



**T**he 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 key items of expenditure). It also presents noteworthy developments in terms of authorisations and restructurings of existing firms, in both the banking and insurance sectors.

This document is supplemented by two issues of *Analyses et Synthèses*, which present information about the financial situation in the two sectors (issue 46, May 2015, “*La situation des grands groupes bancaires français à fin 2014*” and issue 52, July 2015, “*La situation des principaux organismes d’assurance en 2014*”). It will also be supplemented by a statistical section to be published in the final quarter of 2015.



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## **The year 2014 saw the reinforcement of the European framework for financial supervision.**

2014 marked a key stage in the creation of a harmonised European system of banking and insurance supervision.

The European Single Supervisory Mechanism (SSM) came into operation in the euro area on 4 November. The ACPR now forms part of an integrated bank supervision framework which is headed by the European Central Bank (ECB). Under this system, the ECB has set up a Single Supervisory Board, comprising a representative of the ACPR, and four new directorate generals charged with cross-border micro-prudential supervision. In conjunction with the national supervisory authorities of participating states, the ECB is now tasked with the direct prudential oversight of some 120 euro area banks, including 10 French groups. It also indirectly monitors the other banks in the euro area, which remain under the day-to-day supervision of national supervisory authorities.

On 15 May 2014, the European Parliament also adopted the Bank Recovery and Resolution Directive (or BRRD), and EU Member States are working to transpose this text into national legislation, with the aim of implementing it by 1 January 2016. Separately, EU Regulation No 806/2014, which establishes the second pillar of the banking union (the Single Resolution Mechanism or SRM) was adopted on 15 July.

These two key milestones have equipped the euro area with the institutional mechanisms it needs to break the adverse feedback loops between bank and sovereign risk. They also provide European citizens with the guarantee of a single, reinforced system of oversight for all euro area banks, and offer assurances that public funds will not automatically need to be used to bail out troubled institutions.

In addition to these achievements, other efforts have been made to advance the system of financial supervision in Europe. In conjunction with the other national prudential authorities in the European Economic Area, the ACPR began this year to implement the provisions of the CRD IV/CRR package,<sup>1</sup> or the so-called Basel III Accords. At the same time, in April 2014, the so-called Omnibus 2 Directive was adopted for the insurance industry, amending certain provisions of the Solvency II framework to ensure it can be implemented under the best possible conditions in 2016. This was followed up with intense preparations for the technical implementation of Solvency II, which is a broad-reaching reform designed to strengthen the resilience of the insurance sector and enhance its supervision.

**In this changing environment, the ACPR continues to exercise its role in safeguarding the stability and resilience of the French financial system, protecting consumers and preventing money laundering and the financing of terrorism.**

As part of the preparations for the Single Supervisory Mechanism, the ACPR's priority for bank supervision in 2014 was to conduct an unprecedented comprehensive assessment of European bank balance sheets. This comprised an in-depth Asset Quality Review (or AQR) and a Stress Test to verify the resilience of the banks' balance sheets to macroeconomic shocks. Coordinated by the ECB, the operation involved the massive deployment of ACPR staff, to conduct on-site inspections and permanent oversight, and participate in transversal teams. In all, 13 French groups were assessed, accounting for over 95% of the assets of the country's banking system (one of the highest proportions in Europe).

1. The fourth European Capital Requirements Directive and the Capital Requirements Regulation.

Published in October 2014, the findings of this exercise confirmed the resilience of France's banking system: none of the institutions assessed was found to have a capital shortfall, even under the adverse scenario, which is particularly severe. The results are testament to the quality of France's banking supervision. For the euro area as a whole, the comprehensive assessment achieved all its objectives: to provide more transparent information on the health of European banks, to clean up the banking system by implementing the corrective measures identified during the assessment, and to increase the confidence of all stakeholders in the strength of the European banking system.

In the insurance industry, major resources were deployed in 2014 to help companies get ready for Solvency II, with the organisation of another broad preparatory exercise incorporating the latest adjustments to the legislation. The ACPR also continued its efforts to monitor business practices in the banking and insurance sectors, identifying a number of serious anomalies that were referred to the Sanctions Committee for disciplinary proceedings. The Committee notably ruled on cases relating to the right to a basic bank account, an area where banks are required to exercise particular vigilance due to the vulnerability of the populations concerned. It also ruled on various cases relating to unclaimed life insurance policies, finding against three major life insurers who were ordered to pay fines of between EUR 10 million and EUR 50 million. In part as a response to these rulings, French legislators passed the Eckert law on 13 June 2014, which will oblige insurers to provide greater disclosure on unclaimed policies as of 2016. A system of sound discipline is needed to ensure the rights of policyholders and their beneficiaries are respected.

Lastly, the ACPR continued its work to combat money laundering and terrorism financing, emphasising the need for adequate internal control, compliance and risk management systems at a time when expectations regarding the financial sector are set to increase.

**The ACPR actively supported the legal and regulatory changes that took place in 2014 and has incorporated them into its own working practices.**

The SSM, resolution structures and CRD IV/CRR package are not the only major legislative and regulatory changes to have been introduced over 2014. On 17 March, the so-called Hamon law was passed granting new rights to consumers, notably allowing them to shop around for mortgage life insurance and making it easier to cancel existing policies.

Also in the insurance sector, two new life insurance policies were introduced in the autumn of 2014, aimed at facilitating the use of household savings to finance the economy. Known as the *vie génération* and *euro-croissance* policies, they were inspired by the findings of the 2013 Berger-Lefebvre report on financial savings. The policies are partially unit-linked, and the initial investment is guaranteed at maturity, rather than at any time over the life of the contract.

As a result of CRD IV, which changed the definition of credit institutions, France passed a ministerial order on 23 December 2013 creating a new regulatory status for financial firms ("the financing company"). In 2014, 134 institutions opted for this status. Financing companies are still monitored by the ACPR, and



are subject to the same prudential requirements as credit institutions, as defined by CRD IV/CRR, but are also governed by specific rules and regulations tailored to their particular area of activity.

To encourage the emergence of new financing channels for the economy, two other types of entity were created: the “crowdfunding investment advisor” or CIP and the “crowdfunding intermediary” or IFP. The aim is to encourage the development of crowdfunding in France, while at the same time creating a secure legal framework for these activities which sets out the obligations of market participants.

**Sound prudential supervision  
requires rigour and the ability to adapt:  
these attributes will be vital to face  
the challenges of 2015.**

With the introduction of European banking supervision and of Solvency II for insurers, the ACPR has had to rethink its internal structure to better respond to these changes and to the challenges they pose. On the banking side, this will mean helping to set up the Joint Supervisory Teams (JSTs) required for the SSM, which will include staff both from the ACPR and from the ECB.

The ACPR constantly needs to adapt to the changes in its environment, to ensure it can carry out its missions effectively, fully understand the new challenges it faces, and respond to the imperatives ahead.

The year 2015 should see the ongoing implementation of key legislative and regulatory reforms, notably the Law on the Separation and Regulation of Banking

Activities and the increased monitoring of the fitness and propriety of bank and insurance senior managers.

The ACPR will also need to prepare for the application on 1 January 2016 of the macro-prudential measures in CRD IV, including the introduction of additional capital requirements for systemically important institutions and the countercyclical capital buffer.

The year 2015 will also be the last stretch in the application of the Solvency II Directive. French insurers have already demonstrated that they have the technical capacity to prepare for the new legislation, leaving little doubt that they can face up to this essential challenge which will guarantee the future of the industry.





## **What were the ACPR's main activities in 2014?**

**In the banking sector**, 2014 was a very atypical year for the ACPR as much of its work was dedicated to preparing for implementation of the Single Supervisory Mechanism (SSM). ACPR staff conducted a large-scale comprehensive assessment of the balance sheets of the largest banks and contributed to the setting-up of Joint Supervisory Teams. During this transition phase, the other supervisory activities focused on the following key tasks: implementation of the new French banking law, reviewing individual cases of weak institutions, etc. 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.

**In the insurance sector**, the ACPR focused on assessing insurance institutions' readiness for Solvency II by conducting data collection and mock own risk and solvency assessment (ORSA) exercises. It also continued to review pre-applications for internal models. At end 2014, 70% of insurance firms had been assessed for readiness on the basis of on-site inspections and interviews. Warning letters were also sent to around 20 insurers. Overall, the preparation of insurers therefore appears to be relatively satisfactory even though parent companies are generally better prepared than small companies.

**In the area of business practices**, inspections in the banking sector focused on lending practices, bank fees and overdraft charges, while in the insurance sector they centred on life insurance advisory obligations and loan insurance health questionnaires. A number of inspections concerned matters specific to intermediation, such as intermediation chains, aggregators and the conditions for the access to and conduct of intermediation activities. Further investigations of a more general nature were carried out in the area of unclaimed life insurance benefits, building on the work that resulted in a number of cases being referred to the Sanctions Committee.

**Lastly, as regards anti-money laundering/combating the financing of terrorism (AML/CTF)**, the main objectives included checking compliance in banks' foreign subsidiaries, analysing activities involving trusts and measuring progress in the main life insurers' AML/CTF arrangements.

Furthermore, the ACPR continued to actively **participate in efforts to enhance the regulatory framework** in particular at the international level. It took an active part in the many initiatives by European bodies in the insurance and banking sectors, especially within the framework of the completion of Solvency II regulations and the implementation of the Single Supervisory Mechanism (SSM) and Single Resolution Mechanism (SRM). It also participated in international bodies (the Basel Committee, the Financial Stability Board) in order to define technical standards and future international prudential standards.

## What are the acpr's priorities for 2015?

### Five main priorities will guide the ACPR's supervisory actions in 2015.

► **In the banking sector**, the ACPR will combine its national supervisory priorities with those of the SSM, for which four main areas were defined: governance, the cost of disputes, cybersecurity and leveraged finance. Since reviews have recently been conducted on the latter, we have not included it in our programme.

As regards national supervision, our priority will be to oversee the implementation of the provisions of the law on the separation of banking activities and to continue to conduct inspections among the most recent players such as payment institutions and issuers of electronic money.

► **In the insurance sector**, the preparation of institutions for Solvency II remains the main priority. In addition to assessing insurers' readiness for compliance with the three pillars of the new regime as of 1 January 2016, the ACPR General Secretariat will have to clarify any outstanding transposition issues (actual directors and groups' consolidation scope) and prepare to examine numerous applications for the use of internal models in the run-up to the date of entry into force of Solvency II. Furthermore, the monitoring of insurance groups in the framework of colleges of supervisors must comply with the Action Plan for Colleges of Supervisors adopted by EIOPA, including the new requirements applicable to systemically important groups.

► **In both sectors**, attention will focus on the weakest institutions, in particular by identifying upstream those whose situation could be adversely impacted

by the application of the new prudential regulations or the persistently low interest rate environment that fundamentally changes the outlook for the financial sector for the coming years.

► **As regards anti-money laundering and combating the financing of terrorism**, the ACPR continues to strive to ensure that the preventive arrangements in place within groups are effective, in particular for their foreign subsidiaries.

► **Business practices** will remain a key priority for the ACPR: it will continue its work in areas already targeted in previous years and reaffirm a certain number of messages notably regarding debt consolidation, in-store credit, bank fees, life insurance advisory obligations and requirements to operate as an insurance intermediary. New focus will be given to products and marketing methods that are subject to regular scrutiny.

## What are the main institutional challenges facing the ACPR this year to prepare for the future?

2015 will be a milestone for the ACPR in terms of its stepping-up its role in the European and international supervision system.

Today we have two main assets for performing our new banking supervision role within the Single Supervisory Mechanism: our capacity to maintain and develop our technical expertise while paying close attention to both our positioning vis-à-vis our European partners, on the one hand, and our in-depth knowledge of French institutions and more generally of the national economic and social environment, on the other.



Within a European supervisory system that is becoming increasingly multilateral – with a centralised decision-making system for the banking sector – we must improve our ability to convince our partners that our opinions are well-founded. We will also continue to participate actively in international bodies and contribute to shaping the guidelines that will act as a basis for the new regulations in insurance supervision.

Furthermore, it should also be stressed that this year marks the implementation of the Single Resolution Mechanism (SRM) in which the ACPR will also ensure that it plays its full role.

### **How does the acpr intend to adapt to these major changes?**

In April 2014, the ACPR started to conduct an extensive review of its operational organisation, which led in early 2015 to changes in the allocation of reporting entities to supervision units as well as in our ways of operating. It has developed a cross-functional approach necessary for the smooth operation of the SSM, meaning that staff from different units will be required to work together and participate in *ad hoc* committees. It has decided to set up two new committees: the first reports to the International Affairs Directorate whose main role is to prepare the ACPR's participation in the Supervisory Board, the Governing Council for questions related to the SSM, and the Mediation Panel. The second unit being created will report to the Quality and Management Directorate and will be charged with initiating and steering efforts to permanently improve the effectiveness of our working methods within all ACPR directorates, by initially prioritising supervisory tasks. Furthermore, new management, analysis and internal communication tools

have been implemented to promote cross-functionality and change management.

In order to rise to all the challenges it is facing and meet all the demands of its environment, the ACPR will have to step up its recruitment and training drive, in order to maintain its high level of expertise despite the fact that a very large number of banking supervisors moved to the ECB to work on the SSM last year.

The ways in which we operate are changing radically but, as we have done since the ACPR was created, we will gradually and collectively find solutions to adapt our organisation, show the relevance of our cross-functional approach and strengthen the legitimacy of our role as supervisor.

# 1 OVERVIEW OF THE ACPR

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**T**he *Autorité de contrôle prudentiel et de résolution* (ACPR, Prudential Supervision and Resolution Authority),

an independent administrative authority attached to the *Banque de France*, is the body responsible for supervising the banking and insurance sectors.

It ensures the stability of the financial system and the protection of the customers, policyholders, members and beneficiaries of reporting institutions.

The Authority has a number of decision-making bodies: the Supervisory College, the Resolution College and the Sanctions Committee. In fulfilling its statutory objectives, it is assisted by a number of consultative committees, an Audit Committee and a Scientific Consultative Committee.

The ACPR's operational departments are overseen by the General Secretariat, which has around 1,050 staff.

# STATUTORY OBJECTIVES AND JURISDICTION OF THE ACPR

## 1.1 STATUTORY OBJECTIVES

*“The Autorité de contrôle prudentiel et de résolution, an independent administrative authority, ensures the stability of the financial system and protection of the customers, the policyholders, members and beneficiaries of reporting institutions.”*

Its statutory objectives are defined in Article L. 612-1 of the Monetary and Financial Code.

- 1) The ACPR issues licences and authorisations as laid down in legislation.
- 2) It conducts ongoing supervision of the financial position and operating conditions of the institutions under its supervision, including in particular their compliance with solvency requirements and liquidity maintenance rules. For the insurance sector, the Authority ensures that institutions are able at all times to honour their commitments to their policyholders, members, beneficiaries and companies holding reinsurance, and that they actually do so in practice.
- 3) It ensures compliance with customer protection rules arising from European and domestic legislation and regulations, codes of conduct approved at the request of industry bodies, and industry best practice that the Authority either observes or recommends. It also checks that reporting institutions have adequate resources and appropriate procedures in place to comply with these rules.

4) The ACPR ensures that measures are developed and implemented to prevent and resolve banking crises. Such measures are designed to preserve financial stability, ensure the continuity of the activities, departments and operations of institutions whose failure would have serious consequences for the economy, protect retail investors, and avoid or limit as far as possible reliance on public support.

5) The Authority ensures that the institutions it supervises comply with rules governing how they and their subsidiaries operate as well as rules on acquisitions and equity investments.

**As France’s competent supervisory and resolution authority, the ACPR participates in international and European bodies responsible for supervising the banking and insurance industries, working with the *Banque de France* and relevant government agencies.** In fulfilling its statutory objectives, the Authority takes into account the objective of financial stability throughout the European Economic Area (EEA) and the harmonised implementation of national and European measures. It also gives due consideration to best practice and recommendations issued by European Union supervisory bodies.

To enable it to fulfil its statutory objectives, the ACPR has the following powers over the institutions it supervises:

- ▶ supervisory powers,
- ▶ powers to impose administrative enforcement measures,
- ▶ powers of resolution,
- ▶ and powers to impose sanctions.

It also has the right to publicly disclose any information deemed necessary to fulfil its statutory objectives, without being bound by the rules of professional secrecy laid down in Article L. 612-17 of the Monetary and Financial Code.

As regards credit institutions, financial holding companies and mixed financial holding companies, the ACPR exercises its powers of authorisation and prudential supervision without prejudice to the powers entrusted to the European Central Bank (ECB) by Council Regulation (EU) 1024/2013 of 15 October 2013.

The ACPR is the competent national authority for France in respect of the implementation of the **Single Supervisory Mechanism** established by the aforementioned regulation. As such, it assists the ECB with the prudential supervision duties conferred upon it by that regulation.

When, pursuant to the third subparagraph of the first paragraph of Article 9 of that same regulation, it receives instructions from the European Central Bank in connection with the performance of the latter’s duties, the ACPR uses the powers of control and prudential supervision that derive from the Monetary and Financial Code.

The Supervisory College or the Secretary General, as the case may be, adopts the measures needed to implement guidelines, instructions, decisions and all other legal acts issued by the European Central Bank under the terms of Council Regulation (EU) 1024/2013 of 15 October 2013.

In 2015, the ACPR also serves as the competent national authority in connection with the **Single Resolution Mechanism**.



## 1.2 JURISDICTION

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

### A. BANKING, PAYMENT SERVICES AND INVESTMENT SERVICES

- 1) Credit institutions
- 2) Investment firms other than asset management firms, market undertakings, 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, mixed holding companies only for those provisions that apply to them by virtue of Article L. 517-10 of the Monetary and Financial Code
- 5) Money changers
- 6) Microcredit associations and foundations (organisations 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) Financing companies
- 10) Parent undertakings of financing companies
- 11) Mixed parent undertakings of financing companies only for those provisions that apply to them by virtue of Article L. 517-10 of the Monetary and Financial Code.

The ACPR can also place under its supervision intermediaries involved in banking transactions and payment services as well as intermediaries involved in crowdfunding.

The Authority supervises the investment services supplied by credit institutions, investment firms and other entities referred to in point 2 above, subject to the powers of the *Autorité des marchés financiers* (AMF, Financial Markets Authority) with regard to the supervision of conduct of business rules and other professional obligations.

For the purposes of supervising payment institutions and electronic money institutions, the Authority may request the opinion of the *Banque de France* as the entity responsible for supervising the proper functioning and security of payment systems, pursuant to Section I of Article L. 141-4 of the Monetary and Financial Code. The *Banque de France* may bring any and all information to the ACPR's attention for this purpose.

### B. INSURANCE

- 1) Insurance firms providing the direct insurance services referred to in Article L. 310-1 of the Insurance Code and firms referred to in the final paragraph of that same article
- 2) Companies with their head offices located in France that engage in the reinsurance business
- 3) Mutual insurance companies and unions governed by Book II of the Mutual Insurance Code and unions managing the federal guarantee systems referred to in Article L. 111-6 of the Mutual Insurance Code, as well as mutual insurance holding companies referred to in Article L. 111-4-2 of that same code



- 4) Mutual insurance companies and unions referred to in Book I that manage mutual insurance payments and contracts on behalf of mutual insurance companies and unions referred to in Book II, solely for the purposes of Title VI of Book V of the Monetary and Financial Code
- 5) Provident institutions, unions and groups governed by Title III of Book IX of the Social Security Code
- 6) Group insurance companies and mixed group insurance companies referred to in Article L. 322-1-2 of the Insurance Code
- 7) The universal guarantee fund for rental risks referred to in Article L. 313-20 of the Construction and Housing Code
- 8) Securitisation vehicles referred to in Article L. 310-1-2 of the Insurance Code

# 1. OVERVIEW OF THE ACPR

## 1. Statutory objectives and jurisdiction of the ACPR

### 1.2 Jurisdiction

The ACPR may extend its supervision to:

- ▶ any entity that has received a subscription or management mandate from an organisation engaging in insurance transactions or that takes out a group insurance contract, or that acts as an insurance or reinsurance intermediary in any way whatsoever, as referred to in Article L. 511-1 of the Insurance Code,
- ▶ and 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 that body.

## 1.3 IMPACT ON THE ACPR'S DUTIES OF THE SINGLE SUPERVISORY MECHANISM (SSM) IN THE BANKING SECTOR

The Single Supervisory Mechanism (SSM) entered into force on 4 November 2014. ACPR staff were heavily involved in implementing the mechanism, as well as in preparatory work (see Section 3, Chapter 2 of this report).

The SSM is the first pillar of the European Banking Union. It places responsibility for supervising all euro area banks on the European Central Bank (ECB), in coordination with competent national authorities (CNAs).

This single supervision is exercised in two ways:

- ▶ The ECB directly supervises institutions considered “significant”, in coordination with CNAs (see inset “Classification of institutions considered significant”).
- ▶ National authorities supervise “less significant institutions”, under the supervision of and within the framework laid down by the ECB.

**The ECB establishes instructions and guidelines** that CNAs must apply. In particular, it has published a Supervisory Manual detailing the operation of the SSM and guidelines to be followed when supervising institutions.

**The European Banking Authority (EBA)** still has the power to draw up draft technical standards, guidelines and recommendations with a view to ensuring that supervision is harmonised and supervisory practices are consistent throughout the European Union.

#### • Direct supervision

The ECB directly supervises 120 “significant” banking groups consisting of around 1,200 entities, with the support of competent national authorities.

## ■ CLASSIFICATION OF INSTITUTIONS CONSIDERED “SIGNIFICANT”

A credit institution is deemed “significant” if it meets one of the following criteria:

Size	The total value of its assets exceeds EUR 30 billion
Economic significance	The total value of its assets exceeds both EUR 5 billion and 20% of domestic GDP
Cross-border activity	The total value of its assets exceeds EUR 5 billion and the ratio of its cross-border assets/liabilities in more than one participating Member State exceed 20% of its total assets/liabilities
Financial assistance	It receives direct assistance from the European Stability Mechanism

An institution is also deemed “significant” if it is among the three most significant credit institutions of the Member State in which it is located.





ACPR staff have been closely involved in implementing the SSM.

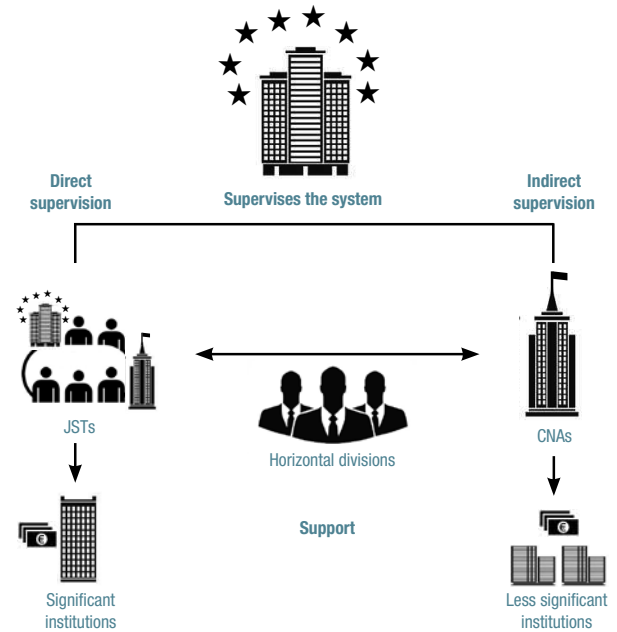
The ECB is supported in its supervision of significant institutions by national authorities through **Joint Supervisory Teams (JSTs)**. These teams are made up of personnel from the ECB and from the CNAs of countries in which credit institutions or significant subsidiaries of a particular banking group are established. A JST is put in place for each significant institution, and is tasked with day-to-day supervision of that institution and implementation of the annual supervisory programme. Each JST is overseen by a **coordinator** within the ECB. Coordinators are appointed for three to five years and are responsible for the implementation of the supervisory duties and activities set out in the prudential supervision programme for each significant credit institution.

A **sub-coordinator** within the CNA coordinates supervision at the domestic level, and is in regular contact with the JST coordinator.

• **Indirect supervision**

The ECB supervises how CNAs oversee “less significant” institutions. At 31 December 2014, France had 156 such institutions.

Structure of supervision in brief



• **Supervision of other types of institutions**

The ACPR is still responsible for supervising institutions that are not credit institutions subject to European legislation: investment firms, financing companies, and payment and electronic money institutions as well as French branches of third country credit institutions and credit institutions having their registered office in an overseas territory or in Monaco. It is still the competent authority for all institutions in respect of duties falling outside the scope of CRD IV<sup>1</sup> and CRR<sup>2</sup> : anti-money laundering and counter-terrorist financing, customer protection, the European EMIR regulation and the Banking Separation Act.

**DIVISION OF RESPONSIBILITIES BETWEEN THE ACPR AND THE ECB**

	Significant institutions	Other institutions
<b>Licensing</b>	<b>ACPR BCE</b>	
<b>Prudential supervision (ongoing and on-site)</b>		
<ul style="list-style-type: none"> <li>Compliance with prudential requirements (CRR) – capital, leverage, liquidity, major risks, etc.</li> <li>Compliance with governance requirements, risk management, internal control, compensation, internal models (CRD IV)</li> <li>Supervision on a consolidated basis and additional supervision of financial conglomerates</li> </ul>	<b>BCE</b>	<b>ACPR</b>
<b>Other supervisory activities</b>		
<ul style="list-style-type: none"> <li>Insurance</li> <li>Resolution</li> <li>Separation Act</li> <li>Customer protection and marketing</li> <li>AML/CTF</li> <li>Investment services and payment services</li> <li>Financing companies</li> </ul>	<b>ACPR</b>	<b>ACPR</b>

1. Capital Requirements Directive.  
2. Capital Requirements Regulation.

## 1. OVERVIEW OF THE ACPR

### 1. Statutory objectives and jurisdiction of the ACPR

#### 1.3 Impact on the ACPR's duties of the Single Supervisory Mechanism (SSM) in the banking sector

As a member of the SSM, the ACPR was fully involved in the various implementation phases of the Single Supervisory Mechanism.

