




ACPR  
2013  
Annual  
Report





The annual report reviews the activity of the *Autorité de contrôle prudentiel et de résolution* 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 2013, allowing for current constraints in production of statistics.

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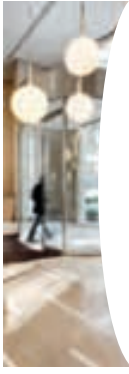
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# Editorial

Christian Noyer

ACPR Chairman and Governor of the *Banque de France*





**In 2013 the responsibilities of the *Autorité de contrôle prudentiel et de résolution* (ACPR) were further strengthened with the Banking Separation and Regulation Act of 26 July, which confers on it new powers for preventing and managing banking crises.**

This new responsibility entrusted to the ACPR is consistent with all of its actions to safeguard financial stability and consists in ensuring the continuity of the activities and services of credit institutions whose failure would have damaging consequences for the economy. The implementation of resolution plans will increase the protection of depositors, while minimising the call for public funds in the event of a credit institution experiencing severe difficulties.

In this respect, **a specific Resolution Directorate** was set up within the ACPR, as well as a new **Resolution College**, which will work, as of 2015, within the framework of the European Single Resolution Mechanism (SRM). The latter is one of the three pillars of Banking Union along with a common system of deposit protection and the Single Supervisory Mechanism (SSM). Furthermore, new responsibilities have been conferred on the ACPR in order to ensure the effective separation of activities; it has also stepped up its powers in terms of checking the fit and proper requirements of senior managers as well as of members of Boards of Directors and Supervisory Boards in banking and insurance sector entities.

**As expected, 2013 saw a large number of changes to the regulatory and institutional framework for both the banking and insurance sectors.**

2013 was marked by two major developments: the preparation of the Single Supervisory Mechanism, which is expected to become operative in November 2014, and the launching of a large-

scale pan-European exercise to assess credit institutions in the SSM area (comprehensive assessment). At the same time, in 2013, the ACPR participated in specific data collection operations aimed at defining and progressively implementing the risk assessment system and the supervisory review and evaluation process at the level of the SSM.

This was also, for all credit institutions and the ACPR, a year of intensive preparations for the new capital requirements set out in the Capital Requirements Directive (CRD 4) and the Capital Requirements Regulation (CRR), which were adopted on 26 June 2013, allowing the Basel III standards to be implemented in Europe.

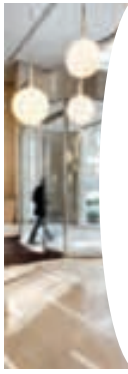
In the insurance sector, the final rounds of discussions on the Omnibus II Directive were held. They gave rise to a political agreement at the European Council on 13 November 2013 and the Directive was adopted by the European Parliament on 11 March 2014. Solvency II is therefore set to enter into force on 1 January 2016.

Lastly, since 23 February 2013, market participants have had to adapt to the European Market Infrastructure Regulation (EMIR), which mainly covers OTC derivatives.

All of these developments required major efforts by ACPR staff, both at the European and international levels to reach these agreements, and with institutions and entities under its supervision, in order to provide as much assistance as possible with their transition to compliance with these new regulatory arrangements.

In 2013, France's six main banking groups<sup>1</sup> generated an aggregated net banking income of EUR 136.5 billion, up 1.1% on 2012. The action plans implemented by these banks enabled them to reduce their management costs by 0.8%, and the cost of risk fell by 2.7%.

1. BNP Paribas, Société Générale, Groupe Crédit Agricole, BPCE, Crédit Mutuel group and the Banque Postale.



# Editorial

Christian Noyer

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All in all, these six groups generated a net profit of EUR 18 billion, compared with EUR 8.4 billion in 2012. This improved the solvency of these institutions, bringing their CRD 4 core capital ratios (common equity tier 1 full CRD 4) to 10% or over.

As regards the 12 main life insurers<sup>2</sup>, after a year of net outflows in 2012, 2013 saw a return to net inflows, in the amount of EUR 5.1 billion.

**This relatively good performance was achieved against the backdrop of a macroeconomic environment that remains difficult and uncertain for the financial system as a whole.**

Admittedly France returned to slightly positive growth in 2013 (0.3% according to INSEE) and the euro area saw a modest recovery in the second half of the year, after a year and a half of recession, but this recovery remains weak and euro area inflation is still below its target.

Consequently, **the French banking system** still faces a number of risks related to the weakness of the economic recovery and the persistently high unemployment rate that raise the risk of a deterioration in borrower solvency, an increase in defaults on loans and a rise in the cost of risk. Of course credit institutions continue to enjoy very accommodative refinancing conditions and, over the year, the Governing Council of the ECB gradually lowered its main refinancing rate from 0.75% to 0.25%, its lowest level since the creation of the euro. Banks however could be affected by the economic environment that remains subdued in the wake of the crisis: in order to compensate

for the loss of some income, households might have to draw on their savings, thus making deposit-taking more difficult, at a time when banks need to secure their funding sources in order to comply with the new liquidity requirements. Lastly, even though the European sovereign debt market continued to normalise in 2013, the links between banking and sovereign risks need to be further weakened. The creation of the Banking Union seeks in particular to address this crucial objective.

Risks are also present in **the insurance sector**, mainly related to the low level of long-term interest rates. If this low interest rate environment proves to be lasting, insurance companies are likely to be faced with a fall in their financial income. The search for higher yield could prompt some insurers to turn to more risky and less predictable asset classes. Conversely, a sharp rise in interest rates could trigger shifts from life insurance products into bank savings products in particular, and could put insurers in a potentially difficult liquidity position.

Against this background, the ACPR paid particular attention to all these risks, through cross-sector analyses and individual inspections of entities under its supervision. In the framework of its off-site inspection programme, the risk profile of almost 1,400 entities subject to ACPR supervision was carefully assessed in 2013, including 700 in the banking sector and 694 in the insurance sector.

2. Allianz Vie, Assurance du Crédit Mutuel Vie SA, Aviva Vie, Axa France Vie, Cardiff Assurance Vie, CNP Assurances, Generali Vie, Groupama Gan Vie, La Mondiale Partenaires, Natixis Assurances Partenaires, Prédica, Socgecap. This sample represents around 75% of the market.



The ACPR stepped up its surveillance of life insurers to ensure that they maintained the quality of their investment portfolios and that assets remained well matched with liabilities.

As regards banks, ongoing supervision teams focused on the impact of the new CRD 4 capital and liquidity requirements and their effects on the different business lines. The ACPR also closely monitored refinancing structures and credit risk developments. In the run-up to the SSM becoming operational, the ACPR continued to cooperate closely with foreign supervisors in order to better understand the risks facing the main international banking groups.

In addition to its ongoing supervision programmes, in 2013 the ACPR conducted 253 on-site inspections in supervised entities, of which 151 were banks, and 102 in insurance companies. The thematic inspections in this on-site supervision programme mainly focused on LBO, SME and home loan financing, as well as the legal risks associated with local authorities' "toxic" debt. The ACPR also conducted numerous surveys to review the internal models used by supervised entities.

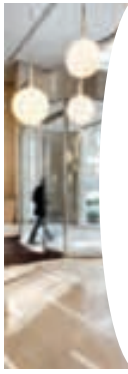
For both the banking and insurance sectors, many stress tests were carried out in 2013, with a view to analysing a broader array of scenarios than in the past. Such exercises will also be conducted in 2014 for all major European banks, using the method jointly established by the European Central Bank (ECB) and the European Banking Authority (EBA).

Lastly, in the area of business practices and consumer protection, particular attention continued to be paid to compliance with rules on access to basic banking services, insurance advisory

obligations, and unclaimed life insurance benefits. These issues generated considerable activity for the ACPR, both in terms of ongoing on-site and off-site inspections, and the initiation of first disciplinary proceedings requiring a ruling from the ACPR's Sanctions Committee.

**In many respects, 2013 was a particularly busy year for the ACPR. There is no doubt that between the now certain arrival of Solvency II on the one hand, and the work in progress on the comprehensive assessment in the run-up to the SSM on the other, 2014 will be equally challenging.**

The implementation of the Banking Union constitutes one of the most significant federal breakthroughs in Europe since Monetary Union. Its success and effectiveness will largely be determined by the quality of this comprehensive assessment. This assessment's overriding aims are to increase the transparency of information available on European banks, guarantee that these banks will be completely cleaned up by implementing any necessary corrective actions, and ultimately enhance the confidence of all stakeholders in a banking system that is sound and fully dedicated to financing the euro area economy. ACPR staff are aware of the magnitude and importance of this task and are ready and willing to rise to this challenge.



# Interview

Édouard Fernandez-Bollo  
ACPR Secretary General

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## WHAT WERE THE ACPR'S MAIN ACTIVITIES IN 2013?

**As regards the insurance sector,** Solvency II was the ACPR's main focus of attention in 2013. In particular, it conducted an impact study on long-term guarantees and a data collection test exercise, which were necessary to finalise the agreement at the European level. It held regular meetings to monitor how life insurers were adapting to persistently lower interest rates and paid close attention to the coverage of regulated commitments. The data collection process was improved and a project was launched to enhance the reliability of prudential disclosures.

**As regards the banking sector,** the priority was to anticipate the impact of the new capital and liquidity requirements set out in the EU legislative package (CRD4 + CRR) and their consequences on the different business areas, while actively participating in the transposition of the provisions of this package in France. The ACPR closely monitored the impact of economic conditions on banks, analysing both refinancing structures and credit risk developments. It continued to cooperate closely with foreign supervisors, both in its usual college framework, as well as with a view to examining, in accordance with international recommendations, the recovery plans of the five largest French banking groups.

Furthermore, thanks to the intensive methodological work that it has carried out since its creation **in the area of the supervision of business practices,** the ACPR was able to step up its inspections. Through the latter, it identified cases of failure to ensure access to basic banking services in the banking sector and abnormal arrangements for customer advice and tracing unclaimed policies in life insurance. In 2013, inspections resulted in sanctions for two major banks, one insurance broker and one insurance company. Moreover, it pursued its discussions with professionals with a view to improving their working methods in this area, either through one-on-one discussions using inspection questionnaires or by drawing up general recommendations.

In 2013, the ACPR clarified its expectations regarding the gathering customer information within the framework of the duty to provide advice on life insurance policies.

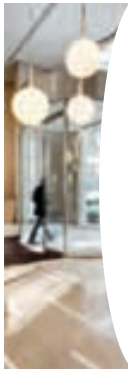
As regards **anti-money laundering (AML) and counter terrorist financing,** inspections focused on enhancing internal AML risk analysis and monitoring systems, which must now take account of new cases of reports of suspicions as well as cases of automatic reports. Following combined efforts with the insurance and banking sectors, a joint supervision questionnaire was drawn up.



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*The ACPR closely monitored the impact of economic conditions on banks, analysing both refinancing structures and credit risk developments.*

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# Interview

Édouard Fernandez-Bollo  
ACPR Secretary General

Furthermore, **the ACPR actively participated in efforts to enhance the regulatory framework**, contributing in particular to the Banking and Regulation Act, the adaptation of the legal framework in order to develop crowdfunding, and the establishment of the framework for the banking union, for both supervision and resolution.

These different actions were carried out by ACPR staff, who demonstrated their professionalism and their commitment to serving public interests.

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## WHAT ARE THE PRIORITIES FOR 2014?

Five main priorities guide the ACPR's supervisory actions in 2014.

1. In the insurance sector, **the preparation of institutions for Solvency II is a major challenge**. Its implementation on 1 January 2016 means that both the ACPR and all market participants must speed up their preparations that include: a mock ORSA exercise for all insurers, a further Solvency II reporting preparatory exercise, governance and preparation of internal models and EIOPA stress tests. We have put in place a renewed project mode organisation and we must increase interactions with all those involved in implementing this change.
2. In the banking sector, 2014 is very largely dominated by **the comprehensive assessment of the balance sheets of France's leading banks**, an unprecedented drive to simultaneously review the quality of over half of their assets, using a methodology fully harmonised in the euro area, and which is to be followed by an ambitious stress test.
3. **In both sectors**, supervision continues to focus on the weakest institutions, in particular identifying upstream those that could have difficulties in applying the new prudential regulations: liquidity and leverage rules that will be under review in the banking sector, the implementation of Solvency II in the insurance sector, and the consequences of the 2013 national inter-professional agreement on the health and provident insurance market;
4. **Business practices** remain a key priority for the ACPR. As such, it focuses on the oversight of lending practices, bank fees and overdraft rates, and insurance advisory obligations (gathering of know-your-customer information, commission systems that run counter to customer interests, new distribution methods, etc.).
5. **As regards AML**, the ACPR will focus on ensuring that the preventive arrangements in place within groups are effective, including for their foreign business.

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## WHAT ARE THE MAIN INSTITUTIONAL CHALLENGES THAT THE ACPR WILL HAVE TO FACE IN ORDER TO PREPARE FOR THE FUTURE?

2014 is a crucial year for bolstering the ACPR and asserting its role at the European and international levels:

- I **Actively participating in the establishment of the Single Supervisory Mechanism (SSM)** under the auspices of the ECB, which will be vital for the future of banking supervision, as well as in the resolution mechanism that is an essential addition;
- I **Influencing all developments in both Europe** (with levels 2 and 3 of Solvency II) **and globally** (with the International Association of Insurance Supervisors, IAIS, and the Financial Stability Board, FSB). A much more comprehensive international framework for insurance supervision is being built, which is essential for the French market.

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## ARE ACPR STAFF SUFFICIENTLY PREPARED FOR THESE CHANGES?

The ACPR brings together a very wide range of expertise under one roof. Over the past years, with the close assistance of the *Banque de France* as a whole, the ACPR has strengthened its expertise by hiring large numbers of new graduates as well as highly experienced persons from both the

banking and insurance sectors. Moreover, the quality of our staff is recognised at the national and international levels, as clearly illustrated by our contribution to the training of ECB staff.

I am therefore confident that we are in an excellent position to adapt to the changes ahead, and that is why I have closely involved the managers and employees of the ACPR in the process of defining the necessary adaptations of our functioning to the new environments. Under the broader SSM framework, our contribution to banking supervision will be different; we will have to conduct these new types of harmonised supervision together with the full range of tasks that we will have to roll out next year **at the national level for the separation of banking activities and in the area of resolution**. In this respect, we will have to put in place our national arrangements and **prepare for the second pillar of banking union**. Similarly, the tools and methods used for insurance supervision will be significantly overhauled.

Given our experience of changes in the past and the preparatory work in which we were highly involved, we should have a proactive approach to these changes. I am certain that we will be able to leverage the diversity of our skills and capitalise on our cross-sectoral approach in order to play our full role in enhancing supervision, which is a key focus in all our areas of activity.



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# Overview of the ACPR

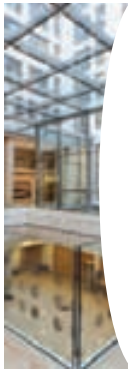
The *Autorité de contrôle prudentiel et de résolution* (ACPR) is an independent administrative authority attached to the *Banque de France*. It is the body responsible for supervising the banking and insurance sectors in France.

Founded on 9 March 2010, the *Autorité de contrôle prudentiel* (ACP) was changed by the Banking Separation and Regulation Act of July 2013 into the ACPR and entrusted with powers to prevent and manage banking crises.

The ACPR has several decision-making bodies: the Supervisory College, the Resolution College and the Sanctions Committee. To help discharge its duties, the ACPR relies on the expertise of several consultative committees, an Audit Committee and a Scientific Consultative Committee.

The ACPR's operating departments, which are overseen by the General Secretariat, comprise around 1,100 employees, who work to ensure the stability of the financial system and customer protection.

The ACPR's activities are set to evolve with the introduction of Europe's single supervisory mechanism for the banking sector.



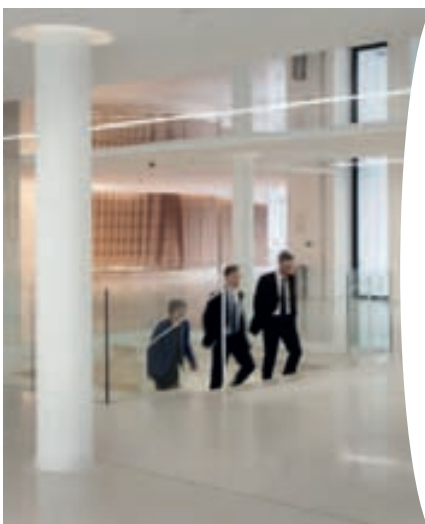
# Statutory objectives and structure

## 1.1 STATUTORY OBJECTIVES

### A. The ACPR's main statutory objectives

The ACPR's statutory objectives are set out in Article L. 612-1 of the Monetary and Financial Code. In July 2013, the ACPR was handed new responsibilities for preventing and resolving banking crises, pursuant to Banking Separation and Regulation Act 2013-672 of 26 July 2013.

*"The Autorité de contrôle prudentiel et de résolution, which is an independent administrative authority, is charged with preserving the stability of the financial system and protecting the customers, insurance policyholders, members and beneficiaries of the persons that it supervises".*



It is responsible for:

**I issuing licences and authorisations** as laid down in legislation and regulations;

**I conducting ongoing supervision** of the financial position and operating conditions of the institutions subject to its supervision, including in particular their compliance with solvency requirements and liquidity maintenance rules. The ACPR ensures that insurance institutions are in a position to honour their commitments to policyholders, members, beneficiaries and reinsured companies at all times, and that they actually honour those commitments in practice;

**I supervising compliance with rules designed to protect customers**, whether these rules stem from legislation and regulations, codes of conduct approved at the request of a professional association or industry best practices that the Authority either observes or recommends. The ACPR also checks that reporting institutions have adequate resources and appropriate procedures in place to comply with these rules. In relation to this statutory objective, it cooperates with the *Autorité des marchés financiers* (AMF) through an entity common to both institutions, the Joint Unit;

**I supervising the preparation and implementation of measures to prevent and resolve banking crises**, with a view to safeguarding financial stability, maintaining the continuity of the activities, services and operations of institutions whose failure would have a serious impact on

the economy, protecting depositors, and avoiding, or limiting to the greatest possible extent, any recourse to public financial aid;

**I ensuring that reporting entities comply with the rules governing the procedures for doing business**, whether they are operating by themselves or through subsidiaries, and with the rules governing acquisitions and equity investments.

Cooperating closely with the *Banque de France* and relevant government agencies, **the ACPR represents France in the international and European bodies responsible for supervising the insurance and banking industries**. It thus contributes to achieving financial stability goals within the European Economic Area and to promoting convergence in national and European supervisory practices.

To discharge its duties, the ACPR has, with respect to entities under its jurisdiction:

**I supervisory powers;**

**I the power to impose administrative enforcement measures;**

**I disciplinary powers.**

It may also make public any information that it deems necessary to discharge its duties. The professional secrecy obligations referred to in Article L. 612-17 of the Monetary and Financial Code are not binding on the ACPR.

## ACPR JURISDICTION

Article L. 612-2 of the Monetary and Financial Code stipulates which entities are subject to supervision by the ACPR.

### ***In the banking, payment services and investment services sector:***

- 1) credit institutions;
- 2) investment firms other than portfolio management companies, as well as market operators, clearing house members and entities authorised to act as custodians or administrators of financial instruments (referred to in points 4° and 5° of Article L. 542-1 of the Monetary and Financial Code);
- 3) payment institutions;
- 4) financial holding companies and mixed financial holding companies;
- 5) money changers;
- 6) microcredit associations and foundations (bodies referred to in point 5° of Article L. 511-6 of the Monetary and Financial Code);
- 7) companies selected to help create activities or develop employment under a government contract (legal entities referred to in Article L. 313-21-1 of the Monetary and Financial Code);
- 8) electronic money institutions;
- 9) finance companies.

The ACPR may also extend its supervision to any intermediary involved in banking or payment services transactions.

The ACPR's supervision also covers the investment services supplied by the entities referred to in points 1) and 2), subject to the AMF's powers with regard to the supervision of best practice rules and other professional obligations.

For the purposes of supervising payment institutions and electronic money institutions, the ACPR may request the opinion of the *Banque de France* as the entity responsible for supervising the proper functioning and security of payment instruments (see Article L. 141-4 of the Monetary and Financial Code).

### ***In the insurance sector:***

- 1) insurance companies providing 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, unions managing the federal guarantee systems and mutual insurance holding companies;
- 4) 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 sole purposes of Title VI, Book V of the Monetary and Financial Code (obligations concerning anti-money laundering, counter-terrorist financing and prohibited lotteries, gaming and betting);
- 5) provident institutions, unions and groups governed by Title III, 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 Housing Code;
- 8) securitisation vehicles carrying insurance risk referred to in Article L. 310-1-2 of the Insurance Code;
- 9) all the aforementioned entities operating in France under the freedom of establishment or freedom to provide services.

The ACPR may also extend its supervision to:

- ▮ any entity that has received a subscription or management mandate from an undertaking engaging in insurance activities;
- ▮ any entity taking out a group insurance policy;
- ▮ any entity acting as an insurance or reinsurance intermediary in any way whatsoever;
- ▮ any entity that intervenes directly or indirectly between a body referred to in point 3) or 4) above and an entity wishing to join or belonging to said body.

## B. Impact of the Banking Regulation Act on the ACPR's statutory objectives

### • On the separation and prohibition of banking activities

The Banking Separation and Regulation Act requires certain market activities to be ring-fenced within a dedicated subsidiary (portion of proprietary market activities, unsecured exposures to hedge funds,

and, potentially, a portion of market making). By effecting this separation, the French Banking Act has placed some restrictions on the universal banking model, without calling the model itself into question.

The ACPR will be responsible for licensing the dedicated subsidiary, for supervising the scope of its business and that of the rest of the group (working with the AMF to

ensure proper separation of market making) and for conducting prudential supervision.

The ACPR's task, to be conducted jointly with the *Banque de France*, is to provide support for this change in the French financial system, while ensuring that the law is in compliance with the European project on banking separation.



## I. OVERVIEW OF THE ACPR

### 1. STATUTORY OBJECTIVES AND STRUCTURE

#### 1.1 Statutory objectives

- **On macroprudential supervision**

Article 10 of the Banking Separation and Regulation Act also gave the *Banque de France* an explicit mandate to monitor the stability of the financial system in partnership with the *Haut conseil de stabilité financière* (HCSF).

The HCSF, which was created by the Banking Act, replaced the *Conseil de régulation financière et du risque systémique* (COREFRIS) while expanding its remit<sup>1</sup> to include “supervision of the overall financial system” and the definition of “macroprudential policy”. Notably, the HCSF may use several of the tools provided for by the CRD4<sup>2</sup> and CRR<sup>3</sup>. Thus, the ACPR Chairman may take the initiative to:

- impose more stringent capital requirements on banks, either to reflect business cycles (counter-cyclical buffer) or to prevent and mitigate long-term non-cyclical macroprudential or systemic risk at national level;
- modify lending terms to limit the risks of excessive credit growth;
- seek opinions and recommendations from the European institutions to prevent financial instability in France.

- **On banking resolution**

The Banking Separation and Regulation Act assigned the ACPR new powers and established a specific college to perform resolution duties, which are distinct from supervisory tasks.

Accordingly, the ACPR is required to prepare a preventive plan for institutions also subject to the obligation to prepare a recovery plan. This resolution plan contains specific procedures to apply the resolution measures that could be adopted by the Resolution College. If the ACPR thinks that the institution’s organisation and operations could hinder the effective imple-



ACPR action has been strengthened in the field of the supervision of business practices for banking products.

1. COREFRIS’s tasks included exchanging information, assessing systemic risks, issuing opinions and taking positions.  
2. Capital Requirements Directive.  
3. Capital Requirements Regulation.





mentation of resolution powers, it may request corrective measures to be taken.

The ACPR may take the following **resolution measures**:

- ask the institution to take structural measures: replace senior executives, transfer or dispose of business lines, use a bridge bank;
- require the institution to take loss absorption measures: issue new shares or other capital instruments, charge losses to shareholders and holders of the lowest-ranked subordinated securities;
- ask the Deposit Guarantee and Resolution Fund to intervene (providing capital, financing or guarantees) on behalf of an institution that is subject to resolution measures. The scope of the fund's interventions has been extended compared with that of the previous Deposit Guarantee Fund.

- **On the protection of consumers of banking and financial services**

The Banking Separation and Regulation Act supplemented the tasks assigned to the ACPR in this area, giving it greater scope in terms of supervising business practices for banking products. In particular, the ACPR and the other relevant authorities (AMF and *Direction générale de la Concurrence, de la Consommation et de la Répression des fraudes*, DGCCRF) may share information in this area that is helpful to the discharge of their respective responsibilities. Furthermore, specifically regarding online services, ACPR inspectors are allowed to use assumed identities.

## 1.2 STRUCTURE OF THE ACPR

The structure of the ACPR is based on the different decision-making and consultative bodies that enable the Authority to fulfil its statutory objectives. In 2013 a new Resolution College was set up pursuant to the provisions of the Act of 26 July 2013.

### A. The Supervisory College

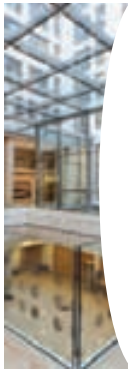
The responsibilities entrusted to the ACPR are exercised by the Supervisory College, which has several configurations depending on the issues being addressed.

It has 19 members and is chaired by the Governor of the *Banque de France*.

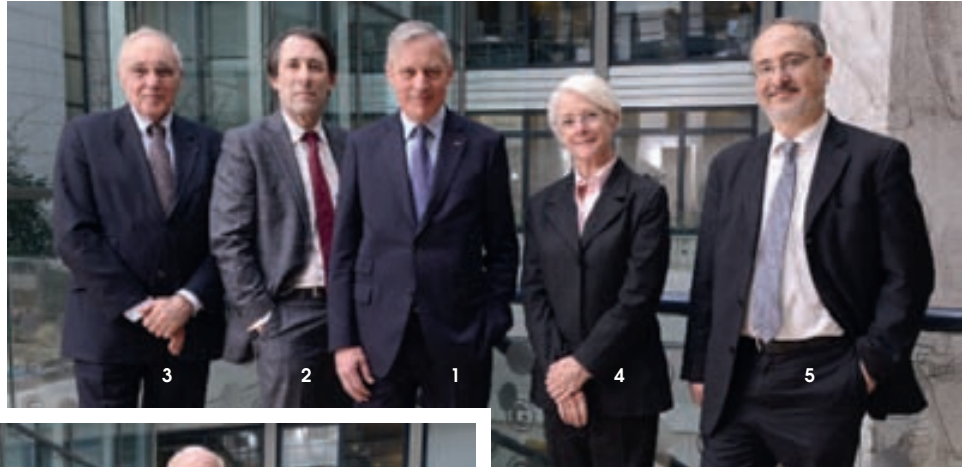
**The plenary session of the College** deals with general supervisory issues concerning the banking and insurance sectors. It analyses risks in both sectors with regard to the economic situation. It also makes decisions on the Authority's organisational, operating and budget principles and sets the ACPR's Rules of Procedure. Each year, it sets the supervisory priorities.

**The Sub-Colleges**, one for banking, the other for insurance, each of which has eight members, have jurisdiction over specific matters and general issues relating to their respective sectors.

The Supervisory College meets in **restricted session** (also consisting of eight members) to deal with individual issues having a material impact on the two sectors or on financial stability as a whole, as well as matters relating to the supervision of financial conglomerates.



## THE ACPR SUPERVISORY COLLEGE



### COMPOSITION OF THE ACPR SUPERVISORY COLLEGE (AT 31 DECEMBER 2013)

#### PLENARY SESSION

Chairman:

**1 Christian Noyer**

or the designated Deputy Governor, **2 Robert Ophèle**

A Vice-Chairman with professional experience in insurance, appointed by the ministers with responsibility for the economy, social security and mutual insurance:

**3 Jean-Marie Levaux\***, Vice-Chairman of the *Autorité de contrôle prudentiel et de résolution*

The other members of the ACPR College are:

The Chairman of the *Autorité des normes comptables* (French national accounting standards board),

**10 † Jérôme Haas**

The Chairman of the *Autorité des marchés financiers* (AMF),

**12 Gérard Rameix**

The person appointed by the President of the National Assembly, **6 Philippe Auberger**

The person appointed by the President of the Senate,

**9 Monique Millot-Pernin**

Appointed at the recommendation of the Vice-Chairman of the *Conseil d'État*:

**21 Olivier Fouquet**, *conseiller d'État*

Appointed at the recommendation of the Chairman of the *Cour de cassation*: **22 Francis Assié**, *conseiller*

Appointed at the recommendation of the Chairman of the *Cour des comptes*:

**Jean-Philippe Vachia\*\***, *conseiller maître*

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

**8 Emmanuel Constans**

**7 Hélène Rey**

Appointed for their expertise in insurance, mutual insurance, provident institutions or reinsurance:

**19 Philippe Mathouillet**

**17 Dominique Thiry**

**18 Lucien Uzan**

\* Jean-Marie Levaux was appointed Vice-Chairman of the ACPR on 21 November 2013, replacing Jean-Philippe Thierry, who resigned. He is to be replaced within the College by a person with expertise in insurance, mutual insurance, provident institutions or reinsurance.

\*\* Jean-Philippe Vachia, who resigned, was replaced by **20 Christian Babusiaux**, who was appointed as a member of the ACPR's Supervisory College on 6 January 2014.





Appointed for their expertise in banking, payment services or investment services:

- 14** Thierry Coste
- 13** Dominique Hoenn
- 15** François Lemasson
- 16** Christian Poirier

*The Director General of the Treasury, **Ramon Fernandez**, or his or her representative, **Delphine d'Amarzit**, or **Il Corso Bavagnoli** sits on the Supervisory College in all its configurations, and the Director of the Social Security administration or his or her representative sits on the Insurance Sub-College or other configurations dealing with entities governed by the Mutual Insurance Code or the Social Security Code. While they do not have a vote, they are entitled to request that matters be deliberated a second time.*

#### RESTRICTED SESSION

Chairman:  
**Christian Noyer**  
or the designated Deputy Governor,  
**Robert Ophèle**

Vice-Chairman:  
**Jean-Marie Levaux**

**Jérôme Haas**  
**Jean-Philippe Vachia**  
**François Lemasson**  
**Christian Poirier**  
**Lucien Uzan**

#### BANKING SUB-COLLEGE

Chairman:  
**Christian Noyer**  
or the designated Deputy Governor,  
**Robert Ophèle**

Vice-Chairman:  
**Jean-Marie Levaux\***

**Olivier Fouquet**  
**Emmanuel Constans**  
**Thierry Coste**  
**Dominique Hoenn**  
**François Lemasson**  
**Christian Poirier**

#### INSURANCE SUB-COLLEGE

Chairman:  
**Jean-Marie Levaux**  
Governor or Deputy Governor  
of the *Banque de France*:  
**Christian Noyer**  
or **Robert Ophèle**

**Francis Assié**  
**Jean-Philippe Vachia**  
**Philippe Mathouillet**  
**Dominique Thiry**  
**Lucien Uzan**



## I. OVERVIEW OF THE ACPR

### 1. STATUTORY OBJECTIVES AND STRUCTURE

#### 1.2 Structure of the ACPR

### B. The Resolution College

The Resolution College was established by Banking Separation and Regulation Act 2013-672 of 26 July 2013. It is chaired by the Governor of the *Banque de France*, Christian Noyer, and has six members. The Resolution College is tasked with supervising the preparation and implementation of measures to prevent and resolve banking crises. It held its first meeting in November 2013. The structure of the Resolution Directorate is detailed in point 4 of Chapter 2.

### COMPOSITION OF THE RESOLUTION COLLEGE (AT 31 DECEMBER 2013)

The Governor of the *Banque de France* or his representative, Chairman:

**1 Christian Noyer**

The Director General of the Treasury, **Ramon Fernandez**, or his or her representative: **Delphine d'Amarzit** or

**3 Corso Bavagnoli**

The Chairman of the AMF or his or her representative:

**2 M. Gérard Rameix**

The Deputy Governor appointed by the Governor of the *Banque de France* or his or her representative:

**4 Robert Ophèle**

The Chairman of the Commercial, Financial and Economic Chamber of the *Cour de cassation* **Raymond Espel**, or his representative **5 Yves Gérard**

The Chairman of the Management Board of the Deposit Insurance and Resolution Fund, or his or her representative:

**6 Thierry Dissaux**



**7** Dominique Laboureix, Director of the Resolution.

### C. The Audit Committee

The Audit Committee is tasked with ensuring that the ACPR's resources are used appropriately. As a consultative body, the committee gives prior opinions on the following:

- | the ACPR's preliminary budget, before it is adopted by the Supervisory College;
- | the budget outturn report for the previous year;
- | the rebilling agreements for resources and services provided by the *Banque de France*, before they are approved.

### COMPOSITION OF THE AUDIT COMMITTEE (AT 31 DECEMBER 2013)

**Lucien Uzan**, Chairman

**Jean-Philippe Vachia**, *conseiller maître* at the *Cour des comptes*

**Jérôme Haas**, Chairman of the *Autorité des normes comptables*

**Thierry Coste**

**Monique Millot-Pernin**

### D. The consultative committees and the Scientific Consultative Committee

The ACPR's Supervisory College relies on several consultative

committees to provide guidance on specific topics.

**The Consultative Committee on Prudential Affairs** is tasked with giving its opinion prior to adoption

on ACPR instructions relating to prudential filings by reporting institutions. Draft versions of explanatory notices and guides are also referred to the committee.

### COMPOSITION OF THE CONSULTATIVE COMMITTEE ON PRUDENTIAL AFFAIRS (AT 31 DECEMBER 2013)

- | **Dominique Thiry**, Chairman
- | **Dominique Hoenn**, Vice-Chairman

Members appointed from entities reporting to the ACPR:

#### Insurance sector

- | **Violaine Conti**, Axa
- | **Cédric Cornu**, Pro BTP
- | **Nicolas Eyt**, Sogécap
- | **Maud Petit**, Covéa

#### Banking sector

- | **Francis Canterini\***, Crédit Agricole
- | **Benoît Catherine**, Exane
- | **Hedwige Nuyens**, BNP Paribas
- | **Catherine Meritet**, Société Générale
- | **Éric Spielrein**, RCI Banque

The following professional associations are also represented on the committee:

#### Insurance sector

- | *Le Centre technique des institutions de prévoyance* (CTIP)
- | *La Fédération française des sociétés d'assurances* (FFSA)
- | *La Fédération nationale de la mutualité française* (FNMF)
- | *Le Groupement des entreprises mutuelles d'assurance* (GEMA)

#### Banking sector

- | *L'Association des sociétés financières* (ASF)
- | *L'Association française des marchés financiers* (AMAFI)
- | *La Fédération bancaire française* (FBF)

*Caisse des dépôts et consignations* also appoints a representative.

\* Francis Canterini ceased to participate in the work of the Consultative Committee on Prudential Affairs on 14 March 2014.



## I. OVERVIEW OF THE ACPR

### 1. STATUTORY OBJECTIVES AND STRUCTURE

#### 1.2 Structure of the ACPR

The Consultative Committee on *Anti-Money Laundering and Counter-Terrorist Financing* is tasked with giving its opinion on draft versions of instructions, guidelines and other ACPR documents dealing

with the prevention of money laundering and terrorist financing (details of the committee's activities in 2013 can be found in Chapter 4).

### COMPOSITION OF THE CONSULTATIVE COMMITTEE ON ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (AT 31 DECEMBER 2013)

- | Francis Assié, Chairman
- | François Lemasson, Vice-Chairman

Five members appointed from entities reporting to the ACPR

#### Insurance sector

- | Gaël Buard, Natixis Assurances
- | Philippe Giraudel, Groupama
- | Nadine Mathieu-Lapert, Axa France
- | Paul-Henri Mezin, Malakoff Médéric group
- | Catherine Petapermal, La France Mutualiste

Eight members appointed from entities reporting to the ACPR

#### Banking sector

- | Alain Breuillin, Bank Audi Saradar France
- | Raoul d'Estaintot, Caisse fédérale de Crédit mutuel
- | Catherine Frenzel, Exane
- | Édouard Leveau-Vallier, HSBC France
- | Jacques Piccioloni, BNC
- | Henri Quintard, BNP Paribas
- | Luc Retail, la Banque Postale
- | Grégory Torrez, Banque Accord

The following professional associations are also represented on the committee

#### Insurance sector

- | Le Centre technique des institutions de prévoyance (CTIP)
- | La Fédération française des sociétés d'assurances (FFSA)
- | La Fédération nationale indépendante des mutuelles (FNIM)
- | La Fédération nationale de la mutualité française (FNMF)
- | Le Groupement des entreprises mutuelles d'assurance (GEMA)
- | La Chambre syndicale des courtiers d'assurances (CSCA)

#### Banking sector

- | L'Association française des établissements de paiement et de monnaie électronique (AFEPAME)
- | L'Association française des sociétés financières (ASF)
- | L'Association française des marchés financiers (AMAFI)
- | La Fédération bancaire française (FBF)

Caisse des dépôts et consignations also appoints a representative.

**The Consultative Committee on Business Practices** gives an opinion on draft recommendations falling within its areas of expertise, goes deeper into issues

relating to business practices identified by the ACPR and gathers information and suggestions from its members on customer protection.

## COMPOSITION OF THE CONSULTATIVE COMMITTEE ON BUSINESS PRACTICES (AT 31 DECEMBER 2013)

- | **Emmanuel Constans**, Chairman
- | **Jean-Marie Levaux**, Vice-Chairman

Five members are chosen for their expertise acquired by participating in associations representing personal or business customers, savers' associations, charities operating in this area and the consumer institute, INC.

- | **Jean Berthon**, Chairman of FAIDER
- | **Pierre Cernesson**, *Confédération nationale des associations familiales catholiques*
- | **Olivier Gayraud**, *Consommation Logement et Cadre de vie*
- | **Hervé Mondange**, legal specialist at AFOC
- | **Romain Girard**, *Fédération nationale Familles rurales*

Four members are chosen for their expertise acquired within a credit institution, an insurance institution or an industry group:

- | **Pierre Bocquet**, FBF
- | **Alain Lasseron\***, ASF
- | **Christophe Ollivier**, FNMF
- | **Philippe Poiget**, FFSA

Two members are chosen for their expertise acquired within an insurance intermediary, a banking and payment services intermediary or an industry group:

- | **Philippe de Robert**, *Fédération nationale des agents généraux d'assurance*
- | **Sophie Ho Thong**, *Association professionnelle des intermédiaires en crédits*

One member is chosen for her experience in representing the staff of entities reporting to the ACPR:

- | **Raphaëlle Bertholon**, SNE CGC

One member is chosen for his academic work on banking and insurance issues:

- | **Pierre-Grégoire Marly**, senior professor of law

One member is chosen for his expertise acquired in monitoring these issues in the media:

- | **Jean-François Filliatre**, editor-in-chief, *Mieux vivre votre argent*

\* Karine Rumayor (ASF) replaced Alain Lasseron (ASF) on 12 March 2014.



## I. OVERVIEW OF THE ACPR

### 1. STATUTORY OBJECTIVES AND STRUCTURE

#### 1.2 Structure of the ACPR

The duties of the **Scientific Consultative Committee** are to promote synergies between financial research and prudential supervision and to keep abreast of

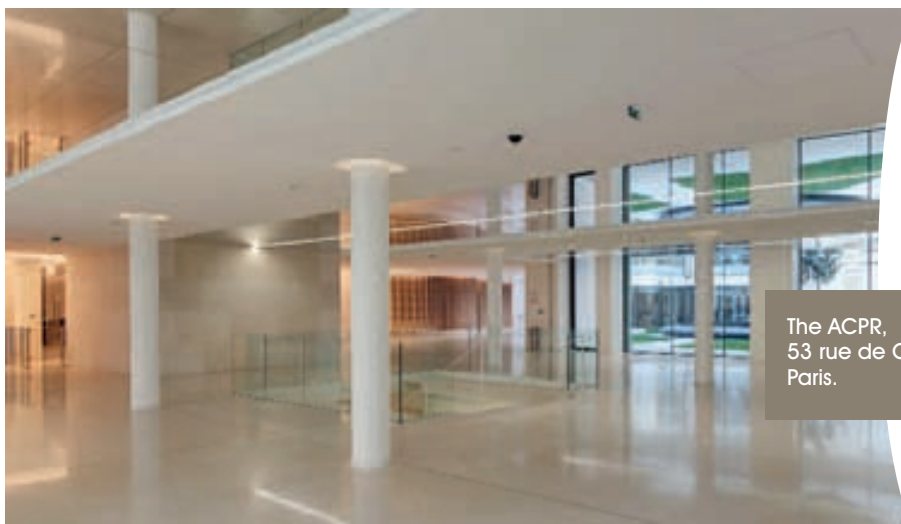
developments liable to affect the banking and insurance sectors (details of the committee's activities in 2013 can be found in point 2 of Chapter 2).

## COMPOSITION OF THE SCIENTIFIC CONSULTATIVE COMMITTEE (AT 31 DECEMBER 2013)

- | **Hélène Rey**, Chair
- | **Philippe Mathouillet**, Vice-Chairman
  
- | **Laurent Clerc**, *Banque de France*, economist
- | **Antoine Frachot**, Director General, *Groupe des Écoles nationales d'économie et de statistique*
- | **Christian Gollier**, professor, *Université Toulouse I*
- | **Christian Gourieroux**, professor, ENSAE and University of Toronto
- | **Guillaume Leroy**, consulting actuary, *Institut des actuaires*
- | **Didier Marteau**, professor, ESCP Europe
- | **Kevin O'Rourke**, professor, Oxford University (All Souls College)
- | **David Thesmar**, professor, HEC
- | **Philippe Trainar**, chief economist and special adviser to the chairman, SCOR
- | **Philippe Weil**, professor, *Université libre de Bruxelles* and *Institut d'études politiques de Paris*

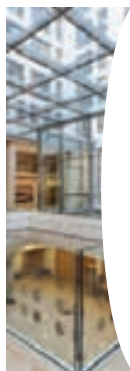
## E. The Sanctions Committee

Details of the composition and activities of the ACPR's Sanctions Committee are provided in Chapter 5.



The ACPR,  
53 rue de Châteaudun,  
Paris.





# 2 ACPR General Secretariat

## 2.1 OPERATING PROCEDURES

The General Secretariat oversees the ACPR's operational departments. It is run and organised by

the **Secretary General** named by order of the Minister for the Economy, on the proposal of the ACPR Chairman. Édouard Fernandez-Bollo was appointed ACPR Secretary General by an order dated 23 January 2014 to replace Danièle

Nouy.<sup>4</sup> He is assisted by First Deputy Secretary General **1** Sandrine Lemery, and three other Deputy Secretaries General: **2** Fabrice Pesin, **3** Frédéric Visnovsky and, since 13 February 2014, **4** Patrick Montagner.



Following restructuring, which resulted in some staff being reassigned to shared departments with the *Banque de France*, the ACPR General Secretariat had **1,060 employees** at end-2013.

The ACPR is an independent authority attached to the *Banque de France*. It thus benefits from synergies with the central bank's other functions and from its resources. The *Banque de France* employs all the ACPR's staff. The ACPR has its own budget, which is an annex to the central bank's

budget. The ACPR may use the *Banque de France's* resources, which are then invoiced to it by the *Banque de France*.

The *Banque de France* collects reporting institutions' contributions to supervisory costs and transfers them in full to the ACPR. Exceptionally, the central bank may also top up these contributions with additional allocations.

## 2.2 ACPR STAFF

- **Wide-ranging skills to ensure that the ACPR can meet all of its statutory objectives**

After expanding swiftly between 2010 and 2012, the headcount of the ACPR General Secretariat was more stable in 2013, reflecting two developments: the relative share of **support services** (human resources, training, financial control and budgeting, premises and facility management, communication, IT resources and systems manage-

4. At the end of 2013, Danièle Nouy was appointed to chair the supervisory board of the single supervisory mechanism at the European Central Bank.



## I. OVERVIEW OF THE ACPR

### 2. ACPR GENERAL SECRETARIAT

#### 2.2 ACPR staff

ment) was reduced from 14% to 11% of total headcount between end-2012 and end-2013; meanwhile, supervisory and cross-disciplinary activities (legal, research, international) were stepped up. Continued efforts to bolster key functions should enable the Authority to get ready for the changes arising from coming regulatory developments (CRD 4 for banks in 2014, Solvency II for insurance in 2016) and organisational developments (introduction of the single supervisory mechanism for banks in Europe from November 2014).

Other areas saw their shares stay much the same, with just over **two-third of employees** assigned to **ongoing and on-site supervision of reporting institutions on an individual basis, monitoring of business practices and licensing and authorisation**. Furthermore, the Resolution Directorate was gradually set up to handle preparations for the work done by the

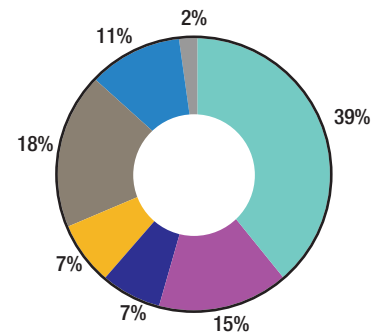
Resolution College on preventive and resolution measures, as applicable. Meanwhile, **18% of employees** are assigned to **macroprudential supervision, international work** on preparing regulations, **legal activities** and other cross-cutting activities (including in particular methodological work).

At end-2013, 92% of the General Secretariat's employees were tenured staffmembers or on private contracts, 6% were civil servants and 2% were employed under fixed-term contracts.

- **Special attention was paid to training initiatives**

The Authority held monthly welcome sessions and ran induction courses for new recruits. In addition to initial training, the emphasis was placed on training to prepare for the entry into force of the new Basel III and Solvency II regulations, as well as on supporting the intro-

BREAKDOWN OF THE WORKFORCE



- Banking sector supervision
- Insurance sector supervision
- Supervision of business practices
- Licensing
- Cross-functional activities (legal and international affairs, research)
- Support activities (HR, training, IT, financial control)
- General Secretariat

duction of the single supervisory mechanism (expanded range of English training courses).

The ACPR also continued its management training drive, providing courses for newly-appointed and seasoned managers.

**Delphine Marnhier,**  
IT, methods and Human  
Ressources.



“

*In 2013, the ACPR pursued and stepped up its training efforts to support new staff members and maintain expertise within ACPR departments against a backdrop of substantial regulatory change.*

”

## COMMUNICATING TO KEEP THE MARKET REGULARLY INFORMED

The ACPR publishes a variety of documents aimed at keeping the market, economists and academics informed of its work.

