin Laprade, Conseiller d’Etat, as a member;
- Rémi Bouchez, Conseiller d’Etat, as an alternate.

Appointed following proposal from the Chairman of the Cour de cassation:

- Claudie Aldige, Conseiller, as a member;
- Yves Breillat, Conseiller, as an alternate.

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

- Francis Credot, as a member, and Louis Vours, as an alternate;
- Pierre Florin, as a member, and Jean Cellier, as an alternate;
- André Icard, as a member, and Charles Cornut, as an alternate.

³ In the language resulting from the Executive Order of 21 January 2010, before the Banking and Financial Regulation Act No. 2010-1249 of 22 October 2010 changed the procedure for referring cases to the Committee after 22 January 2011.

⁴ See Marini Report No. 703 (2009-2010), presented on behalf of the Senate Finance Committee on 14 September 2010, p. 169.



Back row, from left to right:
*Jean Cellier | Jean-Claude Hassan** | *Louis Vaur* | *Pierre Florin* | *Bruno Martin Laprade* (Président)
Charles Cornut | *Marc Sanson** | *Francis Credot*

Front row, from left to right:
Yves Breillat | *Claudie Aldige* | *Rémi Bouchez* | *André Icard*

*Members nominated by the LRBFLaw.

sion because of the complexity of the cases that may be referred to it.

The Sanctions Committee member appointed to be the rapporteur does not take part in the Committee's decision. Therefore, the number of Committee members was increased from five to six (see above) to ensure that the judgment body continues to deliberate with the same membership (five members if all are present and a quorum of three members). The additional member will be a second Conseiller d'Etat appointed under the same conditions as the first. The same holds true for the alternate member. The Banking and Financial Regulation Act states that the sixth member to be appointed in early 2011 will serve "for the remaining term before the next renewal of the Sanctions Committee".

b) Hearing

Any person called to a hearing may be attended or represented by an advisor or counsel of their own choosing. The member of the College appointed by the session that decided to initiate the sanction procedure is called to attend the hearing, but does not take part in the deliberations. This member may be attended or represented by ACP staff, submit observations in support of the complaints filed and

propose a penalty. The Sanctions Committee may also hear any member of the ACP staff, and the Chairman may hear any person that he deems useful for the hearing. The Sanctions Committee may only meet if the majority of the members are present. Its deliberations take place without the presence of the parties, the government commissioner (Director General of the Treasury and, where appropriate, the Director of Social Security or their representatives), the member of the College and the ACP staff assigned to attend him or represent him. Article R. 612-47 of the Monetary and Financial Code states that the person being examined may request that the hearing be closed to the public and that the Chairman enforce the closure of the hearing.

c) Review

Under Article L. 612-16 IV, the Sanctions Committee's rulings may be reviewed by the Conseil d'Etat on the initiative of the persons sanctioned and of the ACP Chairman (with the consent of the session of the College that initiated the complaint) within two months of the ruling. If the sanctioned party files a request for review, the ACP Chairman may file a counter-claim within two months of the notification of the review procedure to the ACP.

C/ Sanctions

Articles L. 612-38 to L. 612-42 of the Monetary and Financial Code deal with the disciplinary sanctions that the Sanctions Committee may impose on entities under ACP supervision. The sanctions may be handed down in cases where licensed entities violate the applicable regulations or when licensed entities fail to comply with administrative enforcement measures. Sanctions may also be applied for failure to comply with licensing requirements or failure to honour the commitments made when a license was granted. The sanctions for licensed entities range from warnings and reprimands to prohibition on carrying out certain transactions for up to 10 years, suspension of managers for up to 10 years, compulsory dismissal of managers, partial or total withdrawal of license or striking from the list of licensed entities. These sanctions may be replaced or combined with a fine of up to EUR 50 million (EUR 1 million for money changers).

As was the case for the AMF Enforcement Committee, the Banking and Financial Regulation Act increased the cap on fines imposed by the ACP Sanctions Committee to EUR 100 million in cases referred to it after the act came into force. The ACP also makes publication of the Sanctions Committee's rulings, which had been optional, the rule: its ruling "shall be made public in the publications, papers or media that it indicates in a format that is proportional to the offence and the penalty imposed" and the sanctioned entity bears the cost of such publication. However, the Sanctions Committee's ruling may state that it not be published in exceptional cases where publication "may seriously disrupt financial markets or cause disproportionate harm to the parties".

An account of the Sanctions Committee's activity in 2010 can be found below (see Part 2 of Chapter II).

D/ The Sanctions Committee's Resources

a) Human resources

Article R. 612-35 of the Monetary and Financial Code states that the Sanctions Committee has a Secretariat made up of ACP staff. To signify the independence of the staff assigned to the Secretariat, Article 13 of Decision No. 2010-02 of the Secretary General on the organisation of ACP staff states that the Secretariat is part of the Legal Affairs Department in administrative terms, but that it "reports to the Chairman of the Committee on a line and staff basis". These provisions will be supplemented by an exchange of letters between the ACP Secretary General and the Chairman of the Sanctions Committee to implement this principle with regard to recruitment decisions and the compensation and promotion of the staff in question.

b) Technical resources

The Sanctions Committee has made an effort from the outset to establish resources for fully computerised tracking of the procedure to simplify the investigation phase and to facilitate transmission of evidence to the members called upon to make a ruling.

The nature of the sanctions did not change until the amendments introduced by the Banking and Financial Regulation Act

In each case, the Committee asks the parties to the procedure to provide a digital version of all documents relating to the case. For this purpose, it provides a secure extranet site where they can upload and download documents of any size. Then, using advanced computer hardware (primarily multiple 22-inch screens that can display up to five A4 pages simultaneously, and sophisticated file-processing software that can manage a complex tree structure of bookmarks or hypertext links on scanned documents, along with character recognition), the Committee's staff can prepare a digital version of the evidence that the members of the Committee (who have access to the same extranet site) can browse conveniently using the same type of hardware. In the hearing room, the Committee members can consult the virtual evidence using hardware that enables them to display up to three pages simultaneously. Going forward, all participants in the hearing are to be provided with the same hardware.

4.3 CONSULTATIVE COMMITTEES AND SCIENTIFIC CONSULTATIVE COMMITTEE

The College may also set up **Consultative Committees** to provide it with assistance on specific topics. Three Consultative Committees have been set up to involve industry professionals in the supervisor's discussions and planning. The entities created are:

- a Prudential Affairs Committee (Decision of 21 June 2010), with Dominique Thiry and Christian Poirier as the Chairman and Vice-Chairman respectively. This Committee's task is to provide its opinion on the ACP's instructions governing the licensed entities' periodic prudential filings before such instructions are adopted. The Committee is also consulted on drafts of explanatory notices or guides. The Committee has fourteen members.
- an Anti-Money Laundering Committee (Decision of 21 June 2010), with Francis Assie and François Lemasson as Chairman and Vice-Chairman respectively. This Committee's task is to provide its opinion on drafts of instructions, guidelines and other ACP documents dealing with money laundering and terrorist financing. This Committee has seventeen members.
- a Business Practices Committee (Decision of 29 September 2010), with Emmanuel Constans and Jean-Marie Levaux as Chairman and Vice-Chairman respectively. This Committee's task is to provide its opinion on drafts of recommendations falling within its competence, to further discussion of issues relating to business practices identified by the ACP and to gather information and suggestions from its members on customer protection. This Committee has sixteen members.

The ACP has also set up a Scientific Consultative Committee (Decision of 29 September 2010), with Helene Rey and Philippe Mathouillet as Chairwoman and Vice-Chairman respectively. This Committee's task is to promote synergy between financial research and prudential supervision, and to keep abreast of scientific developments in order to identify those that may have an impact on the banking and insurance sectors. This Committee has ten members.

The Chairmen and Vice-Chairmen of these Committees are members of the College. Most of the other members are representatives of professional associations or experts.

4.4 THE ACP GENERAL SECRETARIAT

For its operations, the ACP relies on a **General Secretariat** staff of more than 900 with a wealth and diversity of experience. The Secretary General is appointed by the finance minister, following proposal from the ACP Chairman. The Secretary General reports to the College, manages the ACP staff and authorises the ACP's expenditures within the limits of the budget passed by the College. She is assisted by a First Deputy Secretary General appointed by the ACP Chairman following consultation with the Vice-Chairman, the finance minister and the minister in charge of social security and mutual insurance, whose experience in banking or insurance complements that of the Secretary

General. Four other Deputy Secretaries General are appointed by the ACP Chairman.

Danièle Nouy was appointed Secretary General on 8 March 2010 and presented her proposal for organising the staff to the College. In addition to the staff functions (finance and budget, human resources and data processing), the General Secretariat relies on five line departments:

- licensing, authorisation and regulation;
- off-site supervision and on-site inspections of individual institutions;
- research and international relations;
- supervision of business practices;
- legal affairs.



01 | *Cyril Roux, Premier Secrétaire général adjoint*

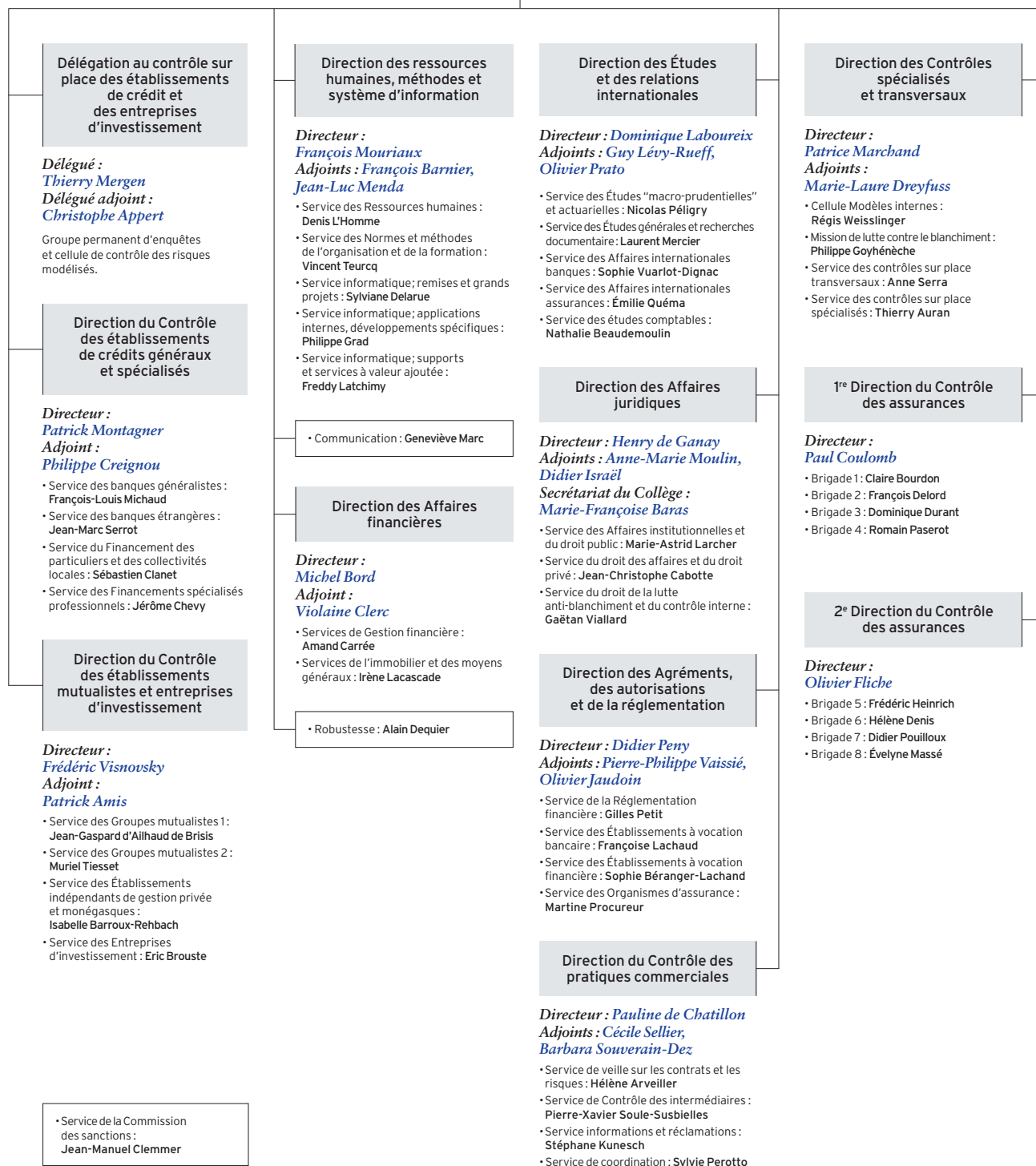
02 | *Michel Cardona, 03 | Didier Elbaum, 04 | Edouard Fernandez-Bollo, 05 | Fabrice Pesin, Secrétaires généraux adjoints*

SECRETARIAT GÉNÉRAL DE L'AUTORITÉ DE CONTRÔLE PRUDENTIEL

*Secrétaire général
Danièle Nouy*

*Premier Secrétaire général adjoint
Cyril Roux*

*Secrétaires généraux adjoints
Michel Cardona, Didier Elbaum, Edouard Fernandez-Bollo, Fabrice Pesin*





5 / EUROPE'S NEW FINANCIAL SUPERVISION ARCHITECTURE

In 2010, Europe's reform of its financial supervision structure was implemented, with the adoption of European Regulations aimed at applying the recommendations of the Larosière Report.

The law now explicitly states that the ACP must consider the objective of financial stability throughout the European Economic Area (EEA) when performing its tasks and that it must work for harmonised implementation of national and European measures. In so doing, it has to give due consideration to the best practices and recommendations issued by the European supervisory bodies, including the European Banking Authority and the European Insurance and Occupational Pensions Authority. The ACP works closely with all its EEA counterparts and contributes to the European colleges of supervisors, which supervise cross-border groups.

The ACP's action is thus an integral part of Europe's new financial supervision architecture, which came into force on 1 January 2011.

a) New European authorities

In 2010, Europe's reform of its financial supervision structure was implemented, with the adoption of European Regulations aimed

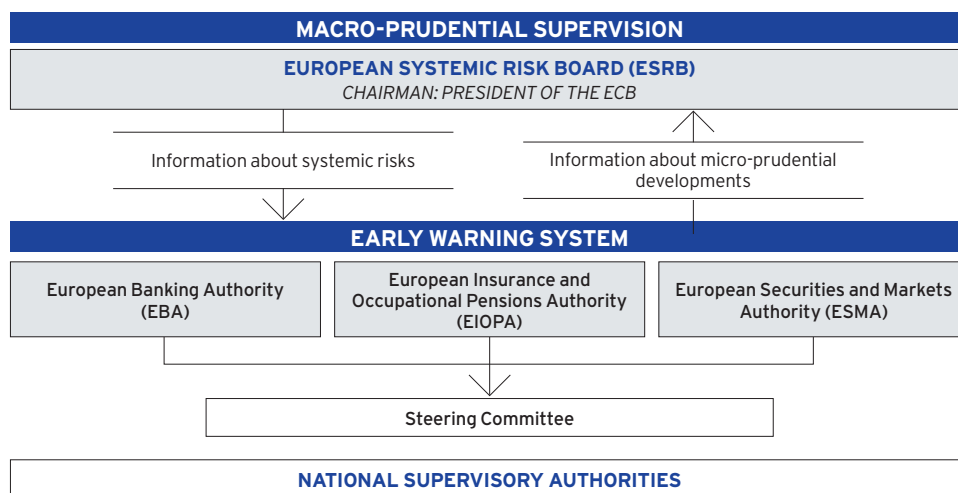
at applying the recommendations of the Report by Jacques de Larosière, who served as the Governor of the Banque de France from 1987 to 1993.

The Regulations were published in the Official Journal of the European Union dated 15 December 2010 and came into force on 1 January 2011. They are the founding texts for the European System of Financial Supervisors (ESFS), which complies fully with the G-20 recommendations, with:

- enhanced macro-prudential supervision of the European financial system as a whole through the creation of the European Systemic Risk Board (ESRB);
- enhanced micro-prudential supervision, backed up by the new European authorities.

These authorities have taken the place of the former Committees of Supervisors and have the power to mediate between national supervisors, along with emergency powers. They will lay down the technical standards for implementing European legislation.

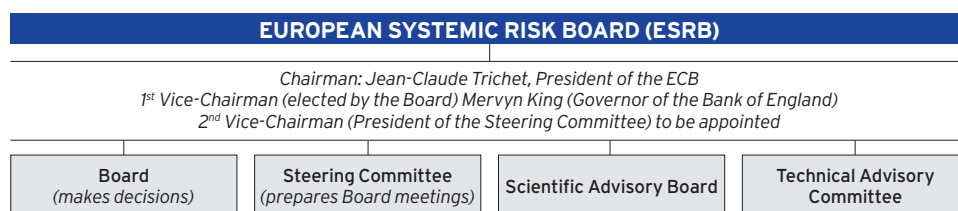
Composition of the European System of Financial Supervisors (ESFS)



The ESRB may issue risk warnings and recommend remedial measures for the European Union as a whole, for Member States and for national authorities, who will be bound by the “*comply or explain*” principle.

The ESRB will be made up of the Board, which is responsible for making decisions, and a Steering Committee, responsible for preparing the Board meetings. These bodies are assisted by a Technical Advisory Committee and a Scientific Advisory Board. The Board Chairman is the President of the ECB, who is

assisted by two vice-chairmen. The voting Board members are the President of the ECB (Chairman of the ESRB) and the Vice-President of the ECB, the Member States’ Central Bank Governors, the Chairpersons of the three European Supervision Authorities, a Member of the Commission and the Presidents and Vice-Presidents of the Advisory Committees. The Chairman of the Economic and Financial Council and representatives of each of the national supervisory authorities are non-voting members of the Council.



The three new supervisory authorities for banking (European Banking Authority – EBA), insurance (European Insurance Authority – EIOPA) and securities (European Securities and Markets Authority – ESMA, which is also responsible for supervising credit rating agencies) officially started operations on 1 January 2011.

b) The governing bodies of the European supervisory authorities

The Chairpersons elected by the boards of these authorities are: Andrea Enria (Italy) for the European Banking Authority (EBA), Gabriel Bernardino (Portugal) for the European Insurance and Occupational Pensions Authority (EIOPA) and Steven Maijoor (Netherlands) for the European Securities and Markets Authority. These appointments were confirmed by the European Parliament.

The European supervisory authorities are

made up of a college of supervisors, with the heads of all of the national supervisory authorities, a Management Board, an Executive Manager and a Chairperson and Vice-Chairperson.

The ACP is a member of the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA). The ACP’s representative on the Boards of these two Authorities is Danièle Nouy, who is also a member of the EBA Management Board.

The system also includes:

- **Groups made up of stakeholders** concerned by the authorities' activities. These groups include various market participants (industry professionals, consumers, investors). They can contribute their opinions and advice to the work of the European Supervisory Authorities. The European Banking Authority (EBA) and the European Securities and Markets Authority (ESMA) have stakeholder groups and the European Insurance and Occupational Pensions Authority has two (insurance and pension funds). These groups are currently being established, and calls for expressions of interest were published for this purpose at the end of 2010;
- A **Joint Board of Appeal** for all three authorities. This Board will be the first instance for appeals filed by any natural person or legal entity against a decision by a European Supervisory Authority, with a view to ensuring consistent application of Community law, intervention in emergencies and dispute settlement. This Board is currently being established. The European Commission published a call for expressions of interest for this purpose on 19 January 2011;
- A **Steering Committee of the European Supervisory Authorities** made up of the chairpersons of the three authorities. The role of this Committee is to ensure coordination and cooperation for the supervision of financial conglomerates. Its chairman will be chosen by a yearly rotation from among the chairs of the three authorities.

c) Broader powers and jurisdiction

for the European Supervisory Authorities
More specifically, the new authorities have the power to:

- draft proposals for technical standards, in order to help institute more consistent rules in the EU with a view to compiling a common set of rules;
- promote exchanges of information between national supervisory authorities and, where appropriate, to settle any disputes, including disputes arising in colleges of supervisors for cross-border groups. The objective is to ensure better coordination of these Authorities;
- contribute to consistent application of Community rules. If a national authority fails to comply with European law, the European Supervisory Authorities may make a decision concerning an individual financial institution in some cases, requiring the institution to take the necessary measures to comply with its obligations under Community law;
- in the case of the European Securities and Markets Authority (ESMA), wield direct supervisory powers with regard to credit rating agencies;
- coordinate actions and make certain decisions in emergency situations. If the competent authority fails to comply with the decision of the European Supervisory Authority, the Authority will be entitled to make a decision regarding an individual financial institution in certain cases and require that institution to take the necessary measures.

The European Supervisory Authorities have broader powers than those of the committees established under the Lamfalussy Process.

THE "OMNIBUS" DIRECTIVES DETERMINE THE JURISDICTION OF THE NEW AUTHORITIES

In addition to the Regulations setting up the various components of the ESFS, a Directive dated 24 November 2010, called "Omnibus I", was adopted on 15 December 2010. It amends a number of previous directives on financial services and defines the exact areas in which the European Commission is empowered to adopt delegated acts to confirm binding technical standards developed by the European Authorities.

The European Commission also published a proposal for an "Omnibus II" Directive on 19 January 2011. The proposal contains other technical amendments to the relevant Directives, such as the "Solvency II" Directive dealing with insurance.



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49	4 / Prudential supervision
63	5 / Anti-money laundering/Combating the financing of terrorism (AML/CTF) measures
71	6 / Customer protection

ACTION AND ACTIVITIES

MAIN EVENTS RELATING TO THE ACP

JANUARY

21 JANUARY > Executive Order No. 2010 76 founding the ACP

MARCH

MINISTERIAL ORDER OF 5 MARCH 2010 appointing Jean-Philippe Thierry, Vice-Chairman of the ACP

MINISTERIAL ORDER OF 5 MARCH 2010 appointing the members of the ACP College and of the Sanctions Committee

MINISTERIAL ORDER OF 8 MARCH 2010 appointing Danièle Nouy, Secretary General of the ACP

Decision No. 2010-04 - membership of the College of the ACP when meeting in restricted session

9 MARCH > inauguration of the ACP
Decision No. 2010-05 - membership of the two ACP sectoral Sub-Colleges for Banking and Insurance

APRIL

2 APRIL
appointment of Fabrice Pesin, coordinator for the ACP-AMF Joint Body

30 APRIL
creation of an ACP-AMF Joint Body
– signature of the agreement

MAY

14 MAY
opening of E-Surfi website

JUNE

28 JUNE
launch of Insurance Bank Savings Information Service

JULY

8 JULY > 1st ACP Conference

- Solvency II: launch of the 5th Quantitative Impact Study (QIS 5)
- Mutual insurance companies: supervisory news and changes in the sector

22 JULY

- Joint ACP-Tracfin guidelines on suspicious transaction reports
- ACP sector enforcement principles for preventing money laundering and terrorist financing in the insurance sector
- Decision No. 2010-C-22 – establishment of an Anti-Money Laundering Consultative Committee
- Decision No. 2010-C-20 – establishment of a Prudential Affairs Consultative Committee
- ACP Supervision Charter for on-site inspections in banking, payment services and investment services
- ACP Supervision Charter - Insurance

SEPTEMBER

7 SEPTEMBER

the ACP College issues a cease-and-desist order to the insurer Mutest

OCTOBER

14 OCTOBER

- Decision No. 2010-C-43 – establishment of a Scientific Consultative Committee
- Decision No. 2010-C-42 – establishment of a Consultative Committee on Business Practices

15 OCTOBER

the ACP and the AMF intensify their vigilance with regard to the marketing of complex financial instruments to the general public:

- ACP Recommendation
- AMF Position

20 OCTOBER

Press release about the activities of the NAGICO insurance group in the French part of the island of Saint-Martin

22 OCTOBER

- Banking and Financial Regulation Act No. 2010-1249
- publication of the French banking and insurance market figures by the ACP

NOVEMBER

5 NOVEMBER > ACP Conference

- Supervision of banking and insurance business practices
- Prevention of money laundering and terrorist financing

15 NOVEMBER

ACP Position No. 2010-P-01 on sales with premiums for life insurance products

22 NOVEMBER

Solvency II Conference – Internal models

DECEMBER

9 DECEMBER

press release about the massive participation of French insurers in the fifth Quantitative Impact Study (QIS 5) of the Solvency II project

5 DECEMBER

Joint ACP-AMF press release on the implementation of the securities guarantee scheme for customers of Européenne de Gestion Privée (EGP)



1 / THE COLLEGE'S ACTIVITIES AND DECISIONS

A/ Decisions on institutional issues

In the weeks following its inauguration, the College made several decisions about its organisation and operations. It adopted rules of procedure (Article L. 612-12 of the Monetary and Financial Code) that include provisions about organising and holding meetings, as well as preventing conflicts of interest.

The College also appointed some of its own members to an Audit Committee that is responsible for giving an opinion on budget proposals and the draft budget outturn report (Article R. 612-12 of the Monetary and Financial Code) before they are adopted. It also set up an official electronic register on the ACP website on which various documents adopted by the ACP are published.

The College has also taken advantage of its right under the law to delegate its powers to the ACP Chairman or Vice-Chairman (Article L. 612-14 of the Monetary and Financial Code) and to the Secretary General (Article L. 612-15 of the Monetary and Financial Code) for decisions concerning individual entities in certain areas. The powers dele-

gated by the College to the Chairman and Vice-Chairman primarily concern certain types of decisions about licenses or changes in ownership, and the power to order licensed entities to take action. The powers delegated to the ACP Secretary General concern supervision and opinions on proposed appointments of statutory auditors for licensed entities. The decisions made using these delegated powers are reported to the College. The College has also made substantial use of its right under the law to establish consultative Committees (Article L. 612-14 of the Monetary and Financial Code) in order to involve external experts in its discussions, along with professionals from banking and insurance, as well as academics and people from customer and investor associations. The College established four committees that each has College members serving as Chairman and Vice-Chairman. Another highlight of the year was the College's adoption of an agreement setting out the operating procedures for the ACP-AMF Joint Body for the supervision of licensed professionals' dealings with their customers. The agreement was signed on 30 April 2010. The College also set out the principles for organising staff, working conditions for its

employees and the ethical rules for employees (Article L. 612-15 of the Monetary and Financial Code). It also adopted the ACP budget (Article L. 612-12 of the Monetary and Financial Code).

B/ Decisions on general issues

The College adopted and published ten instructions establishing the documents and information that ACP-supervised entities are required to file. The Prudential Affairs Consultative Committee and the Anti-Money Laundering Consultative Committee examined the instructions prior to publication. The instructions deal with:

- supervision of major risks and gross risks (banking);
- capital requirements for credit institutions and investment firms;
- the application of ACP instructions to Caisse des Dépôts et Consignations;
- information about the anti-money laundering and counter terrorist financing system to be filed by insurance institutions;
- filing of annual financial statements, prudential documents and various information by banking institutions;
- supplemental filings for calculating licensed institutions' contributions to guarantee schemes for deposits, securities and bank guarantees.

In addition to these instructions, issued under the ACP's power to perform its supervisory duties (Article L. 612-24 of the Monetary and Financial Code), the College adopted and published several general documents analysing and interpreting how the ACP enforces regulations, following a similar consultation process. These documents include:

- the notice on calculating solvency *ratios*;
- the Joint ACP-Tracfin guidelines for suspicious transaction reports in the fight against money laundering, along with the sector enforcement principles for the insurance sector and funds transfers.

The College adopted and published a Position on sales with premium in the life insurance sector to draw the industry's attention to ways of assessing whether a specific business practice complies with applicable regulations. The College adopted and published a Recommendation on marketing and customer protection that deals with the marketing of unit-linked life insurance policies made up of complex products.

C/ Decisions concerning individual entities

The main cases examined by the College concerning applications for banking and insurance licenses or for authorisation of changes in situation are covered in greater detail in the following chapter. Generally speaking, the College pays special attention to the quality of the proposals presented to it, which are often backed up by commitments, or to compliance with the requirements of the instruction. In one case, the College held a hearing with the representatives of the acquiring entity in order to supplement its analysis of the application.

In its supervisory role, the College issued ten injunctions to credit institutions pursuant to the second paragraph of Article L. 511-41-3. These injunctions, known as Pillar 2 add-ons, require institutions to hold more capital than the minimum regulatory capital requirements. In two cases, the Col-

Individual cases are examined by the Banking and Insurance sectoral Sub-Colleges and the restricted College. They deal with applications for licenses and, in the case of licensed institutions, for authorisation of changes in their situation and follow-up of supervision. The follow-up may include injunctions, administrative policing measures or the opening of a sanction procedure.

lege raised the capital requirement previously set by the Commission Bancaire and, in the other eight cases, it set new requirements. The College also decided to reject a petition from an institution to rescind such an injunction issued to it by the Commission Bancaire.

The College, thereby using one of the administrative policing measures that enable it to respond appropriately when entities under supervision encounter difficulties, placed a bank and an investment company under provisional administration in 2010. In the case of the investment company, EUROPEENNE DE GESTION PRIVÉE (EGP), the College, after consulting with the AMF, decided to ask the Deposit Insurance Fund to implement the securities guarantee scheme to compensate the customers of the firm (some 800 customers, primarily in Italy, where EGP had a branch). This decision was made after finding that the firm's financial difficulties meant that it was unable to return the financial instruments and deposits that it had taken. Consequently, EGP was liquidated and the provisional administrator was transformed into a bank liquidator.