At the beginning of 2014, the ECB established a Supervisory Board (SB) whose role is to propose draft decisions to the Governing Council for adoption, in particular under a “non-objection procedure”. The SB is chaired by former ACPR Secretary General Danièle Nouy and its Vice-Chair is Sabine Lautenschläger, also a member of the ECB's Executive Board and former Deputy President of the Deutsche Bundesbank. Until 4 November, the SB coordinated preparatory work on the SSM. After that date, it began to make decisions falling within its remit. The SB is made up of representatives from the ECB and from competent national authorities (CNAs) in the euro area. Its members include Robert Ophèle, Deputy Governor of the *Banque de France* and representative of the Governor, in his capacity as Chairman of the ACPR; his alternate is ACPR Secretary General Édouard Fernandez-Bollo.

ACPR participation in the work of the SB includes attendance at SB meetings, which are held every other week, alternating with meetings of the ECB's Governing Council.

In 2014, the SB reached agreement on a large number of topics, the most significant of which are as follows:

- ▶ **Adoption of the Framework Regulation**, which establishes, in particular, the terms of cooperation between the ECB and CNAs, the process for drawing up draft decisions, the language regime and procedures for

identifying significant banks. Operating methods for various supervisory tasks under the SSM and the risk assessment methodology were also defined. The principles of these operating methods are set out in a “Guide to banking supervision”, published on 29 September 2014.

- ▶ **Governance arrangements for the SSM** were made fully operational. This included, in particular, (i) the creation of a Steering Committee tasked with preparing for meetings of the Supervisory Board, (ii) the formation of a Mediation Panel with the aim of facilitating the decision process between the Supervisory Board and the ECB's Governing Council and (iii) the formation of an Administrative Board of Review to which reporting institutions may refer matters. Methods for calculating supervisory fees were also laid down and the ECB's enforcement powers were clarified.
- ▶ **The comprehensive assessment of balance sheets**, consisting of an Asset Quality Review (AQR) and a stress test, was finalised and the results published on 26 October 2014. This work entailed ongoing direct interaction between all CNAs and banks.
- ▶ **The process of determining which euro area credit institutions should be deemed “significant”**, and consequently placed under direct supervision by the ECB with effect from 4 November, was finalised. This process was conducted in close cooperation with CNAs and resulted in the publication on 4 September 2014 of a list of 120 credit institutions and banking groups identified as significant.



The operation of the ACPR is structured around a number of decision-making bodies including the Supervisory College, the Resolution College and the Sanctions Committee. Consultative committees have also been set up to advise the Supervisory College in its decision-making. Finally, the ACPR's operational departments are overseen by the General Secretariat.

## 2.1 THE SUPERVISORY COLLEGE

The statutory objectives assigned to the ACPR are met by the Supervisory College, which meets in various configurations depending on the subjects being addressed.

The Supervisory College, composed of 19 members, is chaired by the Governor of the *Banque de France*.

The College meets in **plenary session** to address general supervisory issues affecting both the banking and insurance sectors. It analyses risks in both sectors in light of the economic situation and determines supervisory priorities each year. It also determines the Authority's organisational, operating and budget principles and establishes its rules of procedure.

The College also meets in **restricted session** (consisting of eight members) to examine individual matters likely to have a material impact on both sectors or on financial stability more generally. In this configuration, it is also tasked with examining matters pertaining to the situation of insurance subsidiaries belonging to banking groups, systemic insurers and French subsidiaries of the main European insurance groups.

**Two Sub-Colleges**, one for banking and the other for insurance, have jurisdiction over individual matters and general issues relating to the respective sectors. Each Sub-College has eight members.



# ACPR'S SUPERVISORY COLLEGE



## COMPOSITION OF THE ACPR'S SUPERVISORY COLLEGE

(at 31 December 2014)

### PLENARY SESSION

Chairman:

**1 Christian Noyer**  
or the designated Deputy Governor, **4 Robert Ophèle**

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 ACPR

The other members of the ACPR's Supervisory College are as follows:

The Chairman of the *Autorité des normes comptables* (ANC, the French national accounting standards board), not appointed following the death of Jérôme Haas\*

**11 Gérard Rameix**, Chairman of the *Autorité des marchés financiers* (AMF, Financial Markets Authority)

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

**7 Monique Millot-Pernin**, appointed by the President of the Senate

Appointed on the recommendation of the Vice-Chairman of the *Conseil d'État*: **21 Olivier Fouquet**, member of the *Conseil d'État*

Appointed on the recommendation of the Chairman of the *Cour de cassation*: **22 Francis Assié**, counsellor

Appointed on the recommendation of the Chairman of the *Cour des comptes*: **20 Christian Babusiaux**, presiding judge

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

**9 Emmanuel Constans**

**8 Thomas Philippon**, who replaced Hélène Rey with effect from 19 December 2014

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

**17 Philippe Mathouillet**

**16 Dominique Thiry**

**19 Lucien Uzan**

**18 Jean-Louis Faure**

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

**15 Thierry Coste**

**12 Dominique Hoenn**

**14 François Lemasson**

**13 Christian Poirier**

\* Patrick de Cambourg was appointed Chairman of the ANC in March 2015.

**2** Anne Le Lorier, First Deputy Governor of the *Banque de France*. **5** Édouard Fernandez-Bollo, ACPR Secretary General.





Furthermore, the Director-General of the Treasury, **Bruno Bézard**, or his representative, **10 Delphine d'Amarzit**, sits on the 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**  
 Chairman of the *Autorité des normes comptables*  
 Presiding judge at the *Cour des comptes*:  
**Christian Babusiaux**  
 Appointed for their expertise in banking:  
**François Lemasson**  
**Christian Poirier**  
 Appointed for their expertise in insurance:  
**Lucien Uzan**  
**Jean-Louis Faure**

## INSURANCE SUB-COLLEGE

Chairman:  
**Jean-Marie Levaux**  
 Governor or Deputy Governor  
 of the *Banque de France*:  
**Christian Noyer**  
 Or **Robert Ophèle**  
 Counsellor at the *Cour de cassation*:  
**Francis Assié**  
 Presiding judge at the *Cour des comptes*:  
**Christian Babusiaux**  
 Appointed for their expertise  
 in insurance:  
**Philippe Mathouillet**  
**Dominique Thiry**  
**Lucien Uzan**  
**Jean-Louis Faure**

## BANKING SUB-COLLEGE

Chairman:  
**Christian Noyer**  
 Or the designated Deputy Governor,  
**Robert Ophèle**  
 Vice-Chairman:  
**Jean-Marie Levaux**  
 Member of the *Conseil d'État*:  
**Olivier Fouquet**  
 Appointed for his expertise  
 in customer protection:  
**Emmanuel Constans**  
 Appointed for their expertise  
 in banking:  
**Thierry Coste**  
**Dominique Hoenn**  
**François Lemasson**  
**Christian Poirier**

## 1. OVERVIEW OF THE ACPR

### 2. Structure of the ACPR

#### 2.2 The Resolution College

## 2.2 THE RESOLUTION COLLEGE

The Resolution College, composed of six members, is chaired by the Governor of the *Banque de France*. It is tasked with ensuring that measures to prevent and resolve banking crises are prepared and implemented.

### COMPOSITION OF THE RESOLUTION COLLEGE

(at 31 December 2014)

Chairman:

**1 Christian Noyer**

The designated Deputy Governor:

**3 Robert Ophèle**

Chairman of the *Autorité des marchés financiers* (AMF, Financial Markets Authority):

**2 Gérard Rameix**

The Director of the Treasury or his representative:

**6 Corso Bavagnoli**

Chairman of the Deposit Insurance and Resolution Fund:

**4 François de Lacoste Lareymondie**

Presiding judge at the Commercial Chamber of the *Cour de cassation* or her representative: **5 Agnès Mouillard**





## 2.3 AUDIT COMMITTEE

The Audit Committee is tasked with making sure that the Authority'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,
- ▶ and rebilling agreements for resources and services provided by the *Banque de France*.

## COMPOSITION OF THE AUDIT COMMITTEE (at 31 December 2014)

- **Lucien Uzan**, Chairman
- **Christian Babusiaux**, presiding judge at the *Cour des comptes*
- **Thierry Coste**
- **Monique Millot-Pernin**
- The Chairman of the *Autorité des normes comptables*, not appointed following the death of **Jérôme Haas\***

\* Patrick de Cambourg was appointed Chairman of the ANC in March 2015.

## 2.4 CONSULTATIVE COMMITTEES AND THE SCIENTIFIC CONSULTATIVE COMMITTEE

The ACPR's Supervisory College is supported by a number of consultative committees that advise it on certain topics.

The **Consultative Committee on Prudential Affairs** is tasked with giving its opinion prior to adoption on ACPR instructions governing periodic filings by supervised 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 2014)

- **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**, SOGECAP
- **Maud Petit**, Covéa

#### Banking sector

- **Laurent Le Moüel**, Crédit Agricole
- **Benoît Catherine**, Exane
- **Hedwige Nuyens**, BNP Paribas
- **Catherine Meritet**, Société Générale
- **Éric Spielrein**, RCI Banque

The following industry bodies are also represented on the committee:

#### Insurance sector

- *Centre Technique des Institutions de Prévoyance (CTIP)*
- *Fédération Française des Sociétés d'Assurances (FFSA)*
- *La Fédération Nationale de la Mutualité Française (FNMF)*
- *Groupement des Entreprises Mutuelles d'Assurance (GEMA)*

#### Banking sector

- *Association des Sociétés Financières (ASF)*
- *Association Française des Marchés Financiers (AMAFI)*
- *Fédération Bancaire Française (FBF)*

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

# 1. OVERVIEW OF THE ACPR

## 2. Structure of the ACPR

### 2.4 Consultative committees and the Scientific Consultative Committee

The **Consultative Committee on Anti-Money Laundering and Counter-Terrorist Financing** is tasked with giving an opinion on draft versions of instructions, guidelines and other ACPR documents dealing with anti-money laundering and counter-terrorist financing.

## COMPOSITION OF THE CONSULTATIVE COMMITTEE ON ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (at 31 December 2014)

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

Members appointed from entities reporting to the ACPR:

### Insurance sector

- **Gaël Buard**, Natixis Assurances
- **Philippe Giraudel**, Groupama
- **Hubert Marck**, Axa France
- **Paul-Henri Mezin**, groupe Malakoff Médéric
- **Catherine Petapermal**, La France Mutualiste
- **Jacques Kerforne**, Allianz France

Members appointed from entities reporting to the ACPR:

### Banking sector

- **Raoul d'Estaintot**, Caisse fédérale de Crédit mutuel
- **Pierre-Emmanuel Charrette**, Oddo & Cie
- **Édouard Leveau-Vallier**, HSBC France
- **Jacques Piccioloni**, BNC
- **Patricia Jouan**, Société Générale
- **Luc Retail**, La Banque Postale
- **Grégory Torrez**, Banque Accord

The following industry bodies are also represented on the committee:

### Insurance sector

- *Centre Technique des Institutions de Prévoyance (CTIP)*
- *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

- *Association Française des Établissements de Paiement et de Monnaie Électronique (AFEPAME)*
- *Association Française des Sociétés Financières (ASF)*
- *Association Française des Marchés Financiers (AMAFI)*
- *Fédération Bancaire Française (FBF)*

*Caisse des Dépôts et Consignations* also appoints a representative.





The **Consultative Committee on Business Practices** gives opinions on draft recommendations falling within its areas of expertise. It explores in more detail 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 2014)

- **Emmanuel Constans**, Chairman
- **Jean-Louis Faure**, Vice-Chairman

Five members chosen for their expertise acquired by participating in associations representing personal or business customers, associations representing retail investors, charities operating in this area and the consumer institute INC:

- **Jean Berthon**, Chairman, FAIDER
- **Nicole Perez**, UFC - *Que Choisir*
- **Olivier Gayraud**, *Consommation Logement et Cadre de Vie*
- **Hervé Mondange**, legal specialist at AFOC
- **Romain Girard**, *Fédération Nationale Familles Rurales*

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

- **Pierre Bocquet**, FBF
- **Karine Rumayor**, ASF
- **Frédéric Lipka**, Natixis Assurances
- **Philippe Poiget**, FFSA

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

- **Géraud Cambournac**, *Association Française des Intermédiaires Bancaires*
- **Chantal de Truchis**, *Syndicat des Courtiers d'Assurances et de Réassurances d'Île-de-France*

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

- **Aurélien Soustre**, FSPBA-CGT

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

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

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

- **Jean-François Filliatre**, editor-in-chief, *Mieux Vivre Votre Argent*

The **Scientific Consultative Committee** exists to promote synergies between financial research and prudential supervision and to keep abreast of developments that might affect the banking and insurance sectors. (Details of the committee's activities in 2014 can be found in Section 2 of Chapter 2.)

## COMPOSITION OF THE SCIENTIFIC CONSULTATIVE COMMITTEE (at 31 December 2014)

- **Thomas Philippon**, Chairman, who replaced Hélène Rey with effect from 19 December 2014
- **Philippe Mathouillet**, Vice-Chairman

- **Laurent Clerc**, economist at the Banque de France
- **Antoine Frachot**, *Director-General, Groupe des Écoles Nationales d'Économie et de Statistiques*
- **Christian Gollier**, professor, *Université Toulouse I*
- **Christian Gourieroux**, professor, ENSAE and University of Toronto

- **Guillaume Leroy**, consulting actuary, *Institut des Actuaire*s
- **Didier Marteau**, professor, ESCP Europe
- **Hélène Rey**, professor, London Business School
- **Kevin O'Rourke**, professor, Oxford University (All Souls College)
- **David Thesmar**, professeur, 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*



## 2.5 THE GENERAL SECRETARIAT

### A. OPERATION

The General Secretariat oversees all of 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's Chairman. This position is held by Édouard Fernandez-Bollo. He is assisted by First Deputy Secretary General **1** Sandrine Lemery and two other Deputy Secretaries General, **2** Patrick Montagner and **3** Frédéric Visnovsky. Former Deputy Secretary General Fabrice Pesin stepped down on 15 January 2015.

As an independent authority attached to the *Banque de France*, the ACPR can benefit from synergies with functions performed by the central bank and from the resources at the latter's disposal.

All ACPR staff are employees of the *Banque de France*. The Authority has its own budget, which is an annex to the central bank's budget. The ACPR can use the *Banque de France's resources*, which are charged out by the *Banque de France*.

While reporting institutions' contributions to supervisory costs are collected by the *Banque de France*, they are allocated in full to the ACPR. In 2014, contributions for the banking sector (credit institutions and investment firms) totalled EUR 126.9 million, while contributions for the insurance sector totalled EUR 48.8 million.

By exception, the *Banque de France* may also top up these contributions with additional allocations.



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## REGULAR MARKET COMMUNICATIONS

The ACPR undertakes a range of communication activities to foster regular dialogue with supervised entities and the public.

### • ACPR PUBLICATIONS

- ▶ *La Revue de l'Autorité de contrôle prudentiel et de résolution*, a bimonthly review on recent developments in the financial sector and the ACPR's activities, is distributed to professionals in the banking and insurance sectors.
- ▶ The ACPR's research is published in a review titled *Analyses et Synthèses*.
- ▶ *Débats économiques et financiers* are articles that solely reflect the views of their authors and may not express the position of the Authority. They encourage debate on economic issues in banking and insurance, regulation and prudential policy.
- ▶ **ACPR seminars** are mainly held in connection with the "Regulation and systemic risks" research initiative.

A list of 2014 publications and seminars can be found in the appendices.

### • ACPR CONFERENCES

The ACPR regularly holds conferences to reach out to professionals and address key issues relating to their activities.

The following conferences were held in 2014:

- ▶ "Preparing for Solvency II" (5 June)
- ▶ "Systemic risk and financial regulation" (3 and 4 July, in partnership with the *Banque de France*, *La Chaire ACPR* and SoFiE)
- ▶ Supervision of business practices in insurance and banking and new challenges relating to payment services and electronic money (4 November)
- ▶ "Solvency II: final steps before 2016" (18 December)

### • ACPR WEBSITES

The ACPR has two separate websites:

- ▶ The main ACPR website at [www.acpr.banque-france.fr](http://www.acpr.banque-france.fr) brings together all of the Authority's texts, reviews, research and publications.
- ▶ The website of the ACPR/AMF Joint Unit (*Assurance Banque Épargne Info Service*), at [www.abe-infoservice.fr](http://www.abe-infoservice.fr), is designed to provide the general public with information on rights and procedures in relation to banking, insurance and financial investment.

## B. HUMAN RESOURCES

### • Constant recruitment demonstrates the Authority's attractiveness

At end 2014, the General Secretariat of the ACPR had 1,049 staff, all employed by the *Banque de France*.

After growing rapidly between 2010 and 2012 to provide the General Secretariat of the ACPR with the resources it needed to fulfil its statutory objectives, the workforce stabilised in 2013 and 2014. In 2014, the European Central Bank (ECB) put in place the Single Supervisory Mechanism (SSM) across the European banking sector, relying heavily on existing expertise within domestic supervisory authorities. Keen to play a leading role in the creation of this mechanism, the ACPR facilitated the departure of numerous staff members to join the ECB's teams. As a result, just over 80 people moved to Frankfurt in 2014, fostering the spread of France's culture of banking supervision.

In spite of the departure of so many staff, significant recruitment activity in the year brought the workforce back to almost the same level as at the end of the previous year. This means the Authority can confidently approach the changes brought about by regulatory and organisational developments: the day-to-day operation of the SSM for the banking sector, Solvency II in 2016 for the insurance sector, and European regulatory developments in respect of business

practices, licensing, and payment and electronic money services. The ECB has indicated that it will monitor CNAs' workforces to ensure that the number of supervisors does not decrease, at least initially.

Just over two-thirds of the General Secretariat's workforce is responsible for supervising reporting credit institutions and insurance institutions on an individual basis, including ongoing supervision and on-site inspections, as well as monitoring business practices and licensing and authorising institutions.

Banking sector supervision accounts for 37% of the workforce (39% in 2013), including the Resolution Directorate set up at the end of 2013 to prepare the work of the Resolution College in respect of both prevention measures (preventive resolution plans) and, where applicable, resolution measures. The number of staff involved in supervising individual institutions in the insurance sector grew by 7% in 2014, representing 17% of the General Secretariat's total workforce.

A further 18% of staff are assigned to macro-prudential supervision, international work on regulatory preparation, legal activities and other cross-disciplinary duties, particularly of a methodological nature. Finally, the relative weighting of support functions (human resources, training, financial control and budgeting, premises and facilities management, and IT resources and systems management) is limited to 12% of the total workforce.

## 1. OVERVIEW OF THE ACPR

### 2. Structure of the ACPR

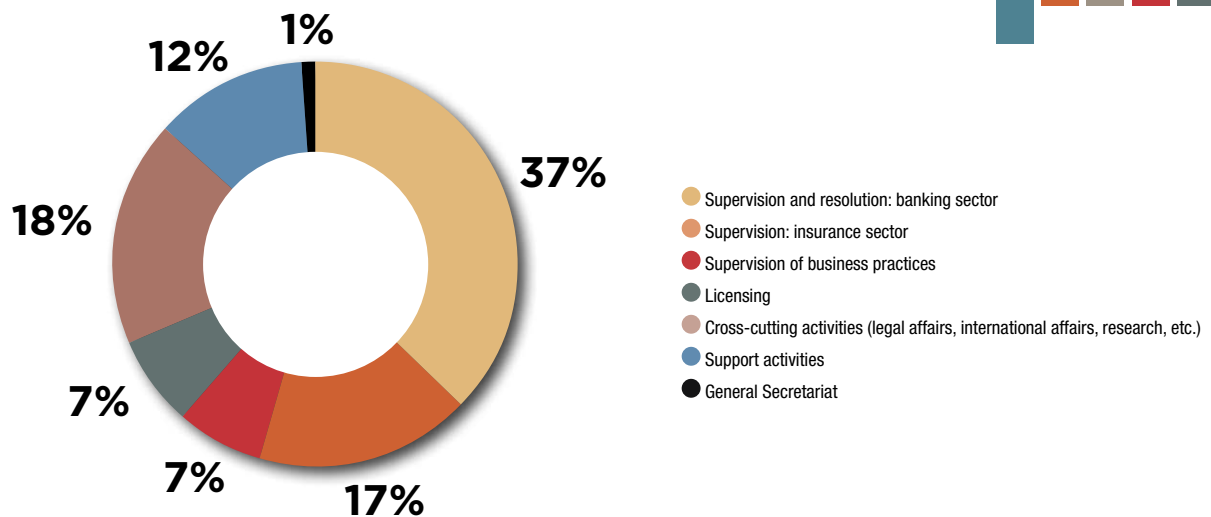
#### 2.5 The General Secretariat



**Freddy Latchimy,**  
IT, Methods and Human Resources.



The support functions at the ACPR General Secretariat account for 12% of total headcount.



- **Training: a critical activity to ensure that all staff take ownership of regulatory changes and the new SSM methodology**

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**question to Sandra Giry**

Head of training



**HOW WOULD YOU DESCRIBE THE TRAINING EFFORT OF THE ACPR IN 2014?**

In 2014, the ACPR continued and stepped up its training efforts to maintain the level of knowledge within ACPR departments in an environment characterised by significant change.

- ▶ The need to support the creation of the new European mechanism generated significant training requirements: 75 training sessions were delivered, representing around 5,600 hours of training, to implement the bank balance sheet assessment process and ensure that staff took ownership of the SSM methodology.
- ▶ Emphasis was also placed on training to prepare for the entry into force of new prudential regulations in insurance (Solvency II: 3,700 hours) and banking (CRR/CRD IV: 3,500 hours).

Finally, in 2014 the ACPR maintained its training effort for new recruits, continuing to hold monthly welcome mornings, six-monthly induction courses and an initial banking or insurance training programme of approximately 100 hours per staff member.

**Staff received a total of approximately 64,000 hours' training in 2014.**

**C. NEW ORGANISATIONAL STRUCTURE**

To take into account the full extent of changes arising mainly from the creation of the SSM and the implementation of Solvency II, the ACPR adjusted the structure of its General Secretariat on 1 January 2015.

The banking and insurance supervision directorates were reorganised and portfolios reallocated to make supervision more efficient

by adopting a “group” approach in both sectors, while maintaining the principle of specialisation when appropriate.

To prepare the organisation to take on new activities, two new departments were created. The first is mainly tasked with preparing for meetings of the Supervisory Board and the Governing Council in their SSM configuration; the second is linked to the introduction of quality control activities.



# ACPR GENERAL SECRETARIAT (1 March 2015)

**DELEGATION CHARGED WITH THE ON-SITE INSPECTION OF CREDIT INSTITUTIONS AND INVESTMENT FIRMS**  
**Representative: Thierry MERGEN**  
**Deputy: Matthieu LECLERCQ**

- ▶ On-site Inspection Teams and Risk Modelling Control Unit

**RESOLUTION DIRECTORATE**  
**Director: Olivier JAUDOIN**  
**Deputy: Gaëtan VIALLARD**

**IT, METHODS AND HUMAN RESOURCES DIRECTORATE**  
**Director: François BARNIER**  
**Deputy: Jean-Marc SERROT**

- ▶ Human Resources Division: **Vincent TEURCQ**
- ▶ Standards, Methods, Organization and Training Division: **Christine DECUBRE**
- ▶ Operational Support, Functional and Application Management Division: **Freddy LATCHIMY**

**QUALITY AND MANAGEMENT DIRECTORATE**  
**Director: Michel BORD**  
**Deputy: Martine BODILIS**

- ▶ Financial Management Division: **Muriel LECORNU**
- ▶ Property and General Services Division: **Olivier LE GUENNEC**
- ▶ Quality Control Division

**CROSS-FUNCTIONAL AND SPECIALISED SUPERVISION DIRECTORATE**  
**Director: Bruno LONGET**  
**Deputy: Grégoire VUARLOT**

- ▶ Internal Models Division: **Guillaume ALABERGÈRE**
- ▶ Supervision of AML Procedures Division: **Patrick GARROUSTE**
- ▶ On-site Inspection Team of Insurance Institutions
- ▶ Specialized On-site Inspection Division: **Thierry AURAN**

▶ Communication Division: **Dominique POGGI**

▶ Resilience Division: **Alain DEQUIER**

**BANK SUPERVISION (DIRECTORATE 1)**  
**Director: Bertrand PEYRET**  
**Deputy: Violaine CLERC**

- ▶ Division 1-Entities of the Société Générale Group: **Philippe SOURLAS**
- ▶ Division 2-Foreign banks: **Jérôme CHEVY**
- ▶ Division 3-Public banks: **Sophie BÉRANGER-LACHAND**
- ▶ Division 4-Entities of the BNP Paribas Group: **Laure QUINCEY**

**BANK SUPERVISION (DIRECTORATE 2)**  
**Director: Philippe BERTHO**  
**Deputy: Sébastien CLANET**

- ▶ Division 5-Entities of the Crédit Agricole Group: **Anne de TRICORNOT-AUBOUIN**
- ▶ Division 6-Entities of the BPCE Group: **Clémentine VILCOQC**
- ▶ Division 7-Entities of the Crédit Mutuel Group and regional banks: **Isabelle BARROUX-REHBACH**
- ▶ Division 8-Specialised banks: **Christophe REYNAUD**

**GENERAL SECRETARIAT OF THE PRUDENTIAL SUPERVISION AND RESOLUTION AUTHORITY**

**Secretary General**  
**Édouard FERNANDEZ-BOLLO**

**First Deputy Secretary General**  
**Sandrine LEMERY**

**Deputies Secretary General**  
**Patrick MONTAGNER**  
**Frédéric VISNOVSKY**

**INSURANCE SUPERVISION (DIRECTORATE 1)**  
**Director: Paul COULOMB**  
**Deputy: Claire BOURDON**

- ▶ « Brigade » 1-Scope of the Mutual Insurance Code: **Nathalie PAILLOT-MUHLHEIM**
- ▶ « Brigade » 2-Bancassurance groups: **Jacky PHILLIPS**
- ▶ « Brigade » 3-Mutual Insurance Code: **Marie-Lorraine VALLAT**
- ▶ « Brigade » 4-Reinsurance sectors and French insurers: **Flor GABRIEL**

**INSURANCE SUPERVISION (DIRECTORATE 2)**  
**Director: Romain PASEROT**  
**Deputy: Evelyne MASSÉ**

- ▶ « Brigade » 5-Entities of the AXA Group: **Eric MOLINA**
- ▶ « Brigade » 6-Social Security Code: **Jacky MOCHEL**
- ▶ « Brigade » 7-Mutual insurers: **Didier POUILLOUX**
- ▶ « Brigade » 8-Foreign insurers: **Emilie QUÉAMA**

**RESEARCH DIRECTORATE**  
**Director: Olivier de BANDT**  
**Deputies: Anne-Sophie BORIE-TESSIER**  
**Dominique DURANT**

- ▶ Actuarial Research and Simulation Division: **Henri FRAISSE**
- ▶ Statistical Studies and Publications Division: **Denis MARIONNET**
- ▶ Cross-Sectoral Risk Analysis Division: **Emmanuel POINT**

**INTERNATIONAL AFFAIRS DIRECTORATE**  
**Director: Philippe RICHARD**  
**Deputies: Nicolas PELIGRY**  
**Olivier PRATO**

- ▶ Banking International Division: **Philippe BILLARD**
- ▶ Insurance International Division: **Nathalie QUINTART**
- ▶ Accounting Affairs Division: **Ludovic LEBRUN**
- ▶ SSM Secretariat and Coordination Division: **Jean-Christophe CABOTTE**

**LEGAL AFFAIRS DIRECTORATE**  
**Director: Henry de GANAY**  
**Deputies: Anne-Marie MOULIN**  
**Barbara SOUVERAIN-DEZ**  
**Board Services: Marie-Françoise BARAS**

- ▶ Institutional Affairs and Public Law Division: **Jean-Gaspard d'AILHAUD de BRISIS**
- ▶ Business and Private Law Division: **David REVELIN**
- ▶ AML and Internal Control Division: **Audrey SUDARA-BOYER**

**AUTHORIZATION, LICENSING AND REGULATION DIRECTORATE**  
**Director: Jean-Claude HUYSSSEN**  
**Deputy: Nathalie BEAUDEMOULIN**

- ▶ Financial Regulation Division: **Gilles PETIT**
- ▶ Banks and Investment Firms Division: **Jacqueline THEPAUT-FABIANI**
- ▶ Specialized Procedures and Institutions Division: **Muriel RIGAUD**
- ▶ Insurance Institutions Division: **Martine PROCUREUR**

**SUPERVISION OF BUSINESS PRACTISES DIRECTORATE**  
**Director: Olivier FLICHE**  
**Deputy: Mark BEGUERY**

- ▶ Oversight of Contracts and Risks Division: **Hélène ARVEILLER**
- ▶ Intermediaries Supervision Division: **Maryvonne MARY**
- ▶ Consumer Information and Complaints Division: **Jean-Philippe BARJON**
- ▶ Coordination Division: **Charles BANASTE**

**ENFORCEMENT COMMITTEE DIVISION**  
▶ Jean-Manuel CLEMMER





## THE ACPR'S MANAGEMENT BOARD



From left to right: Olivier de Bandt, Romain Paserot, Bertrand Peyret, Henry de Ganay, Olivier Jaudoin, Thierry Mergen, Philippe Bertho, Philippe Richard, François Barnier, Paul Coulomb, Bruno Longet, Michel Bord, Olivier Fliche, Jean-Claude Huyssen.