- | A widely distributed bi-monthly review aimed at banking and insurance professionals, *La Revue de l'Autorité de contrôle prudentiel et de résolution* reports on the ACPR's activities and regulatory developments affecting the financial sector;
- | The ACPR publishes its research in a review titled *Analyses et Synthèses*, which contains analysis and comment on research carried out into risk in the banking and insurance sectors; 14 issues were published in 2013;
- | *Débats économiques et financiers* consist of articles that present the views of their authors and do not necessarily reflect the ACPR's position. They are intended to foster discussion on banking and insurance economics, regulation and prudential policy; 9 issues were published in 2013.

The list of these publications is annexed to this report.

### ACPR conferences

The ACPR regularly organises conferences to reach out to the market. These events are highlights on the calendar and offer an opportunity to dialogue with professionals on key issues related to their business. ACPR senior directors and representatives attend the conferences to respond to questions from participants.

In 2013, several events were organised:

- | a conference on 14 June at la Maison du Barreau on the new challenges associated with the European Banking Union and the transition from Solvency I to Solvency II;
- | an international academic conference on 14 and 15 October at the auditorium of the *Banque de France* on "Risk Taking in Financial Institutions, Regulation and the Real Economy";
- | a conference on 13 November at Palais Brongniart on the supervision of business practices in insurance and banking and the introduction of the single supervisory mechanism;
- | a conference on 12 December at the auditorium of the *Banque de France* entitled "Solvency II, preparing for 2016".

### ACPR seminars

The Authority organises research seminars. These consisted of the following in 2013:

- | on 6 June, Larry Wall (Federal Reserve Bank of Atlanta) on "Incentive Compensation, Accounting Discretion and Bank Capital";
- | on 23 July, Edward Simpson Prescott (Federal Reserve Bank of Richmond) on "An Experimental Analysis of Contingent Capital with Market-Price Triggers".

Since June 2013, these seminars have been conducted as part of the ACPR's research chair on Regulation and Systemic Risk, whose main tasks are to organise research activities, foster relations between the academic world and the ACPR and build an outward-looking centre for discussion and proposals on the management of systemic risk.

The chair organised 5 seminars in 2013:

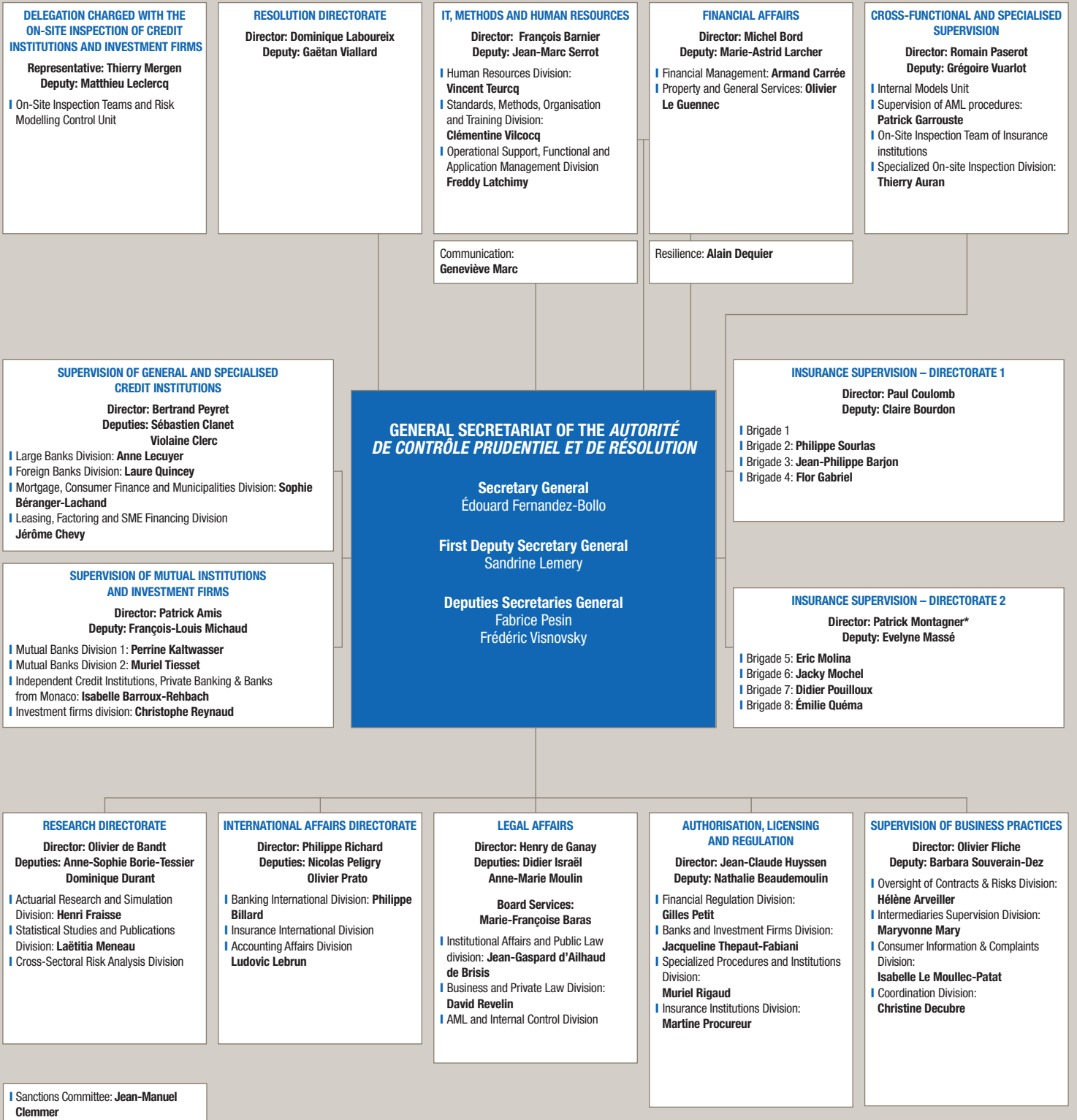
- | on 2 July, Céline Grislain-Letremy (INSEE-CREST and *Université Paris-Dauphine*) presented on "Natural Disasters: Exposure and Underinsurance";
- | on 3 September, Christophe Pérignon (HEC Paris) presented on "CoMargin";
- | on 1 October, Henri Fraise (ACPR) and David Thesmar (HEC Paris and CEPR) presented on "The Real Effects of Bank Capital Requirements";
- | on 5 November, Serge Darolles (*Université Paris-Dauphine* and CREST) presented on "Survival of Hedge Funds: Frailty versus Contagion";
- | on 3 December, Antoinette Schoar (Massachusetts Institute of Technology) presented on "House Prices, Collateral and Self-Employment".

### ACPR websites

The ACPR has two distinct websites.

- | The ACPR's main website, [www.acpr.banque-france.fr](http://www.acpr.banque-france.fr), contains all the regulations, reviews, research and other documents pertaining to or published by the ACPR.
- | The website of the Joint Unit with the AMF (*Assurance Banque Épargne Info Service*), [www.abe-infoservice.fr](http://www.abe-infoservice.fr), is a space that is intended to provide the public with information on rights and procedures relating to banking, insurance and financial investment.

## ACPR GENERAL SECRETARIAT (AT 1 FEBRUARY 2013)



\* Patrick Montagner was appointed Deputy Secretary General on 13 February 2014.

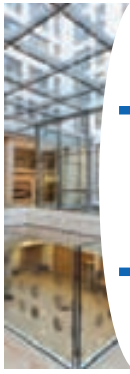


## THE MANAGEMENT BOARD OF THE ACPR



**From left to right:**  
**Back row:** Thierry Mergen, François Barnier, Olivier Fliche, Dominique Laboureux, Henry de Ganay, Romain Paserot, Michel Bord, Patrick Amis, Olivier de Bandt.  
**Front row:** Jean-Claude Huyssen, Bertrand Peyret, Philippe Richard, Paul Coulomb.





# 3 Activities of the ACPR Supervisory College

The ACPR Supervisory College handed down

502<sup>5</sup>

decisions in 2013, mainly consisting of:

- | 442 decisions on individual situations
- | 29 decisions on general issues
- | 14 decisions on the organisation of the ACPR and its General Secretariat
- | 17 other decisions<sup>6</sup>

These decisions included:

- 91 administrative enforcement measures or other binding measures of a similar nature
- 18 injunctions concerning capital adequacy requirements
- 8 decisions to initiate disciplinary proceedings, including one proceedings that was closed on procedural grounds

## 3.1 DECISIONS ON GENERAL ISSUES

The ACPR Supervisory College adopted a number of decisions on general issues, in particular to clarify the information that must be submitted to it, after consulting interested parties. These decisions are published in the **ACPR's official register**, available through its website at **[www.acpr.banque-france.fr](http://www.acpr.banque-france.fr)**

Furthermore, at the request of the *Fédération bancaire française* (FBF), the College approved for the first time, pursuant to the provisions

of Article L. 612-29-1 of the Monetary and Financial Code, two codes of conduct. These codes cover information about total monthly banking fees and authorised overdraft amounts provided in banking statements, and the format of brochures detailing bank fees, with a standard summary and fee listing. These codes were published in the Official Journal, making them mandatory for FBF members.

In addition, in preparation for the entry into force on 1 January 2014 of the provisions of CRD 4 and its implementing regulation (EU Regulation 575/2013 of 26 June 2013 on prudential requirements for credit institutions and investment firms, also known as the CRR), the Supervisory College established domestic implementation procedures for the general options provided for in the CRR and coming under the ACPR's jurisdiction. This decision was published in the ACPR's official register.

5. Not including decisions taken by the Chair of the College on licences and authorisations under delegated powers.

6. Including transmission of information or opinions of other authorities and approvals of reports or documents with publication.

## DECISIONS ON GENERAL ISSUES PUBLISHED IN 2013

### DECISION ON GENERAL ISSUES IMPLEMENTING EUROPEAN PROVISIONS

**Décision n° 2013-C-110** Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) 648/2013

### INSTRUCTIONS

<b>Instruction n° 2013-I-01</b>	amending Instruction 2009-01 of 19 June 2009 on the introduction of the unified financial reporting system
<b>Instruction n° 2013-I-02</b>	creating Schedule C22 on supervision of profit-sharing
<b>Instruction n° 2013-I-03</b>	creating Schedule C23 on minimum guaranteed rates
<b>Instruction n° 2013-I-04</b>	creating Schedule C26 on monitoring Class 26 agreements
<b>Instruction n° 2013-I-05</b>	creating Schedule C24 on loss reserves for future claims that have not yet materialised
<b>Instruction n° 2013-I-06</b>	amending Instruction 2011-I-14 of 29 September 2011 on the supervision of risks to home loans in France
<b>Instruction n° 2013-I-07</b>	amending Instruction 2009-01 of 19 June 2009 on the introduction of the unified financial reporting system
<b>Instruction n° 2013-I-08</b>	on required disclosures under point VI of Article L. 561-3 and point III of Article D. 561-3-1 of the Monetary and Financial Code
<b>Instruction n° 2013-I-09</b>	on the forms for licence applications, agent disclosures, notification under the freedom of establishment and the freedom to provide services, notification of use of an agent or distributor in a Member State of the European Union or in another State party to the European Economic Area Agreement, for electronic money institutions
<b>Instruction n° 2013-I-10</b>	on information about money changers' anti-money laundering and counter-terrorist financing systems
<b>Instruction n° 2013-I-11</b>	amending Instruction 2010-06 on the introduction of the unified financial reporting system for payment institutions
<b>Instruction n° 2013-I-12</b>	amending Instruction 2009-01 of 19 June 2009 on the introduction of the unified financial reporting system
<b>Instruction n° 2013-I-13</b>	on the forms for reporting a credit institution licence exemption for the provision of banking payment services, reporting an electronic money institution licence exemption for the issue and management of electronic money, and reporting a payment institution licence exemption for the provision of payment services
<b>Instruction n° 2013-I-14</b>	amending Instruction 2009-01 of 19 June 2009 on the introduction of the unified financial reporting system
<b>Instruction n° 2013-I-15</b>	on monitoring flows in relation to life insurance policies
<b>Instruction n° 2013-I-16</b>	on the communication by certain reporting institutions of their international Legal Identity Identifier to the ACPR
<b>Instruction n° 2013-I-17</b>	amending Instruction 2011-I-08 on commitments linked to international banking activities
<b>Instruction n° 2013-I-18</b>	on applications to approve programmes of unsecured loans by insurance companies

### GUIDELINES

Guidelines on the concept of politically exposed persons (PEPs) (version including update of legal and regulatory provisions at 12 November 2013)

Guidelines on the concept of equivalent third countries (version including update of legal and regulatory provisions at 12 November 2013)

### SECTOR ENFORCEMENT PRINCIPLES

Sector enforcement principles on the beneficial owners of collective investment schemes

Sector enforcement principles on correspondent banking

### NOTICE

Procedures for calculating the 2013 solvency ratio

### POSITION

**Position 2013-P-01** on application of Regulation 97-02 to intermediation in banking transactions and payment services

### RECOMMENDATION

**Recommandation 2013-R-01<sup>7</sup>** on gathering customer information in the framework of the duty to provide advice on life insurance policies

### CODES OF CONDUCT APPROVED

Code of conduct on information about total monthly banking fees and authorised overdraft amounts provided in banking statements

Code of conduct on the format of brochures detailing bank fees, with a standard summary and fee listing  
Supervisory

7. Recommendation made by the Supervisory College in late 2012 and published in early 2013.



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## I. OVERVIEW OF THE ACPR

### 3. ACTIVITIES OF THE ACPR SUPERVISORY COLLEGE

#### 3.2 Individual decisions

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### 3.2 INDIVIDUAL DECISIONS

Issues relating to individual entities are examined by **the sectoral Sub-Colleges and the Supervisory College meeting in restricted session**. They relate in particular to licensing applications and, for institutions that are already licensed, to applications for changes of situation, authorisations and waivers provided for by the regulations, as well as to supervisory follow-up action, which may include injunctions, administrative enforcement measures or sanction proceedings, as the case may be.

In 2013, the Supervisory College adopted a total of **442 measures affecting individual institutions**.

#### A. Licences and authorisations

Institutions wishing to carry on banking or insurance activities must submit a licensing application to the ACPR. Pursuing an unlicensed business may result in criminal penalties.

Pursuant to Article L. 612-2 of the Monetary and Financial Code, when an institution is issued with a

licence, it acquires a status that brings it under the ACPR's scope of supervision. Generally speaking, the College pays particularly close attention to the quality of licensing applications, which are often coupled with commitments or conditions. To ensure better public disclosure and customer protection, Article L. 612-21 of the Monetary and Financial Code empowers the Authority to draw up and publish a list of licensed entities. **This list is published in the Licences and Authorisations section of the ACPR's website**. See Chapter 2 for more information about licensing and authorisation activities.

The College examined a large number of activities subject to authorisation in 2013. Any amendment to or extension of a licence issued by the College must be referred to it, and it can also withdraw licences. Accordingly, the College withdrew the licence of a payment institution that no longer complied with its requirements.

Regulations also stipulate that reporting institutions must obtain authorisation from the College to carry out certain transactions or use internal approaches for calculating regulatory ratios. The College can also authorise reporting institutions to apply alternative methods for calculating management ratios under certain conditions provided for by the laws and regulations, or grant temporary waivers.

#### B. Supervision

**The College is charged with setting supervisory priorities**, both for its main focal areas and for the resources allocated to them. The special organisational arrangements for these tasks are the responsibility of the Secretary General. In this regard, the College reviews the findings of individual inspections carried out in the previous year as well as general issues of financial stability, which inform its thinking.

Also, in the course of the year, the College regularly makes major decisions concerning institutions in the banking and insurance sectors, based on supervisory findings and following a procedure that ensures that all sides of each case are heard.

#### C. Administrative enforcement measures

The ACPR Supervisory College adopted 98 final decisions in 2013 (109 including renewals of previously adopted measures).

The College issued 18 injunctions requiring credit institutions to hold capital in excess of the minimum amount laid down in regulations or to adjust the level of the requirements that it had imposed on institutions. In addition, the College required five credit institutions to take measures within a specified time to bring their procedures into line with the recommendations and principles published by the European Banking Authority (EBA) and the European Securities and

Markets Authority (ESMA) on contributions to market indices. Furthermore. The College instructed one insurer whose registered offices are outside France to bring policies marketed in France into compliance with the provisions of the Insurance Code.

The ACPR continued to step up its use of cease-and-desist orders to correct breaches of mandatory provisions (a power which the College has delegated to the Chairman – see delegation decision 2010-10 of 12 April 2010, as amended, published in the Official Journal). In all, 18 measures

were imposed in 2013, while a further 5 were initiated. These measures related to prudential ratios (liquidity, solvency, large exposures), compliance with internal control rules and anti-money laundering and counter-terrorist financing (AML/CTF).

The College required three institutions to submit recovery programmes (Article L. 612-32 of the Monetary and Financial Code) and instructed two insurers to submit short-term funding plans (Article R. 323-3 of the Insurance Code) for its approval. The College did not require any safeguarding

programmes (Article R. 510-4 of the Mutual Insurance Code) or restructuring programmes (Article R. 931-5-2 of the Social Security Code) to be submitted in 2013. It placed one mutual insurer under special supervision, in view of its situation.

The College also issued three sets of measures to limit or prohibit activities, and in two cases, imposed a ban on the free disposal of some or all assets, with the aim of either protecting customers or preventing the institution's financial position from deteriorating.



The ACPR General Secretariat had 1,060 employees at end-2013.



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## I. OVERVIEW OF THE ACPR

### 3. ACTIVITIES OF THE ACPR SUPERVISORY COLLEGE

#### 3.2 Individual decisions

Pursuant to Article L. 612-1-II of the Monetary and Financial Code, the ACPR published the measures imposed on two insurers. The ACPR issued one decision against Compagnie Nantaise d'assurances maritimes et terrestres, instructing it to review its investment policy, which was chiefly concentrated on property and hence non-compliant with the provisions of the Insurance Code on compliance by insurers with the speciality rule, resulting in the company's failure to meet its regulated commitments. This decision was the subject of a notice published on 22 October 2013 in the Authority's official register. The College also informed the public through press releases issued on 18 October and 16 December

2013 that Teucer Gestion Privée had been banned from accepting insurance premiums.

In addition, to make its actions more effective, the ACPR is entitled to use its powers in combination whenever it considers that the remedy it is targeting would be better achieved by doing so.

Thus, in 2013, in an effort to restore their financial positions, the College imposed bans on two insurers on freely disposing of some or all assets, combined, in one case, with a request for a short-term funding plan and, in the other case, with the decision to place the entity under provisional administration.

In the case of another insurer, the College decided, after rejecting the recovery programme submitted to it, to place the entity under special supervision.

One investment firm, after being placed under provisional administration, was the subject of protective measures.

#### D. Initiation of disciplinary proceedings and follow-up

The Supervisory College initiated seven disciplinary proceedings in 2013, plus one disciplinary proceeding that was closed on procedural grounds, and referred these cases to the Sanctions Committee. The proceedings that were opened in 2013 covered breaches of internal control and/or AML/CTF rules and breaches of prudential regulations. The College also referred three cases to the Sanctions Committee relating to breaches of provisions on customer protection concerning access to banking services and unclaimed life insurance policies.





The ACPR monitors institutions' responses to the measures it adopts, including action to rectify breaches that have been the subject of sanctions or administrative enforcement measures such as cease-and-desist orders. This process ensures that noted breaches are rectified and includes on-site inspection where necessary. Monitoring arrangements for certain administrative

enforcement measures, such as recovery programmes and special supervision, are laid down in the Monetary and Financial Code. If it is found that the institution is not in compliance with its statutory and/or regulatory obligations, despite the measures adopted by the ACPR, the Supervisory College will review the specific situation of the entity in question, which may lead it to initiate disciplinary

proceedings. Similarly, the College may be asked to examine evidence of further serious breaches by a previously sanctioned entity.

In 2013, no disciplinary proceedings were opened as a result of follow-up on measures adopted by the College.

## ENFORCEMENT MEASURES

- | Warnings
- | Cease-and-desist orders
- | Recovery programmes
- Protective measures**
- | Appointment of a provisional administrator

## PROTECTIVE MEASURES

- | Placement under special supervision
- | Limitation or temporary prohibition of certain activities
- | Suspension, restriction or temporary prohibition of the free disposal of some or all of the supervised entity's assets
- | Order to suspend or limit the payment of surrender values, the right to execute arbitrage transactions, the payment of policy loans or the right of opt-out
- | Transfer, without consultation, of all or part of a portfolio of insurance contracts or mutual insurance payments, and of all or part of a portfolio of loans or deposits of a credit institution
- | Prohibition or limitation on the dividend payments to shareholders or returns on membership shares
- | Suspension of one or more senior executives
- | Suspension of persons referred to in Article L. 612-23-1 (senior executives, members of the board of directors or supervisory board or any other body performing equivalent functions, members of the management board), where they no longer meet the fitness and propriety, competence and experience criteria required by their position and where such steps are urgently required to meet the needs of sound and prudent management
- | Limitation or suspension of the execution of certain transactions by a person whose actions could affect financial stability and in certain emergency situations provided for under European provisions

## PARLIAMENTARY HEARINGS ATTENDED BY THE ACPR IN 2013

DATE	TOPIC	REQUESTED BY	ACPR REPRESENTATIVE
15 January 2013	Banking Separation and Regulation Bill	Senate Finance Committee	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
30 January 2013	Banking Separation and Regulation Bill	National Assembly Finance, Mainstream Economy and Budget Control Committee	Christian Noyer, Governor of the <i>Banque de France</i> , ACPR Chairman, and Danièle Nouy, ACPR Secretary General
30 January 2013	Banking Separation and Regulation Bill	Senate Finance Committee (panel discussion)	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
20 February 2013	Resolution and management of bank failures	Senate Finance Committee (panel discussion)	Frédéric Visnovsky, ACPR Deputy Secretary General
27 February 2013	Banking Separation and Regulation Bill	Senate Economic Affairs Committee	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
1 <sup>er</sup> March 2013	Banking Separation and Regulation Bill	Senate Finance Committee	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
21 may 2013	Measures to combat tax havens	Information taskforce, National Assembly Foreign Affairs Committee	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
23 may 2013	Draft European regulation on benchmarks, notably Libor and Euribor, and advances in the USA and UK	Richard Yung, Senate European Affairs Committee	Danièle Nouy, ACPR Secretary General, and Frédéric Visnovsky, ACPR Deputy Secretary General
30 may 2013	Consumer Bill	National Assembly Finance Committee	Fabrice Pesin, ACPR Deputy Secretary General
30 may 2013	Bill on the prevention of tax fraud and major economic and financial crime	National Assembly Finance, Mainstream Economy and Budget Control Committee	Édouard Fernandez-Bollo, ACPR Deputy Secretary General
9 July 2013	Role of banks and financial participants in financial evasion, the tax impact on economic balances, and the effectiveness of preventive legislative, legal and administrative arrangements	Senate Enquiry Committee	Christian Noyer, Governor of the <i>Banque de France</i> , ACPR Chairman
9 July 2013	Role of banks and financial participants in financial evasion, the tax impact on economic balances, and the effectiveness of preventive legislative, legal and administrative arrangements	Senate Enquiry Committee	Danièle Nouy, ACPR Secretary General
23 July 2013	Bill on the social and community-based economy (mutual and providential certificates)	Senate Finance Committee	Cyril Roux, ACPR First Deputy Secretary General
20 september 2013	Unclaimed Assets Bill	National Assembly Finance, Mainstream Economy and Budget Control Committee	Fabrice Pesin, ACPR Deputy Secretary General



## 4 Introduction of the single supervisory mechanism in the banking sector

The introduction of the single supervisory mechanism, under the auspices of the European Central Bank (ECB), will **result in material changes to the ACPR's prudential oversight of the banking sector**. These changes, which will not affect activities that have not been transferred to the ECB (sanction decisions, AML, supervision of investment firms and business practices, etc.) will primarily, although not exclusively, affect supervisory activities.

Accordingly, supervision of major banks (specifically, 13 groups in France accounting for around 95% of the domestic banking system's total assets) will be carried out by Joint Supervisory Teams (JSTs), which will be set up gradually in the first half of 2014 so that they are fully operational by 4 November 2014 when the regulation on the Single Supervisory Mechanism (SSM) comes into force. The JSTs, which will be managed by ECB coordinators, will include staff from the ECB as well as personnel from the national authorities, which will continue to perform first-level checks and risk analyses and remain the point of contact for banks, notably for the purposes of receiving prudential and financial data.

Similar changes are ahead for on-site inspections. In other words, while on-site inspections will be independent of ongoing supervision, as is currently the case in France, the programmes of activity for on-site inspection teams will be centrally established and coordinated.

Beyond these organisational changes, the introduction of the SSM will bring adjustments to working methods, which will be defined by a supervisory manual to be applied uniformly by all euro area national authorities. The manual, which the ACPR was heavily involved in preparing, supplemented by the framework regulation, organises the supervisory tasks within the SSM and specifies the central/local distribution of roles. It also defines the methodology for the risk assessment system.

The manual does not cover supervisory activities only, however. It encompasses cross-cutting activities, such as involvement in the development of international regulations, analyses, licensing and authorisation, and legal aspects, which will also be covered by the future federal system set up by the SSM. Thus, while remaining active in their respective areas, ACPR directorates involved in the mechanism will have a portion of their work coordinated by, and increasingly collaborate with, the ECB.

Overall, the ACPR is looking forward to a busy year in 2014. Highlights will include European projects aimed at strengthening supervisory standards and practices across the single market. A member of the supervisory board and represented in the technical groups set up over 2012 to support the ECB's preparations, the ACPR wants to be an influential player in the new mechanism.





# 2013

## Highlights

### January

**8th:** The ACP published a **recommendation on gathering customer information** applicable to the marketing of life insurance policies.

This document was the fruit of work done in conjunction with the *Autorité des marchés financiers (AMF)*, which also published a position applicable to the marketing of financial instruments.

### April

**22nd:** The ACP prepared an **initial assessment of its work on post mortem revaluation clauses in life insurance policies**. As part of inspecting unclaimed life insurance policies, it analysed the post mortem revaluation clauses of 61 policies marketed by around 40 insurers.

### May

**29th:** Chairman Christian Noyer and Vice-Chairman Jean-Philippe Thierry presented the ACP's **third annual report** to the press.

### June

**14th:** The ACP organised a conference at *Maison du Barreau*. The morning was devoted to the **new challenges facing the European Union**. The afternoon session, introduced by Vice-Chairman Jean-Philippe Thierry, was titled "**Solvency I to Solvency II**".

**26th:** The **ACP Sanctions Committee** disciplined UBS France, issuing a reprimand and imposing a EUR 10 million fine.

### July

**9th:** For the first time, the ACP approved **codes of conduct** concerning marketing and customer protection.

**26th:** Banking Separation and Regulation Act 2013-672 was published in the Official Journal. It assigned new powers to the Authority on preventing and resolving banking crises. The ***Autorité de contrôle prudentiel*** became ***the Autorité de contrôle prudentiel et de résolution (ACPR)***.

### September

**30th:** The ACPR and the AMF launched a **public consultation on crowdfunding**.

## October

**14th:** Sandrine Lemery was made ACPR Deputy Secretary General before being appointed **First Deputy Secretary General** on 2 January 2014.

**23rd:** The European Central Bank (ECB) launched a **comprehensive assessment of credit institutions** prior to assuming its role as supervisor (risk assessment, asset quality review and stress tests for the main banks). The ACPR was heavily involved in the exercise, which concerned 13 French banking groups.

## November

**13th:** The ACPR organised a conference for professionals that explored two topics: **supervision of business practices and the introduction of the single supervisory mechanism**. Christian Noyer, ACPR Chairman, introduced the event, which attracted around 500 participants – a record number.

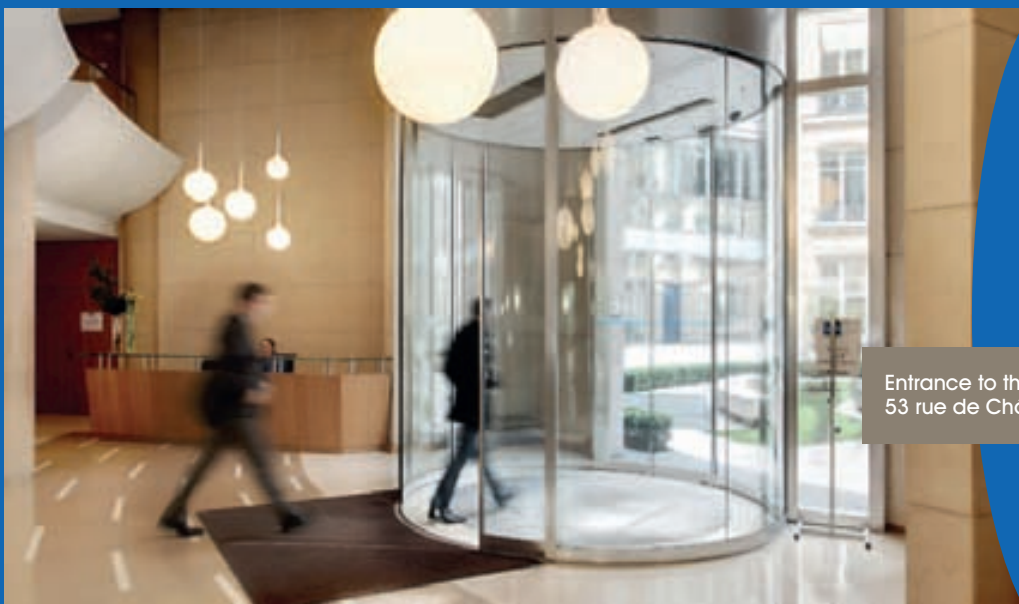
The European Parliament, Council and Commission reached an **agreement on the Omnibus II Directive** as part of triologue discussions. The Solvency II rules come into effect on 1 January 2016.

**25th:** **Jean-Marie Levaux was appointed Vice-Chairman** of the ACPR to replace Jean-Philippe Thierry, who resigned.

## December

**12th:** The ACPR organised a **conference under the heading of “Solvency II, preparing for 2016”** at the auditorium of the *Banque de France*. Jean-Marie Levaux, ACPR Vice-Chairman, introduced the event, which was attended by around 250 professionals.

**16th:** **Danièle Nouy**, ACPR Secretary General, was appointed to **chair the supervisory board of the single supervisory mechanism** at the European Central Bank. **Édouard Fernandez-Bollo** became ACPR Secretary General in January 2014.



Entrance to the ACPR:  
53 rue de Châteaudun, Paris 9<sup>th</sup>.





- 1. Licences and authorisations
- 2. Risk exposure of the financial system: 2013 assessment
- 3. Prudential supervision
- 4. Resolution of banking crises

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58  
66  
92





# Ensuring the stability of the financial system

The ACPR works to maintain the stability of the financial system. It licenses entities operating in the banking and insurance sectors and conducts ongoing supervision of reporting entities.

For this, the ACPR relies on several divisions tasked with licensing and supervising banks and insurers; it also draws on research to analyse risks that may affect the financial sector as a whole.

In 2013, the ACPR was assigned powers to prevent and resolve banking crises. A specific division was set up to perform this new role.



# Licences and authorisations

A substantial proportion of the decisions made by the ACPR Supervisory College, both in restricted sessions and through the Banking and Insurance Sub-Colleges, deals with licensing and authorisation applications. In addition, the College Chairman makes other decisions using his delegated powers.

**The ACPR's Licensing, Authorisation and Regulation Division examined a total of 968 applications from the banking and insurance sectors, consisting of 602 licensing and authorisation applications and 366 senior management appointments.**

Applications for licences, licence extensions, changes of ownership, asset transfers and restructuring require close scrutiny in cooperation with the ACPR's supervision departments. Such applications were the subject of 353 meetings with institutions during the year.

As well as dealing with these applications, the ACPR gives its opinion on proposed appointments of statutory auditors by institutions supervised by the ACPR (except for certain types of organisations listed in the Monetary and Financial Code) (see inset p.51). A total of 989 opinions were issued in 2013 (566 in the banking sector and 423 in the insurance sector).

## 1.1 BANKING SECTOR

### A. Developments in the banking and financial sector

The trend towards concentration in the banking sector, which was observed in previous years, continued in 2013. The small number of new institutions created was noticeably lower than the number of licence withdrawals, as banking groups streamlined and rationalised their organisations.

There was rationalisation among investment services providers (ISPs) as well, particularly in securities brokerage and employee savings. Meanwhile, control of certain market infrastructures changed across borders.

The number of payment institutions and electronic money institutions did not change greatly, but the many applications submitted in 2013 are likely to result in the licensing of new entities in 2014. The number of payment institution agents increased sharply, with sustained growth expected to continue in 2014.

### Licensing and authorisation statistics

602<sup>8</sup>

licensing and authorisation decisions in 2013  
of which 502 concerned the banking sector  
and 100 concerned the insurance sector

8. This includes the 428 decisions taken by the Chair of the Supervisory College on licensing and authorisation under delegated powers.

## B. Highlights

### ■ LICENCES

The ACPR College issued a licence to Banque publique d'investissement (BPI), which was created under Act 2012-1559 of 31 December 2012 from the merger of OSEO, Fonds stratégique d'investissement and CDC Entreprises. BPI's establishment forms part of the public authorities' broader reform of the framework for financing the economy. The aim is to have a financial institution that is dedicated to providing equity and bank financing for micro-, small- and medium-sized enterprises and mid-tier firms. The holding company, Bpifrance, which has financial holding company status, owns two subsidiaries: Bpifrance Financement, a credit institution dedicated to business financing, and Bpifrance Investissement, an equity capital specialist not supervised by the ACPR.

Working towards the goal of ensuring long-term refinancing for its mortgage and secured credit portfolio, Banque Postale was authorised by the ACPR College to create Banque Postale Home Loan SFH, a subsidiary with home finance company status (as defined by Articles L. 515-34 and following of the Monetary and Financial Code).

The new entity will finance loans to the parent company through issues of bonds backed by residential property loans.

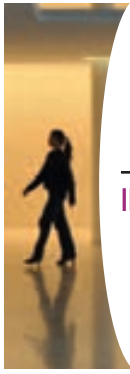
The French branch of Exim Bank, a publicly-owned Chinese bank specialised in export credit, was licensed in 2013. The branch's main business will be to provide financing and guarantees to Chinese industrial exporters and international buyers of Chinese capital goods. Exim Bank is the third Chinese banking office to be set up in France, after Bank of China Limited, which was established in 1985, and International and Commercial Bank of China (ICBC), which has done business in France as the European branch of a Luxembourg bank since November 2010.

Pursuant to European provisions on the introduction of a system for trading greenhouse gas emission allowances in the European Union, BNP Paribas was authorised to take part in spot allowance auctions on behalf of its clients.

### ■ OWNERSHIP CHANGES

#### Changes in major shareholdings subject to the authorisation of the ACPR College included the following in 2013:

- changes in ownership leading to a change in control:
  - Banque Postale acquired Banque Privée Européenne from Crédit Mutuel Arkéa, which gave it an entity specialised in private banking,
  - General Motors Financial Company Inc. acquired GMAC Banque from Ally Financial Inc. Group, allowing it to regain control, which it lost in 2006, over its European customer and dealer financing division,
  - control of Sogama was transferred from Caisse des dépôts et consignations to Bpifrance Financement as part of the merger that led to the creation of the Bpifrance Group;
- acquisitions by majority shareholders of minority shareholders' stakes:
  - Fiducial Financial Services, a non-bank group, acquired the stake held by Banque Palatine (BPCE Group) in Banque Fiducial, becoming the sole shareholder,
  - Financière IDAT, the holding company of the Oddo Group, acquired from Allianz, an insurance group, its 20% stake in Oddo & Cie, a bank.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.1 Banking sector

#### WITHDRAWALS OF LICENCES

Marjorie Limon,  
Licensing, Authorisation  
and Regulation Division.



“  
*Applications to withdraw licences in 2013 essentially reflected an overall push among banking groups to streamline their organisations and refocus their business.*  
”

**The ACPR College withdrew several licences as banking groups streamlined their organisations** by merging businesses with parent companies:

- Cogéra SA, which specialises in financing sales networks for mobile equipment, was taken over by its parent company, Diac (RCI Banque-Renault group);
- Banque Française, a bank providing investment services and authorised to act as a custody account-keeper, was taken over by Banque Fédérale Mutualiste;
- Batiroc Normandie, a financial company specialised in property leases, was taken over by Bail Immo Nord, which was already in charge of its administrative management;
- Réunibail, a financial company specialised in providing equipment leasing services to business and retail clients in Réunion and Mayotte, was taken over by Société réunionnaise de financement (SOREFI);

- Expanso was taken over by Caisse d'épargne et de prévoyance Aquitaine Poitou-Charentes;
- Compagnie de banques internationales de Paris (CBIP) was taken over by Attijariwafa Bank Europe;
- Eurofactor was taken over by Crédit Agricole Leasing & Factoring.

Génécal and Généfimmo, two Société Générale group financial companies licensed to finance lease transactions, applied to have their licences withdrawn because their regulated activities had been dormant for several years.

**Several licences were withdrawn as firms changed their business and/or geographical focus:**

- Cofitem-Cofimur, a financial company specialised in property leasing, applied to have its licence withdrawn because it wanted to concentrate on its core property management business;

- the licences of ING Lease France SA, a financial company specialised in leasing, and ING Real Estate Finance, a financial company specialised in professional real estate financing, were withdrawn as part of the reorganisation of the ING group, which led the group to continue operating in France through the European branch of ING Bank NV, a Dutch bank;
- Banco do Brasil, which was licensed as a non-EEA bank branch, applied to have its licence withdrawn as part of the international restructuring of the group, which opted to pursue its development in Europe through a network of European branches (including one in France) based out of a fully-chartered bank licensed in Austria;
- GE Commercial Distribution Finance SA applied to have its licence withdrawn as part of the



process of concentrating all of the General Electric group's inventory and receivables financing activities in the UK;

one ISP was also affected by steps to refocus activity outside France. JB Drax Honoré, an investment firm, applied to have its licence withdrawn after all its business activities were transferred to JB Drax Honoré (UK) Limited, its London-based sister company, reflecting the fact that the ISP's core business had been moved to the UK. The company will continue to provide investment services in France through a European branch.

**As they refocused their business, some credit institutions applied either to narrow the scope of their ISP licence** (Banque Monétaire et Financière BMF) or to relinquish ISP status (Francetel, Attijariwafa Bank Europe, Caisse de Bretagne de Crédit Mutuel Agricole).

As part of the orderly resolution plan for the Dexia group approved by the European Commission, Dexia Bail, having terminated its regulated banking and financial activities (leasing for local authorities), applied to have its licence withdrawn, which became effective with the business's sale to the Sofimar group, a finance leasing specialist. Investment firm Bil Finance, which was licensed in June 2012 as part of Dexia group's restructuring, applied to have its licence withdrawn when its business assets were

sold to DSF Markets, another investment firm. Caution Grainol, a mutual guarantee company specialised in providing guarantees for cereals traders in France, applied to have its licence withdrawn owing to the definitive termination of its business following the adoption of legislative provisions that removed the requirement for the institution to be involved in providing guarantees for cereals traders.

**As in 2012, the number of financial companies declined.** Following transposition into national law of the Fourth Capital Requirements Directive (CRD 4), financial companies have been allowed since 1 November 2013, for a 12-month period, to opt for finance company status. At 31 December 2013, the ACPR College had examined and accepted three applications to take this option.

**The number of banking institutions in Monaco fell too,** with two credit institutions (Bank Audi Sam-Audi Saradar Group and Monacredit) having their licences withdrawn. In an effort to rationalise its organisation, the Coutts group applied to have its Monaco branch, previously part of its UK-based bank and lending specialist, attached to its Swiss subsidiary, which is primarily focused on private banking. In regulatory terms, this organisational change led to a new licence as a Monaco branch authorised to perform custody account-keeping, along with a licence withdrawal.

The changes provided the opportunity for the group to expand the programme of operations of its Monaco offices to align them with the Swiss subsidiary's programme.

In a push to expand the line-up of services offered to customers, Caceis Bank France and Boursorama, two **banks providing investment services**, applied to the ACPR College to have their licences extended, in the first case to include the investment service of third-party order execution and in the second to include the investment service of proprietary trading.

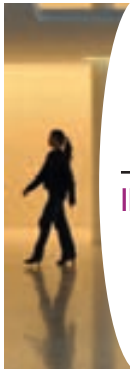
Crédit municipal de Nice was authorised to expand its deposit-taking capacity by offering customers time deposits.

### C. Cross-border transactions involving market infrastructures

In the market infrastructure sector, 2012 featured a change in the indirect control of the Paris clearing house, LCH.Clearnet SA, which was taken over by the London Stock Exchange Group (LSE Group). The deal became effective in early 2013, following changes in the regulatory and prudential framework for clearing houses owing to EMIR<sup>9</sup> implementation.

The ACPR College authorised the change in indirect control of Euronext Paris SA, the credit institution responsible for operating regulated markets in Paris, which was transfer-

9. European Market Infrastructure Regulation.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.1 Banking sector

red to International Continental Exchange (ICE), a US group specialising in the management of trading platforms, particularly for derivative financial products. Euronext Paris SA, which has twin credit institution and market operator status, began discussing the possibility of withdrawing its banking licence, given that European regulatory developments have changed credit institution status to make it mandatory to both receive repayable funds from the public and grant loans.

#### D. Investment firms

**Very few investment firms were created in 2013.** The ACPR College approved the conversion of Fundquest France, a portfolio management company, into an investment firm so that it could offer the service of investment advice as part of the reorganisation of the BNP Paribas group's asset management business line.

Meanwhile, investment firm Dubly-Douilhet SA applied to be converted into a portfolio management company.

Equitim, a specialist in financial engineering, was licensed as an investment firm to enable it to provide the investment services of non-guaranteed placement, investment advice and order reception and transmission for third parties in relation to debt securities, CIS units and forward financial instruments.

## CONCENTRATION AMONG EMPLOYEE SAVINGS SCHEME ACCOUNT-KEEPERS

In 2013, there was a trend towards concentration among the entities that keep the accounts of employee savings schemes, seemingly driven by efforts to unlock economies of scale:

| Fédéris Épargne Salariale, an investment firm and subsidiary of Malakoff-Médéric, an insurance and providential group, was sold to BNP Paribas, which integrated the provider's activities within its employee savings scheme management department, leading to the withdrawal of Fédéris's licence.

| Humanis and CNP Assurances, two insurance and providential groups, combined their custody account-keeping activities for employee savings schemes. The merger led to the creation of a new investment firm called Inter Expansion-Fongepar, which took over the businesses of Interfi, an investment firm, and Inter Expansion, a portfolio management company, both belonging to the Humanis group, and of CNP group investment firm Fongepar, which was absorbed by the new licensed institution and whose licence was therefore withdrawn.

Kepler Capital Markets, an investment firm focused on institutional equity brokerage, was authorised to take control of CA Cheuvreux SA, a Crédit Agricole group subsidiary specialised in the same sector. This acquisition, which was followed by the withdrawal of the acquired investment firm's licence at the end of 2013, reflects the trend among securities brokers to reorganise against a backdrop of muted activity on financial markets.

### E. Payment institutions and electronic money institutions

Four years after the transposition into French law of the Payment Services Directive, **19 payment institutions had been licensed by end-2013**. Two licences were issued in 2013, of which one became definitive (Financière des Paiements Électroniques). However, many applications were submitted at the end of the year and should go through during 2014. The forthcoming adoption of crowdfunding legislation should also result in new projects (see inset p.82).

Of these 19 payment institutions, eight used agents, whose number greatly increased in 2013 (462 compared with 164 one year earlier). As it stepped up marketing for its Nickel accounts, La Financière des Paiements Électroniques worked to expand quickly by appointing tobaccoists to act as its agents, with the total number rising to 134 by end-2013.

Most licensed institutions offer a more or less extensive range of payment services to a diverse



roster of professional, business and individual customers. However, six institutions specialise exclusively in fund remittance.

An extension was granted to BNC SA to provide credit transfer services (payment service 3° c) in connection with a new range of services offered to French cross-border workers who work in Switzerland.

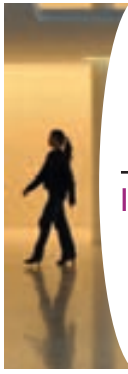
The ACPR also withdrew the licence of MoneyGram France, which was exclusively providing fund remittance services under financial company status.

With the publication of Act 2013-100 of 28 January 2013 implementing various provisions to amend legislation to accommodate European Union law on economic and financial matters, France transposed the Second Electronic Money Directive (Directive 2009/110/EC of 16 September 2009). The law created a new stand-alone category of electronic money issuer, and the first licence under the new category was issued

by the ACPR Supervisory College at its meeting in December 2013. Pursuant to the new law, three institutions, S-Money, Ticket Surf International and W-HA, which were previously licensed as financial companies and whose business is limited to the issuance and management of electronic money, were deemed to have been licensed as electronic money institutions since 30 January 2013.

In September 2013, the ACPR withdrew the licence of Expay, a company that was carrying on the business of electronic money issuance while being licensed as a financial company.

Furthermore, with regard to the criteria for an exemption from the requirement to be licensed as a payment institution established by the Monetary and Financial Code and following Act 2013-100 of 28 January 2013 on the criteria for an exemption from the requirement to be licensed as an electronic money institution, Royal Canin France and Colibri were exempted



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.1 Banking sector

from the requirement to be licensed as payment institutions, while SIG LILLE was exempted from the requirement to be licensed as an electronic money institution (the criteria are the same for both categories of institution). Société de Développement et d'Exploitation par le Web de Ze Kids Store (SDZE) received a double exemption, relieving it of the need to be licensed as a payment institution or an electronic money institution. The ACPR College granted a double exemption because the com-

pany conducts its payment and electronic money issuance services within a single business model using the same web platform. Overall, by end-2013, 26 companies were exempted from the requirement to be licensed as payment and/or electronic money institutions.