Two other provisional administrations were terminated: one because of the complete transfer of the portfolio and subsequent liquidation of the entity; the other was terminated automatically on 31 December 2010, under the terms of the transitional provisions of Executive Order No. 2010-76. Because of the provisional administration measures in place at the time the ACP was founded, seven insurance institutions and three banks were under provisional administration at the end of 2010.

The College also ended the special surveillance of a licensed insurance institution. It also required an undertaking in financial difficulty to submit a short-term financing plan.

The new power to order entities to take all measures to comply with obligations that are not being met and to set deadlines for

action (Article L. 612-31 of the Monetary and Financial Code) was used twice: the first time, it was used against a credit institution in a case involving monitoring and management of liquidity risk. The second time, it was used against an insurance institution to stop it from marketing a policy. It should be noted that failure to comply with such an order by the deadline set is grounds for the College to instigate a sanction procedure.

In 2010, the College decided to initiate seven disciplinary procedures that were then referred to the Sanctions Committee.



2 / ACTIVITY OF THE SANCTIONS COMMITTEE IN 2010

Seven cases were referred to the ACP Sanctions Committee including three against banking entities, one against an insurance institution and three against insurance intermediaries. The first disciplinary meeting, for a case referred to the Committee on 28 June 2010, was held on 16 December 2010 and the Committee handed down its decision on 10 January 2011, imposing a reprimand and a EUR 150,000 fine on Caisse de Crédit Municipal de Toulon⁵. On this occasion, the Committee ruled that, in view of the judicial nature of its decisions, the public disclosure requirement stemming from Article 6-1 of

the European Court of Human Rights means that its decisions must always be disclosed to the public. Therefore, the decisions are recorded in the register of ACP decisions posted on the Internet and the public has the right to view the register at the ACP Secretariat. The Committee asserts its right to decide that the disclosure be made in a way that makes it impossible to identify the institution or entity in question, but notes that this right is only to be exercised when there are serious grounds to think that full disclosure could cause disproportionate harm to the institution, which was not the case here.

⁵NB: As of this writing, the two-month deadline for appeals has not expired.



3 / LICENSING

A substantial share of the decisions made by the ACP College in 2010 meeting as the Banking and Insurance Sub-Colleges and in restricted session dealt with applications for licensing and authorisation. In addition, the College Chairman made other decisions using his delegated authority. The applications considered for these decisions are compiled by a dedicated department of the General Secretariat, the Licensing, Authorisation and Regulation Directorate.

The licensed population of banking and financial services entities was renewed through new licenses, which primarily concerned the brand new category of payment institutions. Internal restructuring of the leading groups also continued. There were also a number of changes in the ownership of licensed entities following the financial crisis.

3.1 BANKING AND INVESTMENT SERVICES

A/ Licenses primarily concerned the new category of payment institutions

After the licensing of the first payment institution (AQOBA EP) granted by the CECEI at the end of 2009, which became final in 2010, the ACP examined several applications for licenses in this new category of regulated undertakings. The new category was instituted by the Payment Services Directive, which was transposed into French law on 1 November 2009. The applications filed resulted in the granting of 3 licenses of payment institutions, which became final in 2010:

- AQOBA EP, set up to issue loyalty cards for payments in a network or chain of stores and corporate cards for paying business expenses;
- BNC SA, licensed for funds transfers, primarily to the West Indies and Haiti;

- SLIMPAY, which provides payment order execution services for a clientele made up mainly of businesses and merchants.

The examination of these applications was an opportunity to point out that, even though capital requirements are much lower, the licensing rules applying to payment institutions are largely inspired by those for credit institutions. Payment institutions are also subject to strict rules on internal control and on anti-money laundering and counter terrorist financing, albeit in due proportion to their size and their business activity. Some payment services, such as funds transfers, entail a high risk of money laundering and require effective prevention systems to be established as soon as the license takes effect. Furthermore, the Monetary and Financial Code states that the Banque de France gives an opinion on the operating security of systems to be used by the future payment

institutions. All in all, the experience with the examination of payment institutions' applications for licenses since the end of 2009 has shown that the process takes longer than the applicants expected, but that the examination period provided an opportunity to fine-tune plans and, more specifically, to improve operating security and control procedures so that payment institutions can operate under enhanced security conditions.

The ACP also granted a license in 2010 for a financial holding company that issues electronic money, bringing the number of such licenses up to three in France. Transposition of the new Electronic Money Directive on 30 April 2011 (see Inset), which institutes more streamlined rules for electronic money institutions, should lead to more applications for licensing. The ACP will ensure that these new institutions comply with the relevant regulations as soon as they are licensed.

The transposition of the new Electronic Money Directive on 30 April 2011, which introduces more streamlined rules for electronic money institutions, should lead to more applications for licenses.

NEW RULES FOR THE ISSUANCE OF ELECTRONIC MONEY

Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, called the "Second Electronic Money Directive", must be transposed into the Member States' national laws by 30 April 2011. Article 23 of the Banking and Financial Regulation Act No. 2010-1249 of 22 October 2010 gives the government the power to transpose the directive by Executive Order by 22 April 2011. The transposition will be finalised by decrees and ministerial orders.

The objective of this maximum harmonisation directive is to foster the growth of the electronic money market by making it more accessible to new entrants. Directive 2000/46/EC, called the "First Electronic Money Directive", had failed to achieve this objective.

The definition of electronic money will be included in the Monetary and Financial Code. It will incorporate the technological advances made since the First Electronic Money Directive was transposed.

Issuers of electronic money will have an obligation to redeem unused electronic money at the holder's request. Except for specific cases listed in the Code, redemption should be free of charge for the holder.

Electronic money institutions had previously been credit institutions specialised in issuing and distributing electronic money. They are now a separate category of market participant that is distinct from the category of credit institutions covered by the Banking Directive. Their prudential status is more similar to that of payment institutions. However, their minimum capital requirement is EUR 350,000, higher than the requirement for payment institutions. A new method for calculating own funds requirements (Method D) will also be introduced.

The business of issuing and managing electronic money will be restricted to issuers of electronic money, which will

include credit institutions and electronic money institutions. This means that payment institutions will not be authorised to engage in this business. An electronic money issuer will not be allowed to engage in credit transactions. Issuers of electronic money may rely on natural or legal persons to "distribute" the electronic money on their behalf. This "distribution" business will include selling, redeeming and recharging electronic money. The use of electronic money distributors will be covered by the rules for outsourcing services and other key operational tasks, within the meaning of CRBF Regulation 97-02.

Electronic money institutions will also be allowed to provide payment services.

Several investment firms were also licensed, including:

- AXELTIS, an entity of the NATIXIS group providing investment advice and unguaranteed investment services involving primarily units or shares in collective investment schemes (CIS);
- OFI INVESTMENT SOLUTIONS, a jointly controlled entity of MATMUT and MACIF providing its customers with intermediation and advisory services relating to structured products;
- SÉLECTION COURTAGE SAS, a fully-owned subsidiary of the ROTHSCILD group providing order reception and transmission services for units or shares in collective investment schemes (CIS);
- DERIVATIVES CAPITAL, which provides structuring, advice and promotion relating to financial instruments on behalf of institutional customers (banks, insurance companies, asset management companies) and financial investment advisers (FIAs);
- NFINANCE SECURITIES and COMPAGNIE FINANCIERE JACQUES CŒUR, two investment firms licensed respectively for order reception and transmission, order execution and investment advice, and for unguaranteed investments and investment advice.

The license granted to one investment company, EUROPÉENNE DE GESTION PRIVÉE, was withdrawn after the ACP College asked the Deposit Insurance Fund to intervene, resulting in the company's being struck off the register of licensed investment firms.

The ACP granted licenses to new credit institutions, including:

- a financial holding company, PACCAR FINANCIAL SERVICES FRANCE SAS, owned by the US group of the same name and providing its customers with financing in the form of cash loans, equipment loans and financial leases.
- The ACP licensed two real-estate credit companies: one application was from the insurance group AXA for AXA BANQUE EUROPE SCF, and the other was from the

CRÉDIT MUTUEL GROUP for ARKÉA PUBLIC SECTOR SCF. In total, eight financial holding companies engaging in the covered bond business were licensed and ten real-estate credit companies were licensed.

Further to transposition of the Third Anti-Money Laundering Directive, money changers currently in business have to obtain authorisation from the ACP. They have until 11 September 2011 to apply for authorisation to do business. Of the 174 money changers identified, the ACP authorised 77 in 2010, compared with only four in 2009.

In addition to its responsibilities for licensing and authorisation, the ACP has been given the task of compiling a list of intermediaries in banking transactions and payment services. This task has proved very delicate because the requirement for credit institutions to report their intermediaries led to numerous operational problems in identifying a hitherto ill-defined population. On 17 September 2010, the ACP published a preliminary list of 34,600 such intermediaries as of 1 January 2010. Another list with the corrected number of 35,596 intermediaries as of 1 January 2010 was published at the start of 2011, following several changes. The intermediaries' status will change and they will eventually be registered with the insurance intermediary registrar, ORIAS (see Inset on page 67 "Intermediaries in Banking Transactions and Payment Services").

B/ Internal restructuring continued

When the BPCE group was set up in 2009, it was agreed that the status of the two holding companies created during the operation to hold certain equity interests of the BANQUE POPULAIRE group and the CAISSE D'ÉPARGNE group temporarily would be reviewed. After examining the application, the ACP authorised BPCE, which is the central body and parent of the group, to take over both holding companies, BP PARTICIPATIONS and

CE PARTICIPATIONS, and to take controlling interests or significant shareholdings in the supervised institutions held by the two holding companies.

In addition, four mutual banks: CAISSE FÉDÉRALE DE CRÉDIT MUTUEL du Centre, CAISSE FÉDÉRALE DE CRÉDIT MUTUEL de Loire-Atlantique et du Centre-Ouest, CAISSE FÉDÉRALE DE CRÉDIT MUTUEL de Normandie, du Dauphiné-Vivarais and Caisse Fédérale de Crédit Mutuel Méditerranéen (that latter two constitute CAISSE INTERFÉDÉRALE DU CRÉDIT MUTUEL Sud Europe Méditerranée) became regional banks (local banks with a broad range of activities) that belong, along with the local banks federated with them, to CAISSE FÉDÉRALE DE CRÉDIT MUTUEL (CFCM), the parent of the CM10-CIC group.

The investment company, HSBC FINANCIAL PRODUCTS (France) was taken over by its parent HSBC France because virtually all of its equities derivatives business had been transferred to HSBC BANK Plc at the end of 2009.

Finally, to finalise the unification of the government-owned finance group, the real-estate financial leasing financial holding company OSÉO BRETAGNE and the specialised financial institution OSÉO GARANTIE were taken over by OSÉO FINANCEMENT. The latter's banking license was extended to include advances against government contracts, as well as all specialised banking activities for small and medium-sized enterprises.

C/ Some changes in control stemmed from the financial crisis

The impact of the financial crisis was still being felt by the French subsidiaries of European banking groups. For example, ODDO ET CIE acquired 100% of BANQUE D'ORSAY from the German banking group WESTLB AG, which was required by the European Commission to dispose of some of its for-

eign businesses as part of the public bailout plan that rescued it. In other developments, GE FACTOFRANCE (GENERAL ELECTRIC group) acquired a controlling interest in the financial holding company RBS FACTOR (a subsidiary of the ROYAL BANK OF SCOTLAND group), thus bolstering its position as a leading player on the French factoring market.

There were also changes in the control between French groups. CRÉDIT DU NORD (SOCIÉTÉ GÉNÉRALE group) acquired 100% of SOCIÉTÉ MARSEILLAISE DE CRÉDIT from the BPCE group to boost its presence in the southeast of France. CRÉDIT MUTUEL ARKÉA acquired 100% of CRÉDIT FONCIER ET COMMUNAL D'ALSACE ET DE LORRAINE-BANQUE and, indirectly, a controlling stake in its subsidiary CFCAL SOCIÉTÉ DE CRÉDIT FONCIER from CRÉDIT FONCIER DE FRANCE (BPCE group) in order to gain specific know-how in the loan restructuring market.

SOCIÉTÉ FINANCIÈRE DU PORTE-MONNAIE ELECTRONIQUE INTERBANCAIRE (SFPMEI), which manages financial flows for the MONÉO electronic money system, was acquired from the leading French banking groups by the venture capital fund BLACKFIN FINANCIAL SERVICES FUND, which is managed by the asset management company BLACKFIN CAPITAL PARTNERS.

CRÉDIT MOBILIER DE MONACO (part of the Italian industrial group PESENTI), which had been licensed as a credit institution to engage in transactions included within the scope of the municipal credit banks' activities, applied for and obtained a restricted banking license in order to offer its customers a more diversified range of banking services. The Lebanese banking group AUDI-SARADAR acquired almost all the equity and voting rights in DRESDNER BANK MONACO from Commerzbank International S.A.

CREDIT INSTITUTIONS, PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS IN MONACO

The Exchange Control Agreement between France and Monaco of 14 April 1945 lays down the principle of applying French rules to the organisation and operation of credit institutions in Monaco. The scope and practical procedures for executing the agreement were set out in exchanges of letters on 18 May 1963, 27 November 1987, 6 April and 10 May 2001, 8 November, 2005 and 20 October 2010 dealing with banking regulations in Monaco.

To incorporate recent changes in banking laws, the exchange of letters of 27 November 1987 was replaced by the exchange of 20 October 2010 (Decree No. 2010-1599 of 20 December 2010 publishing the agreement).

This exchange of letters incorporates the transposition of Directive 2007/64/EC on payment services into French law and anticipates the transposition of Directive 2009/110/EC on electronic money, along with changes regarding the entities that take part in drafting banking legislation and supervision of the banking sector.

Thus, in many ways, the Principality of Monaco and France constitute a uniform environment for the banking business. French laws and regulations on credit institutions, payment institutions and electronic money institutions apply to Monaco. Consequently, the institutions located in Monaco are covered by the ACP. And yet, the regulations governing these institutions still have some particularities, since French rules governing relations between institutions and their customers

(right to a bank account, direct marketing, banking and payment services intermediation, payment services agents, etc.) do not apply in Monaco.

The special features of the rules governing institutions in Monaco stem from the fact that the Principality of Monaco is not a member of the European Union, nor is it a party to the European Economic Area (EEA) agreement. Therefore, institutions with their registered office in a EEA country other than France require a license from the ACP to do business in Monaco.

Institutions from Monaco are represented by a French professional association that is a member of the Association française des établissements de crédit et des entreprises d'investissement (AFECEI), in addition to belonging to a professional association governed by Monaco's laws.

Furthermore, a non-voting representative of the Monaco government may attend meetings of the Financial Sector Consultative Committee and the Advisory

Committee for Financial Legislation and Regulations dealing with topics relating to the direct application of French laws in Monaco.

Monaco's laws on anti-money laundering and counter terrorist financing have changed considerably since 2009, with the incorporation of the various recommendations made in the plan of action drafted by the Moneyval Committee. Monaco has its own financial intelligence unit to handle suspicious transaction reports: SICCFIN (Service d'Information et de Contrôle sur les Circuits Financiers).

In contrast to banking laws and regulations, French provisions on investment services providers do not apply in Monaco. Consequently, the ACP has no authority to license or supervise a provider with its registered office in Monaco.

Since 2010, credit institutions licensed to do business in Monaco as custodians or administrators of financial instruments must belong to the French investor guarantee system.

FACTS AND FIGURES

The structures of France's banking and financial system continued to adapt to the current economic context, with a continuing reduction in the number of credit institutions in 2010, which fell below 700 for the first time and reached 683, compared with 706 at the end of 2009. A similar pattern was seen in Monaco, where

the number of credit institutions declined from 26 at the end of 2009 to 24. On the other hand, the new population of payment institutions increased, logically, from one at the end of 2009 to four. The population of investment firms covered by the ACP was virtually stable, declining from 98 at the end of 2009 to 97,

but the overall number of investment firms, including asset management companies supervised by the AMF, increased substantially from 742 at the end of 2009 to 785. The population of money changes stood at 174 at the end of 2010.

Changes in the number of credit institutions, investment firms and payment institutions in France and in the number of credit institutions in Monaco

	2009	2010	CHANGE (NUMBER)
LICENSED CREDIT INSTITUTIONS IN FRANCE			
Banks	212	206	-6
Mutual and co-operative banks	101	101	-
Municipal credit banks	18	18	-
Financial holding companies	300	287	-13
Specialised financial institutions	5	3	-2
SUB-TOTAL	636	615	-21
BRANCHES OF CREDIT INSTITUTIONS FROM THE EUROPEAN ECONOMIC AREA DOING BUSINESS UNDER THE FREEDOM OF ESTABLISHMENT	70	68	-2
TOTAL FRANCE	706	683	-23
AUTHORISED CREDIT INSTITUTIONS IN MONACO	26	24	-2
TOTAL FRANCE AND MONACO	732	707	-25

	2009	2010	CHANGE (NUMBER)
INVESTMENT FIRMS			
Investment firms licensed by the ACP	98	97	-1
Branches of investment firms doing business under the freedom of establishment	53	59	+6
TOTAL	151	156	5

	2010
PAYMENT INSTITUTIONS	
Payment institutions licensed by the ACP	3
Branches of payment institutions doing business under the freedom of establishment	1
TOTAL	4

ACP – Authorisation, Licensing and Regulation Directorate
Financial Regulations Unit
Research, Statistics and Lists

In 2010, the insurance sector saw a large number of mergers with transfers of portfolios (119) in the population of mutual insurance companies covered by Book II of the Mutual Insurance Code. To a lesser extent, the move to rationalise structures also affected provident institutions. Several insurance companies saw major ownership changes or restructuring in 2010.

The number of French direct insurance companies covered by the Insurance Code stood at 332 at the end of 2010, of which 230 were non-life insurance companies and 102 offered life and combined insurance.

3.2 INSURANCE

A/ Insurance companies (covered by the Insurance Code) undertook many restructuring operations

a) Changes stemming directly or indirectly from the financial crisis

Two major restructurings took place in 2010:

- The AIG group sold its life insurance business ALICO, including its French subsidiary, to the American METLIFE group. At the same time the AIG group simplified the financial architecture of the French non-life insurance company CHARTIS EUROPE, which is now virtually wholly controlled by CHARTIS UK HOLDINGS LIMITED.
- Following the break-up of the bancassurance group FORTIS, the life insurance company FORTIS ASSURANCES finalised the termination of its business partnerships with FORTIS BANQUE FRANCE and FORTIS ÉPARGNE RETRAITE, which are now controlled by BNP PARIBAS, by transferring the portfolios held jointly with these two undertakings to CARDIF ASSURANCE VIE (a subsidiary of BNP ASSURANCE).

b) Other changes

- In the group insurance business, the supplementary welfare insurance group MALAKOFF MÉDÉRIC acquired 100% of the life insurance company QUATREM by buying the 20% interest that MMA still held. At the same time, in the savings market segment, MALAKOFF MÉDÉRIC became the sole shareholder of MÉDÉRIC ÉPARGNE, by acquiring the 49% interest held by AVIVA FRANCE and adding it to the 51% stake it already held.
- In other developments, the ending of the collaboration with SOCIÉTÉ GÉNÉRALE in the individual accident insurance market led AVIVA FRANCE to sell its 35% interest in the non-life insurance company SOGESUR that had been the vehicle for its alliance with the bank.
- In an alliance with the mutual insurance companies PRÉVADIÈS and EXISTENCE

(governed by the Mutual Insurance Code), the HARMONIE MUTUALITÉ group took over the insurance company SPHÉRIA VIE, in which it had previously held equal shares with the mutual insurance company SPHÉRIA VAL DE FRANCE (also governed by the Mutual Insurance Code).

- The PASTEUR MUTUALITÉ group, with its clientele of physicians (primarily in private practice) reassigned a group supplementary retirement savings contract with CNP ASSURANCES to its life insurance subsidiary GPM ASSURANCE SA (in which CNP holds a 9.4% interest).
 - To facilitate the recovery of the business of DOMISSIMO ASSURANCE (formerly PRÉVIFRANCE VIE), the supplementary social insurance group D&O handed contracts that AURIA VIE had transferred to the mutual insurance company D&O (governed by the Mutual Insurance Code) to its new subsidiary.
 - The APRIL group sold its subsidiary AXÉRIA VIE, which markets savings products for asset management strategies, to CRÉDIT AGRICOLE.
 - To strengthen its historic links with mutual insurers governed by the Mutual Insurance Code offering “supplementary health coverage” for civil servants, CNP ASSURANCES directly and indirectly acquired a 65% controlling interest in the life insurance company MFPRÉVOYANCE, which had previously been held by the MFP SERVICES technical union and eight mutual insurance companies.
- #### c) Internal restructuring
- GROUPAMA continued restructuring its mutual insurance business by merging CRAMA D’ALSACE with CRAMA du Grand-Est. This reorganisation reduced the number of regional companies from 13 to 12 (10 of which are located in metropolitan France).
 - The COVÉA group, which comprises the GMF, MMA and MAAF groups, simplified the management of its support services

offered by MMA by transferring the business of ASSURANCES MUTUELLES DE FRANCE (AMF) to MMA IARD (SA) and MMA IARD (mutual insurance company) through MMA IARD (SA). At the same time, AMF assumed the assistance policies delivered by LA SAUVEGARDE.

- In 2007, the mutual insurance company MATMUT redistributed almost all of its businesses to two new subsidiaries working in different markets: MATMUT ASSURANCES (non-civil service individual customers) and MATMUT ENTREPRISES (business customers). For the purposes of operational consistency, the group moved the entire production of MATMUT ASSURANCES to the MATMUT MUTUAL INSURANCE company in 2010.
- The MONCEAU group divided up the business of CAISSE INDUSTRIELLE D'ASSURANCE MUTUELLE (CIAM) between three other components of the group: the non-life insurance company MONCEAU GÉNÉRALE ASSURANCE (rental risks), the life insurance company MONCEAU RETRAITE ÉPARGNE (fire fighters' and municipal employees' occupational risks) and MUTUELLE CENTRALE DE RÉASSURANCE (business managed in runoff mode).
- The SMACL group restructured its business by establishing a mutual insurance group company (SGAM). This new company unites the two entities that form the basis of the group's structure: SMACL ASSURANCES, a mutual insurance company governed by the Insurance Code and specialising in covering local governments and their employees, and SMACL SANTÉ, a mutual health insurance company governed by the Mutual Insurance Code.
- The life insurance company ESCA, which is owned by the Burrus family, purchased AFI EUROPE and AFI EUROPE IARD from the bank, KLEINWORT WASSERSTEIN FRANCE to round out its offer of savings products with retirement and disability cover. The group merged ESCA and AFI EUROPE into ESCA in order to streamline its structure.

d) Changes in control with special features

The AVIVA GROUP'S ACQUISITION OF ROYAL AUTOMOBILE CLUB in the United Kingdom in 2005 led to an indirect takeover of RAC's French subsidiary: RAC FRANCE SA, which specialises in assistance for motorists and breakdown coverage. RAC FRANCE SA remained independent from the French business of AVIVA, however. The lack of synergy led to the sale of RAC FRANCE SA to the venture capital fund Finadvance Capital III, represented by the management company FINADVANCE SA (owned by six individuals). This acquisition was carried out in liaison between AVIVA FRANCE and the company's management team under the following financial arrangement: (1) a holding company, Garantie Evolution 1, holds an 82.5% controlling interest in RAC FRANCE SA, with AVIVA ASSURANCE holding the remaining 17.5%; (2) the venture capital fund owns a 93.2% interest in the holding company, the managers of RAC FRANCE SA own another 5.8% and the remaining 1% is owned by an outside investor.

B/ Provident institutions governed by the Social Security Code continued to regroup

The number of provident institutions stood at **53 at the end of 2010**. They continued to regroup in 2010, with four merger-takeovers:

- The takeover of PRÉMALLIANCE PRÉVOYANCE by AG2R PRÉVOYANCE, resulting from broader merger of the AG2R and PRÉMALLIANCE groups.
- The merger-takeover of CIRCO PRÉVOYANCE by IPGM, which belongs to the MORNAY GROUP.
- The merger-takeover of URRPIMMEC by MÉDÉRIC PRÉVOYANCE, following the merger of the MÉDÉRIC and MALAKOFF groups.
- The takeover of IONIS PRÉVOYANCE by APRI PRÉVOYANCE, as part of the merger of the APRI and IONIS welfare protection groups.

C/ Mergers continued between mutual insurance companies governed by Book II of the Mutual Insurance Code

The merger movement continued at a sustained pace as mutual insurers sought to increase their size to pool resources in a very competitive environment. Tighter requirements for the management of the social security scheme for self-employed workers and regulatory changes stemming from Solvency II also spurred the wave of mergers.

Under the terms of Article 23 of Executive Order No. 2010-76 of 21 January 2010 on the merger of the licensing and supervision authorities for banking and insurance,

the number of active mutual insurance companies as of 31 December 2010 stood at 719, of which 237 had larger partners assuming their risks. A total of 119 mergers were authorised in 2010.

The main restructuring operations were as follows:

- UMAE was dissolved after transferring its policies to MAE, which also received the legal protection and assistance policies of MAE SAM and the accidental death policies of MAE VIE. MAE also took over the 92 local MAE D companies in 2009 and 2010.
- HARMONIE MUTUALITÉ continued to simplify the HARMONIE group's legal structure by taking over the HARMONIE AUVERGNE and RENALHU-FORTECH-INTERFORGE mutual insurance companies, which were two of the three members of UNION DES MUTUELLES 63 (UMS 63), belonging to UNION HARMONIE MUTUALITÉ (UHM). UMS 63 also transferred its portfolio of group policies to HARMONIE MUTUALITÉ, thus ending its insurance business. It was then merged with UNION HARMONIE MUTUALITÉ.
- The takeover of COESIA SANTÉ by SMAPRI, as part of the merger of the APRI and IONIS welfare protection groups.
- The takeover of UMTNS RADIANCE by SMP RADIANCE on the grounds that both mutual insurance companies belonged to UNION RADIANCE Groupe APRI. The new multiregional mutual insurance company will be called MBA RADIANCE.
- The mutual insurance companies belonging to the SANTÉVIE group saw the takeover of Mutuelles SANTÉVIE UMT, GERSEISE and MAP by Mutuelle SANTÉVIE MTG, which changed its name to MUTUELLE SANTÉVIE.
- The MUTUALIA mutual insurance companies were founded in the nineteen-nineties. The 2007 Annual General Meeting of the Union passed a resolution calling for the MUTUALIA companies to be brought together in four regional mutual insurance companies. The takeover of MUTUALIA LANGUEDOC ROUSSILLON and MUTUALIA SANTÉ ASSISTANCE VALLÉE DU RHONE by MUTUALIA ASSISTANCE is in line with this objective.

	AT 31/12/2009	AT 31/12/2010	CHANGE
NUMBER OF INSURANCE INSTITUTIONS			
Life and combined insurance companies	103	102	-1
<i>of which combined insurance</i>	38	39	1
Non-life insurance companies	237	229	-8
TOTAL INSURANCE COMPANIES	340	331	-9
Reinsurance companies	21	20	-1
Branches from non-EU countries	7	6	-1
Governed by Insurance Code	368	357	-11
Provident institutions	56	53	-3
Governed by Social Security Code	56	53	-3
Governed by Book II of the Mutual benefit Insurance Code	844	719	-125
<i>Of which companies backed by larger partners</i>		237	
Governed by the Mutual Insurance Code	844	719	-125
TOTAL LICENSED UNDERTAKINGS AND UNDERTAKINGS NOT REQUIRING A LICENSE	1,268	1,129	-139

The data in the table concern undertakings that are licensed to engage in the insurance business. The figures for 2009 incorporate the amendment introduced when the ACP was founded that defines its powers with regard to the licensing of insurance institutions, and mutual insurance companies in particular. These figures do not include undertakings that are still under supervision, but no longer licensed to produce policies. This is why the 2009 figures may be different from the figures for the same period previously published by the CEA and the ACAM.



4 / PRUDENTIAL SUPERVISION

Under the terms of Article L. 612-12 of the Monetary and Financial Code, the plenary meeting of the ACP College *“examines all matters of general import common to banking and insurance and analyses the risk exposure of these sectors given the economic situation. It decides the supervisory priorities”*.

Prudential supervision is carried out by means of ongoing supervision and on-site inspections, which may be carried out by the same units or by dedicated units.

The ongoing supervision tasks fall into four main groups:

- off-site supervision using the periodic returns filed with the supervision departments;
- preparing and holding colleges of supervisors meetings lasting one or more days for banking and insurance groups with significant business activity in European countries, either as the organisers (for groups with a French parent), or as participants;
- ongoing exchanges and periodic meetings with the senior managers of the entities under supervision, including the presentation of the financial statements and earnings reports, strategic and organisational plans, explanations about applications for a license and topical meetings completed with on-site visits and inspections lasting one or two days to deal with specific issues, such as following up inspection findings;
- close monitoring of undertakings and insti-

tutions subject to measures decided by the College: monitoring business plans, recovery plans, short-term financing or liquidation plans, convergence plans, undertakings placed under special supervision or under provisional administration.