### Supervisory College activity in figures...

# 787<sup>3</sup>

decisions were handed down by the Supervisory College in 2014, broken down as follows:

- > **722** decisions on individual situations
- > **42** decisions on general issues<sup>4</sup>
- > **10** decisions on the ACPR's structure and General Secretariat
- > **13** sundry other decisions<sup>5</sup>

### These decisions included:

- > **46** administrative enforcement measures or other binding measures<sup>6</sup>
- > **57** injunctions concerning capital adequacy requirements
- > **12** decisions to initiate disciplinary proceedings

## 3.1 DECISIONS ON GENERAL ISSUES

In 2014, the Supervisory College adopted numerous decisions on general issues related to the entry into force of the provisions of the CRD IV package. These included positions detailing procedures for implementing the new provisions introduced when the directive was transposed into French law, as well as instructions adapting certain reports to reflect the new texts or commitments given to implement EBA guidelines to harmonise the application of the new prudential rules. The College also adopted a new on-site inspections charter by merging and updating the previous sector-specific charters. The new charter governs the process used for on-site inspections in the banking, insurance and intermediary sectors.



3. This figure does not include licensing and authorisation decisions made by the College Chairman acting under delegated authority.

4. Of which 29 were published in the ACPR's official register, on its website.

5. Transmission of information or opinions to third party authorities, approval of reports and documents, etc.

6. Excluding the re-appointment and termination of provisional administrators (9) and the appointment or re-appointment of liquidators (10).



## ■ LIST OF DECISIONS ON GENERAL ISSUES ADOPTED IN 2014 AND PUBLISHED IN THE ACPR'S OFFICIAL REGISTER, ON ITS WEBSITE

### INSTRUCTIONS

<b>Instruction 2014-I-01</b>	on information about anti-money laundering and counter-terrorist financing systems
<b>Instruction 2014-I-02</b>	on the implementation of a uniform financial reporting system for electronic money institutions
<b>Instruction 2014-I-03</b>	amending Instruction 2011-I-02 of 11 January 2011 on the creation of a supplemental table for statements of investments
<b>Instruction 2014-I-04</b>	on forms for notifying exemption from the clearing obligation applicable to intragroup transactions involving OTC derivatives
<b>Instruction 2014-I-05</b>	on disclosures pursuant to Article 47 of the Decree of 2 May 2013 on the prudential regulation of electronic money institutions
<b>Instruction 2014-I-06</b>	on information about anti-money laundering and counter-terrorist financing systems
<b>Instruction 2014-I-07</b>	on the procedure for approving appraisers to assess the realisable value of properties and units or shares of unlisted real estate companies
<b>Instruction 2014-I-08</b>	on the transmission to the ACPR of prudential documents
<b>Instruction 2014-I-09</b>	repealing or amending various instructions
<b>Instruction 2014-I-10</b>	on prudential requirements applicable to financing companies
<b>Instruction 2014-I-11</b>	on capital requirements applicable to payment institutions
<b>Instruction 2014-I-12</b>	on capital requirements applicable to electronic money institutions
<b>Instruction 2014-I-13</b>	replacing Instruction 2012-I-05 of 13 November 2012 on the collection of information about compensation
<b>Instruction 2014-I-14</b>	amending Instruction 2012-I-01 on the procedure for requesting an opinion on the appointment of statutory auditors and special examiners
<b>Instruction 2014-I-15</b>	amending Banking Commission Instruction 93-01 on the transmission of annual financial statements, prudential documents and sundry information
<b>Instruction 2014-I-16</b>	amending Instruction 2011-I-06 on the cover ratio for mortgage credit institutions and home loan companies
<b>Instruction 2014-I-17</b>	on the regulatory reports referred to in Article 10 of CRBF Regulation 99-10 of 9 July 1999

### GUIDELINES

March 2014 guidelines on anti-money laundering and counter-terrorist financing in the area of wealth management

### NOTICE

Prudential ratio calculation methods under CRD IV

### POSITIONS

<b>Position 2014-P-01</b>	on the application of Regulation 97-02 to intermediaries in banking transactions and payment services
<b>Position 2014-P-02</b>	on the separation of the roles of chairman of the board of directors and chief executive officer
<b>Position 2014-P-03</b>	on the incompatibility of the roles of chairman of the board of directors and "senior manager"
<b>Position 2014-P-04</b>	on the use of the legal form of simplified limited company ( <i>société par actions simplifiée</i> ) by credit institutions and investment firms in the context of CRD IV
<b>Position 2014-P-05</b>	on the costs associated with finding beneficiaries of life insurance policies
<b>Position 2014-P-06</b>	on the implementation of the EBA guidelines on retail deposits subject to different outflows
<b>Position 2014-P-07</b>	on the designation of "effective managers" within the meaning of Article L. 511-13 and point 4 of Article L. 532-2 of the Monetary and Financial Code
<b>Position 2014-P-08</b>	on non-guaranteed investment and crowdfunding

### RECOMMENDATION

**Recommendation 2014-R-01** on agreements concerning the distribution of life insurance policies

### CHARTER

Charter on the process for conducting on-site inspections

## 3.2 DECISIONS CONCERNING INDIVIDUAL

■ DECISIONS CONCERNING INDIVIDUAL ENTITIES  
MADE BY THE SUPERVISORY COLLEGE IN 2014

	TOTAL of which	BANKING SECTOR	INSURANCE SECTOR
Licensing and authorisation	364	242	122
Supervision (monitoring of management ratios/exemptions)	181	140	41
<b>Administrative enforcement measures</b>	<b>33</b>		
Warnings	-	-	-
Cease-and-desist orders (issued by the Chairman acting under delegated authority)	5	2	3
Requests for recovery programmes	5	-	5
Placing under special supervision	1	-	1
Limitation of activity	1	-	1
Mandatory portfolio transfers	2	-	2
Placing under provisional administration	6	4	2
Other	13	4	9
<b>Other binding measures</b>	<b>89</b>		
Re-appointment of a provisional administrator	5	4	1
Termination of a provisional administrator	4	3	1
Appointment of a liquidator	4	3	1
Re-appointment of a liquidator	6	6	-
Injunctions concerning capital adequacy requirements	57	57	-
Requests for short-term funding plans	3	-	3
Injunctions with coercive fines	3	1	2
Other <sup>(1)</sup>	7	3	4
Initiation of disciplinary proceedings	12	5	7
Other (including decisions concerning financial holding companies, the initiation of joint decision-making processes, opening of <i>inter partes</i> proceedings, etc.)	43	22	21
<b>Total decisions concerning individual entities</b>	<b>722</b>	<b>496</b>	<b>226</b>

(1) For example, these decisions concern the termination of provisional administration arrangements and rejections of requests made by liquidators.



Issues relating to individual entities are examined by the sectoral sub-colleges and the Supervisory College meeting in restricted session. They mainly relate to licensing applications and, for institutions that are already licensed, to applications for changes of status.

Furthermore, in the course of the year, the College makes key decisions concerning institutions in the banking and insurance sectors. These decisions take into account supervisory findings and follow an *inter partes* procedure. These may include injunctions, administrative enforcement measures and the initiation of sanction proceedings, as the case may be.

In 2014, the College adopted a total of **722 measures concerning individual entities**. These included 364 decisions on licences, changes to licences, licence withdrawals and other authorisations (see Chapter 2), 181 decisions concerning the monitoring of management ratios and exemptions, and 122 administrative enforcement measures and other binding decisions.

As regards administrative enforcement measures and other binding decisions, the College placed six institutions in the banking and insurance sectors under provisional administration. It ordered mandatory transfers of portfolios for two insurance institutions. It also issued a temporary ban on carrying on business against an insurance intermediary. With the aim of protecting customers and pursuant to Section II of Article L. 612-1 of the Monetary and Financial Code, this decision was made public.

The College also required five insurance institutions to submit recovery programmes (Article L. 612-32 of the Monetary and Financial Code) and three to submit short-term funding plans (Article R. 323-3 of the Insurance Code). In view of its circumstances, one union of mutual insurers governed by the Mutual Insurance Code was placed under special supervision.

The College also issued 57 injunctions requiring credit institutions to hold more than the minimum regulatory capital or adjusting the level of requirements previously imposed on institutions.

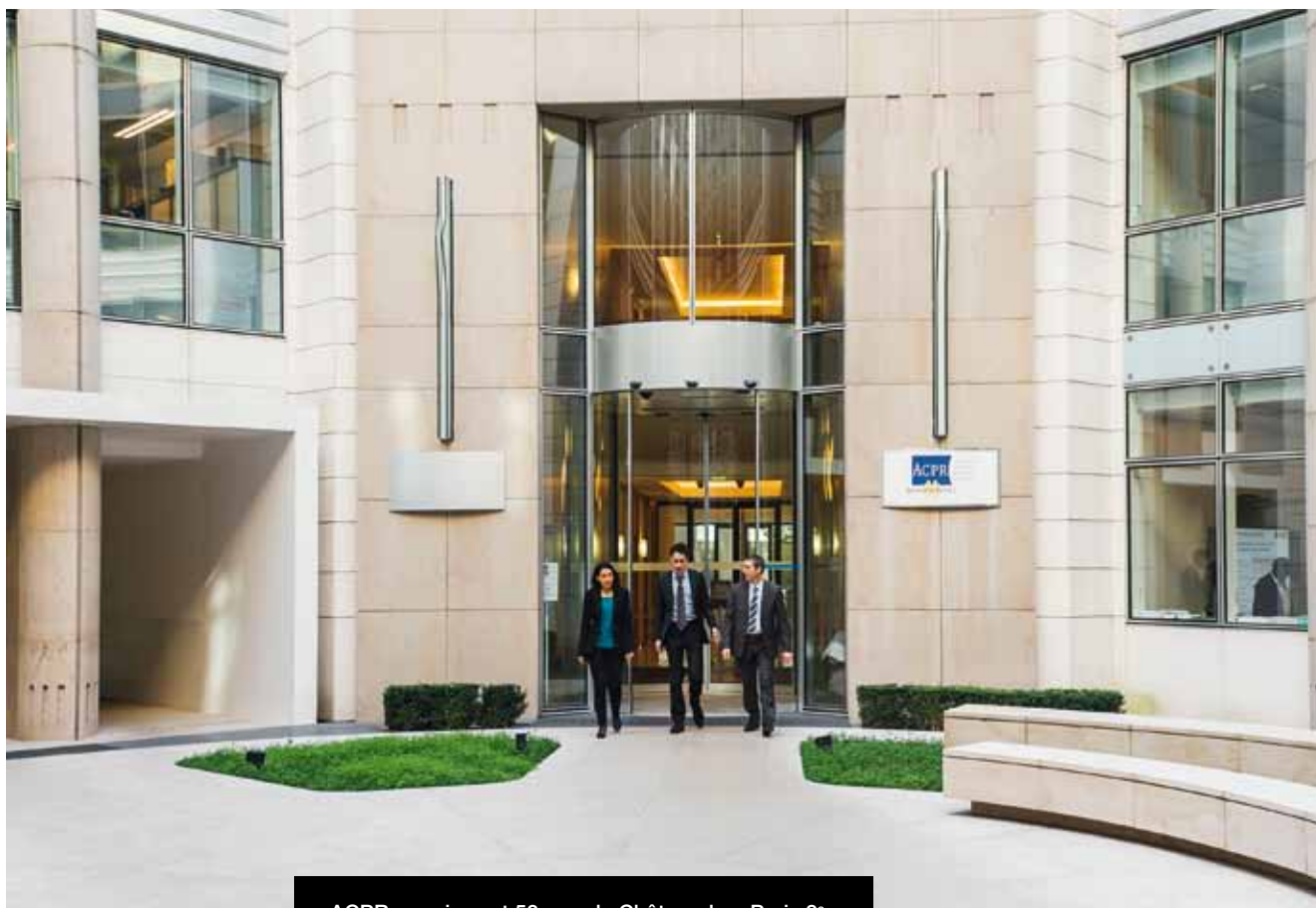
The use of cease-and-desist orders (a power which the College has delegated to the Chairman, see delegation decision 2010-10 of 12 April 2010, as amended, published in the Official Journal) is an important tool for correcting breaches of mandatory provisions. Five such orders were issued in 2014, and another was initiated. These orders related to compliance with requirements on solvency, governance or provisions concerning anti-money laundering and counter-terrorist financing (AML/CTF).



## 1. OVERVIEW OF THE ACPR

### 3. Activities of the ACPR's supervisory college

#### 3.2 Decisions concerning individual entities



ACPR premises at 53, rue de Châteaudun, Paris 9<sup>e</sup>.

#### • New disciplinary proceedings

The College initiated 12 new disciplinary proceedings in 2014, 11 of which were referred to the Sanctions Committee.<sup>7</sup> These proceedings related to breaches of internal control rules and/or rules on anti-money laundering and counter-terrorist financing, as well as violations of prudential regulations. In the area of customer protection, the College also referred four cases to the Sanctions Committee concerning breaches of provisions relating to unclaimed life insurance policies, the fitness and properness of management, and compliance with the duty to advise.

#### • Monitoring of measures adopted

The ACPR monitors institutions' response to the measures it adopts, including both action to rectify previously sanctioned breaches and administrative enforcement measures such as cease-and-desist orders.

As such, whenever an on-site inspection of an entity previously sanctioned by the ACPR identifies either ongoing breaches or serious new breaches, the matter is referred to the College so that it can propose that disciplinary proceedings be initiated, if appropriate.

Furthermore, if an institution fails to comply with substantial aspects of a cease-and-desist order, another administrative enforcement measure or an injunction, the matter is referred to the College so that it can determine the next steps to be taken, including, where applicable, the initiation of disciplinary proceedings. In 2014, the College initiated two disciplinary proceedings for failure to comply with cease-and-desist orders.



## PARLIAMENTARY HEARINGS CONCERNING THE ACPR IN 2014

DATE	TOPIC	REQUESTED BY	ACPR REPRESENTATIVE
<b>29 January</b>	Prudential standards and non-bank financing of the economy	Fact-finding mission of the National Assembly Finance, Mainstream Economy and Budget Control Committee	Philippe Richard, Director of International Affairs, ACPR
<b>12 February</b>	Prudential standards and non-bank financing of the economy	Fact-finding mission of the National Assembly Finance, Mainstream Economy and Budget Control Committee	Christian Noyer, Governor of the <i>Banque de France</i> and ACPR Chairman
<b>25 February</b>	Banking Union: current status and outlook	Senate Finance Committee	Frédéric Visnovsky, Deputy Secretary General, ACPR
<b>27 February</b>	Bill on inactive bank accounts and unclaimed life insurance policies	Senate Finance Committee	Fabrice Pesin, Deputy Secretary General, ACPR
<b>20 May</b>	Statutory objectives and resources of the ACPR	Senate Law Committee	Édouard Fernandez-Bollo, Secretary General, ACPR
<b>4 September</b>	Bill concerning various provisions to bring French law into line with European Union law in the areas of economics and finance ("DDADUE")	National Assembly Finance, Mainstream Economy and Budget Control Committee	Édouard Fernandez-Bollo, Secretary General, ACPR
<b>23 September</b>	Enforcement powers of financial regulators	Taskforce in connection with the Banking and Financial Regulation Act oversight programme run by the Finance Committee and the Senate Law Implementation Oversight Committee	Rémi Bouchez, Chairman of the ACPR Sanctions Committee
<b>28 October</b>	Update on the Single Supervisory Mechanism (SSM) and the resolution mechanism	Senate Finance Committee	Christian Noyer, Governor of the <i>Banque de France</i> and ACPR Chairman
<b>16 December</b>	Role of the ACPR within the new Single Supervisory Mechanism (SSM)	National Assembly European Affairs Committee	Édouard Fernandez-Bollo, Secretary General, ACPR



# HIGHLIGHTS

## OF 2014

### JANUARY

- ▶ **31 January:** Édouard Fernandez-Bollo becomes Secretary General of the ACPR, replacing Danièle Nouy, appointed Chair of the Supervisory Board of the Single Supervisory Mechanism (SSM).

### FEBRUARY

- ▶ **13 February:** The ACPR publishes a position on the costs associated with finding beneficiaries of life insurance policies. In this position, the Authority clarifies its expectations with regard to the allocation of the cost of locating beneficiaries.

### APRIL

- ▶ **7 April:** The Sanctions Committee imposes a reprimand and a EUR 10 million fine on Cardif Assurance for failure to comply with the requirement to identify deceased life insurance policyholders and find the beneficiaries.

### MAY

- ▶ **23 May:** ACPR Chairman Christian Noyer and Vice-Chairman Jean-Marie Levaux present the Authority's fourth Annual Report to the press.



## JUNE

- ▶ **5 June:** The ACPR holds a conference on the topic “Preparing for Solvency II”. The event is introduced by ACPR Vice-Chairman Jean-Marie Levaux.
- ▶ **20 June:** The ACPR publishes a position on the designation of “effective managers”.

## JULY

- ▶ **3 and 4 July:** the *Banque de France* and *La Chaire ACPR* in partnership with SoFiE hold a conference titled “Systemic risk and financial regulation”.
- ▶ **8 July:** The ACPR and the AMF issue a press release on agreements between producers and distributors of life insurance policies and financial instruments. The ACPR details its expectations in this area in a recommendation.

## SEPTEMBER

- ▶ **30 September:** The ACPR and the AMF clarify the regulatory framework governing crowdfunding in a joint information document titled “Finding out about the new framework governing crowdfunding”. The ACPR also publishes a position on the subject.

## OCTOBER

- ▶ **26 October:** ACPR Chairman Christian Noyer presents the results for French banks of the comprehensive balance sheet assessment launched by the European Central Bank prior to implementation of the SSM. French banks demonstrate the quality of their assets and their resilience in the stress test.

## NOVEMBER

- ▶ **3 November:** The Sanctions Committee publishes its decision of 31 October 2014 against CNP Assurances. It imposes a reprimand and a EUR 40 million fine for failure to comply with the requirement to identify deceased life insurance policyholders and find the beneficiaries.

### ▶ 4 November:

- The Single Supervisory Mechanism officially enters into force.
- The ACPR holds a conference on two topics: supervision of business practices in insurance and banking, and new challenges related to payment services and electronic money. The event is introduced by Christian Noyer, ACPR Chairman and Governor of the *Banque de France*.

## DECEMBER

- ▶ **1 December:** The European Insurance and Occupational Pensions Authority (EIOPA) publishes the results of stress tests carried out on key European players in the insurance market in cooperation with national authorities. French institutions demonstrate their resilience.
- ▶ **18 December:** The ACPR holds a conference titled “Solvency II: final steps before 2016”. The session is introduced by ACPR Vice-Chairman Jean-Marie Levaux.
- ▶ **19 December:** The Sanctions Committee imposes a reprimand and a EUR 50 million fine on Allianz Vie for failure to comply with the requirement to identify deceased life insurance policyholders and find the beneficiaries.



# 2 Ensuring

## THE STABILITY OF THE FINANCIAL SYSTEM

1. Licensing and authorisation	42
2. Key risks to the financial system in 2014	54
3. Prudential supervision	60
4. Resolution	80





**T**he ACPR ensures the stability of the financial system. This involves issuing licences to institutions in the banking and insurance sectors and conducting ongoing supervision of all reporting entities.

To enable it to perform these duties, the ACPR has a number of directorates responsible for licensing, supervision and research to analyse the main risks facing the financial system as a whole.

In the banking sector, the ACPR exercises its powers without prejudice to the jurisdiction granted to the European Central Bank under the terms of the Single Supervisory Mechanism.

The ACPR also has powers intended to prevent and resolve banking crises. The Authority's specific duties in this area are performed by the Resolution Directorate.

**A** total of 1,747 decisions concerning the banking and insurance sectors were made on the basis of applications processed by the Licensing, Authorisation and Regulation Directorate:

- ▶ 364 licensing and authorisation decisions,
- ▶ 1,086 decisions<sup>9</sup> concerning the registration of agents of payment institutions,
- ▶ and 297 senior management appointments (178 decisions in the banking sector<sup>10</sup> and 119 in the insurance sector).

As well as dealing with these applications, the ACPR gives its opinion on proposed appointments of statutory auditors by reporting institutions. The Authority issued 1,080 such opinions in 2014: 596 in the banking sector and 484 in the insurance sector. The ACPR and the *Compagnie nationale des commissaires aux comptes* (CNCC, National Association of Statutory Auditors) also published a guide in 2014 on relations between the ACPR and statutory auditors (see inset “Guide to relations between the ACPR and statutory auditors”). In particular, the guide provides details on the procedure for obtaining an opinion prior to appointing statutory auditors as well as on relations between statutory auditors and the Authority.

### Licensing and authorisations in 2014

# 364

licensing and authorisation decisions  
 > **242** in the banking sector (excluding decisions concerning the registration of agents of payment institutions)<sup>8</sup>  
 > **122** in the insurance sector



8. These decisions are delegated by the Supervisory College to its Chairman.

9. 1,082 of these decisions concerned the banking sector, 4 concerned the insurance sector.

10. With effect from 1 January 2015, the ACPR makes decisions on the appointment of bank directors, in accordance with the procedure laid down in Decree 2014-1357 of 13 November 2014.



## GUIDE TO RELATIONS BETWEEN THE ACPR AND STATUTORY AUDITORS

On 31 October 2014, the ACPR and the *Compagnie nationale des commissaires aux comptes* (CNCC, National Association of Statutory Auditors) published a “Guide to relations between the ACPR and statutory auditors”. This initiative came in an international environment in which a significant amount of work on the quality of external audit recommended that supervisory authorities and external auditors enter into dialogue.

The guide sets out the main rules governing the appointment, re-appointment and resignation of statutory auditors of entities under ACPR supervision:

- ▶ The Authority has the power<sup>11</sup> to issue an opinion on each appointment or re-appointment of a statutory auditor upon referral by the supervised entity two months prior to the statutory auditor’s appointment by the competent body. In particular, the Authority ensures that statutory auditors of supervised entities offer all the guarantees of experience, expertise and independence necessary to the fulfilment of their statutory duty to certify financial statements.
- ▶ The ACPR may appoint an additional statutory auditor if it deems necessary.

The guide also sets out the general framework for communication between the ACPR and statutory auditors, with the aim of stepping up and improving the quality of such communication.

- ▶ The ACPR engages in regular dialogue with the CNCC on matters of accounting, financial reporting and changes in audit standards. It also engages in one-off dialogue as necessary.
- ▶ The Authority also communicates directly with statutory auditors: in such cases, the statutory auditors of reporting institutions are not bound by professional secrecy, and the ACPR can ask them for any information about the business and the financial position of an entity under its supervision.

The guide addresses statutory auditors’ duty to notify the ACPR<sup>12</sup> and provides information on how such notifications should be made. Finally, it deals with more specific issues, such as inspections to which a statutory auditor may be subject, communication between the ACPR and the *Haut Conseil du commissariat aux comptes* (H3C, Statutory Auditors’ Oversight Board) on the findings of periodic controls carried out by the latter, and the ACPR’s power to request that a statutory auditor be relieved of its duties.



11. In accordance with Articles L. 612-43 and L. 612-53 to L. 612-58 of the Monetary and Financial Code.  
12. Article L. 612-44 of the Monetary and Financial Code.



**Marie Nourbakhch,**  
Licensing, Authorisation and  
Regulation Directorate.



The ACPR now has the capacity to assess the fit and proper requirements for members of senior management.