#### F. Money changers

Three years after the completion at end-2011 of the authorisation regime set up as part of the scheme created by Order 2009-104 of 30 January 2009 applicable to money changers, the number of authorised professionals remained

stable. There were 14 new authorisations in 2013 and eight withdrawals, with one license withdrawn automatically by the ACPR because the entity had not been doing business for more than six months. **At end-2013, 176 institutions were authorised to do business, compared with 173 in 2012.**

#### G. Use of the European passport

The ACPR received passport notifications from institutions headquartered in other EEA states and examined passport applications from French institutions.



602 licensing and authorisation decisions were made in 2013.

## ■ EEA INSTITUTIONS OPERATING IN FRANCE

### • Under the freedom of establishment

In 2013, the ACPR was informed about the establishment of five branches of credit institutions, of which two from Luxembourg. Meanwhile, two operations were closed, bringing the number of branches to 65 at end-2013.

The number of branches of investment firms fell from 49 to 45, as three branches were opened and seven were closed, of which six were British. Of these, five continue to do business under the freedom to provide services in France.

Three new branches of payment institutions from Germany and the UK (two) were set up in France, bringing the total number to seven (six of which are from the UK).

The ACPR received a third notification from an electronic money institution (EMI), from Luxembourg, that it was using a distributor. In all, two British EMIs and one Luxembourg EMI are covered by this type of passport.

The ACPR also received 55 notifications about modifications to branches.

Since transposition of Directive 2007/64/EC in 2009, European payment institutions have been able to use agents based in France. At 31 December 2012, 5,310 agents were declared by

seven institutions, six from the UK and one from Ireland, of which 55% were attributable to the Irish entity. In 2013, the ACPR received notifications for 1,175 new agents. For the first time, the Irish institution reduced its network of agents in France, terminating the mandates of 1,466 agents, while 655 new ones were reported, thus reducing the share of these agents in the total number of agents from 55% to 33%. Processing agent notifications from new payment institutions often entails many exchanges with the home country authorities to obtain the information needed to ensure that the institutions and their agents are in compliance with France's AML/CTF regulations.

### • Under the freedom to provide services (FPS)

The ACPR received 611 FPS notifications, including 436 new notifications and 175 closures. The volume of notifications under the FPS in France is growing steadily, with investment firms – mostly from the UK – accounting for 70% of the total.

## ■ FRENCH INSTITUTIONS OPERATING IN OTHER EEA MEMBER STATES

### • Under the freedom of establishment

Three investment firms and one credit institution notified the ACPR of their intention to open a branch in the EEA (in Sweden, Italy and the UK for the investment firms; in Italy for the credit institution). After checks that the administrative structures and financial position of the appli-

cant institutions were commensurate with the proposed plans, the dossiers were submitted for a decision to the ACPR Chairman (acting on delegation from the College). A further 37 notifications concerning changes to existing branches were also transmitted.

At 31 December 2013, in other EEA states, 135 branches of credit institutions and 22 branches of investment firms were established.

In 2013, the ACPR registered one agent and passed on notification to the host authority with a view to allowing the payment institution in question to supply payment services in another EEA state via this agent. At end-2013, two payment institutions were using agents in other EEA states, with one using 49 agents and the other using seven.

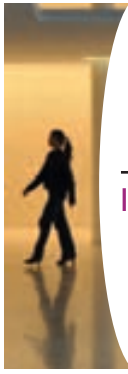
### • Freedom to provide services

When Croatia entered the EEA in 2013, two credit institutions and one payment institution gave notification of their intention to do business there.

A further 12 credit institutions, 11 investment firms and three payment institutions submitted FPS notifications to the ACPR.

At 31 December 2013, 217 institutions were operating in other EEA states under the FPS (156 credit institutions, 54 investment firms and seven payment institutions).





## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.1 Banking sector

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

	2012	2013	Change (number)
<b>LICENSED CREDIT INSTITUTIONS IN FRANCE</b>			
<b>Institutions licensed for all banking activities</b>	<b>303</b>	<b>302</b>	<b>-1</b>
Banks	193	192	-1
<i>of which branches of institutions having their registered offices in third countries</i>	<i>(21)</i>	<i>(22)</i>	<i>(+1)</i>
Mutual and cooperative banks	92	92	0
Municipal credit banks	18	18	-
<b>Financial companies</b>	<b>266</b>	<b>247</b>	<b>-19</b>
<b>Specialist financial institutions</b>	<b>3</b>	<b>3</b>	<b>-</b>
<b>SUB-TOTAL</b>	<b>572</b>	<b>552</b>	<b>-20</b>
<b>Branches of EEA credit institutions operating under the freedom of establishment</b>	<b>62</b>	<b>65</b>	<b>+3</b>
<b>TOTAL FRANCE</b>	<b>634</b>	<b>617</b>	<b>-17</b>
<b>Licensed credit institutions in Monaco</b>			
TOTAL Monaco	25	23	-2
<b>TOTAL FRANCE AND MONACO</b>	<b>659</b>	<b>640</b>	<b>-19</b>

<b>INVESTMENT FIRMS</b>			
<b>Investment firms licensed by the ACPR</b>	<b>93</b>	<b>91</b>	<b>-2</b>
Branches of investment firms operating under the freedom of establishment	49	45	-4
<b>TOTAL</b>	<b>142</b>	<b>136</b>	<b>-6</b>

<b>PAYMENT INSTITUTIONS</b>			
<b>Payment institutions licensed by the ACPR</b>	<b>17</b>	<b>19</b>	<b>+2</b>
Branches of payment institutions operating under the freedom of establishment	4	7	+3
<b>TOTAL</b>	<b>21</b>	<b>26</b>	<b>+5</b>

<b>ELECTRONIC MONEY INSTITUTIONS</b>			
<b>Electronic money institutions licensed by the ACPR</b>	<b>-</b>	<b>3</b>	<b>-</b>
Branches of electronic money institutions operating under the freedom of establishment	-	-	-
<b>TOTAL</b>	<b>-</b>	<b>3</b>	<b>-</b>

## ACPR OPINIONS ON THE APPOINTMENT OF STATUTORY AUDITORS AND SPECIAL AUDITORS

The ACPR is asked to give an opinion prior to the appointment of statutory auditors<sup>10</sup> to entities under its supervision<sup>11</sup>. It also issues opinions on the appointment of special auditors to mortgage credit institutions and home loan companies.

When preparing its opinion, the ACPR makes sure that statutory auditors and special auditors have the experience, skills and independence necessary to perform the proposed duties. Experience is assessed with regard to the size and nature of the business of the reporting entity proposing the appointment. Training undertaken by statutory auditors is also taken into account.

When processing an application for a prior opinion, the ACPR takes account of information on the proposed statutory auditor provided to it by the authorities with which it shares information. Thus, if the reporting institution issues securities admitted to trading on a regulated market, the ACPR asks the AMF for its observations on the proposed appointment. The ACPR may also contact the National Auditors' Oversight Board (*Haut Conseil du commissariat aux comptes*, H3C).

**In 2013, the ACPR reviewed 989 applications for opinions on the appointment of statutory auditors** (566 applications for opinions relating to reporting entities from the banking and financial sector and 423 applications for opinions relating

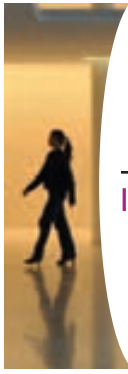
to insurers). In the case of 13 applications, the Authority asked for additional information from the statutory auditors or reporting entities. Requests for additional information covered the following areas:

- ▮ compliance with the provisions on task distribution where audits were to be done by several auditors (this applied to five applications);
- ▮ the experience of the proposed auditors or the organisation and procedures put in place by auditors (this applied to eight applications).

On 1 December 2013, the procedure for applying for an opinion on the appointment of statutory auditors went paperless. Reporting entities must now electronically file the documents referred to in ACPR Instruction 2012-I-01. The procedures for making an application to the ACPR are set out in the accompanying memo for the paperless submission of an application for an opinion on the appointment of statutory auditors, which is available on the ACPR's website under Licences and Authorisations. Professional associations, the National Institute of Statutory Auditors (*Compagnie nationale des commissaires aux comptes*) and reporting entities whose statutory auditors' appointments were expiring at 31 December 2013 were informed about the introduction of the new filing procedure.

10. Appointment or renewal of appointment of statutory auditors, change of natural person or addition of co-signatory performing duties in the name of a firm of statutory auditors.

11. Some exceptions are provided for in Article L. 612-43 of the Monetary and Financial Code.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.2 Insurance sector

#### 1.2 INSURANCE SECTOR

**In 2013, in the insurance sector, the ACPR made 228 licensing and authorisation decisions .**

As in 2012, most decisions (54) related to organisations governed

by the Mutual Insurance Code and dealt with mergers or transfers of portfolios (25) and transfer agreements (14). Decisions relating to undertakings governed by the Insurance Code, other than changes in senior executives (37), covered mergers or transfers of portfolios

(20), ownership changes (4), and licence applications and extensions (4). Ten decisions related to organisations governed by the Social Security Code, including the licence for B2V, a new provident institution.

Nature of decision	Insurance Code	Social Security Code	Mutual Insurance Code	Total
Licence application/extension	4	1	6	11
Transfer	10	4	4	18
Transfer/merger	10	4	21	35
Ownership change	4	0	0	4
Affiliation with SGAM <sup>12</sup> or UMG <sup>13</sup>	4	0	0	4
Licence lapsed/withdrawn	3	0	9	12
Risk transfer agreement	0	0	14	14
Change in senior executives	128	-	-	128
Other	2	0	0	2
<b>TOTAL</b>	<b>165</b>	<b>9</b>	<b>54</b>	<b>228</b>

#### A. Insurance firms

##### ■ MEASURES TO STREAMLINE ORGANISATIONS

With a view to combining its business to business to customers activities, which covers products for individual end clients that are distributed through business partners such as private companies, inter-governmental and non-governmental organisations, the Allianz group set up Allianz Worldwide Care SA, a French-based company, to handle its international health insurance products. As part of this, the group applied for a

licence, which will be followed in 2014 by an application to approve the transfer of the international health insurance contract portfolios of Allianz Vie, Allianz IARD and AWC Ltd, Allianz's existing Irish subsidiary, to the new entity.

The Axa group undertook restructuring measures as part of preparations for the entry into force of Solvency II, merging Axa Caraïbes, which was entirely owned by Axa France IARD, with its parent company. Operating in Martinique, Guadeloupe and Guyane, Axa Caraïbes chiefly sold auto and

personal and professional property insurance, with a smaller business in natural disaster insurance.

To rationalise its legal organisation, the Natixis group merged its three life and combined insurance companies: Assurances Banque Populaire Vie (ABP Vie), which sold individual non-unit linked life insurance policies, Natixis Assurances Partenaires (NAP), a combined insurance company specialised in loan insurance, and Vitalia Vie, a firm in run-off mode.

12. Société de groupe d'assurance mutuelle: group mutual insurance company.

13. Union mutualiste de groupe: mutual insurance group holding company.

The Aviva group transferred Eurofil's portfolio to Aviva Insurances, its retail property & casualty subsidiary. Eurofil was exclusively devoted to the direct sale of these products, primarily in the auto sector.

The Covéa group continued the process of streamlining its operating organisation that began in 2012, by setting up a holding company called Covéa Coopérations to hold Covéa group companies, by having ABP IARD report directly to the holding company and by spreading its ownership evenly between the group's three divisions (MMA, AM-GMP and MAAP).

Covéa strengthened its group providential and health insurance positioning through the addition of SMI, a mutual insurer, to SGAM Covéa, following that of APGIS in 2011.

Mutex Union (formerly UNPMF) was supposed to gradually transfer its business to Mutex SA, the company that already reinsured it in full and with which it operated under an extended management delegation arrangement. The introduction of the ANI agreement<sup>14</sup> and its impact on the group providential market prompted Mutex SA to step up the transfer process, which had been conducted since 2012 on a mutually agreed basis at policy renewal, and request application of a transfer procedure as provided for in Article L. 324-1 of the Insurance Code to finalise the process before end-2013.



#### ■ REORGANISATIONS

To get its organisation ready for the entry into force of Solvency II, Allianz Global Corporate & Specialty France (AGCS France) transferred its operating activities to Allianz Global Corporate & Specialty AG (AGCS AG), a German company, by way of a merger. The international corporate and specialty activities of the Allianz group have now been placed under the responsibility of a European company, AGCS SE.

To optimise capital allocation in the lead-up to Solvency II, Metlife, a US group, elected to set up its European bridgehead in Ireland, to which it transferred all of its European portfolios, except for portfolios sold to non-group companies. Accordingly, it transferred Metlife SA's portfolio of retirement savings policies to SMA Vie BTP (French entity in the SMA BTP group), and

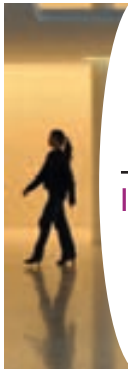
the remainder of its providential business, including loan insurance activities, to Metlife Europe Ltd (MEL) and Metlife Europe Insurance Ltd (MEIL), two Irish firms that will operate via two French branches, as part of the merger with MEL.

#### ■ LICENCE EXTENSIONS

Some companies applied for licence extensions to supplement their existing product line-ups and differentiate themselves from the competition.

Garantie Assistance, an insurance company specialised in assistance insurance that markets technical and medical assistance services worldwide, obtained a licence extension for Class 2 (sickness) and Class 16 (miscellaneous financial loss) insurance and for the motor vehicle sub-class a of Class 3 (land vehicles).

14. National interprofessional agreement of 11 January 2013 on competitiveness and job protection.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.2 Insurance sector

Groupama Protection Juridique, which specialises in legal protection, obtained a licence extension to issue insurance covered by sub-classes j (other financial loss – non-trading) – and k (other forms of financial loss) of Class 16 (miscellaneous financial loss).

#### ■ RESTRUCTURING MEASURES

Since the 1990s, some mutual insurers had been providing their members with enhanced benefits under special agreements (conventionnements). Several rulings by the Cour de cassation called this coverage into question in the case of mutual insurers governed by the Mutual Insurance Code. MGEN and MGEN Filia therefore created a

public limited company with a board of directors, called COMGEN, to provide the coverage associated with these enhanced benefits.

The partnership agreement between the Humanis and Apicil groups paved the way for the merger of Intervie and Apicil Assurances, a combined insurance company entirely owned by Apicil Prévoyance. The resulting company is specialised in savings. Ancillary transfers to various parts of the Apicil and Humanis groups were carried out as part of the drive to specialise.

The Malakoff Médéric group sold the savings portfolio of Médéric Épargne, a public limited company created in 2003 by the Malakoff Médéric and Aviva groups to market savings policies to Malakoff Médéric group participants and beneficiaries, to Optimum Vie SA, a 100%-owned subsidiary of Canadian group Optimum that specialises in life insurance. Since the partnership with Aviva was wound up in 2010, keeping on Médéric Épargne no longer made strategic sense for Malakoff Médéric. Meanwhile, the move enabled the Optimum group's subsidiary to attain the critical mass needed for a profitable savings business.



The ACPR  
61, rue Taitbout Paris.



## ■ BRANCHES OF NON-EEA COMPANIES

The French branch of New India, an Indian company, and the French branch of La Suisse Compagnie anonyme d'assurances générales, a Swiss firm, applied to have their licences withdrawn, or conducted business transfers to that end and initiated dissolution procedures, which reduced the number of branches of non-EEA companies licensed in France from six to four.

### B. Provident institutions

Two provident institutions, IPGM and Klesia Prévoyance, merged. IPGM was the head of the Mornay group, which merged in 2012 with the D&O and FMP groups to create the Klesia group. Klesia Prévoyance (called Orepa Prévoyance until 2012) was associated with the D&O group before the Klesia group was formed.

A highlight in the sector of provident institutions (PIs) governed by the Social Security Code was the creation of B2V Prévoyance. B2V, an employee benefits and supplementary retirement group, which already comprised a joint governing association as well as AGIRC and ARRCO supplementary retirement institutions, wanted to have the two pillars of activity that make up employee benefits and supplementary retirement groups (pursuant to the Agreement of 8 July 2009), namely supplementary retirement and personal insurance. The Allianz group is one of the main member firms and provided the

funds needed to set up the new institution, allowing it to enter into a strategic partnership with a jointly-governed entity under the National Interprofessional Agreement (ANI) and prepare for forecast developments in group benefits for employees.

### C. Mutual insurers governed by Book II of the Mutual Insurance Code

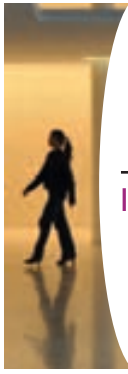
Several mutual insurers obtained Class 20 and 21 licences, allowing them to include death, wedding and birth coverage in their policies. In many cases, as with Mutuelle Nationale des Fonctionnaires des Collectivités Territoriales (MNFCT)

and Mutuelle de France Plus, this coverage was already included in the policies, but the risk was borne by a partner. Accordingly, these applications were prompted by a desire to carry this risk directly.

Not all applications for licence extensions were successful. Reasons for unsuccessful applications included insufficient capital, incomplete application packages, or inadequate technical and administrative resources.

## MUTUAL INSURERS GOVERNED BY BOOK II OF THE MUTUAL INSURANCE CODE AND "STATUTORY" RISKS

Following a publication by the ACPR stating that mutual insurers governed by Book II of the Mutual Insurance Code may not bear "statutory" risks, in other words, they may not cover local authorities against "providential-type" risks affecting employees that they have to insure, several insurers considered setting up public limited companies to be able to continue this business. This raised the question of the appropriate class of licence for this kind of activity, since the insured party is not the one that is directly affected by the risk. However, since the trigger for coverage is occurrence of a risk of this type, meaning that in practice the activity is managed like a providential activity, the ACPR confirmed that Class 1, 2, 20 and 21 licences would be appropriate.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. LICENCES AND AUTHORISATIONS

#### 1.2 Insurance sector

#### ■ CONTINUED CONCENTRATION AMONG MUTUAL INSURERS GOVERNED BY BOOK II OF THE MUTUAL INSURANCE CODE

**Mergers between mutual insurers continued in 2013, although the trend, which has been in place for many years, eased off somewhat.** Certain organisations still find it difficult to meet the full range of economic and regulatory requirements, and some choose to merge for this reason.

Following 21 such mergers in 2013, there were 599 mutual insurance companies in operation at 31 December 2013, 203 of which had larger partners assuming their risks.

As part of Decree 2011-733 of 27 June 2011 specifying the licensing requirements for federal guarantee systems and the operating rules of the guarantee fund, the French mutual insurance federal guarantee system applied for and obtained a licence to operate.

#### • Main mergers

Mutual insurers SMAR and MNAM merged and created a new mutual insurance company, Harmonie Fonction Publique, which was licensed for Classes 1, 2 and 20. The new entity then joined UMG Harmonie Mutuelle and is intended to act as the civil service arm of the Harmonie group.

Mutual insurers de l'Étang, Viazimut, SMT, des Territoriaux de la Ville du Havre and Thiers Mutualité transferred their portfolios of contracts by way of a merger to Harmonie Mutuelle. These mergers were undertaken in response to ageing insured populations, falling contributions and tougher regulatory requirements in the insurance sector.

#### • Licences withdrawn at the ACPR's initiative

Following preliminary proceedings initiated in 2012, the ACPR withdrew one licence and wound up two mutual insurers because they had no insurance activity or members or had not held an annual general meeting for more than two years.

Lastly, in 2013, efforts were resumed to establish a **European Mutual Statute (EMS)** that would notably remove barriers to cross-border cooperation. Consequently, after consultation with the Parliament, the European Commission organised an impact study to assess the appropriateness of such a statute in July 2013.

#### D. Use of the European passport

#### ■ EEA COMPANIES OPERATING IN FRANCE

#### • Under the freedom of establishment

The ACPR received seven notifications in 2013 (Allianz Global Corporate & Specialty AG, BTA Insurance Company Limited, Elite Insurance Company Limited, Euler Hermes Europe SA, Metlife Europe Insurance Limited, Metlife Europe Lim-

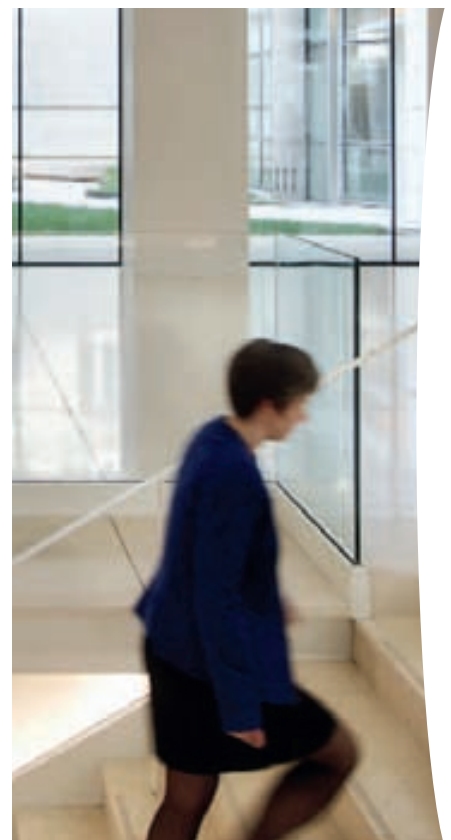
ited, UPS International Insurance Limited).

At 31 December 2013, 82 EEA undertakings had a branch in France (64 non-life, 12 life, 4 combined and 2 multi-class).

#### • Under the freedom to provide services (FPS)

The ACPR received 76 notifications in 2013, 21% more than in 2012.

At 31 December 2013, 1,090 EEA undertakings were authorised to operate in France under the FPS, including 184 branches.



## ■ FRENCH UNDERTAKINGS OPERATING IN OTHER EEA COUNTRIES

### • Under the freedom of establishment

In 2013, the ACPR received two notifications (AGA International, Harmonie Mutuelle).

At 31 December 2013, 107 French companies had a branch in another EEA country.

### • Under the freedom to provide services (FPS)

The ACPR received 57 notifications in 2013, mainly involving Allianz Vie, Axa Corporate Solutions, AGA International, Axa France IARD, Axeria IARD, CFDP Assurances, Imperio Assurances et Capitalisations, and Caisse régionale d'assurances

mutuelles agricoles d'OC (Groupe-pama OC).

The 89% decline in the number of notifications compared with 2012 is attributable to Coface's conversion of European subsidiaries into branches in 2012. Coface accounted for 418 out of 516 notifications in 2012.

At 31 December 2013, French undertakings had 1,707 authorisations to operate in other EEA countries under the FPS (including 706 through EEA branches).

After Croatia entered the European Union on 1 July 2013, five notifications were received under the FPS from French undertakings

operating in other EEA states (Axa Corporate Solutions Assurance, Coface, Euler Hermes France, Axa France IARD, AGA International) while the ACPR received two notifications from EEA companies operating in France (Basler Osiguranje Zagreb d.d., Generali Osiguranje d.d.).

## ■ PORTFOLIO TRANSFERS

In 2013, 18 portfolio transfers between EEA countries and two portfolio transfers from EEA countries to French companies (UBS International Life Limited to Swisslife Assurance et Patrimoine, ASE Lebensverzekeringen to Mutac) were published in the Official Journal, and mainly involved Irish and UK companies.

## Changes in the number of insurance institutions

NUMBER OF INSURANCE INSTITUTIONS	31/12/2012	31/12/2013	Change (number)
Life and combined insurance companies	102	97	-5
<i>of which combined</i>	40	38	-2
Non-life insurance companies	216	212	-4
<b>TOTAL INSURANCE UNDERTAKINGS</b>	<b>318</b>	<b>309</b>	<b>-9</b>
Reinsurance companies	16	16	-
Branches from non-EU countries	5	4	-1
<b>GOVERNED BY THE INSURANCE CODE</b>	<b>339</b>	<b>329</b>	<b>-10</b>
Provident institutions	49	46	-3
<b>GOVERNED BY THE SOCIAL SECURITY CODE</b>	<b>49</b>	<b>46</b>	<b>-3</b>
Mutual insurers governed by Book II of the Mutual Insurance Code	630	599	-31
<i>of which companies backed by larger partners</i>	202	203	+1
<b>GOVERNED BY THE MUTUAL INSURANCE CODE</b>	<b>630</b>	<b>599</b>	<b>-31</b>
<b>TOTAL LICENSED UNDERTAKINGS AND UNDERTAKINGS NOT REQUIRING A LICENCE</b>	<b>1 018</b>	<b>974</b>	<b>-44</b>



## 2 Risk exposure of the financial system: 2013 assessment

The ACPR performs cross-functional analyses and stress tests, some of which it posts on its website. In 2013:

- 14 studies were published in *Analyses et Synthèses*,
- and 9 in *Débats économiques et financiers*.
- The ACPR also organised 1 international academic conference; it contributed to 5 *Banque de France* working papers.

After six quarters of recession (between 2012 and the beginning of 2013), the euro area embarked on a timid recovery from the second quarter of 2013, although performances varied across countries: while GDP growth was slightly positive in Germany (0.5%)<sup>15</sup> and France (0.3%)<sup>16</sup> in 2013, Italy and Spain still experienced recession<sup>17</sup>. The recovery remained fragile, against a backdrop of fiscal measures made necessary by the need to curb government deficits and, in the euro area, below-target inflation. Moreover, the announcement by the US Federal Reserve System (Fed) on phasing-out quantitative easing contingent on economic performances could trigger an increase in long-term rates and create uncertainty about financing for emerging countries, even though they are growing at a brisker pace than advanced economies.

In this setting, **French banks** continued to be affected by several risks: i) revenue decline connected with reduced credit distribution owing to relatively flat demand, although there was some growth in the second and third quarters of 2013 in the home loan segment; ii) a deterioration in borrower solvency resulting from persistently high unemployment in the case of households and slack demand for businesses; iii) pressure on deposit-taking, with some customers tapping into savings to offset lost income or to cope with increased tax pressure.

**Insurers** seemed less affected by the downturn. Cumulative net flows into life insurance returned to positive territory in 2013 thanks to sharp growth at the beginning of the year (coinciding with the second increase in the ceiling for regulated passbooks), with gains on equity markets prompting new flows

into unit-linked products and reduced switching into non-unit linked products. On the asset side, however, insurers are exposed to the worsening credit position of securities issuers and to a sudden rise in interest rates.

To better identify the impact of cyclical factors on banks and insurers, the ACPR conducted several top-down stress testing exercises in 2013 using internally developed models. These tests involved the main institutions, and the methodologies were published<sup>18</sup>.

Special effort was made to round out the internal stress testing toolkit to be able to analyse a wider variety of scenarios and expand the spectrum of potentially stressed portfolios. From a methodological perspective, the ACPR's top-down stress tests used two scenarios – a baseline scenario and a stressed scenario – that were calibrated in

15. Source: Destatis, Federal Statistics Office.

16. Source: INSEE.

17. With negative growth rates of 1.8% and 1.2% respectively in 2013 according to Eurostat.

18. *Analyses et Synthèses* No. 11, "Stress tests sur le système bancaire et les organismes d'assurance en France", January 2013 and *Débats économiques et financiers* No. 2, "Mise en œuvre des stress tests sur les crédits aux entreprises", March 2013.

close collaboration with *Banque de France* macroeconomic forecasting units. In practice, the two exercises were based around the following components: stress on asset returns, stress on retail portfolios, stress on corporate portfolios with a focus on large exposures, stress on sovereign exposures, as well as a network stress test conducted at European level. These exercises are intended to expand the ACPR's scope of supervision.

Furthermore, the ACPR took part in preparing the **methodology for the future European stress tests**, which were initially scheduled for summer 2013 but which were pushed back and will follow the balance sheet assessment by the European Central Bank (ECB) in the first half of 2014, ahead of the entry into effect of the single supervisory mechanism (SSM).

For insurers, analyses are underway on the ten-year impact of high inflows and outflows and on the effects of a prolonged period of low interest rates, prior to stress testing in spring 2014 coordinated by the European Insurance and Occupational Pensions Authority (EIOPA).

**Romain Bernard,**  
Research Directorate.



## INTERVIEW WITH MARTIN ROSE AND ROMAIN BERNARD, RESEARCH DIRECTORATE

**A new cross-cutting measurement of insurance risk indicators to position institutions compared with undertakings in the same line of business.**

***The ACPR Research Directorate has conducted a project into vulnerability indicators in insurance. Can you briefly describe it?***

The goal is to take a systematic approach to using the prudential data provided to the supervisory authority by insurers over recent years. We began by creating a management tool for the insurance supervisor, making it possible to easily position an institution relative to the market in a quantile-by-quantile analysis across a large number of indicators.

We then wanted to analyse all these data to highlight a handful of key indicators whose level would alert observers to an entity's vulnerability. History tells us that insurer failures are extremely rare. In general, struggling institutions are taken in hand at an early stage, either through corrective measures by the supervisory authority, or where necessary, through support from another entity. The ACPR has a comprehensive history of supervisory measures taken

in response to individual situations of vulnerability. The examination of these individual cases will be cross-referenced with the database of indicators to highlight the determinants of a vulnerability situation in insurance. Ultimately, it may be possible to use this model to anticipate and prevent potential failures at the earliest possible stage. Naturally, this approach offers a supplementary analytical angle to support ongoing, in-depth supervision of individual undertakings by the inspection teams.

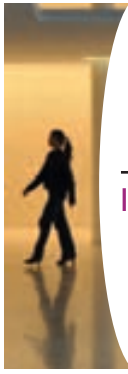
***Will the Solvency II rules affect the project?***

Solvency II will bring a change in the reference framework, and obviously the methods for analysing prudential filings before and after its application will be very different. So we have to get ready now, learning the lessons from the Solvency I framework to inform new angles of approach under Solvency II. We will not have the same historical data as presently, but the new data will be more detailed and precise because, through the risk-based approach, they will do a better job of capturing the risks borne by insurers.



**Martin Rose,**  
Research Directorate.





## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 2. RISK EXPOSURE OF THE FINANCIAL SYSTEM: 2013 ASSESSMENT

#### 2.1 Interaction between sovereign and banking risks

### MAIN RISKS TO WHICH THE ACPR PAID PARTICULAR ATTENTION IN 2013

RISK	FOCAL POINTS IN 2013
Persistent deterioration in macroeconomic conditions	<ul style="list-style-type: none"> <li>  Credit demand for banks</li> <li>  Banks' intermediation margin</li> <li>  Banks' risk-related costs</li> <li>  Household savings (deposits with banks, inflows to life insurance)</li> </ul>
Interaction between sovereign and banking risks	<ul style="list-style-type: none"> <li>  Proportion of sovereign debt in the portfolios of banks and insurers</li> <li>  Introduction of the three pillars of the SSM</li> </ul>
Uncertainty over bank refinancing	<ul style="list-style-type: none"> <li>  Change in refinancing structures</li> <li>  Repayment of financing provided by the European Central Bank</li> <li>  Loans / deposits ratio</li> <li>  Coverage of short-term financing needs through cash reserves</li> <li>  Medium- and long-term financing plans</li> <li>  Refinancing costs</li> </ul>
Risks associated with persistently low interest rates	<ul style="list-style-type: none"> <li>  Potential strategies for seeking returns from alternative sources, which could give rise to risks that are not sufficiently well controlled</li> <li>  Impact of a rapid rise in interest rates on surrenders of life insurance policies</li> </ul>
Risk of a property market correction	<ul style="list-style-type: none"> <li>  Changes in borrower solvency</li> <li>  Continued caution in lending criteria</li> <li>  Competitive intensity (debt consolidation)</li> <li>  Lending margins</li> </ul>

#### 2.1 INTERACTION BETWEEN SOVEREIGN AND BANKING RISKS

In 2013, the situation on the sovereign debt market in Europe continued to normalise, particularly among countries hardest hit by the financial crisis. Sovereign yields stabilised at levels well below those

seen at the peak of the crisis in 2011, as investor fears faded, notably thanks to assertive measures by the ECB, including the Very Long Term Refinancing Operations (VLTROs) at end-2011 and early 2012, President Mario Draghi's announcement on Outright Monetary Transactions (OMTs) in August 2012, and the capital exercise carried out in June 2012 by the

European Banking Authority to strengthen the capital of Europe's banks.

The countries viewed as being most at risk saw their spreads ease to more sustainable levels, of around 4% for Spanish and Italian 10-year yields and slightly below that for Ireland, which moved out of speculative grade at the beginning of

2014. Despite easing sharply, yields on Portuguese sovereign bonds settled at elevated levels of around 6%.

The sharp reduction in sovereign risk was accompanied in 2013 by ongoing coordinated efforts by European authorities to reduce banking risk.

- The ECB cut its main refinancing rate twice, from 0.75% to 0.25%, and committed itself to maintaining its fixed-rate full allotment procedure until at least July 2015.
- The European Banking Authority (EBA) continued to work to promote transparency in bank balance sheets, particularly through its transparency exercise in June 2013, which followed publications as part of the 2011 stress tests and the 2012 capital exercise, and which included a section on sovereign exposures.

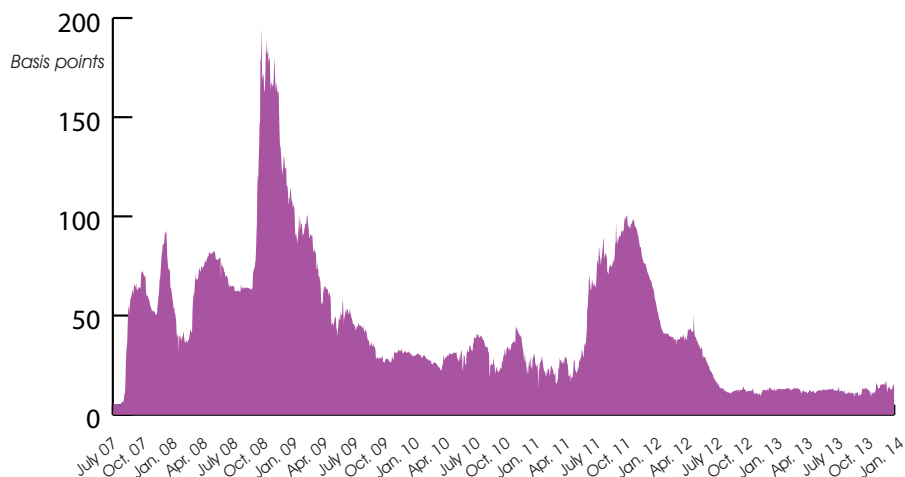
The decision to set up an intervention fund for European banks (European Stability Mechanism, ESM), coupled with the SSM, put a stop to contagion between banking and sovereign risks.

**The SSM will begin operating in November 2014 following a period of intense preparation by national supervisors and the ECB and the prior assessment of banks whose supervision will be transferred to the European supervisor.** The comprehensive assessment of the quality of banking assets should further strengthen confidence in the positions of affected banks by removing any remaining grey areas on institutions' balance sheets. A resolution mechanism (notably defining the rules of participation for private creditors) and a single deposit guarantee fund will complete the arrangements, ensuring that states and taxpayers are no longer called on every time to provide funds to bail out struggling banks.

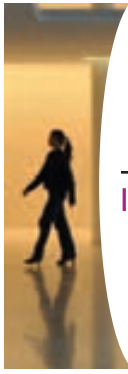
## 2.2 UNCERTAINTY OVER BANK REFINANCING

After falling back sharply in 2012, risk aversion on the interbank market, evidenced by the spread between three-month and overnight interest rates, held steady at low levels in 2013 (see chart below), reflecting the continued impact of measures adopted by the ECB at end-2011 and over 2012. With uncertainty over the calibration of the liquidity coverage ratio (LCR) dispelled following the Basel Committee meeting in January 2013 (expanded list of liquid assets, reduced weightings for corporate deposits not meeting the operational criterion, etc.) also helped to relieve the pressure. Even so, the share of interbank resources continued to shrink rapidly, maintaining a virtually constant rate of decline since the beginning of the crisis.

**SPREAD BETWEEN THE EURIBOR 3M AND THE OVERNIGHT INDEXED SWAP (OIS) RATE ON THE EUROPEAN INTERBANK MARKET**



Source: Bloomberg



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 2. RISK EXPOSURE OF THE FINANCIAL SYSTEM: 2013 ASSESSMENT

#### 2.2 Uncertainty over bank refinancing

In this setting, attention focused on measures to bolster the solvency and reduce the debt of the main French banking groups, which may receive a fresh influx of deposits by non-financial agents – their primary source of funds since June 2009. The change in loan/deposit ratios in customer transactions is a key element, as is the groups' use of the

deposits of US money market funds, which are highly volatile, as illustrated by their massive withdrawal at the height of the euro area sovereign debt crisis in summer 2011.

Meanwhile, conditions normalised, supporting the implementation of medium- and long-term bank refinancing programmes and

providing a favourable setting for financial institutions to make early repayments on some of the funds obtained from the ECB under the December 2011 and February 2012 VLTROs while building up sizeable cash reserves (central bank deposits and eligible assets), which are increasingly exceeding their short-term refinancing needs.

## ACTIVITIES OF THE ACPR'S SCIENTIFIC CONSULTATIVE COMMITTEE IN 2013

**ACPR Scientific Consultative Committee met three times in 2013**, focusing mainly on the following topics:

- | development of advanced vulnerability indicators: the committee pursued work done in 2012 on this topic in banking and is now endeavouring to develop similar indicators for insurance;
- | internal models for insurance: Solvency II requirements in this area; methodological problems involved in validating internal models (e.g. market risk dependence structure);
- | stress tests in the insurance sector, with ACPR preparing long-term stress tests for life insurance;
- | review of scholarly articles produced by the ACPR on bank regulations and performance: prudential regulations and bank financing costs, the effect of banks' capitalisation on return on equity; structural requirements in terms of adjusting French banks' business models under Basel III, multi-factor economic capital model;
- | reinsurance and life insurance sectors in France;
- | identification of sources of vulnerability in the financial system.

**The Scientific Consultative Committee also undertook several other initiatives.**

The **ACPR research chair** was established in early 2013 (see point 2 of Chapter 1). The chair's main tasks are to organise research activities, foster relations between the academic world and the ACPR, and develop an outward-looking centre for discussion and proposals on the management of systemic risk.

Discussion topics explore macroprudential issues from microprudential bases (funding liquidity, credit distribution, systemic ratings). In June 2013, the chair began organising monthly research seminars open to outside participants. The seven seminars organised in 2013 provided an opportunity to have a conversation about questions of regulation and systemic risk for banks and insurers.

In addition, the ACPR organised an international academic conference on 14 and 15 October 2013, entitled "Risk taking in financial institutions, regulation and the real economy". Starting from the observation that the recent financial crisis has led to the implementation of more stringent regulations for capital, liquidity and the structure of financial institutions, the conference brought together academics, economists and specialists in banking supervision to examine the potential consequences of these regulations for risk taking and financing of the real economy.

## 2.3 RISKS ASSOCIATED WITH PERSISTENTLY LOW INTEREST RATES

With French sovereign bond yields reaching an all-time low at the end of 2012, some economists are predicting that interest rates could remain low for a long period. **In principle, persistently low interest rates are bad for the insurance sector, and particularly life insurance, since liabilities generally have longer maturities than assets (except during crises).** In the fixed income segment, maturing securities therefore have to be reinvested in lower-earning investments. This gives insurers an incentive to adjust their investment policies to maintain their returns, by switching into riskier transactions, potentially including high-risk bonds, but also swaps, loan guarantees and direct credit subscription. In this regard, the ACPR takes special care to ensure that insurers have appropriate risk-analysis skills before engaging in transactions outside their traditional scope of business. In addition to impacting insurers' investment policies, enduringly low interest rates also affect product line-ups, making unit-linked contracts relatively more appealing. These effects vary, however, depending on institutions' asset/liability management strategies, which may evolve with the change in the prudential framework from 2016.

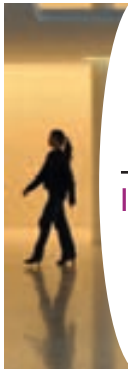
To some degree, lower investment returns may feed through to the rates paid out to policyholders. The likelihood of this may however be limited by the existence of guaranteed rates and fierce competition between market participants and with other savings products. Maintaining excessively low returns would expose insurers to an increased risk of policy surrender.

Setting aside guaranteed rates, a low-rate environment raises questions for the profitability of the insurance business, both among life and non-life insurers, for which a high return on assets may make up for low prices.

In the banking sector also, a low interest rate environment, combined with the need to move towards more stable sources of funding, is not without consequence for the profitability of credit institutions.

The ACPR will continue to give special attention to the impact of low interest rates on the banking and insurance sectors. In particular, the Authority has launched an internal stress testing exercise to measure insurers' resilience to a prolonged period of low interest rates.





## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 2. RISK EXPOSURE OF THE FINANCIAL SYSTEM: 2013 ASSESSMENT

#### 2.4 Risk of a property market correction



Emmanuel Point,  
Research Directorate.

“  
*Losses on French banks’ portfolios of home loans remain under control, but the ACPR continues to monitor this area closely.*  
”

#### 2.4 RISK OF A PROPERTY MARKET CORRECTION

With the financial crisis, the non-stop rise in residential property prices in France over 12 or so years gave way to more mixed developments. The significant proportion of home loans on the balance sheets of French banks<sup>19</sup> raises questions about the possibility of a market reversal and its impact on French financial institutions. While a soft landing appears to be the most likely scenario, this situation still has to be monitored.

Several indicators point to a reversal on the market, which was deprived in 2012 of major support factors, including more restrictive requirements for zero-rate loans and reduced tax incentives for buy-to-let investments:

■ after a first slide between the fourth quarter of 2008 and the fourth quarter of 2009 and despite contrasting quarterly results, prices for existing homes in France began falling again from the second quarter of 2012, giving up 1.4% between September 2012 and September 2013)<sup>20</sup>; lately, this trend has spread to Paris (down 2.1% over the same

period); however, according to various studies, residential house prices are still overvalued<sup>21</sup>;

■ the number of transactions in the existing homes segment, which had returned to its pre-crisis level at the beginning of 2012, began contracting once more in July 2012, falling by 10.4% between September 2012 and September 2013<sup>22</sup>. Meanwhile, the number of housing starts began falling again in 2012, shrinking by 22% between September 2012 and September 2013<sup>23</sup>.

19. At 30 September 2013, home loans accounted for around 37% of lending to customers in mainland France.

20. Source: INSEE.

21. According to Pamfili Antipa and Rémy Lecat (*"Bulle immobilière" et politique d'octroi de crédits*, 2013), prices were 21% overvalued in the third quarter of 2012.

22. Source: *Conseil général de l'environnement et du développement durable* (General Council for the Environment and Sustainable Development/CGEDD), according to the Directorate General of Public Finance (DGFIP) (MEDOC) and notarial databases.

23. Source: INSEE.



In this setting, despite the persistently low level of interest rates, new home loans remained below pre-crisis levels. In addition, the relatively sustained increase in new home loans over the recent period (14.7%<sup>24</sup> between September 2012 and September 2013) mainly reflects strong growth in external debt consolidation, whose share in monthly flows of new credit has exceeded 20% since May 2013; excluding external debt consolidation, annual new loans fell by 2.7% between September 2012 and September 2013.

While for now the quality of French banks' exposure to the sector appears relatively insensitive to market changes, continuing unfavourable macroeconomic conditions could adversely affect some borrowers' solvency and trigger an increase in defaults on home loans which, for the time being, are modest relative both to other customer loan categories and to other countries. In addition, some trends call for caution on future developments in terms of the quality of French banks' loan portfolios. In particular, the sharp rebound in external debt consolidation observed in 2013, which reflects both

persistently low interest rates but also stiffer competition between banks to attract deposits, should not result in the underpricing of credit risk.

**Furthermore, while on-site inspections conducted by the ACPR in 2013 on the theme of home loan financing at a large number of French credit institutions generally revealed that banks were addressing risk management more effectively and tightening lending terms, there was room in some cases to improve risk management and internal control systems.**



With the financial crisis, the non-stop rise in residential property prices in France over 12 or so years gave way to more mixed developments.

24. Source: Banque de France.



# 3 Prudential supervision

253 on-site inspections either in progress or completed as part of the 2013 inspection programme

- of which 151 concerned the banking sector
- and 102 concerned the insurance sector

1,394 reporting entities had their risk profiles assessed in 2013

- of which 700 were in the banking sector
- and 694 in the insurance sector

29 colleges of supervisors were set up for groups where the ACPR is the consolidating supervisor

- of which 14 were in the banking sector
- and 15 in the insurance sector

176 action letters sent out in the year on the basis of reports

- of which 68 to reporting entities in the banking sector
- and 108 to insurance institutions

The ACPR supervises compliance with legislation and regulations by reporting institutions. The ACPR's approach combines off-site and on-site inspections with the aim of conducting detailed, in-depth analysis of the activities of supervised institutions.

**The ACPR Supervisory College determines the supervisory priorities each year based on proposals from the General Secretariat.** These priorities reflect the findings of analyses conducted

over the previous year and factors that seem set to affect the environment in which institutions operate (economic conditions, regulatory developments). To organise their inspections and ensure access to segment information, solvency comparisons and projections and the results of stress tests for reporting entities, the divisions responsible for supervision also draw on analyses by the Research Directorate. The supervisory priorities are used to prepare an annual inspection programme of **ongoing supervision and on-site inspections**, which is

designed to ensure oversight of the activities and risks of reporting entities, as well as of the risks to which they expose the financial system. The inspection programme may change over the year depending on needs.

## 3.1 BANKING SECTOR

The ACPR supervises credit institutions and investment firms through two divisions responsible for ongoing supervision, each of which is split into four departments that

The ACPR's approach combines off-site and on-site inspections with the aim of conducting detailed, in-depth analysis of the activities of supervised institutions.

specialise in different types of institution, and one on-site inspection unit, which is part of the General Inspectorate of the *Banque de France*.

In 2013, supervisory activities were used to continue preparations for the entry into force of CRD 4, particularly as regards the impact of the new capital and liquidity requirements and their effects on different business lines. The supervisory departments were very active in supervising the effects of the crisis, both in terms of monitoring refinancing structures and analysing developments in credit risk. The ACPR pursued its intense cooperation with foreign supervisors, both within the usual framework of the supervisory colleges but also in an effort to finalise recovery plans with five large banking groups (in line with international recommendations).

**Ongoing supervision** was conducted over the year to assess and monitor the nature of and change in the risk exposure of institutions and the quality of their internal control systems. These supervisory activities drew on in-depth analyses of the qualitative and quantitative prudential, financial and accounting disclosures that institutions are required to provide periodically or on request. These analyses are the subject of exchanges and discussions throughout the year with the senior officers of reporting institutions (senior managers, chief financial



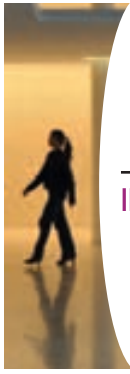
officers, heads of business lines, risk monitoring, periodic and permanent control, etc.). Some 1,200 meetings and 30 on-site visits (lasting between one and two days) were organised in 2013.