On-site inspections are carried out based on the supervision priorities adopted by the College and according to an on-site inspection programme drawn up by the Secretary General. On-site inspections may be general inspections, with the tasks being chosen based on the selection by the ongoing supervision staff using a set of criteria, or topical inspections dictated by the financial situation or regulatory developments. In 2010, the ACP carried out 136 on-site inspections in credit institutions and investment firms and 39 inspections in insurance institutions. In addition, 13 anti-money laundering inspections were carried out in money changers.

The ongoing supervision staff in both sectors stepped up the scrutiny of conglomerates engaging in “bancassurance” activities, with special inspections of risk transfers between sectors within these groups.

4.1 BANKING

A/ Ongoing supervision

a) The scope of ongoing supervision of banks and investment firms

The ACP supervises compliance with laws and regulations applying to credit institutions, investment firms, payment institutions, financial holding companies and mixed financial holding companies. It also supervises members of the regulated markets, clearing house members, entities authorised to do business as custodians or administrators of financial instruments and money changers.

A new category of licensed institutions was brought under ACP supervision in 2010: **micro-credit companies (as long as they request supervision by the ACP and under suitable prudential regulations).**

A decree also made the ACP responsible for supervising the banking and financial business of CAISSE DES DÉPÔTS ET CONSIGNATIONS group on behalf of its supervisory committee. For this purpose, the ACP will follow a predetermined internal “prudential model” defined by the supervisory committee. In preparing the model, the supervisory committee will receive proposals from the Managing Director of CAISSE DES DÉPÔTS ET CONSIGNATIONS and the opinion of the ACP. Work on preparing the ACP’s opinion has already started with CAISSE DES DÉPÔTS ET CONSIGNATIONS.

b) Continuing work to enhance preventive action

In-depth examination of the institutions’ accounting and prudential filings, which are usually submitted quarterly, along with internal audit reports filed once a year, provides a regular flow of information for the ACP staff in charge of monitoring the individual institutions under its supervision. It enriches their analysis and assessment of the situation of licensed institutions using the ORAP 2 methodology (see the 2007 Commission Bancaire Annual Report, “The

risk assessment system used by the General Secretariat of the Commission Bancaire”).

In 2010, tighter internal control regulations provided an opportunity to enrich the type of information filed systematically with the ACP. Filings must now include:

- all the documents examined by the entity’s governing body in its twice-yearly review of business and the internal audit findings;
- the key information and main lessons to be learned from risk analysis and monitoring.

These filings allow for more accurate analysis of institutions’ governance arrangements and help to reinforce them. In addition, the ACP General Secretariat participated in international work aimed at establishing standards to improve governance of banking groups, while also asking major international institutions to define their risk tolerance policy more clearly and to monitor it more effectively.

Periodic meetings are held with the senior managers of institutions to enhance this scrutiny, including executives, representatives of the financial departments and the departments in charge of measuring and monitoring risks, the heads of business lines, heads of periodic and ongoing supervisions, and compliance officers, among others. In 2010, a specific effort was made to enhance monitoring of independent institutions, investment firms and specialised credit businesses (real-estate loans, consumer loans, etc.) French establishments of foreign credit institutions were also subjected to closer scrutiny through the ACP’s active participation in colleges of supervisors and in-depth analysis of the overall situations of the groups concerned. The ACP also continued its cross-cutting analysis work (for example, looking at high-frequency trading or management of employee savings schemes) in order to enhance its understanding of the specific risks involved in these activities.

The action taken in relation to ongoing supervision is based on an analysis of accounting and prudential filings, in-depth interviews with representatives of institutions and findings of on-site inspections.

The ACP continued to pursue a special approach to large banking groups based on a structured programme of “enhanced supervision” meetings, in addition to dealing with specific issues, overseeing the implementation of recommendations made following on-site inspections and periodic meetings with financial departments and the departments in charge of measuring and monitoring risks, particularly when quarterly earnings figures are published. During these meetings, an in-depth diagnosis is made of risks (credit risk, market risk, operational risk, liquidity risk, etc.) and the systems for monitoring and managing these risks. The diagnosis is made by business line (retail banking, corporate and investment banking, asset management, etc.), by geographical areas and, where appropriate, by legal entities when enhanced individual supervision of entities within the groups is required.

All in all, more than 900 such meetings were held in 2010.

All of the information gathered through ongoing supervision and on-site inspections leads the ACP to make recommendations aimed at improving institutions’ risk management systems and their risk profiles. This information is also considered when deciding any add-ons to prudential own funds requirements under Pillar 2 of the Basel system (see the 2009 Commission Bancaire Annual Report, “Implementation of Pillar 2 of Basel 2”). **The ACP imposed such add-ons for 82 institutions and groups that account for 97% of the risk exposure of the national banking system, including subsidiaries of foreign institutions.**

Add-ons are increasingly decided within an international framework and, more specifically, by colleges of supervisors. Colleges of supervisors were initially promoted by the European supervisory authorities within the Committee of European Banking Supervisors and then became mandatory in Europe under the terms of Directive 2006/48/EC (recast). Their use is now spreading within the broader framework of the world’s lead-

ing prudential supervision authorities at the instigation of the G-20 and the Financial Stability Board.

In 2010, a new supervisory procedure was implemented for ongoing supervision of banks: site visits. These visits supplement the periodic in-depth meetings held with the institutions to gauge more precisely how thoroughly the recommendations made following on-site inspections are implemented. The visits are also used for a more detailed and cross-functional scrutiny of a specific activity, such as high-frequency trading, or to gain an understanding of certain functions in an institution’s information system. Twenty site visits were organised.

COLLEGES OF SUPERVISORS

Colleges of supervisors were set up for French banking groups with significant international business back in 2004, without waiting for them to become mandatory in Europe. The groups concerned were BNP Paribas, Société Générale and Crédit Agricole. The colleges bring together the supervisors of the European subsidiaries of the banking groups concerned, along with non-European supervisors of the largest international establishments, as a separate body where appropriate.

Under the terms of Directive 2006/48/EC (recast), colleges of supervisors became mandatory as of the end of 2010 for groups with one or more subsidiaries located in another Member State of the European Union. For this purpose, the ACP started establishing new colleges of supervisors in 2010 that are now in operation. The ACP heads a total of 14 colleges of supervisors for banking groups where it is the consolidated supervisor in Europe. It has identified another 20 institutions where it is likely to take part in a college of supervisors in its capacity as the supervisor of a subsidiary of a European banking group.

Colleges of supervisors are meant to promote greater cooperation between the authorities supervising

the entities of the groups in question. The main objectives of the colleges are to:

- share information about the overall situations of the groups in order to make a joint assessment of their risk profiles;
- harmonise approaches to enforcing prudential regulations with regard to the different entities of the group;
- coordinate supervisory actions, particularly in the case of on-site inspections.

Depending on the subjects being discussed, the supervisors of the insurance subsidiaries of French banking groups may be invited to participate in the discussions within the colleges. In 2010, representatives of the Committee of European

Banking Supervisors (CEBS) were also invited to attend the meetings of the colleges for BNP Paribas, Société Générale and Crédit Agricole as observers. Starting in 2011, representatives of the European Banking Authority (EBA), which replaced the Committee of European Banking Supervisors (CEBS) and has more extensive powers, are entitled to attend the meetings of European colleges of supervisors as observers.

The senior managers and representatives of the groups concerned are periodically invited to attend the meetings of the colleges of supervisors to present the annual financial statements, likely changes in risk profiles and planned strategic developments.

THE JOINT DECISION MAKING PROCESS IN EUROPE

Starting in 2011, Directive 2006/48/EC (recast) makes the process of joint evaluation by the supervisors of the risk profile of a banking group and its subsidiaries mandatory so as to reach a joint decision each year concerning:

- the financial situation of the banking group and its subsidiaries and their risk profile;
- the level of capital requirements, with a view to imposing possible “Pillar 2 add-ons” on each entity in the banking group and on a consolidated basis.

The Directive states that the authority responsible for supervision on a consolidated basis must provide the authorities responsible for the supervision of the group’s subsidiaries in the European Union with a report on the evaluation of the group’s risk exposure, taking into account the evaluation of the risk exposure of the European subsidiaries.

The authorities shall have four months (extended to six months up until 31 December 2012) to reach a joint decision on the adequacy of the group’s capital and on any add-ons applying to the subsidiaries on a consolidated basis.

At the end of the allotted time for discussions between the authorities,

it is up to the authority responsible for supervision at the consolidated level, after considering the group risk assessment and the opinions of the competent authorities for supervising the subsidiaries, to acknowledge the agreement of all of the authorities concerned and present the joint decision regarding the group and its subsidiaries. The capital requirements for the subsidiaries that these authorities set take into account any reservations expressed by the authority responsible for supervision on a consolidated basis. The joint decision, which must be duly explained, is set out in a single document that the authority responsible for supervision on a consolidated basis then sends to the parent company and all of the authorities concerned.

If the authorities fail to reach an agreement, the authority responsible for supervision on a consolidated basis may refer the matter to the European Banking Authority (EBA) on its own initiative or at the request of another authority. In this case, the various

authorities must then abide by the opinion expressed by the EBA. The separate decisions made by the authority responsible for supervision of the group on a consolidated basis and the competent authorities for the subsidiaries, along with the explanations for these decisions, are presented in a single document that the authority responsible for supervision on a consolidated basis then transmits to the parent company and all of the authorities concerned. The decisions are updated once a year or, under exceptional circumstances, at the request of an authority responsible for the supervision of a subsidiary. In this case, the update may be made on a bilateral basis. The Committee of European Banking Supervisors (CEBS) published recommendations in December 2010 aimed at harmonising the enforcement of the new provisions on the operation of colleges of supervisors and the joint decision process. The processes used in the colleges of supervisors presided by the ACP are in line with these recommendations.

c) Active monitoring of the consequences of the financial crisis

Some of the institutions’ capital market activities were severely affected by the financial crisis. This was the result of either an inadequate grasp of the risks associated with certain complex activities, such as arbitraging between correlated activities, or else excessive exposure to risk assets in a given geographical area, such as exposure to structured securitisation products in the United States.

In many cases, the losses incurred in these activities led to a review of the institutions’ strategies and their risk profiles. Some activities were dropped or managed in runoff mode, but high-risk levels persisted, justifying special supervision by the ACP. The ACP also endeavoured to ensure full compliance with its recommendations on risk assessment and management, particularly with regard to the recommendations of the Lagarde Report on monitoring market transactions.

As in previous years, close attention was paid to the analysis and monitoring of the consequences of the financial crisis, with a focus on changes in market activities, in international networks’ situations, in refinancing terms and in the sensitivity of institutions to prolonged crisis simulations.

Furthermore, the financial crisis gave rise to major economic consequences in certain geographical areas where French banking groups have a strong presence. The ACP instituted enhanced vigilance for corporate and investment banking institutions in these areas, and for the largest international businesses, which are often specialised in retail banking.

In 2010, the ACP also continued to pay very close attention to institutions' liquidity risk and refinancing terms, for both euros and foreign currencies. Overall, interbank markets ran slightly more smoothly than in 2009, in view of the various support measures taken by the central banks. There were fresh episodes of tension on the markets and the situation warrants keeping a close watch on liquidity.

STRESS TESTING COORDINATED BY CEBS

Continuing on from the 2009 exercise, the Economic and Financial Council (ECOFIN) mandated the Committee of European Banking Supervisors (CEBS) to carry out a second EU-wide stress test exercise at the start of 2010.

The exercise was conducted with 91 banks from twenty European Union countries, including four French banks. There were two phases. The first phase, from February to May 2010, consisted of conducting an exercise similar to the 2009 exercise, measuring the impact on Tier 1 ratios of an adverse macro-economic scenario over two years (2010 and 2011), as well the impact of specific shocks involving certain market variables.

In the second phase (June and July 2010), the assumptions were changed to simulate the effects of a further aggravation of the sovereign debt crisis, following the tensions seen in the second quarter.

The general methodology for the exercise, dealing with the translation of the scenarios into the risk parameters, data formats, etc., was worked out within CEBS. The various transmission channels considered for putting stress on the Tier 1 ratio can be presented roughly as follows:

The banks calculate the results under the bottom-up approach, whereas the results are calculated by the supervisor under the top-down approach.

The exercise was conducted at the national level by each supervisor, working closely with the banks concerned. The ACP's discussions with the banks primarily concerned the

consistency of the stress test results before they were passed on to CEBS. After conducting its own examination of the consistency of the results for all 91 banks, CEBS produced a summary report that was published in July.

The test results testify to the resilience of French banks, with the average Tier 1 ratio standing at more than 9%, even with a 60-basis-point drop under from the worst-case scenario. Similar results were found at the European level, with the exception of a few banks, where the Tier 1 ratio dipped below 6%, before recapitalisation measures that were announced simultaneously with the publication of the stress test results.

As a general rule, the exercise was a shining example of European coordination. It was carried out with full transparency vis-à-vis the market in terms of the methodology, as well as the results and the data on sovereign risk exposures, which were published for each bank.

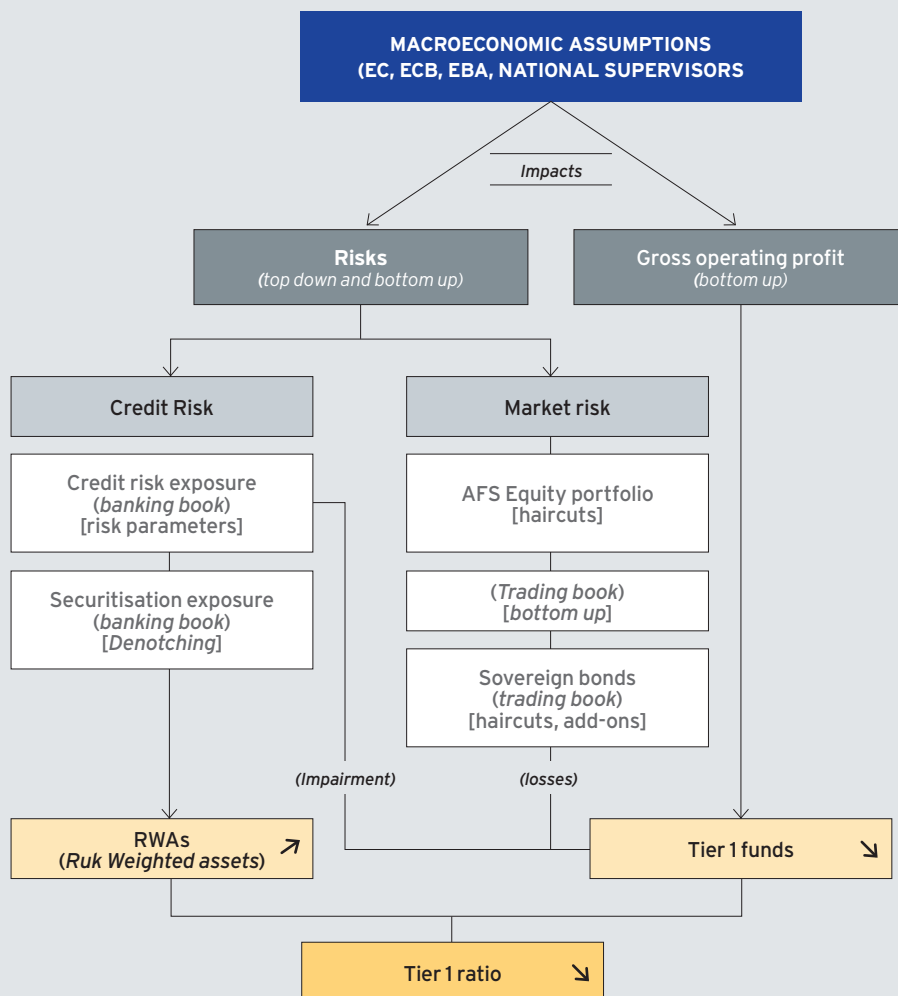
Following the publication of the results, CEBS started working on the lessons of the stress tests, particularly in terms of methodology and the consistency of the results. These lessons will be used to conduct the planned 2011 exercise under the aegis of the European Banking Authority.

To supplement the benchmark scenario drawn up by the European Commission, the European Central Bank drew up the adverse scenario, which gave rise to close consultations with CEBS.

In the first half of 2010, the ACP ongoing supervision staff took part in the European stress tests coordinated by the Committee of European Banking Supervisors. The test results of each of the 91 European banking groups that took part in the exercise were published in July 2010, along with detailed information about the institutions' exposure to European sovereign risks. Four French

banking groups were involved: BNP PARIBAS, SOCIÉTÉ GÉNÉRALE, CRÉDIT AGRICOLE and BPCE. The results of these crisis simulations are considered when determining possible "Pillar 2 add-ons" for own funds requirements. The test results also enhance the macro-prudential diagnosis that supervisors periodically make of their banking systems.

The ACP relies of the expertise of staff in other Directorates General of the Banque de France (such as Research and International Relations or Operations) to garner the full benefits of the synergies created by partnering the Banque de France with prudential supervision.



The operational framework for on-site inspections carried out in 2010 was renewed following the founding of the ACP. This involved an update of the Charter for On-Site Inspections, which had originally been published in 2008, after consultations with industry professionals.

d) Adapting to changes in regulations

The ACP ongoing supervision staff took part in impact studies conducted by the Basel Committee and the Committee of European Banking Supervisors. They also worked with the institutions concerned to see how they would adapt to upcoming changes in regulations.

The ACP keeps a close watch on changes in the competitive and regulatory environment for market infrastructures in Europe. It promotes appropriate risk management solutions as part of the development of clearing for derivatives, and for credit default swaps in particular.

B/ On-site inspections and follow-up

The variety of on-site inspections reflects the diversity of the French banking industry, but the inspections in 2010 concentrated on activities or institutions perceived as presenting risk factors that warranted backing up the work of the ACP ongoing supervision staff at the General Secretariat with thorough on-site inspections.

With this in mind, the 2010 inspection programme addressed various topics to enhance the analysis of the effects of the financial crisis on the banking sector, in addition to carrying out general-purpose inspections to cover all of the activities of the institutions under review.

Inspections were carried out in the area of market activities to determine the impact of the crisis on Value at Risk models and to capture certain special activities, such as correlation portfolios and commodities trading. On-site inspections also reviewed the terms of the run-off of risky activities. Credit risks generated by the persistent effects of the financial crisis were also emphasised, particularly with regard to exposure to business credit, regardless of the type of financing involved (equipment loans, financial leasing, factoring).

In addition, the continuing implementation of the Basel 2 framework gave rise to several inspections aimed at preliminary validation of the internal models developed by the institutions to calculate their own funds requirements and inspections to follow up recommendations made by the supervisory authority following previous inspections.

The first inspections were also conducted to validate the advanced liquidity approaches provided for under the new French system that came into force on 30 June 2010. Several inspections were carried out with regard to credit institutions' business practices, under the powers given to the ACP for the supervision of business practices.

The on-site inspections in the leading institutions in France often led the inspectors to follow up their inspections with inspections of foreign businesses to ensure that risk monitoring and management procedures were being properly followed. Some thirty such inspections were carried out in 2010. Eight of them were conducted in countries outside of the European Union, including various offshore financial centres, as part of compliance inspections of private banking activities.

On-site inspections are also aimed at covering the various activities of specialised French and foreign institutions licensed as credit institutions or investment firms. Therefore, the 2010 inspection programme, like that of every other year, covered a broad range of institutions specialising in activities such as business financing, consumer loans, managing employee savings schemes, private asset management and intermediation.

Close attention was systematically paid to examining the institutions' anti-money laundering systems, using dedicated computer tools that enable inspection teams to make a thorough analysis of the risks.

Furthermore, under the provisions of Articles L. 621-9-2 and R. 621-31 of the Monetary and Financial Code, inspections were carried out under a mandate from the AMF

to ensure compliance with the provisions of the AMF General Regulation. Eleven such inspections were carried out in credit institutions, investment firms and financial investment advisers, looking primarily at the marketing of financial products.

After consulting with the Directorate General of Customs, the ACP 13 carried out on-site inspections of money changes in 2010.

4.2 INSURANCE

A/ Ongoing supervision

a) Scope of ongoing supervision in the insurance sector

The ACP supervises compliance with the laws and regulations applying to insurance and reinsurance companies, mutual insurance companies governed by Book II of the Mutual Insurance Code and their unions, provident institutions and their unions. The ACP also supervises insurance group companies and combined insurance group companies and provident groups.

Two new categories of licensed undertakings have been placed under the direct supervision of the ACP: mutual insurance companies that had previously been supervised by regional Prefects, meaning that the ACAM had supervised them indirectly only, and Mutual Grouping Unions.

On the other hand, mutual insurance companies governed by Book III of the Mutual benefit Insurance Code, which offer health and social services, but not insurance coverage, are not under the ACP's supervision, even though most of them were supervised by regional Prefects, meaning that the ACAM had supervised them indirectly. Finally, the supplementary retirement pension institutions, which had previously been supervised by the ACAM, had virtually all had disap-

peared as of 31 December 2009, as prescribed by law. Therefore, they were not included within the scope of the ACP's supervision.

ACP: different scope of insurance supervision compared to the ACAM

Executive Order No. 2010-76 of 21 January 2010 changed the scope of supervision for mutual insurance institutions. The new definition of the scope of supervision eliminates decentralised supervision, which had previously been performed by regional Prefects, bringing all mutual insurance institutions under the direct supervision of the ACP.

Since its founding, the ACP has supervised all of the mutual insurance companies and their unions in the National Register of Mutual Insurance Companies that engage in insurance transactions and that are governed by Book II of the Mutual Insurance Code, along with the Group mutual unions (UMG) and federal guarantee systems.

It also supervises mutual insurance companies and their unions governed by Book I of the Insurance Code that manage mutual insurance payments and policies on behalf of mutual insurance companies and their unions governed by Book II with respect to the various provisions on anti-money laundering and counter terrorist financing.

Action relating to ongoing supervision is based on an analysis of accounting and prudential filings, in-depth interviews with representatives of undertakings and findings of on-site inspections.

NEW OPTION TO SET UP MUTUAL GROUPING UNIONS (UMGS)

For several years, many of the undertakings governed by the Mutual Insurance Code have sought to join forces to consolidate their financial soundness or create non-mutual undertakings in the health insurance market in an increasingly competitive environment. In order to facilitate such alliances and in response to the sector's wishes, the Government has offered mutual insurance companies a tool that is already available to undertakings governed by the Insurance Code, a Group Mutual Insurance Company (SGAM).

Publication of Implementing Decree No. 2010-217 of 3 March 2010 on the Mutual Insurance Group Union enabled many mutual insurance companies to start discussing a new alternative to market concentration. The union allows mutual insurance companies to form alliances with other insurance institutions and forge strong and lasting financial solidarity ties. For example, if one of the affiliated undertakings encounters temporary financial difficulties, the union will come to its aid. The first union was formed at the end of 2010 and plans for more major unions are being considered for 2011.

b) Continuing work to enhance preventive action

Thorough examination of undertakings' quarterly and annual financial and prudential filings, as appropriate, along with internal audit reports, solvency reports and reinsurance reports filed annually, provides ACP staff responsible for monitoring individual insurance institutions under its supervision with periodic information. The staff use this information to analyse and assess the licensed undertakings' situations using long-established methodology.

Many parameters are considered in off-site supervision. The financial soundness of an undertaking cannot be assessed solely on

the basis of its financial statements; such an assessment also needs to consider the undertaking's environment. **Assessing the prudence of the entity's liabilities involves analysing its provisioning and management methods. This means that scrutiny of an insurance institution's governance and internal control procedures is an integral part of an assessment of the undertaking's soundness.**

Off-site supervision is extremely wide-ranging and leads to an updated assessment each year. It can detect early signs of a decline in an undertaking's financial soundness and help assess the remedial measures to be recommended. To enhance these analyses, supervisors hold frequent meetings with the senior managers of the undertakings (executives, representatives of the financial and accounting departments, departments in charge of sales and provisions, heads of business lines, auditors, etc.)

Off-site supervision also enables the ACP to express an opinion on the merits of license applications from new entities, applications for extensions of authorisations, planned mergers or transfers of portfolios (see section on "French market and authorisations" on this subject). This opinion on the merits is made possible by ongoing supervision of undertakings supervised by the ACP. It is necessary to ensure policyholders that insurance institutions are financially sound, despite any changes in their business conditions.

In 2010, tighter investment reporting requirements provided an opportunity to enrich the type of information filed systematically with the ACP. Undertakings must now file a supplementary table with their statement of investments, which thoroughly renews the basis for analysing insurance institutions' assets.

SUPPLEMENTARY TABLE FOR STATEMENTS OF INVESTMENTS (TCEP)

The financial crisis has shown that insurance institutions' risk exposure to their investments calls for close monitoring by the undertakings themselves and by the ACP. This is why insurance institutions have been required to file a yearly **Supplementary Table for Statements of Investments (TCEP)** since the second quarter of 2010. This table enables the supervisor to refine its analysis of their investments.

However, most of the Tables filed for 2009 contained data entry errors, which made it impossible to aggregate the statistics reported for all undertakings. Insurance undertakings will have to pay closer

attention to these Tables in the coming year so that the ACP's monitoring is more effective, in keeping with the provisions of Instruction No. 2011-I-02 instituting the Supplementary Table for Statements of

Investments. The overall response rate for 2009 was around 80%, with 758 of the 940 questionnaires sent out being filled in and returned.

Disclosure of these data allows for a more precise analysis of the composition of investments, especially investments in related companies and collective investment schemes, as well as the nature and distribution of debt

securities. It also allows for more accurate assessments of the undertakings' investment policies and the adequacy of their asset-liability management possible.

COLLEGES OF SUPERVISORS

The first colleges of supervisors for insurance groups were set up right at the start of the decade. They followed the European insurance supervisors' adoption of a protocol (Helsinki Protocol of 11 May 2000) aimed at improving cooperation for the supplementary supervision instituted by Directive 98/78/EC. Since then, this Protocol has governed the colleges of supervisors, including the ones set up in France for French insurance groups with subsidiaries in other European countries.

Today, the ACP presides a total of 18 colleges of European supervisors, including 6 for insurance groups on the list of the 30 leading groups compiled by the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS). It is also a member of ten colleges of supervisors presided by other European supervisory authorities.

The main objectives of colleges of insurance supervisors are:

- facilitating supervision of insurance groups' financial situations and intercompany transactions, as well as their governance systems;
- improving individual supervision of the entities under the supervision of each authority in the college;
- coordinating supervision and providing the member authorities with a forum for ongoing cooperation;
- promoting harmonisation of supervisory practices.

The colleges have met regularly since their inception. The meetings discuss

the adjusted regulatory solvency analysis made by the group's supervisor.

The meetings are also opportunities for European supervisors of different subsidiaries to meet with the managers and representatives of the groups concerned to discuss such topics as the groups' strategies and policies for investment and reinsurance, exposure to certain types of risk, risk management, internal control and governance, as well as regulatory solvency issues. Depending on the subjects being discussed, the supervisors of the banking subsidiaries of insurance groups may be invited to participate in the discussions within the colleges.

In recent years, colleges of supervisors have stepped up their activity and diversified their working methods to improve cooperation: creating ad hoc or standing work groups, introducing new reporting tools, drafting and implementing annual work programmes, adopting emergency plans, etc. Furthermore, European colleges of supervisors were

opened up to the supervisors of major subsidiaries located outside of Europe when certain insurance groups have a significant presence outside of the European Union.

European colleges of supervisors have also fostered cooperation on the implementation of the new Solvency II regulatory framework. More specifically, acting on the initiative of the ACP, the colleges have played a major role in examining pre-applications relating to the internal models of the major European insurance groups.

The ACP presides the colleges of supervisors in accordance with CEIOPS Guidelines and under the supervision of the same Committee. Starting in 2011, the European Insurance and Occupational Pensions Authority (EIOPA), which has replaced the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) and wields greater powers, may now participate directly in the work of the colleges of European supervisors.

As in previous years, close attention was paid to the analysis and monitoring of the consequences of the financial crisis, with a special focus on how undertakings offering guaranteed savings products adapted to them

c) Active monitoring of the consequences of the financial crisis

In the second quarter of 2010, the ongoing supervision staff for insurance at ACP examined the responses to the request that the ACAM sent out in early 2010 to 105 life insurance companies to report the revaluation rate for mathematical provisions used for 2009. This survey revealed the structure of the main life insurance companies' revaluation rates and how they changed. This was a key step for a better assessment of the return on households' savings and the level of prudence chosen by the undertakings, along with the room for manoeuvre that

they have left themselves for the future. The survey also highlighted how equitable various insurance companies have been in their choice of revaluation rates.

The ACP also compiled a questionnaire on sovereign risks and conducted a survey to determine the scale of the risks potentially facing French insurance institutions and their policyholders. Generally speaking, insurance institutions invest a substantial portion of their assets in bonds, especially sovereign bonds, making them sensitive to the risks associated with this type of issuer.

STRESS TESTING COORDINATED BY THE COMMITTEE OF EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS SUPERVISORS (CEIOPS)

At the end of 2009, following the stress testing exercises conducted in the banking sector, the Economic and Financial Council (ECOFIN) mandated CEIOPS to conduct the first Europe-wide stress test of the insurance sector.

The exercise was conducted on the 28 largest European insurance groups, including six French groups (AXA, BNP Paribas Assurance, CNP Assurances, Crédit Agricole Assurance, Groupama and SCOR). The tests compared the capital available before and after the occurrence of a scenario on the reference date (30 June 2009) with regard to the capital requirement calculated under Solvency 1.