## SUMMARY TABLE OF LICENSING AND AUTHORISATION DECISIONS BY THE SUPERVISORY COLLEGE (\*)

	TOTAL	COLLEGE	
		BANKING	INSURANCE
Granting of licences, authorisations and registrations <i>of which financing companies</i>	146	144 <i>134</i>	2
Licence renewals	19	9	10
Waivers and exemptions from licensing and authorisation requirements	11	11	0
Amendments to licences and authorisations	14	14	0
Withdrawals of licences and authorisations	36	13	23
Substitution agreements	11	0	11
Administrative changes	11	5	6
Changes in ownership	48	40	8
Mergers, demergers and/or portfolio transfers - insurance sector	60	0	60
Other	8	6	2
<b>TOTAL</b>	<b>364</b>	<b>242</b>	<b>122</b>

(\*) Excluding decisions concerning the registration of agents of payment institutions.

### 1.1 BANKING SECTOR

The ACPR handed down 1,324 licensing and authorisation decisions<sup>13</sup> in the banking sector in 2014. Apart from decisions handed down by the Chairman of the College under the delegated authority of the Supervisory College, most of which concerned the registration of agents of payment institutions (1,082), decisions (242) mainly concerned specialised credit institutions opting for the new status of financing company introduced as part of the transposition into French law of Directive 2013/36/EU of 26 June 2013, known as “CRD IV”.

#### A. BANKING SECTOR: CHANGES LINKED TO THE ENTRY INTO FORCE OF CRD IV

##### • The status of financing company

CRD IV, which entered into force at the beginning of 2014, defines credit institutions as legal entities whose business is to receive repayable funds from the public and to grant loans. In France, financial companies that granted loans but did not collect repayable funds from the public had previously been included in this category of credit institutions.



13. Excluding decisions on the designation of “effective managers”.



## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. Licensing and authorisation

#### 1.1 Banking sector

A new category of institutions under the ACPR's supervision was therefore created: financing companies. These companies are covered by a specific prudential framework laid down in the Order of 23 December 2013. They are subject to the rules arising from CRD IV and its implementing regulations (Regulation EU 575/2013 of 26 June 2013, known as "CRR"), but with certain adjustments to reflect their specific characteristics.

The transposition into French law of CRD IV was supplemented by specific transitional arrangements for financial companies. Deemed to be licensed as specialised credit institutions as at 1 January 2014, pursuant to Article 34 of Ordinance 2013-544 of 27 June 2013 on credit institutions and financing companies, from 1 October 2013 to 1 October 2014 they were eligible for a temporary simplified procedure under which they could opt to be licensed as financing companies.

At end 2013, there were 250 specialised credit institutions (247 financial companies and 3 specialised financial institutions). In the course of 2014, 106 institutions<sup>14</sup> decided to retain their status as specialised credit institutions, while 134 opted to be licensed as financing companies. Another seven institutions asked for their licences to be withdrawn during the year, in most cases because they were no longer operating. Three financial companies that were licensed solely for fund remittance became payment institutions.

Of the 134 institutions licensed as financing companies, 65 belong to France's five largest banking groups. The ten regional institutions that are subsidiaries of *Crédit Immobilier de France* also became financing companies, as did three subsidiaries of *La Banque Postale*. Finally, 11 newly licensed financing companies belong to foreign banking groups, notably *Rabobank* and *HSBC*. All in all, more than 65% of financing companies belong to banking groups, 12% fall under French or foreign industrial or commercial companies and 22% operate under partnerships between banking groups and professionals from local authorities or industry groups.



The activities of financing companies are concentrated in equipment and real estate leasing (25%), the granting of sureties and guarantees (22%), consumer credit (19%), lending to businesses (to finance cash flow or capital goods: 9%), equipment financing via captives (automotive and industrial sectors: 7%) and factoring<sup>15</sup> (4%). These financing companies vary widely in size:<sup>16</sup> 18% have total assets in excess of EUR 1 billion, while others (18%) have assets of less than EUR 50 million. The smallest institutions are mainly financing companies that issue sureties and guarantees for undertakings involved in regional development or operating in specific industry sectors. The *BPCE-Crédit Coopératif* group accounts for a significant proportion of this last category.

14. These included 14 home loan companies or mortgage credit institutions which, under the law, are considered specialised credit institutions.

15. Some large factoring companies waived their option rights, mainly due to their ineligibility for European Central Bank funding and payment systems. Of the 12 licensed factoring companies, five still have the status of specialised credit institutions.

16. Based on total on and off balance sheet assets.



### • **Tighter governance requirements on banks**

CRD IV and Ordinance 2014-158 of 20 February 2014, which transposed the provisions of the directive into the Monetary and Financial Code, include a significant governance component.

On 20 June 2014, the ACPR published Position 2014-P-07 reiterating the **principle of segregation of the roles and responsibilities of chairman of the board of directors and chief executive officer established by the directive**. This position highlights the implications in terms of tightening up the supervisory function and details the implementation of provisions on the designation of effective managers.

#### - Segregation of executive and supervisory duties

As reiterated in Position 2014-P-07, the directive calls for the segregation of functions within the management bodies of credit institutions and investment firms so as to ensure sound and prudent management.

The principle of segregation of functions means that institutions must clearly distinguish the supervisory function from executive functions falling to senior management. More specifically, among the duties performed by the management body, the directive highlights the supervisory function, which must exercise supervision over senior management. To ensure that such supervision actu-

ally takes place, Article 88 of the directive, transposed into Article L. 511-58 of the Monetary and Financial Code, stipulates that the chairman of the management body in its supervisory function (the board of directors in public limited companies, the most common legal form) must not exercise simultaneously the functions of a chief executive officer within the same institution.

Moreover, to ensure that members of the management body can dedicate sufficient time to their duties, there are now limits on how many directorships each member of the management body of a significant institution can simultaneously hold in different entities (Article R. 511-17 of the Monetary and Financial Code).

#### - Strengthening the supervisory function

The directive clarified and strengthened the supervisory duties devolved to the board of directors in public limited companies having such a board relative to those laid down in the Commercial Code.

In transposing the directive, the Monetary and Financial Code stipulates that the board of directors can be assisted by three specialised committees (compensation, appointments and risk) and details the supervisory duties that the board of directors is required to perform. Furthermore, the person responsible for the risk management function, who cannot be removed without the prior consent of the board of directors, may report directly to the latter without reference to senior management where circumstances so require.



## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. Licensing and authorisation

#### 1.1 Banking sector

In response to this increase in the responsibility of the management body in its supervisory function, legislation has been passed to extend to members of the board of directors the requirements of expertise and fitness and properness that previously applied only to senior managers whose identity had been notified to the ACPR. The ACPR is now responsible for policing compliance with these requirements in relation to members of the board of directors.

#### - Designation of effective managers

Given the extent of the duties falling to the executive function and the need to ensure their continuity in all circumstances, the directive requires that those duties be assigned to at least two individu-

als. This is the requirement on “effective managers” transposed by Articles L. 511-13 and L. 532-2 of the Monetary and Financial Code.

Position 2014-P-07 emphasises that the strengthened role of the chairman of the board of directors in its supervisory function means that the chairman cannot also assume the role of effective manager, except in special cases where he/she is expressly authorised by the ACPR to simultaneously serve as chief executive officer. Given the importance of his/her duties, the chairman of the management body in its supervisory function is a preferred contact of the ACPR in the same way as are those individuals tasked with effective management, in respect of the various different duties assigned to them.

## B. PAYMENT SERVICES: INNOVATIVE PROJECTS SOMETIMES IN SEARCH OF A MARKET

**Muriel Rigaud,**  
head of the institutions and specialised procedures department within the Licensing, Authorisation and Regulation Directorate.



The payment services and electronic money issuance sector is rapidly evolving, driven by new business development models, particularly in the FinTech industry. The kinds of projects put forward by licensing applicants continue to evolve, many of them innovative in nature.







The provision of payment services is sometimes the vehicle needed to support the principal activity, which is itself characterised by a degree of innovation (e.g. for some crowdfunding platforms); in other cases, a project is dedicated fully to payment or electronic money services, which are delivered using new technologies.

However, in 2014, the ACPR issued licences to only two payment institutions<sup>17</sup> and one electronic money institution, bringing their total number to 21 payment institutions and 4 electronic money institutions. New applications often take a long time to process, since the projects submitted are incomplete and the assumptions underpinning business plans are overly optimistic.

The new framework applicable to crowdfunding, which introduced the status of crowdfunding intermediary and brought in simplified rules for payment institutions with limited activity, entered into force in October 2014. In light of this change, ACPR staff met with a large number of project owners to clarify the rules applicable to them and identify the most appropriate status for their activities.

Some recently licensed operators are struggling to find a market and become profitable, in addition to already having a weak capital base. For this reason, two licences were withdrawn in 2014 at the request of the payment institutions concerned. One of these withdrawals was subject to a time limit to allow companies acting in partnership with the payment institution in question to find alternative solutions.

In 2014, after verifying the applicable regulatory provisions, the ACPR registered 993 new agents of payment institutions, bringing the total population of agents of payment institutions to 1,293. The ACPR refused to register 28 agents who failed to meet regulatory criteria relating to professional aptitude or fitness and properness.

The number of requests for exemption<sup>18</sup> from the status of payment or electronic money institution based on the use of the payment instrument within a limited network of accepters or to purchase

a limited range of goods and services continued to grow in 2014. Such requests arose mainly from online third party contact and collection platforms dealing in a limited range of goods and services. Examples are car-sharing services, but also include more traditional market sectors such as parapharmaceuticals and the provision of catering services.

In this regard, the rapid growth in online retail was accompanied by the development of marketplaces selling goods and services offered by third parties and collecting funds from buyers on behalf of sellers. Any marketplace activity that involves the provision of payment services requires a licence, registration as the agent of a payment services provider or authorisation under the European passport. The ACPR has thus initiated a process to remedy the situation of such operators.

The Authority also looked into the phenomenon of virtual currency such as bitcoin. Growth in such instruments has been accompanied by frequent warnings over the lack of legal, financial and technical security as well as its potential use for criminal ends facilitated by anonymity. The ACPR therefore issued Position 2014-P-01, which specifies that, in purchases or sales of bitcoin in exchange for legal tender, intermediation consisting of receiving funds from the buyer of bitcoin and transferring them to the seller of bitcoin constitutes a supply of payment services. As such, bitcoin trading platforms must be either licensed as payment institutions or appointed as agents by a licensed institution. In the latter case, the licensed institution is solely liable for the payment services supplied and must, as such, ensure compliance with all the ensuing requirements. These requirements cover the management of cash flows and protection of the corresponding funds as well as anti-money laundering and counter-terrorist financing measures, notably including the existence of an appropriate internal control system.

17. One of these licences had not yet become final at end 2014, since the conditions precedent had not yet been met.

18. A total of 11 exemptions were granted in 2014, compared with 4 in 2013.

## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. Licensing and authorisation

#### 1.1 Banking sector

### CHANGES IN THE NUMBER OF CREDIT INSTITUTIONS, FINANCING COMPANIES, INVESTMENT FIRMS, PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS IN FRANCE AND IN THE NUMBER OF CREDIT INSTITUTIONS IN MONACO

■ LICENSED CREDIT INSTITUTIONS IN FRANCE	2013	2014	CHANGE (NUMBER)
<b>Institutions licensed for all banking activities</b>	<b>300</b>	<b>296</b>	<b>-4</b>
Banks	190	187	-3
<i>of which branches of institutions having their registered offices in third countries</i>	21	21	-
Mutual and co-operative banks	92	91	-1
Municipal credit banks	18	18	-
- Specialised credit institutions (formerly financial companies or specialised financial institutions at end 2013)	250	106	-144
<b>SUBTOTAL</b>	<b>550</b>	<b>402</b>	<b>-148</b>
<b>Branches of eea credit institutions operating under the freedom of establishment</b>	<b>66</b>	<b>66</b>	<b>-</b>
<b>TOTAL France</b>	<b>616</b>	<b>468</b>	<b>-148</b>
<b>Licensed credit institutions in monaco</b>			
TOTAL Monaco	23	22	-1
<b>TOTAL France and Monaco</b>	<b>639</b>	<b>490</b>	<b>-149</b>

■ FINANCING COMPANIES <sup>(1)</sup>	2013	2014	CHANGE (NUMBER)
<b>Financing companies</b>	-	<b>112</b>	-
Dual status: financing companies and investment firms	-	2	-
Dual status: financing companies and payment institutions	-	20	-
<b>TOTAL</b>	<b>-</b>	<b>134</b>	<b>-</b>

■ INVESTMENT FIRMS	2013	2014	CHANGE (NUMBER)
<b>Investment firms licensed by the ACPR</b>	<b>91</b>	<b>83</b>	<b>-8</b>
Branches of investment firms operating under the freedom of establishment	45	50	+5
<b>TOTAL</b>	<b>136</b>	<b>133</b>	<b>-3</b>

■ PAYMENT INSTITUTIONS	2013	2014	CHANGE (NUMBER)
<b>Payment institutions licensed by the ACPR</b>	<b>19</b>	<b>21<sup>(2)</sup></b>	<b>+2</b>
Branches of payment institutions operating under the freedom of establishment	7	9	+2
<b>TOTAL</b>	<b>26</b>	<b>30</b>	<b>+4</b>

■ ELECTRONIC MONEY INSTITUTIONS	2013	2014	CHANGE (NUMBER)
<b>Electronic money institutions licensed by the ACPR</b>	<b>3</b>	<b>4</b>	<b>+1</b>
Branches of electronic money institutions operating under the freedom of establishment	0	1	+1
<b>TOTAL</b>	<b>3</b>	<b>5</b>	<b>+2</b>

(1) Arising from the status of financial companies, pursuant to the provisions of Article 34 of Ordinance 2013-544 of 27 June 2013.

(2) Includes three financial companies that became payment institutions, one final licence as a payment institution and two licence withdrawals.





## 1.2 INSURANCE SECTOR

In 2014, the ACPR's Supervisory College handed down 122 licensing and authorisation decisions in the insurance sector,<sup>19</sup> together with 4 decisions handed down by the Chairman under the delegated authority of the College. Many of these decisions concerned the mutual insurance sector, in which merger-based rationalisation continued, mainly in preparation for the entry into force of Solvency II. The ACPR also handed down 119 decisions concerning the appointment of senior managers of institutions falling within the scope of the Mutual Insurance Code and approved 163 appointments of real estate appraisers or appraisers of real estate companies; the procedure applicable to such authorisations was overhauled in 2014.



### ■ APPROVAL PROCEDURE FOR REAL ESTATE APPRAISERS AND APPRAISERS OF REAL ESTATE COMPANIES

The realisable value of real estate and units and shares of real estate companies held by insurance institutions is determined on the basis of a five-yearly appraisal carried out by an expert approved by the ACPR. Between these five-yearly appraisals, the value of an asset is estimated annually and certified by an appraiser also approved by the ACPR.

Instruction 2014-I-07 of 10 July 2014 replaced the memorandum of 8 June 2006.

The purpose of this new instruction is as follows:

- ▶ to detail the framework, terms and procedures for the approval of appraisers: "appraisers must still be approved by the ACPR before appraisals are carried out or updated. Failure to follow this procedure will result in the value of the asset being deemed non-compliant<sup>20</sup> with regulatory provisions",
- ▶ to reaffirm and update the principles of appraisers' expertise and dual

independence;<sup>21</sup> "in line with professional standards in force, proposed appraisers must have sufficient expertise and experience; appraisers must be rotated relative to the assets to be appraised",

- ▶ and to reiterate the responsibility of senior management.

Attached to the instruction is a document designed to gather the information needed by the ACPR to approve appraisers. As well as the documents already attached to the 2006 memorandum, the instruction includes a new "Declaration by the institution" that places responsibility for the appraiser selection process and for compliance with the procedure on senior management.

Appraisers are approved for individual appraisals; as such, approval does not constitute a general authorisation.

Instruction 2014-I-07 is available on the ACPR's website, under *Textes de référence - Registre officiel*.

19. Excluding decisions on the appointment of senior managers of insurance institutions.

20. Position adopted by the ACAM (Autorité de contrôle des assurances et des mutuelles) and the ACPR and notified to institutions by letter.

21. Independence from both the institution and the assets to be appraised.

## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 1. Licensing and authorisation

#### 1.2 Insurance sector

#### A. INSTITUTIONS FALLING WITHIN THE SCOPE OF THE INSURANCE CODE: CONTINUED STRUCTURAL SIMPLIFICATION

To optimise capital allocation, and in particular to take into account the effects of diversification in view of the entry into force of Solvency II as effectively as possible, insurance groups continued to rationalise their structures so as to reduce the number of risk carriers.

The tighter integration required under the future regulatory framework means that prudential groups, such as group mutual insurance companies (SGAM) and mutual insurance union groups (UMG), will have to change. In fact, such change has already begun to happen, mainly among group mutual insurance companies (SGAM), and could continue in 2015.

While some partial transfers of portfolios in 2014 were carried out for commercial reasons or as a result of business refocusing, others were part of reorganisations to simplify organisational structures and reduce the number of risk carriers ahead of Solvency II.

#### B. MUTUAL INSURERS FALLING WITHIN THE SCOPE OF THE MUTUAL INSURANCE CODE

The trend towards concentration in the mutual insurance sector continued apace in 2014. This trend is partly related to future requirements arising from Solvency II, whether in respect of capital requirements, new governance obligations or the technical resources that need to be in place to meet increased requirements, particularly in the area of reporting.





Mergers and portfolio transfers involved 56 mutual insurers, ultimately merged into 18 institutions. However, some mutual insurers opted to be backed by larger partners rather than merge: 11 substitution agreements were signed, together with 14 amendments to existing agreements.

### C. CONTINUED MERGER ACTIVITY AMONG PROVIDENT INSTITUTIONS

Two groups concentrated the bulk of their operations falling within the scope of the Social Security Code. Both cases involved mergers of provident institutions.

### D. DEVELOPMENTS IN GOVERNANCE AT INSURANCE INSTITUTIONS

Law no. 2013-672 of 26 July 2013 on the Separation and Regulation of Banking Activities extended the powers of the ACPR's Supervisory College in relation to assessing the fitness and properness, expertise and experience of members of the governing bodies of institutions under its supervision. For licensed insurance institutions,

this power is exercised on the appointment or re-appointment of the chief executive officer, deputy chief executive officers, sole chief executive officer, members of the management board, the salaried senior executives referred to in Article L. 114-9 of the Mutual Insurance Code and any individual called upon, in practice, to carry out equivalent duties.

The ACPR's Supervisory College can, where appropriate, oppose the appointment or re-appointment of any of the aforementioned individuals. It can oppose the continued service of any member of the board of directors or the supervisory board who fails to meet the applicable conditions of fitness and properness, expertise and experience. Before any such decision is reached, observations are gathered from both the individual concerned and the chairman of the board of which he/she is a member. Such decisions are notified to both the institution and the individual concerned. Decree 2014-1357 of 13 November 2014 clarified the terms of application of these provisions. With effect from its into force on 1 January 2015, any change in the senior management of an insurance or reinsurance undertaking must be notified within 15 days of the relevant individual's appointment or re-appointment; the ACPR then has two months to oppose the appointment or re-appointment.

### CHANGE IN THE NUMBER OF INSURANCE INSTITUTIONS

NUMBER OF INSURANCE INSTITUTIONS	2014	2015	CHANGE
Life and combined insurance companies	97	93	-4
<i>of which combined insurance companies</i>	<i>38</i>	<i>38</i>	<i>0</i>
Non-life insurance companies	212	206	-6
<b>Total insurance undertakings</b>	<b>309</b>	<b>299</b>	<b>-10</b>
Reinsurance companies	16	15	-1
Branches from non-EU countries	4	4	0
<b>Governed by Insurance Code</b>	<b>329</b>	<b>318</b>	<b>-11</b>
Provident institutions	46	41	-5
<b>Governed by Social Security Code</b>	<b>46</b>	<b>41</b>	<b>-5</b>
Governed by Book II of the Mutual Insurance Code	599	550	-49
<i>of which companies backed by larger partners</i>	<i>203</i>	<i>179</i>	<i>-24</i>
<b>Governed by the Mutual Insurance Code</b>	<b>599</b>	<b>550</b>	<b>-49</b>
<b>Total licensed undertakings and undertakings not requiring a licence</b>	<b>974</b>	<b>909</b>	<b>-65</b>

# KEY RISKS TO THE FINANCIAL SYSTEM IN 2014

The ACPR bases its ongoing and on-site supervisory activities chiefly on analysis carried out to identify the principal risks to which the financial system is exposed.

## In 2014:

- > **15** studies were published in the review *Analyses et Synthèses*
- > **6** were published as *Débats économiques et financiers*
- > **11** seminars were held, **9** of them under the banner of *La Chaire ACPR*
- > The ACPR contributed to **3** *Banque de France* working documents

### KEY THEMES TO WHICH THE ACPR PAID PARTICULAR ATTENTION IN 2014

THEME	FOCAL POINTS IN 2014
Persistence of unfavourable macroeconomic conditions	<ul style="list-style-type: none"> <li>▶ Profitability of banks and cost of risk</li> <li>▶ Household savings and reallocation trends (bank deposits, inflows into life insurance, etc.)</li> </ul>
Risks associated with: <ul style="list-style-type: none"> <li>▶ long-term low interest rates</li> <li>▶ or a sharp rise in interest rates</li> </ul>	<ul style="list-style-type: none"> <li>▶ Rigour of asset-liability management</li> <li>▶ Monitoring of banks' and insurance institutions' asset allocation strategies to guard against situations in which institutions might seek returns from alternative sources, giving rise to risks that are not sufficiently well controlled</li> <li>▶ Measurement of risks associated with a rapid rise in interest rates in the life insurance sector (increase in surrenders)</li> </ul>
Risk of a price correction in the commercial and residential real estate markets	<ul style="list-style-type: none"> <li>▶ Trends in borrowers' solvency</li> <li>▶ Continued caution in lending criteria</li> <li>▶ Intensity of competition (debt repurchases)</li> <li>▶ Margins on lending</li> <li>▶ Monitoring changes in the market, investment and risk in the commercial real estate sector</li> <li>▶ Robustness of surety providers</li> </ul>
Risk of failure to properly adapt to regulatory changes and of uncertainties over bank refinancing	<ul style="list-style-type: none"> <li>▶ Impact of the implementation of regulations (CRD IV/CRR, Solvency II, MREL/TLAC, EMIR,<sup>22</sup> etc.) on banks and insurance institutions</li> <li>▶ Changes in the structure of bank refinancing</li> <li>▶ Encumbered bank assets</li> <li>▶ Consequences of tighter regulatory requirements for the financing of the economy and the development of shadow banking</li> </ul>
Uncertainties surrounding the results of the European Central Bank's comprehensive assessment <sup>23</sup> (the AQR <sup>24</sup> and the European Banking Authority stress test)	<ul style="list-style-type: none"> <li>▶ Governance and communication associated with the exercise</li> <li>▶ Detailed monitoring of work on French banks and estimate of potential capital requirements</li> <li>▶ Relative positioning of French banks and due consideration of features specific to France</li> </ul>
Increase in costs associated with banking disputes	<ul style="list-style-type: none"> <li>▶ Legal and compliance risk resulting in reputational risk</li> <li>▶ Uncertainties over the amounts of provisions to set aside for penalties</li> </ul>

22. MREL: minimum requirement for own funds and eligible liabilities; TLAC: total loss-absorbing capacity; EMIR: European Markets and Infrastructure Regulation.

23. A comprehensive assessment of bank balance sheets.

24. Asset Quality Review.





## 2.1 RISKS ASSOCIATED WITH UNFAVOURABLE MACROECONOMIC CONDITIONS

After a tentative recovery in 2013, GDP growth in the European Union (EU) has been weak; this slowdown has affected the Union's largest economies, with the notable exception of the United Kingdom. Furthermore, in spite of a series of interest rate cuts by the ECB, inflation in the euro area remains very low, and a number of economies are experiencing disinflation (Spain, Italy and Greece). Finally, the deteriorating macroeconomic climate in Eastern Europe (Ukraine, Russia) and in emerging countries as a whole could affect major French institutions, both directly and through their subsidiaries.

The across-the-board slowdown in the EU economy has had multiple consequences for French banks, affecting their main revenue drivers.

- ▶ In the absence of a favourable macroeconomic outlook, demand for financing from both businesses and consumers has remained relatively sluggish, hampering growth in banks' loan books. In September 2014, lending by French banks to businesses and consumers grew by only 1.9%<sup>25</sup> and 2.8% year on year respectively. Coupled with lower interest rates, this weak demand has eroded banks' interest income.
- ▶ Company and household solvency has continued to deteriorate in some countries, increasing the cost of risk for banks, in particular for those with significant operations in the worst-hit countries (e.g. Italy). Lower inflation has heightened the risk of a deterioration in borrowers' solvency as low price and salary growth increases borrowing constraints on households and businesses. These constraints could lead to increased defaults on outstanding loans, consequently limiting the supply of credit by banks.
- ▶ Finally, inflows into bank deposit accounts have come under pressure: some customers have tapped into their savings to make up for a decline in spending power, and deposits have been shifted into non-bank investment products, and in particular life insurance.



The ACPR analyses the main risks to which the financial system is exposed.

Insurance institutions have been less directly affected by the macroeconomic climate. Non-life insurers' business is more closely linked to the stock of insured assets than to the economic climate. Life insurers have been helped by international markets, which put in stable overall performances in 2014,<sup>26</sup> and life insurance policies, which always benefit from a favourable tax regime, have been buoyed by the decline in returns on regulated deposits, even though those returns remained high. While the returns offered by life policies have fallen significantly over the past few years, they remain advantageous in relative terms.

25. Source: *Banque de France*.

26. While the CAC 40 fell slightly in 2014 (down 0.5%), the Euro Stoxx 50 held steady (up 1.2%) and the Dow Jones gained 8.2%.



## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 2. Key risks to the financial system in 2014

#### 2.2 Risks associated with long-term low interest rates

## 2.2 RISKS ASSOCIATED WITH LONG-TERM LOW INTEREST RATES

In 2014, interest rates continued to decline in France and across all European markets. The ECB lowered its refinancing rate, which stood at 0.05% from end September 2014, and long yields reached unprecedented levels in many countries. This environment of long-term low interest rates and flattening of the yield curve was particularly unfavourable for the insurance sector and weighed on profitability in the banking sector.



For insurers, persistent low interest rates lead to a gradual and lasting decline in the return on assets. This phenomenon is particularly detrimental to life insurers, who hold assets with long maturities and continue to see strong momentum in inflows. A rapid rise in interest rates would expose them to the risk of depreciation in the value of their fixed rate assets and a significant risk of outflows which, if they were forced to sell assets with unrealised losses, could also generate actual losses. Furthermore, the steady decline in returns on their key assets (mainly bonds) could prompt some insurers to move into assets offering higher yields (“search for yield”) but also carrying a higher risk of default (substantially lessened by the squeeze on spreads favoured by increased demand from investors). Against this backdrop, the Chairman of the ACPR, Governor of the *Banque de France*, has called on life insurers to limit the annual reset of cover amounts on their policies so as not to weaken their financial position.