The ACPR assesses institutions' risk profiles using a proprietary methodology called ORAP 2. This analyses all the risks to which institutions are exposed, in accordance with the nature, scale and complexity of the activities undertaken, as well as the quality of internal control mechanisms. At least annually, and quarterly if warranted by the institution's risk profile, the ORAP assessment incorporates the results from ongoing supervision and on-site inspections.

Depending on the results of its analysis, the ACPR may require institutions to comply with additional capital requirements that exceed

minimum regulatory standards (Pillar 2 measures). This is the case, in particular, for all major French banking groups.

The ACPR continued to pay special attention to these groups through a structured programme of "enhanced supervision" meetings. The approach is organised according to the main functions (finance, risk management, etc.) and business lines of reporting institutions (domestic retail banking, international retail banking, investment banking, etc.), or by geographical area or legal entity, where these warrant specific monitoring. These meetings enable in-depth discussions to be held with the senior managers of institutions. The ACPR's assessment of the overall risk profile of these groups is shared each year with their senior managers, decision-making bodies and statutory auditors.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. PRUDENTIAL SUPERVISION

#### 3.1 Banking sector

Foreign credit institutions doing business in France are also subject to specific supervision within the colleges of supervisors, which perform the joint risk assessments required under European banking regulations. In response to the recommendations by the G20 and Financial Stability Board (FSB), the ACPR also organises, for the main French banking groups with an international presence, crisis management groups (see below), which provide a forum for discussing the recovery plans that it requires institutions to establish to be able to cope with different types of shock.

#### **Ongoing supervision is rounded out by inspections of institutions.**

Typically lasting several months, these inspections are used to conduct an in-depth analysis of risks and the quality of risk management systems, and also to verify the accuracy of regulatory reporting. A key focus of these inspections is the internal models that institutions develop and wish to use to measure capital adequacy requirements in relation to their operational, credit and market risk.

**The on-site inspection programme** consists of two types of inspections. The first type is general inspections, which cover all of the inspected institution's activities. These inspections focus on small and medium-sized institutions for which areas of concern have been flagged by the ongoing supervision unit but that have been the subject of an overall inspection. The second type is thematic inspections, which primarily concern large groups and focus on certain activities or business lines. They are often carried out across several banking groups (in which case they are known as cross-functional inspections) and covered regulatory arrangements and issues related to the effects of the crisis on the banking sector.

In 2013, the ACPR began several thematic inspections on credit risk in sectors that are potentially exposed to the crisis: LBO financing, SME financing and home lending. Thematic inspections also addressed legal risks connected with local authorities' toxic loans and risks relating to contributions to market indices.

**The ACPR conducted numerous inspections to review internal models, checking measurement of market and counterparty risk on market transactions, different components of credit risk and operational-risk modelling.**

In 2013, the ACPR also performed its first inspection on EMIR application at one clearing house and the first two inspections of payment institutions.

A large proportion of inspections focused on ensuring that institutions had taken the corrective measures requested by the ACPR following previous inspections.

On-site inspections covered the various types of activities performed by French and foreign specialised institutions with credit institutions or investment firm status.

Inspections at the main financial institutions prompted inspectors to extend their work by carrying out inspections of foreign operations, notably to ensure proper application of risk monitoring and supervisory procedures.

On-site inspections were conducted in close coordination with ongoing supervision departments, which prepared follow-up measures for reports and monitored the steps taken by institutions.

## A. European comprehensive assessment

The European Regulation of 15 October 2013, which entrusted the ECB with direct supervision of 128 European banks, also requires the ECB to conduct a comprehensive assessment of the banks under direct supervision, including a balance sheet assessment, before the SSM enters into force on 1 November 2014.

Because of its scale (13 French banking groups are involved) and scope (all banking assets held in banking and trading books), the assessment is an unprecedented exercise, both for the banks themselves and for the ACPR. Cognizant of the challenges, French banks are totally involved and engaged in the assessment, which is taking the form of a series of technical

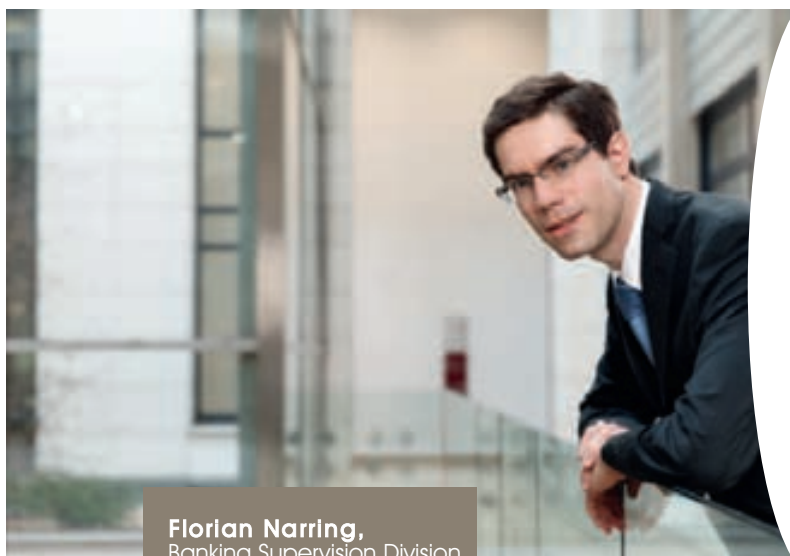
and managerial challenges to be met in a tight timeframe.

The main objectives of this large-scale exercise are to **promote transparency**, by enhancing the quality of the available information on the position of banks, **consolidate** the banking sector by identifying and implementing the necessary corrective actions, and **strengthen confidence**, by reassuring stakeholders that banks are fundamentally sound and credible.

Operational leadership for the assessment is being provided by the ECB with direct support from the national competent authorities of the countries participating in SSM. Accordingly, ACPR departments were heavily involved in, and devoted considerable resources to, these efforts. To ensure successful

completion, internal governance structures were set up (steering committee, operational project management, quality assurance) mirroring those created at ECB level. In addition to assessing group risk profiles, a task that was conducted jointly with the ECB and the national competent authorities from the second quarter of 2014 using data collected by the ACPR from the banks, the ACPR also took charge of the second component of the comprehensive assessment, namely the asset quality review, which demanded considerable resources.

The timetable for the exercise is tight. It began in November 2013 with the launch of phase 1 on portfolio selection, which ended in February 2014 with the ECB informing each national authority of



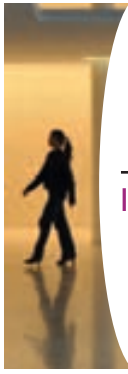
Florian Narring,  
Banking Supervision Division.

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*The assessment comprises three complementary pillars: an assessment of bank risk profiles, an asset quality review and stress tests. It was officially launched by the ECB on 23 October 2013 and began on 1 November 2013. Following the assessment, at end-October 2014, the ECB will share the results and give recommendations on the supervisory measures that need to be implemented by banks.*

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## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. PRUDENTIAL SUPERVISION

#### 3.1 Banking sector

the list of portfolios selected per bank. The objective was to encompass the most significant asset portfolios, accounting for at least 50% of the bank's weighted assets and representing a potential risk of under-valuation or under-provisioning.

This phase was immediately followed by the actual asset review phase, which will run to 1 August 2014 (review of accounting procedures and policies, validation of data integrity, sampling and analy-

sis of selected assets, collateral, guarantees and collective provisioning models). Several thousand credit files will be reviewed. The national competent authorities will apply a common methodology prepared by the ECB, giving all banks in all countries assurance that fair rules will be applied. The results of the review will be taken into account when the stress tests are carried out.

**The third component of the comprehensive assessment, the stress tests, will begin in June 2014. The exercise will be conducted by the ECB for the 128 banks in the SSM, in close coordination with the EBA, which determined the key parameters.** The minimum capital thresholds selected for the two scenarios (baseline and stressed) are 8% and 5.5% respectively of Common Equity Tier One (CET 1).

Jean-Baptiste Feller,  
Research Directorate.



### INTERVIEW WITH JEAN-BAPTISTE FELLER OF THE ACPR RESEARCH DIRECTORATE ON DATA COLLECTION LINKED TO THE INTRODUCTION OF THE SSM

#### ***Does the introduction of the single supervisory mechanism require specific data collection arrangements?***

The period between now and November 2014, when the ECB takes up its new role as banking supervisor, will feature intense preparations. Current data collection arrangements for the Risk Assessment System (RAS) and the Supervisory Review and Evaluation Process (SREP) form an important part of the overall assessment of the European banking system, dovetailing with the comprehensive assessment of bank balance sheets. A pilot exercise was conducted in November and December 2013 to collect various data from the institutions that will be subject to direct ECB supervision, to gain an even clearer understanding of the risk profiles of Europe's main banks. An initial data series was sent to the ECB before the summer based on information collected by the supervisor.

#### ***What role is the ACPR playing in this data collection?***

The ACPR was in charge of organising the second pilot exercise and will play the same role in the 2014 collection campaign. As part of this, 13 large French banks, all of which will be directly supervised under the SSM, were contacted. They were asked to provide a considerable amount of data, since more than 3,000 variables were collected and used in particular to cover areas of risk that are comparatively unexplored in the existing data, including many variables relating to liquidity and interest rate risk. Moreover, this major undertaking had to be carried out in a short space of time. However, good communications between the ACPR and the banks and with the ECB ensured that the process was successfully completed. This work will be supplemented with new data collections, which may be adjusted to cover smaller institutions. Furthermore, more efforts still need to be made to enhance quality, with a view to making the analyses conducted by the SSM even more effective.

## B. Preparations for the introduction of CRD 4

In 2013, the French banking sector continued to prepare for the new rules under the Basel III accords, whose provisions were made applicable from 1 January 2014 by the Regulation of the European Parliament and of the Council of 26 June 2013 (Capital Requirements Regulation – CRR) and the new version of the Capital Requirements Directive (CRD 4). The main changes resulting from these provisions include the introduction of a more restrictive definition of capital, tougher requirements under the solvency ratio, the introduction of two new liquidity ratios – a 30-day Liquidity Coverage Ratio (LCR) and a one-year Net Stable Funding Ratio (NSFR) – plus a leverage ratio, defined as the “capital measure” (numerator) divided by the “exposure measure” (denominator) (see Chapter 6 p.126).

Accordingly, in 2013, the ACPR continued to hold regular updates with the main French banking groups on their individual trajectories in terms of the CRR solvency ratios and the LCR. Monitoring was carried out through Basel III quantitative impact studies (QIS), regular interviews and ad hoc data collection from institutions.

On solvency, as from 1 January 2014, all the main French banking groups had CET 1 ratios, as defined by the CRR, that were well above the requirement at that date (4%). The individual trajectories reflect measures taken to bolster solvency,

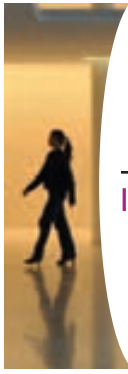
notably through earnings retention but also through continued balance sheet adjustments. Together, these measures have enabled the main French banks to meet the requirements set by EBA (see inset below).

### THE EUROPEAN BANKING AUTHORITY'S RECOMMENDATION OF 22 JULY 2013

In December 2011, EBA issued a recommendation calling for banks to comply with a Core Tier One (CT 1) ratio of 9% from 30 June 2012. The ratio includes an impact reflecting the difference between the book and market values of European sovereign debt held in portfolios at 30 September 2011. The four main French banking groups concerned by EBA's exercise (BNPP, Société Générale, BPCE and Crédit Agricole), along with Crédit Mutuel, as required by an injunction, have been in compliance with the recommendation since 31 March 2012.

Owing to CRR's entry into force at 1 January 2014, and insofar as, during the “transitional” phase, capital requirements under the CRR may be less restrictive than those of the December 2011 recommendation, on 22 July 2013 EBA adopted a new recommendation on preserving capital, which replaced the previous recommendation.

The new recommendation calls for the maintenance of a nominal floor of capital at least equal to that required at 30 June 2012 to comply with the terms of the December 2011 recommendation (i.e. the amount at 30 June 2012 of CT 1 needed to cover 9% of risk-weighted assets and the sovereign cushion). It was imposed through an injunction on the BNPP, Société Générale, BPCE, Crédit Agricole and Crédit Mutuel groups, and they all comply with the requirement.



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In terms of liquidity, the financing structure of French banks continued to evolve to adjust to the requirements of the LCR, which will come into force in 2015 following an observation period. French banks established strategies to reduce and regulate the financing needs of different business lines and strengthen the portfolios of liquid assets included in the LCR numerator. **The ACPR will continue to pay close attention to these developments during the observation period**, particularly using the new harmonised European regulatory reporting schedules that institutions will have to file from 31 March 2014 under EBA's technical standards.

Besides, **CRD 4 has modified the definition of the French banking sector**. Credit institutions now comprise legal entities whose business is to receive repayable funds from the public and to grant credits, whereas French banking regulations previously defined them as legal entities that received deposits from the public or that granted credits. As a result, credit institutions included financial companies that granted credits but did not collect deposits from the public. As part of transposing the directive, specific transition arrangements were established for financial companies.

Article 34 of Executive Order 2013-544 of 27 June 2013 on credit institutions and finance companies states that from 1 January 2014 financial companies are considered to be licensed as specialised credit institutions (application of the principle of continuity with regard to their current status). As credit institutions, specialised credit institutions will be subject to all CRD 4 and CRR provisions.

However, Article 34 of the above Executive Order allows financial companies to opt, between

1 October 2013 and 1 October 2014, to be licensed as a finance company (see inset below). **Finance companies will be subject to a specific prudential framework** established by the Order of 23 December 2013. Essentially, finance companies will be subject to CRD 4 and CRR rules, but with some adjustments to accommodate their specific characteristics (LCR and leverage ratio exemptions).

Furthermore, the CRD 4 and CRR legislative package contains a



number of national options and discretions to allow general measures to be tailored to the specific features of each national market and to enable individual measures to be adjusted to the specific characteristics of each institution or group. As regards individual mea-

asures, the individual decisions taken by the ACPR before 1 January 2014 based on existing regulatory provisions are not called into question and will continue to apply. Concerning the new individual options (introduced by CRD 4 and CRR), the ACPR began discussions with

institutions on their potential introduction, which will review a case-by-case review by the ACPR Supervisory College.

## THE NEW STATUS OF FINANCE COMPANY

In France, leasing, factoring and guarantee activities have traditionally been subject to prudential regulation, whether or not the entities that engage in these kinds of business receive deposits from the public. Until 2013, most of these entities had financial company status, which was a legal sub-category of credit institution status. Accordingly, they were supervised by the ACPR on the basis of the same prudential rules as credit institutions.

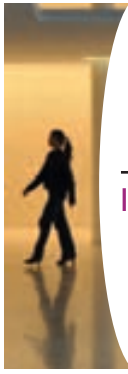
CRD 4, which has applied under French law since 1 January 2014, adopted a more restrictive definition for credit institutions than that previously used in France, stating that credit institutions grant credit and receive repayable funds from the public. This definition therefore excludes entities that grant credit but do not receive repayable funds from the public. To ensure continued prudential regulation of all entities under ACPR supervision ahead of the entry into force of CRD 4, several amendments were made to the Monetary and Financial Code and prudential rules in 2013.

**The status of finance company, created by Executive Order 2013-544 of 27 June 2013, came into effect on 1 January 2014.** The Monetary and Financial Code defines finance companies (Article L. 511-1) as *“legal entities that grant credit in the regular course of business and on their own account”*, but that, unlike credit institutions, do not receive *“repayable funds from*

*the public”*. Entities that currently have a banking licence and that do not receive repayable funds from the public may opt for this status under a simplified procedure if they apply before 1 October 2014. Because of this status, finance companies may neither take part in central bank monetary policy operations, nor receive a European passport under the freedom of establishment.

**The Order of 23 December 2013 created a prudential regime equivalent in terms of solvency to that established for credit institutions by EU Regulation 575/2013 of the European Parliament and of the Council of 26 June 2013 (CRR).** The Order refers directly to the CRR, taking up its provisions while including some specific measures to accommodate the peculiarities of finance companies in terms of their capital composition (for example, the guarantee funds of mutual guarantee companies). The equivalency of these rules with those of the CRR will make it possible to weight the commitments to these institutions like those of banks for the purpose of determining credit risk and recognising their guarantees as risk mitigation techniques. These entities will also be subject to Regulation 97-02 on internal control and to the rules on monitoring and managing liquidity risk provided for by the Order of 5 May 2009.





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#### C. Monitoring institutions' refinancing structures

In 2013, following heavy strain in the aftermath of the European sovereign debt crisis, there was further confirmation of the return to more normal operating conditions on the interbank market that had been observed since the second half of 2012 (see point 2 of this chapter).

But the situation remains fragile, given deflationary pressures in Europe and the importance to financial stability of continued accommodative monetary policies, as illustrated by the stress following the Federal Reserve's announcement in May 2013 that it might taper its asset purchases.

**Consequently, building on measures taken at the height of the crisis, the ACPR closely monitored the funding profile and refinancing conditions of French banking groups,** especially the largest ones. This led to numerous meetings in 2013 with bank treasurers and the heads of asset/liability management. As in 2011 and 2012, special attention was paid to maturity transformation by these entities, notably in terms of asset and liability maturities. Pursuing the approach taken in 2008 and 2009 and then reinstated in the second half of 2011, the two

divisions responsible for banking supervision organised enhanced monitoring measures in partnership with the treasurers of the large groups.

The ACPR also continued to receive regular management information to supplement regulatory disclosures, which it used to refine its analysis of the refinancing structures and conditions of the leading French banking groups and improve dialogue with bank staff.

The main indicators monitored included the change in the amount and cost of short-term refinancing, banks' ability to reach their medium- and long-term refinancing targets, the liquidity ratio and liquidity gaps, notably in USD, and the size of their liquid asset reserves. Continuing work begun in 2012, studies were also carried out to assess the effects of a downgrade in short- and long-term credit ratings.





## EUROPEAN MARKET INFRASTRUCTURE REGULATION (EMIR)

To meet the targets set in 2009 at the G20 Pittsburgh Summit, the European Parliament and Council adopted the European Market Infrastructure Regulation (EMIR) of 4 July 2012 on over-the-counter (OTC) derivatives, clearing houses (central counterparties) and trade repositories. EMIR was supplemented by Commission Delegated Regulations 148/2013 to 153/2013, which were published in the *Official Journal* of the European Union on 23 February 2013.

EMIR applies to all types of OTC derivatives and affects financial corporations, such as banks and insurers, that use derivative contracts, as well as non-financial corporations that hold large positions in these kinds of instruments. A section of the regulation also applies to central counterparties, which, by interposing themselves between two counterparties to a trade, seek to ensure that the failure of one market participant does not cause other participants to fail, threatening the entire financial system.

### Three main objectives

#### ▮ Increase transparency

Transactions in OTC derivative products carried out in the European Union will have to be reported to trade repositories to which supervisory authorities will have access.

#### ▮ Reduce counterparty risk

Standardised OTC derivatives (which meet pre-agreed eligibility criteria, such as a high level of liquidity) will be required to be cleared by central counterparties. However, non-financial corporations that use derivatives to hedge risks linked to their business activities (according to ESMA) are exempt from the obligation. In the case of ineligible contracts, which do not have to be cleared by a central counterparty, risk management techniques must be applied (e.g. posting of collateral).

In view of the risks that they will be required to bear, central counterparties will be subject to strict rules of conduct and harmonised organisational and prudential requirements (rules on internal governance, audits, increased capital requirements, appropriate margin calls, etc.).

#### ▮ Reduce operational risk

Market participants will be required to measure, control and mitigate operational risk, notably through electronic confirmation.

### EMIR provisions

The main EMIR provisions are as follows:

#### ▮ Requirement to clear OTC derivatives declared eligible by ESMA

The regulation establishes the principle of the requirement to clear any OTC derivative deemed eligible by the European Securities and Market Authority (ESMA) at duly

authorised central counterparties. This obligation will apply to any counterparty to a trade in an OTC derivative, subject to exemptions for intragroup transactions, pension funds and, under certain circumstances, non-financial counterparties. The expanded use of central counterparties has made it necessary to introduce a harmonised legal framework to ensure that these clearing houses comply with the strict requirements laid down by EMIR in terms of capital, organisation and rules of conduct. Owing to implementation of the eligibility procedure for derivative contracts by ESMA, the definition of asset classes subject to the central clearing obligation will be provided in the second half of 2014 through an ESMA technical standard.

#### ▮ Risk management procedures for non-cleared OTC derivatives

Counterparties to a non-cleared contract will have to establish systems to measure and control operational and counterparty risk. These systems, which are set down in the technical standards, include:

- confirmation of contract terms within time periods defined by the technical standards;
- formalised robust, resilient and auditable processes to reconcile portfolios, manage risk, quickly identify and resolve disputes (and report them to the competent authority) and monitor the value of outstanding contracts;
- marking-to-market the value of outstanding contracts on a daily basis, or if market conditions prevent marking-to-market, using models to determine value;
- timely, accurate and appropriately segregated exchange of collateral.

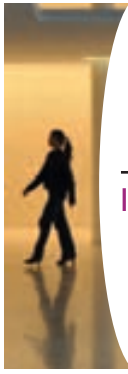
#### ▮ Obligation to report trades in derivative contracts

The provisions on reporting to trade repositories, which came into effect on 12 February 2014, concern all counterparties and derivatives, including listed derivatives. The regulation states that counterparties and clearing houses must ensure that all contracts entered into, modified or terminated must be reported to a trade repository registered with or recognised by ESMA. Technical standards give details of the required disclosures.

### Entry into force of EMIR provisions

Banking Separation and Regulation Act 2013-672 of 26 July 2013 assigned responsibilities between the ACPR and the AMF as regards application of EMIR. The following table summarises the timetable for the entry into force of each of the EMIR provisions, indicating the supervisory mandate assigned to the ACPR.

The ACPR and the AMF are working together closely on the operational implementation of EMIR provisions.



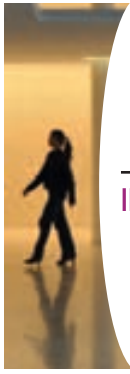
II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM  
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ACPR / AMF distribution of responsibilities under EMIR

EMIR requirement	Affected	
	Pure credit institutions and insurance companies	Investment services providers that are not portfolio management companies
	<b>Obligation to clear through</b>	
<b>Compliance with obligation to centrally clear</b>	<b>AMF</b>	
	<b>Exemptions from</b>	
<b>Processing exemption notifications for intragroup transactions</b>	<b>ACPR</b>	
<b>Major shareholding notifications</b>	Not applicable	
	<b>Contracts not cleared</b>	
<b>Contract confirmation and valuation</b>	<b>ACPR</b>	<b>ACPR/AMF</b>
<b>Portfolio reconciliation and compression, dispute management</b>	<b>ACPR</b>	<b>ACPR/AMF</b>
<b>Collateral requirements</b>	<b>ACPR</b>	<b>ACPR/AMF</b>
<b>Reporting of number of unconfirmed transactions</b>	<b>AMF</b>	
<b>Disclosure of significant disputes</b>	<b>AMF</b>	
<b>Calculation of initial margin*</b>	<b>AMF</b>	
<b>Exemption for intragroup transactions from collateral requirements</b>	<b>ACPR</b>	
	<b>Obligation to report</b>	
<b>Reporting obligation</b>	<b>AMF</b>	

Not applicable.

institutions		Supervisory tasks		Applicable
Portfolio management companies	Non-financial counterparties	<i>Ex ante</i>	<i>A posteriori</i>	
<b>a central counterparty</b>				
<b>AMF</b>			Supervision	2015
<b>obligation to centrally clear</b>				
<b>AMF</b>		Non objection	Supervision (centralised risk control)	March 2014
	<b>AMF</b>	Registration		15 March 2013
<b>by a central counterparty</b>				
<b>AMF</b>			Supervision	15 March 2013 15 Sept. 2013 1 Dec. 2015
		Registration		15 March 2013 15 Sept. 2013
		Validation of internal models		2015
<b>AMF</b>		Authorisation	Supervision (centralised risk control, restrictions on liquidity transfer)	2015
<b>to trade repositories</b>				
<b>AMF</b>			Supervision	12 Febr. 2014



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#### D. International organisation of supervision and crisis management

As part of cooperation between national supervisors, **in 2013 the ACPR coordinated 14 supervisory colleges for banking groups for which it is the consolidating supervisor in Europe.** These colleges are tasked with promoting information exchange and greater coordination between the authorities that supervise entities belonging to the groups in question. The work done within these bodies has particular importance for banking groups that have developed significant international businesses – BNP Paribas, Société Générale and Crédit Agricole – and foreshadows the centralised coordination of supervision of major European banking groups that will begin when the SSM is created in November 2014.

The colleges paid special attention to a number of cross-cutting issues, including adjustments to large banks' business plans to cope with changes in the international economic environment, close monitoring of risk exposures and refinancing procedures, and increased work in preparation for CRD 4 implementation.

With financial conditions still challenging in Europe, information-sharing was stepped up, not only during face-to-face meetings of the colleges attended by the

senior managers and representatives of affected groups, but also through numerous ad hoc conference calls and updates on dedicated extranets administered by the ACPR covering changes in institutions' financial positions or risk profiles. The most widely discussed topics included strategic guidelines in relation to adjustment plans, solvency and liquidity trajectories in the lead-up to Basel III, and developments in the refinancing structures of French banking groups.

Within the colleges of European supervisors, which were made compulsory at end-2010 by CRD 2 for groups with a subsidiary in another European Union country, the ACPR coordinated the updates of annual joint decisions on the financial positions and risk profiles of banking groups and their European subsidiaries, and on capital requirements in view of the potential application of Pillar 2 capital requirements to the individual entities of banking groups and on a consolidated level.

The ACPR pursued efforts to coordinate activity programmes and supervisory activities within "core colleges", involving foreign supervisors of significant non-EU subsidiaries or branches of the affected banking groups. In addition to the plenary meetings of the colleges, workshops were organised on topics of common interest, including the assessment of internal credit and operational risk models, and the review of risk types specific to certain sectors, such as property lending or consumer credit.

The ACPR also continued to take part in 20 or so colleges in its capacity as the supervisor of a subsidiary of a European banking group.

**Furthermore, in cooperation with the Banque de France, the Authority extended its work within the crisis management groups (CMGs)** established in summer 2011 to discuss and enhance Recovery and Resolution Plans (RRPs) drawn up in advance by large cross-border banking groups (BNP Paribas, Société Générale, Crédit Agricole, Crédit Mutuel and BPCE) to cope with crisis situations. In 2013, the ACPR organised several full meetings of the CMGs, as well as technical meetings with affected supervisory authorities and central banks, to talk about improving the RRP.

In 2013, based on the initial drafts of the recovery plans prepared in 2012, **the ACPR pursued its bilateral discussions with institutions through a comparative assessment of the plans, which was used to highlight best practices.** These exchanges paved the way to look more closely at internal governance issues peculiar to the plans and to encourage the banking groups to expand and update their plans on a number of specific points, including analysing stress scenarios, providing more details on underlying assumptions, increasing the number and frequency of reviews of warning indicators, clarifying thresholds, and broadening and diversifying available recovery options.

Efforts to prepare “resolution plan” components also progressed significantly: the goal here is to provide the competent authorities with the information needed to ensure the orderly resolution of banking groups in the event of a crisis. Thanks to a prolonged and iterative discussion process between institutions and authorities, French institutions made significant headway in analysing functions considered critical to the operation of markets and economies, understanding financial and operational interdependencies (intragroup transactions, information systems, market infrastructures, essential services, etc.) and identifying obstacles to orderly resolution.

### E. Analysis of internal approaches for calculating capital adequacy

#### ■ REGULATORY FRAMEWORK

Under the Order of 20 February 2007 on capital requirements for credit institutions and investment firms, the ACPR can authorise these institutions to use internal approaches to calculate their capital adequacy requirements for credit risk, market risk and operational risk.

With effect from 1 January 2014, all these provisions are covered by the CRR, which governs the prudential requirements applicable to credit institutions and investment firms and which takes precedence over French law because it applies directly to the Member States of the European Union.

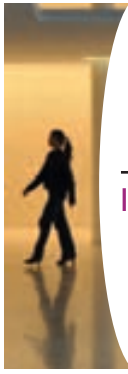


The CRR also takes up the provisions of Directive 2010/76/EU (CRD 3), whereby credit institutions authorised to use an internal model to compute capital adequacy requirements for market risk are required, effective 31 December 2011, to compute additional capital requirements using three additional risk indicators: i) the incremental risk charge, which measures default and rating migration risk on trading portfolio positions (excluding the correlation trading portfolio) over and above the default risk already taken into account for value-at-risk calculations; ii) the comprehensive risk measure, which measures default, rating migration and market risks on the correlation trading portfolio;

and iii) stressed value-at-risk, which indicates the potential loss over a ten-day period with a 99% confidence level, based on historical data over a continuous one-year period representing an acute crisis for the institution.

Subject to ACPR authorisation, the CRR also permits the use of internal models for two additional exposures, namely counterparty risk (via the Effective Expected Positive Exposure model), and the risk of credit valuation adjustment for derivatives held by institutions.





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If the institution has subsidiaries holding licences in other jurisdictions, the analysis is carried out in close collaboration with the local competent authority, particularly in the European Union, where CRD 4 and the CRR provide for a joint decision making process.

Banks are constantly developing these internal approaches, making changes not only to the way they model risks but also to their operational implementation or the scope

across which they are applied. Instruction 2011-I-10 of 15 June 2011 on monitoring internal models used to calculate capital requirements stipulated that institutions authorised to use internal models to calculate their capital requirements should submit an annual report to the ACPR detailing any extensions or changes made to those models. Going forward, these provisions have been written into an EBA technical standard, currently under validation.

#### ■ SUPERVISION

In practice, internal approaches are analysed as part of the ACPR's ongoing activity. For major banking

groups, this analysis represents a substantial proportion of the work of the Authority's supervisory staff, which relies heavily on people with a specialised profile.

The ACPR's ongoing supervision staff make an initial analysis of any plans to roll out, change or improve internal models, on the basis of documentation submitted by institutions and meetings with their staff. **Ongoing supervision staff also conduct on-site visits to deepen their knowledge of the organisational structures and working methods of teams responsible for developing and governing internal approaches.** Working with



the legal department and the on-site inspectors, they prepare decisions to authorise the internal approaches submitted to the ACPR for assessment, and they monitor the way in which the institutions take any corrective actions the Authority might request.

At the same time, additional on-site inspections are carried out at banks to assess the suitability and performance of their models. As in previous years, a significant proportion of these inspections were aimed at assessing authorisation applications submitted to the ACPR College and calibrating requests for corrective action and safety margins. Other ex-post inspections were carried out to check that requested corrective action had been properly implemented.

The ACPR also contributes actively to European and international work to assess whether the results produced by internal models are uniform and comparable.

## F. Monitoring the development of business by new reporting entities

### ■ PAYMENT INSTITUTIONS AND THE NEW STATUS OF ELECTRONIC MONEY INSTITUTION

The status of payment institutions arises from the entry into force on 1 November 2009 of the French transposition of European Directive 2007/64/EC of 13 November 2007 relating to payment services in the domestic market. Article L. 522-1 of the Monetary and Financial Code

defines a payment institution as a legal entity, other than a credit institution, licensed to provide the payment services detailed in Article L. 314-1 of the code.

With the transposition in 2013 of Directive 2009/110/EC on electronic money (EMD2), this original category was expanded by the **introduction of a new, autonomous status for electronic money institutions (EMIs), which are separate from credit institutions**<sup>25</sup>. EMIs are now authorised to carry on an activity separate from the banking business, namely issuance and management of electronic money. Institutions licensed as EMIs are now permitted not only to issue and manage electronic money but also to provide payment services. A streamlined EMI status is to be introduced for institutions issuing less than 5 million euros in electronic money. As a quid pro quo, streamlined EMIs will be unable to provide payment services or carry on a cross-border business using a European passport.

### EMD2 was transposed in France by Act 2013-100 of 28 January 2013

containing various provisions to ensure the compliance of French law with European law on economic and financial matters. The statute contains interim provisions applicable to existing finance companies having a business confined to electronic money issuance and management.

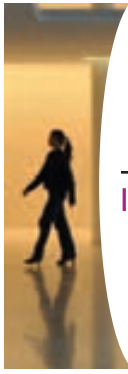
### The ACPR ensures that payment institutions and electronic money institutions comply with the regulatory provisions applicable to them.

In the event of a breach, the Authority may issue sanctions, just as it does for its other reporting entities and, where appropriate, may withdraw an institution's licence as a matter of course if the conditions are no longer respected. Electronic money institutions are subject to a specific set of prudential rules appropriate to their business, particularly in terms of capital adequacy. As is the case with credit institutions, supervisory activities consist in examining the regulatory and prudential statements submitted by the institutions on a periodic basis and on analysing their annual internal control reports.

The risk profile of these institutions is analysed by assessing the level, composition and sustainability of their capital base, the level and regularity of their results, their standards of internal control and the quality of their AMF/CTF system. Close attention is also paid to the way in which institutions protect the funds they receive for payment operations, either by opening a segregation account with a credit institution or by taking out insurance.

When carrying out inspections, the ACPR places special importance on ensuring that institutions maintain a sufficient level of equity, especially when they are building up their business. This is important

25. The first electronic money directive, EMD1, was transposed in France in 2002. This led to the creation of a sub-category of finance companies with a business related to issuance and management of electronic money. At the time, this activity was an integral part of the banking business.



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because they have to finance sometimes substantial investments. In addition, the ACPR makes sure that institutions comply with the rules on ring-fencing monies received from the public.

#### ■ MICROCREDIT ORGANISATIONS

**Since 2010, the ACPR has been responsible for supervising not-for-profit organisations operating in the microcredit sector** (under Article L. 612-2-1 of the Monetary

and Financial Code). It pays particular attention to compliance with the regulatory and prudential provisions of the Monetary and Financial Code (Articles R. 518-61 et seq). Its powers in this area were broadened by Decree 2012-471 of 11 April 2012, which transferred the power to authorise microcredit organisations from a committee under the auspices of the Minister for the Economy to the ACPR.

The Authority currently supervises two not-for-profits, Association pour le droit à l'initiative économique (Adie) and Créa-Sol. For this purpose, it examines ad hoc financial documents covering the organisations' activities and financial structure, and it analyses their annual internal control reports.

## ADAPTING THE REGULATORY FRAMEWORK TO THE SPECIFIC FEATURES OF CROWDFUNDING

Crowdfunding is the practice of raising funds from a large number of people, usually through an internet platform, to finance a creative, artistic or entrepreneurial project. However, there is no legal definition of crowdfunding. It can take several forms, such as a loan with or without interest, a donation with or without an in-kind or financial consideration, or purchases of equity or debt securities. These different types of funding are all likely to come under the remit of the ACPR. Investment services and securities issuance are also under the remit of the AMF.

The ACPR and the AMF wanted to clarify the regulatory framework for crowdfunding in order to make it clearer and more readily understandable for practitioners and the general public. Accordingly, on 14 May 2013, the authorities published two guides, one for professionals, the other for the public, setting out the rules applicable to crowdfunding operations.

In parallel, since the existing legal framework does not specifically address this new method of financing, the ACPR and the AMF were charged by the relevant ministers to make proposals for taking the framework forward. Based on these proposals, the Ministry of the Economy and Finance, in coordination with the ACPR and the AMF, launched in late 2013 a public consultation on crowdfunding. The consultation covered the amendments to be made to the legislative and regulatory sections of the Monetary and Financial Code, the AMF General Regulation, and the joint ACPR-AMF policy on placing without a firm commitment basis, in order to foster the development of crowdfunding while making it safe for investors.

As a result of this work, preparations for an appropriate framework got underway in early 2014. The European Commission, the EBA and ESMA are also discussing and debating regulation of crowdfunding.

## 3.2 INSURANCE SECTOR

### A. Market preparations for Solvency II

#### ■ HORIZON 2016

**At the end of 2013, a year marked by the impact assessment for the Long-Term Guarantees Package and the resumption of triologue discussions, an agreement on Omnibus II confirmed that Solvency II would take effect on 1 January 2016.** In consequence, the timetable is tight at European level, since the wording has yet to be finalised, and also for national supervisors, who will have until 1 April 2015 to transpose the directive into domestic law. From then on, the authorisation requests provided for in Solvency II can be referred to supervisors, which will also have to implement future technical standards.

To harmonise preparations at European level, EIOPA has published preparatory guidelines for national

## THE ACPR IS STRONGLY COMMITTED TO THE FRENCH MARKET'S ACTIVE PREPARATIONS FOR SOLVENCY II

The ACPR has supported the EIOPA initiative, which consists in publishing measures on the stable parts of the future regime in order to encourage insurance and reinsurance institutions to prepare for Solvency II between 2014 and 2016. The areas concerned are reporting, governance, the Own Risk and Solvency Assessment (ORSA) and pre-application procedures for "internal models". The ACPR examined all EIOPA's preparatory guidelines, published 31 October 2013, to determine which of them could be implemented during this interim period. In light of this analysis, the authority concluded that it could comply with most of the guidelines; moreover, it resolved to conduct early preparatory exercises in 2014 on reporting and ORSA.

Owing to time constraints on the legislative agenda, the ACPR is unable to comply formally with the preparatory guidelines on governance. Even so, it is calling on the entire French market to prepare actively for this key pillar of Solvency II, which interacts strongly with the two other pillars. It will carefully monitor the preparations being made by institutions and groups in 2014 and 2015.

authorities, applicable from 1 January 2014. The ACPR commented on these procedures in a reply dated 20 December 2013.

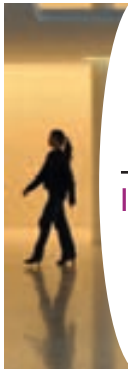
#### ■ NUMEROUS EXERCISES CONDUCTED IN AN UNCERTAIN ENVIRONMENT

- Assessing market readiness, and the pilot project on filing prudential disclosures

Almost 450 institutions participated in the 2013 preparedness survey, a

qualitative questionnaire sent out by the ACPR annually for the past three years. The latest responses show a better level of readiness in 2013 on all aspects of the directive.





## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

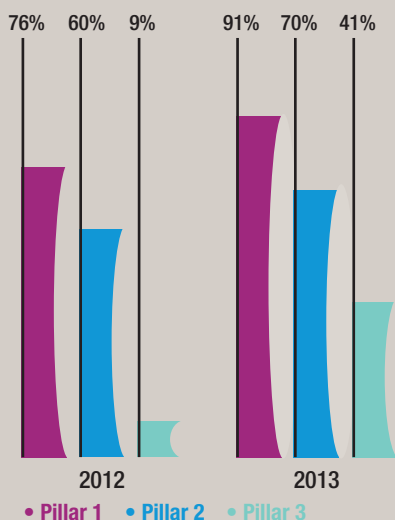
### 3. PRUDENTIAL SUPERVISION

#### 3.2 Insurance sector

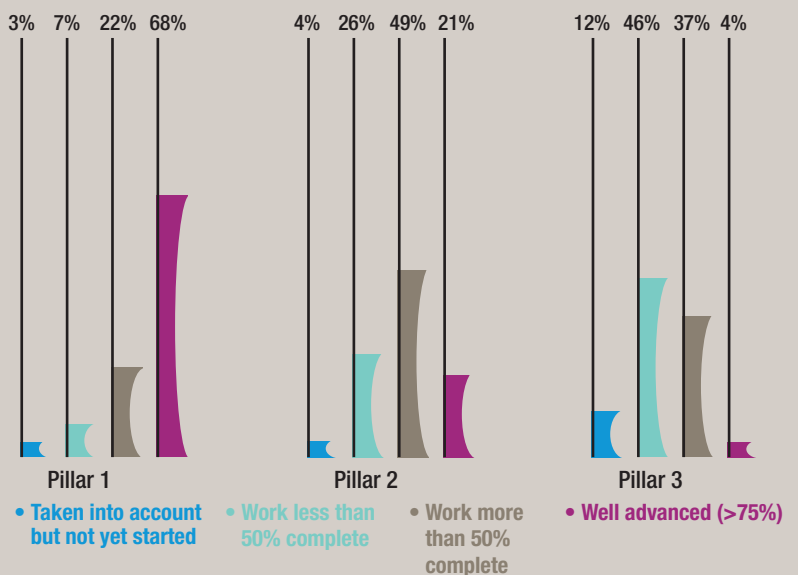
## THE 2013 SOLVENCY II MARKET PREPAREDNESS SURVEY

Concerning Pillar 1 (quantitative requirements), on which institutions report the most progress, the share of respondents believing they have completed more than half the workload increased from 76% in 2012 to 91% in 2013. While this increase also applies to Pillar 2, work relating to the filing of information with the ACPR (Pillar 3) is advancing the most. The proportion of institutions saying they have completed more than half of this work rose from 9% in 2012 to 41% in 2013.

SHARE OF RESPONDENTS REPORTING MORE THAN 50%



LEVEL OF PREPAREDNESS, BY PILLAR IN 2013



The level of preparedness is also increasingly uniform between different types of insurer. On the qualitative requirements, more than three quarters of respondents said they had identified the individuals or departments that would be responsible for key functions<sup>26</sup>. Work streams related to internal control are also well advanced, with 87% of the market declaring that over half the work on this issue has been completed.

That said, the survey highlights areas in which more work has to be done. Most notably, this includes investment policy: only 60% of respondents say they have started thinking about the prudent-person principle, even though it is the cornerstone of asset management under Solvency II. Internal organisation is another key area for improvement; another is ORSA preparation, on which only 29% of respondents say they have completed more than half of workload.

26. These are risk management, the actuarial function, internal audit and compliance.



In September 2013, 425 institutions representing most of the market (90% of the life segment and 75% of the non-life segment) submitted a selection of Solvency II prudential disclosures and a methodology note to the ACPR. One of the main objectives of this exercise, which was highly demanding both for

participants and for the ACPR and was conducted while talks on the Long-Term Guarantees Assessment (LTGA) were taking place, was to share the stabilised parts of Solvency II with the market, i.e. future prudential disclosures and updated technical specifications other than measures relating to

long-term guarantees. The scope for progress highlighted by the exercise mainly concerned the take-up of specifications by institutions and the reliability of data provided in the disclosures.

**Romain Paserot,**  
head of the Solvency II project.



## Q&A WITH ROMAIN PASEROT, HEAD OF THE SOLVENCY II PROJECT AT THE ACPR

### ***How much progress has the French insurance industry made on preparing for Solvency II?***

We have three ways of measuring preparedness: our annual survey, which covers all aspects of the future prudential regime; supervision, through assignments or interviews at insurance institutions; and preparatory exercises such as the one on reporting, carried out in September 2013. Taken as a whole, the French market continues to make progress in its preparations for the various aspects of the future prudential regime, and the gaps we used to see between institutions of different sizes or sectors have narrowed. There is still a great deal left to do, however. The work on calculating quantitative requirements and drafting prudential disclosures needs to be made more robust and integrated into formal, controlled processes. Similarly, it is essential to make progress on implementing the new governance rules and all the Pillar 2 qualitative requirements. This applies particularly to ORSA, where much remains to be done.

### ***What will happen in the two years leading up to the implementation of Solvency II?***

We have always insisted that preparations for the new regime should be set into a clear, shared and multi-year timetable. This is what we did at the end of 2012, at a conference dedicated to Solvency II held amid considerable uncertainty, and we renewed that call at our own conference on this issue at the end of 2013<sup>27</sup>. Our work schedule for 2014 and 2015 is based on a few strong principles. First, we are resolutely committed to the European trajectory that EIOPA has mapped out through its guidelines; we also hope to take full advantage of the two-year period to propose two sets of preparation exercises to the market, covering both quantitative and qualitative requirements as well as reporting. Although

we do not expect perfect results during the preparatory phase, the objective is clearly that institutions should make progress from one year to the next. These exercises will be approached from the dual standpoint of education and dialogue, since any problems will need to be identified and reported before Solvency II comes into effect.

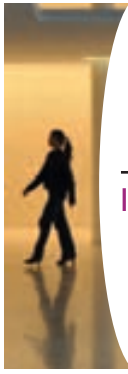
### ***What will happen in 2014?***

We will conduct two main exercises, including one on collecting prudential statements and possibly putting them into the XBRL format, which will be mandatory in 2016. Following the high degree of participation in our 2013 exercise, this one will show how much progress has been made and could be based on the new technical specifications that EIOPA is developing to take account of the agreement signed on 13 November 2013. We are also planning a preparatory ORSA exercise, for which we would expect to receive all of the ORSA components. Apart from training for this new obligation, the preparatory ORSA should enable each of the institutions concerned to foresee how Solvency II will affect them and to talk to the ACPR sufficiently ahead of time if they intend to request authorisation to use any of the tools listed in the directive, namely internal models, undertaking-specific parameters, ancillary or transitional own funds. What's more, preparations for Solvency II will be a priority for our inspection teams.

To help institutions get information on Solvency II, the ACPR has set up a section on its website dedicated to preparing for the new prudential regime:

<http://www.acpr.banque-france.fr/solvabilite2>

27. Video footage of the conference is available on the ACPR website: <http://acpr.banque-france.fr/solvabilite2/conferences.html>



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. PRUDENTIAL SUPERVISION

#### 3.2 Insurance sector

- **Entities not subject to Solvency II will continue to be supervised by the ACPR under the present regime**

A large number of institutions – albeit with a small combined market share – will not come within the scope of Solvency II. In-house work at the ACPR has so far identified around 400 institutions that will not be subject to the new prudential regime on the basis of the size and activity criteria in the directive. Half are governed by the substitution regime in the mutual insurance sector and will therefore remain subject to the rules specified in existing codes.

#### B. ACPR priorities in supervising the insurance sector

##### ■ QUALITY OF PRUDENTIAL DISCLOSURES AND COMPLIANCE WITH REGULATIONS

- **Ongoing prudential control**

In the context of ongoing supervision, **the ACPR ensures that institutions are capable of meeting their obligations at all times and actually do so.** This is a permanent commitment rather than a one-off obligation on a specific date. The Solvency I prudential regime in effect at the moment is based on the following principles:

- sufficient technical reserves to meet all commitments;
- eligible assets of an amount equivalent to regulated liabilities, the valuation of which must be justifiable at all times;

- compliance with a minimum solvency margin in order to meet any unforeseen requirements.