For this first exercise, the macroeconomic assumptions and the general methodology (translation of the scenarios into the risk parameters, data formats, etc.) were defined by CEIOPS.

Three scenarios were defined: an adverse scenario, a recession scenario and an inflation scenario. Each scenario was translated into a set of five risk parameters, which were the actual objects of the testing:

- interest rate risk
- equities risk, with a distinction between two types of securities:
 - a) equities issued in the EEA or OECD countries;
 - b) equities issued in other countries, private equity securities, hedge funds, commodities and other "alternative" investments;
- real estate risk;
- spread risk;
- redemption risk.

CEIOPS proposed two procedures for the exercise: either having the supervisors process the information they already have or getting the groups to process their own information. France took the second option. In the first half of January 2010, the results reported by the groups were discussed by the groups and their supervisors before being aggregated and forwarded to CEIOPS.

The test results testify to the resilience of French insurance groups since, on average, they do not show any of the three scenarios resulting in problems for French groups. In the inflation scenario, for example, which tests the impact of major interest rate increases, the coverage ratios remained well above 100%.

Generally speaking, the results found for French groups under all three scenarios are in line with the results at the European level.

Following the publication of the results, the Committee of European Insurance and Occupational Pensions Supervisors started working on the lessons of the stress tests, particularly in terms of methodology and the consistency of the results. These lessons will be incorporated in the next exercise planned for the first half of 2011.

In the first quarter of 2010, the ACP ongoing supervision staff took part in the European stress tests coordinated by the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS). The test results were published in March 2010. Six French insurance companies were concerned by the testing: AXA, BNP PARIBAS ASSURANCE, CNP ASSURANCES, CRÉDIT AGRICOLE ASSURANCES, GROUPAMA and SCOR. The exercise was intended to estimate the resilience of the largest European insurance groups and not to assess their individual capital requirements.

d) Adapting to changes in regulations

The ACP insurance supervision staff took part in designing, conducting and analysing the results of the fifth Solvency II Directive impact study, which was conducted at the request of the European Commission and coordinated by the Committee of European Insurance and Occupational Pensions Supervisors. The staff also had discussions with insurance institutions on how they are preparing to adapt to the new prudential rules.

A questionnaire was sent to all insurance institutions to map the intentions of the French market with regard to the development of internal models for calculating regulatory capital requirements. This mapping exercise

provided a basis for discussion within the ACP General Secretariat on implementing supervision of these models, which will require prior authorisation from the competent supervisory authority before being put into use.

The ACP organised a “key” conference for insurance market participants to follow up the questionnaire and to present more details about the informal “pre-application” process for the internal models that insurance institutions intend to use. The conference was an opportunity to discuss various regulatory aspects being considered at the European level, that the ACP felt it was timely to present.

Insurance supervision staff have also carried out impact studies on upcoming technical and tax reforms. The raising of the statutory retirement age in France led to an increase in technical provisions for retirement benefits, the procedures for spreading the increase over several years were chosen after ongoing supervision staff examined the consequences. The ongoing supervision staff also analysed the impact of subjecting capitalisation reserves to a one-off 10% tax to be collected in two payments and the changes in the capital gains tax on bond sales before they came into force.

SPECIAL UNIT TO ANALYSE INTERNAL MODELS

The ACP General Secretariat set up a special unit to analyse internal models and provide cross-functional monitoring of insurance institutions that are interested in developing such models. The unit provides technical support and expert advice to supervision teams as part of the authorisation process for internal models set out in the Solvency II Directive. It can conduct or take part in off-site

supervision or on-site inspections. It also tracks regulatory and technical changes affecting insurance institutions' internal models. The unit's cross-cutting nature provides a harmonised approach to the principles set out for judging the compliance of the various internal models to be examined, both at the national level and when the ACP takes part in international authorisation processes.

The operational framework for on-site inspections carried out in 2010 was renewed following the founding of the ACP. This involved an update of the ACP Charter for On-Site Inspections in the Insurance Sector, which had originally been published in 2008, after consultations with industry professionals.

B/ On-site inspections and follow-up

The variety of on-site inspections reflects the diversity of the French insurance industry, but the inspections in 2010 concentrated on activities or undertakings perceived as presenting risk factors calling for the work of the ACP ongoing supervision staff at the General Secretariat to be backed up by thorough on-site inspections.

The decision to conduct an on-site inspection depends primarily on the findings of off-site supervision and on the quality of the information filed and the undertaking's financial situation. It is also influenced by other parameters, such as the quantity and content of policyholders' complaints, as well as by regulatory or legal issues that raise concerns about insurance institutions.

In most cases, on-site inspections, which can include a very broad range of investigations, are based on a prior in-depth analysis of prudential and accounting filings and they are intended to reach a critical assessment about the undertaking's operations and compliance with regulations. Such inspections analyse:

- provisions and compliance with prudential rules;
- the quality of management;
- governance rules;
- tools and procedures;
- reinsurance;
- knowledge and management of risks;
- the solvency of the undertaking looking forward.

With this in mind, the on-site inspection programme for 2010 addressed various continuing themes, in addition to general-purpose inspections covering all of the activities of the undertakings under inspection.

In addition to its on-site inspection teams, the ACP General Secretariat has units conducting cross-functional on-site inspections on specific themes (life insurance, internal models, AML/CTF, information systems, etc.)

On-site inspections were conducted with regard to unit-linked life insurance to circumscribe the questions surrounding debt securities issued by the parent companies of insurance institutions as a medium for investment units. The accent was on valuations, liquidity and proper disclosure to policyholders. The concentration of risks within the conglomerate was also addressed.

In the same vein, several on-site inspections focused on the insurer's selection of investment units, which should provide adequate protection for the funds invested, and on how the insurer fulfilled its regulatory disclosure obligations towards policyholders.

Several on-site inspections examined governance issues and the actual role of the executive and decision-making bodies. These inspections focused on insurance companies, provident institutions and mutual insurance companies governed by the Mutual Insurance Code. An increasing number of on-site inspections in 2010 focused on subscription and investment risk management and the effectiveness of internal control.

The first on-site inspections of mutual insurance companies also took place in 2010. These companies had previously been subject to decentralised supervision.

Several on-site inspections were also carried out with regard to insurance policy marketing practices, under the powers given to the ACP for the supervision of business practices (See Section 6, Customer Protection, p 71).

Constant close attention is paid to examining institution's anti-money laundering systems, as the Third Directive enters into force (see below).



5 / ANTI-MONEY LAUNDERING/ COMBATING THE FINANCING OF TERRORISM (AML/CTF) MEASURES

5.1 WORK BY THE AML CONSULTATIVE COMMITTEE

The ACP Board made a decision on 28 May 2010, amended on 21 June 2010, to set up an Anti-Money Laundering (AML) Consultative Commission, pursuant to Article L. 612-14

of the Monetary and Financial Code. The commission's role is to give opinions on AML/CTF-related documents before the ACP Board endorses them.

HOW THE AML CONSULTATIVE COMMITTEE OPERATES

Francis Assié and François Lemasson, two ACP College members, chair the AML Consultative Committee. The Legal Affairs Department of the ACP's General Secretariat performs secretariat duties for the committee.

Professional associations from the banking and insurance sectors are members, as are natural persons with experience in AML/CTF appointed by ACP-supervised institutions.

A representative of the Directorate General "Treasury" and Tracfin, the national financial intelligence unit, are invited to the committee's meetings. Depending on the agenda, other competent authorities and institutions

may be invited, such as the Autorité des marchés financiers (AMF) and the Commission Nationale de l'Informatique et des Libertés (CNIL).

The committee is consulted on AML/CTF-related draft instructions, such as those specifying the documents and periodic disclosures that must be filed with the ACP (e.g. annual questionnaire) or instructions establishing templates for licensing or authorisation files of

any kind, in particular those pertaining to money changers.

The committee also gives opinions on draft guidelines, which provide financial institutions under ACP supervision with clarification on AML/CTF regulations, as well as on "sector enforcement principles", which apply ACP guidelines to a specific sector or activity.

The AML Consultative Committee held its inaugural meeting on 7 June 2010 and met ten times in 2010.

The committee was consulted on:

- ▶ **Joint ACP/Tracfin guidelines on suspicious transaction reports.**

This document extends the joint Commission Bancaire/TRACFIN guidelines published in December 2009 to the insurance sector. Financial institutions under ACP supervision are reminded that they must introduce appro-

priate systems to detect and analyse anomalies based on what they know about their customers. Once the analysis has been carried out, a suspicious transaction report should be filed if necessary.

- ▶ **AML/CTF sector enforcement principles for the insurance sector.**

This document details the regulatory obligations and how they apply to the insurance sector, with accommodation for its specific characteristics (see Box).

AML/CTF SECTOR ENFORCEMENT PRINCIPLES FOR INSURANCE

The sector enforcement principles apply to all insurance institutions subject to AML/CTF obligations, including insurance companies, mutual insurers, mutual companies providing insurance, mutual insurers governed by the Mutual benefit Insurance Code, provident institutions and insurance intermediaries, with the exception of intermediaries operating under the entire responsibility of an insurance company.

SECTION 1 / Risk-based approach:

The purpose of this section is to help insurance institutions prepare a risk classification that is consistent with their activities, the products that they market, the type of customers they serve and the kind of transactions they engage in.

SECTION 2 / Establishment of business relations:

This section provides information about establishing business relations in insurance. It also

clarifies the Know Your Customer (KYC) concept and explains what steps to take if entities do not obtain identification details and other KYC information.

SECTION 3 / Due diligence: This section details the different types of measures that should be carried out at each level of due diligence, as well as the information that must be gathered to exercise adequate due diligence with respect to new and existing customers.

SECTION 4 / Suspicious transaction reporting:

This section explains how the joint ACP/Tracfin guidelines on reporting suspicious transactions are applied, taking into account the sector's specific characteristics, particularly as regards cases of insurance fraud. Other sections will be prepared to supplement the principles.

- ▶ **Sector enforcement principles for funds transfers.**

These principles describe international and European rules and regulations on funds transfers and specify the procedures for discharging the obligation to report to the ACP if transfers are received from a payment services provider (PSP) that regularly omits customer information. Real-life examples of how PSPs can discharge their obligations, prepared by banking industry representatives, are included with the document.

- ▶ **Instructions establishing AML/CTF questionnaires for companies in the insurance sector.**

Financial institutions subject to these instructions include insurance-sector institutions (insurance companies providing direct insurance services, mutual insurers and unions governed by Book II of the Mutual Insurance Code, Mutual Grouping Unions, mutual insurers and unions governed by Book I that manage mutual insurance payments and contracts for mutual insurers and unions governed

by Book II, provident institutions, unions and provident groups) that engage in insurance transactions covered by classes 20 to 26 of the French Insurance Code (life insurance).

As part of the drive to standardise questionnaires in the banking and insurance sectors, the format of questionnaires sent to different categories of insurance company is to be revised and condensed, although the content of the questions will continue to be adapted to closely reflect the specific characteristics of each category. As with the questionnaires for credit institutions, investment firms and payment institutions, the questionnaires are intended to become annual.

The consultative committee will continue its work in 2011 on new draft guidelines

(third-party introduction, intra- and extra-group exchanges of information, beneficial owner), sector enforcement principles (additional sections for the insurance sector enforcement principles) and instructions on annual questionnaires.

Once they have been adopted by the College, instructions, guidelines and sector enforcement principles are published in the ACP's official register.

All AML/CTF-related documentation is available in the Money Laundering section of the ACP website (<http://www.banque-france.fr/acp/lutte-contre-le-blanchiment/lutte-contre-blanchiment-des-capitaux-et-le-financement-du-terrorisme.htm>).

5.2 EFFORTS BY THE ACP TO ENHANCE AML/CTF MEASURES AT DOMESTIC AND INTERNATIONAL LEVELS

A/ Participation in work by the Financial Sector Consultative Committee (CCSF)

Under the new AML/CTF framework created by the transposition into domestic law of the Third European Directive⁶ of 30 January 2010, financial institutions are required to update their files on existing customers to meet customer due diligence obligations.

This obligation is necessary to ensure that financial institutions conduct ongoing supervision and have up to date knowledge of their customers. The rules explain how to implement the requirement to update files on existing customers. The idea is to take a differentiated and proportionate approach

according to the AML/CTF risks posed by customers, consistent with the financial institution's statutory risk classification.

To help customers, policyholders, members and beneficiaries understand this obligation to update files, the CCSF worked with professionals from the banking and insurance sectors, consumer associations and the competent authorities (ACP, Treasury, Tracfin and CNIL) to prepare a public communication on the AML/CTF framework. The communication, which was aimed at the general public, describes the provisions governing the collection of information from individual customers in order to update the files on existing customers.

⁶ Directive 2005/60/EC of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

B/ Participation in European and international initiatives

The ACP General Secretariat participates actively in European and international AML/CTF working groups. It is co-chairing two groups: one within the Basel Committee⁷ and one technical group tasked with proposing recommendations within the Financial Action Task Force (FATF).

The review of the FATF Recommendations, which began in 2009, continued in the lead-up to the FATF's fourth round of evaluations. Discussions covered the risk-based approach (for institutions subject to AML/CTF obligations and from a supervisory perspective), customer due diligence and third-party introductions.

In February 2010 the FATF published a list of jurisdictions with strategic AML/CTF deficiencies. This list is regularly updated (it was changed again in October 2010, for example). The ACP expects financial institutions to take note of these publications when preparing and updating their AML/CTF risk classifications and adjusting their due diligence measures.

In 2010, the ACP conducted a series of preventive initiatives targeting professionals. It took part in the AML sessions organised by Tracfin, which provided an opportunity to dialogue with industries affected by the AML framework. The ACP also organised a special AML/CTF conference on 5 November 2010 for entities subject to ACP supervision.

FATF EVALUATION OF FRANCE

The FATF examined France's AML/CTF framework to assess compliance with the FATF's 40 Recommendations and 9 Special Recommendations. The evaluation of France, and the concomitant evaluation of the Netherlands, completed the third round of mutual evaluations. A fourth round will begin once the review of the recommendations is over. This was the third mutual evaluation of France since the FATF was created in 1989. FATF members considered the draft report on France at the plenary meeting in February 2011. They hailed the outstanding quality of the framework put in place by France, which is rated as one of the top three countries. The report gave a positive assessment of France's AML/CTF

arrangements, notably as regards the new legal framework governing due diligence and reporting requirements in the financial sector. France was found to be compliant or largely compliant with 38 recommendations. The report also gave a highly positive assessment of the supervision of financial institutions. The evaluation report is published on the FATF website.

Evaluation of the oversight system of financial sector supervisors

The evaluation of France covered all aspects of the country's AML/CTF arrangements, including the legal and regulatory framework, oversight procedures and effective implementation

by reporting institutions. A substantial portion of the report was devoted to analysing the financial sector. As well as considering customer due diligence, the report commented in detailed on the oversight system of the ACP's predecessors in the banking sector (Commission Bancaire and Comité des établissements de crédit et des entreprises d'investissement) and insurance sector (Autorité de contrôle des assurances et des mutuelles and Comité des entreprises d'assurance). The report highlighted the system's strong points (systematic documentary audits, in-depth on-site inspections, linkage between documentary audits and on-site inspections, deterrent effects of enforcement, etc).

⁷ AML/CTF Expert Group (AMLEG).

5.3 AML/CTF OVERSIGHT OF THE BANKING SECTOR

A/ Credit institutions and investment firms

The divisions responsible for banking sector oversight conduct ongoing supervision and documentary audits in the area of AML/CTF, notably by reviewing annual AML/CTF questionnaires and internal control reports.

All credit institutions and investment firms completed the new questionnaire adopted by the College of the Commission Bancaire on 30 November 2009. The questionnaires, which were submitted in early 2011, are the first round of filings to reflect a full year of application of the new AML/CTF provisions arising from the Monetary and Financial Code and Regulation 97-02 (amended) on the internal control of credit institutions and investment firms.

Inspection teams from the unit for on-site inspections of credit institutions and investment firms perform on-site inspections, based on a letter of assignment from the General Secretary of the ACP.

On-site inspections seek to assess AML/CTF arrangements and internal procedures and to carry out random checks of customer and transaction files to ensure that the institution is effectively discharging its due diligence obligations. AML/CTF inspections may take place either as part of general investigations, which always include an AML/CTF component, or as part of targeted AML/CTF investigations.

In 2010, out of a total 46 AML investigations by the ACP of banking sector institutions (excluding money changers), 29 were general investigations (i.e. covering AML/CTF arrangements) and 17 were targeted investigations of AML/CTF arrangements.

Based on an analysis of the investigation report, the General Secretary of the ACP may send the institution a follow-up letter pursuant to Article L. 612-27 of the Monetary and Financial Code. The letter lists the shortcomings noted and calls for corrective measures to be taken within a set

timeframe. In all, 25 letters of this type, containing AML/CTF-related observations, were issued in 2010.

The 2010 investigations reveal that institutions have worked hard to adjust their AML/CTF arrangements to comply with the provisions introduced following transposition of the Third Directive. In particular, they have made a huge effort to update their customer files and bring them into compliance with the new KYC requirements. In accordance with the provisions of the Monetary and Financial Code and Regulation 97-02 on internal control (Article 11-7), institutions from the banking sector have prepared AML/CTF risk classifications that reflect their activities and risk exposure. They have revised procedures to incorporate the new legal and regulatory provisions and take account of risks identified as part of the risk classification process. Institutions have also used industry-wide resources to undertake an extensive effort in terms of staff training.

Some financial institutions were ordered to improve their AML/CTF arrangements on a number of fronts, including:

- identifying customers, particularly customers who are not physically present or politically exposed persons;
- identifying beneficial owners, particularly when dealing with hedge funds;
- maintaining current information on customers, with regular updates of customer files;
- detecting and conducting supplementary checks on unusually complex or large transactions or transactions that appear to have no economic justification or lawful purpose, as mentioned in Article L. 561-10-2 of the Monetary and Financial Code.

The General Secretariat of the ACP pays special attention to the quality of controls and suspicious transaction reports (STRs), as well as to the time taken to send STRs to Tracfin. On several occasions, it instructed financial institutions to take steps to

strengthen their permanent and periodic control of AML/CTF arrangements.

On 10 January 2011, the ACP Sanctions Committee issued its first decision containing at least one AML/CTF-related objection against a credit institution.

B/ Payment institutions

Executive Order No. 2009-866 of 15 July 2009 on the provision of payment services and creating the category of payment institutions transposed the European Payment Services Directive⁸ into domestic law. Payment services essentially comprise the execution of funds transfers and direct debits, card payments, money remittances, cash payment and withdrawal services, and payment account management services. Currently, credit institutions and payment institutions are allowed to provide these services. They may also be provided by service providers covered by the newly created status of “electronic money issuers”, following transposition of Directive 2009/110/EC⁹ on electronic money.

Payment institutions may provide services via the agents referred to in Article L. 523-6 of the Monetary and Financial Code acting on their behalf within the territory of the home EU Member State that licensed them and within the territory of other Member States. Payment institutions are responsible for the actions of their agents towards customers and the competent supervisory authority.

Payment institutions are subject to the same obligations as other financial institutions supervised by the ACP and are also subject to documentary audits and on-site inspections.

On 8 March 2010, the Commission Bancaire adopted Instruction No. 2010-08, which established an AML questionnaire for payment institutions based on the questionnaire for credit institutions and investment firms other than asset management companies created by Commission Bancaire Instruction No. 2000-09.

Work was done at European level in 2010 on overseeing the activities of payment institutions that use agents, since business done by agents outside the host country qualifies as a type of establishment under European law. It was determined that the most consistent and effective oversight solution was for payment institutions to send STRs to the host-country financial intelligence unit (Tracfin in France).

The ACP also played an active part in efforts to draft a report published by the FATF in October 2010 on money laundering using new payment methods. Among other things, the report compares the potential risks described in the 2006 report on the same issue with the actual risks based on new case studies and typologies.

C/ Money changers

Following Executive Order No. 2009-104 of 30 January 2009 and its implementing legislation (Decree No. 2009-1108 of 10 September 2009 and Ministerial Order of 10 September 2009 on the business of money changers), money changers must now receive authorisation, granted by the ACP, to carry on their business. The ACP is the supervisory authority for money changers in the area of AML/CTF.

Instructions set out the obligations to report to the ACP General Secretariat on persons carrying out foreign exchange transactions. Money changers must send an annual report to the ACP General Secretariat identifying their Tracfin reporting officers (mentioned in Article R. 561-23 of the Monetary and Financial Code) and Tracfin correspondents (mentioned in Article R. 561-24 of the Monetary and Financial Code). They are also required to submit a statistical report showing the amount of sales and purchases of foreign currency during the past year.

Persons carrying out foreign exchange transactions on an occasional basis or on a small scale are not subject to ACP supervision. However, they must send the ACP General

⁸ Directive 2007/64/EC on payment services in the internal market.

⁹ Directive of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions.

Secretariat an annual statement in which they declare on their honour that they are not carrying on the business of money changing within the meaning of Article L. 524-1 II of the Monetary and Financial Code and that they comply with the terms governing exemptions from the authorisation to do business provided for in Article D. 524-1 of the same code. A standard form for making declarations on honour is included with Instruction No. 2010-03.

There were 24 on-site inspections of money changers in 2010. These were carried out by the inspectors of the unit for on-site inspections of credit institutions and investment firms, following receipt of a letter of assignment from the General Secretary of the ACP, or by customs officials on the ACP's behalf in accordance with Articles L. 524-6 and L. 524-7 of the Monetary and Financial Code.

In addition to on-site inspections, ongoing supervision of money changers will be bolstered in 2011 with the introduction of an annual questionnaire on the AML/CTF arrangements established by money changers.

5.4 AML/CTF OVERSIGHT OF THE INSURANCE SECTOR

AML/CTF oversight of the insurance sector is based around on-site inspections backed up by ongoing supervision and preventive initiatives targeting different types of insurance institutions.

A/ On-site inspections

The AML/CTF task force, which is the division that is responsible for AML/CTF ongoing supervision and on-site inspections in the insurance sector, works with the ACP's inspection teams to conduct on-site inspections. As in the banking sector, these inspections are designed to ensure that internal procedures are properly deployed and to measure effective implementation by insurance institutions of their due diligence and TRACFIN reporting obligations.

In 2010, ten on-site inspections were carried out, including eight special inspections by the AML/CTF task force. The order of priority for on-site inspections is set according to the nature of the entity's business, the results of ongoing supervision, and targeted objectives being analysed on a cross-industry basis. As an example, classifications of risks associated with due diligence arrangements will come under particular scrutiny in the year ahead.

B/ Ongoing supervision

The AML/CTF task force carries out investigations aimed at measuring compliance and assessing the extent to which the most exposed entities are applying AML regula-

tions. The adoption of three ACP instructions establishing sub-sector questionnaires for insurance institutions licensed under classes 20 to 26 of the French Insurance Code (insurers, mutual insurers and provident institutions) provides a permanent monitoring tool that is consistent with the new AML/CTF framework.

C/ The questionnaires are designed to:

- assess the compliance of entities providing life insurance services with AML/CTF-related legal and regulatory provisions;
- provide, in addition to individual findings, an overall assessment of the insurance sector's compliance one year on from transposition of the Third Directive, taking into account the specific characteristics of each of the insurance sub-sectors;
- play an educational role, by reiterating the main AML/CTF obligations and getting the senior management of insurance institutions involved in this area.

The task force will highlight points requiring improvement based on the responses to the questionnaires. The instructions establishing the questionnaires were published in the official register of the ACP on 18 October 2010. Reporting entities were given until 17 December 2010 to return their questionnaires to the ACP General Secretariat. Work on analysing the responses will continue in 2011.



6 / CUSTOMER PROTECTION

Before the ACP was founded, consumer protection in the banking and insurance sectors was conducted essentially by monitoring the solvency of financial institutions. This was a way to be sure that insurers had the means to honour their commitments and that banks' deposits were not under threat because of excessive risk-taking.

ACAM had a contract law and policyholders department that made sure, by reviewing individual cases, that reporting organisa-

tions were complying with their obligations towards customers. And for many years, the Banque de France's Infobanque service has been providing general information on banking regulations and the possibility of using bank ombudsman services.

The Executive Order that created the ACP clearly establishes its role in customer protection. Supervision of business practices has been made a stand-alone objective of supervision.

6.1 SCOPE OF CUSTOMER PROTECTION RULES

The informational asymmetry that exists between professionals and their customers is one of the reasons for the rules governing business practices in the financial sector.

The ACP is in charge of making sure that the entities under its supervision comply with customer protection rules arising from legal and regulatory provisions, codes of conduct approved at the request of a professional association, and industry rules of good practices that the ACP either notes or

recommends. It also checks to see that they have adequate resources and procedures in place to achieve compliance. Customer protection rules cover advertising, pre-contractual information, the duty to provide advice and all stages of contracts, from beginning to end.

One of the biggest changes in the regulations governing the business practices of financial sector professionals concerns the detailed requirements relating to the formal provision of advice based on the information gathered from customers.

This requirement was previously introduced in the **investment services sector** as part of the transposition of the Markets in Financial Instruments Directive, which identified the service of investment advice as a new stand-alone service. The service provider is required to verify and document the elements that it uses to ensure that the product recommended to the customer is suitable given the customer's expertise in financial markets, personal financial position and stated goals. If the customer refuses to provide the requested information, the service provider must refrain from providing advice.

In the insurance sector, the requirement has developed out of case law and entered the regulations in stages. It was first applied to intermediaries, such as agents, representatives and brokers, which are required to recommend the policy that meets the

needs of the policyholder and keep a written record of the advice provided (Article L. 520-1 of the Insurance Code). In 2010, the requirement was tightened for intermediaries and extended to life insurance institutions that market their policies directly. Distributors must now ask the policyholder about his or her financial knowledge and experience¹⁰ (Article L. 132-27-1 of the Insurance Code). Subscribers that refuse to provide information about their position, goals or financial knowledge, must be issued a warning by the insurer. These clarifications and warnings must be set out in a clear, precise written document and sent to the subscriber¹¹.

In the banking sector, the notion of "responsible lending" has developed out of case law, with the gradual emergence of a duty to issue warnings to non-professional borrowers or guarantors. In the area of consumer credit, under the Act of 1 July 2010, the lender

or the credit intermediary must provide the borrower with the information needed to determine whether the credit agreement is suited to his or her needs and financial position, notably based on information contained in a fact sheet that follows a statutory format. The lender or intermediary must draw the borrower's attention to the key characteristics of the proposed credit and to the consequences it could have on his or her financial position, including in the event of delinquency. This information is provided, where applicable, based on the borrower's stated preferences (Article L. 311-8 of the Consumer Code). Thus, in the three areas of activity that make up the financial sector, business practices are increasingly tightly regulated, consistent with developments provided for at EU level under the future directive on packaged retail investment products (PRIIPs).

¹⁰ Advice is not limited to policy selection but includes, as applicable, the selection of investments for a unit-linked contract, beneficiary clauses, etc.

¹¹ Decree of 24 August 2010.

6.2 SUPERVISED POPULATION

The supervision of business practices applies to any person or entity under the ACP's jurisdiction, including credit institutions, investment firms other than asset management companies, payment institutions, financial holding companies, money changers, insurance companies, mutual insurers and unions governed by Book II of the Mutual Insurance Code and provident institutions.

The ACP may also place insurance intermediaries and intermediaries in banking transactions and payment services under its supervision. It ensures that they comply with the requirements for doing business and with the specific rules that apply to them.

Any person that ordinarily acts as an intermediary in banking transactions or payment services, for remuneration or any other form of economic benefit, and without acting in a *del credere* capacity, qualifies as an intermediary in banking transactions and payment services.

STATUS OF INTERMEDIARY IN BANKING TRANSACTIONS AND PAYMENT SERVICES

Banking and Financial Regulations Act No. 2010-1249 of 22 October 2010 introduced a new definition for the business of intermediating in banking transactions and payment services. The act will be supplemented by several implementing decrees.

INTERMEDIARY IN BANKING TRANSACTIONS AND PAYMENT SERVICES (IOBSP): A NEW DEFINITION

Under Article L. 519-1 of the Monetary and Financial Code, intermediation in banking transactions and payment services is an activity that consists in presenting, proposing or assisting in the conclusion of banking transactions and payment services or in conducting work or providing advice in preparation for such transactions or services.

Any person that ordinarily acts as an intermediary in banking transactions or payment services, for remuneration or any other form of economic benefit, and without acting in a *del credere* capacity, qualifies as an IOBSP.

A decree issued following consultation with the Conseil d'Etat will specify the categories of person that are licensed to exercise this activity, distinguishing them according to the nature of the mandates under which they operate.

An IOBSP may offer services only under a mandate that mentions the nature and terms of the transactions that the intermediary is authorised to carry out. The mandate must be granted by a credit institution or payment institution, which must itself be licensed to carry out banking transactions or supply payment services within the territory of France. However, by way of exemption, and under the terms set of a decree issued following consultation with the Conseil d'Etat, an IOBSP may act under a mandate granted by another IOBSP or by a customer.

NEW OBLIGATIONS FOR IOBSPS

Natural persons acting as IOBSPs, whether in a personal capacity or as the manager or director of a company, must meet fitness and properness and professional competence criteria relating to the nature of the activity exercised. A decree issued following consultation with the Conseil d'Etat will provide

clarification on these criteria. An equivalent decree will indicate the conduct of business rules that IOBSPs are required to follow, according to the activity exercised.