While the flattening in yield curves has helped banks lengthen the maturity of their liabilities more cheaply and comply with the new liquidity coverage ratio (LCR), long-term low interest rates give rise to a number of risks to the banking sector.

First, given a relatively rigid cost structure, the decline in interest rates erodes interest margins. With demand for borrowing sluggish, increased competition in the sector and coupon rates on corporate bond issues on the European capital markets also falling to all-time lows, banks are forced to pass on interest rate cuts more quickly. This means that, like insurers, banks renew their assets at constantly declining rates of return, potentially exposing them to the risk of a sharp rise in interest rates which they would be unable to immediately build into loan interest rates. Moreover, banks could be prompted to move into alternative assets or to relax their lending criteria so as to offer loans at more lucrative rates but also carrying a higher default risk.

In these conditions, the risks associated with long-term low interest rates are regularly analysed by the ACPR and notified to the Supervisory College in its various configurations. The stress tests conducted by the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (EIOPA) in 2014 measured banks’ and insurance institutions’ resilience to interest rate risk. While these analyses have to date shown that interest rate risk does not represent an immediate threat to either sector, vigilance must be maintained.

## 2.3 RISK OF A PRICE CORRECTION IN FRENCH REAL ESTATE MARKETS

Strong and long-lasting growth in residential real estate prices in France since 1996-1997, the sharp recovery that followed the 2007-2008 financial crisis and price momentum in certain segments of the commercial real estate market attracted significant attention from both French and European authorities, raising fears of an abrupt adjustment.

The gradual price adjustment in the French residential real estate market continued in 2014. This adjustment is more pronounced in Paris, where it began later, and the sharp recovery in existing property sales observed in early 2014 has stalled.



In spite of the continued fall in borrowing interest rates, which reached unprecedented lows, new lending fell 16% year on year. The share of external debt repurchases, which had buoyed the financing market in 2013, decreased significantly year on year, though a sharp upturn was observed in the last few months of 2014; at the year-end, external debt repurchases had climbed back to almost 20% of new lending. The total stock of lending nevertheless continued to grow, albeit at a steadily slowing pace (up 2.5% over 12 months, compared with 3.7% growth a year earlier) that remained well below the long-term average (8.9%).<sup>27</sup>

Generally speaking, the **home loan market** continues to offer solid fundamentals, mainly as a result of banks placing the emphasis in their decision processes on borrowers' ability to repay. However, some trends are worthy of note.

- ▶ Gross doubtful loans as a proportion of residential home loans continued to rise in 2013, climbing to just under 1.5%, still well below the equivalent rate for customer loans as a whole (3.8%). However, doubtful debt rates vary substantially from segment to segment and are now highest among first-time buyers (2.8%).

- ▶ While banks benefit from borrowers' relatively high level of protection against the risk of death or inability to work, they are exposed to the risk of long-term unemployment among borrowers: only a small proportion of their customers have taken out unemployment insurance.
- ▶ The resurgence in external debt repurchases since the last few months of 2014, reflecting intense competition between banks to attract personal deposits, could revive concerns that borrowers' credit risk has been underestimated.

In a relatively unpromising macroeconomic environment, prices in the French **commercial real estate market** as a whole continued the slight decline that began in 2013. Investment activity was particularly buoyant in 2014, with transaction volumes returning to pre-crisis levels, boosted by a few large transactions and returns which, while declining, remained competitive. Against this backdrop, the risks to French banks appear to be contained.



27. Source : Banque de France.

### 2. Key risks to the financial system in 2014

#### 2.4 Risk linked to failure to properly adapt to regulatory changes and uncertainties over bank refinancing

## 2.4 RISK LINKED TO FAILURE TO PROPERLY ADAPT TO REGULATORY CHANGES AND UNCERTAINTIES OVER BANK REFINANCING

The year 2014 was a particularly busy one for regulatory changes in the European Union.

- ▶ The first provisions of the European regulation known as the CRR (Capital Requirements Regulation) applicable to credit institutions and investment firms entered into force on 1 January 2014. Not all the components of the CRR have yet become applicable. Banks must prepare for the phase-out of certain existing provisions and the phase-in of tighter constraints on solvency and the implementation of new regulations concerning, for example, liquidity and the leverage ratio.

- ▶ Institutions also faced substantial regulatory changes linked to the following:
  - the implementation of EMIR<sup>28</sup> in respect of reporting and clearing for derivatives transactions,
  - the implementation of the SEPA standard (Single Euro Payments Area) concerning payment instruments.

These substantial reforms were not the only changes in the regulatory framework. The Banking Recovery and Resolution Directive (BRRD), the implementation terms of which are still under discussion, was published on 13 June 2014. Furthermore, other provisions are still being considered: requirements on holdings of capital or debt securities likely to be converted in the event of liquidation (total loss-absorbing capacity, TLAC), European banking reform (separation of activities), the financial transaction tax and regulations on unregulated entities or shadow banking (regulations on money market funds and securities financing transactions) that could indirectly affect the banking sector.

# 2

## questions to Olivier de Bandt

Research Director, on the ACPR's activities within the *Haut Conseil de stabilité financière* (HCSF, Financial Stability Oversight Board)

### COULD YOU SUMMARISE THE RESPONSIBILITIES OF THE HCSF?

The HCSF was established by the Law of 26 July 2013 on the Separation and Regulation of Banking Activities to replace the *Conseil de régulation financière et du risque systémique* ("Corefris", Financial Regulation and Systemic Risk Board).

The HCSF's responsibilities are laid down in Article L. 631-2-1 of the Monetary and Financial Code, which tasks it with ensuring financial stability in France and the ability to make a sustainable contribution to economic growth.

Chaired by the Finance Minister, the HCSF brings together the Governor of the *Banque de France*, Chairman of the ACPR, assisted by the Vice-Chairman of the ACPR, the Chairman of the AMF (*Autorité des marchés financiers*, Financial Markets Authority) and the Chairman of the ANC (*Autorité des normes comptables*, Accounting Standards Authority), as well as three members appointed for their expertise in the monetary, financial or economic field.

### WHAT ROLE DOES THE ACPR PLAY?

The presence of representatives of the ACPR on the HCSF ensures that macro-prudential measures (whether imposed by the ACPR or the HCSF) can be coordinated. In particular, the macro-prudential measures that fall within the ACPR's remit are as follows:



- ▶ capital buffers for systemically important financial institutions,
- ▶ stricter weightings for exposure secured on residential or commercial property,
- ▶ the raising of minimum values for loss given default (LGD) for exposure secured on residential or commercial property,
- ▶ and additional capital requirements under Pillar 2, "cross-cutting issues".

**In 2014, the ACPR thus played an active role in stimulating debate within the HCSF through data analysis and information collected in the course of its supervisory duties.**



A significant proportion of regulations recently adopted or still under discussion would have an effect on the structure of bank liabilities.

- ▶ The liquidity ratios required under the CRR, as well as new requirements linked to EMIR, encourage banks to increase their holdings of high-quality assets eligible as a liquidity cushion or collateral.
- ▶ The entry into force of these liquidity ratios could increase competition between banks to attempt to capture a higher proportion of personal savings on their balance sheets (LCR) and force some institutions to change the maturity of their liabilities (NSFR, Net Stable Funding Ratio).

- ▶ The entry into force of the BRRD and rules on total loss-absorbing capacity (TLAC: 2019 at the earliest) will lead banks to issue new securities eligible for bail-in. Such issues could potentially lead to an increase in the overall cost of bank funding, if the lower cost of issuing preferred instruments fails to offset the increased cost of issuing subordinated securities.

In 2014, however, French banks enjoyed a favourable environment that enabled them to complete their medium-to-long term refinancing programmes smoothly and continue to adapt to new regulatory liquidity requirements.

## SCIENTIFIC AND ACADEMIC WORK BY THE ACPR IN 2014

### The work of the ACPR's Scientific Consultative Committee

In 2014, the ACPR's Scientific Consultative Committee was chaired by Hélène Rey, professor at London Business School. Since the beginning of 2015, it has been chaired by Thomas Philippon, professor at New York University and the Paris School of Economics.

The Scientific Consultative Committee met three times in 2014 to consider the following principal research themes.

- ▶ Discussions on systemic risk in insurance, including an analysis of the results of the ACPR's long-term stress test in life insurance. Systemicity in insurance was also the subject of a seminar organised by the ACPR, Bafin (the German supervisory authority), the Toulouse School of Economics and Axa involving several members of the Scientific Consultative Committee as well as supervisors from a number of relevant countries and representatives from the academic world and French and foreign insurance institutions.
- ▶ An analysis of the long-term low interest rate environment based on the example of Japan. Based on this piece of research, the ACPR's College emphasised the importance of continuing to monitor indicators pertaining to institutions' investment strategies, even after Solvency II has been implemented.

- ▶ A review of surveys and research work undertaken by the ACPR: new contributions were made on the relationship between banking regulation and the financing of credit, and work on the link between banking regulation and banks' performance (cost of funds/return on equity) was broadened.
- ▶ The identification of sources of vulnerability in the financial system and thinking on macro-prudential policies within the more general framework of the work of the Haut Conseil de Stabilité Financière (HCSF, Financial Stability Oversight Board).

### Continuation of research activities under the banner of *La Chaire ACPR*

*La Chaire ACPR* organised nine research seminars in 2014 (see appendix). These seminars, open to outside attendees, provided opportunities for discussion on issues of regulation and systemic risk facing banks and insurance institutions. In particular, work on the relevance of systemic risk indicators and contra-cyclical capital requirements was presented and discussed.

These seminars help create a space for discussion and ideas in the Paris financial community, facilitating interaction between the academic world and the ACPR.



**136** on-site inspections either completed or in progress under the 2014 inspection programme

- > 43 in the banking sector
- > 93 in the insurance sector

**1,103** reporting institutions had their risk profiles assessed in 2014

- > 460 in the banking sector
- > 643 in the insurance sector

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

- > 12 in the banking sector
- > 17 in the insurance sector

**103** action letters were sent out on the basis of reports in 2014

- > 33 to banks
- > 70 to insurance institutions

### 3.1 BANKING SECTOR

In its **supervision of banks**, the ACPR combines ongoing and on-site supervision with the aim of carrying out a detailed, in-depth analysis of the activities of supervised institutions.

Key developments in 2014 included preparations for the entry into force of the European Single Supervisory Mechanism (SSM) and the implementation of an ACPR banking supervision structure to reflect these changes.

- ▶ The adoption of the SSM Framework Regulation on 25 April 2014 was an essential step in putting in place stricter supervision of European banks, and triggered far-reaching changes in the supervisory framework and statutory objectives devolved to the ACPR.

- ▶ With effect from 4 November 2014, the European Central Bank (ECB) directly supervises 128 banks recognised as significant institutions (SIs), representing a predominant proportion of the European banking system. It also indirectly supervises less significant institutions (LSIs), primary responsibility for which lies with competent national authorities.

The implementation of this new European supervisory framework was preceded by a comprehensive assessment of the balance sheets of significant banks required under the European regulation of 15 October 2013, resulting in 128 banks being supervised directly by the ECB. This assessment combined a detailed analysis of asset quality (Asset Quality Review, AQR) with a stress test.

Under the SSM, the ACPR continues to play a very active role in monitoring major systemic institutions: staff tasked with supervising such groups now form part of Joint Supervisory Teams (JSTs) whose work is centrally coordinated by the ECB.

Furthermore, the ACPR still has a number of statutory objectives that fall within its sole jurisdiction and relate to all reporting institutions, such as implementation of the law on banking separation, customer protection and anti-money laundering and counter-terrorist financing.





## MAPPING THE SINGLE SUPERVISORY MECHANISM

As part of the implementation of the Single Supervisory Mechanism (SSM), the European Central Bank (ECB) called on all national supervisory authorities to obtain information to be used to draw up a detailed map of the European banking sector, so as to define the future scope of central supervision. The ACPR contributed to this data-gathering exercise and ensured that the ECB was provided with reliable and accurate data.

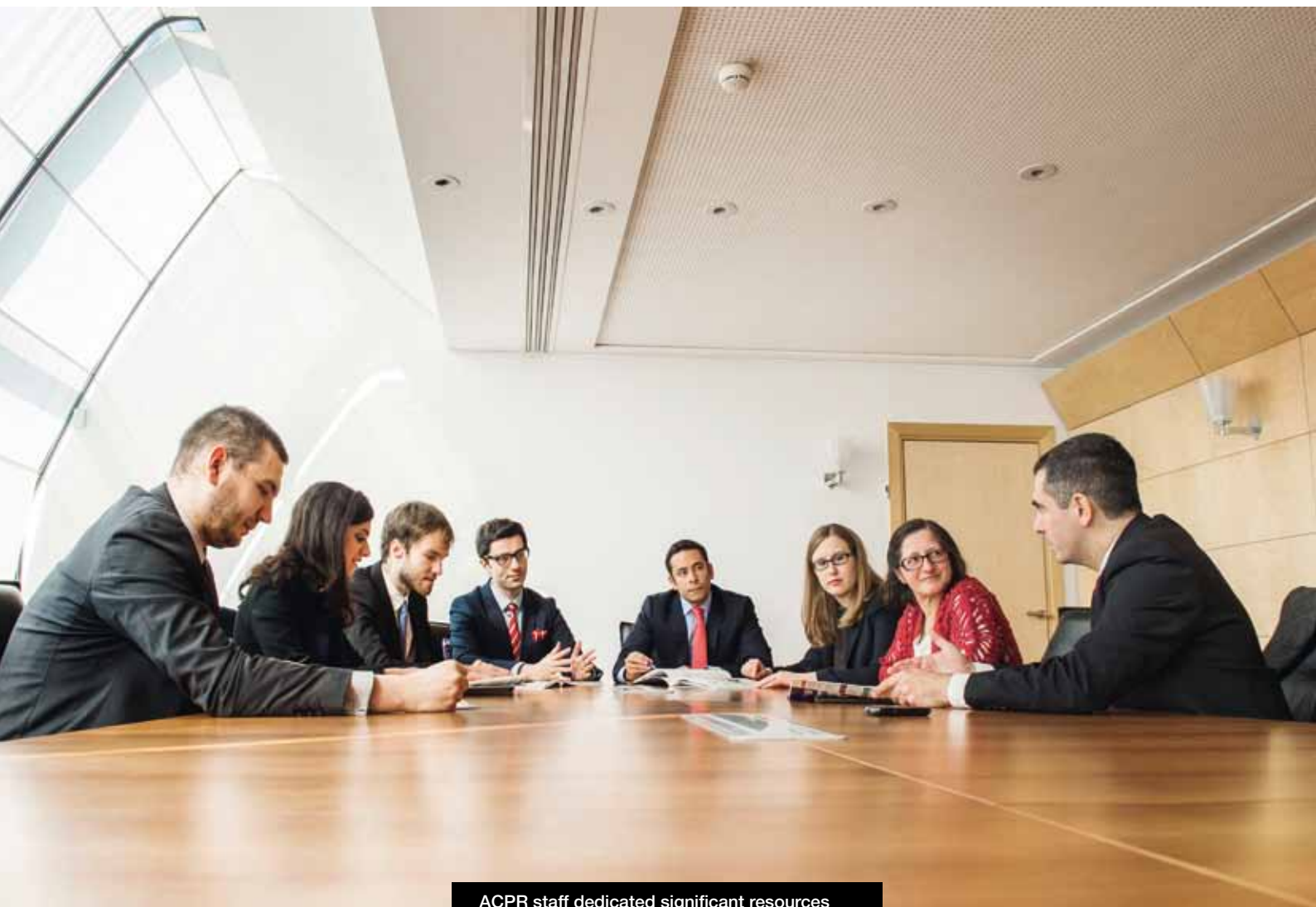
Entities falling within the scope of the SSM include credit institutions, financial holding companies consolidating credit institutions, and branches of credit institutions established in SSM countries and having their registered office established in another European Union country. Once this scope had been defined, a shared methodology was used to identify “significant institutions” (SIs), which are now supervised directly by the ECB, and “less

significant institutions” (LSIs), which continue to be supervised by national authorities.

Across the 19 countries belonging to the SSM at 1 January 2015, 123 banking groups were considered significant, 10 of them established in France (BNP Paribas, BPCE, BPI France, Crédit Mutuel group, Caisse de refinancement de l’habitat, Crédit Agricole group, HSBC France, La Banque Postale, Société de financement local and Société Générale).

The map below shows, for each country, the number of significant banking groups, the share of total assets now under SSM supervision represented by each of those groups, the weighting of those significant institutions within national banking systems and, finally, the number of less significant institutions remaining under national supervision (156 for France at 31 December 2014).





ACPR staff dedicated significant resources to work related to the AQR.

### A. ASSET QUALITY REVIEW (AQR)

The Asset Quality Review formed the first phase of the comprehensive assessment. It was led by the ECB with the direct support of the competent national authorities of countries participating in the SSM.

As such, ACPR staff were heavily involved throughout the review process. To ensure that the work was successfully completed, the ACPR put in place internal governance bodies (a steering committee, operational project management and a quality assurance structure) that mirrored those set up by the ECB.

This exercise was a major objective for the ACPR in 2014: the Authority dedicated considerable resources to the review, which placed exceptional demands on its staff (involving all on-site supervision staff and, for the quality assurance aspect, a significant proportion of ongoing supervision staff), supplemented by external consultants in view of the very tight timescales laid down for completion. Aware of what was at stake, French banks were also heavily involved in

the project and fully committed to the exercise, which represented a series of technical and management challenges for them as well. They incurred total costs amounting to several hundred million euro.

The Asset Quality Review looked at assets on bank balance sheets at 31 December 2013. It covered exposure to credit risk and market risk, including an assessment of hard-to-value assets (referred to in accounting standards as “Level 3 assets”). All risk exposure, both domestic and foreign, and all asset classes, including off balance sheet assets and non-performing loans, restructured loans and sovereign debt exposure, were taken into account. The review used harmonised definitions, particularly for non-performing exposure and loans in arrears.

The exercise ran from January to August, with investigations led by on-site supervision teams supported by audit firms aimed at reviewing the quality of the assets of 13 French banking groups and two groups supervised by foreign authorities. The analyses conducted used a rigorous, unified methodology drawn up by the ECB:



Following a portfolio selection phase based on criteria laid down by the ECB, on-site teams proceeded with the review, which consisted of a number of phases:

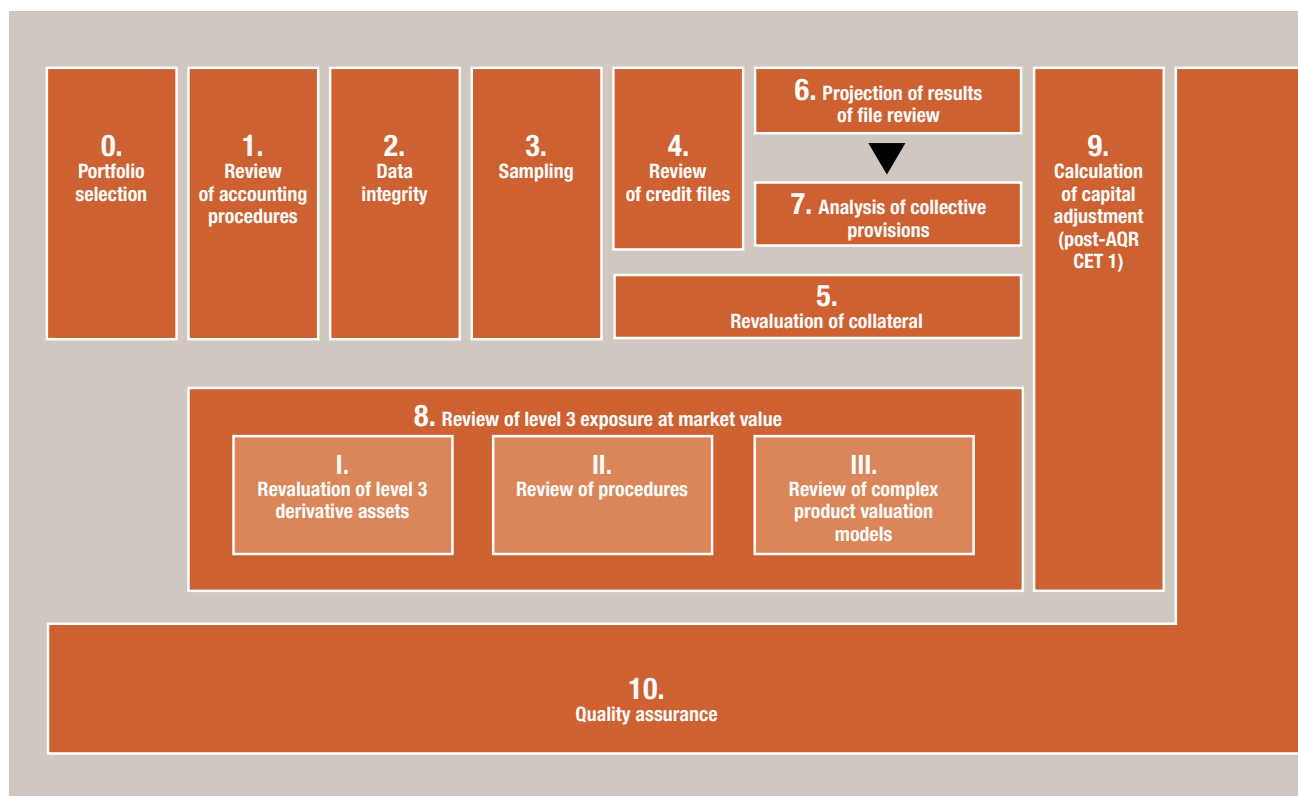
- ▶ a review of banks' accounting procedures (Phase 1),
- ▶ verification of the quality of the data gathered (Phase 2),
- ▶ creation of samples of credit files (Phase 3),
- ▶ each selected file was reviewed in detail, potentially resulting in an adjustment of individual provisioning requirements (Phase 4) after assessing the value of security (Phase 5),
- ▶ provisioning gaps were extrapolated across all exposure for the selected portfolios (Phase 6) and one-year expected losses on credit files not individually provisioned were assessed using a challenger model designed by the ECB and compared with collective provisions set aside by banks (Phase 7),
- ▶ exposures across a selection of portfolios of level 3 financial instruments (as defined in IAS 39) at market value were re-measured and the parameters of certain valuation models used for complex products were verified (Phase 8).

Following this asset review, an adjustment to the Common Equity Tier 1 (CET 1) ratio was determined, mainly based on the consistent prudential approach defined by the ECB covering the provisioning of non-performing assets, the calculation of collective provisions and the determination of adjustments to reflect credit risk on derivatives transactions (Phase 9).

The entire process was subjected to quality controls (Phase 10) carried out by both ECB staff and quality assurance teams put in place by the ACPR.

The outcome of the Asset Quality Review for French banks confirmed the quality of their assets, resulting in an impact of only 18 basis points on the CET 1 ratio at 31 December 2013, one of the lowest impacts in the euro area.

## PHASES IN THE ASSET QUALITY REVIEW



## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. Prudential supervision

#### 3.1 Banking sector

## THE COMPREHENSIVE ASSESSMENT IN FIGURES

- ▶ The assessment covered 13 French banking groups (10 of which were ultimately considered significant) and two subsidiaries of groups supervised by foreign authorities.
- ▶ Total assets of EUR 6,713 billion, representing 96.4% of the assets of the French banking system and 30% of the assets of euro area banks falling within the scope of the exercise
- ▶ 120 most significant credit portfolios subjected to an in-depth audit covering more than 50% of credit risks
- ▶ 15,500 individual files analysed
- ▶ 5,000 items of collateral, offered to banks as security, revalued
- ▶ 41 complex product valuation models analysed
- ▶ 51,500 man-days dedicated to the exercise by the ACPR, with the support of outside firms
- ▶ Up to 800 people working for the ACPR during certain periods\*
- ▶ In-depth quality controls representing 20% of total time spent on the exercise

*\* Not including in-house resources assigned to the exercise by banks.*

## B. ORGANISATION AND RESULTS OF THE STRESS TEST FOLLOWING THE AQR

The comprehensive assessment included a forward-looking stress test. Unlike the Asset Quality Review (AQR), this test was carried out jointly with the European Banking Authority (EBA). In the European Union, the EBA exercise covered 123 banking groups, including 11 French groups.<sup>29</sup> Two French groups that were outside the scope of the EBA stress test but included in the ECB AQR nevertheless completed the exercise under virtually the same conditions as other banks.

The stress test used a methodology developed jointly by the EBA and national supervisory authorities, based on a scenario drawn up by the European Commission and the ECB. The full methodological framework has been published by the EBA. The exercise followed a bottom-up approach in which participating banks put together projections based on their internal models (under the supervision of their national supervisory authorities); failing that, default measures provided by supervisors were applied. Banks were required to calculate their projected solvency ratios over a three-year period based on data as at 31 December 2013 under two different scenarios: a baseline scenario and an adverse scenario. Following the test, banks with CET 1 ratios falling below thresholds of 8% under the baseline scenario and 5.5% under the adverse scenario were required to present recapitalisation or risk reduction plans to the ECB.







At the methodological level, the exercise incorporated a number of fundamental assumptions, including the following: (i) a static balance sheet assumption applied to all banks<sup>30</sup> and combined with the application of a number of floors, depriving banks of their usual response functions but guaranteeing an approach that was both more prudent and more consistent across banks, (ii) application of the CRR/CRD IV regulatory framework at the reference date of end December 2013, and (iii) application over the three-year period covered by the exercise in line with national calendars for phasing in the European regulatory framework, with the exception of prudential filters for available-for-sale sovereign exposure that had been harmonised (phase-out of filters).

Compliance with the methodology developed by the EBA and its harmonised application by banks were audited in detail by supervisors as part of a three-tier quality assurance process: the results for French groups were audited first by the ACPR and then by the ECB and, to a lesser extent, the EBA.

Following this rigorous quality assurance process, key results from the AQR were combined with the results of the stress test using a

common methodology developed by the ECB (known as the “join-up procedure”). Any identified shortfalls in impairment losses resulted in a change to the stress test reference point as well as adjustments to the projections made by participating banks, with the aim of correcting any potential under-estimation of measures identified during the AQR process.