The ACPR therefore monitors respect for the two main quantitative pillars – the solvency margin requirement and coverage of regulated liabilities – with equal attention.

The second requirement is often harder to meet than the first, and can be breached even when the solvency margin is respected. This is because a comfortable level of equity does not guarantee that regulated liabilities are covered by assets with suitable characteristics, notably as regards liquidity and dispersion.



- **Closer attention to ACPR filing deadlines for regulatory information**

The ACPR noted that the quality of the regulatory disclosures submitted to it was clearly insufficient to permit proper supervision of compliance with this requirement and, above all, that too many institutions were not covering their regulated liabilities correctly. In addition to issuing individual requests for corrective action to the institutions concerned, the ACPR organised a conference on supervision in June 2013 to remind all market participants about the importance of

covering regulated liabilities and also about the arrangements for making the corresponding regulatory disclosure.

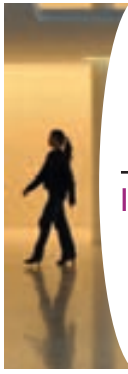
More broadly, compliant regulatory reporting is absolutely vital if the ACPR is to carry out its duties properly. The comprehensive annual review and annual reporting packages have to be filed and sent to the Authority within the deadlines set by the regulations (e.g. four months after the end of the financial year, 30 days after the general meeting of shareholders), as do the quarterly statements.

**The ACPR is particularly attentive to conformity with these filing deadlines as well as the precision of the information submitted.** Indeed, one of the ACPR's duties is to supervise compliance with this obligation. The various regulatory prudential disclosures and documents filed with the ACPR have to be compiled carefully. Institutions should ensure that the information they submit is consistent, that they respect all applicable conventions (such as monetary units) and that the content of the annual file is both complete and regulation-compliant.

## GREATER FOCUS IN 2013 ON COMPLIANCE WITH FILING DEADLINES FOR REGULATORY DISCLOSURES

With a view to collecting 2012 accounts, an information campaign was launched in March 2013 to remind all market participants of their obligations. The letter that was sent out emphasised the need to comply with Decree 2013-434 of 27 May 2013, which requires institutions subject to the Mutual Insurance Code to call a general meeting of shareholders within seven months of the end of the financial year. These institutions have a temporary dispensation for an additional period expiring 31 October 2013 in which to submit their 2012 accounts. All this information and these obligations were reiterated at the ACPR's conference on 14 June 2013.

Even so, too many institutions are still not submitting the information required, or are very late in doing so. The ACPR sent out more than 300 reminders in the second half of 2013. Although there has been a degree of improvement over the years, with just one procedure for issuing an injunction actually initiated with respect to 2012 accounts, considerable efforts have still to be made on meeting deadlines and significantly improving the quality of the information provided. The ACPR will continue to monitor the situation and will use its powers as often as necessary, notably those relating to injunctions combined with financial penalties.



## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. PRUDENTIAL SUPERVISION

#### 3.2 Insurance sector

#### ■ CONSOLIDATED SUPERVISION OF GROUPS

- Work carried out in colleges of supervisors and international cooperation

**With European colleges seeking to implement the EIOPA action plan, the ACPR continued in 2013 to provide leadership to the 15 colleges of insurance supervisors that it chairs.** Designed in the form of successive steps and reviewed annually, the action plan aims to build on work carried out jointly by the various national regulators charged with supervising different insurance or reinsurance companies belonging to the same group, and without waiting for Solvency II to take effect. Among other things, the plan provides for the launch of coordination agreement projects and contingency plans between the authorities concerned, the introduction of common quantitative and qualitative information tools, the organisation of regular points of contact (face-to-face and/or telephone meetings), preparations for Solvency II and, where applicable, the assessment of internal model pre-applications. In 2013, particular emphasis was placed on joint analysis of insurance groups' risk profiles, which led inspectors to define a common methodology

and procedure in each college for analysing risks and areas of vulnerability. ACPR staff are also active in around 30 colleges of insurance supervisors in their capacity as the local authority, with a similar objective of extending work in this area.

To conduct supplementary supervision of the main insurance groups with entities outside the EEA, world colleges have to be set up to provide a global view of their risk profiles. In 2013, as in previous years, relationships with the supervisors in third countries were broadened and placed on a formal footing by inviting new countries to join colleges, strengthened in areas of mutual interest (e.g. provisioning, reinsurance, intra-group transactions), or linked to specific current events such as acquisitions.

Building on discussions related to the financial crisis, and with an eye to facilitating work at world colleges, made up of authorities subject to sometimes very different rules, the International Association of Insurance Supervisors (IAIS, to which the ACPR belongs) has sought to craft a *common supervisory framework, ComFrame, for international insurance groups*. The proposal was put out to public consultation in October 2013, ahead of a test exercise that the authorities will carry out in 2014. It addresses such issues as the identification of these groups, mini-

mum overall requirements on such matters as governance and capitalisation, and the way in which their joint supervision is organised in both normal and crisis conditions.

Experience shows that the effectiveness of colleges of supervisors depends largely on the clear identification of shared priorities, the emergence of a "supervisor community" and highly operational aspects such as tools, methods and the practical organisation of work. In 2013, therefore, the ACPR focused on identifying and disseminating best practices, both in-house and at EIOPA, by participating in the 2013 peer review of insurance colleges.

- Cooperation on validation of Solvency II internal models

In parallel with the ACPR's day-to-day tasks, preparations for Solvency II have been a major theme in inspections of reporting institutions. This applies equally to general inspections intended to best measure the overall state of preparedness for the new regime and to the examination of pre-applications for the use of internal models to calculate solvency margin requirements. On the latter point, the ACPR unveiled the evaluation framework it will use when assessing pre-application documentation at its conference in late December on

preparedness for Solvency II (see inset below). The preparedness of IT systems for Solvency II in several major entities was also tested for resilience, governance

and the quality of insurance data. These are the themes on which formal requirements stemming from Solvency II are far more developed.

## PRE-APPLICATION FOR USE OF AN INTERNAL MODEL AND THE EVALUATION FRAMEWORK FOR THE MODEL

Institutions wanting to use an internal model to calculate their margin requirement will have to submit an application to the ACPR at least six months before the new regime comes into effect. The ACPR strongly urges institutions wishing to use an internal model from 1 January 2016 onwards to start the pre-application process as soon as possible. The main stages of the process were reiterated at the conference on 12 December 2013, namely receipt and analysis of the pre-application file, determination of an inspection plan, on-site

verifications of the main aspects of the model, followed by corrective steps.

During the conference, the ACPR unveiled the evaluation framework for pre-applications and applications. Implementation of this framework, developed using the provisions and standards appearing in the directive and proposed implementation texts, enables the ACPR to declare itself compliant with EIOPA guidelines on the assessment of internal models.

### Quantitative criteria

1. The model's perimeter and structure are appropriate.
2. The evaluation of the balance sheet on a one-year time horizon for the SCR\* IM\*\* calculation is adequate.
3. The risk factors used in the IM are appropriate.
4. The aggregation structure accurately reflects the diversification of risks.
5. In the case of a PIM\*\*\*, the IM results are accurately integrated in the standard formula.
6. The risk mitigation techniques are identified and accurately measured.
7. The measure of risk used in the IM is calibrated according to the official definition.
8. IM reports accurately reflect the risk profile.

### Qualitative criteria

1. High standard of governance of the IM system.
2. The validation of the IM is capable of guaranteeing its statistical worth.
3. Internal control covers the IM system.
4. The allocation of profits and losses confirms the model's results.
5. The IM is widely used for operational ends.
6. The policy for changing the model is rigorous.
7. The quality of the IM's IT system is satisfactory.
8. The model is properly documented.

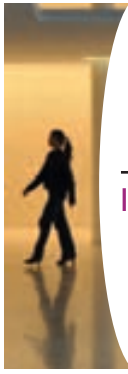
EIOPA-led reviews of the inspection of insurance internal models have emphasised the quality of the ACPR's organisation. On the one hand, a reference department for policy and international negotiations is responsible for carrying out specific inspections and generating a cross-cutting view of market practices; on the other, the inspection departments apply the resulting framework to their own tasks, thereby enabling the ACPR to step up its supervisory effort.

\* Solvency Capital Requirement.

\*\* Internal model.

\*\*\* Partial internal model.





## II. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. PRUDENTIAL SUPERVISION

#### 3.2 Insurance sector

- **The ACPR's involvement in efforts to identify systemic insurers**

**In July 2013, the Financial Stability Board (FSB) published a list of nine insurers, including the French group AXA, which are considered systemically important to the international financial system.** This means that any difficulties incurred by these companies would have an impact on global financial stability. The naming process is part of a programme aimed at cushioning the impact of the collapse of an international financial group. ACPR staff have collaborated on determining a method of assessing the groups concerned, in order to provide data and draft additional measures for containing the effects of possible difficulties in the insurance sector.

The authorities responsible for supervising systemic insurance groups, including the ACPR, must therefore comply with FSB recommendations concerning the supervision of any group in question. These recommendations include strengthening consolidated and group-wide supervision, frequent interaction with senior management and boards of directors, involvement in assessing succession plans for key functions (senior executives, chief financial officers, chief risk officers, internal auditors, etc.), more in-depth evaluation of the group's internal control process, specific supervision of the activities considered the most systemic, and greater expectations for aggregated risk information, notably in terms of frequency.

A demanding timetable for measures to be implemented has been adopted:

**I July 2014:** in cooperation with the ACPR, the group will have to have finalised a Systemic Risk Management Plan (SRMP) describing how it manages and reduces systemic risks;

**I July 2014:** the group's supervisor will have to have assembled and trained a Crisis Management Group (CMG) that includes the main stakeholders involved in the group's resolution programme;

**I End-2014:** the CMG has to sign off on a Recovery and Resolution Plan (RRP) and a liquidity management plan for the whole group.

#### C. Institutions or activities in special situations

- **Points-based supplementary pension systems (Branch 26)**

Given the present economic environment of low interest rates and the possible impacts of the future Solvency II regulations, the future of supplementary pension systems is a matter of concern.

The ACPR therefore carried out a qualitative and quantitative survey in the first half of 2013 of the 20 or so institutions that run the 46 points-based supplementary pension systems (known as "Branch 26" regimes, after the corresponding authorisation category), which helped establish an overview of the market.

The survey showed marked disparities between the profiles of the various regimes, which are governed by three codes and sepa-

rate legal provisions. According to 2012 accounts, outstandings under these systems totalled almost 40 billion euros, of which 66% were concentrated in five systems. The largest system accounted for 30% of outstandings all on its own. At an overall market level, it appears that a few systems in a structurally fragile situation are no longer covered, but the rest of the market does cover its liabilities overall. Faced with this situation, some institutions have made up for the lack of cover by making an allocation to a special, additional technical reserve; others that were already being monitored specifically by the ACPR are following convergence plans. The upshot was that no additional special measures were required for these systems with regard to their 2012 accounts. The ACPR will keep a close watch on these systems in 2014 and will exercise its powers in the event that policyholders' interests are or could be threatened in the short or medium term.

At the same time, the ACPR is actively involved in changes to the current regulations for Branch 26 systems and in discussions on the future of retirement savings products, particularly in the context of Solvency II.

- **Enhanced supervision of life insurers**

**Life insurers' profitability and solvency are liable to be affected by falling financial income in the present interest-rate environment; enhanced supervision of these institutions continued in 2013, both through**

ongoing supervision and on-site inspections. Supervision departments paid particular attention to the quality of investment portfolios, a proper match between assets and liabilities, the balance between net financial income, contractual commitments and attributed profit-sharing schemes, as well as the standards of discipline for management, accounting and investment monitoring. Since the quest for yield could encourage some institutions to shun conventional investments and diversify their portfolios into assets that are harder to manage, the ACPR has carefully and closely followed the increase in some institutions' holdings of specific asset classes (e.g. structured finance, property-backed loans, securities lending), as well as the latest industry thinking on methods of financing, notably loans to mid-sized companies.

#### • Institutions in special situations

The French insurance sector proved reasonably strong in 2013, despite a difficult macroeconomic and financial environment. This situation still has to be monitored very carefully, however, as default risk is increasing across the economy.

The sector's health is the result of significant efforts by market participants and also by the supervisor. The ACPR has closely monitored institutions at the level of both the General Secretariat, which has been able to detect difficult situations, and the Supervisory College, which made full use of its safeguarding powers and took decisions appropriate to the individual situations of certain institutions. The ACPR's Insurance Supervision Sub-College asked these institutions to submit recovery plans containing all appropriate steps to



strengthen their financial stability and management. These requests were prompted, for example, by particular investment choices or where claims management could be optimised (regardless of whether it had been delegated), or because a new business was not properly managed. Several institutions in breach of the regulations were ordered to come into compliance.

#### D. The health and provident sectors

The mutual insurance sector, governed by Book II of the Mutual Insurance Code, continues to consolidate, with institutions either merging or winding up. However, it is still highly fragmented, with a large number of very small participants. Some, but not all, are backed by larger partners. In this second case, the ACPR pays particular attention to compliance with the minimum guarantee fund or to the existence in the institution's articles of association of provisions described in the Mutual Insurance Code that exonerate it from the requirement to constitute such funds. Several checks and requests for explanations were made in 2013.

The need for appropriate business and IT tools and for control over the related costs has led many provident institutions to explore merger options. Several mergers were concluded in 2013, reducing the number of such entities. Further deals have already been announced. It should be noted that these jointly managed institutions are operating in the broader context of AGIRC-ARRCO supplementary pension systems that are themselves managed on a joint basis. In 2013, the ACPR reminded several institutions that their growth and risk management policies had to be firmly under control in order to prevent underwriting of loss-making business that could jeopardise their business model.

**The national inter-professional agreement on supplementary employee health insurance schemes and the passage of the corresponding legislation at the end of 2013 will undoubtedly have important consequences for the institutions operating in these sectors. Being vigilant by nature, the ACPR will check that all changes are made in compliance with the various codes and in the interests of policyholders and members.**



## 4 Resolution of banking crises

**Act No. 2013/672 of 26 July 2013 on the separation and regulation of banking activities entrusts the ACPR with the new role of preventing and resolving banking crises** for the purpose of *"safeguarding financial stability, maintaining the continuity of the activities, services and operations of institutions whose failure would have a serious impact on the economy, protecting depositors and avoiding, or limiting to the greatest possible extent, any recourse to public financial aid."* To this purpose, the Act established a specific Resolution College, which held its first meeting in November (see Chapter 1).

**At the ACPR, the work of the Resolution College is prepared by a specific directorate set up at the end of 2013.** The head of the college is appointed by a decree from the Minister of the Economy on the recommendation of the Governor of the *Banque de France*, who is also Chairman of the ACPR. The legal construction of the 2013 Act seeks to ensure the separation of supervision and resolution activities while allowing operational flexibility for the College to work with all ACPR teams on a day-to-day basis. The Resolution director reports directly to the Resolution

College. The resources required are incorporated in the ACPR budget, which now has a section, agreed after consultation with the Resolution director, relating to the Resolution Directorate's operations. To carry out its tasks, the Resolution Directorate has access to information held by ACPR for supervisory purposes.

**In 2014, the Resolution College will be invited to adopt a general strategy on resolution** that will define the key tenets of the ACPR's approach in this area. In line with this general strategy, and while adapting to the particular situation of each banking institution or group, the Resolution College's new directorate will have to draw up operational resolution plans that explain the specific ways in which the resolution measures will be applied to each of the banking institutions and groups concerned.

To that end, the directorate will take account of the work done by supervision departments to analyse the recovery plans produced by these groups. This process has three aims:

- identifying and disseminating best practices;
- drafting resolution plans;
- evaluating the plans' compliance with international standards.

Analyses of the recovery plans and draft resolution plans are and will be submitted to meetings of the Crisis Management Groups (CMGs). Started in 2011, these meetings involve the ACPR General Secretariat, supervisors of the main foreign entities of banking groups and the *Banque de France*. In 2013, the principal focus was on recovery plans, particularly:

- formation of an organisation responsible for drafting recovery plans;
- quality of stress scenarios;
- warning indicators that can swiftly identify pressure points;
- the recovery options that each group could take to restore financial soundness in the event of difficulties.

The Banking Separation and Regulation Act enables the ACPR to order institutions to take steps, within a specified timeframe, that it believes necessary for effective application of resolution measures where no obstacles to resolution are in evidence and where the solutions suggested by the institution appear insufficient. In this context, the ACPR will start work on assessing the ability of groups to deal with resolution issues.

Similarly, the Resolution Directorate will be charged with monitoring credit institutions in resolution situations.

The Resolution Directorate will also be responsible for the ACPR's relations with the Deposit Insurance and Resolution Fund. It will therefore co-ordinate work on calculating contributions to the Fund.

Implementing the Bank Recovery and Resolution Directive (BRRD) will be another important task for the Resolution Directorate in 2014. Alongside the General Directorate of the Treasury and the *Banque de France*, it will contribute actively to transposing the directive in a manner consistent with regulations on the single resolution mechanism.

The ACPR also participates in international work on resolution. **The establishment of the Resolution Directorate strengthens France's contribution to the various forums and working groups charged with these questions, both at international level (FSB) and in Europe (EBA).**



**Corinne Paradas,**  
ACPR Resolution  
Directorate.

“  
*The Resolution Directorate is contributing directly to building a safer European economic environment by helping to forewarn of banking crises and resolve them.*  
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# 3

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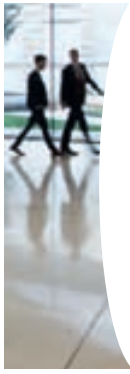
# Customer protection in banking and insurance

The ACPR makes sure that the entities under its supervision comply with consumer protection rules derived from any legislative and regulatory provisions, codes of conduct approved at the request of a professional association and professional best practice that is either observed or arises from ACPR recommendations.

These rules extend to advertising, pre-contractual information, due advice or warning, and the execution of contracts until commitments are met. The ACPR is responsible for compliance with these rules and ensures that reporting institutions have adequate resources and appropriate procedures in place to comply with these rules.

To that end, the Business Practices Supervision Directorate includes experts in banking, non-life insurance, life insurance and health and provident insurance that carry out inspections, analyse customer complaints, monitor contracts and advertising, participate in European projects and work in coordination with the *Autorité des marchés financiers* (AMF), notably in the Joint Unit.

The ACPR carries out inspections of credit institutions, insurance entities, insurance intermediaries and intermediaries in banking transactions, and payment services intermediaries. Inspections focus on all distribution channels: branch networks, websites (proprietary sites and price checkers) and telephone marketing.



# The main on-site inspection themes in 2013

## Supervision of business practices in figures

In 2013:

90 on-site inspections concerning consumer protection

- | of which 71 carried out directly by ACPR staff responsible for business practices supervision
- | 7 delegated to banking and insurance inspection teams
- | 12 by the French overseas departments' note-issuing bank (IEDOM).

4,193 advertisements analysed

4,762 written requests and complaints received

### 1.1 RULES SPECIFIC TO BANKING AND CREDIT

Building on initiatives conducted in 2012, the ACPR undertook further inspections concerning compliance with the rules on **access to banking services**. It found that individuals eligible for these provisions had been directed to fee-paying services such as non-cheque means of payment without being offered basic banking services. On 3 July 2013, the ACPR's Sanctions Committee disciplined an institution for not having made all the necessary arrangements for strict compliance with these rules, particularly the provision of free basic banking services (see Chapter 5).

The ACPR also checked compliance with the rules for making and deleting entries on the **national register of household credit repayment incidents**, FICP. Its investigations showed that the scope of FICP declarations was not fully respected. More specifically, the filing procedure was not

applied to certain defaulting debtors in the event of a payment incident, ensuring that they were not reported to the *Banque de France*. Moreover, in some declarations the debtor information fell short of requirements.

The ACPR likewise inspected **marketing arrangements for revolving credits**. Among other things, it checked that the methods used to assess customers' solvency did not lead to an overestimate of their borrowing capacity and therefore a weaker financial position. In some cases, it noted a practice of systematically taking into account the income of a spouse or civil partner not party to the contract. These institutions had not specified precise criteria beforehand for establishing a situation of joint responsibility that would justify taking the income of a non-contracting spouse or partner into consideration.

## 1.2 THE DUTY TO ADVISE IN INSURANCE

Effectively providing objective and suitable advice when selling an insurance policy is vital to a balanced relationship between the professional concerned, be it the insurance entity or intermediary, and the consumer. A total of 47 on-site inspections carried out by the ACPR in 2013 were aimed specifically at assessing **the sales process used in life and non-life insurance**. Some best practices were indeed identified, confirming that formally providing appropriate advice is both possible and com-

patible with every professional's business requirements. Even so, particular vigilance is required from intermediaries with respect to the soundness of the marketing process and each step in it.

The customer needs total transparency on the true nature of the services offered and the advice given by the professional, particularly in the case of remote selling and online product comparisons. In-depth knowledge of customers affects the accuracy with which their requirements and needs are assessed and the way they are formally recorded. Lastly, the reasons for the advice must be personali-

sed and should not be based on a non-specific sales pitch that has no bearing on the individual requirements and needs that have been identified. This reasoning must show why particular advice was given, both in light of the customer's requirements and needs and with regard to the features of the insurance policy offered. During inspections and follow-up actions, the ACPR frequently reminded intermediaries of these duties, which have to be tailored to the complexity of the policy but are nonetheless applicable to all of them, even non-life insurance and payment protection insurance.

90 on-site inspections concerning consumer protection were carried out.





### 3. CUSTOMER PROTECTION IN BANKING AND INSURANCE

#### 1. THE MAIN ON-SITE INSPECTION THEMES IN 2013

##### 1.3 Rules on the right to engage in and carry on the business of intermediation

Backed by an initial ruling from the Sanctions Committee on the duty to advise, the ACPR will continue to ensure that the tools and procedures put in place, including the remuneration of employee or partnership networks, lead professionals to provide objective advice.

#### 1.3 RULES ON THE RIGHT TO ENGAGE IN AND CARRY ON THE BUSINESS OF INTERMEDIATION

The customer's first line of protection is a relationship with professionals that comply with the conditions

governing the right to engage in and carry on a regulated profession. For insurance intermediaries, this professional framework has been in place since 2007.

In 2013, it was extended to intermediaries in banking transactions and payment services.

**Laurence Vallée,**  
Business Practices Supervision  
Directorate.



“

*When inspecting intermediaries, the ACPR has been checking compliance with the rules on good standing, professional ability, professional liability insurance and financial guarantees.*

*These inspections revealed a few failures to register, with some of these professionals acting as intermediaries in return for payment. The ACPR wants to alert professionals to this situation, particularly in the case of groups.*

*Close attention should be paid to the registration requirements for each entity in a group with regard to its specific business and notably its relationship with customers. Moreover, payment should be understood as any direct or indirect commission or any economic benefit. In addition, the registration category should be appropriate to the intermediary's business.*

”

All too often, inspections revealed shortcomings in compliance with regulations on **professional abilities**. Intermediaries have struggled to prove the professional ability of all their employees at the point of hire or during inspections. It should be remembered that any employee presenting, proposing or helping to conclude an insurance policy or a banking transaction must have the appropriate professional capabilities before any business is undertaken. At its inspections, the ACPR examined the compliance of training programmes and the quality of course reports.

The ACPR has continued to pay close attention to **relationships between partners** (between intermediaries and between intermediaries and an insurance entity or credit institution) by checking the existence, content and implementation of their agreements, particularly on life insurance business, and by checking payments made to the intermediaries. Inspections have shown that agreements often fail to incorporate all the wording required by Article L. 132-28 of the Insurance Code<sup>28</sup>, applicable since January 2010. Implementation of these agreements has to be

improved to ensure that advertising is compliant and that policy details are communicated effectively, thereby ensuring that customers always have clear and precise information. As far as the payment of intermediaries by their partners is concerned, participants have to be more vigilant whenever a business relationship between professionals is established as well as during the course of that relationship. In particular, improvements are needed in anticipating situations where intermediaries cease trading.

## UNCLAIMED LIFE INSURANCE POLICIES

In 2013, the issue of unclaimed life insurance policies generated considerable activity for the ACPR, notably through additional on-site and off-site inspections, two cease-and-desist orders and the initiation of two disciplinary proceedings.

Concerning compliance with the general duty to identify deceased policyholders, the ACPR is particularly vigilant because too many insurers have introduced portfolio selection or exclusion criteria. Moreover, some insurers have voluntarily opted to ignore deaths, sometimes in almost all their portfolios.

Although claim assessment and the search for beneficiaries have to be initiated once a policyholder's death has been notified, the ACPR has identified numerous cases in which this process had not started even several years after this information was received.

On this point, a significant number of cases have revealed imprecise beneficiary clauses that make the search for beneficiaries difficult or even impossible.

Lastly, the ACPR noted irregular practices such as charging beneficiaries for searches, either directly (fees deducted from death benefits) or indirectly (genealogists billing beneficiaries, sometimes for up to 40% of the benefit).

In 2014, the Sanctions Committee will rule on the various cases that have been referred to it.

The Authority will keep a watching brief to ensure that insurers comply fully with their obligations on settling claims and implementing sustainable mechanisms for clearing the backlog of unsettled policies.

28. Or Article L. 116-5 of the Mutual Insurance Code, which concerns the validation of advertising documents by the insurance entity and the availability of the information required to evaluate all of the policy's terms and conditions, both by the intermediary and by the customer.





## 2 Questionnaires on implementation of customer protection rules

In accordance with Instruction 2012-I-07<sup>29</sup> of 13 December 2012, which introduced a mandatory requirement, the ACPR analysed a questionnaire (2012 data) on compliance with customer protection rules in the banking and insurance sector. The response rate improved significantly in 2013, to 96% of banking institutions and 87% insurance institutions.

Almost all respondents reported that they had identified and collated the customer protection requirements

related to their various activities, set forth in legislative and regulatory provisions, codes of good conduct, ACPR recommendations, professional commitments, etc., and had factored them into their risk maps.

**Concerning banks**, the large number of responses was encouraging and represented an improvement on data provided the year before, notably on the issues listed below.

Theme	All institutions	Large groups
Establishing a committee to examine the compliance of new products	91%	95%
Checking the quality of information and advice covered by internal control arrangements	81%	87%
Making arrangements for ongoing training for product advisers	70%	82%

Concerning credit business, the collection of evidence for evaluating repayment capacity has improved for consumer loans, but it remains insufficient for a significant number of institutions, notably with respect to the borrower's expenses.

Product and consumer protection training for advisers appears to be carried out through vocational training programmes rather than upon appointment, as a

significant proportion of advisers is hired without any banking training.

Variable remuneration or one-off advantages linked to sales targets during marketing campaigns are common practice. Pay-related sales goals do not often incorporate qualitative criteria on compliance with consumer protection rules.

29. Relating to the questionnaire on the application of customer protection rules.

In the insurance sector, appropriate and robust measures usually govern risk control relating to claims

management. But some other themes warrant closer attention.

Theme	Insurance companies	Mutual insurers	Provident institutions
Establishing a committee to examine the compliance of new products	63%	29%	39%
Ensuring that customer-facing staff have specific materials to assist with advice	66%	66%	66%
Establishing arrangements to train staff in customer protection rules	72%	56%	54%

As far as the monitoring of the quality of advice given to customers is concerned, advice on life insurance is not always traceable. Internal control coverage of issues related to the quality of advice or of marketing or advertising documentation is not always sufficiently integrated.

provided institutions admit they have not carried out internal audits on consumer protection issues.

Variable remuneration or one-off advantages linked to sales targets during marketing campaigns are common practice in these entities, although to a lesser extent among mutual insurers.

A sizeable number of insurance, mutual insurance and

**François Hanse,**  
Business Practices Supervision  
Directorate.



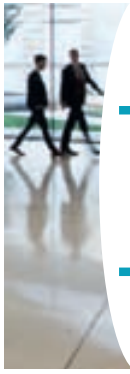
## MONITORING AND SUPERVISING ADVERTISING

“ *The ACPR is well aware that advertising is important for financial professionals, which increased their advertising expenditures by 7.1% in 2013<sup>30</sup>. For this reason, it pays close attention to the quality of information given to the public. In particular, it has made every effort to avoid problems stemming from vague or overoptimistic promises made in advertisements.* ”

In 2013, the ACPR checked **4,193 advertisements** for various banking and insurance products. It continued to closely monitor the credit and life insurance sector and stepped up its inspections in health insurance. These checks gave rise to 68 actions against the companies concerned, a 26% increase compared with 2012.

On-site inspections have also focused on the advertising of revolving credit and car loans, as well as on the resources and internal procedures used by professionals to ensure compliance.

30. Source: Kantar media.



# 3 Processing customer requests

## 3.1 PROGRESS ON THE RECOMMENDATION ON COMPLAINTS HANDLING

In December 2011, the ACPR published a recommendation on complaints handling, applicable from 1 September 2012 onwards. The aim is to ensure customers:

- the availability of clear and transparent information on procedures for handling complaints and an easy access to the complaints handling system;
- an efficient, equal and harmonized complaints handling process;
- the implementation of any corrective actions by financial institutions for addressing any problems identified during the complaints handling process.

Responses to the questionnaire on the implementation of customer protection rules submitted by credit institutions and insurance entities offer an initial indication of how far this recommendation has been implemented.

The ACPR received 4,762 written requests and complaints.

### ■ CUSTOMER INFORMATION AND ACCESS TO THE COMPLAINTS HANDLING SYSTEM

Customer information on the complaints procedure is not yet available in all contractual documents. That said, there has been an improvement in this regard in institutions' customer reception areas and on their websites. These efforts should be maintained.

Information on the status of the complaint is not systematically available, but there appears to be gradual implementation of the requisite procedures.

### ■ ORGANISATION OF COMPLAINTS HANDLING

The documentation of complaints handling still has to be improved among a number of reporting insti-

tutions. That said, a manager responsible for complaints handling has been identified in almost all entities.

### ■ MONITORING AND FOLLOWING UP COMPLAINTS

Concerning the monitoring of complaints and the recognition of shortcomings or bad practices by internal control departments, and despite a significant number of internal audits, there is still room for improvement on monitoring sub-contractors and agents and on implementing corrective measures for observed bad practice.

Once collated, questionnaires for 2013 will show whether the complaints handling process has been improved.



## 3.2 HANDLING OF CUSTOMER REQUESTS

### A. The ACPR's role

#### ■ DIRECTING CUSTOMERS

Customers of banks and insurance companies can send requests for information or written complaints about business practices to the ACPR. The Authority also offers a telephone service for questions on insurance.

The ACPR department that handles these requests gives the customer clear information about the options for out-of-court redress, including contact information for internal complaints handling departments and/or for competent ombudsmen. Regular communication with ombudsmen is organised to obtain up-to-date information, particularly about their area of jurisdiction. Depending on the data it has on file, the ACPR also makes sure to specify the applicable rules so that the complainant can assess the grounds for the request.

In the case of bad practice liable to be detrimental to customers, or a flagrant breach of a legal or regulatory provision or contractual obligation, the ACPR can take action directly with the institution, entity or intermediary at fault.

#### ■ USING COLLECTED INFORMATION FOR INSPECTION PURPOSES

Requests received give the ACPR an indication of the state of the market and its trends. They are also a valuable source of information on business practices – whether general market practice or isolated cases – that might be detrimental to the interests of customers and/or the entity itself. They help determine areas for inspection, which may be thematic or specific to certain entities. Such requests constitute a set of indicators to situations where best practices need to be disseminated, whether through recommendations or legislative or regulatory change. They also contribute to improvements in business practices and hence to enhanced consumer confidence in financial sector professionals.

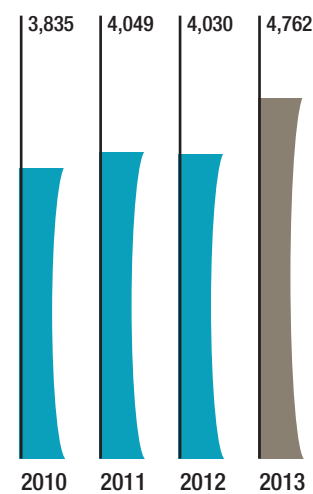
### B. Lessons learned from requests

#### ■ CUSTOMER REQUESTS RECEIVED BY THE ACPR

In 2013, the ACPR received 4,762 written requests and complaints. This number was up sharply by 18% on 2012, particularly on banking issues.

The Authority also replied to almost 11,000 requests made by telephone.

NUMBER OF WRITTEN REQUESTS RECEIVED BY THE ACPR, 2010 TO 2013



#### ■ CUSTOMERS ARE STILL UNFAMILIAR WITH INTERNAL MEANS OF REDRESS

More than 10% of all letters or emails received were mistakenly sent to the ACPR; they ought to have gone to credit institutions, insurance companies or intermediaries and be dealt with under the terms of the contractual relationship with the customer (making a claim, terminating contractual relations, etc.). Although this proportion was down slightly on 2012, it illustrates the need for firms in these sectors to do a better job of informing customers about whom to contact as part of the contractual relationship and, where appropriate, to update the documentation they receive.



### 3. CUSTOMER PROTECTION IN BANKING AND INSURANCE

#### 3. PROCESSING CUSTOMER REQUESTS

##### 3.2 Handling of customer requests

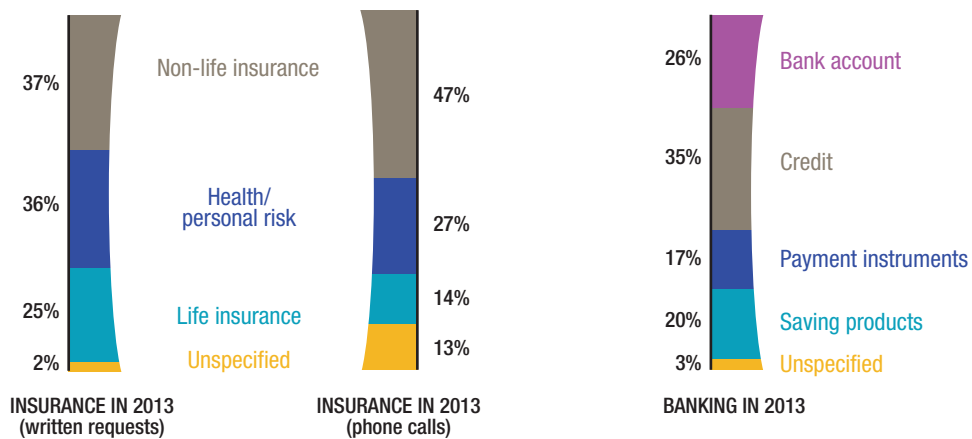
A full 18.5% of ACPR actions with respect to companies, entities or intermediaries are directly linked to the internal complaints handling system (some systems take too long to respond; some give no answer at all) or problems accessing the mediation function, if there is one.

#### ■ BREAKDOWN OF REQUESTS BY CATEGORY AND SUBJECT

There were more written requests concerning health/provident insurance and life insurance in 2013 than in 2012.

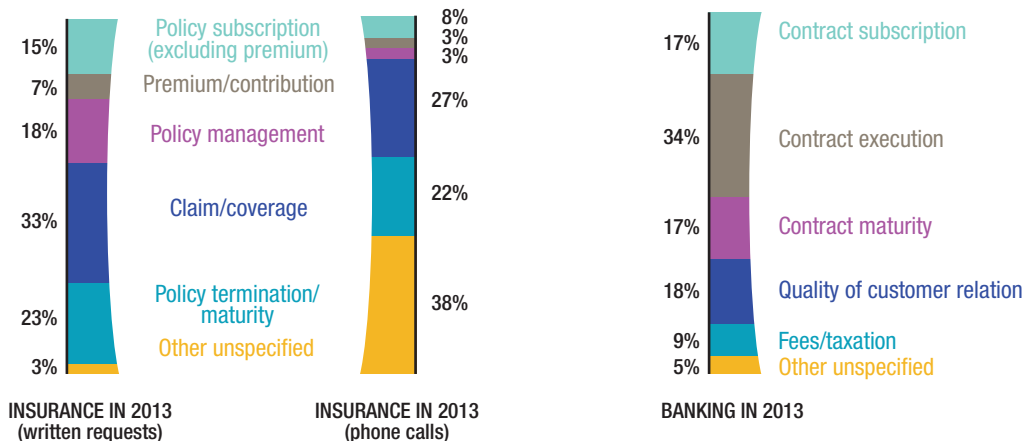
The breakdown of telephone requests concerning insurance and written requests concerning banking was largely unchanged.

#### BREAKDOWN OF REQUESTS IN 2013 BY CATEGORY



As was the case in 2012, written requests and phone calls relating to insurance mainly concerned claims management and coverage under non-life insurance, followed by policy termination or maturity in life insurance. In banking, contract execution was the main topic.

#### BREAKDOWN OF REQUESTS IN 2013 BY SUBJECT





The ACPR took action on 12.4% of the written requests it received in 2013 concerning non-compliance by an entity or institution with statutory, regulatory or contractual provisions.

**In non-life insurance,** the ACPR noted a number of shortcomings in online applications for certain travel or event cancellation policies. Insurance cover and assistance provisions offered on the internet are sometimes reserved to residents of France or the European Union. Frequently this is not stipulated in the terms and conditions and there is often a failure to remind consumers of this condition before a policy is taken out online. Moreover, insurers do not systematically check the policyholder's address as declared in the application form. Yet when the policyholder fails to meet the conditions of cover, his or her claim for compensation cannot be honoured. The policy is therefore meaningless and premiums must be repaid to the policyholder without benefits. Going forward, the expansion of online sales, policyholders' lack of information or automatic warnings when policies are taken out online suggest an increase in litigation in this area.

**In health insurance,** refusals to cancel policies are still a major source of complaint. They are usually associated with situations in which customers' cancellation requests have not been made within a legal or contractual time limit or have not been sent to the right address, or are based on the fact that the provisions of Act 2005-67 (the Chatel Act) do not apply to group policies. The ACPR has noted that a significant proportion of complaints stem from the fact that certain intermediaries make a

commitment to individuals, especially those contacted at home or by phone, that they will handle all the formalities required to cancel an existing insurance policy without checking whether this is actually possible. Consumers can therefore find themselves paying involuntarily for duplicate insurance cover.

**In life insurance,** the ACPR received numerous complaints again in 2013 about insurers' failure to comply with statutory deadlines for the processing of transactions in which policyholders or members are seeking contract execution, notably on surrender or transfer requests. But it also noted that late payment interest had been paid more systematically by insurance entities. The ACPR also dealt with a growing number of complaints from people criticising insurers for having informed them only after some time – sometimes years after the death of the policyholder – of the existence of a policy under which they are beneficiaries.

**In banking,** one of the recurrent themes in complaints is sale-related credit, notably in renewable

energy. In some cases, complainants deny that they had signed the work completion slips that triggered the release of funds, when the item being financed had not been delivered. Complainants' difficulties can also be aggravated in cases when the contractor defaults before the work is completed.

**Actual or suspected online fraud** has given rise to many complaints. These cases can take many forms and concern several types of product. Regarding credit, some websites offer loans aimed mainly at vulnerable people, such the unemployed as those on bank blacklists, in breach of the regulations on banking transactions. In some cases, individuals are offered cash loans through social media, emails or websites that require a down-payment or upfront fee that they never recover. Concerning savings, numerous requests relate to investments made online with entities not authorised to do business in France, particularly in areas of foreign exchange and binary option trading.





# 4 Specific instruments

## 4.1 RECOMMENDATIONS

The ACPR and AMF have worked together through the Joint Unit to gather customer information in connection with the marketing of financial instruments and life insurance policies. This initiative prompted an ACPR **recommendation** published on 8 January 2013 on the marketing of life insurance and an AMF position on financial instrument marketing.

The ACPR is recommending best practices to insurance entities and intermediaries relative to the following:

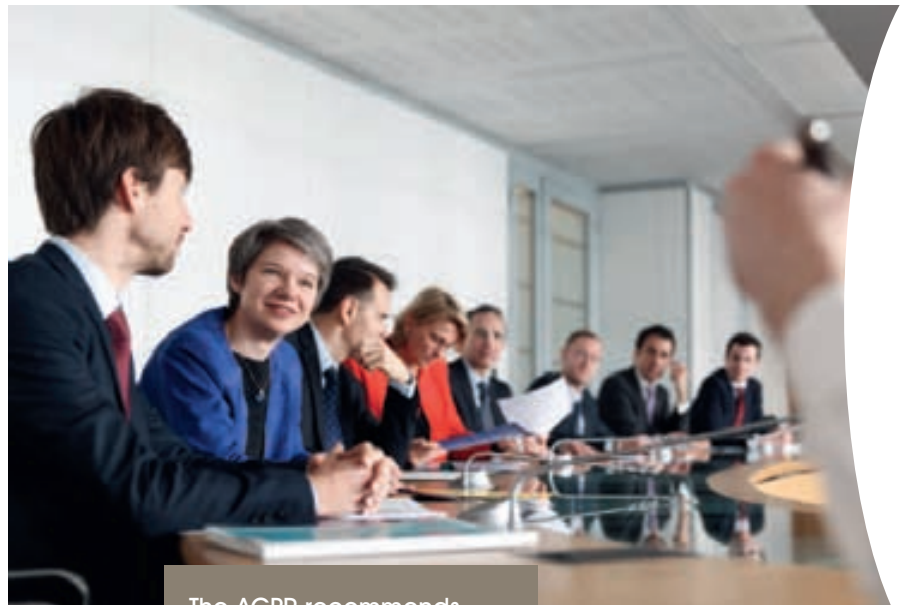
- the ways in which information is gathered (the form and content of questions, the quality of the information and updates to it) and its traceability (archiving, access, transmission and availability);
- the quality of the content, via an indicative, non-exhaustive list of information that could be asked of the customer, whether on their

personal, family and financial circumstances, or on their financial knowledge and experience, insurance objectives, investment horizon and profile in terms of expected returns and risk tolerance;

- the use of the information received (handling inconsistent and/or incomplete information, and the knowledge required of staff responsible for marketing);

■ the resources and procedures put in place to ensure compliance with customer protection rules and with rules on internal control for companies required to have such arrangements.

The recommendation has been in force since 1 October 2013.



The ACPR recommends best practices to insurance entities and intermediaries.

## ACTION BY THE ACPR/AMF JOINT UNIT IN 2013

### Tasks

The Joint Unit set up by the ACPR and the AMF is now an integral part of the French regulatory system. It has carried out numerous actions as part of its remit:

- | coordinating supervisory priorities;
- | analysing the results of supervisory activities and learning lessons from them;
- | coordinating the supervision of all banking and insurance transactions, investment services and savings products and monitoring advertising campaigns;
- | acting as a single access point for all financial sector consumers.

### Activity in 2013

Inspections based on cross-cutting themes were organised for professionals in a wide diversity of roles, notably insurers, insurance intermediaries, credit institutions, investment services providers, financial investment advisers, and asset management companies. These inspections were carried out directly by staff of one of the two authorities, backing up joint inspections by an ACPR/AMF team at individual entities.

In 2013, 29 inspections focused essentially on complaints handling, the duty to advise in life insurance, agreements between producers and distributors and remote selling. The ACPR recommendation and AMF position on KYC-related information-gathering published in January 2013 went into effect on 1 October 2013.

The Joint Unit also worked on several subjects as:

- | producer-distributor agreements that govern relationships between insurance brokers and institutions and between producers and distributors of financial instruments;
- | advertising for financial services.

For public information purposes, the "Assurance Banque Épargne Info Service" website launched in December 2012 is regularly updated with thematic contributions in areas such as deciphering insurance and banking advertisements, beneficiary clauses in life insurance, bank card fraud, shareholder meetings of listed companies, and fees on financial investments. The ACPR, AMF and *Banque de France* also publish warnings as and when products are offered that breach the law or regulations.

Internet users can also sign up for the newsletter.

Reached on a single number, the **Assurance Banque Épargne Info Service** telephone platform handles consumers' information requests. It received almost 330,000 calls in 2013, broken down as follows:

Theme	Number of calls
Stock market and financial products	11,488
Insurance	37,267
Banking	280,159
<b>Total calls to the ABE IS platform</b>	<b>328,914</b>

## 4.2 APPROVED CODES OF CONDUCT

At its meeting on 24 June 2013, the ACPR College approved the provisions of two sets of professional standards from the *Fédération bancaire française* (FBF) as "codes of good conduct" relating to bank service charges:

- | the first relates to displaying the total monthly bank charges and authorised overdrafts on bank statements;
- | the second covers the display of bank fee schedules using a standard table of contents and a standard summary of fees and charges.

Both codes aim to improve visibility on bank charges.

Once the ACPR has approved a code at the request of an association, the approval is published and the code becomes binding on the association's members.

## 4.3 THE POSITION ON INTERNAL CONTROL AND INTERMEDIARIES IN BANKING TRANSACTIONS AND PAYMENT SERVICES

In Position 2013-P-01, adopted 6 November 2013, the ACPR explains how the internal control

systems of institutions subject to CRBF Regulation 97-02 should take account of intermediaries in banking transactions and payment services when marketing their products and services. This applies equally to the use of ORIAS-registered agents and brokers. The ACPR draws the attention of reporting institutions to the need for vigilance on all banking transactions concluded and payment services provided through intermediaries.

# 4

- 1. ACPR supervision
- 2. Work on legal instruments related to AML/CTF

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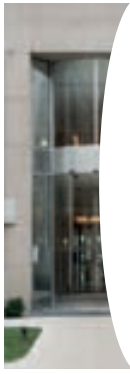


# Anti-money laundering and counter-terrorist financing

The ACPR makes sure that reporting entities fulfil their obligations regarding anti-money laundering and counter-terrorist financing (AML/CTF).

For this it relies on ongoing supervision – for example, examining responses to AML/CTF questionnaires – and it also carries out on-site inspections to analyse the compliance of reporting entities' AML/CTF systems and to ascertain whether due diligence measures are in place.





# ACPR supervision

## 1.1 ONGOING SUPERVISION

In 2013, the ACPR analysed responses to the first joint questionnaire for banking sector institutions (excluding money changers) and life insurers, as defined by Instruction 2012-I-04 of 28 June 2012.

The Authority follows up any shortcomings emerging from its examination of questionnaire responses and from interviews with institutions. Where necessary, further information is obtained by examining the AML/CTF part of internal control reports.