IOBSPs must be registered in the single registry of intermediaries kept by the insurance intermediary registrar (ORIAS). They must have insurance to cover the financial consequences of their professional liability. In addition, if they receive funds, they must show that they have a financial guarantee specifically earmarked for reimbursing customers.

IOBSPs are required to meet customer disclosure obligations.

Finally, the ACP may make IOBSPs subject to its supervision (Article L. 612.2-II of the Monetary and Financial Code). As such, they are required to make contributions towards supervisory costs.

In 2010, based on its monitoring of advertising, the ACP published a position on sales with premiums in life insurance.

Working with the AMF in the Joint Body provided for under Article L. 612-47 of the Monetary and Financial Code, and with the Banque de France, which operates the Infobanque service, the ACP has set up a single gateway to field individuals' questions about what action to take and guide them to the person best able to assist, particularly in the case of complaints.

6.3 OVERSIGHT AND SUPERVISION

A/ Gathering information

Institutions and entities are required to provide regular information on their business practices in an annex to the annual internal control report filed with the ACP:

- under Articles 42 and 43 of CRBF Regulation 97-02 for credit institutions,
- under Article R. 336-1 of the Insurance Code for insurance companies.

These reports by banks and insurers, to be filed for the first time no later than 30 April 2011, will be used to analyse the resources put in place to integrate customer protection rules within the compliance and internal control systems of supervised entities.

B/ Monitoring of advertising, new products and policies

The position published by the ACP reminds issuers that premiums offered when new policy payments are made are to be included when calculating guaranteed rates and actually count as insurance transactions (Position No. 2010-P-01 of 4 November 2010 on sales with premiums in life insurance). One of the principal aims of the position is to make sure that different generations of policyholders are fairly treated.

The ACP monitors the advertising of banking and insurance services, policies and products marketed in France, including by firms operating under the freedom to provide services. In particular, the ACP has the power to examine, and if necessary take disciplinary steps with regard to, deficiencies in internal organisation that led an insurer or bank to publish misleading advertising without any internal warnings being triggered.

As part of its monitoring activities, the ACP may also use the option given to it under Article L. 612-24 of the Monetary and Financial Code to request any document required for it to discharge its supervisory responsibilities. The General Secretariat may thus order a more in-depth inspection of an entity on the basis of an advertising brochure or policy. Online marketing gets particularly close attention.

C/ Analysing complaints

The ACP does not have a remit to mediate between individuals and professionals. In the banking sector, a legal mediation system, created by the Urgent Economic and Financial Reform Act of 11 December 2001, states that every bank may refer complaints to the bank's or group's own independent ombudsman, or to the professional federation's ombudsman. The ombudsman may propose an out-of-court settlement in a dispute between a customer and their bank. Most insurers have voluntarily set up ombudsman services or can use the service set up by their professional federation.

However, the ACP analyses complaints, using them as indicators to set the priorities for supervising business practices. It may also intervene if it feels that an entity's practice is particularly unacceptable or if the ombudsman feels he or she is not competent. The ACP gleans information about current practices from complaints, allowing it to pursue a more responsive supervisory policy.

ACP RELATIONS WITH CUSTOMERS

In 2010, the ACP's role with respect to the customers of institutions and entities in the banking and insurance sectors was extended and redefined.

Now, bank customers can send their complaints to the ACP by post, as they used to do with the ACAM. Also, the ACP's preventive role is being stressed. Customers have more options for getting information about their rights and what to do in the event of a dispute: financial services customers can get information from the Assurance Banque Epargne InfoService helpline by phone, online and by writing, and the operating hours of the ACP's helpline¹² have been extended.

As regards complaints, the priority for the ACP is to be involved in cases of flagrant breaches of the law or obvious failures in entities' procedures for handling complaints. Customers and policyholders are first invited to contact their own entity's customer relations or complaints department, before approaching the ombudsman.

Because of the greater emphasis placed by the ACP on preventing disputes, the number of calls has doubled since the single helpline was set up, with almost 8,000 calls from policyholders handled from June 2010, or virtually the same amount as were received in the whole of 2009. This also reflected a 7% decline in the number of written complaints (3,835, compared with 4,112 in 2009).

Almost all complaints came from insurance policyholders and bank customers. The proportion of complaints received by the ACP from policyholder/

customer representatives was low (12% of insurance complaints, for example).

In insurance, the proportion of complaints relating to personal insurance declined from 60% to 55%. This accounted for most of the decline in the number of life insurance-related complaints, in a continuation of the trend in place since 2007.

Bank-related complaints largely concerned account-keeping (27%), loans (24%), means of payment (8%) and savings products (9%).

People contacted the ACP with complaints about a partial or total refusal to pay compensation (25% of insurance-related complaints), difficulties in managing a policy or account (23% of insurance-related complaints, 38% of bank-related complaints), or because they want to challenge the level of charges or premiums (12% in banking and insurance). Some topics were highly specific to insurance, including terminations (16% of insurance-related complaints) and lapsed policies (9%).

Lack of information is a significant source of complaints among bank and insurance customers (14% of insurance-related complaints received by the ACP). The need for information is also a recurring theme in calls to the ACP helpline, with callers asking questions about concluding contracts, the term of contracts and the termination procedures introduced by the Chatel Act of 28 January 2005.

Requests for information and complaints by banking and insurance customers highlight the difficulties that consumers of financial services sometimes experience when trying to understand a proposed contract or product, or to find the right person to talk to in the event of a dispute.

¹² The single helpline, managed by the Banque de France's Infobanque service, is connected to the ACP's helpline, which deals with the most complex questions. The same arrangement is in place at the AMF for questions about financial products. On 28 June 2010, the opening hours were extended from two half days to five days a week, from 9 a.m. to 5 p.m.

Interviews are regularly conducted with major banking networks and insurance groups to assess the quality of their systems to ensure compliance with customer protection rules.

D/ On-site inspections

Most of the inspections in 2010 focused on specific marketing issues (including disclosure obligations, the duty to provide advice, claims handling, unclaimed life insurance policies, and compliance with the banking mobility charter). However, more general inspections covering the entire marketing system of an individual entity were also performed (including internal control systems).

Risk factors created by dubious business practices are identified through documentary audits, monitoring of advertising and new products, analysis of complaints and dialogue with ombudsmen, consumer associations and professional associations.

The ACP inspection charters – there is one for on-site inspections of credit institutions and investment firms, and another for the insurance sector – cover inspections of business practices. Before insurance intermediaries or intermediaries in banking transactions can be inspected, the ACP Chairman must first issue a decision declaring them to be subject to inspection¹³, because intermediaries are not covered by ongoing supervision.

On-site inspections take the form of interviews and checks on documents and files to verify compliance with customer protection rules. The inspected entity is sent a draft report, which forms the basis for a discussion in which both parties express their views. The final report is the subject of a follow-up letter that requires the entity to take steps to correct the shortcomings discovered during the inspection. If the findings of the report warrant it, the College is informed of the institution's position and may take enforcement measures (issue a warning or notice, require a remediation programme, etc.) or initiate disciplinary proceedings by the Sanctions Committee.

In the final months of 2010, three inspections were conducted at credit institutions, one at an insurance company and ten at insurance intermediaries.

Three financial holding companies specialising in consumer credit were inspected to verify the compliance of contractual and pre-contractual documentation with the Consumer Code, the integration of customer protection rules within the internal control system, and the quality of information provided in point-of-sale marketing. The organisation of claims handling and the quality of responses provided to customers were also audited.

An in-depth inspection was conducted to make sure that the investments made by a life insurance company complied with the specifications provided when the related policies were marketed. Pre-contractual disclosures, the duty to provide advice and associated control systems were also checked and gave rise to a number of observations. Inspections of intermediaries covered procedures for registration and conduct of business, as well as the quality of the advice provided when customers take out policies. One inspection led to disciplinary measures in 2011 (a senior executive received a ten-year ban on doing business).

In the final months of 2010, three joint inspections were conducted with the AMF at companies that have dual status as asset management companies and insurance brokers. Separate reports were issued to the firms, which will be dealt with separately by each institution.

¹³ Article L. 612-2 II of the Monetary and Financial Code.

6.4 THE ACP'S SPECIFIC POWERS IN THE AREA OF BUSINESS PRACTICES

A/ Issuing recommendations

The ACP itself may establish rules of conduct for marketing and safeguarding the interests of customers, policyholders, members and beneficiaries of entities subject to its supervision. These recommendations, which are drawn up at the ACP's initiative, cover specific themes and consist of practical guidelines for supervised entities. They may list good practices and, where applicable, prohibited bad practices, particularly practices encountered in connection with individual warnings.

When the ACP adopts and publishes a recommendation, the good practices that it refers to apply generally to all the entities within the scope indicated by the ACP. Where necessary, the ACP gives a date from which the recommendation applies. The ACP checks compliance with published recommendations.

Failure to comply with the good practices recommended by the ACP does not lead directly to disciplinary sanctions. However, the ACP may take enforcement measures, including issuing individual warnings if it finds that a supervised entity follows different practices that could jeopardise the interests of its customers, policyholders, members or beneficiaries. Failure to comply with a warning (Art. L. 612-30 of the Monetary and Financial Code) may lead to the start of disciplinary proceedings (Art. L. 612-38 and L. 612-39 of the Monetary and Financial Code).

The ACP consults on its draft recommendations with professional associations and, where appropriate, with consumer associations. It submits the draft to the ACP College's Consultative Committee on Business Practices, which comprises 16 members drawn

from customer associations, supervised entities and the professional associations that represent them, journalists, academics and employee representatives. The committee informs the College's thinking by providing opinions on draft recommendations on the supervision of business practices.

In 2010, the ACP's first recommendation covered the risks of misselling of complex financial instruments as units in life insurance policies¹⁴. The AMF simultaneously published a position on the direct selling of the same products. Coordination between the two authorities through the Joint Body made it possible to identify four criteria to determine whether the proposed financial instruments (French or foreign structured investment funds, complex debt securities) are likely to cause investors to underestimate the risks or even to misunderstand the product or policy:

- poor presentation of the risks or potential losses, especially when the product's performance is sensitive to extreme scenarios;
- underlyings that are hard to identify or impossible to observe individually on the markets;
- gains or losses that depend on simultaneous occurrence of several conditions across different asset classes;
- multiple mechanisms incorporated into the formula used to compute gains or losses at maturity.

When these instruments are sold through unit-linked life insurance policies, the ACP recommends that insurance companies and intermediaries should:

- provide intelligible information in all documents given to policyholders so that they understand the nature of the underlying units and the associated risks;

The ACP may, at its own initiative, establish professional rules of conduct, setting out the conditions for entities subject to ACP supervision to safeguard the interests of customers, policyholders, members and beneficiaries. The ACP's recommendations cover specific themes and consist of practical guidelines for supervised entities.

¹⁴ Recommendation 2010-R-01 of 15 October 2010 on the marketing of complex financial instruments in the form of unit-linked life insurance policies.

Professional rules may be grouped together in a code of conduct. They constitute commitments by the members belonging to professional associations of entities under the ACP's jurisdiction or that may be placed under ACP supervision.

- be able to prove to the ACP that they have taken the necessary measures for policyholders to understand that the units being marketed are a risky investment;
- gather proof that investors understand the nature of the underlying instrument marketed in the unit-linked contract and its associated risks;
- supply policyholders with information that is precise, clear and not misleading on the guarantees offered under the policy in the event of early redemption, whether because of the policyholder's death or partial or total surrender.

B/ Approval of codes of conduct

One of the key goals of codes of conduct is to clarify the procedures for implementing laws and regulations.

The ACP makes sure that the codes of conduct drawn up by professional associations comply with applicable legal and regulatory provisions.

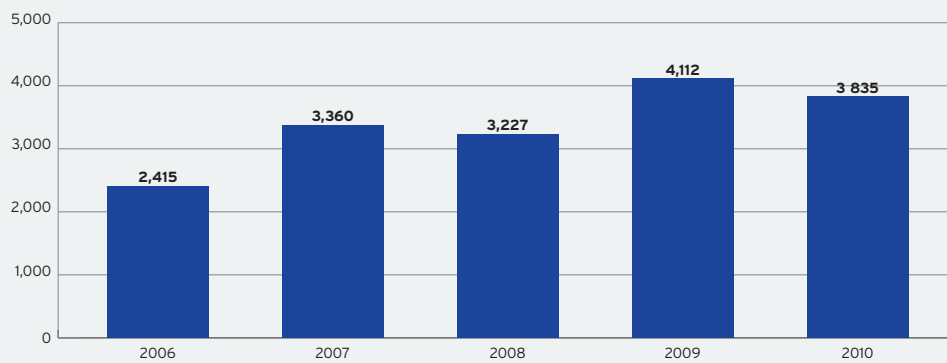
A professional association that draws up a code of conduct may ask the ACP to approve it. The ACP may decide to approve it or not, or to approve part of the code.

Once the ACP's approval has been published, the approved provisions are binding. However, only the association's members are obliged to comply with the provisions, and the requirement applies only to the formally approved provisions, according to terms specified by the code of conduct or, where applicable, the approval decision. In particular, the code may state that the recommended practices should be implemented in such a way as to satisfy the legal, regulatory or ethical requirements placed upon the profession, although this shall not be exclusive of other means of achieving the same end. An unapproved code of conduct is not binding, notably within the meaning of Article L. 612-29-1.

In the case of persons or entities required to set up an internal control system, the system must enable them to make sure that their transactions, internal procedures and organisation are compliant, particularly with the above codes and professional rules. As regards persons and entities subject to Regulation 97-02 of 21 February 1997 (amended) on the internal control of credit institutions and investment firms, the ACP considers that the approved codes of conduct mentioned in Article L. 612-29-1 form part of the professional standards referred to in Article 5 of the regulation.

6.5 COMPLAINTS RECEIVED IN 2010

NUMBER OF COMPLAINTS RELATING TO INSURANCE AND BANKING *



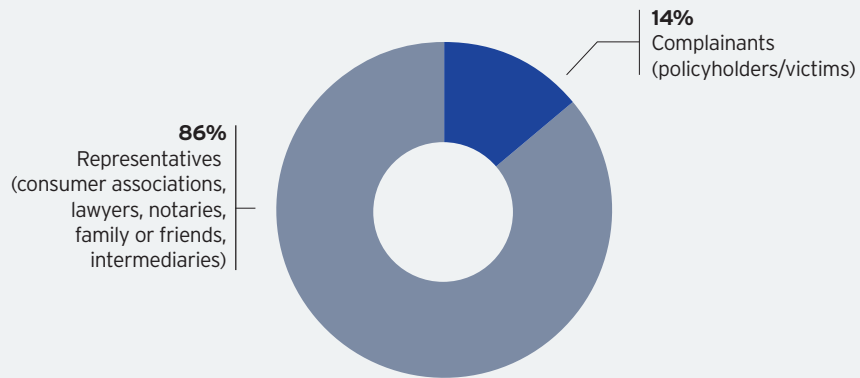
NUMBER OF INSURANCE-RELATED CALLS TO THE ACP HELPLINE BY MONTH:

TOTAL 2010: 11,959

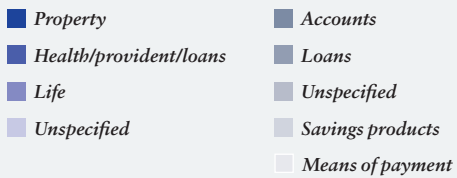
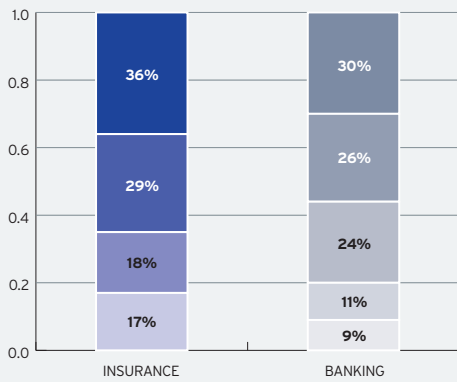


* Only in the insurance sector before 2010.

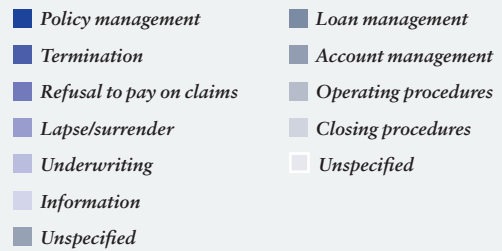
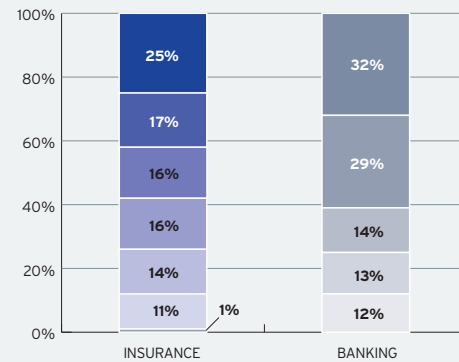
ORIGIN OF INSURANCE-RELATED COMPLAINTS



BREAKDOWN OF COMPLAINTS BY CATEGORY:



BREAKDOWN OF COMPLAINTS BY SUBJECT:



6.6 COORDINATION WITH THE AMF VIA THE JOINT BODY

The Joint Body set up by the AMF and the ACP, which was established at the same time as the ACP, provides a way to take this specific environment into account to supervise business practices in the financial sector.

The joint ACP/AMF unit is an institutionalised coordination mechanism that does not alter the two authorities' respective powers. All decisions remain taken solely by the ACP and AMF, as applicable, notably as regards follow-up measures and any disciplinary action taken on the basis of inspections. However, the unit allows the two authorities to alert each other to misselling risks, to talk about better ways of preventing such risks and to take joint action.

The unit's three main tasks are to:

- coordinate proposed priorities for overseeing compliance by regulated professionals with their obligations towards customers;
- coordinate intelligence-gathering on financial products and services, and monitor advertising campaigns;
- provide a single point of contact for customer queries (Assurance Banque Epargne Info Service).

A coordinator, appointed on a rotating basis by the ACP and the AMF, will ensure the Joint Body's orderly operation. Fabrice Pesin, Managing Director of the ACP, is the coordinator for 2010/2011. The Joint Body prepares an annual report on its work.

The ACP also takes part as an expert in meetings of the Financial Sector Consultative Committee (CCSF) and coordinates its activities with the Directorate General for Consumers, Competition and Fraud Prevention (DGCCRF) of the Ministry for the Economy, Finance and Industry.

The need for coordinated monitoring of all investment vehicles (particularly unit-linked life insurance policies) and the rise of firms capable of distributing a complete range of banking and insurance products, such as bancassurance networks and wealth management advisors, mean that action taken by the ACP and the AMF has to be closely coordinated.



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INVOLVEMENT IN CHANGES TO THE REGULATORY FRAMEWORK

The ACP plays an active part in the preparatory work that goes into establishing regulations and transposing European directives. The ACP monitors developments and makes proposals to aid in drafting laws and regulations applicable to the banking and insurance sectors, at international, European and domestic levels.



1 / INTERNATIONAL AND EUROPEAN INITIATIVES

On 16 December 2010, the Basel Committee published its Basel 3 framework, a new set of recommendations on banking regulation. The framework, which amends the Basel 2 rules, reflects commitments made by the G-20 and the Financial Stability Board aimed at addressing the lessons of the financial crisis. The key proposed measures include provisions to increase the quantity and quality of capital and establish a framework to cover and manage liquidity risk. The ACP played an active part in preparing these new international regulations, by submitting proposals and defending the banking models that stood up best to the crisis.

A/ Basel 3 and the Quantitative Impact Survey (QIS) of the banking sector

a) Strengthening the quality and quantity of capital

The document published by the Basel Committee, “*Basel 3: A global regulatory framework for more resilient banks and banking systems*”, contains measures aimed at increasing the quality and quantity of regulatory capital.

The methods for calculating regulatory capital, and notably the definition of Tier 1 capital, have been harmonised. Owing to the lack of a common international definition and the fact that the “purest” capital components (shares, reserves and retained earnings) are not generally the predominant form of regulatory capital, markets have turned away from the global solvency ratio to pay more attention to the Tier 1 ratio and non-regulatory metrics such as Core Tier 1 and Tangible Common Equity.

Under Basel 3, banks’ highest-quality capital is counted under Common Equity Tier 1 (CET1), which comprises common shares (or the equivalent for non-share issuing institutions such as mutual and cooperative

banks), reserves and retained earnings. Strict, rigorous eligibility rules will be in place to determine which instruments are allowed in CET1. In addition, capital deductions and prudential filters will be harmonised and generally applied at the level of CET1 instead of being divided up across different categories of capital as now.

The eligibility criteria for Tier 1 elements that are not allowed in CET1, i.e. hybrid instruments, were harmonised in Europe by Directive 2009/11/EC, which came into force on 31 December 2010. The Basel 3 framework goes beyond mere harmonisation, however, and imposes stricter quality criteria for these instruments and Tier 2 capital¹⁵.

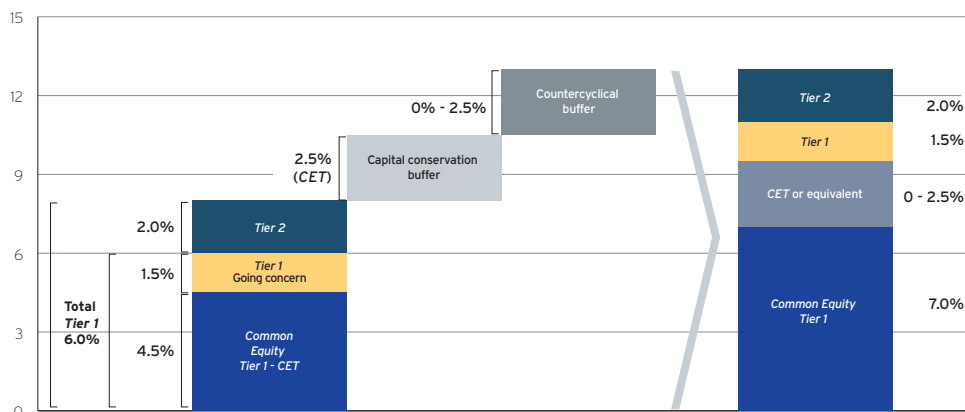
The way that capital is structured has also been simplified: additional capital will be grouped together in a single category (instead of the two levels of Tier 2 capital currently), and Tier 3 capital instruments, which are solely intended to cover market risk, will be eliminated.

The minimum solvency levels, i.e. capital with constant risk weights, have also been revised upwards: by 1 January 2019, the CET1 ratio must be at least 4.5% of risk-

¹⁵ For example, step-ups will no longer be allowed.

weighted assets; Tier 1 capital must be at least 6% of risk-weighted assets and total capital must be at least 8% of risk-weighted assets.

While the nominal 8% requirement has not been changed, in reality it has been made more demanding because of tighter capital eligibility requirements in the numerator and additional requirements in the denominator.



Moreover, as shown above, the minimum regulatory requirement is supplemented by a capital conservation buffer, expressed as a CET1 ratio and set at 2.5%, and a countercyclical buffer, which is also expressed as a CET1 ratio and which may vary between 0 and 2.5% depending on the stage of the cycle. The first will require banks to keep their capital ratio above the regulatory

minimum, while the second will allow supervisors to impose additional charges if the economy is overheating.

A transitional phase will allow institutions to gradually comply with the new requirements, which must be fully applied by 2019 (see timetable below).

	2011	2012	2013	2014	2015	2016	2017	2018	2019
Minimum Common Equity Capital Ratio			3.5%	4%	4.5%				
Capital Conservation Buffer						0.625%	1.25%	1.875%	2.50%
Minimum Capital Tier 1			4.5%	5.5%	6%				
Minimum Capital Total			8%						
Minimum Capital + Conservation buffer Total			8%			8.625%	9.25%	9.875%	10.5%

At the same time, disclosure requirements have been bolstered to enhance transparency and market discipline. Banks must publish their CET1 ratio in addition to their solvency and Tier 1 ratios. They will thus show how much top-quality capital is available to cover going-concern losses. They will also be required to provide detailed information about capital elements and a detailed reconciliation with published financial statements.

b) Making risk coverage more exhaustive
Two European directives, 2009/111/EC (CRD 2) and 2010/76/EU (CRD 3), were introduced to correct the most glaring deficiencies in risk coverage exposed by the crisis by tightening up the treatment of securitisation and bolstering the market risk surveillance system. The directives bring into European law the changes introduced by the Basel Committee's July 2009 "Revisions to the Basel 2 market risk framework", which were further supplemented in June 2010, and by the reforms to the prudential securitisation/resecuritisation rules made by the Basel Committee in July 2009 with its "Enhancements to the Basel 2 framework".

CRD 2 tightened up the treatment of securitisation transactions as from 31/12/2010 by introducing requirements in terms of monitoring risks and aligning the interests of originators and investors. CRD 3 introduced provisions on pay, which came into effect on 1/01/2011. It also aims to ensure, by 31 december, that credit risk is captured more effectively by taking account of additional default and migration risk and remedying the procyclical nature of VaR by requiring banks to calculate stressed VaR measurements. Furthermore, to combat regulatory arbitrage, the treatment of securitisation in the trading book will be aligned with that applied to the banking book (cf. B below for the timetable).

c) Enhancing management of liquidity risk

The publication of "Basel 3: International framework for liquidity measurement, standards and monitoring" marks an impor-

tant step forward because, for the first time, the Basel Committee is proposing quantitative standards for managing bank liquidity risk. The standards comprise two ratios (one-month and one-year), supplemented by indicators to provide supervisors with a more global view of liquidity risk.

The Liquidity Coverage Ratio (LCR) is a short-term ratio that measures a liquidity situation on a 30-day horizon. The LCR is designed to ensure that the reporting institution can cope with a sudden liquidity shock, such as an unforeseen increase in outgoing payments, by drawing on assets that are considered to be liquid (i.e. that can be converted into cash, including when market liquidity is stressed). The stock of liquid assets (numerator), which are subject to a restrictive definition, must equal the amount that the institution would have to finance in a liquidity stress scenario (denominator).

The Net Stable Funding Ratio (NSFR) is a more structural ratio of total funding on a one-year horizon. It is intended to control the maturity mismatching (provision of long-term financing using short-term resources) inherent to the banking business. Funding that is considered to be stable (numerator) must be at least equal to the required amount of stable funding (denominator).

In contrast to the LCR, which considers only certain on and off-balance sheet items depending on their contractual maturity, the NSFR adopts an exhaustive approach, taking all balance sheet items into account. The stability of different items is assessed based on the type of product/counterparty, but also with respect to a one-year horizon, in the case of items with a contractual term.

Since liquidity risk cannot be measured by considering only two points in time, additional metrics, or "monitoring tools", are also to be used, including metrics tracking contractual maturity mismatch, concentration of funding, available unencumbered assets and LCR by significant currency, along with market-related monitoring tools.

The LCR will not come into effect until 2015, while the NSFR will be introduced in 2018. An observation period including review clauses will now begin. Accordingly, it is likely that adjustments will be made at the end of the observation phase, before the ratios are actually implemented.

Basel 3 also significantly bolsters the quantitative and qualitative requirements relating to counterparty risk, an area that was exposed during the crisis. The top priority is to increase requirements for credit value adjustments (CVAs), i.e. counterparty risk losses associated with the deterioration in the creditworthiness of counterparties in derivative trades and repurchase agreements.

The future prudential framework also seeks to provide the means to measure leverage by comparing the amount of Tier 1 capital against gross on- and off-balance sheet exposures. However, care will be taken not to introduce an overly restrictive leverage ratio, which would be based on a measurement instrument using a gross (non-risk-based) metric. The new ratio is designed to act as a supplementary measurement to the Basel 2 approach and would be intended, at least initially, to be dealt with under Pillar 2.

This new regulatory framework will be put into place after observation periods, particularly for the leverage ratio and the two liquidity ratios. The transition period will be used to gauge the appropriateness of the new provisions and ensure that banks continue to play their crucial role in terms of financing the economy.

d) Reducing systemic risk

The Committee is playing an active part in work by the Financial Stability Board (FSB) to prepare a regulatory framework aimed at reducing the risks associated with systemically important financial institutions (SIFIs). The G-20 meeting in Seoul endorsed the FSB's November 2010 report entitled "*Reducing the moral hazard posed by systemically important financial institutions*", which sets out the key principles of the future regulatory framework for institutions that

are deemed to be systemically important. According to the report:

- SIFIs should be subject to a tougher supervision regime;
- SIFIs should have higher loss absorbency;
- Application of these measures will be monitored by peer review at international level;
- A framework for orderly resolution should be introduced at national level;
- Market infrastructures should be strengthened.

In the first half of 2011, the Basel Committee has also been tasked with preparing a list of quantitative and qualitative indicators to be used as a basis for identifying global SIFIs.

At international and European level, in addition to establishing specific measures for systemically important institutions, the aim is also to reduce the impact of systemic crises by making domestic crisis resolution frameworks more resilient and improving their coordination. After publishing a report in March 2010, the Basel Committee is continuing work on the convergence of the legal and prudential mechanisms used to resolve cross-border banking crises. Meanwhile, having published two communications, in October 2009 on managing bank crises and in May 2010 on bank resolution funds, the European Commission clarified its recommendations on recasting the crisis management framework (convergence of legal mechanisms and procedures for coordination by authorities) in a communication submitted for consultation until 3 March 2011, with a view to publishing legislative proposals before summer 2011.