Under the adverse scenario, French banks passed the test and compared very favourably with their European peers. The average impact was 230 basis points at end 2016. Taking into account the impact of both the comprehensive assessment and the adverse stress scenario, French banks presented an aggregate end-2016 CET 1 ratio of 9%, well above the 5.5% below which recapitalisation plans were required.

These strong results show that the universal banking model, business diversification and rigorous risk management that characterise French banks translate into robust balance sheets that can resist severe shocks.

## ■ RESULTS OF THE BANK STRESS TEST<sup>31</sup>

The French banking sector is characterised by a high level of capitalisation at both the start and end dates of the stress test. At end 2013, and after taking into account the AQR, the aggregate CET 1 ratio of the 11 French banks included in the ECB exercise stood at 11.3%. Under the stressed scenario, the same ratio at end 2016 came out at 9.0%, representing a decline in solvency of around 230 basis points.<sup>32</sup> The 2016 CET 1 ratio under the adverse scenario was 281 basis points below the 2016 CET 1 ratio under the baseline scenario. Ultimately, the solvency of the French banking sector in 2016, measured solely on the basis of the CET 1 ratio, came out above the European average (9% vs. 8.4%). After adjusting to exclude the impact of the phasing in of CRR/CRD IV, the gap between the 2016 CET 1 ratios of French and European banks widened (8.6% vs. 7.6% under the adverse scenario).

Over the period covered by the adverse scenario, French banks’ aggregate annual earnings would decline by around EUR 39 billion relative to 2013. Their earnings would fall from EUR 29 billion in 2013 to an average loss of EUR 9.5 billion a year over

the period 2014-2016: a difference of around EUR 39 billion a year for three years. The main factors driving this decline are loan losses (averaging -EUR 27.2 billion a year), a decline in net interest income arising from the stress test (EUR 11 billion) and losses on the trading book (-EUR 7.6 billion).

Under the adverse scenario, 2016 risk-weighted assets (RWAs) would be 11.1% higher than their end-2013 level. This increase in aggregate RWAs is mainly driven by the increase in credit risk (accounting for 52% of the total increase), risk linked to securitisation products (30% of the total increase) and market risk (18% of the total increase).

While the credit component has the biggest impact for French banks, the latter were less affected overall by this component of stress than other European banks, mainly thanks to the composition of their portfolios. Indeed, a portfolio-level analysis of the severity of stress experienced by French banks reveals impacts around the European average for residential real estate and at the lower end of the range for corporate lending.

30. With the exception of banks in receipt of State aid approved by the European Commission, which were authorised to apply balance sheet change assumptions consistent with the approved plans.  
31. The results are detailed in *Analyses et Synthèses*, Issue 40, January 2015, “Stress tests EBA-BCE 2014 – comparaisons internationales” (“2014 EBA/ECB stress test: international comparisons”).

32. These ratios take into account the effects of both the AQR (18 bps) and the join-up (10 bps).

## C. BANKING SUPERVISION UNDER THE SINGLE SUPERVISORY MECHANISM

### • Direct supervision

The Single Supervisory Mechanism (SSM), which came into effect on 4 November 2014, places 4,900 euro area entities under the supervision of the European Central Bank (ECB), assisted by national supervisory authorities. The regulation establishing the SSM introduced the notion of “significant” banks, which are identified using criteria based on banks’ size, importance for the economy of the European Union or a participating Member State and scale of cross-border activities.

The ECB directly supervises significant banks established in countries participating in the SSM. In the context of Joint Supervisory Teams (JSTs), under the aegis of the divisions and sections of Directorates General I and II of the ECB, direct ECB supervision covers all credit institutions belonging to a given banking group.

**Caroline Lemaire,**  
banking supervisor.



The Single Supervisory Mechanism is governed by a Framework Regulation which lays down, in particular, the terms of cooperation between the ECB and competent national authorities, the process for drawing up draft decisions, the language regime and procedures for identifying significant banks. In addition, operating methods for various supervisory tasks under the SSM and the risk assessment methodology are detailed in an internal manual whose principles are reiterated in a publicly available guide to supervisory practices. Finally, a reporting manual describes the various components of the SSM’s reporting system.

The need to coordinate prudential activity between direct supervision of significant banks on the one hand and indirect supervision of less significant banks and duties beyond the scope of the SSM on the other prompted a rethink of the organisation of ongoing bank supervision, and in particular of the structure of the banking supervision directorates within the General Secretariat of the ACPR.

**The implementation of JSTs created a large amount of work to present institutions to staff within the directorates general of the ECB, put together information files and operationally prepare departments for the new European environment (organising JST launch meetings, delivering initial training in ECB methodology and tools, etc.). It also gave rise to a large number of meetings between the teams and representatives from institutions being placed under direct ECB supervision.**



## JOINT SUPERVISORY TEAMS (JSTs)

The organisation of day-to-day supervision of institutions directly supervised by the ECB is based on Joint Supervisory Teams (JSTs), which constitute the units directly responsible for supervising significant groups.

The approach adopted is that of one JST per group. The number of experts assigned to each JST varies, mainly in line with the group's significance at the European level, defined on the basis of three criteria, assessed at the highest possible level of consolidation for each institution: the size of its balance sheet, its importance for the financing of the economy (at the European level or within a Member State) and the intensity and volume of its cross-border activities. The supervisory model adopted under the SSM is founded on an approach proportionate to each institution's risk.

JSTs thus consist of experts from both the ECB and competent national authorities working in close cooperation: the work and organisation of each JST is overseen by a central coordinator at the ECB (the "JST Coordinator"). In principle, JST Coordinators are of a nationality other than that of the country in which the bank in question is based. The role of each JST is to supervise institutions on a day-to-day basis and implement decisions made by the ECB's Supervisory Board and Governing Council.

For larger, complex organisations with high levels of cross-border activity, JSTs can include a large number of banking supervisors. To improve the operational efficiency of such JSTs, they may include a smaller "Core JST", consisting solely of the JST Coordinator and local coordinators, mainly tasked with:

- ▶ assigning duties within the JST in line with the required areas of expertise,
- ▶ preparing, revising and monitoring the document-based and on-site supervision programme,
- ▶ and coordinating the assessment of consolidated risk for the banking group under supervision.

In this context, the role of driving and managing activity played by the central coordinator and local coordinators is a key component and critical success factor of the system.

As an example, the JST for a major French group with international operations consists of around 40 people, including 10 from the ECB, 20 from the ACPR and 10 in the various euro area countries in which subsidiaries are established.

The separation adopted by the SSM between on-site and off-site supervision did not require any changes to the ACPR's organisational structure. However, the creation of Joint Supervisory Teams, overseen by an ECB coordinator but also including domestic staff managed by a local sub-coordinator, did require changes to the ACPR's structure.

In this context, and given the large number of supervised institutions, the ACPR decided to maintain two directorates overseeing ongoing bank supervision, with balanced portfolios and institutions grouped together within departments based on the group to which they belong. This is the approach that has now been adopted for significant banks, each of which is supervised by a dedicated JST.

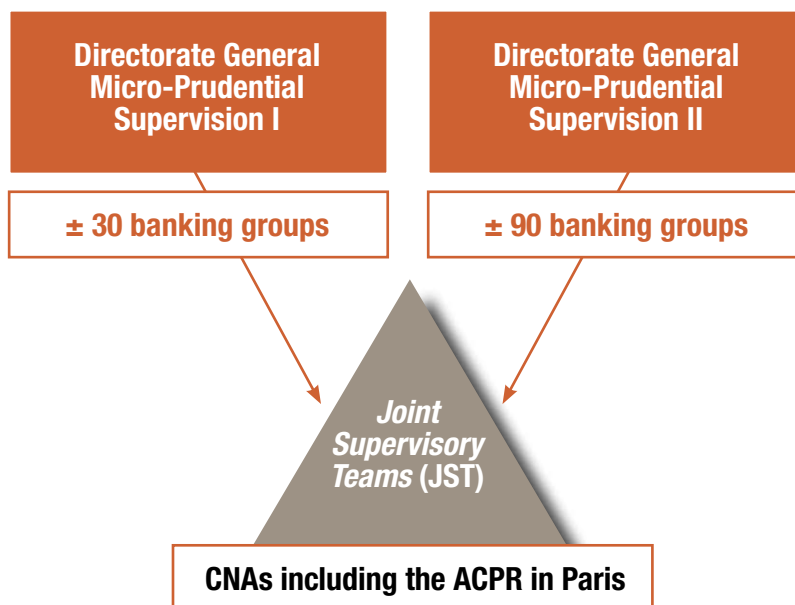
In fact, the principle adopted by the ACPR of bringing together subsidiaries within the same department goes beyond the scope of the SSM and the ECB's approach to setting up JSTs: the ACPR's departments supervise all the subsidiaries of a given group, irrespective of their status (credit institution, financing company, investment firm, etc.). This reorganisation significantly changed the distribution of banks between departments: in 2014, almost half of all subsidiaries of major groups were not supervised by the same departments that supervised their group parents, but rather by specialised departments based on their principal activity (finance for personal customers and local authorities, specialised business finance, etc.).

From 2015, the ACPR's banking supervision departments are organised based on the specialisation and consistency of supervisory activities, with units dedicated to major groups, foreign banks, public banks and specialised institutions (mainly investment firms, as well as other entities with a specific status such as payment institutions, financing companies and specialised credit institutions).

This approach simplifies each supervisory directorate's relationship with the ECB's various directorates general, as well as with the various configurations of the ACPR's Supervisory College addressing banking issues. It means a given unit can develop in-depth knowledge of each group and its entities, and maintain and develop expertise relating to business models. This organisational structure also makes it possible to develop operating methods that foster expertise and cross-disciplinary working, particularly by creating expert networks on a number of themes such as liquidity, capital, risk and governance.

In this exceptional environment, most of the work of the ACPR's banking supervision departments in 2014 focused on preparing for the comprehensive assessment of bank balance sheets and the creation of JSTs.

### ECB IN FRANKFURT



Joint Supervisory Teams (JSTs) are the essential tool for implementing day-to-day supervision of systemic groups under the SSM.

#### • Indirect supervision

National authorities are responsible for directly supervising less significant institutions, which are only indirectly supervised by the ECB. The ECB may also place less significant institutions under its direct supervision if it deems necessary, particularly in light of exceptional circumstances or to ensure that high-quality supervision standards are consistently applied.

Some less significant institutions have also been identified as “high-priority” based on their size, the risks they carry and their interconnection with the economic system.

A common, tailored supervision methodology for less significant institutions is currently being developed. This methodology must be consistent with the risk assessment methodology used for significant institutions, which is in turn aligned with EBA guidelines, and its application must be based on an appropriate principle of proportionality relative to the size and complexity of each institution.

Given the wide variety of institutions requiring supervision, the ECB is working on a classification based on institutions’ degree of risk and business model. This classification should make it possible to apply the appropriate level of supervision to each institution.

More than 3,500 institutions fall within the scope of the SSM, almost half of them in Germany. At end December 2014, France had 156 entities, including 45 subsidiaries or branches of foreign banks and 56 independent and private asset management institutions.

#### **D. BANKING SUPERVISION OUTSIDE THE SINGLE SUPERVISORY MECHANISM**

As well as matters relating to the SSM, banking supervision activities focused on essential work to prepare for regulatory and institutional changes (notably those relating to the provisions of the new French banking law aimed at ringfencing market and intermediation activities within banking groups and defining market-making indicators) and on handling individual matters, such as requests concerning the application of the CRR (creation of liquidity subgroups, calculation of the leverage ratio, etc.), internal model authorisation applications and the adoption of Pillar 2 measures.

Cooperation with foreign supervisors also continued to represent significant workload, not only in the usual context of colleges of supervisors with the aim of reaching joint European decisions on additional capital requirements but also in the context of crisis management groups for systemic banking groups.





Following the comprehensive assessment of bank balance sheets, which tied up all of the ACPR's on-site supervision staff, from September 2014 onwards work began on the programme set by the Secretary General of the ACPR, in line with the supervisory priorities laid down by the ACPR College.

This programme included activities relating both to institutions placed under direct ECB supervision and to institutions remaining under ACPR supervision. The main themes related to market activities (high frequency trading, basket trading, market risk in light of the CRD, and the banking separation law), reviews of risk management, internal control and periodic control arrangements, management of overall interest rate risk and reviews of credit risk models.

A number of audits of corrective actions requested by the ACPR following previous investigations were also completed.

### • **Monitoring implementation of the French Banking Separation Act of 26 July 2013**

Pursuant to Title I of Law no. 2013-672 of 26 July 2013 on the Separation and Regulation of Banking Activities, credit institutions<sup>33</sup> are now required to separate market activities that serve to finance the economy from proprietary activities, which must be ringfenced within a specific subsidiary. Two implementing texts in relation to this title were published in 2014:

- ▶ the Decree of 8 July 2014 defining the scope of entities subject to the Act,
- ▶ and the Order of 9 September 2014 setting out requirements on trading activities exempt from separation in terms of rules covering their organisation, trading mandates and stricter internal control systems. The Order also defines transactions with leveraged funds that must be ringfenced, and limits the exposure of the ringfenced subsidiary relative to the consolidated group.



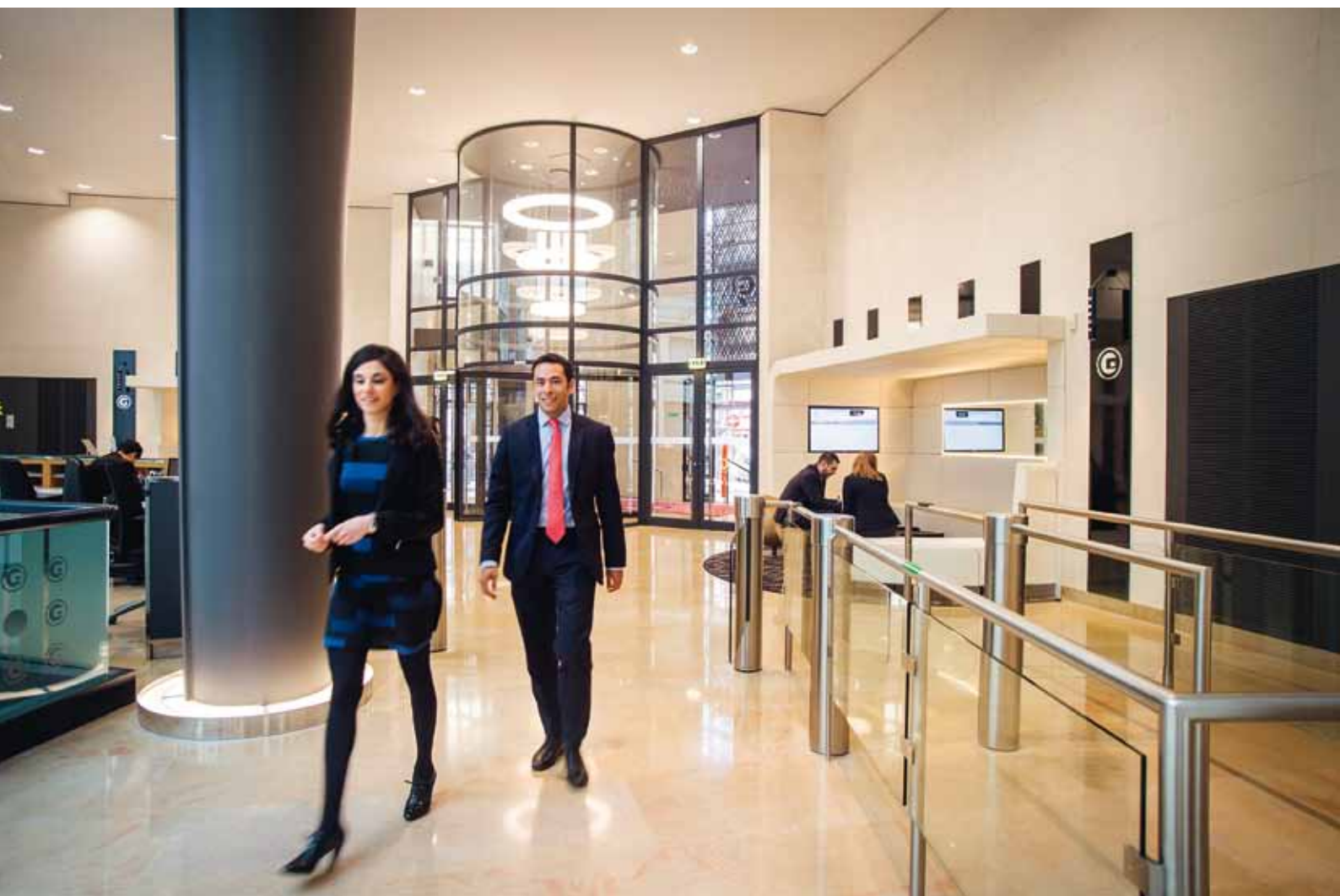
National authorities are charged with the direct supervision of less significant institutions.

33. More specifically, the entities covered are credit institutions and mixed financial holding companies.

## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. Prudential supervision

#### 3.1 Banking sector



Based on financial data as at 31 December 2013, the ACPR identified a dozen or so entities subject to the Act. These entities were required to provide evidence of their status vis-à-vis the Act by 1 July 2014. In June 2014, before the implementing decree had been published, the ACPR wrote to these institutions to remind them of their obligations in respect of compliance with Articles L. 511-47 and 49 of the Monetary and Financial Code. These institutions were required to submit the following to the ACPR, and to the AMF where applicable: a mapping of internal units engaged in proprietary trading of financial instruments together with a description of those units and their organisational and operating rules, a list of activities not exempt from separation and confirmation of whether or not they intended to create a ringfenced subsidiary. Two French institutions opted to create specialised subsidiaries.

In the second half of 2014, the ACPR analysed the documents submitted, entered into dialogue with the institutions concerned and set up files on the creation of ringfenced subsidiaries.

Areas of focus were as follows:

- ▶ the scope of analysis of market activities,
- ▶ the mapping of market activities, and more specifically the granularity and consistency of groupings of desks within internal units as well as exemptions considered,
- ▶ organisational and operating rules governing those internal units as well as the roles of desks and the definition of risk limits applicable to them,
- ▶ the identification of activities not exempt from separation and decisions pertaining to them: suspend or transfer to a ringfenced subsidiary, to be created and licensed,
- ▶ and constraints to which ringfenced subsidiaries will be subject in the areas of governance, programme of operations, operational organisation, internal control system, prudential treatment and arrangements for coping with stress situations.

From the second half of 2014, the ACPR also began to conduct on-site inspections covering the implementation of the French Banking Separation Act within supervised institutions. These types of inspections, which are continuing in 2015, allow the ACPR to make



a detailed comparison of the organisational structures of activities put in place by entities and the granularity of their internal control systems.

### • Supervision of entities outside the scope of the SSM

In 2014, supervision of institutions falling outside the scope of the SSM related to the nature of and changes in the risks incurred by those institutions, their risk management and internal control arrangements, and the quality of and changes in their financial position.

This work forms part of a risk profile analysis process based on a proprietary methodology known as ORAP 2. This methodology covers the full range of risk factors to which institutions are exposed and assesses their exposure to each risk factor, as well as the quality of risk management and control mechanisms in place. It also includes an analysis of their profitability and strategy. This work is carried out at least once a year, and potentially more often depending on the institution's risk profile.

Ongoing supervisory activities are based on the findings of on-site inspections, analysis of prudential, financial and accounting regulatory submissions, and numerous requests for information and supervision meetings with institutions.

One of the key developments of 2014 in relation to **investment firms and market infrastructures** was the issuance to the French clearing house LCH.Clearnet SA of the licence required under the European Market Infrastructure Regulation of 4 July 2012 (EMIR). This licence, which confirms that the clearing house is EMIR-compliant, is the end product of a process of in-depth work and dialogue with the institution, in close cooperation with the AMF and the *Banque de France*, as well as with other competent national authorities brought together in a college established by EMIR. The year also brought fundamental changes to market undertakings, which received particular attention from the ACPR's supervision departments.

Investment firms active in the intermediation sector also came under close supervision in 2014, operating as they were in a general market environment that remained challenging across all segments (fixed income, equities and commodities). Finally, the ACPR paid specific attention to the consequences of the entry into force of the provisions of CRD IV and the CRR and their implementation by investment firms, focusing in particular on the provisions covering solvency and liquidity.

**Financing companies** were also the subject of extensive work linked to the entry into force, on 1 January 2014, of this new status created by Ordinance 2013-544 of 27 June 2013. The ACPR ensured that former financial companies opting for this status under the accelerated authorisation procedure open until 1 October 2014 adapted to their new situation (see Section 1 of this chapter). The ACPR's work mainly focused on issues relating to the definition and calculation of the various categories of capital, the use of grandfathering clauses, particularly for guarantee funds no longer included in capital, and compliance with standards on initial capital, as well as access to ECB refinancing, the Target payment system and the European passport allowing for freedom of establishment.

With regard to the ongoing supervision of **entities in France owned by foreign credit institutions**, the ACPR is involved in jointly assessing risks, in particular via colleges of supervisors. In 2014, the ACPR entered into deeper dialogue with a number of supervisors outside the European Union, in particular by adapting the Authority's approach to supervision in the context of supervisory colleges. Furthermore, with regard to areas of risk that were a focus of particular attention in 2014, the ACPR continued its work on issues of compliance and the prevention of money laundering (see Chapter 4).

For **payment institutions and electronic money institutions**, following the transposition in 2013 of Directive 2009/110/EC on electronic money, 2014 saw institutions already issuing and managing electronic money but under the status of specialised credit institution adopt the status of electronic money institution. Supervisory work focused on ensuring that these institutions had complied with regulations specific to them, particularly as regards the rules on protecting funds received in exchange for electronic money, as well as the inclusion within the scope institutions' internal control and anti-money laundering and counter-terrorist financing arrangements of activities undertaken by distributors.

Work was also undertaken on the new definition of prudential own funds applicable to payment institutions and electronic money institutions following the entry into force of the CRR.



## 3.2. INSURANCE SECTOR

### A. MARKET PREPARATIONS FOR SOLVENCY II

#### • ACPR-led exercises to prepare for Solvency II

Preparations for Solvency II were a major theme in 2014. As well as the survey on market preparedness undertaken for the past four years, the ACPR conducted, as in 2013, an exercise to collect a number of prudential disclosures required under the new regime. Institutions were asked to submit a risk self-assessment report (ORSA).<sup>34</sup> A large number of participants used the new XBRL data transmission format already in use by banks.

# 4

## questions to Sandrine Lemery

First Deputy Secretary General of the ACPR

### WHAT HAS THE ACPR DONE TO HELP THE INSURANCE MARKET PREPARE FOR SOLVENCY II?

In 2014, the ACPR implemented a number of fundamental initiatives designed to help institutions prepare. As well as collecting quantitative information and ORSAs, our departments carried out a systematic analysis of institutions' individual efforts to prepare for all the pillars of the new regulation and dialogued with institutions about their successes and areas for improvement. The European stress test led by EIOPA backed up our cross-disciplinary diagnosis of the resilience of the market as a whole.

### HOW HAS THE INSURANCE COMMUNITY BEEN INVOLVED IN CONCRETE TERMS?

The ACPR has worked particularly hard to share with the market information about the implementation of the regulation and a summary of Authority's work, in particular via two conferences held in June and December 2014, each of which drew more than 300 attendees. In addition, technical meetings involving ACPR staff and industry representatives were held at least monthly throughout the year. Industry federations also took part alongside the ACPR in work to transpose the directive, under the aegis of the directorate general "Treasury".

### WHAT ARE THE MAIN LESSONS YOU HAVE LEARNT FROM THIS?

Institutions have made very significant efforts to prepare, focused in the direction we desire. However, they must not relax their efforts, since we have not yet achieved the target objective (full application of the directive) in a number of areas. In particular, I would cite the regular disclosure of information to the supervisor and the pub-



lic (which we feel has not yet been sufficiently built into routine processes), governance, and rules applicable to groups, as well as, for quantitative rules, best estimates of provisions in life insurance, which all too often continue to be an insufficiently well managed "black box".

### WHAT ARE THE NEXT STEPS?

The year 2015 will unquestionably be a busy time for European institutions as they make their preparations: conditions will approach those of the target regime with the introduction of quarterly reporting and narrative reports. Another key feature of the year will be authorisation applications linked to the measures in the long-term guarantee package. Beyond that, 2016 will be a transitional year, with all the elements not yet in place: the new regime will enter into full effect in 2017. Between now and then, insurance institutions need to fully buy into the new regime and start considering it a genuine benefit rather than merely a cost.

The huge level of market involvement, with 99% of life insurers and 89% of non-life insurers participating (by market share), contributed to the success of the exercise. The results fuelled dialogue with the participants over the methods and assumptions used in

their calculations. They were announced to the market at a public conference on 18 December and published in an issue of *Analyses et Synthèses*.<sup>35</sup>

34. Own Risk and Solvency Assessment.

35. Issue 14, February 2015, "Analyse de l'exercice 2014 de préparation à Solvabilité II" ("Analysis of the 2014 exercise on preparedness for Solvency II").

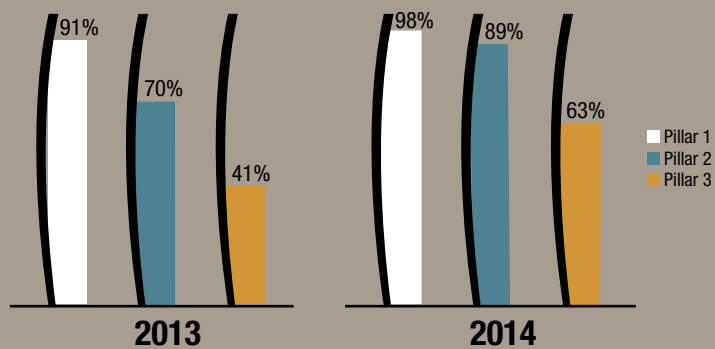




## FINDINGS OF THE SURVEY ON MARKET PREPAREDNESS AND THE ORSA EXERCISE

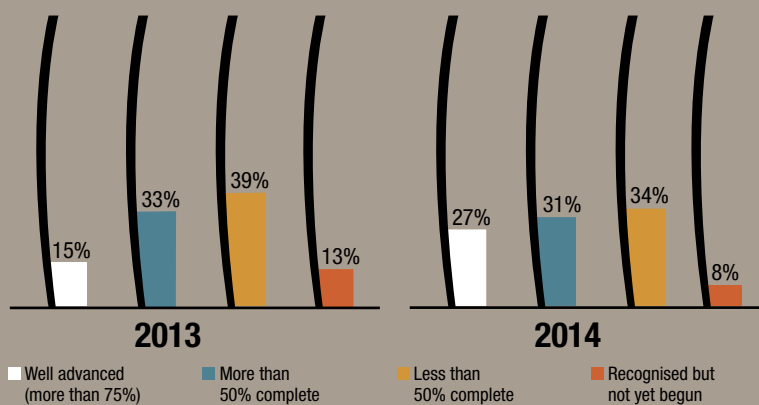
In 2014, the level of preparedness reported by institutions continued to increase across all aspects of the Solvency II directive. Work on disclosures to the public and the supervisory authority (Pillar 3) and, to a lesser extent, work on governance and risk management (Pillar 2) is, on the whole, less advanced than work on quantitative issues (Pillar 1).