The ACPR has also examined money changers' responses to the third questionnaire specific to that profession (Instruction 2011-I-04 of 28 March 2011).

All the information sent to the ACPR is analysed, and the findings are taken into account when framing the annual inspection timetable.

## RESPONSES TO THE AML/CTF QUESTIONNAIRE FOR THE BANKING AND LIFE INSURANCE SECTORS

AML/CTF compliance at credit institutions and investment firms is satisfactory. That said, a decline in the compliance rate has been noted in responses relating to the verification of cheques, due diligence on wire transfers, and periodic controls on the AML/CTF system.

The arrangements put in place by payment institutions seem to be more comprehensive than they were in 2011. But inconsistencies appeared in some responses, particularly in connection with due diligence on wire transfers.

Work on AML/CTF measures is progressing at life insurance institutions. The ACPR reports that there is considerable scope for improvement in a majority of institutions, especially among mutual insurance companies and provident institutions, in ensuring their systems are compliant. This applies particularly to updating customer files, recourse to third party introducers, the detection and handling of unusual transactions, internal control and the imposition of restrictive measures such as asset freezes.

Some parent companies of groups with foreign operations and that are supervised by the ACPR on a consolidated basis reported difficulties in fulfilling their AML/CTF obligations. The ACPR is waiting for these institutions to explain what the problems are and how they are being addressed.

## 1.2 ON-SITE INSPECTIONS

In 2013, **83 on-site inspections comprising an AML/CTF component** were conducted at institutions in the banking and insurance sectors.

The ACPR focused on the following points:

- the organisation of the AML/CTF system. With respect to groups, the ACPR checks that procedures and risk classifications in the different entities are internally consistent and adapted to the group's structure, its business and each

entity's customer base. The group's parent company is expected to provide meaningful guidance on AML/CTF arrangements;

- due diligence in practice. The Authority checks that due diligence provisions implemented are appropriate to the customer type (occasional or a business relationship) and the risk of money laundering and terrorist financing;
- detecting anomalies. The ACPR checks that the parameters of automated business relationship monitoring and analysis systems are consistent with the risks identified in the risk classification, that



these systems actually detect transactions that are unusual for the type of business relationship concerned and that unusual transactions are analysed as soon as possible;

- | meeting reporting requirements. The Authority checks that suspicious transaction reports (STRs) and, where appropriate, information on a certain type of transaction (COSI) described in Article L. 561-15-1 of the Monetary and Financial Code, are sent to Tracfin (see Chapter 6);
- | internal control. The ACPR checks that permanent and periodic controls cover the entire AML/CTF system and that sufficient resources are dedicated for them;
- | asset freezes. The ACPR checks that automated systems actually detect transactions carried out by the counterparties subject to restrictive measures and lead to asset freezes.

Depending on the seriousness of any shortcomings, on-site inspections can give rise to an action letter from the ACPR General Secretary, administrative enforcement measures or disciplinary proceedings followed by sanctions, if necessary.

In 2013, the Sanctions Committee issued five sanctions comprising AML/CTF charges (out of a total of ten since the ACPR was created in March 2010) based on proceedings opened in 2012. Disciplinary proceedings were ongoing in one case at the end of 2013.

Nine AML/CTF-related cease-and-desist orders were issued in 2013, raising the total number issued since the ACPR was established to 15. Two of the orders issued in 2013 concerned life insurance institutions.

Inspection reports that did not give rise to disciplinary proceedings or administrative enforcement measures were the subject of action letters detailing the Authority's findings and recommendations.

The ACPR monitors the execution of measures set out in cease-and-desist orders and of corrective measures mentioned in action letters.

## IMPLEMENTATION OF AML/CTF OBLIGATIONS BY INSTITUTIONS BASED IN OVERSEAS DEPARTMENTS AND TERRITORIES

The ACPR adviser to note-issuing institutions in France's overseas departments and territories directs these institutions' involvement in the Authority's AML/CTF inspections. The adviser also represents the ACPR in communications intended for regulated entities in these departments and territories.

In 2013, with the help of experts in institutions' head offices and branch staff, the ACPR adviser carried out **17 on-site inspections at the ACPR General Secretary's request**. These inspections concerned mutual insurers, money changers and insurance intermediaries. The ACPR adviser also conducted **23 face-to-face interviews** with banking and insurance institutes established overseas. The interviews are an opportunity for an in-depth individual review of how AML/CTF obligations are being implemented and the improvements may be needed.

The ACPR adviser also held eight meetings to raise awareness among institutions subject to ACPR supervision. The adviser also met a number of authorities with national or local AML/CTF responsibilities, such as Tracfin, the Directorate-General of Public Finance (DGFIP), the customs service, and law enforcement agencies.

Concerning international cooperation, the ACPR adviser represented the French delegation at two plenary meetings of the Caribbean Financial Action Task Force.

In 2014, the ACPR adviser will pay close attention to the way in which the relevant financial institutions take account of the risks related to the change in CFP franc banknote denominations in France's Pacific territories.



## 2 Work on legal instruments related to AML/CTF

### THE WORK OF THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING CONSULTATIVE COMMITTEE IN 2013

The Anti-Money Laundering and Counter-Terrorist Financing Consultative Committee is tasked with giving an opinion on all AML/CTF-related mandatory documents (instructions) and explanatory documents (guidelines, sector enforcement principles and positions) adopted and published by the ACPR College. The Committee met five times in 2013.

The Committee was consulted on the following:

- Instruction 2013-I-08 on information to be filed under Article L. 561-3 VI and Article D. 561-3-1 III of the Monetary and Financial Code;
- Instruction 2013-I-09 on licence application forms, agency declarations and notices of freedom of establishment, freedom to provide services, the use of an agent and reliance on a distributor in another

member state of the European Union or in another country in the European Economic Area for an electronic money institution;

- Instruction 2013-I-10 on information on AML/CTF measures at money changers.

In 2013, it finished the work started in 2012 on sector enforcement principles on correspondent banking and on the beneficial owners of shares in collective investment schemes.

The Committee also completed a revision of wealth management guidelines adopted by the Commission bancaire for the banking sector in 2010, and is updating AML/CTF-related sector enforcement principles for the insurance sector.

## 2.1 INSTRUCTIONS

The ACPR College adopted Instruction 2013-I-08 on information to be filed under Article L. 561-3 VI and Article D. 561-3-1 III of the Monetary and Financial Code. The instruction explains how the reporting institutions concerned (EEA payment institutions and electronic money institutions)<sup>31</sup> have to submit reports no later than 31 March each year to the ACPR on the permanent representative (see Chapter 6) and their activities (permanent representative declaration, statistical information, annual report comprising a variety of information on the

institution's business on French territory and the implementation of due diligence and Tracfin reports).

The College also adopted the following:

- Instruction 2013-I-09** on licence application forms, agency declarations and notices of right of establishment, freedom to provide services, the use of an agent and reliance on a distributor in another member state of the European Union or in another country in the European Economic Area for an electronic money institution;
- Instruction 2013-I-10** on information on AML/CTF arrangements at money changers, for which a new

questionnaire has been prepared. The instruction was drafted to take account of the main shortcomings observed among money changers as well as regulatory changes related to this business, notably on transactions concluded without either the customer or its legal representative being physically present for identification purposes. As for the banking and life insurance sectors, a methodological guide specifying the ACPR's expectations is appended to the instruction.

31. Payment institutions and electronic money institutions whose registered office is in a member state of the European Union or an EEA country that to carry on their business on French territory have recourse to the services of one or more agents or entities with a view to distributing electronic money.

## 2.2 EXPLANATORY DOCUMENTS

Several explanatory documents were published in the ACPR's official register.

**The sector enforcement principles for correspondent banking** describe the most significant risks that should be included in the risk classification, i.e. the country risk where the correspondent bank is based, the correspondent bank itself and the services offered by the correspondent bank. They list the information that the correspondent institution can gather at the outset of the relationship in order to be able to determine the AML/CTF risk within each of the risks just mentioned.

The document also describes the situations in which the correspondent bank has to exercise enhanced vigilance, such as when the client institution is in a country that does not enforce equivalent AML/CTF obligations. Examples illustrate how each of these measures can be applied in practice.

**The sector enforcement principles concerning beneficial owners of shares in collective investment schemes** supplement the guidelines on the notion of beneficial ownership, adopted in 2011. They were discussed widely among members of the Consultative Committee as well as the General Directorate of the Treasury and the AMF, particularly in relation to customer status recognition in collective investment schemes (CISs). The sector enforcement principles cover situations where the CIS is the financial institution's cus-

tomier. They also apply to situations where the CIS is represented by a management company, particularly when it has no legal personality, as is the case with a mutual fund. Financial institutions' procedures are expected to be capable of differentiating between situations where the customer is a collective investment scheme and those where it is a management company.

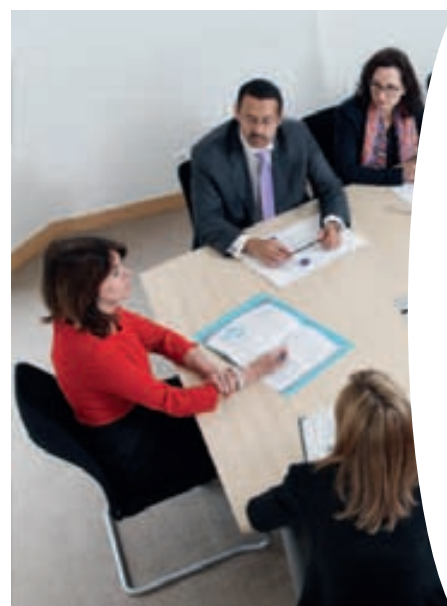
The document describes the specific features of a business relationship with a CIS, the notion of a beneficial owner of shares in a collective investment scheme, the ways in which the beneficiary is identified and the verification of that identity. It also lists the information that can be used to assess the AML/CTF risk that could arise from a business relationship with a CIS.

A flowchart summarises the due diligence required to identify the beneficial owner of shares in a collective investment scheme.

The Consultative Committee revised *wealth management guidelines* (adopted by the Commission bancaire for the banking sector in 2010) in the wake of reports from inspections on this theme carried out in 2010 and 2011 and made public in 2012. The revised guidelines, published and adopted in March 2014, cover the banking and life insurance sectors.

An examination of updated sector enforcement principles relating to AML/CTF in the insurance sector is under way. This will incorporate changes made by the Act 2012-387 of 22 March 2012 (known as the Warsmann Act), which relaxes requirements in non-life insurance.

The new sector enforcement principles are likely to cover the following themes: the risk-based approach, the business relationship and due diligence, AML/CTF requirements in non-life insurance, the organisation of AML/CTF arrangements, internal control and asset freeze obligations. This update is an ACPR priority. It will be a pragmatic guide that will help compliance by insurance institutions, particularly in areas where improvements can be made. The sector enforcement principles are due to be adopted before the end of 2014.



In 2014, the Anti-Money Laundering and Counter-Terrorist Financing Consultative Committee will work closely with Tracfin – which attends the Committee's meetings – on guidelines on suspicious transaction reports. These reports have to be revised in light of major changes to reporting and information requirements in 2013 (see Chapter 6).



# 5

1. Activity of the Sanctions Committee
2. Other highlights

116  
123







# Punishing violations

The Sanctions Committee is responsible for punishing violations of the laws and regulations applicable to reporting institutions.

The Committee was established to fulfil the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as interpreted by the European Court of Human Rights, by drawing a clear distinction between the enforcement, investigation and sanction functions in the exercise of the ACPR's jurisdiction.



# Activity of the Sanctions Committee

10 rulings handed down in 2013

Average time taken to reach a decision:  
9 months

## 1.1 CASES REFERRED TO THE COMMITTEE IN 2013

Although eight disciplinary cases were brought before the ACPR's Sanctions Committee in 2013, the real number was seven because two referred to the same matter. By comparison, five cases were brought before the Committee in 2010, the year it was established, then three in 2011 and nine in 2012. In all, 26 cases have been referred to the Committee since it was created, an average of just over six per year.

The following observations can be made:

- the number of cases referred to the Committee declined in 2013 after an increase the year before;
- as in previous years, referrals in 2013 mainly concerned institutions from the banking sector (five cases, compared with two relating to insurance institutions);
- complaints notified to banking sector institutions fall in two main categories: those based on the provisions of CRBF Regulation 97-02 of 21 February 1997 relating to internal control and those relating to anti-money laundering and counter-terrorist financing (AML/CTF); and other complaints warranting disciplinary procedures, notably non-compliance with the solvency ratio and,

concerning business practices, poor understanding of provisions relating to the access to banking services;

the two cases involving insurance sector institutions concerned major firms. The complaints made against them referred to shortcomings in customer protection rules relating to unclaimed life insurance policies;

no payment institutions or money changers were referred to the Committee;

there were no referrals for non-compliance with administrative enforcement measures.

Raphaël Thébaud,  
ACPR Sanctions  
Committee Secretariat.



*“Beyond their punitive role, disciplinary sanctions have educational value for the sector concerned.”*

## SANCTIONS COMMITTEE



Back row, from left to right: Jean-Claude Hassan, Pierre Florin, Charles Cornut, Jean Cellier, Marc Sanson, Louis Vaurs, Francis Crédot.

Front row, from left to right: Yves Breillat, Claudie Aldigé, Rémi Bouchez, Alain Christnacht, André Icard.

### MEMBERSHIP OF THE SANCTIONS COMMITTEE (AT 31 DECEMBER 2013)

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

**Rémi Bouchez**, *Conseiller d'État*, Chairman, and **Jean-Claude Hassan**, *Conseiller d'État*, alternate; **Alain Christnacht**, *Conseiller d'État*, committee member, and **Marc Sanson**, *Conseiller d'État*, alternate.

Appointed by the Chairman of the *Cour de Cassation*:

**Claudie Aldigé**, *Conseiller* to the *Cour de Cassation*, committee member, and **Yves Breillat**, *Conseiller* to the *Cour de Cassation*, alternate.

Appointed for their expertise in matters helpful for the Authority to meet its statutory objectives:

**Francis Crédot**, committee member, and **Louis Vaurs**, alternate; **Pierre Florin**, committee member, and **Jean Cellier**, alternate; **André Icard**, committee member, and **Charles Cornut**, alternate.



## 5. PUNISHING VIOLATIONS

### 1. ACTIVITY OF THE SANCTIONS COMMITTEE

#### 1.2 Decisions handed down in 2013

### 1.2 DECISIONS HANDED DOWN IN 2013

#### A. Number and nature of sanctions

In 2013, the Sanctions Committee handed down ten rulings (compared with five in 2011 and 2012)<sup>32</sup>, of which eight on the merits of the case. Six of these decisions concerned institutions in the banking sector, one related to an insurance company and one concerned a money changer<sup>33</sup>.

The Committee issued one warning and seven reprimands, together with eight fines ranging from 70,000 euros to 10,000,000 euros. The cumulative total of fines reached 15,420,000 euros, up from 980,000 euros in 2011 and 1,225,000 in 2012. Even excluding the fine of 10,000,000 euros imposed on UBS France<sup>34</sup>, these figures show a trend towards heavier fines in line with successive increases in maximum penalties since 2008.

All the rulings handed down in 2013 were published in a non-anonymous format.

#### B. Time taken to review cases

The time taken to review cases is subject to a number of constraints, notably frequent requests for deferral for the parties to produce their various submissions. The average time to review cases in 2013 was nine months, compared with ten months in 2012.

At 31 December 2013, the Committee had six outstanding cases, with the oldest dating back to a referral in March 2013.

#### C. The Sanctions Committee's main contributions to jurisprudence in 2013

##### ■ GENERAL QUESTIONS AND PROCEDURE

##### 1) Fundamental rights prior to disciplinary proceedings

Having reviewed case law handed down from the *Conseil d'État* (30 March 2007, *Société Prédica*, Req. 277991) and the European Court of Human Rights (21 September 1994, *Fayed vs. United Kingdom* and 17 December 1996, *Saunders vs. United Kingdom*), the Committee determined that at the inspection stage, the supervisor was subject only to a duty of loyalty in seeking evidence, so that in the event of a subsequent disciplinary procedure the rights of the defence will not have been irretrievably compromised (18 June 2013, *Arca Patrimoine*, Procedure 2012-07).

Basing its reasoning on recent *Conseil d'État* decisions (see CE, 15 May 2013, *Société Alternative Leaders France*, Req. 356054), the Committee also held in its rulings of 25 June 2013 (*UBS France*, Procedure 2012-03)<sup>35</sup> and 25 November 2013 (*Caisse d'Épargne et de Prévoyance du Languedoc-Roussillon*, Procedure 2013-01)<sup>36</sup> that it had sole jurisdiction to judge whether inspections that precede referrals have been carried out in a way that does not irretrievably infringe the rights of defence of the parties to whom complaints are subsequently notified.

##### 2) The absence of "subsidiarity" in disciplinary proceedings

In its ruling of 18 June 2013 (*Arca Patrimoine*, Procedure 2012-07), the Committee held that there were no provisions in the Monetary and Financial Code that made the opening of disciplinary proceedings subject to the prior failure of an ACPR recommendation made after a previous inspection or enforcement measure, nor to the failure of an institution to cooperate during the inspection or to rectify the situation after it.

32. The Committee's decisions are published in the ACPR's official register and can also be consulted in the compendium of decisions posted on the Authority's website.


33. This case (Procedure 2012-05) was referred to the Committee in 2012.

34. UBS France is appealing this decision before the *Conseil d'État*.

35. UBS France is appealing this decision before the *Conseil d'État*.

36. La Caisse d'Épargne et de Prévoyance du Languedoc-Roussillon is appealing this decision before the *Conseil d'État*.





In 2013, the Sanctions Committee handed down ten rulings.

### 3) The ACPR's obligations relative to evidence

In its ruling of 18 June 2013 (Arca Patrimoine, Procedure 2012-07), the Committee determined that it is always up to the prosecuting authority to establish the failings it intends to sanction. That said, it should be deemed to have fulfilled this obligation when it provides *prima facie* evidence that failure is sufficiently probable, and the defendant institution's response is limited to denial, without submitting the evidence in rebuttal that it possesses or is required to possess.

### 4) No statute of limitations on disciplinary proceedings

Contrary to the rules applicable to the AMF<sup>37</sup>, the Monetary and Financial Code does not set any time limit in which shortcomings can give rise to disciplinary proceedings by the ACPR's Sanctions Committee. In its ruling of 25 June 2013 (UBS France Procedure 2012-03<sup>38</sup>), the Committee issued a reminder of a ruling by France's constitutional court (Decision 2011-199 QPC of 25 November 2011) that no constitutional rule or princi-

ple required disciplinary proceedings to be subject to a statute of limitations. It then ruled that this decision had merely called on disciplinary authorities to ensure respect for the principle of proportional punishment, which implies that the time elapsing between violation and conviction can be taken into account in reducing the punishment.

### 5) Requests for a preliminary ruling at the Court of Justice of the European Union

In its ruling of 25 November 2013 (Caisse d'Épargne et de prévoyance du Languedoc-Roussillon, Procedure 2013-01<sup>39</sup>), the Committee held that because of the possibility of recourse of full jurisdiction over its decisions (Monetary and Financial Code, Article L. 612-16 IV), it was in no way obliged to refer a preliminary ruling request to the Court of Justice of the European Union. It also explained that European and French jurisprudence could not be regarded as contradictory on the need to respect fundamental rights during administrative procedures leading to possible disciplinary sanctions, and that there were therefore no grounds for proceeding with such referrals.

## ■ ON THE MERITS

### 1) Money changers' AML/CTF reporting requirements

The business of money changing is particularly exposed to the risk of involvement in money laundering. Therefore, when asked to deal in unusually high amounts, money changers should systematically seek to clarify the reasons for the transaction. The absence of reasonable reassurance on the lawful origin or destination of funds constitutes "good reason to suspect" under the obligation to inform Tracfin under Article L. 561-15 I of the Monetary and Financial Code (ruling of 5 February 2013, Auxiliaire Parisienne de Services Financiers, Procedure 2012-05).

### 2) The protected employee status of heads of internal control

The fact that the head of internal control responsible for various failures in the exercise of his duties had the status of protected employee (which gave him virtually unchallengeable security of tenure, according to the bank) did not exempt senior management from taking all appropriate steps to end a situation that was incompatible with the security of the bank's transactions (ruling of 1 March 2013, Tunisian Foreign Bank, Procedure 2012-06<sup>40</sup>).

37. cf. Article L. 621-15 of the Monetary and Financial Code, which sets a three-year statute of limitation for the AMF.

38. UBS France is appealing this decision before the *Conseil d'État*.

39. Caisse d'Épargne et de Prévoyance du Languedoc-Roussillon is appealing this decision before the *Conseil d'État*.

40. Tunisian Foreign Bank is appealing this decision before the *Conseil d'État*.





## 5. PUNISHING VIOLATIONS

### 1. ACTIVITY OF THE SANCTIONS COMMITTEE

#### 1.2 Decisions handed down in 2013

#### 3) Non-compliance risk in cross-border business

The sanctions handed down by the Committee to UBS France in its ruling of 25 June 2013 (UBS France Procedure 2012-03<sup>41</sup>), (a 10-million euro fine and removal of anonymity) punished the bank mainly for the following:

Although it had been warned no later than the autumn of 2007 of deep suspicions that its commercial network was involved in facilitating transactions liable to be characterised as illicit selling and the laundering of tax fraud proceeds, it waited more than 18 months before taking steps to implement the supervisory and control procedures needed to deal with this risk of non-compliance in its cross-border business; and

it had not checked either the terms under which its own account managers had been authorised by its parent company, UBS AG, to contribute to IT files managed by that company to identify prospects likely to open accounts in foreign countries, or any use made of these authorisations.

The Committee explained its ruling was without prejudice to likely proceedings at the judicial enquiry that opened in April 2012 after a preliminary investigation decided in March 2011. The enquiry is seeking to establish, with the help of documents submitted by the ACPR and appropriate investigations, whether the offence of aiding and abetting the laundering of tax proceeds or illicit selling had actually been committed.

#### 4) Implementation at operational level of provisions on access to banking services

In its ruling of 3 July 2013 (Le Crédit Lyonnais, Procedure 2012-09), the Committee sanctioned several failures to implement these provisions. The fact that customers had asked for services that were in addition to the basic banking services (BBS) included in a bundled offering and that incurred flat-rate charges, which had been accepted, did not warrant an attack on the principle that holders of accounts opened under the BBS procedure must have access to BBS without having to pay for them. This principle is enshrined in Article D. 312-6 of the Monetary and Financial Code. Accordingly, as soon as Crédit Lyonnais opened an account under the BBS procedure, it was required to adopt organisational



41. UBS France is appealing this decision before the *Conseil d'État*.

and pricing arrangements that singled out the charges for additional, non-BBS services.

In this case, the Committee applied the provisions of Article L. 612-1 of the Monetary and Financial Code, which state that the ACPR ensures that the entities subject to its supervision comply with “the provisions of the Monetary and Financial Code, as well as the regulatory provisions laid down for its implementation (...), Book III of the Consumer Code, the approved conduct of business rules and any other legislative or regulatory provision which, if disregarded, results in non-compliance with the aforementioned provisions.” It rejected a complaint that the institution involved had disregarded the provisions of Article 1134 of the Civil Code, which impose a general duty to respect contractual commitments, for want of proof that such disregard would imply disregard of the aforementioned codes. The Committee did point out that violation of the provisions in the Monetary and Financial Code requiring the free provision of BBS to qualifying beneficiaries was the subject of separate complaints, which it had upheld.

#### 5) Accountability of an institution affiliated to a central body for shortcomings in its AML/CTF arrangements

In its ruling of 25 November 2013, the Committee held that the existence of arrangements put in place by a central body could result in the definition of “group” tools but that it did not exempt affiliated credit institutions from their obligation to adapt or supplement such tools in light of their specific circumstances (Caisse d’Épargne et de prévoyance du Languedoc-Roussillon, Procedure n° 2013-01<sup>42</sup>).

#### 6) Implementing obligations to declare suspect sums or transactions to Tracfin and of enhanced scrutiny in respect of AML/CTF

In its decision of 2 December 2013, (Banque Chaâbi du Maroc, Procedure 2012-08), the Committee held that simply closing an account showing transactions that are inconsistent with the information in an institution’s possession is an inappropriate reaction unless a declaration of suspicion is filed with Tracfin. This is because the party concerned can use other institutions to continue conducting transactions liable to fall under Article L. 561-15 of the Monetary and Financial Code, without this coming to light.



### D. Appeals against Sanctions Committee rulings

#### 1) Conseil d’État ruling re. Banque Populaire Côte d’Azur (BPCA), 25 July 2013 (Req. n° 366640)

In a decision dated 25 July 2013, the *Conseil d’État* decided that none of the four applications for a priority preliminary ruling on the issue of constitutionality (QPCs) raised by BPCA would be referred to France’s constitutional court. The QPCs concerned the absence of a statute of limitation on disciplinary proceedings, an alleged failure to separate the prosecution and inspection functions, the absence of any obstacle in the Monetary and Financial Code to the initiator of a referral participating in the deliberation process, and the absence of any guarantee, resulting from the provisions of Article L. 612-38 of the Code, that the ACPR will not take its own initiative in disciplinary matters. The court held that the questions “are not new and are not serious in nature.”

#### 2) Conseil d’État ruling re. UBS France, 15 January 2014 (Req. 371585)

In the context of its appeal against the decision of 25 June 2013 (Procedure 2012-03), UBS France raised a QPC over whether the provisions of Articles L. 511-41, L. 611-1, L. 611-7, L. 612-1 and L. 612-39 of the Monetary and Financial Code disregard constitutional rights and freedoms. (Those provisions,

42. Caisse d’Épargne et de Prévoyance du Languedoc-Roussillon is appealing this decision before the Conseil d’État.



## 5. PUNISHING VIOLATIONS

### 1. ACTIVITY OF THE SANCTIONS COMMITTEE

#### 1.2 Decisions handed down in 2013

relating to the internal control rules applicable to credit institutions, delegate the terms on which these rules are implemented to the Minister of the Economy and define the ACPR's disciplinary powers.) UBS France argued that the provisions were inconsistent with the requirement for clarity and precision stemming from the principle that offences and penalties must be defined in law, as guaranteed in Article 8 of the Declaration of 1789. Therefore, by adopting them, the legislature failed to respect its

court. It explained that the duties stemming from the constitutional principle that offences and penalties must be defined in law, when applied outside criminal law, are met in administrative contexts by reference to the obligations applicable to interested parties under the laws and regulations applicable to their business, profession or status or to the institution for which they work. The *Conseil d'État* said that, in the case at bar, the combination of Article L. 612-1, which defines the ACPR's supervisory

provisions intended to implement it. The ruling was also justified by Article L. 511-41 of the Monetary and Financial Code, which requires credit institutions to "have a suitable internal auditing system to enable them, inter alia, to assess the risks and profitability of their activities". By making the Minister of the Economy responsible for ensuring that these provisions are enforced, notably by tasking the Minister with establishing internal control procedures in accordance with Article L. 611-1 (10) of the same code, the lawmakers had not delegated to the supervisor the task of setting rules or principles that the Constitution had put in the realm of the law.

#### 3) Ongoing appeals before the *Conseil d'État*

No Committee decision was overturned or set aside in 2013.

At 31 December 2013, four appeals against Sanctions Committee decisions were pending before the *Conseil d'État*. They concerned the rulings of 10 January 2013, Banque Populaire Côte d'Azur (procedure 2012-04 and 2012-04 Bis), of 1 March 2013, Tunisian Foreign Bank (Procedure 2012-06), of 25 June 2013, UBS France (Procedure 2012-03), and of 25 November 2013, Caisse d'Épargne et de Prévoyance du Languedoc-Roussillon (Procedure 2013-01).

powers under Article 34 of the Constitution to define for itself the obligations incumbent on credit institutions.

In a ruling dated 15 January 2014, the *Conseil d'État* held that there were no grounds for referring the question to France's constitutional

duties, and Article L. 612-39 of the Monetary and Financial Code, which lists the penalties the Committee can impose according to the severity of the failings observed, meant that credit institutions are liable to be punished if they infringe a provision of the Monetary and Financial Code or the regulatory





## 2 Other highlights

### 2.1 JOINT MEETINGS OF THE ACPR SUPERVISORY COLLEGE AND THE SANCTIONS COMMITTEE

The enforcement and “judgement” functions are organically separate at the ACPR. To prevent this separation hampering the effectiveness of the supervisor’s enforcement efforts, the ACPR Supervisory College met in plenary session jointly with the Sanctions Committee on 5 June 2013 and 29 January 2014.

These meetings – which did not discuss any ongoing cases – served to produce an updated assessment of ACPR enforcement on each of these two dates. Participants were able to informally discuss the Supervisory College’s general policy on opening disciplinary proceedings, as well as the lessons to be drawn from the Committee’s rulings and *Conseil d’État* decisions.

### 2.2 SANCTIONS COMMITTEE OFFICES

In January 2014, the Sanctions Committee and its secretariat moved to new offices<sup>43</sup> with a dedicated hearings room.

The move has simplified the Committee’s operations, including its hearings. All these operations are completely paperless<sup>44</sup>, as indicated in the first ACPR Reports.



The enforcement and «judgement» functions are organically separate at the ACPR

43. 53, Rue de Châteaudun, Paris 9th.

44. cf. page 25 of the 2010 Report and page 161 of the 2011 Report..



# 6

1. ACPR involvement in European and international bodies
2. Legislative and regulatory developments at national level

126  
142



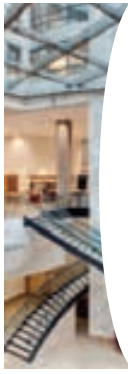




# Contributing to the development of the international, European and French regulatory framework

The ACPR represents the French supervisory system at international level. It plays an active part in the meetings of international and European bodies in the insurance and banking sectors for prudential, accounting and customer protection issues. In 2013, it made a substantial contribution to work on implementing a single supervisory mechanism in the banking sector.

The International Affairs Directorate is in charge of cross-cutting issues affecting the banking and insurance sectors in the areas of prudential and accounting regulations.



# ACPR involvement in European and international bodies

ACPR representatives sat on

258

working groups or sub-groups

ACPR representatives chaired

25

groups

The year was marked by preparations for implementing the single supervisory mechanism and the resulting adjustments to the architecture of European financial supervision. This involves changes to the regulation establishing the European Banking Authority (EBA), intended to revise the majority voting rules. At the same time, and in accordance with the rules establishing the various authorities in the European supervisory system (EBA, EIOPA<sup>45</sup>, ESMA<sup>46</sup> and ESRB<sup>47</sup>), these bodies are being assessed by the European Commission and European Parliament.

## 1.1 BANKING

### A. In Europe

As a participant in around 20 EBA working groups, **the ACPR contributed actively in 2013 to finalising new prudential standards and drafting texts aimed at the harmonised introduction of Europe's new prudential regulations.** In preparation for these changes, the ACPR was simultaneously involved at national level in explaining the European texts and briefing institutions, particularly at regular banking industry meetings. It has also collaborated actively in the work on transposing the provisions laid down in European laws and regulations.

### REPORTING

The ACPR has contributed to the EBA's work on finalising technical standards containing templates and instructions for financial reporting (FINREP) and common reporting (COREP). COREP now integrates the ratios for solvency, large exposures, liquidity and leverage. Reporting templates on asset encumbrance will supplement these standards in 2014, in parallel with the adoption of EBA guidelines on defining how encumbered asset levels are published. A template for institutions' funding plans and additional liquidity monitoring tools will complete a harmonised set of financial and prudential statements.

### LEVERAGE AND LIQUIDITY RATIOS

Regarding leverage and liquidity ratios, a number of changes will be made to reporting templates in 2014 to take account of the delegated acts provided for in the Capital Requirements Regulation (CRR) that will be adopted by the European Commission. The delegated act for leverage has to be adopted before 1 January 2015, when the obligation to publish the ratio takes effect, and it will prompt a change in the technical standard relating to this disclosure requirement. The European Commission has to adopt the delegated act for the Liquidity Coverage Requirement (LCR) in 2014 for entry into force in 2015. With the aim of assisting the Commission in drafting

45. European Insurance and Occupational Pensions Authority.

46. European Securities and Markets Authority.

47. European Systemic Risk Board.

this delegated act, **the EBA published two reports on this requirement – with contributions from the ACPR – in December 2013.**

#### ■ DEFINITION OF OWN FUNDS

**In 2013, the ACPR was involved at the EBA in finalising work on the new definition of own funds,** following the major changes wrought by CRD 4. The European Commission has already adopted two technical standards; they cover a wide range of issues, from the definition of the foreseeable dividend to the methods of reconstructing the nominal value of a financial instrument after reduction and the identification of mutual and cooperative institutions. A third standard will have to define, among other things, the nature and scope of indirect and synthetic holdings that have to be deducted from institutions' own funds. The fourth and final standard will define and set limits on the notions of the dividend multiple and preferential distributions. The ACPR also contributed to a technical opinion submitted by the EBA to the European Commission presenting the advantages and disadvantages of reintroducing prudential filters on unrealised capital gains.

#### ■ MARKET RISK

The ACPR has been closely involved in work on market risks. It has contributed to six drafts of technical standards, thereby helping progress in implementing the new regulatory framework for the prudent valuation requirements for assets measured at fair value. While the technical standard was being drafted, an initial quantitative impact study was carried out by the EBA among banking institutions at the end of 2013. Other draft technical standards clarify a variety of issues, notably by defining the notion of a market, describing the materiality criteria that justify the use of internal models for trading book positions and determining lists of diversified indices and closely correlated currencies.

#### ■ REMUNERATION

CRD 4 has significantly altered the prudential control of remuneration practices and policies, introducing a major legislative innovation, namely a cap on risk takers' variable remuneration, which as a general rule cannot be greater than their fixed remuneration. At European level, the ACPR helped to draft a technical standard on the identification of risk takers, intended to define the categories of staff whose compensation will be regulated. It also contributed to the drafting of two sets of EBA guidelines: one specifying the financial instruments that are allowed to be used for the payment of variable remuneration, and the other defining the discounting method for deferred remuneration to take account of factors such as inflation.



ACPR representatives sat on 258 working groups or sub-groups.



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.1 Banking

## THE CRD IV LEGISLATIVE PACKAGE

“*The CRR covers all of the prudential requirements of Pillars 1 and 3. The entry into force for the very first time of European implementation provisions directly related to prudential issues has prompted a complete re-examination and ‘tidy-up’ of existing French regulations.*”

Marie-José Lazcano,  
of the Legal Affairs  
Directorate.



The CRD IV legislative package is made up of a regulation (CRR) and a directive (CRD 4) adopted on 26 June 2013. As of 1 January 2014, it has tightened the prudential requirements applicable to credit institutions and investment firms, essentially by implementing the regulatory framework arising from the Basel III agreement in Europe. ACPR staff have been heavily involved in preparing a draft to transpose the directive, in collaboration with the General Directorate of the Treasury, and in providing information to institutions.

One indirect consequence of the package has been the creation of a new ‘finance company’ status, defined in the Executive Order of 27 June 2013, for entities whose business does not correspond fully with the definition of credit institutions covered by the CRR (see inset, Chapter 2, on the status of finance companies). The ACPR played an

important role in preparing this new status as well as the Order of 23 December 2013 that sets out the prudential requirements applicable to this new category of institutions.

Although the CRR and CRD 4 entered into force on 1 January 2014 and 31 December 2013, respectively, their provisions will be implemented over a period of time. A transition regime lasting from 1 January 2014 until 31 December 2018 will apply to the new definition of prudential capital, for example. The new solvency ratios are to be implemented gradually from 1 January 2014 onwards, with increases on 1 January 2015 (4% CET 1 ratio and 5.5% Tier 1 ratio required in 2014, then 4.5% CET 1 ratio and 6% Tier 1 ratio from 2015 onwards).

CRD 4 also introduces several prudential buffers on top of capital requirements. Progressive implementation from 1 January 2016 onwards is planned for the capital conservation buffer and the countercyclical capital buffer, according to the following timetable: 0.625% of total weighted risk exposure in 2016, then up to 1.25% in 2017, 1.875% in 2018 and 2.5% in 2019 (or, for the institution-specific countercyclical buffer, at the level set by the competent authority, if higher).

Similarly, the buffer for global systemically important institutions will be introduced gradually between 1 January 2016 and 1 January 2019 according to the following timetable: 25% of the buffer determined for these institutions in 2016, then a gradual increase to 50% in 2017, 75% in 2018 and 100% in 2019.

The systemic risk buffers could be determined as early as 2014, while buffers for other systemically important institutions will not be required until 1 January 2016.

The CRR establishes 30-day and 1-year observation periods for liquidity ratios. The Liquidity Coverage Ratio (LCR) will be defined by the European Commission in a delegated act and will enter into force gradually between 2015 (60% of required ratio) and 2018 (100%). The Net Stable Funding Ratio (NSFR) will be specified in a legislative proposal from the European Commission between now and 31 December 2016, on the basis of an EBA report expected before 31 December 2015.

The CRR also provides for an observation period for the leverage ratio. The requirement will be specified in a legislative proposal from the European Commission between now and 31 December 2016, on the basis of an EBA report to be submitted before 31 October 2016.



## ■ CONSUMER PROTECTION AND FINANCIAL INNOVATION

**At European level, the ACPR participates actively in the Standing Committee on Consumer Protection and Financial Innovation (SCConFin) at the EBA. The committee's work gathered pace in 2013.**

In connection with the Directive on Credit Agreements Relating to Residential Property (CARRP, 2011/0062) voted by the European Parliament in December 2013, and in accordance with its mandate, the EBA has drafted a technical standard specifying the minimum amount of civil liability insurance cover for property lending intermediaries. The standard will ensure a harmonised level of consumer protection against civil damages that an intermediary could cause to customers during the sale process.

Work on the CARRP Directive also prompted the EBA to publish two opinions describing best practice in property lending and in the handling of distressed borrowers.

The EBA is also paying close attention to financial innovation, an area in which the ACPR is making a contribution at SCConFin. The EBA has published an opinion on best practice relating to the management of risks linked to exchange traded funds within financial institutions. Moreover, this year it issued a warning to the public over virtual currencies, listing the risks they can create for users.

## B. International activity

**The ACPR continued to be closely involved in the activity of the Basel Committee in 2013, participating in over 20 of its working groups.**

### ■ BANK EXPOSURES TO CLEARING HOUSES

The ACPR participated in the joint work of the Basel Committee – the Committee on Payment and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO) – on determining the calculation methods for capital requirements associated with bank exposures to clearing houses. In a revamped regulatory environment, with the entry into force of EMIR<sup>48</sup> in Europe and the Dodd-Frank Act in the USA, it was all the more important to the ACPR that an adequate methodology be established to ensure accurate and prudent valuation of these exposures while encouraging the use of central clearing. The ACPR also checked that the prudential constraints imposed on clearing houses in different jurisdictions did not create competitive advantages. The three committees published a consultation paper in June 2013 aimed at checking the relevance of their approach.

## ■ THE PRUDENTIAL TREATMENT OF SECURITISATION

The ACPR continued its active involvement in the Basel Committee's work on revisions to the prudential treatment of securitisation, aimed at establishing more cautious rules that limit reliance on credit rating agencies and reduce pro-cyclical effects. The Authority contributed to the impact study that followed an initial public consultation and played an active part in drafting the second Basel Committee proposal, published for consultation in December 2013. This work will continue until the end of 2014, when the new standard should be ready.

### ■ FUNDAMENTAL REVIEW OF TRADING BOOK CAPITAL REQUIREMENTS

The ACPR is closely involved in ongoing Basel Committee work on a fundamental review of the prudential regime applicable to trading. This review, which was put out to a second public consultation in October 2013, has several components, including the boundary between the trading book and the banking book, measures of risk, and ex-post verification. An impact study will be carried out in 2014.

48. European Market Infrastructure Regulation.





## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.1 Banking

##### ■ LARGE EXPOSURES

The ACPR participated in the impact study launched by the Basel Committee in June 2013 following the publication for consultation of a prudential framework harmonised at international level for large exposures. This work will continue until the end of 2014, when a new standard is due to be finalised.

##### ■ REQUIREMENTS FOR OTC DERIVATIVES

In close collaboration with the Banque de France, the General Directorate of the Treasury and the *Autorité des marchés financiers* (AMF), the ACPR contributed to work at the Basel Committee and IOSCO that led to the publication in September 2013 of a report calling for tougher requirements in the

form of higher margins for transactions in non-centrally cleared derivatives. The objective is partly to reduce counterparty risk on the OTC derivatives market and partly to make transactions on this market more costly, thereby encouraging counterparties to use central clearing.

##### ■ LIQUIDITY RATIOS (THE LCR AND NSFR)

**The ACPR participated in further work at the Basel Committee on the design of a harmonised prudential framework for liquidity.**

Following the adoption of a short-term liquidity ratio in January 2013 (the Liquidity Coverage Requirement, LCR), the Committee published a consultation paper in January 2014 outlining the Net Stable Funding Ratio (NSFR). The NSFR

is aimed at encouraging the “stable” funding of banking business, thereby making these institutions more resilient. With a one-year horizon, the NSFR complements the LCR. The gradual introduction of the LCR (from 2015 onwards) and then of the NSFR (scheduled for 2018) will give banks enough time to adapt to these new rules.

##### ■ THE LEVERAGE RATIO

The ACPR has contributed to Basel Committee work on specifying methods of calculating the Leverage Ratio (LR) and establishing a single publication format. After public consultation in June 2013, the Committee made major changes in early 2014 to obtain better conceptual consistency and to ensure the LR requirement is additional to the Solvency Ratio,



rather than the main requirement in itself. The LR is now in an observation period, with a test ratio of 3% until the end of 2017, with a view to possible migration under Pillar 1. Banks will have to publish their LRs from January 2015 onwards.

#### ■ ANALYSIS OF WEIGHTED RISKS

The ACPR is closely involved in the Basel Committee's work on monitoring implementation of Basel III (the Regulatory Consistency Assessment Programme, RCAP), both in terms of country reviews and analyses of the variability of risks weighted by market and credit quality (Risk-Weighted Assets, RWA). The ACPR chairs the working group responsible for analysing market RWAs and made a major contribution to two Basel Committee reports published in 2013. Concerning credit risk, the ACPR participated in analytical work that gave rise to the publication of a report.

#### ■ CONSUMER PROTECTION AND FINANCIAL INNOVATION

In November 2013, the then informal network of supervisors took on a new dimension by officially establishing **the International Financial Consumer Protection Network**. The Network's objectives are to promote effective codes of conduct that protect financial sector customers, to enhance public confidence and to control systemic risk related to the customer base. It is based in Paris and

its secretariat is provided by the Organisation for Economic Co-operation and Development (OECD). The Network has already carried out a survey on responsible lending.

At their summit meeting in 2011, G20 countries approved the OECD's ten high-level principles on consumer protection for the financial sector. The OECD was then given the task of identifying existing and effective approaches that could help to put these principles into practice. Work on

three principles – disclosure and transparency, responsible business conduct and complaints handling and redress – was carried out in 2013, with the collaboration of ACPR representatives. The results of ongoing work on the seven other principles will be presented to the G20 summit in November 2014.

## WORK BY THE ACPR TO STRENGTHEN AML/CTF AT INTERNATIONAL LEVEL

In 2013, international AML/CTF working groups concentrated on implementing new recommendations from the Financial Action Task Force (FATF) adopted in February 2012.

The FATF's work included the following:

- | preparing for the fourth round of mutual evaluations, with the adoption of a new evaluation methodology in February 2013;
- | developing guidelines and best practices. The ACPR contributed to the drafting of guidelines on a risk-based approach for prepaid cards, mobile phone payments and online payments<sup>49</sup>.

At European level, the ACPR supports the General Directorate of the Treasury in discussions on the drafting of the Fourth Anti-Money Laundering Directive. The ACPR is also a member of the Anti-Money Laundering Committee (AMLC), which reports to the committee representing the three European authorities (EBA, EIOPA and ESMA) and whose ongoing activity includes the drafting of guidelines on risk-based approaches to supervision.

The ACPR has also contributed to updates of guidelines published by the Basel Committee's Anti-Money Laundering Expert Group<sup>50</sup> and by the financial crime group of the International Association of Insurance Supervisors (IAIS)<sup>51</sup>.

49. Guidelines and best practices published by the FATF following the adoption of these new recommendations are available on the internet: <http://www.fatf-gafi.org/fr/documents/lignesdirectrices>

50. *Sound management of risks related to money laundering and financing of terrorism*: [http://www.bis.org/list/bcbs/tid\\_32/index.htm](http://www.bis.org/list/bcbs/tid_32/index.htm)

51. *Insurance Core Principle 22*: [http://www.iaisweb.org/index.cfm?pageID=689&icpAction=listicps&icp\\_id=23](http://www.iaisweb.org/index.cfm?pageID=689&icpAction=listicps&icp_id=23)

*Application paper on combating money laundering and terrorist financing*: <http://www.iaisweb.org/Application-papers-763>



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.2 In the insurance sector

## 1.2 IN THE INSURANCE SECTOR

### A. In Europe

**The ACPR participates actively in the main EIOPA work streams, which range from the technical measures needed to implement Solvency II to issues such as consumer protection, financial stability and crisis management and pension funds.**

The ACPR is involved in all the EIOPA working groups, especially those focused on the construction of the Solvency II prudential framework, and it chairs several of them:

- the Financial Requirements Committee (FinReq), responsible for aspects relating to Pillar 1 (quantitative requirements) of Solvency II;
- the Committee on Consumer Protection and Financial Innovation (CCPFI) handles problems related to consumer protection and financial innovation;
- the Solvency Sub-Committee of the Occupational Pensions Committee (OPC), dedicated to issues related to pension funds.

In 2013, EIOPA continued to work on standards and guidelines, with a particular focus on preparations for Solvency II, measures for long-term guarantees, peer reviews, consumer protection and pension funds.

#### ■ EIOPA PREPARATORY GUIDELINES FOR SOLVENCY II

At the end of 2012, amid uncertainty over the implementation date for Solvency II and the prospects of an agreement on the treatment of long-term guarantees, EIOPA expressed a wish that certain settled and understood requirements under the future prudential framework be implemented early through preparatory guidelines.

EIOPA published these guidelines on 31 October 2013 for implementation on 1 January 2014. National supervisors had two months to indicate whether they planned to apply them, and were asked to give their reasons if they did not (the “comply or explain” principle).