Implementing all these reforms will occupy Basel Committee member supervisors – including the ACP – throughout 2011. It will also be important to pay close attention to political messages from the G-20. **For the French presidency, priorities include the proposal to extend regulation to include shadow banking, by paying more attention to economic substance than to legal form when identifying entities that should be subject to prudential rules.**

The combination of two ratios with different time horizons should make it possible to make sure that the institution is ready to cope with a sudden liquidity shock and that its maturity mismatch activities are under control.

To calibrate the recommendations contained in the Basel 3 framework, the Basel Committee and the Committee of European Banking Supervisors (CEBS)¹⁶ conducted a study to assess the impact of each of the measures across a sample of credit institutions comprising large international banks (Group 1¹⁷) and smaller entities (Group 2).

e) Main results of the Quantitative Impact Study (QIS)

Following the publication in December 2009 of a set of proposals that were put out to public consultation, the first half of 2010 was devoted to a global quantitative impact study. More than 250 banks from the Committee's 23 jurisdictions took part in the exercise. The results, which were published in December 2010, give a more precise idea of the impact of the different reforms, from the new prudential requirements for market risk and securitisation announced in July 2009, to the proposals on capital and liquidity published in December 2009 (draft) and December 2010 (final version).

In Europe, where 230 banks from around 20 EU countries took part in the study, the main findings included the following:

1) Solvency ratio measures: after application of the provisions relating to the definition of capital and new requirements on measuring risk, average Common Equity Tier 1 (CET1) and Tier 1 ratios come out at 4.9% and 5.6% respectively for Group 1 and 7.1% and 7.6% respectively for Group 2, as compared against regulatory requirements of 7% and 8.5% (including the conservation buffer) when the measures come into full effect in 2019. Capital is sharply reduced because of the deduction of goodwill, deferred tax assets and capital investments in financial entities. Capital requirements meanwhile would increase by 24.5% (Group 1) and by 4.1% (Group 2), notably owing to the effects of new requirements linked to counterparty

risk and capital measurement. All in all, the application of the new provisions will require a major effort by banks, particularly those of Group 1. If all the measures were introduced now, Group 1 banks would require an estimated EUR 53 billion to achieve a CET1 of 4.5% and EUR 263 billion for a CET1 of 7.0%. However, because the framework is being phased in gradually¹⁸, banks can take appropriate steps to comply with the future regulatory standards. This is what France's banking groups are planning (future earnings to reserves, risk reduction, etc.).

2) Liquidity and maturity mismatch measures: the 30-day Liquidity Coverage Ratio (LCR) would come out at 67% (Group 1) and 87% (Group 2), indicating a shortfall of EUR 1.0 trillion in liquid assets to reach the 100% regulatory requirement in 2015. The sample's one-year Net Stable Funding Ratio (NSFR) would be 91% (Group 1) and 94% (Group 2), creating an additional financing requirement of EUR 1.8 trillion to reach a 100% ratio in 2018.

The microeconomic analysis is coupled with an assessment of the macroeconomic consequences of the transition to the new prudential framework. The study, which was conducted jointly by the FSB and the Basel Committee, found that the reforms would have a small negative impact on global GDP during the transition phase (maximum of 0.22% over the entire period covered by the gradual phase-in of Basel 3, i.e. through to 2019).

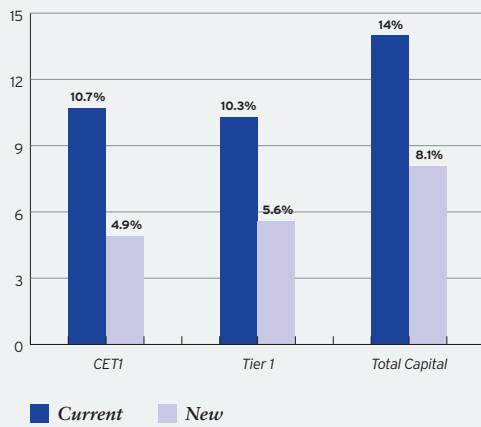
¹⁶ The two impact studies covered different sets of countries: EEA for the CEBS study; G-20 countries for the Basel Committee.

¹⁷ Group 1 includes institutions that 1) have Tier 1 capital in excess of EUR 3 billion, 2) are well diversified and 3) internationally active.

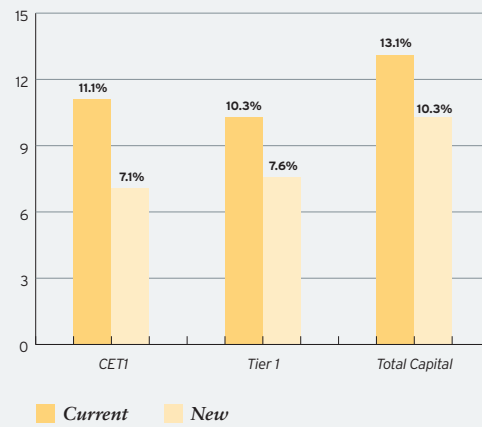
¹⁸ The regulatory requirement for the CET1 ratio set when Basel 3 comes into force in 2013 (3.5%) will be gradually raised to 4.5% in 2015 and 7% in 2019 (including the capital conservation buffer).

IMPACT OF BASEL 3 ON SOLVENCY RATIOS

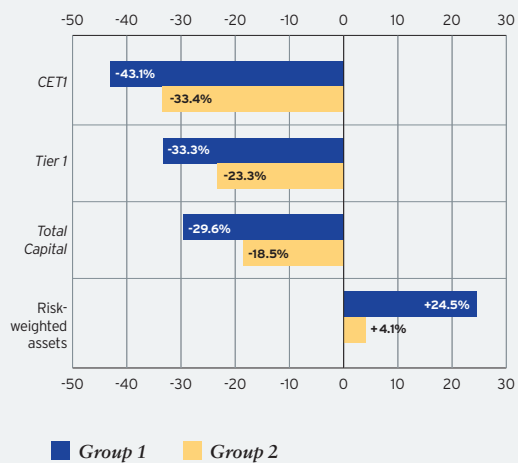
Group 1



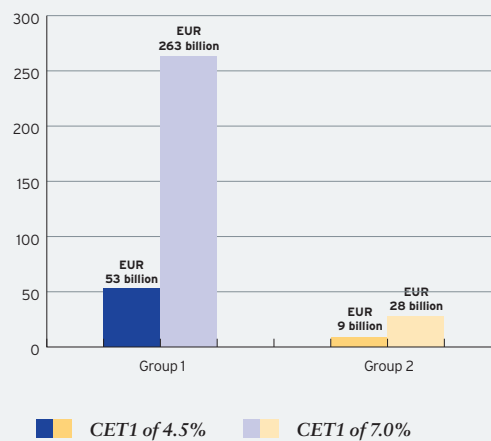
Group 2



BREAKDOWN OF THE IMPACT OF BASEL 3



ESTIMATED CET1 REQUIREMENTS



B/ Review of Banking Directives

Following the work by the Basel Committee, the EU has also recently begun strengthening its prudential framework, notably through

the Capital Requirements Directives (CRDs). Transposition of Basel 3 into European law will be completed with the entry into force of CRD 4

	CRD 2	CRD 3	CRD 4
CURRENT STATUS	<ul style="list-style-type: none"> • Publication in OJEU¹⁹ on 17 July 2009 of technical provisions adopted under the comitology procedure • Vote by COREPER²⁰ and European Parliament on 6 May 2009 • Publication in OJEU on 17 November 2009 (Directive 2009/111/EC) 	<ul style="list-style-type: none"> • Vote by the Parliament on 7 July 2010 • Decision by the Council on 11 October 2010 • Publication in OJEU on 14 December 2010 (2010/76/EU) 	<ul style="list-style-type: none"> • Proposal for a directive currently being drafted. Expected in Q2 2011
CONTENT	<ul style="list-style-type: none"> • Enhancements to quality of capital through harmonised criteria for including hybrid instruments in Tier 1 • Strengthened requirements for securitisation activities and introduction of risk retention requirements • Liquidity risk requirements • Enhanced European cooperation in the supervision of cross-border groups (institutionalisation of colleges of supervisors) • Tougher requirements in terms of monitoring and controlling large exposures 	<ul style="list-style-type: none"> • Enhanced capital requirements for trading activities (application of measures adopted in July 2009 and clarified on 18 June 2010 by the Basel Committee) • Enhanced capital requirements for resecuritisation activities (application of measures adopted in July 2009 by the Basel Committee) • Requirements relating to banks' pay practices and policies 	<ul style="list-style-type: none"> • Tougher quantitative and qualitative capital requirements, particularly in terms of the definition of Core Tier 1 • Phased-in introduction of liquidity ratios (one-month and maturity mismatch ratios) • Introduction in Pillar 2 of a leverage ratio based on gross exposure • Tougher counterparty risk requirements • Introduction of countercyclical measures: <ul style="list-style-type: none"> – requirement to create a capital conservation buffer – requirement to create a countercyclical buffer • Establishment of a single rule book for banking
IMPLEMENTATION	31/12/2010	<ul style="list-style-type: none"> • Pay: 1/01/2011 • Other areas: before 31/12/2011 (+ two-year transition period for calculating the requirement for securitisation positions in the trading book) 	<ul style="list-style-type: none"> • Scheduled for 1/01/2013

¹⁹ Official Journal of the European Union.

²⁰ Committee of permanent representatives (Comité des représentants permanents).

C/ Solvency II and the impact study (QIS5) for the insurance sector

a) Solvency II

With the issuance on 17 December 2009 of the Solvency II Directive, the European Commission adopted the last of the forty-two measures in its 1999 Financial Services Action Plan (FSAP), aimed at constructing an integrated single market in banking, insurance and securities. Solvency II was adopted as part of the Lamfalussy process, which establishes a three-level framework for EU regulation of financial institutions. The directive is a Level 1 measure that lays down general principles. Implementing measures, known as Level 2 measures, must then be adopted to specify details of how the principles are to be applied. Guidance in the form of recommendations, known as Level 3 measures, is then needed to ensure cooperation between supervisory authorities and consistent supervisory practices on implementing the Level 1 and 2 measures.

In 2009, the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) provided advice to the European Commission on Level 2 implementing measures that had previously been put out for consultation with stakeholders in the form of consultation papers. On this basis, the European Commission, in concert with governments of the Member States, is now drafting the final content of these measures. The work is being done within the Solvency Expert Group (SEG), with publication of the proposed Level 2 rules planned for the second half of 2011. France is represented on the SEG by the directorate general "Treasury", with technical support from the ACP. The Level 2 measures could be proposed either in the form of directives (which would require implementing decrees at the Member State level) or as Community regulations that would be directly applicable.

In parallel with this process, CEIOPS (now succeeded by an EU authority in charge of

the insurance sector, the European Insurance and Occupational Pensions Authority, EIOPA) has worked primarily on two subject areas relating to Solvency II:

- Drafting and discussion of Level 3 measures: These texts are for the most part recommendations, but certain of them, such as the Binding Technical Standards (BTS) will be mandatory.
- Preparing and conducting the fifth quantitative impact study (QIS5). The purpose of QIS5 was to measure the implied consequences of the quantitative solvency requirements and draw the appropriate conclusions regarding Level 2 implementing measures. For the working groups participating, this exercise consisted in drawing up technical specifications and qualitative questionnaires and in helping provide answers to the questions being asked by insurance institutions as the study proceeded.

To carry out the regulatory work relating to Solvency II, EIOPA relies primarily on four working groups made up of experts from the various national supervisory authorities. The ACP is particularly active within these groups. The four groups are:

- the Financial Requirements Expert Group (FINREQ), which works on aspects of Pillar 1 (quantitative requirements): valuation of technical provisions, definition and calibration of capital requirements, definition of own funds.
- the Internal Model Expert Group (INTMOD), which works on internal models: in particular, the conditions on which supervisors may authorise the use of insurance institutions' internal models for the purpose of calculating capital requirements.
- The Internal Governance, Supervisory Review and Reporting Expert Group (IGSRR), which deals with aspects of Pillar 2 (qualitative requirements in areas relating to governance, use of economic models for calculating capital requirements, and "own risk and solvency assessment" (ORSA) as well as Pillar 3 (reporting to the supervisor, dissemination of information to the public).

Preparation for Solvency II continues in 2011. The main steps will be:

- **Publication of the “Omnibus II” directive, which incorporates the new powers of EIOPA into the Solvency II framework and specifies which areas will be subject to Level 3 Binding Technical Standards (BTS).**
- **Publication of the Level 2 measures (directives or regulations).**
- **Finalisation of the Level 3 measures by EIOPA (the Commission will then adopt the BTS).**

The participation rate across Europe was 70% on a solo basis – above the 60% objective – and more than double the 33% rate for QIS4. In France, which had the largest number of respondents in Europe, participation was likewise more than double what it was for QIS4.

This group also works on valuation of balance sheet items other than technical provisions and on IT and other issues associated with Pillar 3.

- The Insurance Groups Supervision Committee (IGSC), which addresses the prob-

lems of supervising insurance groups, in particular issues relating to how the colleges of supervisors operate, how capital requirements are calculated at group level and how third-country subsidiaries are handled.

INTERNAL MODELS

In mid-October 2010, the ACP sent out a letter to the insurance institutions that had expressed an interest in having an internal model for calculating their capital requirement under Solvency II.

This letter specified what the ACP staff will expect to see from insurance institutions that want their application for authorisation of their internal model to be processed as soon as the directive comes into force.

It also addressed member institutions of European groups that might be intending to make a joint filing with another supervisory authority in Europe. The ACP's discussions with other European authorities have shown that detailed provisions must be made straight away to establish the nature, organisation and different stages of the ACP's contribution to checking the compliance of groups' internal models, as provided for in Article 231 of the directive.

b) QIS5

To measure the impact of the calibration of Level 2 measures, European insurers and reinsurers were invited to participate in the fifth quantitative impact study (QIS5), which took place between August and late October 2010 (until mid-November for groups).

The technical specifications of QIS5 were drawn up under the supervision of the European Commission with technical support from the former CEIOPS. The data were gathered and processed by the supervisors in each country before being forwarded to the new European authority, EIOPA, in 2011.

This new impact study had special importance because it was to be the last before implementation. For all of those participating, it constituted:

- An opportunity to assess the degree to which insurers' processes are suited to Solvency II;
- A measure of the quantitative impacts of Solvency II on insurers' balance sheets and capital requirements;
- A source of information for determining the final adjustments of the implementing measures, in particular the calibration of the standard formula for the Solvency Capital Requirement (SCR).

FRENCH INSURANCE INSTITUTIONS RESPONDED IN LARGE NUMBERS TO QIS5.

As with the reforms under discussion for the banking sector, one of the major issues of Solvency II is the calibration of the various capital requirements, which will be set on the basis of the impact studies conducted by EIOPA.

Because the issues addressed in this exercise - set to be the last before the Solvency II implementing measures are adopted - were so important, the ACP had strongly encouraged French institutions to participate and is gratified by their heavy involvement. The ACP had also contributed technical support to ensure that the exercise went smoothly. After consulting with the industry, the ACP published supplementary national guidelines, translated certain technical documents into French, and set up a special website for this exercise (www.qis5.fr).

In sum, French insurers collaborated fully on QIS5: with 515 responses, twice as many of them took part in this study than in the previous exercise (231 responses for QIS4). Their responses were the subject of sustained dialogue between the ACP staff and insurance institutions. These exchanges served not only to facilitate a better understanding of the impact of Solvency II on the insurance market but also to expand the staff's knowledge of how controlled companies operate and what risks they are exposed to.

D/ ACP participation in the European working groups on consumer protection

The ACP is an active contributor to the work of the Consumer Protection committee of the former CEIOPS, which on 1 January 2011 became European Insurance and Occupational Pensions Authority (EIOPA).

This committee adopted positions on revisiting the European directive on insurance intermediaries (IMD2), on the draft rules for packaged retail investment products (PRIPs) and on a draft directive regarding insurance guarantee funds. The ACP also

follows the work of the Market Conduct subcommittee of the International Association of Insurance Supervisors (IAIS). Lastly, under the auspices of the directorate general "Treasury", the ACP participates in the French working groups on evolving regulations in the consumer protection area, in particular as regards transposition of directives.

Being represented on these committees and working groups gives the ACP a view of all the main issues in consumer protection at the national, EU and international level as well the legislative and regulatory developments concerning them.

EU LEGISLATION CURRENTLY IN PREPARATION

In the consumer protection area, several EU texts are under development:

- The Packaged Retail Investment Products (PRIPs) initiative aims to harmonise rules for all packaged investment products intended for individual investors, regardless of whether the product is offered by the banking, insurance or securities sectors. In particular, PRIPs' scope extends to products managed by investment funds (such as UCITS) and unit-linked life insurance contracts. In the area of customer disclosures, the initiative would institute a brief, standardised information documents that would make it easier for investors to compare different products, understand the risks and costs involved, and thereby have a basis on which to make a more informed choice. The initiative would also govern the way these products are marketed, setting stricter rules on conflicts of interest and disclosure of financial inducements received by the people marketing them.
- The Insurance Mediation Directive (IMD) of 2002, which establishes rules on professional organisation and customer relations for insurance intermediaries, is currently under revision. The key issue with IMD2 is extending the rules of conduct that now apply between intermediaries and their customers to insurance institutions that sell directly to the public. Greater transparency regarding fees received by intermediaries is another issue in debate.
- A draft directive on guarantee funds in the insurance sector (Insurance Guarantee Schemes) is also on the table. This directive is intended to ensure that there is at least one guarantee fund in each Member State, so that some minimum protection against bankruptcy of the insurer is offered to policyholders and beneficiaries. In practice, only half the Member States have such guarantee schemes today. The key issue of this initiative is therefore to harmonise minimum rules on the sectors and persons who ought to be covered by guarantee schemes. Another issue that must be addressed is the division of responsibility among national funds in the event of bankruptcy of an insurance entity operating in multiple countries.

The European Commission intends to put forward draft directives on these three subjects in 2011.



2 / CONTINUED REFORM OF ACCOUNTING STANDARDS

In 2010, the G-20 again encouraged the international and US accounting standard-setting bodies, the IASB and the FASB to develop common, high-quality accounting standards and to complete their convergence project before year-end 2011.

The two boards, the International Accounting Standards Board and the Financial Accounting Standards Board, have accordingly revised their work programme to speed up certain projects, in particular those deemed to be of a major importance to banks and insurance companies, such as accounting for financial instruments and insurance contracts.

Although some progress towards convergence was made in 2010 and several joint drafts were published, the FASB and the IASB are finding it difficult to reach agreement on the central question of accounting for financial instruments, and especially on the place of fair value measurement. In this context, the ACP has remained on alert and continues to push for definitions of accounting standards that fully heed the lessons of the financial crisis. It is a member of France's accounting standards authority and coordinates its efforts with that body. It also works in close coordination with the committees of banking and insurance supervisors at EU level – CEBS and CEIOPS, now transformed in the European Banking Authority and the European Insurance and Occupational Pensions Authority – and with the Basel Committee and the International Association of Insurance Supervisors (IAIS) at international level.

A/ Revision of the standard on financial instruments

At the request of governments, and to address the shortcomings found in certain accounting rules in the context of the financial crisis, the IASB is currently conducting a revision of the standard on financial instruments, IAS 39. This project, which is part of the convergence objective for international standards, has been split into three phases ending with the publication of a new standard, IFRS 9, Financial instruments, intended to replace IAS 39.

a) First phase

The first phase is devoted to classifying and measuring financial instruments. This phase gave rise to the publication in 2009 of the IFRS 9 provisions on financial assets and was completed in October 2010 by the provisions on financial liabilities.

The provisions on financial liabilities are to a large extent identical to those in IAS 39, except for the accounting treatment of changes in the value of liabilities measured under the fair value option where the changes are due to "own credit risk". These changes are recognised in income under the current standard but are to be taken directly to reserves in the equity accounts under the new standard. The banking supervisors (CEBS and the Basel Committee) and insurance supervisors (CEIOPS and the IAIS) have long made their reservations known to the IASB regarding the counterintuitive, and debatable, effects of "own

credit risk”, which leads to a company benefiting from a deterioration in its own financial position.²¹ The IASB’s proposal, which confines the effect of own credit risk on debt measured at fair value to the equity accounts, is still not altogether satisfactory to the supervisors. The European supervisors would have preferred this effect to be neutralised entirely in accounting terms. Failing this, the banking supervisors have decided to keep in place the filter they use to neutralise the impact of own credit risk on prudential capital.

b) Second phase

The second phase of the overhaul of IAS 39 relates to provisioning for credit risk. In November 2009 the IASB put out a model of provisioning for future losses (the “expected loss model”) for public consultation. Under this model, credit risk would be provisioned gradually, without waiting for a loss event to occur as required under the current standard. It should be recalled that the G-20 had asked the accounting standards bodies to broaden the possibilities for accounting recognition of losses on loans and to define a wide range of credit information for disclosure purposes.

In their respective responses to the IASB consultation, CEBS and the Basel Committee expressed support for the principle of provisioning for expected losses as indicated by the proposed model. It does provide a better way of reflecting anticipated risk at the accounting level, while making it possible to create a reserve and gradually set aside the risk premium charged to the customer via the interest rate and intended to cover future losses.

But the supervisors also pointed to the operational difficulties of implementing this model (especially the difficulties associated with using an effective interest rate) and the potential impact in terms of income-statement volatility if expected future losses have to be re-estimated at each closing date based on current economic conditions and prospects (through-the-cycle vs. point-in-time approach). In the wake of these criticisms,

the IASB held further discussions on making its provisioning model more operationally feasible.

The ACP contributed considerably to these discussions by participating as CEBS’ representative in the consultative group of experts in credit risk management set up by the IASB. The ACP was also heavily involved in the development by the Basel Committee of concrete proposals to improve the IASB model. Besides offering proposed simplifications, the efforts of the banking supervisors were directed towards finding solutions that would enable banks to rely to a greater extent on the credit risk data used for calculating the Basel 2 capital ratio. The IASB will be proposing a new provisioning model, and the ACP will scrutinise it with utmost attention.

c) Third phase

Regarding the third phase of the revision of IAS 39, which relates to hedge accounting, the IASB issued proposals in late 2010 that address only micro-hedging. On the subject of macro-hedging, the IASB chose to continue its discussions during 2011.

This subject is key for French insurance and banking institutions. Currently, French banks are applying a version of IAS 39 amended by the European Union that enables them to engage in macro-hedging transactions. The ACP will make a close analysis of the IASB’s initial proposals on micro-hedging. These appear to go in the right direction by aligning hedge accounting more closely with risk management and by addressing certain weaknesses of the current hedge accounting model of IAS 39, which is considered quite complex.

B/ Proposed major revision of the standard on leases

On 30 August 2010, the IASB and the FASB published a consultation paper on a proposed sweeping change in the way lease contracts are handled in entities’ financial statements, whether they are lessees or lessors.

²¹ *Deterioration of a company’s credit risk leads to a decrease in the value of its debt and recognition of a gain, thereby increasing its earnings and its equity.*

The objective of the reform is to eliminate the accounting distinction between an operating lease, where the item leased does not currently appear on the lessee's balance sheet, and a finance lease, where the lease is accounting for as a credit purchase. The goal is also to have all lease transactions show up in the balance sheets of the lessee entities, so that analysts can better grasp their true financial positions. These proposals have aroused a number of reservations, especially on the part of banking supervisors. The supervisors see the proposed model as a source of complexity and believe it will pose difficulties in implementation – for example, in making the necessary distinction between lease agreements and service agreements.

C/ Consultation on the draft international standard on “insurance contracts”

In July 2010 the IASB published a draft standard to replace the existing IFRS 4, which is currently applicable to insurance contracts and which in practice comes down to using existing local accounting standards.

The consultation initiated by the IASB in 2010 on this subject shows progress in certain areas when compared with the first proposal, put forward in 2007. The IASB now proposes to measure insurance liabilities according to a realisable value of the insurance contract based on valuation data internal to the insurance entity, instead of using a fair value model based on market data. This is a change that was desirable from the outset insofar as insurance liabilities are not negotiable instruments traded on a market.

Furthermore, the valuation methodology that the IASB has proposed for insurance liabilities has moved closer, in certain respects, to the methodology that will be applied under the Solvency II directive. As such, it would make for greater consistency between financial and prudential reporting.

Through its participation in working groups at the national level (France's accounting standards authority) and the international level (EIOPA, IAIS, CEBS, Basel Committee), the ACP helped to formulate comments intended to guide the IASB in finalising the revision of IFRS 4. The ACP has expressed reservations on a number of provisions of the draft that it believes will result in undue income-statement volatility, not necessarily reflective of insurers' essentially medium/long-term business model. It has also opposed including a liquidity premium in the discount rate for liabilities since this would have the effect of decreasing the value of insurance liabilities when liquidity in the financial markets becomes scarcer. The ACP has come out in favour of defining contract limits (future premiums and benefits on existing contracts) in a way that relates more directly to the technical characteristics of the contract.

D/ The need to reform IASB governance

The ACP believes that financial stability objectives ought to be taken into account in the process of developing international accounting standards. On this ground, reintroducing the notion of prudence as a general accounting principle in the IFRS would be a welcome step.

Regarding IASB governance more generally, the ACP is of the view that this board – which should be composed mainly of members from countries that are applying IFRS or are firmly committed to applying them in the near future – ought to be accountable to an international public body with the power to appoint its members and guide the direction of its work. The ACP is expressing these views in the consultations now in progress.

The new version of IFRS 4 is intended to establish a consistent accounting treatment for insurance liabilities, making it easier to compare insurance institutions' financial statements.

The content of accounting and prudential disclosures is likely to be further improved in the years ahead by new reporting requirements introduced in the wake of the financial crisis. Starting 31 December 2011, disclosures under Pillar 3 of Basel 2 will have to include, among other things, securitisation transactions in the trading book. On the financial reporting side, entities will be required by the recent amendment of IFRS 7 to provide more information on asset transfers and derecognitions.

The aim of the efforts made since 2008 to devise standardised EU reporting formats (FINREP²⁴ and COREP²⁵) is to rationalise these processes and harmonise the formats used by the various national supervisors. These reporting formats were devised in response to requests from EU bodies for a more uniform way of gathering data, especially concerning cross-border institutions. Similar work is being done on the insurance side for Solvency II, with implementation scheduled for early 2013.

E/ Towards improved financial transparency

During 2010 the EBA continued its analytical work on the quality of financial and prudential disclosure with a review of the documentation published by European credit institutions as of 31 December 2009. The reports issued by the EBA on these analyses provide examples of best practices intended to help European institutions improve their disclosures to the market in certain areas.

The analysis of banks' financial statements and notes²³ for the 2009 financial year, conducted in 2010, shows generally satisfactory compliance with IFRS requirements. However, disclosure could still be improved, particular as regards fair value measurement, asset impairment, and application of the rules on consolidating special-purpose entities.

An analysis of information provided under Pillar 3 of Basel 2²⁴ shows improvements compared with the first year these reports were published. However, further improvements are sought as regards the detailed breakdown of regulatory capital, ex-post validation of credit risk measurement models, credit risk mitigation techniques and exposures resulting from derivatives. .

F/ Financial and prudential reporting in Europe and in France

The harmonised FINREP project was adopted in 2009 and will come into force on 1 January 2010. The harmonising work on the COREP system, conducted in accordance with Article 74 of the CRD, was finalised in 2010.

With this done, the new COREP reporting project was adopted in December 2010 and scheduled to come into force on 31 December 2012. In the meantime, the impacts arising from revisions of the EU directives (CRD 3

and CRD 4) will be incorporated into the final project.

An update of the new FINREP reporting format, which was adopted in 2009, is likewise planned in order to reflect changes in accounting standards, in particular IAS 39 on financial instruments.

The new EU system of financial supervision, in place since 1 January 2011, will also lead to near-term and medium-term changes in the collection of banking data. Changes will be needed especially to meet the requirements for better oversight of systemic risks. The French banking industry is regularly consulted on such changes through bilateral meetings with the ACP and through EBA working groups.

At the national level, France's uniform financial reporting system, SURFI, replaced the BAFI system in 30 June 2010. This was a major change that could not have been implemented so swiftly without the close involvement of the institutions and their professional associations.

Besides a new technical environment – the reporting format is based on XML and XBRL – the SURFI reform simplifies the report submission system, rationalises the data that are gathered; it also incorporates the effects of the latest five-year revision of the ECB's monetary statistics (Regulation EC 25/2009 of the European Central Bank, 19 December 2008). Reporting statements under the new rules on the standardised approach for measuring liquidity risk (Ministerial Order of 25 August 2010) have also been incorporated into SURFI.

Lastly, through its involvement at EIOPA, the ACP is an active participant in the development work for reporting under the Solvency II rules. This reporting system is being developed for maximum harmonisation across Member States. The first reports using the system are scheduled to be made in early 2013.

²² "Assessment of banks' transparency in their 2009 audited annual reports" – EBA, June 2010.

²³ "Follow-up review of banks' transparency in their 2009 Pillar 3 reports" – EBA, June 2010.

²⁴ FINancial REPorting Framework – consolidated financial reporting under IFRS.

²⁵ COmmon REPorting Framework – reporting relating to the Basel 2 capital ratio.