PROPORTION OF INSTITUTIONS REPORTING THAT THEY ARE MORE THAN 50% READY



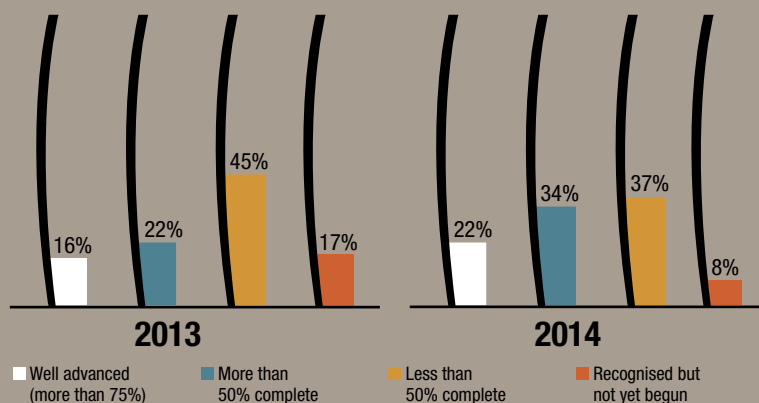
However, in certain areas such as governance, the level of preparedness varies significantly by subject. For example, the identification of individuals responsible for key functions is well underway, having been completed by almost 90% of institutions. Conversely, essential workstreams such as establishing written policies and auditing subcontracted activities are far from complete, with only 27% of participants reporting that they are “well advanced” on the first and 22% on the second.

CREATION OF WRITTEN POLICIES



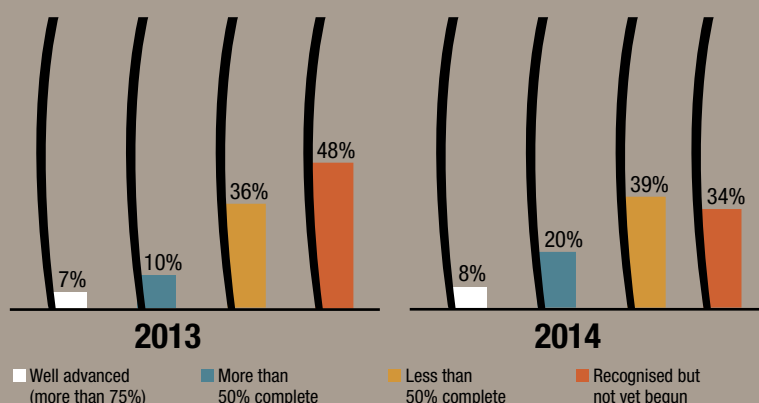
The level of preparedness for Pillar 3, which was the farthest behind, has improved across the board since the 2013 data-gathering exercise. However, little progress has yet been made on some subjects, including in particular preparations for the various narrative reports required under Solvency II. As part of the 2015 preparedness exercise, institutions will have to submit a slimmed-down version of the regular report to the supervisor.

WORK ON AUDITING SUBCONTRACTED ACTIVITIES



A large number of institutions participated in the first market-wide ORSA preparedness exercise, with almost 400 reports submitted, some of them relating to groups. Most of these reports contained the three requested assessments (assessment of the overall solvency requirement, ongoing compliance with regulatory requirements, and appropriateness of the standard formula to the risk profile). The reports that stood out the most were based on a genuinely internalised process that involved the board of directors.

WORK ON THE PRODUCTION OF NARRATIVE REPORTS



### 3. Prudential supervision

#### 3.2. Insurance sector

Preparedness for 2015 was also a significant focus for ACPR staff: the opening date for filing authorisation applications was 1 April 2015. The ACPR therefore gauged the market's intentions so as to anticipate the number of applications and ensure that appropriate arrangements were in place to be able to handle them.

Preparedness exercises in 2015 will also include the first quarterly and consolidated submissions and the across-the-board adoption of the XBRL format. That being the case, the ACPR has almost completed work to adapt its IT system so that it can receive and analyse data in this format. An insurance version of the e-SURFI website providing technical and regulatory information on reporting, called "e-SURFI Assurance", went live in January 2015 to improve institutional communication relating to Solvency II, in coordination with the ACPR's website.

#### • Supervisory activity specific to preparations for Solvency II

Alongside supervision of the weakest institutions, the Authority's top supervisory priority in 2014 was measuring institutions' preparedness for Solvency II. In fact, almost two-thirds of on-site supervisory activities in the year related to institutions' preparedness (across all categories of institutions) for the new prudential regime, whether institutions fell under the standard regime or expressed a wish to apply to use an internal model or specific parameters to calculate solvency. This major push was accompanied by close supervision of other institutions, mainly in the form of meetings, to gain a comprehensive overview of market preparedness.



**Roméo Fensterbank**, supervisor within the Cross-Functional and Specialised Supervision Directorate

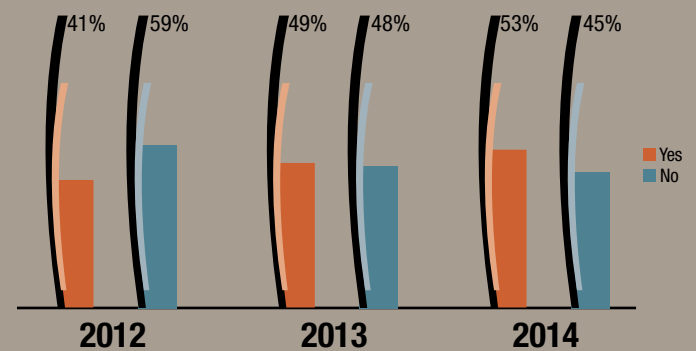
» Data quality is an area where significant progress needs to be made. The excessive complexity of information systems often means that data is less **exhaustive, relevant, accurate and traceable** than it should be. Furthermore, insufficient attention is often focused on the governance of such systems. Policies and reference frameworks are only just beginning to be developed, and internal control systems are struggling to adapt to the new challenges. Responses to the preparedness survey confirm that the market itself believes its level of preparedness is not very high.



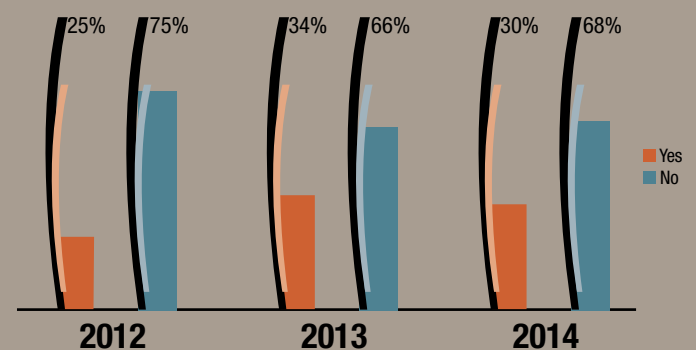
The Authority’s analysis revealed that institutions had, on the whole, voluntarily begun to make preparations. As a result, the overall level of preparedness appears relatively reasonable, especially taking into account how late the European regulations reached their stable form. However, the situation varies from institution to institution and significant areas for attention remain, consistent with the lessons learnt from the preparedness exercise. Not all entities face the same challenges. Major players need to work on structuring relationships between entities and more effectively formalising task allocation; smaller institutions face more issues around how to formalise internal processes and manage outsourced activities. Furthermore, some isolated and unusual institutions are significantly behind in their preparations.

While aspects relating to Pillar 1 appear to be the best managed overall, unlike Pillar 2 and above all Pillar 3, further progress is needed in the management of calculation models developed to produce best estimates of life insurance technical provisions. Assumptions do not always appear to be properly managed or even suitable, gross simplifications are sometimes used and calculation units are not necessarily consistent; and appropriate documentation of all processes is lacking in many cases.

DO YOU HAVE A DATA GOVERNANCE SYSTEM?



DO YOU HAVE A FORMALISED POLICY ON DATA QUALITY (REQUIREMENTS, ACCEPTABLE QUALITY THRESHOLDS, ETC.)?



More generally, the area where the greatest effort is required is Pillar 3, which is where the bulk of upstream process issues lie (calculation aspects, IT systems challenges, and governance arrangements). The production process for regulatory reports is often shaky or non-existent and appears unable to meet the deadlines laid down in European regulations.

## 2. ENSURING THE STABILITY OF THE FINANCIAL SYSTEM

### 3. Prudential supervision

#### 3.2. Insurance sector

The ACPR supplemented its individual diagnostic exercise with the European stress test, which added to the Authority's own analysis.

## ■ THE 2014 INSURANCE STRESS TEST

On 30 April 2014, EIOPA launched a stress test based on 2013 data with the aim of assessing the European insurance sector's resilience to certain unexpected market and insurance shocks. The main exercise was accompanied by a "satellite" exercise aimed at measuring the consequences of a long-term low interest rate environment. The exercise used a bottom-up approach in which the results were calculated by participating institutions.

The methodology developed by EIOPA was designed to determine the impact of stress on own funds using the standard formula under the future Solvency II prudential regime, both with and without the measures included in the long-term guarantees package. However, it did not fully reflect the regulations due to enter into force on 1 January 2016. In France, the exercise was carried out on a sample of insurance and reinsurance institutions representative of the domestic market,<sup>36</sup> including 11 groups for the main exercise and 16 corporate entities for the satellite exercise focused on low interest rates.

The results, published on 30 November 2014, demonstrate the strength of the French market.

All French groups met the baseline solvency capital requirement (as at end December 2013). The requirement was not met by 14% of European groups, representing 3% of total assets.

Under the adverse scenario of a fall in equity markets, French institutions' own funds declined by 41%, in line with the European average. The impact on own funds of the scenario of widening spreads on the non-financial corporate bond market was slightly higher for French groups (-20%) than for the European market as a whole (-15%).

The satellite exercise also provided an opportunity to test the impact of a long-term low interest rate environment. However, it was an exploratory approach applied at the European level whose results must be interpreted with caution given the assumptions used, and in particular the length of the projection period and the asymmetric treatment of certain asset flows relative to liability flows.

### • Internal models

An important aspect of the ACPR's activity in 2014 was processing pre-applications from institutions wishing to use an internal model to calculate their solvency capital requirement. The Authority inspected or met with the ten or so institutions that had expressed a desire to use internal models. Dedicated meetings were also held to explain the application process, which was finalised in 2014. The opening date for the submission of official applications to the ACPR was April 2015, with a cut-off date of 30 June for an effective date of 1 January 2016.

## B. ACPR AREAS OF FOCUS IN INSURANCE SECTOR SUPERVISION

### • International activities and colleges of supervisors

In 2014, the ACPR continued to chair and coordinate 15 colleges of insurance supervisors under the terms of the EIOPA two-year action plan for colleges of European supervisory authorities.

This action plan aims to deepen the work carried out jointly by the various national supervisory authorities responsible for supervising insurance and reinsurance firms belonging to the same group, ahead of the entry into force of Solvency II. In particular, it calls for supervisory authorities to draw up draft coordination agreements and emergency plans, put in place common quantitative and qualitative information tools, organise regular contact (face-to-face and/or telephone meetings), measure preparedness for Solvency II and, where applicable, process applications to use internal models.

36. Representing over 50% of total technical provisions in the French market in 2013 for groups taking part in the main exercise and over 50% of written premiums for corporate entities taking part in the satellite exercise.





In 2014, particular emphasis was placed on joint analysis of insurance groups' risk profiles based on a common methodology and a risk and vulnerability analysis process put in place by each member of the college. Colleges of supervisors also assessed groups' preparedness for Solvency II in a number of areas (project management, prudential balance sheets, solvency, reporting, investment management and group-specific aspects). The ACPR also participates in around 30 colleges of supervisors as a local authority.

Additional supervision for leading insurance groups whose operations transcend the borders of the European Economic Area also requires the organisation of global colleges to provide a complete view of their risk profiles. Relations with third country supervisory authorities were extended and formalised (with new countries invited to colleges), and dialogue was stepped up on issues of common interest (e.g. provisioning, reinsurance, intra-group transactions, and businesses operating under the freedom to provide services or the freedom of establishment) and issues specifically linked to current developments (e.g. acquisitions).

In line with thinking following the financial crisis and in order to facilitate the work of these global colleges, which bring together authorities operating in sometimes very different regulatory environments, the International Association of Insurance Supervisors (IAIS), of which the ACPR is a member, decided to broaden the quantitative component of the draft common framework for the supervision of internationally active insurance groups. In particular, this framework covers the identification of such groups, minimum global requirements to which they should be subject (governance, capitalisation, etc.) and how their joint supervision might be organised, both under normal conditions and at times of crisis.

The effectiveness of colleges of supervisors is substantially dependent on the clear identification of shared priorities and the emergence of a "community of supervisors", as well as on purely operational aspects (tools, methods, practical organisation of work, etc.). In 2014, the ACPR led a key piece of work to identify, formalise and disseminate best practice, resulting in the adoption of standard procedures and documents by colleges chaired by France.

### • Management of outsourced activities

During its inspections, the ACPR continued to pay particular attention to rapid growth in outsourcing. The aim is to warn institutions as far as possible of the risks they incur if they fail to put in place sufficient resources and the in-house expertise needed to properly manage outsourced activities. In particular, arrangements for managing outsourced activities will need to be strengthened in view of the entry into force of Solvency II on 1 January 2016.



### • Financial statements reminder process

In 2014, the ACPR carried out an information campaign on the collection of prudential documents making up the 2013 annual return. In March 2014, all institutions received a letter reiterating their obligations in respect of the submission of documents to the ACPR and the quality of the data to be disclosed.

The reminder process was repeated in 2014 for all institutions in the market, and requirements relating to the submission of 2013 financial statements were further tightened, particularly as regards reporting on groups to prepare the market for the entry into force of Solvency II on 1 January 2016.



The ACPR was able to use a single system to monitor submissions received and manage reminders. Using this system, the Authority sent out 400 automated e-mails to remind institutions to submit their annual returns, starting in May 2014.

#### • **Management of branches by their parents**

As part of its supervisory work, the ACPR looked at how head offices of insurance companies manage their foreign branches. There appears to have been an underlying trend over the past two years of institutions seeking to convert some networks of foreign subsidiaries into branches. While fairly robust management arrangements appear to be in place for most long-established networks of mainly international operations, the same cannot be said of smaller or more recently established entities. With Solvency II formally focusing more attention on the management of activities, challenges that French groups need to quickly address include projection of strategic priorities, implementation of reliable key indicators, internal control of activities and monitoring of specific local risks.

## **C SPECIAL INSTITUTIONS AND ACTIVITIES**

### • **Systemically important insurance groups**

In July 2013, the Financial Stability Board (FSB) published a list of nine insurers considered to be systemic (Global Systemically Important Insurers or G-SIIs), i.e. insurers whose failure would have a major impact on the global financial system. This list, which was confirmed by the FSB in November 2014, includes five European insurers.

A Crisis Management Group (CMG) has been put in place for each of the G-SIIs identified, consisting of the group's supervisor and the main local supervisors. The role of a CMG is to prepare a coordinated strategy to wind down the group in question in an orderly manner (known as a resolution plan) in the event of an extremely severe crisis, with the goal of neutralising the impact on financial stability and taxpayers. Each G-SII must also submit an annual systemic risk management plan, liquidity risk management plan and crisis recovery plan to its CMG for approval.



### • Supervision of medical liability insurance

Act 2007-127 of 30 January 2007 on the organisation of certain health professions and the repression of identity theft and the illegal exercise of such professions requires insurance firms covering, in France, the civil liability risks referred to in Article L. 1142-2 of the Public Health Code (namely medical liability risks) to provide the ACPR with accounting, prudential or statistical data on those risks.

The Act stipulates that the supervisory authority will “analyse this data, transmit it in aggregated form and report on it to the ministers with responsibility for the economy and social security”. The objective of this analysis is to assess the current status of medical liability insurance for the market as a whole, both at aggregate level and within certain “high-risk” specialities. The report on 2013 data is the sixth such report produced by the ACPR.

### • Life insurance and income from policies

Closer supervision of life insurers, whose profitability and solvency are likely to be affected by a decline in financial income in the current interest rate environment, continued in 2014 in the context of both ongoing and on-site supervisory activities. With interest rates falling very significantly relative to the previous year (yields on short-term French Government bonds fell by 15-20 basis points, while those on 10-year bonds fell by almost 120 basis points), vigilance is required.

As part of its statutory objective of supervising the financial system, the ACPR conducts an annual survey on income from life insurance policies and makes its findings available to the market through the review *Analyses et Synthèses*.

In 2014, the ACPR’s supervision teams focused in particular on the quality of investment portfolios, asset-liability matching, the balance between net financial revenue, contractual commitments and policyholder surpluses allocated, and the rigour with which investments are managed, recognised and audited.

In this particularly challenging interest rate environment, the ACPR’s medium-to-long-term projections and stress tests on life insurance institutions proved extremely useful in 2014. This concern is now shared by EIOPA, with which the ACPR is working to put in place tools to monitor the risks associated with this situation.

### • “Euro-growth” policies

Following the April 2013 report by the Berger-Lefebvre parliamentary taskforce on household savings and the financing of the economy, two new types of policies came onto the market in autumn 2014:

- ▶ “Euro-growth” policies: individual or group policies incorporating a euro guarantee at maturity and diversification units. These policies require special attention from a prudential perspective (management of a complex provisioning and guarantee mechanism) and from the perspective of business practice (specific duty to advise),
- ▶ and “Vie génération” policies subject to special tax arrangements and therefore not affected by specific prudential issues.

The ACPR has continued to gather information to monitor growth in these new policies, particularly in relation to transfers of diversified euro products.



The ACPR conducts an annual survey on income from life insurance policies.



With the adoption of the Law of 26 July 2013 on the Separation and Regulation of Banking Activities, France put in place a resolution regime and created an authority with extensive powers to resolve failing banks in an orderly manner.<sup>37</sup> All powers of resolution were granted to the ACPR's Resolution College, which is France's sole authority in respect of bank resolution.

As such, the ACPR has a duty, in accordance with Section II of Article L. 612-1 of the Monetary and Financial Code, to preserve financial stability, ensure the continuity of the activities, departments and operations of institutions whose failure would have serious consequences for the economy, protect depositors, and avoid or limit as far as possible reliance on public financial support.

This change anticipated the adoption of Directive 2014/59/EU on the recovery and resolution of credit institutions and investment firms (the Bank Recovery and Resolution Directive, BRRD) and made France one of the first European countries to have a resolution authority.

Transposition of the directive into French law will be finalised in 2015, completing the legal framework for bank resolution, which will henceforth apply at the European level. After putting in place the Single Supervisory Mechanism (SSM), the European banking union adopted a second component relating to the management and resolution of banking crises, based on the BRRD and the regulation on the Single Resolution Mechanism (SRM).

## 4.1 THE ACPR'S RESOLUTION STRATEGY

Work on the resolution of banking crises was initiated by the Financial Stability Board (FSB) as long ago as 2011, with the publication in October that year of the "Key attributes of effective resolution regimes for financial institutions" ("Key Attributes"), which laid down 12 key principles for putting in place an effective resolution mechanism. In July 2013, the FSB published a document titled "Guidance on developing effective resolution strategies". These principles require that a general resolution strategy first be defined. This strategy is then adapted for each banking group, in particular to take into account its organisational structure.

There are two broad approaches to the orderly resolution of systemically important institutions.

- ▶ Under the "Single Point of Entry" (SPE) approach, resolution powers and instruments are exercised at group parent level by the home country authority, with host country authorities adopting measures to support resolution actions if necessary.
- ▶ Under the "Multiple Point of Entry" (MPE) approach, resolution powers and instruments are exercised at the level of the various parts of the group by at least two different resolution authorities, which coordinate activities between themselves.





At its meeting of 12 March 2014, the ACPR's Resolution College opted for an SPE resolution strategy.<sup>38</sup> This choice was based on institutional and operational criteria (consistent with the methodological approach used by the International Monetary Fund in conducting the Financial Sector Assessment Program, FSAP, to assess the crisis management and resolution framework),<sup>39</sup> taking into account the characteristics of the French banking market. The ACPR's analysis focused mainly on the five largest French banking groups.

The structure, governance, business model, geographical footprint, location of loss-absorbing capacity, and funding structure of France's five largest banking groups argue in favour of the SPE approach.

Beyond these five groups, for other institutions subject to direct ECB supervision, the ACPR noted that:

- ▶ a number of them operate solely within France, making the debate between the SPE and MPE approaches moot since there is no host country authority involved in the resolution process,
- ▶ and for other institutions, the existence of multiple European branches and the limited size of their main foreign subsidiaries also argue in favour of the adoption of an SPE strategy.

The SPE approach is the core of France's resolution strategy. It enables the ACPR to exercise its powers and apply resolution measures at the consolidated level. This resolution strategy is then adapted to suit the situation of each banking institution or group.

This SPE approach requires a high level of cooperation and information exchange with foreign supervisory and resolution authorities as well as a high level of domestic cooperation. For France, this mainly means cooperation between the ACPR, the *Banque de France* and the AMF. The SPE approach places responsibility for coordinating decisions and applying resolution measures on the home country authority. In this context, the negotiation of cooperation agreements, in particular with authorities outside the European Union, and the cross-border recognition of resolution measures are key issues for the implementation of orderly resolution.

The decision to adopt an SPE approach cannot at this stage be considered permanent and irreversible. The resolution approach to be applied if the resolution procedure were triggered for any given institution would take into account the specific situation of the group in question and any other relevant circumstances. Although based on the approach defined by the ACPR, this strategy may also be adjusted or even combined with other approaches if necessary.

Finally, in cases where the ACPR is the host country authority for a foreign institution, its involvement may differ depending on the strategy adopted by the resolution authority of the institution's home country.

## 4.2 ACTIVITIES OF THE RESOLUTION DIRECTORATE



In 2014, in addition to work linked to the creation of the new directorate and preparations for four meetings of the Resolution College, for which the Resolution Directorate assumes a secretarial role, activity was mainly focused on three key areas.

### • Work on individual institutions

#### Close cooperation with the ACPR's supervisory departments

Work on individual institutions (critical analysis of recovery plans submitted by banks and of banks' "resolvability",<sup>40</sup> and work on the early stages of resolution plans), which was highly concentrated on the four largest French banking groups at the beginning of the year, was gradually broadened out to include other institutions supervised by the ACPR.

To move this work forward, the Resolution Directorate put together a work plan based around regular bilateral meetings with the institutions concerned.

38. "Communication on the Resolution Strategy of ACPR Resolution Board", available from the ACPR website: [www.acpr.banque-france.fr](http://www.acpr.banque-france.fr)

39. International Monetary Fund, 1 July 2013, "France: Financial Sector Assessment Program — Technical Note on Crisis Management and Bank Resolution Framework".

40. Assessment of banks' ability to implement resolution measures.

### 4. Resolution

#### 4.2 Activities of the Resolution Directorate



The ACPR is closely involved in the transposition of the BRRD into national law.

Under the banner of cooperation with national supervisory and resolution authorities, the ACPR organised four meetings of Crisis Management Groups (CMGs) with the goal of presenting the ACPR's resolution strategy to other authorities and discussing with them initial findings from the analysis of the resolvability of French G-SIBs (Global Systemically Important Banks).

#### **Work on banking groups: a significant international dimension**

The FSB was keen for the resolution authorities responsible for G-SIBs to lead the first resolvability assessments so as to identify the obstacles to be overcome to successfully resolve banking institutions.

In 2014, these assessments covered ten banking groups worldwide, including one major French banking group. The resolvability assessment for this institution was conducted in cooperation with the main authorities in the group's host countries. The assessment's findings were formalised in a letter sent to the FSB Chairman by the Governor of the *Banque de France*, Chairman of the ACPR's Resolution College, and signed or approved by representatives of the host authorities belonging to the CMG.

A summary of the analysis carried out on these ten (anonymised) banking groups was presented at the 2014 G20 summit (held in Brisbane on 14-15 November 2014). Obstacles to resolvability may arise from shortcomings in the institutional framework (partial implementation of the Key Attributes, particularly as regards the mutual recognition of foreign authorities' resolution powers) or from aspects of the organisation of banking groups themselves (ability to ensure continued operations at interconnected entities, uncertainty over continued access to market infrastructures, etc.).

In 2015, the Resolution Directorate is set to carry out a resolvability assessment for the three other French systemic groups (G-SIBs). It will also continue with resolvability assessments of other institutions, and will provide each institution with an operational breakdown of the resolution strategy adopted in its resolution plan.



## • Transposition of the BRRD

Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms (BRRD) was finally adopted by the European Parliament on 15 April 2014 and subsequently by the Council on 6 May 2014.

On 30 December 2014, the French Parliament finally adopted Act 2014-1662 on various measures to bring French law into line with European Union law in the areas of the economy and finance. This Act authorises the government, for a period of eight months ending 1 August 2015, to issue ordinances adopting “*the legislative measures necessary to transpose the BRRD and bring the provisions of the Monetary and Financial Code into line with those of Regulation (EU) 806/2014 (SRM)*”.

In this context, the ACPR, in cooperation with the directorate general “Treasury”, is heavily involved in the transposition of the BRRD. In addition to consulting with other authorities, such as the AMF and the *Fonds de garantie des dépôts et de résolution* (FGDR, Deposit Insurance and Resolution Fund), the Authority held five market meetings with banking industry bodies and the main French banking groups to present its work on the transposition of the BRRD and discuss draft legislation.