**The ACPR will be in overall compliance with these guidelines and in 2014 will be involved in preparatory exercises on reporting and the Own Risk and Solvency Assessment (ORSA).**

While the constraints of the 2014 legislative calendar might prevent the ACPR complying formally with the preparatory guidelines on governance, it will pay close attention to the preparatory work that institutions are doing. It is calling on the entire French market to prepare actively for implementation of this key pillar of Solvency II.

#### ■ THE IMPACT ASSESSMENT ON LONG-TERM GUARANTEES AND THE AGREEMENT ON OMNIBUS II

The ACPR contributed greatly to the EIOPA impact study on the Long-Term Guarantees Assessment (LTGA) under Solvency II and to the drafting of the report sent to the European Commission.

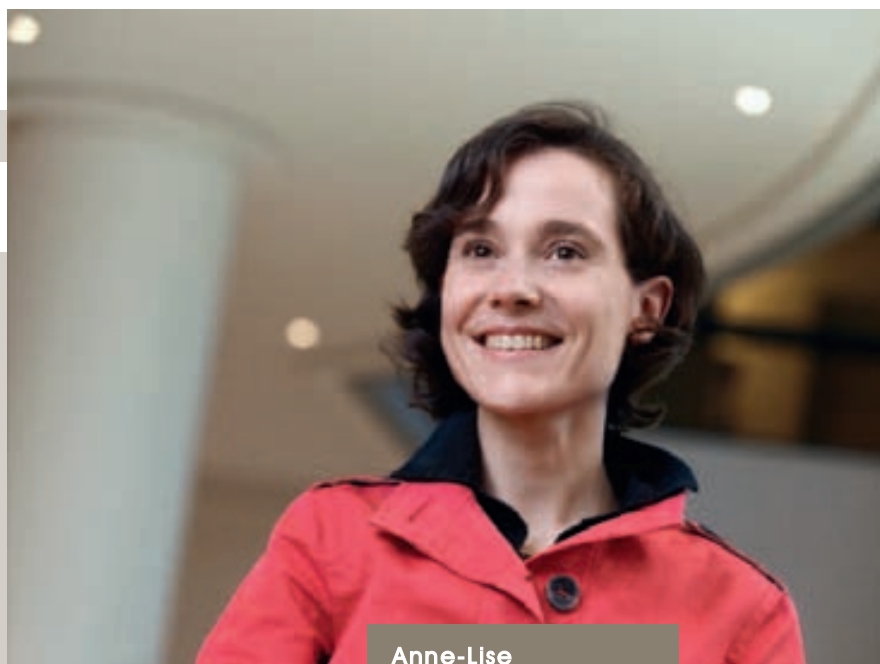
It was on the basis of the conclusions of this report that the European Parliament, Commission and Council reached agreement in November 2013 on a proposed directive known as Omnibus II, which amends some of the prudential rules in the Solvency II directive and incorporates EIOPA's powers, notably in relation to regulation and arbitration (see inset below).

## THE PROPOSED OMNIBUS II DIRECTIVE

“

*The trilogue agreement of 13 November 2013 on the basis of the LTGA alters the prudential rules on balance sheet valuation applicable to long-term guaranteed insurance products under the three pillars of the regime.*

”



Anne-Lise Bontemps Chanel,  
of the International Affairs  
Directorate.

The primary purpose of Omnibus II is to adapt the Solvency II Directive to accommodate EIOPA's powers in the areas of regulation and binding arbitration and to provide for interim measures on capital, SCR and other issues in order to ease the transition from Solvency I to Solvency II. But the key change in the directive concerns the series of measures known as the Long-Term Guarantees Package, notably on the following points.

**Volatility adjustment:** the risk-free rate used by institutions to discount their technical reserves will contain a countercyclical factor intended to limit volatility in the event of a spreads crisis in insurers' liabilities. This measure will be subject to an approval procedure by the supervisor if the legislator opts for it during transposition.

**Matching adjustment:** this measure is aimed at taking account of the yield on assets in determining the discount rate when asset and liability flows are perfectly matched. It will be subject to an approval procedure by the supervisor.

**Two transitional measures concerning technical reserves** intended to produce convergence of the level of technical reserves calculated with the Solvency I rules with that calculated with the Solvency II rules over 16 years. They will be subject to an approval procedure by the supervisor.

**Extending the non-compliance period for the Solvency Capital Requirement (SCR):** if an exceptional event significantly affects a market (financial crisis, prolonged period of low interest rates, an exceptional catastrophe), the authority charged with regulating that market can, with the agreement of EIOPA, extend the SCR non-compliance period to a maximum of seven years for the institutions concerned.

**The "governance" part of these measures:** the supervisor can impose an additional capital requirement on institutions that adopt these measures when their risk profile deviates from the conditions associated with them. By virtue of Pillar 2, institutions will have to submit to the supervisor an assessment of the effect on its solvency of withdrawal from the long-term guarantees package.

**The "transparency" part of these measures:** institutions making use of these measures will have to make public the impact non-application would have on their financial position.

**All of the measures in the long-term guarantees package will be reviewed** by the European Commission on the basis of an annual report filed by EIOPA. That report will be drawn from annual reports from each supervisor on the implementation of these measures in their market.



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

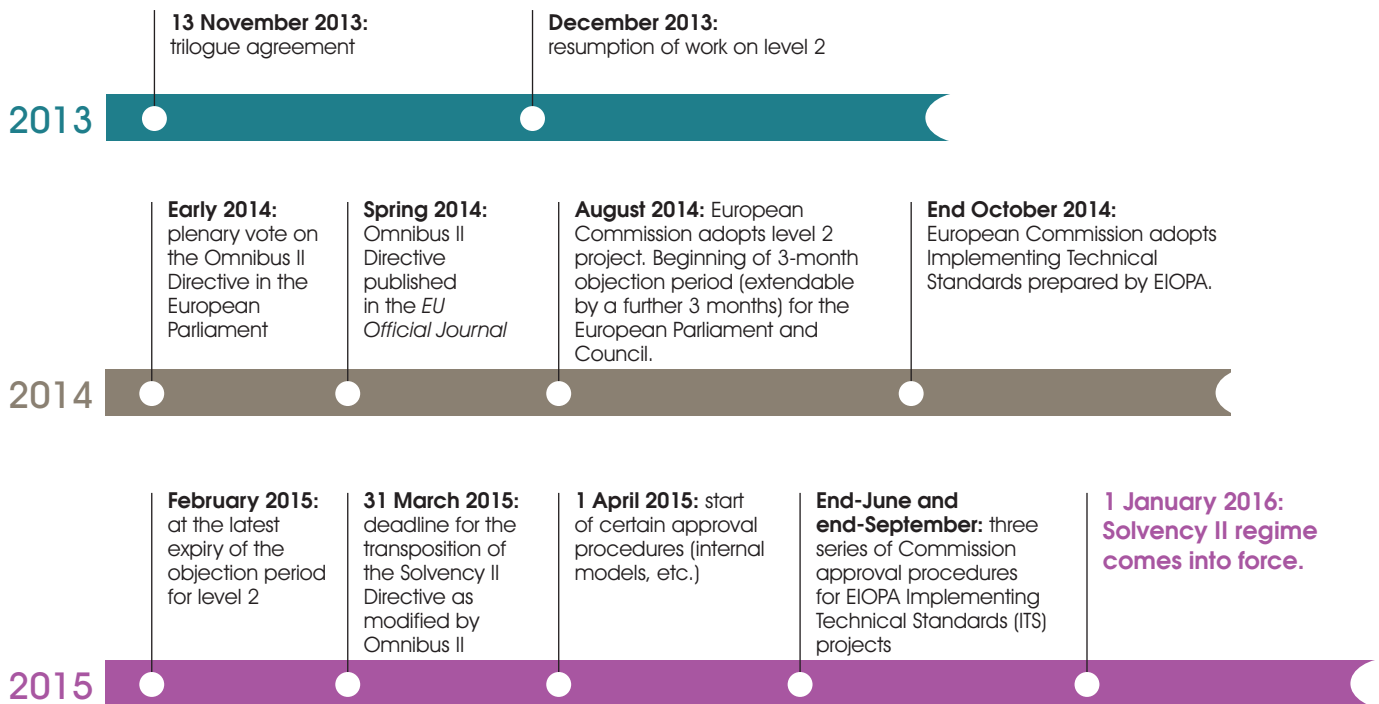
### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.2 In the insurance sector

The agreement was a major step towards Solvency II implementation. It modifies the prudential rules on balance sheet valuation applicable to long-term guarantees and permits the establishment of the new

regime on 1 January 2016, which was the date formally set in the *Official Journal of the European Union* on 18 December 2013 under the "Quick Fix II" Directive (see timetable below).

### Solvency II implementation timetable



#### ■ PEER REVIEW

The ACPR was the subject of three EIOPA-led peer reviews, bearing on the following:

- the management of critical situations at insurance groups and entities;
- the authorisation procedure for institutions managing supplementary pension schemes;
- the operation of colleges of supervisors.

#### These reviews concluded that the ACPR's inspection practices complied with European regulations.

EIOPA will be publishing results aggregated at European level in the near future.

#### ■ CONSUMER PROTECTION

In 2013, European legislative activity confirmed the importance of consumer protection in cross-sector convergence. At the same time, the CCPFI (see inset below) has intervened in very different ways and with the best possible use of its powers to strengthen consumer protection in insurance.



- **European legislative developments on consumer protection**

European legislative developments have been dominated by ongoing negotiations over revisions to **the Insurance Mediation Directive (IMD 2)**. These talks are inseparable from continuing discussions on **the revised Markets in Financial Instruments Directive (MiFID 2)**, which have made considerable progress. The European Parliament is calling for a high degree of consistency between the various sector texts. With this in mind, it has been decided to extend some of the MiFID 2 articles to the life insurance sector, notably concerning conflicts of interest. This is a significant change for the French market.

- **Work by EIOPA on consumer protection and financial innovation**

**The ACPR chaired the Committee on Consumer Protection and Financial Innovation (CCPFI) until the end of March 2014.** Using its various powers, this committee has intervened in a wider range of areas.

With a view to complementing the guidelines adopted in 2012 on complaints handling by insurance companies, the CCPFI has published similar guidelines for insurance intermediaries. In line with the proportionality principle, they provide a complaints-handling structure while improving customer information. The ACPR participated actively in drafting these provisions, taking advantage of experience gained in France from the implementation of its own recommendation on the subject in 2011 (Recommendation 2011-R-05).

For the first time, the CCPFI published opinions for the supervisory



authorities. The first related to bad practice in certain European markets in the marketing of payment protection insurance. The ACPR was able to cite the benefits of the French regulatory framework in this area, together with its recent changes. The second opinion referred to unclaimed life insurance benefits. The ACPR was gratified that EIOPA chose to alert all national authorities to this major issue.

Lastly, the CCPFI continued to produce various reports that informed

contacts and discussions between supervisors. Its annual review of consumer trends was published in December 2013, reflecting questions and concern among European legislators in such areas as pre-contractual information (an absence of transparency, misleading information) and the quality of advice. The CCPFI also published a report on best practice on skills and knowledge among insurance distributors, with detailed examples of the skills and knowledge expected of insurance company employees and insurance intermediaries.

## THE SUB-COMMITTEE ON CONSUMER PROTECTION AND FINANCIAL INNOVATION

The ACPR is represented on the three sub-groups of this committee. In 2013 a set of high-level principles was published on product governance rules. The ACPR supports the committee's desire to establish trans-sector rules aimed at guiding internal product design processes before these products are marketed. Strongly influenced by the experience of new product committees in the banking sector, these rules will be put in detailed form subsequently by the various European regulatory authorities. The Sub-Committee on Consumer Protection and Financial Innovation worked on the adaptation of recommendations on complaints handling to insurance companies, the banking sector and the financial markets. Lastly, the sub-group charged with level 2 work on the Packaged Retail Investment Products (PRIIPs) Regulation reflected on the content and format of the information documents that will have to be made available to customers for life insurance, structured bank deposits and a wider range of financial products. The ACPR is particularly committed to these efforts, which will make a major difference to the quality of pre-contractual information.



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.2 In the insurance sector



Throughout 2013, the CCPFI used the full range of tools at its disposal and contributed actively to ongoing legislative discussions. In 2014, it will be examining the protection of pension fund members.

#### ■ PENSION FUNDS

The ACPR has participated in finalising the quantitative impact study launched by EIOPA in the context of the revision of the Institutions for Occupational Retirement Provision (IORP) Directive. Although the European Commission announced in 2013 that the quantitative requirements applicable under the IORP directive would not be altered in the immediate future, EIOPA is continuing its work in this area, with the ACPR's assistance.

### B. The International Association of Insurance Supervisors (IAIS)

**The ACPR contributes to the work of the IAIS.** In 2013 it attended 14 meetings of IAIS committees and sub-committees, including:

- the Financial Stability Committee (FSC), whose role is to coordinate the activities of the IAIS with those of the Financial Stability Board (FSB) and the G20 and to develop, with the Technical Committee, macroprudential tools to improve the identification and prevention of risks to financial stability;
- the Technical Committee, responsible for preparing international standards for effective and transparent supervision to limit the scope for regulatory arbitrage by insurers;

- the Market Conduct Subcommittee. The ACPR had the opportunity in 2013 to participate in the drafting of a discussion paper on guarantee funds. This document is intended for jurisdictions seeking to establish or modify their guarantee fund system, and summarises all the issues liable to arise in that process;

- the Implementation Committee, whose goals include implementation of standards, assessment of their impact and cooperation between supervisors.

#### ■ DESIGNING COMFRAME

The Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) project, which started in 2010, aims to establish a single framework for the supervision of Internationally Active Insurance Groups (IAIGs). A new version of the ComFrame document was put out to public consultation in October 2013; the year also saw the introduction or continuation of several work streams:

- testing ComFrame provisions on internationally active groups in the field between 2014 and 2016. The ACPR is part of the Field Testing Task Force set up to conduct this programme;
- determining Basic Capital Requirements (BCR) that could serve as the foundation for capital requirements applicable to systemically important insurance groups;
- determining, and eventually incorporating in ComFrame, an International Capital Standard (ICS) for all internationally active insurance institutions.

## ■ SUPERVISION OF SYSTEMICALLY IMPORTANT INSTITUTIONS

The IAIS is continuing work on the supervision of Global Systemically Important Insurers (G-SIIs), including the identification of these institutions. A series of measures applicable to G-SIIs and a preliminary list of these institutions were published in July 2013 (see Point 1.3 of the present chapter).

## ■ PEER REVIEWS AND SURVEYS

The ACPR underwent a peer review on the application of insurance core principles; the results of the review were submitted to the FSB. It also answered several questionnaires, which among other things concerned the following:

- the relevance of the IAIS's multi-lateral memorandum of understanding on information-sharing between supervisors to colleges of supervisors in France;
- the Key Insurance Risks and Trends Survey.

## 1.3 SYSTEMIC INSTITUTIONS

**The identification of systemically important financial institutions is a priority** because entities deemed "too big to fail" benefit automatically from international protection, given the risks that their default would generate. On the one hand, arrangements have to be made to monitor these institutions closely; on the other, their moral hazard has to be limited.

## A. Global systemically important banks (G-SIBs)

The ACPR participated in additional work at the Basel Committee on prudential treatment and monitoring of global systemically important banks in 2013. The results included revisions to the assessment methodology and the definition of these institutions' additional loss absorbing capacity, together with tougher reporting requirements.

In November 2013, the FSB updated its list of G-SIBs. The addition of Industrial and Commercial Bank

of China Limited to the previous list published in 2012 took the total number of G-SIBs to 29.

This list is broken down into five buckets that determine additional core equity requirements<sup>52</sup> and are mentioned in alphabetical order within each bucket.

These arrangements will be implemented progressively from 1 January 2016 onwards on the basis of figures from the 2013 financial year. They will be in full force from 1 January 2019 onwards.

## GLOBAL SYSTEMICALLY IMPORTANT BANKS

**Bucket 5**, 3.5% surcharge: empty.

**Bucket 4**, 2.5% surcharge: HSBC, JP Morgan Chase.

**Bucket 3**, 2% surcharge: Barclays, BNP Paribas, Citigroup, Deutsche Bank.

**Bucket 2**, 1.5% surcharge: Bank of America, Credit Suisse, Goldman Sachs, Crédit Agricole Group, Mitsubishi UFJ FG, Morgan Stanley, Royal Bank of Scotland, UBS.

**Bucket 1**, 1% surcharge: Bank of China, Bank of New York Mellon, BBVA, BPCE Group, Industrial and Commercial Bank of China Limited, ING Bank, Mizuho FG, Nordea, Santander, Société Générale, Standard Chartered, State Street, Sumitomo Mitsui FG, Unicredit Group, Wells Fargo.

52. This additional requirement ranges from 1% to 2.5% of risk-weighted assets. The 3.5% provided for in bucket 5 has no immediate implications.



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.3 Systemic institutions

The ACPR is closely involved with the FSB's Data Gaps Initiative, whose first phase started in March 2013 with the launch of a data collection effort among G-SIBs. These reports concern all systemic banks and are intended to improve understanding of the interconnections between them and the associated risks.

The ACPR also contributed to the finalisation of the Basel Committee's principles for effective risk data aggregation and risk reporting. Published in January 2013, these principles are a response to FSB recommendations to enhance

the surveillance of G-SIBs. An initial progress report on implementation – which must be complete by January 2016 at the latest – was published in December 2013.

#### B. Global systemically important insurers (G-SIIs)

The ACPR participated in IAIS-sponsored efforts to implement a series of measures to deal with the risks posed by G-SIIs to the financial system, in accordance with the wishes of the G20 and in the wake of initiatives concerning the banking sector. This work enabled the IAIS to publish a G-SII identification

methodology in July 2013<sup>53</sup>, together with a preliminary list of nine G-SIIs that is to be reviewed every year.

**In July 2013 the IAIS also published the range of measures that will be progressively imposed on these institutions (see inset below).** These measures fall into three groups:

- requirements for recovery and resolution plans;
- enhanced group supervision;
- additional loss absorbing capacity requirements.

## IMPLEMENTATION TIMETABLE FOR MEASURES APPLICABLE TO G-SIIS

**18 July 2013:** designation of nine G-SIIs: Allianz SE, American International Group, Inc., Assicurazioni Generali S.p.A., Aviva plc, Axa SA, MetLife, Inc., Ping An Insurance (Group) Company of China, Ltd., Prudential Financial, Inc., Prudential plc. (alphabetical order).

**July 2013:** implementation of enhanced supervision upon designation.

**July 2014:** publication of a new list of G-SIIs including reinsurers, if applicable.

**July 2014:** establishment of crisis management groups (CMGs).

**End-2014:** recovery and resolution plans established in line with the key criteria in FSB resolution regimes must be operational.

**November 2014, G20 summit:** finalisation of a simple and generic formula defining the Basic Capital Requirement and applicable to all groups' activities, including non-insurance subsidiaries.

**Before end-2015:** detailed implementation rules for higher loss absorbing capacity.

**November 2017:** publication of final list of G-SIIs.

**January 2019:** application of all these measures to G-SIIs.



## 1.4 ACCOUNTING AND AUDIT

**The ACPR's involvement in accounting and audit issues takes many forms.** For the past few years it has worked in the context of convergence efforts between the International Accounting Standards Board (IASB) and the American Financial Accounting Standards Board (FASB), as well as on a range of European and French projects relating to accounting standards, financial reporting and auditing that will take full advantage of the lessons learned during the financial crisis.

**In 2013, the ACPR participated in numerous working groups set up by organisations in France** (the French accounting standards authority, ANC), Europe (EBA and EIOPA) **and international bodies** (Basel Committee, IAIS). It took part in over 180 meetings and conference calls.

### A. Action related to accounting

#### ■ ACCOUNTING STANDARDS

- **Proposed revision of the standard on financial instruments**

The ACPR played an active role in work undertaken at international level (Basel Committee, IAIS), in Europe (EBA, EIOPA) and in France with the ANC in connection with the overhaul of IAS 39 on financial instruments (the IFRS 9 project).



Concerning the classification and assessment of financial instruments (IFRS 9 – phase 1), the ACPR supports the model put forward by the IASB and FASB, based on three accounting categories: amortised cost, fair value through equity and fair value through profit or loss. It also supports the notion that the business model used by credit institutions and insurers should be taken into account in determining the classification of financial instruments. The ACPR will continue to pay close attention to the finalisation of the IASB's work on these issues in order to ensure that financial assets are classified properly in institutions' and entities' accounts.

Concerning the depreciation of financial instruments (IFRS 9 – phase 2), the ACPR agrees with the ANC and national regulators in the European Union that the model proposed by the IASB in its 2013 exposure draft is a good compromise but a number of improvements need to be made. It also supports the expected loss model that distinguishes between different stages in the deterioration of credit quality during the life of the financial instrument, in line with credit risk management arrangements at French credit institutions.





## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 1. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

#### 1.4 Accounting and audit

The ACPR has continued to monitor rules on the netting of financial instruments, given their potential impact on prudential regulation (see inset below).

## NETTING RULES UNDER IFRS AND US GAAP

Despite initial willingness to work for convergence, the IASB and the FASB have not succeeded in setting a single standard on the netting of financial instruments. So far, the information to be disclosed in notes to the accounts is the only common element and can be used to reconcile the two approaches.

IFRS favours presentation on a gross (i.e. non-netted) basis on the statement of financial assets and liabilities, while US GAAP provides for exceptions and permits greater scope for netting on accounting statements.

Under IFRS, master netting agreements generally do not warrant netting on financial statements because they can only be activated if some future event occurs (the default of a counterparty, for example). This approach limits the appearance of netting on financial statements in practice. The amendment to IAS 32 (Offsetting Financial Assets and Financial Liabilities), which will be applicable in the European Union from 1 January 2014, does not undermine the existing IFRS approach but seeks to clarify it.

In contrast, US GAAP provide for exceptions to the general rules on netting for transactions carried out with a single counterparty under a master netting agreement, notably for derivative products and their cash collateral, and for payables and receivables connected with repos or reverse repos.

In practice, and all other things being equal, these accounting differences directly result in smaller balance sheets under US GAAP than under IFRS. The consequences for Leverage Ratio calculations could be extremely serious; the Basel Committee has therefore finally decided to relax the calculation method for the Leverage Ratio by authorising, under certain conditions, netting for securities transactions (repos and reverse repos, securities lending, securities financing transactions) concluded with one and the same counterparty, independently of their accounting treatment<sup>54</sup>.

#### • Proposed standard for insurance policies

As part of its involvement in the work of the ANC and the regulators (EIOPA and IAIS), the ACPR contributed actively to the IASB consultation launched in 2013 on accounting standards for insurance policies, intended to replace the current IFRS 4 (phase 1). The valuation of insurance liabilities is based

on three building blocks: the cash flows that the insurer expects to pay and receive in meeting its contractual obligations (weighted by their probability and discounted), an adjustment for risk, and a contractual service margin representing expected contract profit and whose recognition is deferred. While the ACPR agrees with the key principles underpinning this valua-

tion model, it also concurs with criticisms that have been levelled at it, such as on the presentation of the income statement. Moreover, it considers that certain proposals in the consultation document, particularly in relation to the determination of the discount rate, are liable to have an unhelpful impact on the comparability of insurance entities' financial statements.

54. On 14 January 2014, the Basel Committee published amendments relating to exposure calculation methods for the Leverage Ratio.

- **The activities of the French accounting standards authority (ANC)**

The ACPR participated in the working group set up by the ANC in 2013 to update French accountancy regulations in the context of CRD 4 transposition. This working group has contributed to the definition of accounting rules applicable to finance companies. The ACPR contributed to ANC discussions that led to the drafting of a new regulation for insurance entities concerning the accounting rules for depreciable assets, notably direct and indirect investments in loans to companies.

#### ■ FINANCIAL DISCLOSURE

The ACPR participated in the Basel Committee's review of financial disclosure requirements (Pillar 3). In 2013, efforts were made to analyse both the information published by 21 global systematically important

banks and reports and initiatives on the theme of banks' financial communications. The Basel Committee is set to publish a consultation paper on revised Pillar 3 requirements in 2014.

The ACPR was also involved in the EBA's analysis of certain disclosures published by a sample of 19 European banks according to the requirements of Pillar 3. On the basis of this sample and publications in respect of 2012, it appears that there is still room for improvement, notably in relation to information on the backtesting of credit risk among banks using the internal ratings-based (IRB) approach, to securitisation and to market risks. The same analysis revealed elements of best practice as well, however. The EBA published the results of this work in December 2013<sup>55</sup>.

## B. Audit work

**The ACPR plays an active role in the various audit work streams related to credit and insurance institutions at European level (EBA, EIOPA, European Commission) and internationally (Basel Committee, IAIS).** Activity in 2013 continued to focus on the proposed recommendation on external audits for banks; in March 2013, the Basel Committee published a public consultation document on the subject. A draft recommendation published on 31 March 2014 is based on the key factors determining the quality of bank audits and their supervision: the auditors' skills and the quality of their work; the role of the audit committee and relations between auditors and supervisors. A comparable recommendation is currently being drafted for the insurance sector in conjunction with the IAIS.



The ACPR has continued to monitor rules on the netting of financial instruments, given their potential impact on prudential regulation.

55. Follow-up review of banks' transparency in their 2012 Pillar 3 reports, EBA, 9 December 2013.

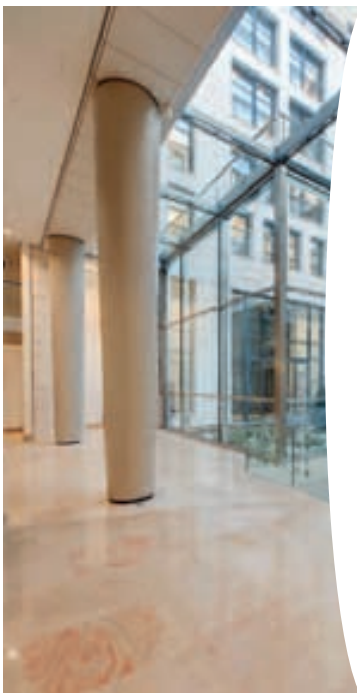


## 2 Legislative and regulatory developments at national level

### 2.1 AML/CTF ARRANGEMENTS

#### A. The notion of a permanent representative

**Act 2013-100 states** that payment institutions and electronic money institutions whose registered office is in a member state of the European Union or another country within the European Economic Area, and that for the purpose of their business on French territory use the services of one or several agents or entities with a view to distributing electronic money, must designate a permanent representative residing on French territory.



The permanent representative is responsible for ensuring that the institution concerned properly applies AML/CTF measures in connection with business carried out on French territory and that declarations of suspicions and regular reports are conveyed to Tracfin.

#### B. Transmission of information to Tracfin

**The Acts 2013-100 of 28 January 2013 and 2013-672 of 26 July 2013** made the systematic communication of information to Tracfin obligatory in respect of the following:

- transfers of funds starting with a cash deposit or using electronic money for an amount exceeding 1,000 euros for a single transfer or 2,000 euros cumulated over a calendar month for a single client;
- financial transactions with a high risk of money-laundering or terrorist financing by virtue of the country or territory of the funds' origin or destination, the type of transaction or the legal structures concerned. A decree issued in 2014 following consultation with the Conseil d'État will define objective criteria for the transactions concerned.

The systematic communication of information is without prejudice to the obligation to file suspicious transaction reports.

Several changes were made to the rules on declaring suspicions in 2013:

- attempted transactions are now expressly mentioned in Article L. 561-15 of the Monetary and Financial Code as falling within the scope of the obligation to file suspicion reports;
- the ways in which suspicion reports are to be submitted and sent to Tracfin have been revised by **Decree 2013-480 of 6 June 2013** and **an Executive Order of the same date**, which provide for the establishment of the secure ERMES platform and set conditions on the admissibility of a suspicion report.

**Act 2013-672** defines the information that the regulators have to submit to Tracfin. Furthermore, when the ACPR sends Tracfin information on amounts or transactions liable to have arisen from tax fraud as described in Article L. 561-15 II of the Monetary and Financial Code, it must simultaneously send this information to the tax authorities (Act 2013-1117 of 6 December 2013).

### C. Tougher measures on transparency

**Act 2013-672** introduced new rules for credit institutions, financial companies, mixed financial holding companies and investment firms on the disclosure of information regarding their foreign operations (Article L. 511-45 of the Monetary and Financial Code). The ACPR will be responsible for checking these disclosures and for seeking injunctions combined with coercive fines when no disclosure is made or when there are omissions in disclosures, starting from the first publication deadline at the end of the first half of 2014.

## 2.2 CONSUMER PROTECTION MEASURES

**The Banking Separation and Regulation Act of 26 July 2013 (Act 2013-672) contains provisions to improve the protection of consumers, borrowers and the insured.**

**For the most vulnerable customers,** the Act states that institutions will have to offer a specific range of services including means of payment, banking services appropriate to their circumstances and a limit on the service fees that banks charge for the unauthorised use of

an account. For customers benefiting from this specific offer and those benefiting from basic banking services under the banking access rules, this limit is 4 euros per transaction and 20 euros per month. There are higher limits for other customers, set at 8 euros per transaction and 80 euros per month.

In order to increase access to banking services and facilitate their use, as well as to better avert and detect situations of financial fragility, the *Association française des établissements de crédit et des entreprises d'investissement* (AFECEI) is expected to adopt a charter on banking inclusion and



The ACPR contributes actively to the legislative and regulatory developments.



## 6. CONTRIBUTING TO THE DEVELOPMENT OF THE INTERNATIONAL, EUROPEAN AND FRENCH REGULATORY FRAMEWORK

### 2. LEGISLATIVE AND REGULATORY DEVELOPMENTS AT NATIONAL LEVEL

#### 2.2 Consumer protection measures

the prevention of overindebtedness. The ACPR will ensure compliance with this charter. The Act creates a **banking inclusion observatory** at the Banque de France, which will be charged with collecting information from credit institutions on access to banking services and their use, particularly for the more

fragile customers, and on the implementation of their banking inclusion charters. This observatory will publish an annual report on its progress.

Concerning **access to banking services**, the obligation to provide applicants with written confirmation

of any refusal to open a bank account is now a legal requirement rather than simply an aspiration under the banking accessibility charter. The Act also introduces a three working day limit on the time it takes an institution designated by the Banque de France to open a bank account once it has received



the requisite documentation. It widens the Banque de France's power to refer cases to the various social protection bodies (department, *Caisse d'Allocations Familiales*, social services and certain non-for-profit associations and foundations), through which individuals can submit their requests

to the Banque de France for the designation of a credit institution.

As far as **dealing with overindebtedness** is concerned, the three main objectives of the new legislation applicable from 1 January 2014 onwards are the simplification of the procedure, a better fit with

measures related to housing and stronger protection for overindebted persons.

On **banking charges**, the new measures – prior notice to customers before any fees are charged, and a single set of terminology for the main banking charges and

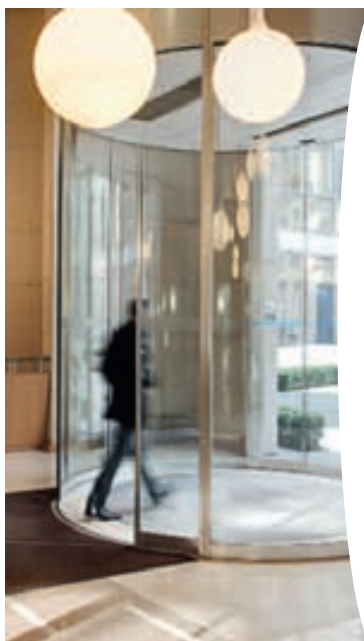


services – will improve transparency and stimulate competition.

Concerning **home loans**, the legislation provides a framework for foreign currency debt contracted by individuals that follows the line of ACP Recommendation 2012-R-01 on foreign currency loans. Individual borrowers exposed to exchange rate risk can only borrow in a foreign currency if they declare that their income is mainly in that currency or have wealth holdings in that currency at the time the loan agreement is signed.

In addition, the legislation contains a very comprehensive range of measures designed to protect companies – especially small and mid-sized firms – as much as possible in their relationships with banks. Banks have to communicate the internal rating attributed to a company in the event that they turn down a request for a loan, and have to send companies, and notably retailers, exhaustive information on the charges they levy on payment card processing. The obligation to draw up an account agreement, which used to refer only to individuals, now extends to people acting as self-employed professionals (sole traders) and has to include provisions on access to mediation.

On **payment protection insurance**, the Act introduces new legal notices on the costs of insurance relating to consumer



credit and home loans, intended to provide better information to consumers and stimulate competition. For home loans, the legislation requires the submission of a standard information sheet as early as the initial simulation; it must indicate the types of cover on offer and reminds borrowers that they can take out an insurance policy of their choice. In the case of insurance substitution, the law defines the applicable procedure at the time the contract is signed. The acceptance of a new insurance policy presented by the borrower cannot give rise to any change in the loan interest rate or loan conditions, nor to any additional charges.

**An advance on funeral expenses** can be debited from the deceased's accounts upon the submission of the relevant invoice, within the limit of the credit balance on these accounts or by an amount fixed by decree.

Measures relating to funeral contracts have also been taken, in line

with ACP Recommendation 2011-R-04 on the marketing of insurance policies linked to funeral expenses. This type of policy has to provide expressly for the allocation of part of the benefit paid to the settlement of the policyholder's funeral expenses. A mechanism for revaluing these policies is planned, and a decree will define the methods of calculating and allocating of the financial and technical profits.

The legislation creates new obligations for insurers to take action on **unclaimed life insurance policies**, including an annual consultation of the national register of natural persons and annual reports of professional bodies<sup>56</sup> on the implementation of measures on the identification of deceased policyholders.

These new legal obligations will be incorporated in ACPR inspections relating to consumer protection.

56. The professional bodies concerned: the FFSA (*Fédération Française des Sociétés d'Assurances*), GEMA (*Groupement des Entreprises Mutuelles d'Assurance*), CTIP (*Centre Technique des Institutions de Prévoyance*) and FNMF (*Fédération Nationale de la Mutualité Française*).

# 7

- 1. Budget
- 2. Performance monitoring

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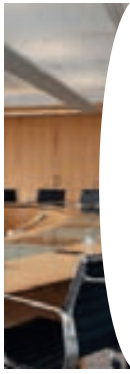


# Budget and performance monitoring

The ACPR has specific budgetary resources derived from contributions for supervisory costs, which are collected by the *Banque de France* from reporting entities and handed over in full to the ACPR. These contributions may be supplemented by additional allocations from the *Banque de France*.

In 2011, the Authority introduced a set of performance indicators to measure its effectiveness in carrying out its duties.





# Budget

## 1.1 BUDGET OF THE ACPR

In accordance with Article L. 612-18 of the Monetary and Financial Code, the ACPR, as an independent administrative authority, is financially independent, within the limits of the contributions paid by the entities under its supervision. The *Banque de France* may allocate additional funds to the ACPR.

Under the terms of Article L. 612-19 of the Monetary and Financial Code, the ACPR relies on support functions provided by the *Banque de France* in order to promote synergies and benefit from pooling certain costs (property management, IT, HR, accounting, etc.) It also relies on certain operating functions of the *Banque de France*, especially the use of databases necessary for the performance of its duties.

The services that the *Banque de France* provides to the ACPR are valued on the basis of the central bank's cost accounting in accordance with the financial agreement it has with the ACPR. The ACPR recognises these services as an expense and the *Banque de France* recognises them as income in its general budget. The services that the ACPR provides to the *Banque de France* are also valued on the basis of cost accounting. The ACPR recognises them as

income and the *Banque de France* recognises them as an expense. The *Banque de France* also incurs capital expenditure on behalf of the ACPR and the ACPR budget records the related depreciation and amortisation.

All the ACPR's receipts and expenditures in 2013 make up its budget. Under the terms of the Monetary and Financial Code, this budget is an annex to the budget of the *Banque de France*.

The report on the ACPR budget outturn for 2013 was submitted to the Audit Committee, which approved it at its meeting on 24 February 2014. It was then validated by the plenary meeting of the College on 3 March 2014.

## 1.2 SUMMARY OF THE BUDGET

The budget outturn report approved by a plenary meeting of the ACPR College<sup>57</sup> on 3 March 2014 shows a positive balance of 0.6 million euros for 2013.

This figure reflects a modest 3.3 million euro increase in net receipts in 2013 to 184.3 million euros, driven by changes in the contribution rates applicable to both banking and insurance sector companies during the year (see inset opposite). Expenditure was 183.7 million euros in 2013, down 1.3% on the year before.

The positive budget balance contrasts with a projected deficit in the provisional ACPR budget approved by a plenary meeting of the College. The difference between projection and outturn stems from the fact that the rise in contribution rates had not been taken into account, as it had not yet been approved<sup>58</sup>, and because staff numbers were lower than the personnel target that had been set following the transfer of many of the Authority's staff to the *Banque de France*, the European Central Bank and other international organisations. Given recruitment lead times, staff mobility reduces personnel costs. Substantial cuts in IT costs and mission expenses also explain the difference between the budget projection and outturn.



57. The budget outturn was presented to the ACPR College in thousands of euros. Some differences in the tables between details and totals are caused by the conversion of the amounts from thousands to million euros.

58. Before the increase in contribution rates for banking and insurance sector companies from 0.63‰ to 0.66‰ and from 0.15‰ to 0.21‰, respectively, in March 2013.

Receipts and expenditure in million of euros	Receipts and expenditure 2012 <sup>59</sup>	Initial 2013 budget	Receipts and expenditure 2013	Variance from budget		Change in expenditure 2012/2013	
				Amount	%	Amount	%
Contributions from reporting entities	178.3	163.8	181.4	17.6	10.7%	3.1	1.7%
Other receipts	2.7	2.6	2.9	0.3	11.5%	0.3	11.1%
<b>Total receipts (A)</b>	<b>181.0</b>	<b>166.4</b>	<b>184.3</b>	<b>17.9</b>	<b>10.8%</b>	<b>3.3</b>	<b>1.8%</b>
Personnel expenditure	102.0	106.9	100.8	-6.1	-5.7%	-1.2	-1.2%
IT expenditure	23.6	30.3	23.8	-6.5	-21.5%	0.2	0.8%
Expenditure on buildings	28.7	29.7	29.1	-0.6	-2.0%	0.4	1.4%
Other expenditure	30.4	32.4	30.0	-2.4	-7.4%	-0.4	-1.3%
<b>Total expenditure (B)</b>	<b>184.7</b>	<b>199.3</b>	<b>183.7</b>	<b>-15.6</b>	<b>-7.8%</b>	<b>-1.0</b>	<b>-0.5%</b>
Budget balance (A)-(B)	-3.7		0.6				

## A. Receipts of the ACPR

### RECEIPTS FROM CONTRIBUTIONS FOR THE COST OF SUPERVISION CAME TO 181.4 MILLION EUROS.

Receipts from contributions for the cost of supervision totalled 181.6 million euros in 2013, excluding cancellations in respect of previous years and amounts set aside to provisions for the risk of non-collection. This 2.4 million euro increase in receipts compared with 2012 stems from the rise in contribution rates for both banking and insurance companies. However, receipts from contributions for the cost of supervision paid by credit institutions, excluding contributions

from Caisse des dépôts et consignations, were less than initially estimated, mainly because of a smaller basis for contribution among the largest banking groups. This decline reflects reduced activity, a continuing policy of divesting risks and changes in the internal parameters used to calculate capital requirements. In contrast, the combination of a smaller than expected contraction in life insurance inflows and a higher contribution rate resulted in a rise in contributions from the insurance sector. Although contribution receipts from insurance and reinsu-

rance intermediaries are very close to the amount expected, the contributions received to date from intermediaries in banking transactions and payment services have not entirely confirmed the projections that were made. This shortfall is explained mainly by changes in the legislation governing access to this profession, which led to a dispensation from contributing for participants carrying out only a limited amount of banking or payment services intermediation.

59. The final assessment of the *Banque de France's* costs made in the second quarter of each year in accordance with the financial agreement shows that the amount for services provided to the Authority by the *Banque de France*, and the amount for services provided to the *Banque de France* by the Authority, were adjusted, bringing the budget balance for 2012 to a negative 3.7 million euros (compared with a negative 5.8 million euros in the semi-final version). The 2012 data in this document are compiled on the basis of the final costs and may therefore be slightly different from the data compiled on the basis of the semi-final costs and published in the Authority's 2012 Annual Report.





## VII. BUDGET AND PERFORMANCE MONITORING

### 1. BUDGET

#### 1.2 Summary of the budget

Contributions in million of euros	2012	2013	Variation 2012/2013	
			Amount	%
Credit institutions and investment firms (including <i>Caisse des dépôts et consignations</i> )	137.9	129.2	-8.7	-6.3%
Money changers	0.2	0.2	0	0
Insurers, mutual insurance companies and provident institutions	34.9	47.3	12.4	35.5%
Intermediaries in banking transactions and payment services	3.3	1.8	-1.5	-45.5%
Brokers, microcredit associations	2.9	3.0	0.1	3.4%
<b>Total contributions</b>	<b>179.2</b>	<b>181.5</b>	<b>2.3</b>	<b>1.3%</b>
Charges to provisions net of reversals and cancelled contributions	0.9	0.2	-0.7	-77.8%
<b>Contributions net of cancellations and provisions</b>	<b>178.3</b>	<b>181.3</b>	<b>3.0</b>	<b>1.7%</b>

Credit institutions, investment firms, insurers, mutual insurance companies, provident institutions and *Caisse des dépôts et consignations*

account for 97.3% of receipts from contributions for the cost of supervision in 2013. Intermediaries in banking transactions and

payment services, insurance and reinsurance brokers and money changers account for the remaining 5 million euros.



## CHANGES IN CONTRIBUTIONS FOR THE COST OF SUPERVISION

Two changes were made to the rules regarding contributions for the cost of supervision payable by entities subject to ACPR supervision in 2013.

The contribution rates applicable to banking and insurance sector companies were revised in 2013.

- ▮ The Decree of 9 April 2010 setting the contribution rate for the cost of supervision applicable to the banking sector was amended on 29 March 2013. The rate applied to banks' capital adequacy requirements or minimum capital requirements was increased to 0.66 per thousand from 0.63 per thousand previously;
- ▮ The Decree of 26 April 2010 setting the contribution rate for the cost of supervision applicable to the insurance sector was amended on 29 March 2013. The rate applied to premiums and contributions issued was increased to 0.21 per thousand from 0.15 per thousand previously;

The lump-sum contribution applicable to other categories of supervised entities and the minimum contribution remained the same.

The banking, insurance and finance intermediary register provided for in Article L. 512-1 of the French Insurance Code

entered into force on 15 January 2013 and is managed by the insurance intermediary registrar ORIAS.

As a result, the rules on contributions for the cost of supervision, along with the terms and conditions of calling contributions, changed in 2013 for both insurance and reinsurance brokers and for intermediaries in banking transactions and payment services.

- ▮ Pursuant to Article L. 612-20-V-1° of the Monetary and Financial Code, these two categories are now liable to pay contributions for the cost of supervision in respect of their activity as of 1 April each year (instead of 1 January);
- ▮ Reflecting existing practice for insurance and reinsurance brokers, calls for contributions for the cost of supervision from intermediaries in banking transactions and payment services are now made by the *Banque de France* on the basis of information submitted to the ACPR by ORIAS;
- ▮ For these two categories of intermediaries, calls for contributions are now made no later than 15 June each year, with 30 August as the deadline for payment. However, as a transitional measure, calls for contributions from intermediaries in banking transactions and payment services in 2013 were made on 15 October, with 31 December as the deadline for payment.

As in previous years, the receipts from contributions for the cost of supervision in 2013 were affected slightly by contributions called in respect of 2010, 2011 and 2012 that were cancelled during the year as part of dispute handling procedures. These cancellations, which impact the budget of the ACPR only to the extent of the contributions not provisioned at end-2011 and 2012, primarily concern entities wrongly declared as intermediaries in banking transactions and payment services, or sums due that were written off, particularly as part of insolvency proceedings.

At end-February 2014, the ACPR had collected 99.7% of contributions for the cost of supervision in 2013. The 0.6 million yet to be collected relates almost entirely to intermediaries in banking transactions and payment services and to insurance and reinsurance brokers. The collection rate for the intermediaries categories is lower than it was in previous years. This difference stems mainly from the later call date for contributions from insurance and reinsurance brokers (30 June) and for contributions from intermediaries in banking transactions and payment services in the transition period (15 October, rather than 15 April in previous years).

Because of the later collection of contributions for the cost of supervision from the intermediaries in banking transactions and payment services category, reminder letters were sent out at the beginning of 2014. This meant that unpaid 2013 contributions from this category of intermediaries were not provisioned for at the end of 2013.



## VII. BUDGET AND PERFORMANCE MONITORING

### 1. BUDGET

#### 1.2 Summary of the budget

Figures at mid-February 2014	2013 Contributions		2012 Contributions		2011 Contributions		2010 Contributions	
	Receivables (thousands of euros)	Collection rate	Receivables (thousands of euros)	Collection rate	Receivables (thousands of euros)	Collection rate	Receivables (thousands of euros)	Collection rate
Credit institutions and investment firms	11	100.0%	6	100.0%	2	100.0%	1	100.0%
Insurers, mutual insurance companies and provident institutions	14	100.0%	8	100.0%	0	100.0%	0	100.0%
<i>Caisse des dépôts et consignations</i>	0	100.0%	0	100.0%	-	-	-	-
Money changers	10	94.2%	8	95.2%	3	98.1%	2	98.6%
Intermediaries in banking transactions and payment services	413	77.3%	491	84.8%	941	77.4%	1,280	70.6%
Insurance or reinsurance brokers and microcredit associations	185	93.8%	146	94.9%	186	93.3%	158	93.6%
<b>TOTAL</b>	<b>633</b>	<b>99.7%</b>	<b>659</b>	<b>99.6%</b>	<b>1,132</b>	<b>99.3%</b>	<b>1,441</b>	<b>99.1%</b>

Decree 2012-1516 of 27 December 2012 on the collection of contributions designates the Directorate General of Public Finance's special receivables division (DCST) as the competent public accountant for collecting contributions for the cost of supervision and gives it the power to impose the sanctions and coercive fines provided for in Article L. 612-20 VIII of the Monetary and Financial Code. An agreement drawn up in accordance with this decree describes the settlement procedures between the DCST, *Banque de France* and ACPR. In 2013, a first batch of unpaid contributions related to 2011 and 2012 was passed to the DCST for enforced recovery. Almost 50% of the amounts in this batch have been recovered to date, resulting in a reduction in provisions via reversals.