3 / REGULATORY INTELLIGENCE AT NATIONAL LEVEL: ADAPTING THE LEGISLATIVE AND REGULATORY FRAMEWORK IN FRANCE

Because the provisions listed in this section have a direct impact on the ACP's duties, each merits particular mention.

BANKING AND FINANCIAL REGULATION ACT (NO. 2010-1249) OF 22 OCTOBER 2010

This Act was published on 23 October 2010. Its major provisions are as follows.

Conseil de régulation financière et du risque systémique (Financial Regulation and Systemic Risk Board)

- The board has eight members, including the governor of the Banque de France and the vice-chairman of the ACP. Its role is to exchange information and advise the finance minister with a view to strengthening France's hand in negotiating international standards.

AMF

- The AMF is now empowered to register and supervise credit rating agencies.
- All market infrastructure operators are now authorised to transmit information to their foreign counterparts and foreign regulators under a cooperation agreement.
- Rules are set for the spot market in greenhouse gas emission allowances. The AMF and the CRE are charged with supervising this market.
- In matters of enforcement and reporting of suspicious transactions, the AMF's jurisdiction is extended to cover exchange-traded and over-the-counter derivatives.
- The maximum amount of financial penalties is raised to EUR 100 million, from EUR 10 million previously.
- The AMF has been given dispute settlement powers.
- Short-selling has been regulated.

BANKING AND FINANCIAL REGULATION ACT (NO. 2010-1249) OF 22 OCTOBER 2010

ACP

- The Executive Order of 21 January 2010 establishing the ACP is ratified.
- The vice-chairman of the ACP now sits on the General Council of the Banque de France.
- The ACP College increases from 16 to 19 members and now includes the chairman of the AMF and two persons chosen by the presidents of the Senate and the National Assembly.
- The Sanctions Committee procedure is revised:
 - borrowing from the AMF model, the Act introduces a rapporteur function within the committee. One of the members is appointed as rapporteur and does not take part in the committee's deliberations. The rapporteur's role will be specified by decree.
 - The Sanctions Committee now consists of six members.
 - A financial penalty of as much as EUR 100 million can be imposed.
 - Public disclosure of enforcement actions is established as a principle.

Colleges of supervisors

The Act transposes Article 131(a) of Directive 2009/111/EC of 16 September 2009, which establishes colleges of supervisors for enhanced oversight of European cross-border groups. A decree will specify the implementing arrangements.

Financial instruments

Futures contracts, swap contracts and all other kinds of forward contracts are defined as financial instruments.

Regulatory classification of financial intermediary status

The Act sets governing rules in five areas:

- Direct marketing of banking and financial products.
- Banking and payment services, with a special regime for intermediaries in banking transactions and payment services IOBSPs).
- Registration of IOBSPs, financial investment advisers (CIFs) and tied agents on the same single register established pursuant to Article L. 512-1 of the Insurance Code for insurance intermediaries.
- Stricter conduct of business rules for intermediaries.
- Data exchange between the ACP, the AMF and the insurance intermediary registrar (ORIAS).

Measures to support the financing of economic activity

These include:

- Institution of an accelerated financial protection procedure.
- Access to FIBEN by credit insurers.
- Formation of risk monitoring committees and remuneration committees within entities subject to ACP supervision.

Formation of a public observatory of banking fees in France's overseas possessions.

A/ Rules specific to the banking sector

a) Prudential supervision

The **Ministerial Order of 25 August 2010** amended six sets of regulations relating to prudential supervision of credit institutions and investment firms. It was intended inter alia to transpose the three CRD II directives

(2009/27/EC, 2009/83/EC and 2009/111/EC) relating to capital, risk management and securitisation. Accordingly, the order:

- Harmonises the criteria for hybrid instruments to be counted in Tier 1 capital.
- Toughens the grid of weights to be applied when calculating large exposures.
- Requires institutions to be able to demon-

strate that they have comprehensive, in-depth knowledge of each of their securitisation positions and suitable formal due diligence procedures for this purpose.

- Addresses the Pillar 3 provisions (disclosure obligations).

b) Liquidity

France's prudential rules on liquidity were amended by the Ministerial Order of 5 May 2009, which introduced a new standardised approach to measuring one-month liquidity risk, effective from 30 June 2010. The regulation also allows institutions the option, at their request and after authorisation by the ACP, of an advanced approach using their own internal methods for measuring and managing liquidity risk.

c) Internal control and risk management

The Ministerial Order of 19 January 2010 amended Regulation 97-02 of 21 February 1997 on internal control of credit institutions and investment firms. This order adds a chapter on the "risk management division" to the required internal control report and strengthens the system of measuring and monitoring risks, in particular by requiring risks to be mapped.

Other provisions require increased involvement of the executive bodies in risk management and transmission of information on risk management to the staff of the ACP.

d) Payment institutions and payment services

Decree No. 2010-257 of 12 March 2010 was issued pursuant to **Executive Order No. 2009-866 of 15 July 2009** on conditions governing the provision of payment services and creation of payment institutions. This decree transposed Directive 2007/64/EC of 13 November 2007 on payment services in the internal market.

FRANCE'S NEW LIQUIDITY REGULATIONS

In advance of the Basel Committee's work on future international liquidity standards, new rules in France established a standardised ratio while allowing an optional advanced approach to be used. The latter possibility is not a feature of the international standards.

As a result, only a small number of institutions in France are likely to apply for authorisation to use an advanced approach in calculating their prudential ratio for liquidity. Needless to say, institutions are still invited to develop and use advanced approaches for their own purposes in measuring their risks more precisely and managing them appropriately, even if doing so is not necessary for compliance with the minimum requirement.

On the whole, the introduction of the standardised liquidity ratio represented a tightening of the prudential rules then in force, notably because equity is no longer included in the calculation of the ratio. Before it came into force on 30 June 2010, institutions were made aware of the necessity of being in compliance with the new ratio by the effective date.

The introduction of the more demanding liquidity ratio in France will stand as a milestone along the way to the introduction of the harmonised Basel ratio starting in 2015. Before then, there will be a period of observation for final calibration of the parameters and weights, set to begin in 2011. In its current form, the Basel ratio is significantly different from the French rule, largely because some types of deposits are weighted more severely and a narrower range of asset types is used in the calculation of available liquidity.

The decree sets forth the obligations of credit institutions with regard to checking euro banknotes (Article R122-5 of the Monetary and Financial Code) and their disclosure obligations with regard to opening a payment account (Article R314-1 of the same Code). It amends Book IV, the regulatory part of the Code, in particular Title 1, the title of which is now "Institutions common to credit institutions, payment institutions and investment firms".

Decree No. 2010-505 of 17 May 2010 makes the provisions of Decree No. 2009-934 of 29 July 2009 on payment services and payment institutions applicable in New Caledonia, French Polynesia and Wallis and Futuna.

e) Remuneration

Act No. 2010-237 of 9 March 2010, the supplementary budget act for 2010, imposes an exceptional tax on credit institutions and investment firms. Up to a limit of EUR 360 million, the proceeds of the tax go to Oséo for its public service duties of financing innovation and small and medium sized businesses. The tax is levied on the variable portion of pay awarded to financial market professionals whose activity is likely to have a significant impact on risk exposure.

The Instruction of 30 April 2010, published in the Official Tax Bulletin, specifies the rate and the base of the exceptional tax on bonuses paid to market professionals by credit institutions and investment firms for the 2009 financial year.

The Ministerial Order of 13 December 2010 transposes the remuneration provisions of Directive 2010/76/EU of the European Parliament and the Council of 24 November 2010 (CRD 3) into French law. It does so by amending and supplementing the provisions added to Regulation 97-02 by the Ministerial Order of 3 November 2009. The order broadens the scope of the rules to apply to all employees (not just financial market professionals) whose professional activities could have a significant impact on the firm's risk profile and sets minimum quantitative thresholds for the rules on deferred payment and payment in shares. It also provides that the ACP can order an institution to restructure its remuneration policy to make it compatible with sound risk management and a long-term growth objective.

The order further requires reporting entities to send an annual report to the ACP. This report must present information on remuneration policy and practices for members of the executive body as well as for persons whose professional activities have a significant influence on the institution's risk profile. The required information must focus on:

- The decision-making process followed in establishing the firm's remuneration policy, including the composition and mandate of

the specialised remuneration committee as well as the identities of any outside consultants whose services were used to establish that policy;

- The main characteristics of the remuneration policy, in particular the criteria used to measure performance and adjust pay to risk; the link between remuneration and performance; the policy on staggered compensation and guaranteed bonuses; and the criteria used to determine cash amounts versus other forms of remuneration.
- Quantitative consolidated information on remuneration of members of the executive body and persons whose professional activities have a significant influence on the institution's risk profile.

Institutions must also publish this information annually. In accordance with the provisions of Directive 2010/76/EU, the ACP will review the reported data to determine whether the total amount of variable remuneration paid by a reporting entity, expressed as a percentage of net banking income, is consistent with maintaining an adequate level of capital.

f) Caisse des Dépôts et Consignations (CDC)

Decree No. 2010-411 of 27 April 2010 on external supervision of the CDC extends the prudential, internal control and accounting rules for institutions in the banking sector to the CDC. The provisions of this Decree came into force on 1 January 2011.

B/ Provisions specific to the insurance sector

Decree No. 2010-239 of 9 March 2010, amending Decree No. 2005-799 of 15 July 2005, establishes a special status for insurance supervision, in recognition of the consequences of merging the supervisory authorities for banking and insurance into a new authority under the Banque de France.

A Ministerial Order of 9 June 2010 sets policyholder contributions to the guarantee fund for mandatory liability insurance at 1.2% of premiums paid.

The Ministerial Order of 7 July 2010 amending the minimum percentage guarantee requirements for insurance companies specifies the conditions on which insurers can promise minimum percentages to policyholders and caps the rate that can be promised.

C/ Specific policy provisions for customer protection

Reform of consumer credit

The Consumer Credit Reform Act No. 2010-737 of 1 July 2010 provides inter alia for the following.

- Stricter obligations and responsibilities on the part of lenders in assessing the borrower's solvency:
 - Lenders are under obligation to check the national database of consumer credit repayment incidents (FICP) before extending credit;
 - in addition, credit institutions are allowed to use the FICP for the purpose of quantifying credit risk.
- Procedures for dealing with debt overload more quickly, with increased powers for the over-indebtedness committees.
- Shortened retention periods for records in the FICP.

Pursuant to the Act of 1 July 2010, Decree No. 2010-827 of 20 July 2010 establishes a committee charged with overseeing the creation of a national consumer credit registry (a "positive" database). The Ministerial Order of 17 August 2010 specifies the composition of this committee, which is chaired by Emmanuel Constans, chairman of the financial sector consultative committee and a member of the ACP College.



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BUDGET OF THE ACP

Prior to the founding of the ACP, expenditures on banking supervision in the broad sense (licensing and oversight) were a component of the budget of the Banque de France, which then provided staff and other resources to the CECEI (licensing authority) and the Commission Bancaire to enable them to carry out their duties. The resources were provided in full by the Banque de France, and the cost of banking supervision was determined by management accounting, i.e. EUR 112 million.

For insurance supervision, on the other hand, the ACAM had resources from industry contributions for supervisory costs, and was therefore able to draw up its own budget. Its budget for 2009 was €28.9 million. The ACAM was responsible for oversight at the national level of all mutual insurers and unions except those under decentralised supervisions by regional government officials pursuant to Article A510-4 of the Mutual Insurance Code. The expenditures associated with decentralised supervision were not separately identified. The same was true for expenses relating to the licensing of insurance entities. Depending on the legal nature of the entity, these costs were borne by the directorate general “Treasury” (via the staff of the Comité des entreprises d’assurance) and by the social security administration (via the Conseil supérieur de la mutualité).

Comparing the running costs under the previous arrangement (the four authorities as well as certain national government services) with the cost of operating the ACP is therefore difficult. Further, the initial budget of the ACP shows an increase in expenditure warranted by its new responsibilities and the need to adjust its resources accordingly, as well as by the necessary reinforcement of its resources for existing responsibilities.

Article L. 612-18 of the Monetary and Financial Code provides that the ACP shall have financial autonomy up to the amount of the proceeds of the contributions paid by reporting entities. In certain circumstances, additional funds can be provided by the Banque de France.

The budget of the ACP is proposed by its Secretary General and approved by vote of the College in plenary session. It becomes a specific budget of the Banque de France.

Article R 612-13 of the same Code specifies that the budget includes a forecast of receipts, including expected income from investment of prior years’ contributions, changes against reserves of retained contributions, and additional funding decided by the General Council of the Banque de France, and the ACP’s planned expenditures for carrying out its duties.

The Secretary General authorises spending of the ACP up to the limits of its budget and is delegated authority by the Banque de France to enter into contracts and make calls for tenders on the same conditions as those that apply for contracts awarded by the Banque de France.

For ease of analysis, the 2010 budget is presented here on a full-year basis, although the merger of the four authorities (Commission Bancaire, ACAM, CEA and CECEI) did not become effective until 9 March 2010.

Accordingly, expenditures by the Banque de France relating to banking and insurance supervision (for the operation of the General Secretariats of the Commission Bancaire and CECEI) and by the ACAM are included for the pre-merger period, in accordance with a letter from the finance minister dated 3 December 2010. The receipts and outlays shown thus apply to the entirety of the 2010 financial year.



1 / DESCRIPTION OF THE ACP'S 2010 BUDGETING PROCESS

1.1 DECISIONS OF THE ACP COLLEGE ON BUDGET MATTERS

To ensure continuity with the budgets that had been voted for the banking and insurance licensing and supervisory authorities, at its 9 March 2010 meeting the ACP College provisionally adopted a draft preliminary budget, derived by combining the full-year 2010 budgets voted by the ACAM and by the Banque de France General Council for banking supervision in the broad sense.

At its 21 June 2010 meeting, the College meeting in plenary session approved the preliminary 2010 budget as revised by ACP's financial affairs department on the basis of

projected expenditures inherent to the full set of ACP responsibilities and projected contributions for costs of supervision. This budget had previously been submitted to the ACP Audit Committee, which recommended its adoption by the College in plenary session.

During September, a mid-year budget performance report was produced. The report for full-year 2010 was presented to the Audit Committee on 14 March 2011 and approved by the College at its plenary meeting of 23 March 2011.

1.2 LINKAGES BETWEEN THE ACP AND BANQUE DE FRANCE BUDGETING PROCESSES

The ACP relies on support functions provided by the Banque de France in order to favour synergies and benefit from pooling certain costs (property management, IT, HR management, accounting, etc.). It relies also on certain operating functions of the Banque de France, in particular operation and use of databases necessary for carrying out its duties.

A significant portion of the ACP's spending consequently results from charges billed to it by the Banque de France. This makes for close linkages between the ACP's budgeting process and the Banque's as well as with the Banque's management accounting system (see inset on the rebilling agreement).

Thus, for the ACP's 2010 budget performance report, in the first quarter of 2011 the Banque de France measured the overall cost of the services provided by its units to the ACP on the basis of data that were in part still preliminary. This process was also used to meas-

ure the cost of services performed by the ACP on behalf of the Banque de France.

If the final reckoning of the Banque de France's costs according to management accounting – to be completed during the second quarter of 2011 – reveals a difference from the cost of services reflected in the 2010 budget performance report, that difference will be taken into account in the 2011 budgeting process.

The services costed in this way, which throughout 2010 were recognised as expense in the Banque de France's accounts, are, in the final analysis, income items in the Banque's general budget.

Viewed as a whole, this process implies that the ACP's budget, as a budget annexe in the Banque's budget, must in general be adopted by the College of the ACP in plenary session before the overall budget of the Banque de France is presented to its General Council.

1.3 BODIES AND INSTITUTIONS RESPONSIBLE FOR REVIEWING THE ACP'S BUDGET AND BUDGETING PROCESS

A/ ACP Audit Committee

The ACP College has established an audit committee made up of College members. In accordance with Article R. 612-12 of the Monetary and Financial Code, this committee's role is to ensure that the ACP's resources are put to proper use.

As a consultative body, the Audit Committee provides its opinion on:

- the ACP's preliminary budget, before it is adopted by the College;

- the budget performance report for the year just ended, which sets forth all expenditure and receipts of the ACP during that year, analyses the rebilling of resources and services procured by the Banque de France in accordance with Article R. 612-14 of the same Code, and analyses the variances between budgeted and actual amounts.
- the rebilling agreements for resources and services provided by the Banque de France, before they are approved by the ACP College.

To keep the Audit Committee apprised of all the information it needs to fulfil its duties, the internal rules of the ACP provide that this Committee “shall be informed during the year of material proposed changes in the budget”. At the briefings held from time to time for this purpose, the Committee may present observations that “shall be communicated to the College”.

If needed for fulfilment of its duties, the Audit Committee is kept informed regarding the implementation and operation of the ACP’s internal control and management control system.

In addition, the Audit Committee is consulted on the audit programmes conducted by the General Inspectorate of the Banque de France, in so far as they concern the ACP, and informed of the audit findings. At its request, the Committee may participate in conversations between the Banque de France’s audit committee and the Banque’s auditors.

The ACP Audit Committee is composed of four members:

- Lucien Uzan, chairman,
- Jean-Philippe Vachia, Conseiller-maître (senior auditor), Cour des comptes,
- Jérôme Haas, chairman, Autorité des normes comptables (accounting standards authority),
- François Lemasson.

At the invitation of the Committee chairman, the representative of the directorate general “Treasury” also attends meetings of the Audit Committee, without a vote in its deliberations.

The Audit Committee met six times during 2010.

B/ Finance and Management Control department of the Banque de France

This department conducts the overall budgeting process and performs ongoing super-

vision of the spending commitments of all Banque de France units. It is also in charge of the management accounting cost calculations that are used to assess whether the resources provided are sufficient to cover the corresponding volume of activity.

C/ Banque de France internal audit

The ACP staff, in particular the department of financial affairs in charge of the overall budgeting process, in its capacity as part of the general staff of the Banque de France, is included in the ambit of the Banque’s internal auditing. It may therefore be the object of internal audits, the results of which will be sent to both the ACP College and the governing body of the Banque de France.

D/ Cour des comptes (Court of auditors)

The ACP, like the Banque de France, is subject to oversight by the Cour des comptes.



2 / SUMMARY OF THE 2010 BUDGET OF THE ACP

The budget performance report approved by the College of the ACP in plenary session as part of the process described above shows a budget surplus of EUR 2.7 million resulting from net receipts of EUR 163.4 million against expenditure of EUR 160.7 million. This balance is greater than the figure in the preliminary ACP budget approved by the

College in plenary session on 21 June 2010. One reason is that personnel expenses were lower than planned because the workforce grew more slowly than projected. Similarly, other receipts were higher than planned because of unbudgeted income, in particular from rebilling of services provided to the Banque de France.

EXPENDITURE AND RECEIPTS, EUR MILLION	JUNE 2010 BUDGET	EXPENDITURE AND RECEIPTS - ACTUAL
Personnel expenditure	87.9	83.7
IT expenditure	24.0	25.9
Buildings expenditure	21.8	23.4
Other expenses	29.8	27.7
Total expenditure (A)	163.5	160.7
Reporting entity contributions	163.9 ²⁶	160.7
Other receipts	0.3	2.7
Total receipts (B)	164.2	163.4
SURPLUS OR DEFICIT (B - A)	0.7	2.7

²⁶ The forecast amount of contributions had been estimated initially on the basis of a much larger number of IOBSPs than subsequently appeared on the list published on 17 September 2010.

2.1 RECEIPTS OF THE ACP

A/ The ACP's receipts consist almost exclusively of contributions for the cost of supervision.

Pursuant to Article L. 612-20 of the Monetary and Financial Code, entities subject to ACP supervision are required to make a contribution to defray the cost of supervision based on their activity at 1 January of each year. This contribution is the source of almost all the ACP's receipts.

The principle of a contribution for cost of supervision, which has applied for several years to entities in the insurance sector, was applied for the first time in 2010 to entities in the banking sector, insurance and reinsurance brokers, and intermediaries in banking transactions and payment services (IOBSPs).

The level of contributions for each category of reporting entity and the methods of calculating them are set forth in Article L. 612-20 of the Monetary and Financial Code. Three ministerial orders of 9 April and 26 April 2010 implement these provisions by setting contribution rates, minimum contribution amounts and flat-rate contribution amounts.

- The contribution rate for entities in the banking sector, applied to the amount of capital requirements or the amount of the minimum capital representation if capital requirements do not apply, is set at 0.6 per thousand, with a minimum contribution of EUR 500.
- The contribution rate for entities in the insurance sector, expressed as a proportion of premiums written, is set at 0.12 per thousand, with a minimum contribution of EUR 500.

- The flat-rate contribution for money changers is EUR 1,000. For mutual insurers and unions under Book I of the Mutual Insurance Code that manage mutual settlements and contracts on behalf of Book II entities, the flat-rate contribution is EUR 500. For insurance and reinsurance brokers and IOBSPs, it is EUR 150, and for the reporting population of not-for-profit associations it is EUR 100.

Exceptionally, because 2010 was the first year, the calls for contribution were sent out in staggered fashion during the year.

- For entities in the banking sector (credit institutions, investment firms, finance companies) and money changers, the calls were issued on 15 April 2010 with a due date of 1 July 2010.
- For brokers, the call were issued 4 May 2010 following publication of the ministerial order setting the amount of the flat-rate contribution, with a due date of 22 July 2010.
- For IOBSPs, the calls were sent out in two waves: The first was on 4 October 2010 following the publication by the ACP on 17 September 2010 of the list of IOBSPs as of 1 January 2010, as reported by credit institutions that had entered into an agency agreement with them. The second was on 11 February 2011 following the publication on 3 February 2011 of a corrected list, still as of 1 January 2010. The due dates for payment were 1 December 2010 and 6 April 2011, respectively.
- For entities in the insurance sector (other than mutual insurers and provident institutions²⁷), the contributions were called in two instalments, with an advance payment called on 15 February 2010 and the balance called on 15 September 2010.

²⁷ For these entities, the contributions are collected by ACOSS and paid over to the ACP.

B/ For 2010, contributions for the cost of supervision totalled EUR 161.8 million, of which 98.5% (EUR 159.4 million) has been collected.

The ACP's receipts from these contributions

(before provisions) for 2010 amounted to EUR 161.8 million. Of this amount, 95.6% came from credit institutions, investment firms, insurance entities, mutual insurers and provident institutions; the remainder, EUR 7.2 million, from IOBSPs, insurance and reinsurance brokers and money changers.

€ MILLION	CONTRIBUTIONS CALLED		CONTRIBUTIONS COLLECTED		CONTRIBUTIONS CANCELLED		AMOUNT RECEIVABLE	COLLECTION RATE
	Number of reporting entities	Amount called	Number received	Amount received at 21/02/2011	Number not expected	Calls to contribute cancelled		
Credit institutions and investment firms	307	125.97	303	125.94	0	0.00	0.03	99.99%
Money changers	146	0.15	137	0.14	0	0.00	0.01	93.8%
Insurers	315	25.21	307	25.19	8	0.02	0.00	100.0%
IOBSPs - October 2010	28,531	4.28	15,191	2.28	0	0.00	2.00	53.2%
IOBSPs supplementary call - February 2011	1,483	0.22	0	0.00	0	0.00	0.22	0.0%
Mutual insurers and PIs (contributions via ACOSS)	940 ²⁸	3.45	nd	3.45	0	0.00	0.00	100.0%
Brokers/Microcredit associations	18,297	2.74	15,827.5	2.37	1,344	0.20	0.17	93.3%
		162.02		159.37		0.22	2.43	98.5%
2010 RECEIPTS (CONTRIBUTIONS CALLED - CONTRIBUTIONS CANCELLED)								161.80

During the process of collecting the contributions for cost of supervision, the ACP General Secretariat cancelled certain calls to take account of special situations, such as cessation of business or duplicate listings. This was done in a modest number of cases, and the overall impact was small (EUR 0.2 million).

As of February 2011, the ACP had collected the bulk of these receipts. The collection rate was 98.5%, and in terms of amount virtually all the contributions owed by the three main

categories of reporting entity had been collected.

The amount remaining due is EUR 2.4 million: EUR 2.2 million from IOBSPs and EUR 0.2 million from brokers, with only minor sums due from other categories. The lower collection rate for brokers and especially IOBSPs compared with the other categories is explained by lesser awareness on the part of these newly reporting entities about the role of the ACP and the contribu-

²⁸ The 940 figure reflects the number of mutual insurers provided by ACOSS at the time of the previous campaign, not the number of entities called for 2010. The latter figure is not yet available.

tion for cost of supervision – their lack of knowledge generated a substantial volume of information requests and objections, slowing the collection process – and to the later dates on which the calls for contribution were sent out.

To allow for the risk of non-collection of a fraction of the contributions not yet received, a provision (allowance for impairment) of EUR 1.1 million has been recognised.

C/ Throughout the process of administering the contributions for cost of supervision, the ACP relies on the services of the Banque de France, the Public Finances directorate (DGFIP) and the central agency of social security organisations (ACOSS).

Regarding issuance of calls for contribution

Calls for contribution issued by the ACP are sent out by the Banque de France, which pursuant to Article L. 612-20-V-1° then proceeds to collect them. By exception to this principle, contributions for the cost of supervision owed by entities governed by the Mutual Insurance Code and by provident institutions are collected by ACOSS (Agence centrale des organismes de Sécurité sociale) under a national agreement and then paid over to the ACP twice a year (end June and end November).

Furthermore, certain credit institutions with their registered office in the Principality of Monaco paid the contribution for cost of supervision to the Trésor Monégasque, which in turn, pursuant to the exchange of letters between the governments of the Principality of Monaco and the French Republic, as ratified by Decree No. 2010-1599 of 20 December 2010, paid the amounts collected to the ACP.

Regarding the formal reminder process for unpaid contributions

In the event that the contribution for cost of supervision remains unpaid or paid only partially after the payment period specified in Article L. 612-20, the ACP sends the taxpayer a reminder letter stating that after 30 days, the amount of the contribution will be increased by 5% (increase provided for in Article 1731 of the General Tax Code) and late-payment interest charges will apply at a rate of 0.40% per month. The ACP relies on the services of the Banque de France to carry out this process.

To date, nearly 3,900 reminder letters under Article L. 612-20 VI have been sent to insurance brokers, and four to money changers. A similar process is currently under way for the IOBSPs to which calls for contribution were sent in October 2010, as well as for a very small number of credit institutions and investment firms.

Regarding collection of unpaid contributions by judicial means

If the contribution remains unpaid after the reminder letter has been sent, the Banque de France, upon requisite notice from the ACP, refers the case to the public accountant (DGFIP), which initiates judicial collection of the contribution according to the same procedures and subject to the same penalties, guarantees, sureties and liens as for turnover tax. Under an agreement with the DGFIP, the Banque de France transmits the information required to initiate these procedures, and the DGFIP takes charge of assigning the deficiency notices to the public accounting offices in the relevant jurisdictions.

This procedure is currently in the initialisation stage for the brokers and money changers that have failed to pay the contributions following the reminder letter pursuant to Article L. 612-20 VI.

D/ If they disagree, reporting entities may challenge both the amount of the contribution and its applicability.

Entities that intend to challenge have 60 days to send a letter giving reasons for their claim to the ACP Chairman. If the entity's grounds are rejected in whole or part, a reply letter giving the reasons for rejection is sent. Upon receipt of the reply letter pursuant to Article L. 612-20 VI, reporting entities have 30 days to present their further observations.

In general, disputes relating to the contribution for cost of supervision come under the jurisdiction of the administrative court.

In respect of the 2010 contribution year, more than 2,500 letters challenging the contribution were sent to the Chairman or General Secretariat of the ACP, and at this stage six insurance brokers have initiated an action in administrative court to have the contribution nullified.

In addition, a small number of brokers (fewer than forty) have asked to be excused from paying the contribution in whole or part. Review of the requests for relief received from brokers, and in particular the supporting documents provided in support of relief, led the Secretary General, acting under authority delegated by the College, to respond favourably in a dozen of these cases.

MORE ON THE OPERATIONAL DIFFICULTIES ENCOUNTERED IN THE COLLECTIONS PROCESS REGARDING IOBSPs

Under the regulations, credit institutions were to provide the ACP staff with a list of the persons and entities with which an agency agreement to act on their behalf as intermediaries in banking transactions or payments services was in effect on 1 January 2010.

On the basis of these declarations, a list of IOBSPs as of 1 January 2010 was published on the Banque de France's website, and this list was used by the ACP staff for the purpose of sending out 30,014 calls for contribution in two waves (see above). A large number of intermediaries, the great majority of them small businesses unfamiliar with banking regulation, contacted the ACP to challenge the levy or to ask for information on the grounds for their being subject to it and the nature of the contribution for cost of supervision (3,000 letters and 6,400 telephone calls were received). These requests prompted to ACP staff to take steps to verify the declarations with the credit institutions to ensure that the lists of IOBSPs subject to the contribution were reliable.

E/ In addition to the contributions for cost of supervision, transactions amounting to EUR 2.7 million in aggregate were recorded in the Other Income category.

A large part of this amount represents billing for services performed by the ACP not

only for the Banque de France but also for other institutions such as the AMF and CEBS (since 1 January 2011, the European Banking Authority (EBA)). This amount also includes investment income on contribution receipts and cash balances of the authorities that were merged into the ACP.

2.2 EXPENDITURE

Because the institution is an offshoot of the Banque de France, spending on the costs of running the ACP is handled either directly by the ACP General Secretariat or by the Banque de France's services departments.