#### ■ OTHER RECEIPTS OF THE ACPR

In addition to the contributions for the cost of supervision, 2.9 million euros in income from transactions was recorded in the other income item.

This amount, which was slightly higher than in 2012, stems mainly from billing services that the ACPR provided to the *Banque de France* and other bodies such as the European regulators (the EIOPA<sup>60</sup> and EBA)<sup>61</sup> and the European Central Bank, and the investment income on outstanding contributions carried forward.

#### B. Expenditure

As an offshoot of the *Banque de France*, the ACPR's operating expenses are either incurred directly by its own General Secretariat, or by the *Banque de France* units providing services.

The largest expenditure items incurred by the *Banque de France* on behalf of the ACPR include the wages of permanent staff, rent and upkeep of the ACPR premises, and spending on IT and training. Except for personnel costs, the expenses paid by the *Banque de France* on behalf of the ACPR are billed at their full cost as determined by the cost accounting of the *Banque de France* under the terms and conditions stipulated in an agreement that was renewed in December 2013.

60. European Insurance and Occupational Pensions Authority.

61. European Banking Authority.

Expenditure (million euros)	2012 expenditure	% structure	2013 expenditure	% structure
Personnel expenditure	102.0	55%	100.8	55%
IT expenditure	23.6	13%	23.8	13%
Expenditure on buildings	28.7	16%	29.1	16%
Other expenditure	27.8	15%	27.6	15%
Depreciation and amortisation	2.6	1%	2.4	1%
<b>Total expenditure</b>	<b>184.7</b>	<b>100%</b>	<b>183.7</b>	<b>100%</b>

The expenditure of the ACPR for 2013 stood at 183.7 million euros, a 0.6% reduction from 2012 levels that mainly reflects a fall in personnel expenses that largely offset an increase in overheads.

#### ■ PERSONNEL EXPENDITURE (100.8 MILLION EUROS)

Personnel expenditure was 1.1% lower in 2013 than it was in 2012, despite a slight increase in headcount. This divergence is explained by a change in the staffing structure, with more junior personnel on starting salaries, as well as reversals of provisions for paid leave and time-saving schemes arising from the stabilisation of staff numbers and lower taxation because of the

*compétitivité emploi* tax credit. The profile and breakdown by activity of ACPR General Secretariat staff is set out in Chapter 1 of this report.

Personnel expenditure was 3.3 million euros less than initially projected for the year, mostly because the pace of hiring was slower than projected in the budget (1,018.6 average annual full-time equivalent employees instead of the expected 1,030.5).

Personnel expenditure categories (million euros)	2012	2013	Variation 2012/2013, actual expenditure	
			Amount	%
Base pay, special allowances, bonuses	45.7	45.5	-0.2	-0.4%
Other pay components for all personnel	20.5	18.8	-1.7	-8.4%
Tax and social charges	35.8	36.6	0.8	2.1%
<b>Total</b>	<b>102.0</b>	<b>100.8</b>	<b>-1.2</b>	<b>-1.1%</b>

#### ■ IT EXPENDITURE (23.8 MILLION EUROS)

The ACPR incurred IT expenses of 23.8 million euros in 2013, just 0.2 million euros higher than in

2012. This amount is split between costs of software and outsourced management and development related to ACPR IT projects and systems maintenance (7 million euros)

and services provided by *Banque de France* staff in support of the IT programme and the provision of IT infrastructure (16.8 million euros).



## VII. BUDGET AND PERFORMANCE MONITORING

### 1. BUDGET

#### 1.2 Summary of the budget

As the 2013 budget for IT projects and maintenance was 8.2 million euros, the expenditure outturn was 1.2 million euros below the initial projection. This difference reflects savings on applications maintenance and the postponement of certain projects until 2014.

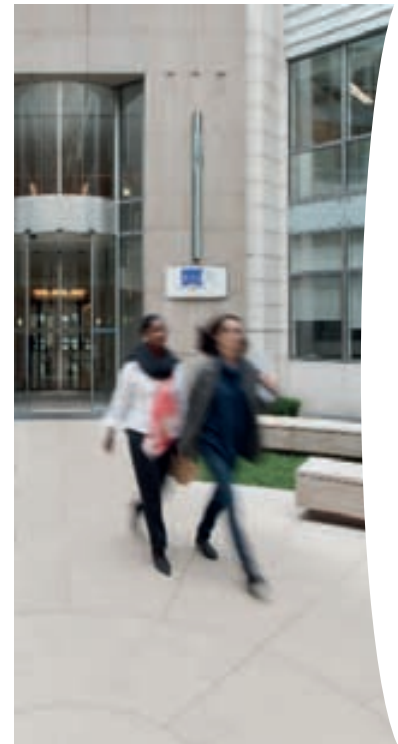
The cost of IT services supplied by the *Banque de France* was assessed in accordance with the provisions of the financial agreement signed in 2010 and renewed in 2013 between the *Banque de France* and the ACPR. In 2013 these services amounted to 16.8 million euros, a level comparable to that reported in 2012 (16 million euros).

These services included running the ACPR 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 item also includes all of the expenses incurred in supplying employees of the ACPR General Secretariat with individual IT tools (including collaboration tools and telephony).

#### ■ EXPENDITURE ON BUILDINGS (29.1 MILLION EUROS)

Expenditure on buildings increased by a modest 0.4 million euros between 2012 and 2013, with a 0.9 million euro increase in rents and charges partially offset by a 0.4 million reduction in services supplied by the *Banque de France*. The increase in rents and charges reflected the occupation of new premises and the indexation of rents and charges on the construction cost index.

In addition to the rents and charges relating to the two buildings occupied by departments of the ACPR's General Secretariat, expenditure on buildings includes the cost of services provided by the *Banque de France*, assessed in accordance with the financial agreement and corresponding chiefly to upkeep and electricity expenses. The surface area allocated to each occupied workstation was 11.3 square metres.



#### ■ OTHER EXPENDITURE (29.6 MILLION EUROS)

Other expenditure in million euros	2012 expenditure	2013 expenditure	Change 2012/2013	
			Amount	%
Non-IT sub-contracting	13.2	15.4	2.2	16.7%
Travelling expenses	4.6	4.0	-0.6	-13.0%
Other overheads	10.3	10.2	-0.1	-1.0%
<b>Total other expenditure</b>	<b>28.1</b>	<b>29.6</b>	<b>1.5</b>	<b>5.3%</b>
Adjustment for 2012 negative balance		-2.1	-2.1	
<b>Net total</b>	<b>28.1</b>	<b>27.6</b>	<b>-0.6</b>	<b>-2.1%</b>



Other expenditure totalling 29.6 million euros was significantly higher than in 2012, mainly because of higher non-IT sub-contracting costs.

Non-IT sub-contracting expenditure covers all other services apart from buildings provided by the *Banque de France* to the ACPR for its operations and was up 2.2 million euros on 2012. This change results from higher training costs, with a notable increase in the number of hours of training organised for ACPR staff to prepare them for the new professional environment that the implementation of European banking supervision will create, irrespectively of whether they are seconded to the European Central Bank or continue to work at the ACPR in collaboration with units at this institution. The cost of human resources management also rose sharply, as the high degree of mobility of ACPR staff increases the cost of services related to recruitment and administrative formalities.

Travelling expenses decreased by 0.6 million euros in 2013, as several missions were postponed as a result of work on the establishment of the European Banking Union. The number of missions remained considerable, however, both in relation to inspections and participation in international working groups.

The other overheads item also includes the 1.9 million euros in membership fees that the ACPR pays to take part in various bodies. These expenses continued to rise in 2013, essentially because of the greater workload at the EBA and EIOPA, which were formed in 2010.

The other expenditure total declined by 2.1 million euros overall, corresponding to the settlement of the negative balance for 2012 determined following the calculation of the final result<sup>62</sup>.

#### ■ AMORTISATION AND DEPRECIATION (2.4 MILLION EUROS)

The amortisation and depreciation expense declined from its 2012 level. It consists primarily of amortisation of IT applications developed in-house and depreciation of IT hardware. To a lesser extent, it also consisted of amortisation of software and depreciation of furniture.

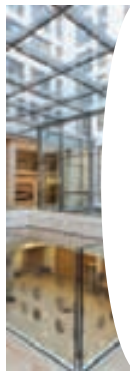
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## CONCLUSION

The balance for 2013 is a positive 0.6 million euros. In accordance with the applicable regulations, this surplus will be set in full against contributions carried forward from previous years.

Structural and organisational change in 2014, ranging from the establishment of the European supervisory system to the assessment of the quality of banks' assets and the establishment of the Resolution Directorate within the ACPR, will have a significant impact on the Authority's finances in the future.

62. Article 9 of the agreement between the *Banque de France* and the ACPR.



## 2 Performance monitoring

The assessment of the ACPR's performance in 2013 marks a further step in the project launched three years ago leading to the **publication of indicators designed to measure the effectiveness of the ACPR's action with regard to its objectives.**

The introduction of **a new strategy area in 2013 covering the design and implementation of measures to prevent and resolve banking crises** means that performance indicators are now monitored for four strategy areas:

- | maintaining the stability of the financial system;
- | contributing to setting international standards and implementing international and European measures in a convergent manner;
- | ensuring that supervised entities' customers are protected;
- | designing and implementing measures to prevent and resolve banking crises.

To measure performance, **three of these four strategy areas have been divided into ten operational objectives and assigned indicators** to measure achievements. The establishment at the end of the year of the Resolution College and Directorate came too late to define performance indicators for 2013.

To assess the ACPR's efficiency in **maintaining the stability of the financial system**, the operational objectives are to:

- | process licensing and authorisation applications in due time, thereby contributing at an early stage to the health of the financial system;
- | assess the individual situations of supervised entities;
- | measure the capacity of the ACPR to maintain or intensify ongoing supervision of individual entities;
- | implement the on-site inspection programme of individual entities;
- | expand and intensify ongoing supervision, which, in an environment dominated by cross-border groups, entails active cooperation with foreign supervisors for the purpose of overseeing these groups;
- | conduct stress tests where possible, or at the very least impact studies, on a regular basis.

The following objectives were set in order to measure the ACPR's effectiveness in helping to **define and implement European and domestic standards in a convergent manner:**

- | increase France's influence in the international regulatory system in order to be involved from the outset in the standard-setting process;
- | apply regulation at operational level and provide supervised entities with more information.

In order to measure progress in **protecting supervised entities' customers**, the objectives reflect the initial stages involved:

- | improve customer information about the ACPR's role in this area;
- | develop supervision of business practices.

In view of the institutional changes in progress as regards supervision at both European and national levels, some of these strategy areas and operational objectives will be adapted as from 2014.

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### 2.1 STRATEGY AREA: MAINTAIN THE STABILITY OF THE FINANCIAL SYSTEM

#### Operational objective 1: Process licensing and authorisation applications in due time

**INDICATOR:** Percentage of licensing and authorisation applications submitted to the College or its Chairman that are decided upon within the allotted deadline. This indicator covers applications submitted to the College as well as those submitted to the Chairman within the scope of his powers.

Target: 100%



**Analysis of the result:** The purpose of this indicator is to check the ability of the ACPR to submit licensing and authorisation applications for banking and insurance to the relevant bodies of the ACPR College in a timely fashion.

In 2013, a total of 494 applications for the banking sector and 102 for the insurance sector were submitted to the ACPR College or its Chairman within the scope of his powers. Of a total of 596 applications, 7 were not processed within the allotted timeframe, mainly because of additional procedures that were required in order to successfully process the applications. 13 applications from payment agents could not be processed within the extremely tight regulatory deadline, although without prejudice to the activities these entities envisaged undertaking.

### Operational objective 2: Measure the ACPR's activity of examining the individual situations of supervised entities

**INDICATOR:** Number of individual decisions<sup>63</sup> taken during one year, presented by the type of College decision as well as the cease-and-desist orders decided by the Chairman acting under a delegation from the College. Unlike the indicator described above, this indicator does not take account the licensing and authorisation decisions taken by the College Chairman acting under delegated authority<sup>64</sup>.



**Analysis of the result:** The purpose of this indicator is to provide information on the volume of the ACPR's activity in its main decision-making areas, and on the effective use of the various instruments given to the College by law.

In 2013, the College issued 174 decisions on licensing and authorisation (excluding decisions taken by the Chairman acting under a delega-

tion. A total of 88 individual decisions were handed down in connection with supervision of institutions, such as enforcing regulations on the measurement of own funds, authorising the use by credit institutions and investment firms of internal models to measure capital adequacy or manage liquidity risk or to cover regulated liabilities in the insurance sector.

The ACPR issued 91 administrative enforcement and other enforcement measures, including 18 cease-and-desist orders issued by the Chairman under a delegation from the College, three recovery programmes, 16 cases in which the College ruled on the possibility of placement under provisional administration, one placement under special supervision, three business restrictions and two short-term funding plans. The other individual measures taken under this heading were mainly renewals of previous decisions, such as the extension of a mandate for a provisional administrator or liquidator.

63. As the College may take several decisions in connection with a single case, the numbers cited under operational objectives 1 and 2 are not strictly comparable.

64. 428 licensing and authorisation decisions were taken by the Chairman of the College using delegated authority in 2013.



## VII. BUDGET AND PERFORMANCE MONITORING

### 2. PERFORMANCE MONITORING

#### 2.1 Strategy area: Maintain the stability of the financial system

18 injunctions were issued relating to Pillar 2 or to joint decision-making by colleges of supervisors aimed at raising the capital of credit institutions or investment firms above regulatory requirements.

The College ruled on 63 other cases; these decisions concerned such matters as finance companies, the launch of joint decision-making processes and refusals of administrative review.

The ACPR also decided to initiate 8 disciplinary procedures in 2013, of which one was annulled for technical reasons.

#### Operational objective 3: Measure the intensity of ongoing supervision

**INDICATOR 1:** Percentage of credit institutions, investment firms, financial holding companies, insurance and reinsurance, provident and mutual insurance institutions with turnover of more than 5 million euros, referred to in Article L. 612 2-1 of the Monetary and Financial Code, whose risk profile has been fully assessed through ongoing supervision during the year under review.

**Target: 100%**



**Analysis of the result:** This indicator is used to verify that ongoing supervision included a full annual risk profile assessment of all institutions covered by the indicator, in addition to the ACPR General Secretariat's analysis of their accounting and prudential reports.

The overall rate for 2013 confirms continuing efforts since 2011 on the systematic processing of all institutions under the ACPR's supervision, which goes beyond the analysis of the largest and intermediate entities.

The analysis of the risk profile of 2 reporting institutions – out of a total of almost 1,400 – that could not be done in 2013 was scheduled for the beginning of 2014.

In an extension of the procedure established in 2011 and repeated in 2012, this performance indicator measuring the intensity of ongoing supervision is used in conjunction with an activity indicator identifying the number of institutions subject to specific supervision decided by the College.

**INDICATOR 2:** Number of institutions subject to specific supervision by the ACPR General Secretariat following a College decision.

Result

Situation at 31 December 2013

19

institutions in the banking or insurance sectors subject to specific ongoing supervision following a College decision, compared with 17 at end-2012:

12 under special supervision,  
7 under provisional administration.

**Analysis of result:** The purpose of this indicator is to identify the institutions subject to specific ongoing supervision further to a decision by the College in order to prevent specific risks that may in certain cases lead to default. The institutions in question, in both sectors, are those under special supervision within the meaning of Article L. 612-33 of the Monetary and Financial Code, and those under provisional administration pursuant to Article L. 612-34 of this Code.

16 of the 19 institutions concerned at end-2013 were already under specific ongoing supervision at 31 December 2012.

In 2013:

- 1 insurance institution was placed under special supervision. One measure of a similar nature that had been imposed in the insurance sector before 2013 was lifted.
- 1 institution in the banking sector and one insurer were placed under provisional administration.

#### Operational objective 4: Make sure the on-site inspection programme is implemented

**INDICATOR:** Number of on-site inspections for prudential and anti-money laundering purposes undertaken during the year under review relative to the number of inspections set by the ACPR Secretary General on the basis of College instructions.

**Target: 100%**

Result

89%

of on-site inspections undertaken at end-December 2013 under the 2013 programme before adjustment for forced cancellations in the banking sector.

**Analysis of result:** 285 missions were written into the 2013 programme before adjustment for forced cancellations in the banking sector. 183 missions concerned the banking sector and 102 missions concerned the insurance sector.

Preparations from late 2013 onwards for the European banking comprehensive assessment, an exercise connected with the implementation of the single supervisory mechanism, forced the cancellation of 32 on-site inspections that had been planned for year-end. All the other missions in the programme had been completed or were being completed at 31 December 2013.

By definition, this indicator does not include short on-site visits by ongoing banking supervision staff in order to interview key personnel on specific issues. These visits supplement the regular cycle of meetings.







## VII. BUDGET AND PERFORMANCE MONITORING

### 2. PERFORMANCE MONITORING

#### 2.1 Strategy area: Maintain the stability of the financial system

#### Operational objective 5: Cooperate closely with supervisors to strengthen consolidated supervision of banking and insurance groups

Pending transposition of the Solvency II Directive, the banking and insurance sectors are not subject to a unified regime for colleges of supervisors. Accordingly, different indicators have been put in place for each sector in order to assess the ACPR's efforts in this area.

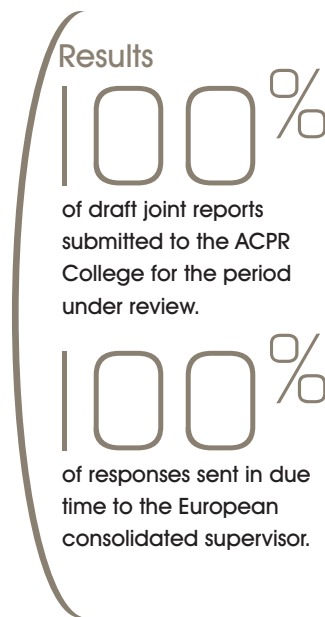
#### ■ MEASURING COOPERATION ON BANKING GROUP SUPERVISION

**INDICATOR 1:** percentage of joint decisions made in colleges of supervisors, without requiring EBA arbitration, on capital adequacy at banking groups that the ACPR supervises on a consolidated basis.

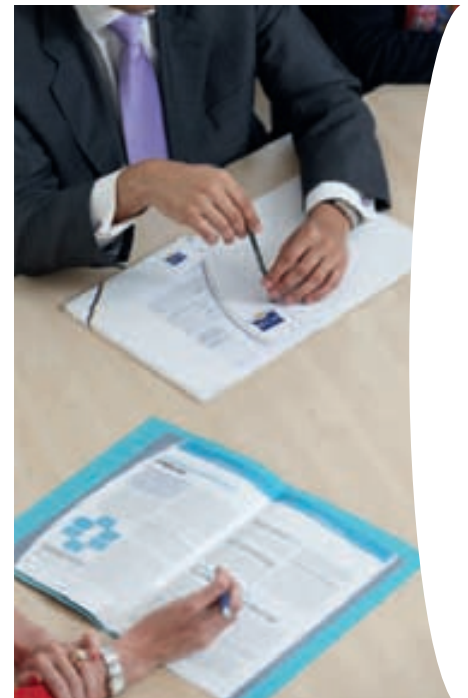
**Target: 100%**

**INDICATEUR 2 :** Proportion of contributions made within the applicable time limits in response to joint assessments and decisions as the supervisor of French subsidiaries of European banking groups.

**Target: 100%**



**Analysis of results:** All joint assessment processes for European groups supervised by the ACPR on a consolidated basis led to a joint decision with the supervisors concerned on capital adequacy in 2013. Where the ACPR is the supervisor of French subsidiaries of European groups, its contributions to the joint decision-making process were all made within the timeframe specified in Directive 2009/111/EC of the European Parliament.

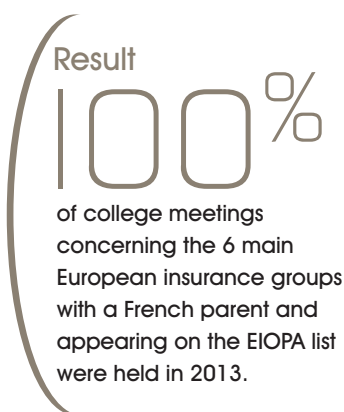


In addition to this cooperation aimed at allowing joint decisions on capital adequacy, specific meetings were set up between European supervisors in order to develop further the first recovery plans drafted in 2012 by the major cross-border banking groups.

■ MEASURE ACTIVE COOPERATION  
IN THE SUPERVISION OF INSURANCE  
GROUPS

**INDICATOR:** Percentage of meetings of colleges of supervisors held during the year for insurance groups with a French parent. The frame of reference is EIOPA's list of the 30 largest European insurance groups, 6 of which are French.

**Target: 100%**



**Analysis of result:** Annual college of supervisor meetings for European insurance groups are not yet a legal or regulatory requirement. However, cooperation between supervisors is governed by EIOPA guidelines and agreements signed by the supervisory authorities of EU member states. European supervisors cooperated closely during the year, notably on supervision of the largest groups identified by EIOPA. As consolidated supervisor, the ACPR held at least 1 college meeting in 2013 for each of the 6 European groups identified by EIOPA that has a French parent.

These meetings do not include the other college meetings organised for other insurance groups with operations in other European Union countries that the ACPR supervises on a consolidated basis. The ACPR was also actively involved in college meetings organised by European supervisors responsible for consolidated supervision of groups with insurance subsidiaries based in France.

**Operational objective 6:  
Conduct European and  
international stress tests  
within the allotted time**

**INDICATEUR :** Percentage of European and international EBA or EIOPA stress test exercises carried out on time, in collaboration with the industry.

**Target:** Conduct the EIOPA-led Long-Term Guarantees Assessment and continue with Basel III impact studies ahead of stress tests in the first half of 2014.

Result

1

EIOPA-led impact study concerning the Solvency II treatment of long-term guarantees.

4

impact study exercises concerning Basel III and compliance with Core Tier One ratio requirements in line with the new EBA recommendation.

**Analysis of result:** Apart from the impact study carried out at EIOPA's request in the first quarter of 2013 and the Basel III impact studies, ACPR staff were closely involved in 2013 in carrying out several stress test exercises using in-house models for France's main banking and insurance institutions.

The ACPR also participated actively in preparations for the European Balance Sheet Assessment and work with insurers in implementing EIOPA guidelines on establishing Solvency II in the interim period.

Staff were involved in negotiations on the definition of a methodology for future European stress tests coordinated by the EBA, to be carried out in the first half of 2014. EIOPA is also set to coordinate stress tests in 2014.



## VII. BUDGET AND PERFORMANCE MONITORING

### 2. PERFORMANCE MONITORING

2.2 Strategy area: Contribute to setting international standards and implement European and international measures in a convergent manner

#### 2.2 STRATEGY AREA: CONTRIBUTE TO SETTING INTERNATIONAL STANDARDS AND IMPLEMENT EUROPEAN AND INTERNATIONAL MEASURES IN A CONVERGENT MANNER

**Operational objective 1:**  
Increase France's influence  
in the international  
regulatory system

**INDICATOR 1:** Presence of staff seconded to institutions considered essential to prudential supervision.

**Target:**

At least 2 members of staff seconded to the EBA and EIOPA.

At least 1 member of staff seconded to the following institutions: Basel Committee secretariat, European Central bank (European Systemic Risk Board), European Commission (and other European institutions).



**Analysis of result:** There was a significant increase of 7 staff members seconded to institutions considered to be essential to prudential supervision in 2013.

In light of work on the establishment of the European supervisory system, concerted efforts were devoted to seconding staff to the ECB. Apart from the staff member already at the ECB in 2012, 4 staff members were seconded to the institution in June 2013. More will follow<sup>65</sup> in 2014, including 2 DG I and DG IV deputy directors and 2 DG I departmental heads.

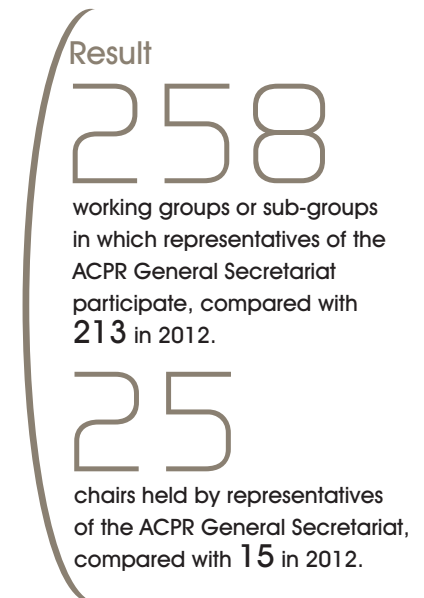
For the first time, the ACPR also seconded 2 staff members to the European Securities and Markets Authority (ESMA) in 2013.

The other members of staff on secondment are as follows: 6 at EBA, 1 at EIOPA, 1 at the Basel Committee secretariat, 5 at the European Commission (including 1 in the Directorate General in charge of accounting and financial reporting and 2 in the Directorate General responsible for banks and financial conglomerations), 1 at the Permanent Representation of France to the European Union and 1 at the Committee on Economic and Monetary Affairs at the European Parliament.

**INDICATORS 2 AND 3:**

Participation in international committees, working groups and sub-groups on banking and insurance issues.

Chairmanship or co-chairmanship of the international working groups and sub-groups in which the ACPR participates.



**Analysis of the result:** In 2013, the ACPR consolidated its role in developing the regulatory framework, increasing its participation in working groups and sub-groups of the main international and European bodies. At the end of the year, representatives of the General Secretariat were members of 258 working groups or sub-groups active in the banking and insurance sectors. The work of these groups covered the definition and

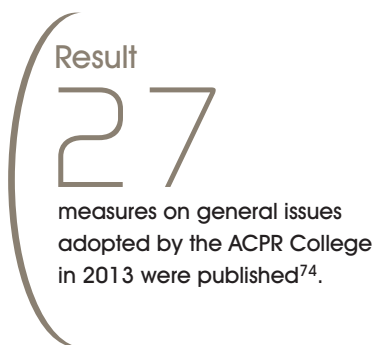
65. At least 17 secondments have already been agreed.

conditions for implementing Solvency II and the CRD 4 Directive, consumer protection and financial stability, which included work on systemically important financial institutions and crisis management. The ACPR also continued to actively participate in working groups and sub-groups dealing with accounting standards, financial reporting and auditing. The working groups in which the ACPR participates are generally run by the following institutions: EBA, EIOPA, ESRB, IAIS, Basel Committee, Bank for International Settlements, European Commission, IASB<sup>66</sup>, FSB<sup>67</sup>, FATF<sup>68</sup>, GIABA<sup>69</sup>, OECD<sup>70</sup>, XBRL<sup>71</sup>, JCFC<sup>72</sup>, and CIMA<sup>73</sup>.

Representatives of the ACPR chair 25 working groups. Besides working group chairs, the ACPR's active participation in preparing and enforcing standards applicable to each of the two sectors is reinforced by the presence of Danièle Nouy, ACPR Secretary General, on the Management Boards of both EIOPA and the EBA.

### Operational objective 2: Apply regulation at the operational level and provide supervised entities with more information

**INDICATOR:** Number of measures (instructions, guidelines, recommendations, etc.) adopted by the ACPR and published in its official register or communication media (website, *La Revue de l'ACPR*) or in the *Official Journal* for the purpose of implementing regulations.



**Analysis of result:** This indicator is used to assess the transparency policy that the ACPR College endeavours to promote, as described in an explanatory document published in the ACPR 2011 official register. In 2013, the College adopted 27 measures concerning general issues that were published.

These measures can be broken down as follows:

- | 18 instructions on matters of licensing, prudential supervision, anti-money laundering, collection of data on compensation and the enforcement of rules designed to protect customers;
- | 1 position relating to the implementation of Regulation 97-02 on the intermediation of banking transactions and payment services;
- | 2 guidelines on anti-money laundering and counter-terrorist financing, concerning the notion of politically exposed persons and equivalent third countries;

- | 2 sector application principles bearing on the beneficial owners of shares in collective investment schemes and on correspondent banking;
- | 2 approvals of codes of conduct examined at the request of the *Fédération bancaire française* relating to bank statement information on total monthly charges and the authorised overdraft limit and to the presentation of bank tariff notices in line with a model summary and an example showing standard fees;
- | 1 decision concerning the implementation in France of the general options provided for in the CRR;
- | 1 notice relating to calculation methods for the 2013 solvency ratio.

Besides these measures designed to facilitate implementation of regulations at operational level, in 2013 the ACPR continued its communications efforts by organising 3 conferences on specific issues and publishing its twice-monthly *La Revue de l'ACPR* publication.

66. International Association of Insurance Supervisors.

67. Financial Stability Board.

68. Financial Action Task Force.

69. Intergovernmental Action Group Against Laundering Money in West Africa.

70. Organisation for Economic Co-operation and Development.

71. eXtensible Business Reporting Language.

72. Joint Committee on Financial Conglomerates.

73. Inter-African conference on insurance markets.

74. 2 decisions of general relevance concerning responses to the EBA under the "comply or explain" procedure did not meet the performance indicator publication criteria.



## VII. BUDGET AND PERFORMANCE MONITORING

### 2. PERFORMANCE MONITORING

#### 2.3 Strategy area: Ensure that supervised entities' customers are protected

#### 2.3 STRATEGY AREA: ENSURE THAT SUPERVISED ENTITIES' CUSTOMERS ARE PROTECTED

##### Operational objective 1: Improve customer informa- tion about the ACPR's role

**INDICATOR:** number of calls that the ACPR received from the public concerning customer protection. The indicator tracks the number of telephone calls received by the *Assurance Banque Épargne Info Service* (ABE Info Service) platform.

Result

37,267

telephone calls concerned the ACPR directly.

**Analysis:** of the 328,914 calls<sup>75</sup> made to the ABE Info Service platform in 2013, 37,267 calls directly concerned the ACPR, which answers questions relating to insurance<sup>76</sup>.

Many of the calls dealing with non-life insurance were about claims payment and adjustment procedures, relating primarily to car and

home insurance. The majority of the calls dealing with personal insurance concerned supplementary health insurance, with questions relating to policy cancellation and premium increases. The most common questions dealing with life insurance related to the beneficiary clause and returns on policies.

The number of calls is an indicator that helps measure the public's knowledge about the ACPR's customer protection role, by tracking the number of calls made to the *ABE Info Service* platform.

##### Operational objective 2: Develop supervision of business practices

**Indicator 1:** number of on-site inspections specifically dealing with business practices.

Result

71

on-site inspections carried out directly by the Business Practices Supervision Directorate in 2013.

**Analysis:** the number of inspections completed or continuing in 2013 was comparable to that in 2012. As in the previous year, some of the inspections were carried out with support from staff in the *Banque de France* branch network.

In addition to the 71 inspections tracked by the indicator, there were 12 inspections carried out on behalf of the Business Practices Supervision Directorate by staff from the French overseas note-issuing banks, 6 inspections carried out by staff from the Credit Institution On-Site Inspection Delegation, and 1 joint inspection carried out with the Insurance Supervision Directorate.

The inspections focused on specific arrangements for vulnerable customers (right of access to banking services, procedures for including or removing data from the National Register of Household Credit Repayment Incidents (FICP), marketing arrangements for revolving credits), the duty to provide advice and requirements for taking up and conducting business as an intermediary.

In addition to supervising these various areas, the ACPR has also made it its mission to supervise the various types of institutions offering services to individual customers (credit institutions, insurance companies and intermediaries), as well as the different marketing methods.

75. There were 291,647 calls concerning the stock market and financial products that were for the market regulator (AMF) and concerning the banking sector that were for the Banque de France.

76. Questions relating to banking are handled by the Banque de France call centre.





**INDICATORS 2 AND 3:** ensuring diversity of supervision for the different types of entities and the different marketing methods, for all of the inspections dealing with business practices carried out directly by the Business Practices Supervision Directorate or delegated to other authorities.

### Result

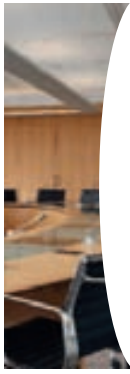
**4** on-site inspections of insurance companies,

**12** on-site inspections of credit institutions and

**74** on-site inspections of intermediaries.

Marketing practices were examined specifically during **52** inspections of **46** face-to-face marketers and **6** distance selling marketers.

**Analysis:** these two indicators supplement and refine the analysis of the indicator relating to monitoring the programmes of inspections carried out by the Business Practices Supervision Directorate. The purpose of these indicators is to ensure supervision of the different distribution channels by targeting different types of entities and different marketing methods.



# Glossary

## **ACTUARY**

Specialist who applies statistics and probability to financial and insurance operations. In life and nonlife insurance, actuaries analyse mortality patterns; they use probabilities to assess risks and to calculate premiums and technical and mathematical reserves.

## **ADD-ONS**

In the insurance sector, under Solvency II, capital add-ons may be imposed on insurance and reinsurance undertakings under exceptional circumstances or through a reasoned decision by the supervisory authority.

In practice, there are two types of capital add-ons:

- "Pillar 1" capital add-ons to meet quantitative requirements: these add-ons are used to adjust the capital requirement when the risk profile deviates from the assumptions underlying the calculation of the requirement using the standard formula or an internal model;
- "Pillar 2" capital add-ons relating to governance: these add-ons are used to adjust the capital requirement when the quality of governance deviates from the standards required and make it impossible to measure and manage risk properly.

## **AERAS agreement (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.

## **AMF (Autorité des marchés financiers)**

French securities regulator.

## **ANC (Autorité des normes comptables)**

The French accounting standards authority. The body responsible for setting accounting standards applicable in France. Executive Order 2009-79 of 22 January 2009 merged the CNC with the *Comité de la réglementation comptable* (CRC) to form *Autorité des normes comptables* (ANC), the accounting standards authority.

## **BALANCE SHEET ASSESSMENT (BSA)**

See Comprehensive Assessment

## **BANKING UNION**

Set of legislative measures aimed at enhancing financial stability in Europe. They include the Single Supervisory Mechanism, under which, starting on 4 November 2014, the European Central Bank will assume the task of supervising euro area banks in liaison with the national authorities. This supervision will be direct in the case of large groups and indirect for others. Other measures include a Single Resolution Mechanism, established by a European Regulation currently under negotiation, and, in the longer term, a common deposit guarantee scheme.

## **CAPITAL (accounting definition)**

All capital resources available to a company.

## **CAPITAL EXERCISE**

The exercise conducted by the EBA in 2011 and 2012 to review banks' regulatory capital positions and sovereign exposures, requesting that banks set aside additional capital buffers.

## **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 credit institutions, payment institutions, investment firms and insurance companies deal with their customers.

It takes appropriate measures in these areas, notably by issuing 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 European Banking Authority.

**CEIOPS (Committee of European Insurance and Occupational Pensions Supervisors)**

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).

**CFA (Call for Advice)**

Procedure whereby the European Commission seeks a technical opinion from the former CEIOPS, now EIOPA.

**CIMA (Conférence interafricaine 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.

**CNIL (Commission nationale de l'informatique et des libertés)**

Independent administrative authority responsible for data privacy in France.

**COMPREHENSIVE ASSESSMENT**

An assessment conducted by the ECB in collaboration with the national competent authorities of the Member States participating in the SSM to assess the risks of national banking systems. The Assessment started in October 2013 and should be completed before the SSM enters into force in November 2014. The three main goals of the Comprehensive Assessment are: transparency, enhancing the quality of information available on the condition of banks; repair, identifying and implementing the necessary corrective actions; and confidence-building, assuring all stakeholders that banks are fundamentally sound and trustworthy. The Assessment includes three parts:

- a prudential risk review, including liquidity, leverage and financing risks;
- a Balance Sheet Assessment (BSA) to enhance the transparency of bank exposures by examining the adequacy of asset and collateral valuation and related provisions, complex instruments and other high-risk assets;
- a stress test to examine the resilience of banks' balance sheets to stress scenarios.

**COREP (Common Reporting Framework)**

Standardised reporting framework for Basel II solvency requirements.

**CRD 4**

Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, which deals with own fund requirements.

**CRD IV**

The set of legislation consisting of CRD 4 and the CRR.

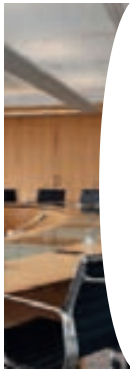
**CRR**

Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, which deals with own fund requirements.

**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 incorporating changes in ratings and market prices, netting agreements and collateral.

The higher the counterparty risk, the higher the CVA.



### **D-SIB (Domestic Systemically Important Bank)**

In addition to Global Systemically Important Banks (G-SIBs – see this term), the Basel Committee has also looked at identifying Domestic Systemically Important Banks, or D-SIBs. The CRR/CRD 4 legislation calls for an equivalent category under EU law. This category will cover Other Systemically Important Institutions, or O-SIIs.

### **DAMPENER APPROACH**

Alternative approach proposed under the Solvency II framework that aims to modulate the capital charge according to the position in the stock market cycle and the planned holding period for the assets.

### **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.

### **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.

### **DGT (*Direction générale du Trésor*)**

General Directorate of the Treasury.

### **DIVERSIFICATION RESERVE (life insurance)**

Technical reserve designed to absorb asset price fluctuations in so-called “diversified” contracts.

### **EBA (European Banking Authority)**

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.

### **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 CEIOPS (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.

### **EMIR (European Market Infrastructure Regulation)**

European regulation on over-the-counter (OTC) derivatives, central counterparties and trade repositories.

### **EQUALISATION RESERVE**

Reserve to deal with fluctuations in the loss experience. It covers natural disaster risks and group accidental death policies.

## EQUITY DAMPENER

Alternative approach proposed as part of the Solvency II standards. It is designed to reduce the pro-cyclical effects of market changes on insurance undertakings' equity holdings, by making it possible to modulate the capital charge for the equity risk sub-module of the Solvency Capital Requirement (see this term) up or down by 10%. The equity dampener is designed to vary according to an indicator defined by the EIOPA: it will reduce the capital charge when equity prices are depressed, thus preventing sell-offs aimed at maintaining solvency, and increase the capital charge when equity prices increase.

## 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 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.

## 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)

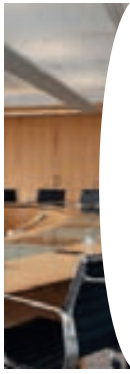
Multi-year European Commission plan to modernise and open up financial services. Adopted in 1999, the FSAP consists of 42 measures aimed at harmonising Member States' regulations on securities, banking, insurance and mortgage lending and all other forms of financial transactions. It was implemented between 1999 and 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.

## FSB (Financial Stability Board)

Established in April 2009 as the successor to the Financial Stability Forum (FSF).





### **G-SIB (Global Systemically Important Bank)**

The G20 asked the Basel Committee to develop an identification method and supervision measures for Global Systemically Important Banks in order to eliminate the risks that “too-big-to-fail” banks pose for the financial system. The Financial Stability Board now publishes an annual list of these systemically important banks. The EU has transcribed the Basel rules on G-SIBs into European banking law with the entry into force of the CRD 4/CRR legislation.

### **G-SII (Global Systemically Important Insurer)**

The G20 asked the IAIS to develop an identification method and supervision measures for Global Systemically Important Insurers in order to eliminate the risks that “too-big-to-fail” institutions pose for the financial system. The Financial Stability Board now publishes an annual list of these systemically important insurers.

### **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.

### **INTERMEDIARY**

In insurance, an individual or entity on a restricted list that offers or helps to conclude insurance or reinsurance contracts, in exchange for payment. 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 IAS, the International Monetary Fund and the World Bank. The OECD provides the secretariat.

### **IOSCO (International Organization of Securities**

Commissions) Association of organisations that regulate global securities and futures markets.

### **IRP (*Institutions de retraite professionnelle*)**

Occupational pension institutions.

### **JOINT FORUM**

Body established in 1996 under the auspices of the IAS 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.

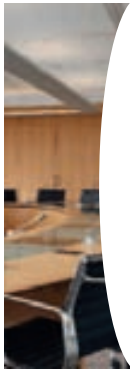
### **LCR (Liquidity Coverage Ratio)**

One-month liquidity ratio provided for the Basel III reforms.

### **LIQUIDITY RISK RESERVE**

Reserve to be set aside when the company's total nonfixed 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.



### **“LONG-TERM GUARANTEE PACKAGE”**

This set of six measures was discussed by the trilogue parties for the Omnibus II Directive. The measures are aimed at reducing the impact of financial market volatility on the capital of institutions engaging in long-term activities.

The measures include a Volatility Adjustment, a Matching Adjustment, an extrapolation period for the risk-free rate curve, transitional measures for rates and technical provisions and extension of the solvency capital requirement recovery period under exceptional circumstances.

### **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.

### **NSFR (Net Stable Funding Ratio)**

One-year liquidity ratio provided for in the Basel III reforms.

### **OMNIBUS II**

A Directive amending the 2009 Solvency II Directive. Its primary objective was to adapt the Solvency II Directive to the new powers of the EIOPA, following the establishment of the new European financial architecture. Furthermore, Omnibus II should confirm the Solvency II implementation delay and set the transitional periods for a number of measures (equivalence assessments, discount rates, etc.) In fact, the Omnibus II Directive provided an opportunity to review certain quantitative issues, such as long-term guarantees (“Long-Term Guarantee Package”). The trilogue parties ultimately agreed to a joint draft on 13 November 2013 and the European Parliament passed the Directive at its plenary session on 11 March 2014. The delay of Solvency II implementation until 1 January 2016 was ultimately included in an ad hoc Directive called Quick Fix 2, passed on 11 December 2013.

### **OMTs (Outright Monetary Transactions)**

The ECB programme started in August and September 2012 under which the Bank makes purchases on secondary sovereign bond markets, under certain conditions, of bonds issued by euro area Member States.

### **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.

### **ORSA (Own Risk and Solvency Assessment)**

Internal assessment by an institution of its risks and solvency, defined in Article 45 of the Solvency II Directive.

### **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.

### **PRUDENTIAL OWN FUNDS**

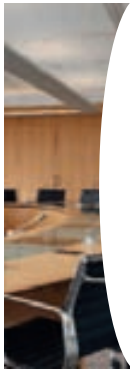
These funds are made up of different categories of own funds: Common Equity Tier 1 Capital, Additional Tier 1 Capital and Tier 2 Capital. As the case may be, capital requirements are expressed as a minimum level of Common Equity Tier 1 Capital, as a minimum level of Tier 1 Capital (the sum of Common Equity and Additional Tier 1 Capital), or as a minimum level of total capital (sum of Tier 1 and Tier 2 Capital).

### **PSNEM (*Provision pour sinistres non encore manifestés*)**

Specific loss reserve required by French insurance regulations for future claims that have not yet materialised.

### **QIS (Quantitative Impact Study)**

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.



## 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. In return for payment, a reinsurer, known as the transferee, 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 PILLARS

The three Solvency II Pillars are:

- Pillar 1: quantitative requirements, particularly for capital and technical reserves
- Pillar 2: supervisory activities and qualitative requirements
- Pillar 3: 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.

**TRACFIN (*Traitement du renseignement et action contre les circuits financiers clandestins*)**

French financial intelligence unit, run by the finance ministry and responsible for preventing money laundering and terrorist financing.

**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*)**

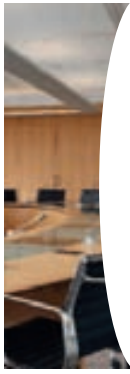
Average interest rate on French government bonds.

**TRANSPARENCY EXERCISE**

Disclosure exercise carried out by the EBA in 2013 involving individual bank data with the aim of enhancing market discipline and financial stability in the European Union.

**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.



# A p p e n d i x

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## ACPR PUBLICATIONS IN 2013

**Analyses et Synthèses** include various reports written by ACPR staff, notably analyses and commentaries on risk surveys carried out in the banking and insurance sectors.

### 14 issues were published in 2013:

- | *Stress tests sur le système bancaire et les organismes d'assurance en France*, January 2013;
- | *La collecte et les placements des 12 principaux assureurs vie à fin décembre 2012*, June 2013;
- | *La situation des grands groupes bancaires français à fin 2012*, June 2013;
- | *Enquête sur les taux de revalorisation des contrats individuels d'assurance vie au titre de 2011 et 2012*, July 2013;
- | *Enquête sur les taux de revalorisation des contrats collectifs en cas de vie et des PERP au titre de 2011 et 2012*, July 2013;
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- | *Performance of the French insurance sector in France in 2012*, July 2013;
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- | *Le suivi de la collecte et des placements des 12 principaux assureurs vie à fin juin 2013*, October 2013;
- | *Sociétés d'affacturage – Exercice 2012 : contexte économique, activité, résultats et risques*, October 2013;
- | *Suivi de la collecte et des placements des 12 principaux assureurs vie à fin septembre 2013*, November 2013;
- | *La situation des mutuelles du code de la mutualité en 2012*, November 2013;
- | *Grandes tendances de l'épargne des ménages français au bilan des banques et des assurances: juin 2012*, December 2013.

**Débats économiques et financiers** are articles expressing the authors' personal opinions, which do not necessarily reflect those of the ACPR as a whole. They are an invitation to consider questions related to the banking or insurance business, regulations or prudential policy.

### 9 issues were published in 2013:

- | M. Dietsch and H. Fraisse, *How different is the regulatory capital from the economic capital: the case of business loans portfolios held by the major banking groups in France*, February 2013;
- | O. de Bandt, N. Dumontaux, V. Martin and D. Médée, *Stress-testing banks' corporate credit portfolio*, March 2013;
- | D. Nouy, *Les risques du shadow banking en Europe : le point de vue du superviseur bancaire*, April 2013;
- | L. Frey, S. Tavoraro, S. Viol, *Reinsurance counterparty risk for French insurers*, April 2013;
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- | O. de Bandt, J-C. Héam, C. Labonne and S. Tavoraro, *Measuring Systemic Risk in a Post-Crisis World*, June 2013;
- | B. Camara, L. Lepetit and A. Tarazi, *Ex Ante Capital Position, Changes in the Different Components of Regulatory Capital and Bank Risk*, June 2013;
- | M. Brun, H. Fraisse and D. Thesmar, *The Real Effects of Bank Capital Requirements*, August 2013;
- | M. Lé, *Deposit Insurance Adoption and Bank Risk-Taking: the Role of Leverage*, December 2013.

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