Expenditure managed directly by the ACP staff amounts to EUR 15.3 million. This consists of various payments to personnel and interns, refund of assignment expenses, and payments for reception and security services, sundry equipment maintenance and office supplies.

Expenditure initiated by the Banque de France's services departments on the ACP's behalf includes salaries of permanent staff, rent and upkeep of operating premises, spending on IT and training, to mention only the larger items. Excluding the expenditure on personnel and IT projects, the amounts expended by the Banque de France on the ACP's behalf are billed to the ACP at full cost as determined by the Banque's management accounting and under an agreement between the two parties.

€ MILLION	2010 EXPENDITURE	% OF TOTAL
Personnel expenditure	83.7	52.1%
IT expenditure	25.9	16.1%
Buildings expenditure	23.4	14.6%
Other expenses	27.7	17.2%
TOTAL	160.7	100%

FINANCIAL AGREEMENT BETWEEN THE BANQUE DE FRANCE AND THE ACP

The financial agreement signed on 13 December 2010 by the Banque de France and the ACP sets forth the principles on which services provided by the Banque are invoiced to the ACP and vice versa. The governing principles are:

- The cost of IT services is determined by applying significant cost drivers of the ACP General Secretariat's activity to the full cost of provision incurred by the Banque de France's IT department.
- The cost of buildings services corresponds to all spending attributable to the office premises occupied by the ACP General Secretariat and to services provided by the Buildings department (architect, construction supervisors, various administrators).
- The costs of collecting contributions from reporting entities include postage and printing for the calls for contribution, cashing the payment instruments and monitoring the receivables accounts, all measured at full cost, plus the direct costs of developing the invoicing software.
- The costs of training services are measured on the basis of a rate schedule determined from the administrative cost of training management, the cost of outside trainers (i.e. external to the Banque), and the cost of renting venues and materials, if applicable. The scheduled rate is then multiplied by the number of hours of training actually taken by ACP staff members in each of three different categories: centralised training (FIC), decentralised training (FID) and inter-enterprise training (FIE).
- The billing to the ACP for the participation of the Banque de France's branch network in performing certain functions on the ACP's behalf is likewise based essentially on personnel costs as determined by the Banque's management accounting system.
- The pricing principles used by the Banque de France for retrieving economic and prudential data from databases managed by the Banque (FIBEN) are the same as those applied to banks.
- The cost of other services is measured as follows:
 - For human resources management, the full cost of this function across the entire Banque is allocated in proportion to the number of ACP staff.
 - Similarly, the full cost of financial management is allocated in proportion to the ratio of direct costs of ACP staff to direct costs of the Banque.
 - For IT contract management, the cost driver is purchases and depreciation expense relating to IT application projects.
 - For management of logistics and assignments, an amount proportional to the number of assignments is charged.

A similar approach is used for the billing of services provided to the Banque by the ACP General Secretariat.

- The cost of hosting the secretariat of the CCLRF is measured on the basis of the personnel expense, operating costs and other support costs required for the ACP to perform this function.
- The supervisory missions conducted by inspectors of the Delegation for on-site inspection of credit institutions and investment firms on behalf of the Banque de France are charged to the Banque on the basis of the personnel expense, operating costs and support costs incurred for this purpose.
- The billing process for provision by the ACP of data to be used in compiling financial and foreign exchange statistics is currently being finalised.

A/ Personnel expenditure (EUR 83.7 million)

PERSONNEL EXPENDITURE CATEGORY	2010 BUDGET	2010 ACTUAL	VARIANCE, ACTUAL VS. BUDGET	
			amount	%
Base pay	41.8	39.1	-2.7	-6.4
Other components of pay	11.6	11.1	-0.5	-3.9
Profit-sharing and incentives	1.7	1.9	0.2	14.3
Employer contribution to savings plan	0.8	0.7	-0.1	-13.6
Other personnel expense	1.9	1.6	-0.3	-16.0
Social charges	20.2	19.6	-0.6	-3.0
Other social charges	1.2	1.2	0.0	-1.3
Tax charges	8.7	8.4	-0.3	-3.6
TOTAL	87.9	83.7	-4.2	-4.8

The base-pay item includes remuneration paid to statutory and contract staff of the Banque de France, remuneration of the civil servants and public-law contract staff that made up the staff of the ACAM, and pay or bonuses for interns.

The budget projections of personnel expenditure were based on a headcount objective assuming a higher level of staffing than the ACP was able to achieve over the course of the year, actual expenditure came in below budget. Accordingly, all the variable pay items were also below budget.

The Other components of pay include various compensatory payments to staff for overtime hours and the like during the year.

Profit-sharing and incentives includes the sums paid under these plans to civil servants and private-law contract staff of the Banque de France. This amount also includes provi-

sions for awards of these premiums to staff at the ACAM in 2011, excepting civil servants on secondment.

Other personnel expense includes payments in lieu of paid time off as well as variations in provisions for paid leave and banked time savings account.

Social charges include contributions to the social security system (URSSAF), pension schemes, supplementary health insurance schemes, the national family allowances scheme, vested pension rights (statutory and private-law contract staff) and long-service medals. Other social charges include mainly subsidies to the canteen.

Lastly, tax charges include the wage tax and the apprenticeship tax, to mention only the more important items.

Breakdown of the workforce on the basis of average number of staff in 2010 (FTE)

	STATUTORY STAFF	CONTRACT STAFF	CIVIL SERVANTS	OTHER FIXED-TERM CONTRACTS AND INTERNS	TOTAL
Managerial	393.5	78.5	72.5		544.5
Non-managerial	199.2	55.6	22.5		277.3
Other				48.2	48.2
TOTAL	592.7	134.1	95.0	48.2	870.0

The ACP staff workforce comprises:

- statutory and private-law contract staff that are personnel of the Banque de France,
- civil servants on secondment,
- civil servants on assignment,
- public-law contract staff.

The staff status of the personnel that came over from the ACAM is unchanged after the merger. In accordance with the Executive Order of 21 January 2010 establishing the ACP, on 10 March 2011 the civil servants formerly on secondment to the ACAM and those working there on indefinite term contracts under public law were offered the possibility of changing to a different status. Those who accept the offer will become statutory staff of the Banque de France on 1 July 2011.

B/ IT expenditure (EUR 25.9 million)

The IT spending incurred by the ACP in 2010 amounted to EUR 25.9 million. The breakdown was as follows.

- Cost of services subcontracted to outside providers for development projects conducted by the ACP (applications for use in carrying out its supervisory assignments) and maintenance of existing applications (EUR 7.4 million).

A significant portion of the expenditure in 2010 is attributable to the impact of the

SURFI project, which went live in July 2010, on the ACP's entire information system. This project involved a wholesale revision of the accounting and prudential statements filed by credit institutions and investment firms.

- Cost of IT services provided by the Banque de France, determined according to the billing agreement between the ACP and the Banque de France (EUR 15.3 million).

These services include running the ACP's information system on Banque de France infrastructure as well as advice and design assistance in areas such as information system architecture and project management. This line item also includes all spending to provide ACP staff with individual IT hardware and software, including collaborative tools and telephone services.

- Cost of establishing the ACP, meaning the spending associated with integrating the ACAM's information system into the Banque's information system (EUR 3.2 million).

During 2011, spending to equip individual staff members will continue at a pace that depends on recruitments. Spending on projects will continue to be driven substantially by further modernisation of the information system as well as the rising volume of work needed to implement the Solvency II reporting statements for insurance sector entities.

C/ Expenditure on buildings (EUR 23.4 million)

In terms of office space, 2010 was notable for numerous relocations for the purpose of bringing all ACP personnel together at two sites.

The ACP gradually set up at the Paris-Victoire business centre – where the ACAM had been located – and in a building on Rue de Châteaudun. The main characteristics of these sites, both of them in the 9th arrondissement of Paris, are as follows:

Usable gross leasable area	27,661 sq. metres
Approximate number of workstations, January 2011	1,000
Rent excl. VAT and charges / sq. metre	EUR 618
Net usable area per workstation, January 2011	12.9 sq. metres
Net usable area per workstation, end-2012 target	11.2 sq. metres

The premises previously used by the General Secretariats of the Commission Bancaire and the CECEI at the Banque de France were vacated gradually between June 2010 and February 2011.

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The buildings expenditure incurred by the ACP in 2010 thus includes:

- Rents and charges on the various premises occupied over the course of the year, pro-rated on the time of occupancy (EUR 21.2 million),

as the former premises of the Commission Bancaire were subsequently occupied by other Banque de France units.

- The amount for services provided by the Banque de France determined in accordance with the financial agreement. This corresponds to spending on upkeep and electricity and the time spent by Banque de France units on managing premises occupied by the ACP in 2010.
- The amount of depreciation expense on building improvements.
- Moving costs to relocate part of the ACP workforce to the Paris-Victoire business centre.

D/ Other expenditure (EUR 27.7 million)

Non-IT subcontracting	12.8
Assignment expenses	4.2
Other general expenses	10.7
TOTAL	27.7

The non-IT subcontracting item (which also excludes building services) covers all other services provided the Banque de France to the ACP for operating purposes, such as provision of financial data and economic information, services provided by the branch network and shared services to all Banque de France units.

Almost 50% of the amount for shared services corresponds to human resources management, in particular payroll administration and recruitment. Other significant contributors to this expenditure item are logistics services, budget management and management control.

Non-IT subcontracting also includes spending on training and skills development (EUR 2.1 million) representing more than 46,000 hours of training. In 2010 a substantial training effort was devoted to Solvency II.

Assignment expenses include all expenses incurred for on-site inspections of reporting entities as well as for ACP staff representation on various EU and international bodies. In all, more than 1,300 assignments were conducted in 2010 in France and abroad, primarily in London, Frankfurt and Brussels.

CONCLUSION

The 2010 financial year closed with a budget surplus of EUR 2.7 million, which will be carried forward in the ACP's retained contributions account.

In 2011, the ACP will gather momentum on all its assignments, which among other things implies ongoing recruitment at a brisk pace.



GLOSSARY

ACTUARY

Specialist who applies statistics and probability to financial and insurance operations. In life and non-life insurance, actuaries analyse mortality patterns; they use probabilities to evaluate risks and to calculate premiums and technical and mathematical reserves.

ADD-ON

Additional requirement.

AERAS (Assurer et emprunter avec un risque aggravé de santé)

Agreement that aims to offer solutions to facilitate access to insurance and credit for persons who have, or have had, serious health problems.

AFS

Available for sale. Securities that are non-strategic, that are neither held for trading, nor held to maturity, nor held for strategic reasons, and that have a readily available market price

Autorité des Normes Comptables (ANC)

The French accounting standards authority (see CNC).

BANKING BOOK

All assets and off-balance sheet items that are not included in a bank's trading portfolio.

CAPITAL (accounting definition)

All capital resources available to a company.

CAPTIVE

Insurance or reinsurance company set up by an industrial or commercial group exclusively for the purpose of covering its own risks. By creating a captive, the parent group is able to pool its insurance and reinsurance programmes to obtain better cover at more competitive prices in the international insurance market.

CCSF (Comité Consultatif du Secteur Financier)

Consultative committee that addresses issues relating to how payment institutions, investment firms and insurance companies deal with their customers. It takes appropriate measures in these areas, notably through opinions or general recommendations.

CDS (Credit default swap)

Contract whereby an institution wishing to protect itself against risk of non-repayment of a loan makes a series of regular payments to a third party in exchange for receiving a predetermined amount if a default event occurs.

CEBS (Committee of European Banking Supervisors)

Replaced 1 January 2011 by the new European banking supervisory body, the EBA.

CEIOPS (Committee of European Insurance and Occupational Pension Supervisors)

Replaced 1 January 2011 by the new European insurance supervisory authority, EIOPA.

On 5 November 2003, the former insurance supervisor for European Union member states became the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS). As part of the reform of Europe's financial supervisory structure, CEIOPS was replaced on 1 January 2011 by the European Insurance and Occupational Pensions Authority (EIOPA).

CESR (Committee of European Securities Regulators)

Replaced on 1 January 2011 by the European Securities and Markets Authority (ESMA).

CFA (Call for Advice)

Procedure whereby the European Commission seeks a technical opinion from the former CEIOPS, now EIOPA.

CIMA (Conférence Inter africaine des Marchés d'Assurance - Inter-African Conference on Insurance Markets)

Conference that set up uniform controls for its member states, i.e. the 14 nations in sub-Saharan Africa that are part of the "franc" zone.

CMU FUND

Fund to finance supplementary protection under the Universal Health Cover (CMU) scheme in France.

CNC (Conseil National de la Comptabilité)

The body responsible for setting accounting standards applicable in France. Order no. 2009-79 of 22 January 2009 merged the CNC with the Comité de la Réglementation Comptable (CRC) to form Autorité des Normes Comptables (ANC), or accounting standards authority.

CNIL (Commission Nationale de l'Informatique et des Libertés)

Independent administrative authority responsible for data privacy in France.

CVA (Credit Valuation Adjustment)

Estimated credit component of counterparty exposure to derivatives (e.g. via the counterparty's rating). The CVA is determined daily by integrating changes in ratings and market prices, netting agreements and collateral. The higher the counterparty risk, the higher the CVA.

DAMPENER APPROACH

Alternative approach proposed under the Solvency II framework that aims to modulate the equity capital charge according to the position in the stock market cycle and the planned holding period for the assets.

DDAC ACT

Statute that implements various provisions of European insurance law into French law. Its aim is to increase the security of holders of life insurance or capital redemption policies.

DEFERRED ACQUISITION COST RESERVE (life insurance)

An amount less than or equal to the difference between the amounts of the mathematical reserves on the balance sheet and the amount that would be recorded if acquisition costs had not been included in insured commitments.

DEL CREDERE

A clause making a commercial agent jointly liable for sums owed by customers of his principal, i.e. the company on whose behalf he is selling a product or service.

DE-NOTCHING

As part of a stress test on credit risk, de-notching is a simulation consisting in measuring the effects on risk-weighted assets and/or the cost of risk of downgrading a counterparty by one or more notches.

DGTPE

General Directorate of the Treasury and Monetary Policy. Renamed Direction Générale du Trésor (DGT) pursuant to decree No. 2010-291 of 18 March 2010.

DIVERSIFICATION RESERVE (life insurance)

Technical reserve designed to absorb asset price fluctuations in so-called “diversified” contracts.

DRASS (Direction des Affaires Sanitaires et Sociales)

Regional health and social affairs directorate of the Ministry of Health.

DROC (Date réglementaire d'ouverture du chantier)

Date, set by regulation, on which a construction project begins and the contractor’s insurance policy takes effect.

DURATION

Average life of financial flows from a product, weighted by their present value.

EFRAG (European Financial Reporting Advisory Group)

Consultative body that makes recommendations to the European Council concerning adoption of International Financial Reporting Standards in Europe.

EIOPA (European Insurance and Occupational Pensions Authority)

Replaced CEIOPS on 1 January 2011.

EIOPC (European Insurance and Occupational Pensions Committee)

In 2005 the Insurance Committee became the European Insurance and Occupational Pensions Committee (EIOPC) pursuant to Directive 2005/1/EC of 9 March 2005. Chaired by the European Commission, which also provides for the secretariat, the EIOPC is made up of the European Union’s 27 regulators (France is represented by the Ministry for the Economy and Finance), with the three other states of the European Economic Area and the chairman of EIOPA acting as observers. The EIOPC was created following the application of the Lamfalussy process to the insurance industry and is thus a “Level 2” committee. It advises the Commission, on request, on policy matters concerning insurance, reinsurance and occupational pensions, as well as the Commission’s proposals in these areas.

EQUALISATION RESERVE

Reserve to deal with fluctuations in the loss experience. It covers natural disaster risks and group accidental death policies.

ESMA (European Securities and Markets Authority)

Replaced the Committee of European Securities Regulators (CESR) on 1 January 2011.

ESRB (European Systemic Risk Board)

Organisation set up in the wake of the 2009 economic crisis and tasked with implementing macro-prudential oversight and early assessment of systemic risk.

European Banking Authority (EBA)

Supervisory authority for the European banking sector, established by Regulation (EC) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010.

EUROPEAN COMMUNITY - EUROPEAN UNION

The European Economic Community (EEC) was founded by the Treaty of Rome in 1957 with the main objective of creating a major common market without internal borders. The Maastricht Treaty, which came into effect on 1 November 1993, replaced the EEC with the European Community. The Lisbon Treaty, which entered into force on 1 December 2009, abolished the pillar-based structure of the European Community, merging the pillars and transferring their legal persona to a new entity, the European Union (EU). The EU’s remit is to promote development, growth, employment, competitiveness and a high level of social and environmental protection throughout Europe, based on solidarity between member states. To this end, the EU frames sector policies, notably in the areas of transport, competition, agriculture and fisheries, asylum and immigration, energy and the environment. These policies are implemented through the decision process set forth in the founding treaties, in particular co-decision.

EUROPEAN DIRECTIVE

Legislative instrument issued by European institutions to promote harmonisation of member states’ domestic laws. A directive requires member states to meet certain objectives, while allowing them to choose the ways and means of doing so.

EUROPEAN ECONOMIC AREA

Association set up for the purpose of extending the European Union’s internal market to member states of the European Free Trade Association (EFTA) that do not wish, or are not ready, to join the EU. The EEA aims to “remove all obstacles to the creation of an area of complete freedom of movement similar to a national market”. It is therefore based on the four freedoms of the European Community, i.e. the free movement of goods, persons, services and capital among member countries.

EUROPEAN REGULATION

A law or regulation made by European institutions that is obligatory and directly applicable in all member states.

FASB (Financial Accounting Standards Board)

Group responsible for issuing accounting rules applicable in the USA.

FATF (Financial Action Task Force)

Intergovernmental organisation set up to develop and promote national and international policies to combat money laundering and terrorism financing.

FINANCIAL CONTINGENCY RESERVE (life insurance)

Reserve to offset a decrease in asset returns relating to guaranteed-rate commitments on contracts other than unit-linked contracts. Insurance companies with a stock of high-rate guaranteed contracts may generate returns that are lower than or equal to the amount payable to policyholders. Because of the shortfall, the company would be unable to cover its future operating expenses. Insurers therefore set aside provisions for the difference between the present value of their commitments, using a prudent interest rate relative to the return on their assets, and the previously calculated commitments.

FREEDOM TO PROVIDE SERVICES

The right of an organisation having its registered office or a branch in a member state of the European Economic Area to provide services in another EEA member state. Thus, a company located in one member state can insure a risk in another member state.

FREG (Financial Requirements Expert Group)

Working group reporting to EIOPA to prepare for Solvency II.

FSAP (Financial Services Action Plan)

Multi-year European Commission plan to modernise and open up financial services. Adopted in 1999, the FSAP consists of 42 measures aimed at harmonising member states’ regulations on securities, banking, insurance and mortgage lending and all other forms of financial transactions. It was implemented between 1999 2005 and evaluated by the European Commission. Following action taken under the FSAP, the European Commission published a White Paper setting out its priorities for financial services policies for the European Union for 2005-2010.

GAAP (Generally Accepted Accounting Principles)

Standard framework of guidelines for financial accounting used in a jurisdiction. US GAAP are determined by the FASB.

HFT (HIGH FREQUENCY TRADING)

Financial transactions executed at very high speed through computer algorithms.

IAIS (International Association of Insurance Supervisors)

Organisation that aims to promote cooperation between its members, chiefly insurance supervisors or regulators, and to foster collaboration with supervisory authorities in other financial sectors, such as banks and securities markets. Cooperation has become increasingly necessary due to the international expansion of insurance groups and their diversification into banking and asset management.

IASB (International Accounting Standards Board)

Organisation that draws up international accounting standards, ratified by the European Union, for consolidated financial statements.

IASCF (International Accounting Standards Committee Foundation)

IFRS (International Financial Reporting Standards)

International accounting standards proposed by the IASB, which are gradually replacing International Accounting Standards (IAS).

IGRS (Institution de Gestion de Retraite Supplémentaire)

Institution that manages a supplementary pension scheme.

IGSC (Insurance Groups Supervision Committee)

IGSRR (Internal Governance, Supervisory Review and Reporting Expert Group)

IMEG (Internal Model Expert Group)

INTEREST MAINTENANCE RESERVE

Reserve composed of gains realised on sales of bonds and reversed in the same amount only if losses are realised on assets of the same type. It is used to smooth gains and losses realised on bonds sold prior to maturity, in the event of changes in interest rates. Accordingly, if interest rates fall, insurance companies have no incentive to sell their high-coupon bonds and generate one-off gains while buying other bonds that do not perform as well in the long term. This special reserve is considered a provision with regard to requirements on covering underwriting liabilities. It is a one of the items constituting the solvency margin. Also known as “reserve for depreciation of securities”.

INTERMEDIARY

In insurance, an individual or entity on a restricted list that offers or helps to conclude insurance or reinsurance contracts, for a consideration. Activities consisting solely in managing, estimating or settling claims are not considered intermediation.

IOPS (International Organisation of Pension Supervisors)

Independent organisation of representatives and observers from around 50 countries at all levels of economic development. IOPS aims to establish international standards, promote best practices in oversight of private pensions (regimes that are not part of a social security scheme), foster international cooperation and provide a forum for exchanging information. IOPS cooperates closely with the other international organisations concerned by retirement issues: the IAIS, the International Monetary Fund and the World Bank. The OECD provides the secretariat.

IRP (Institution de retraite professionnelle)

Occupational pension institution.

JOINT FORUM

Body established in 1996 under the auspices of the IAIS and its fellow supervisors in charge of banking (Basel Committee) and securities markets (International Organization of Securities Commissions – IOSCO), to address issues common to the insurance, banking and securities sectors, including regulation of financial conglomerates.

LAMFALUSSY PROCESS

Approach to developing European regulatory standards for the financial sector. The process breaks down into four levels. Level 1 consists of directives adopted by the European Council and the Parliament and setting forth the principles to be developed in Level 2 (regulations) adopted by the European Commission, under the aegis of the Council and the Parliament. Level 3 texts are non-binding recommendations. At Level 4, the European Commission is concerned with strengthening compliance and dealing with potential misconduct.

LIQUIDITY RISK RESERVE

Basically, this reserve must be set aside when the company's total non-fixed income assets show an unrealised loss relative to acquisition cost (bonds are not taken into account in this calculation because, unless the counterparty defaults, no loss should be realised if the assets are held to maturity). Since 2003 companies meeting prudential standards (regulatory commitments, capital adequacy requirements) can create the liquidity risk reserve gradually (over a period of three to eight years, depending on the remaining life of the liability). The reserve should be calculated net of the reserve for permanent impairment, which is calculated for each individual holding and corresponds to the share of unrealised capital losses that the company considers to have a high probability of becoming permanent losses.

MATHEMATICAL RESERVES (life insurance)

Amount included in technical reserves and corresponding to the share of premiums disbursed by the policyholder as savings deposits. The insurance institution must hold this amount in reserve to meet its commitment to the policyholder at a pre-determined date.

MCR (Minimum capital requirement)

Under Solvency II, the minimum amount of regulatory capital below which an institution's authorisation would be withdrawn. The MCR is expected to be calculated in a simpler and more robust manner than the Solvency Capital Requirement and cannot be less than a fixed absolute amount in euros.

MINIMUM GUARANTEED RATE

Minimum interest rate granted by an insurer for annual revaluation of mathematical reserves.

MMOU or MOU (Multilateral Memorandum of Understanding)

Multilateral agreement on cooperation and exchange of information.

OPERATING EXPENSE RESERVE (life insurance)

Reserve designed to cover future management expenses not covered by other reserves. Its amount is based on the projected income and expense of a homogeneous group of contracts, according to rules set forth in Article A. 331-1-1 of the French insurance code. For each such group, the amount of the reserve is equal to the present value of future management expenses less the present value of future income from contracts.

ORIAS (Organisme pour le registre des intermédiaires d'assurance)

Non-profit organisation responsible for establishing, maintaining and updating the register of authorised insurance and reinsurance intermediaries in France, as specified in Article R. 512-1 et seq. of the French insurance code.

ORIGINATOR

Company that originally creates debts or assets (the original lender in the case of debt) as part of a securitisation transaction.

PBA (Principes de base d'assurance)

Basic principles of insurance in France.

PCG (Plan comptable général)

General chart of accounts

PIOB (Public Interest Oversight Body)

Organisation that oversees global accountancy auditing and ethics standards.

PROFIT SHARING (life insurance)

Investment of insurance premiums produces income known as technical and financial profits. French insurers are required to allocate a portion of these profits to holders of life insurance policies.

PROFIT SHARING RESERVE (life insurance)

Life insurance companies have the option of not fulfilling their statutory profit sharing requirement immediately; they may wait up to eight years to make the payout. Instead of distributing the amount immediately, the insurer may record it in an account titled “profit sharing reserve.”

PROVISIONAL ADMINISTRATION

Legal procedure whereby the powers of administration, management and representation of the company are transferred to a designated administrator. This measure, which derogates from general company law, removes the authority of the existing corporate bodies.

PSNEM (Provision pour sinistres non encore manifestés)

Specific loss reserve required by French insurance regulations for future claims that are not yet apparent.

QIS (Quantitative Impact Studies)

The European Commission requested CEIOPS (now EIOPA) to conduct quantitative studies in order to measure the impact of Solvency II on the evaluation of the regulatory balance sheet and capital requirements.

REGULATORY CAPITAL

Amount consisting of two levels of capital: Core (or Tier 1) capital and supplementary (Tier 2) capital. Core capital must be equivalent to at least 50% of regulatory capital.

REINSURANCE

Technique whereby an insurer transfers all or part of the risks it has underwritten to another entity. Article 2(1) of Directive 2005/68/EC gives a precise definition of reinsurance: “activity consisting in accepting risks ceded by an insurance undertaking or by another reinsurance undertaking.” From a business point of view, reinsurance enables insurance companies to insure risks that exceed what their capital alone would permit. This form of cover is legally represented by a contract traditionally known as a reinsurance treaty. For a consideration, a reinsurer commits to reimburse an insurer, known as the cedant, under stated conditions for all or part of amounts due or to be paid by the insurer to the insured in the event of a claim. In all cases where the insurer is reinsured for the risks it has underwritten, it remains solely liable to the insured (Art. L. 111-3 of the French insurance code).

RWA (risk-weighted assets)

Risk-weighted assets are based on banks’ exposures and their associated risk levels, which depend on counterparties’ creditworthiness, measured using the methods provided for in Basel II.

SCR (Solvency Capital Requirement)

Target capital requirement under Solvency II. The SCR corresponds to the amount of capital estimated necessary to absorb the shock of an event that produces exceptional claims. It is calculated based on exposure to risks linked to insurance companies’ activities, i.e. mainly underwriting, credit, operational, liquidity and market risks. Companies can calculate the SCR in either of two ways: with a standard approach or an internal model.

SEC (Securities and Exchange Commission)

US financial regulator.

SGAM (Société de groupe d’assurance mutuelle)

Group of mutual insurers offering synergy and financial solidarity between its members.

SOLVENCY MARGIN REQUIREMENT

The regulatory capital that an insurance company must hold in order to meet the commitments resulting from its business. In life insurance, the solvency margin requirement depends on the mathematical reserves for unit-linked and non-linked contracts, as well as capital at risk. In non-life insurance, it depends on the amount of premiums or claims. Reinsurance may also be taken into account. Note that the vocabulary has changed: Solvency II refers to “a level of equity” or “capital requirement.”

SOLVENCY II

Reform implemented through the Solvency II Directive approved by the European Parliament on 22 April 2009 and currently being transposed into domestic law. Governed by the Lamfalussy process, Solvency II places risk management at the core of the prudential system applicable to insurance companies. It is noteworthy for its quantitative requirements, designed to better reflect the risks borne by insurers. In particular, these requirements cover prudential valuation, calculation of technical reserves and capital requirements (MCR and SCR), rules governing investments and the definition of assets eligible for inclusion in regulatory capital (Pillar 1). The directive also introduces stronger supervision for companies (Pillar 2) and prudential reporting and public disclosure requirements (Pillar 3). The new solvency rules were scheduled to take effect on 31 October 2012, but the date may be postponed to 31 December 2012.

SOLVENCY II PILLARS

The three Solvency II Pillars are:

- Pillar I: quantitative requirements, particularly for capital and technical reserves
- Pillar II: supervisory activities and qualitative requirements
- Pillar III: regulatory reporting and public disclosure requirements.

SPONSOR

Financial institution, separate from the originator, that establishes and manages an asset-backed commercial paper programme or any other transaction or securitisation through which it purchases third parties’ exposures.

TECHNICAL INTEREST RATE

Minimum revaluation of mathematical reserves that an insurer guarantees annually to its policyholders. This rate is used to calculate the rate of insurance cover and the amount of mathematical reserves. For prudential reasons, it is determined by regulations and may not exceed a certain number of thresholds, decreasing with the time period for which it is guaranteed.

TME (Taux Moyen des Emprunts d’État)

Average interest rate on French government bonds.

TRACFIN (Traitement du Renseignement et Action contre les Circuits Financiers Clandestins)

French financial intelligence unit, run by the finance ministry and responsible for fighting money laundering and terrorist financing.

VAR (Value at Risk)

Maximum potential loss caused by unfavourable change in market prices, in a specified time period and at a given probability level (the “confidence level”). VAR is an overall probability measure of market risk.

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