The Law on the Separation and Regulation of Banking Activities had already substantially paved the way for the BRRD. However, domestic legislation will be supplemented to extend the ACPR’s powers, notably in relation to early intervention and resolution measures (e.g. the introduction of broader bail-in powers covering senior debt, due to enter into force on 1 January 2016). In particular, the scope of the French regime will need to be broadened to include financial holding companies, mixed financial holding companies, subsidiaries falling within the scope of consolidated supervision and branches of third country institutions. Provisions for cross-border resolution will also be added to the Monetary and Financial Code.

Furthermore, the “negative” transposition into the Monetary and Financial Code of Regulation (EU) 806/2014 on the Single Resolution Mechanism (SRM) will ensure that French legislation is consistent with the resolution pillar of the European banking union.

Finally, the Resolution Directorate is involved in work to transpose Directive 2014/49 on deposit guarantee schemes (DGS 2).



## • International and European initiatives

At the course of 2014, the Resolution Directorate played an active role in international and European initiatives concerning resolution.

### Initiatives aimed at increasing loss-absorbing capacity

The Resolution Directorate took part in the FSB’s work on defining a loss-absorbing capacity requirement for G-SIBs. This would take the form of a range of capital or debt instruments available within an institution or group to absorb losses and quickly recapitalise the institution or group in the event of resolution. In November 2014, the FSB published a consultation document containing the following key proposals:

- ▶ a new requirement, varying from 16% to 20% of risk-weighted assets (before capital buffers), applicable in 2019 at the earliest. In order to reach the required 8-12% total loss-absorbing capacity (TLAC) on top of the 8% solvency ratio, capital included in the required capital buffer would not be taken into account. Moreover, the TLAC requirement would have to represent at least double the amount of capital needed to achieve the required leverage ratio. A minimum level of TLAC would need to be provided by instruments other than regulatory capital,
- ▶ a mandatory criterion on the contractual, legal or structural subordination of instruments eligible for TLAC. The bulk of senior debt continues to be excluded in principle. It should, however, be noted that it was agreed that some senior debt would be eligible for the TLAC requirement up to 2.5% of risk-weighted assets,

### 4. Resolution

#### 4.2 Activities of the Resolution Directorate

- ▶ introduction of internal TLAC within groups: between 75% and 90% of the required TLAC on a consolidated basis would be pre-positioned within relevant entities located in third countries.

Quantitative Impact Studies (QIS) and market surveys will be undertaken in the first few months of 2015 with a view to finalising the TLAC proposals by end 2015. ACPR staff are participating alongside the *Banque de France* in the market survey on the market's capacity to absorb the new capital instruments that banks will need to issue to meet TLAC requirements and in the QIS on the new TLAC requirements per individual institution.

#### Improvement in the conditions for implementing cross-border resolution

Work was carried out in 2014 to improve the framework for cooperation and coordination in respect of cross-border resolution actions. The massive exercising of early termination rights by non-defaulting parties to OTC derivative contracts has been identified as having precipitated the 2008 collapse of American investment bank Lehman Brothers. It thus appeared important to arrive at a position where resolution measures that could affect the parties to a cross-border OTC derivative contract would be mutually recognised.

The FSB arrived at the conclusion that, pending an efficient public law framework, this objective could be achieved by contractual means: major market players use a standard master agreement which, while not unique, substantially dominates this market: the master agreement drawn up by the ISDA (International Swaps and

Derivatives Association). Accordingly, the ACPR and other authorities have worked with the ISDA to draft a new protocol to supplement the ISDA master agreement. This protocol paves the way for the contractual recognition of the primacy of temporary suspension measures adopted as part of a resolution procedure in respect of early termination rights (including in respect of cross-default provisions) held by non-defaulting counterparties.

The adoption of this new protocol by banks removes obstacles to their resolvability by facilitating the cross-border implementation of this power of suspension in the event of resolution. Three major French banking groups signed up for this new protocol in 2014.

#### The work of the European Banking Authority (EBA)

At the European level, the Resolution Directorate has helped draw up EBA technical standards and guidelines. A number of guidelines were drawn up in 2014, including a guideline on the definition of the minimum requirement for own funds and eligible liabilities (MREL). These guidelines have been put out to public consultation.

Among the major challenges surrounding the entry into force of this new European agency, the ACPR has been particularly attentive to **the ability to efficiently circulate information among the various authorities** (national and European supervisory and resolution authorities). This will be a key condition for the smooth operation of the European banking union.



**Romain Verges,**  
specialist within the Resolution Directorate.





Once these guidelines have been adopted, each authority must either comply with them or explain the equivalent alternative measures it intends to implement or the reasons for which it declines to comply with them (under the “comply or explain” principle).

More specifically, as regards preventive recovery and resolution plans, the ACPR has stated its desire to implement the guidelines on recovery scenarios and tests, reviews or studies that may lead to

exceptional public support without entailing the initiation of resolution procedures. The EBA is set to adopt over ten more guidelines in 2015.

#### Preparations for the creation of the Single Resolution Board

The Resolution Directorate took part in work overseen by the European Commission to prepare for the entry into force of the Single Resolution Board (SRB).

## THE SINGLE RESOLUTION BOARD (SRB)

After putting in place the Single Supervisory Mechanism (SSM), the European banking union adopted a second component relating to the management and resolution of banking crises, based on the BRRD and the regulation on the Single Resolution Mechanism (SRM).

The adoption of the SRM resulted in the creation of a new European agency, the SRB, which owns the Single Resolution Fund (SRF). With effect from 1 January 2015, the SRB has jurisdiction to draw up resolution plans for the entities under its supervision. However, its powers to adopt and implement resolution measures will not take effect until 1 January 2016.

The SRB will meet in two configurations:

- ▶ in executive session, consisting of the Chair or Vice-Chair, the four permanent members of the SRB and one representative from each of the resolution authorities of the Member States in which the institution (or group) in difficulty is established. The SRB draws up, assesses and approves resolution plans; it adopts the resolution provisions for entities subject to resolution procedures,
- ▶ and in plenary session, consisting of the Chair, the four permanent members and one representative from each of the resolution authorities of participating Member States. The SRB adopts its annual work programme and budget and assesses the implementation of resolution instruments.

The Chair, Vice-Chair and four permanent members of the SRB were appointed by the European Council on 19 December 2014. They took up their duties in the first quarter of 2015.

The appointees are as follows:

- ▶ Elke König, Chair of the SRB
- ▶ Timo Löytyniemi, Vice-Chair of the SRB
- ▶ Mauro Grande, member of the SRB and Director of Strategy and Policy Coordination
- ▶ Antonio Carrascosa, member of the SRB and Director of Resolution Planning and Decisions
- ▶ Joanne Kellermann, member of the SRB and Director of Resolution Planning and Decisions
- ▶ Dominique Laboureix, member of the SRB and Director of Resolution Planning and Decisions

The Chair, Vice-Chair and members of the SRB are appointed for a limited period: the Chair for an initial term of three years, renewable for one further term of five years, and the Vice-Chair and members for a non-renewable term of five years.

The SRB has jurisdiction over significant credit institutions and credit institutions under direct ECB supervision falling within the scope of the SRM, investment firms that are subsidiaries of a credit institution falling within the scope of the SRB, and cross-border groups.

The SRB adopts the framework governing practical arrangements for allocating duties between European and national authorities and publishes guidelines and instructions on actions undertaken by national authorities. In addition, if resolution measures are implemented, it sends instructions to the national authority. However, since the scope of the BRRD is broader than that of the SRM regulation, the ACPR retains full jurisdiction over certain entities (e.g. almost all investment firms).

# 3 Protecting

## CUSTOMERS IN BANKING AND INSURANCE

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**T**he ACPR supervises compliance with all rules designed to protect customers. It also checks that institutions have the appropriate resources and procedures in place to protect their customers. The ACPR's scope of supervision covers all stages in the marketing of products and services: advertising, pre-contract information, duty to advise, and contract execution through to expiry.

To fulfil this statutory objective, the ACPR has experts in banking, non-life insurance, life insurance and health and disability insurance who carry out checks, analyse customer complaints, keep a watch on contracts and advertisements, participate in European initiatives and work in coordination with the AMF, particularly in the context of the ACPR/AMF joint unit.

# 1 MAIN THEMES OF ON-SITE INSPECTIONS IN 2014

## Supervision of business practices in figures

In 2014:

88

on-site inspections relating to customer protection:

> of which 7 were conducted by the *Institut d'émission des départements d'outre-mer* (IEDOM, French overseas departments note-issuing bank)

4,477

advertisements analysed

5,636

requests and complaints received

## 1.1 BANKING

### A. REVOLVING CREDIT FACILITIES

In 2014, the ACPR continued with its inspections relating to the marketing and management of revolving credit facilities. It discovered that certain institutions were marketing a payment card<sup>41</sup> that offered both cash payment services and payment on credit associated with the opening of a credit facility, without offering their customers the option of using each of these services individually. The Authority also noted that certain institutions mistakenly consider that repayments made after using the credit facility themselves constitute uses of the credit facility and thus invalidate the one-year inactivity period laid down in legislation.

Institutions also need to be vigilant as to the amount of revolving credit granted to their customers. Amounts of just over EUR 3,000, for which a longer repayment period can be applied, must only be offered in response to needs expressed by the customer.

### B. SPECIFIC-PURPOSE LOANS

With regard to the marketing of loans for the specific purpose of financing the installation of solar panels, the ACPR found that the processes in place did not enable institutions to check that the service ordered from trading partners had been delivered in full before funds were released. Furthermore, training and tools designed for trading partners need to be supplemented to ensure that customers are fully informed about the loans offered. The quality of the explanations provided to borrowers assumes that the institution ensures that its partners and their employees have actually followed the training. More generally, institutions must take particular care in selecting their partners and monitoring their loan marketing practices.

Some partners sell payment protection insurance on behalf of the institution to ensure that specific-purpose loans are paid off. In this regard, the insufficient formalisation of customer needs and procedures for selling the insurance creates a further risk of mis-selling.

Inspections also focused on vehicle finance. In particular, the ACPR found that pre-contract information sheets were handed to customers at the same time as their loan offers, thus preventing them from fully understanding the characteristics of loans before taking them out.

41. The card involves four parties: the cardholder, the retailer, the card-issuing institution and the transaction acquirer. In this arrangement, the card issuer does not control the network of card accepters. These cards must not be confused with cards offered by retail brands, the main purpose of which is to encourage loyalty by offering various types of benefits associated with a revolving credit facility. Such loyalty cards involve three parties: the cardholder, the retailer and the system, which acts as sole card issuer and transaction acquirer. In this arrangement, the card issuer controls the network of card accepters.





## REFORM OF THE “BTS” HIGHER TECHNICAL DIPLOMA FOR BANK CUSTOMER ADVISERS

Training for professionals, particularly those in customer-facing roles, is a vital lever for improving consumer protection.

European and global initiatives have substantially changed the landscape with regard to French banking standards by emphasising the need for sales staff in the banking sector to have appropriate expertise. The ACPR, the AMF and sector professionals have been asked by the education ministry to take part in work to overhaul the “BTS” (*Brevet de Technicien Supérieur*) higher technical diploma for bank

customer advisers. The ACPR has worked to ensure that the main aspects of customer relations (information, advice, contract execution, fair business practices, treatment of sensitive types of customers, banking inclusion, etc.) are naturally integrated into every stage of the training programme across all business areas: deposits, loans, savings, financial instruments and insurance. The new diploma was registered in the *Répertoire national des certifications professionnelles* (national register of professional certifications) via an Order dated 16 April 2014.

### C. DEBT CONSOLIDATION

In 2014, the ACPR began inspections on the distribution of debt consolidation loans, which are required to comply with legislation covering either mortgages or consumer credit, as applicable.

These inspections in some cases highlighted questions over the marketing of such loans.

- ▶ The product offered is presented in an unbalanced way. Advertisements and websites often highlight the reduction in monthly loan repayments while partially or completely masking the increase in the repayment period and the cost of the transaction.

Similarly, insufficient effort is made to draw customers' attention to the total cost of borrowing and the consequences for the assets on which the borrowing is secured.

- ▶ Customers are almost always offered an additional amount of borrowing. While legislation allows this practice, the ACPR considers that there must be a specific reason for such additional borrowing and the professional must assess the customer's financial position over the term of the loan rather than simply seeking security and guarantees that reduce the credit institution's cost of risk.





**Imane Mazoyer,**  
Supervision of Business  
Practises Directorate.



We have very regularly had to explain to policyholders the workings of insurers' right to terminate a policy at renewal.



## UPDATE ON THE RIGHT TO A BANK ACCOUNT

The ACPR has inspected the implementation of the right to a bank account by institutions belonging to the leading banking networks.

It found that basic banking services were not always provided, or were sometimes charged for. In some cases, specific information provided at the outset of the customer relationship was not taken into account and the customer was guided directly to a paid-for bundled offering.

Following these inspections and the sanctions imposed by the ACPR's Sanctions Committee

on 3 July 2013 and subsequently on 11 April 2014,<sup>42</sup> the institutions concerned initiated corrective action and, where applicable, took steps to compensate customers who had been unfairly charged.

All institutions must take care to ensure that an organisational approach and controls are in place to guarantee strict compliance with the right to a bank account. The ACPR will continue with its work in this area.

## 1.2 INSURANCE

### A. DUTY TO ADVISE

The ACPR continued with work to analyse the selling process and the provision of advice by insurance intermediaries. Following Recommendation 2013-R-01, improvements were noted in the collection of customer information when proposing life insurance policies. However, gaps sometimes remain in the formalisation of the advice provided and the reasons for that advice, such that it is not possible to see how the features of the proposed policy meet the requirements and needs expressed by the customer. The content and reliability of the statement of customer needs too often remain insufficient, particularly when non-life insurance policies are presented or compared. In some cases, the ACPR also found shortcomings in the selling process for payment protection insurance, both in the collection of information and in the formalisation of the advice given and the reasons for that advice. More generally, insurance institutions and intermediaries must ensure that appropriate advice continues to be given throughout the life of a policy.

### B. LEGAL PROTECTION

The ACPR reviewed management procedures for legal protection insurance specifically regulated by the Insurance Code. It emerged that institutions do not always meet the requirement to inform customers of their freedom to choose legal representation and the possibility of using the arbitration procedure, particularly where there is a conflict of interest or disagreement over the management of the dispute. Furthermore, insurers do not always monitor compliance with these provisions. Insurers must ensure that any policy exclusions for legally indefensible disputes are formalised and limited so that the assessment of such disputes does not depend solely on insurers' own judgement. Moreover, the Authority expects institutions to pay more attention to complying with requirements on professional secrecy and document confidentiality and fulfilling the duty to advise in relation to introducer risk.



### C. PAYMENT PROTECTION INSURANCE AND AGGRAVATED HEALTH RISKS

The ACPR continued to carry out inspections on the subject of payment protection insurance, particularly in relation to compliance with the AERAS agreement.<sup>43</sup> It emerged that some of the major advances enshrined in the agreement, signed in 2011, had still not been implemented or had been implemented only very incompletely. For example, specific disability cover, which must be considered whenever the customer is refused the standard disability cover under a policy, had still not been introduced by some insurers, or had been introduced late and in a restrictive manner. Furthermore, few institutions identify customers eligible for capped premiums and inform them of the potential savings. Finally, specific attention needs to be paid to meeting deadlines for processing applications; such deadlines are not always compliant with the requirements of the agreement.

42. The institution has appealed the decision before the *Conseil d'État*.

43. AREAS: "s'Assurer et Emprunter avec un Risque Aggravé de Santé" ("Taking out insurance and borrowing with an aggravated health risk").



## 2 questions to H el ene Arveiller

head of policy and risk monitoring within the Supervision of Business Practices Directorate

### COULD YOU SUMMARISE THE ACPR'S ACTIONS IN RELATION TO UNCLAIMED POLICIES?

For the year 2014, the ACPR issued three reprimands with fines of EUR 10 million, EUR 40 million and EUR 50 million respectively for serious breaches of the Insurance Code, in relation to unclaimed life insurance policies, mainly relating to the identification of deceased policyholders and the search for beneficiaries (see Chapter 5).

At the same time, the ACPR continued with various initiatives aimed at institutions accounting for more than 95% of the life insurance market to determine the actual situation and the resources deployed to clear the existing stock of unclaimed policies. In particular, the Authority checks the reliability of files submitted to the RNIPP<sup>44</sup> to enable policyholder deaths to be identified across all life policies.

### DOES THE ACPR INSPECT THE RESOURCES DEPLOYED BY INSTITUTIONS TO REMEDY THESE BREACHES?

We do indeed check that sufficient resources are in place to quickly pay out death benefits without allocating search expenses in line with the ACPR's position of February 2014, as well as high stocks of capital in futures contracts (fixed-term policies, registered guaranteed investment contracts and collective retirement contracts). In 2015, the ACPR will ensure that action plans put in place by insur-



ers lead to the actual payment of benefits to beneficiaries, ahead of the entry into force on 1 January 2016 of the procedure under which funds will be paid over to *Caisse des D ep ots et Consignations* as laid down in the Eckert Act of June 2014.

## 1.3 INTERMEDIATION

### A. RELATIONS WITH SUPPLIERS AND DISTRIBUTORS

It is important that the increase in the number of parties involved in the sale of an insurance policy or banking transaction not adversely affect customer notification or customers' rights. To this end, all ACPR inspections include an assessment of the existence and content of agreements between professionals, risk carriers and distributors or, where applicable, those acting as intermediaries between them.

Such analysis has confirmed best practice consisting of drawing up agreements, arranging the transmission of information and monitoring advertising, including for the marketing of non-life insurance. In the course of its inspections, the ACPR found that the content of such agreements needed to be improved. Their effectiveness is

based on their suitability with regard to policy distribution conditions and the extent to which authority is delegated, as well as the definition of specific clauses facilitating their operational implementation.

It is important that risk carriers have arrangements in place to check the registration of the intermediaries they use throughout the business relationship. Credit institutions must also tighten ongoing monitoring of activities outsourced to their representatives, particularly in relation to marketing procedures, and must ensure that training is actually followed.

Particular vigilance is required with regard to intermediaries who receive funds from customers or intended for customers.

Intermediaries using the services of agents must also ensure that the terms and execution of their agency agreements provide their agents with the means to market products in the interests of customers (documentation, procedures, etc.).





## B. AGGREGATORS

Internet aggregators involved in the presentation of insurance policies are intermediaries bound by obligations of information and advice.

During its inspections, the ACPR has identified a number of major customer protection issues in this area. It has found that the information provided to web users on the scope of the comparison service, both in advertisements and on aggregator sites themselves, is not sufficiently transparent. Similarly, while visitors should be able to assess whether the offers presented meet the needs they have expressed, it appears that the reliability of the process cannot always be guaranteed. The Authority remains vigilant about customer protection in this key area.

## C. CONDITIONS OF ACCESS AND EXERCISE

The ACPR has noted certain failings in employees' professional competence with regard to legal obligations. Training does not always comply with the content or periods laid down in regulations. Furthermore, the amount of the financial guarantee taken out by intermediaries who receive funds is sometimes insufficient in light of the business actually conducted. Finally, agents involved in banking and insurance activities must have agency agreements in place with all their partners and inform ORIAS<sup>45</sup> of all their principals: the ACPR has observed some breaches in this area.

## MONITORING ADVERTISING: FIGURES AND LEARNING

In 2014, the ACPR conducted document-based inspections of 4,477 advertising messages (6.7% more than in 2013) and instigated 52 actions, mainly in the areas of consumer credit, life insurance and health insurance. Since it was established, the ACPR has taken action against advertisers over 200 times.

Advertising breaches found during on-site inspections often relate to inaccuracies and even errors in dedicated development and sign-off procedures. Professionals must also align their advertising messages and choice of media with the complexity of the products and offers being promoted.

Towards the end of the year, the ACPR launched an exercise to consult professionals and consumers about a draft best practice recommendation on advertising communications for life insurance policies. Recommendation 2015-I-02 was adopted by the ACPR's Supervisory College on 12 February 2015.

## CUSTOMER PROTECTION QUESTIONNAIRE: 2014 FINDINGS

The customer protection questionnaire, now in its third year, has gained strong acceptance among professionals.

In 2014, responses in the banking sector (2013 data) demonstrated a tightening of ongoing control, which now covers selling procedures in 88% of cases (compared with 80% a year earlier). Since Recommendation 2011-R-05 on complaint handling entered into force, the number of institutions that include complaint handling in their audit plans has steadily increased, up from 55% in 2011 to 87% in 2013. Finally, the total volume of complaints reported by institutions across all subject areas has risen by around 10%. There has been a sharp increase in complaints regarding remote banking (up 85%), apparently in line with rapid growth in online banking.

Responses in the insurance sector (2013 data) show that 77% of institutions include the various phases and aspects of insurance marketing and customer relations within the scope of their ongoing internal control procedures. Only 50% of institutions (insurers, mutual insurers and provident institutions) have audited their complaints departments in the past three years. The total volume of complaints has increased significantly, up almost 17%.

There will be no changes to the questionnaire in 2015 (2014 data). In March 2016 (2015 data), the ACPR will adjust the questionnaire to reflect the latest regulatory changes (the Law on the Separation and Regulation of Banking Activities, the Hamon Act, new ACPR recommendations, etc.). This will enable the Authority to deepen its knowledge of the market and commercial trends in both banking and insurance.

45. The insurance, banking and finance intermediary register.

# PROCESSING AND HANDLING CUSTOMER REQUESTS

## 2.1 ROLE OF THE ACPR

The ACPR receives complaints and information requests, by telephone and mail, from customers of banks, insurance institutions and their intermediaries. It has a telephony platform designed to answer insurance questions in the form of the *Assurance Banque Épargne Info Service* helpline. This service provides claimants with clear information on the out-of-court procedures available to them, such as the details of internal complaints departments and of the competent ombudsman or ombudsmen.

Requests received provide valuable clues about the market and market trends, as

well as the quality of business practices in the industry. They enable the Authority to target its supervisory actions and communications, and highlight areas that may require tighter legislation or regulation.

## 2.2 DIFFICULTIES ENCOUNTERED BY CUSTOMERS

As in previous years, the main source of discontent for insurance customers was the payment of claims against non-life policies and the payment of benefits under life and accidental death policies. In the former

case, the ACPR ensures that institutions abide by the indemnity principle as soon as cover is called upon. In the latter case, the Authority reminds supervised institutions and intermediaries of the statutory deadlines for paying out benefits and the checks to be carried out when asking policyholders for evidence: the same beneficiary or policyholder is sometimes asked several times for the same documents, thus delaying the payment of benefits.

A recurring source of complaints is the subject of policy termination. In particular, policyholders continue to misunderstand the insurer's right to terminate a policy at renewal, and the ACPR regularly has to provide claimants with information about the scope of this right. Since insurers are



The customer requests submitted to the ACPR are a valuable indicator of market trends.



## CUSTOMER REQUESTS RECEIVED BY THE ACPR

now required to provide reasons for exercising their termination rights in accordance with the provisions of the new Article L. 113-12-1 of the Insurance Code (Act 2014-344 of 17 March 2014), the number of complaints relating to this issue will probably decrease over the next few years.

Another source of dissatisfaction brought to the ACPR's attention is the distribution of health insurance, including in particular complex contractual arrangements where a number of parties are involved in signing a given contract, aggressive solicitation of vulnerable individuals, and the conversion of online simulations into remote sales thanks to telephone support that enables insurers to talk web users into taking out policies immediately after requesting a quote.

Customer complaints in the banking sector mainly relate to online fraud: peer-to-peer lending, trading with unauthorised operators, and payment transactions. Some of these complaints have highlighted improper use of the name "ACPR", as indicated in a press release dated 18 November 2014.

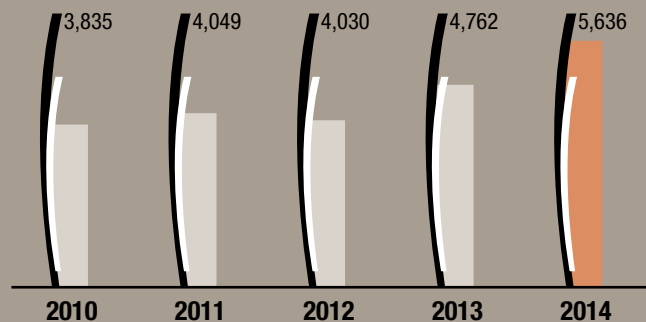
Other recurring requests relate to the right to a bank account, the time taken to close accounts, and loans offered in conjunction with sales, for example in the field of renewable energy.

The ACPR's attention has also been drawn to the introduction of contactless payment functionality on bank cards and the sale of bank cards linked to revolving credit facilities, particularly when payment cards are renewed.

The volume of requests mistakenly directed to the ACPR by both banking and insurance customers has grown: insurance claims, returned signed copies of contractual documentation, termination requests, etc. This suggests that the identity of the issuer is not clearly stated in contractual documents.

In 2014, the ACPR received 5,636 written requests and complaints. This number increased sharply (up 18%) for the second year running, particularly in relation to banking.

### NUMBER OF WRITTEN REQUESTS RECEIVED BY THE ACPR, 2010 TO 2014



### Internal means of redress still unfamiliar or ineffective

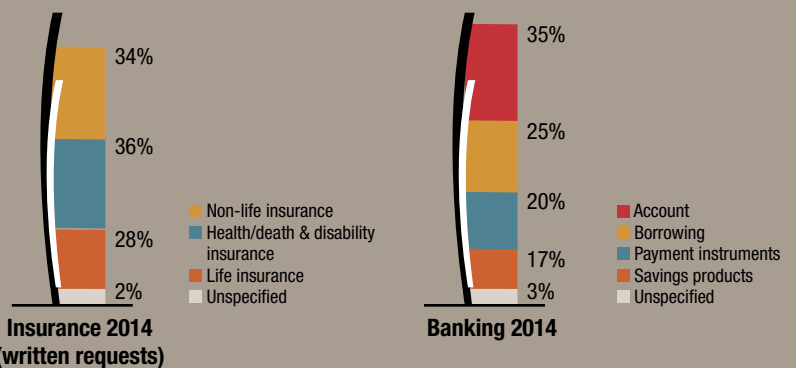
Almost 9% of all requests received were directed at the ACPR by mistake: they were meant for credit institutions, insurance institutions and intermediaries.

In addition, more than 14% of actions taken by the ACPR with respect to these institutions are directly linked to the internal complaint handling system (some systems take too long to respond; some give no answer at all) or problems in reaching the ombudsman, where there is one.

### BREAKDOWN OF REQUESTS BY CATEGORY AND SUBJECT

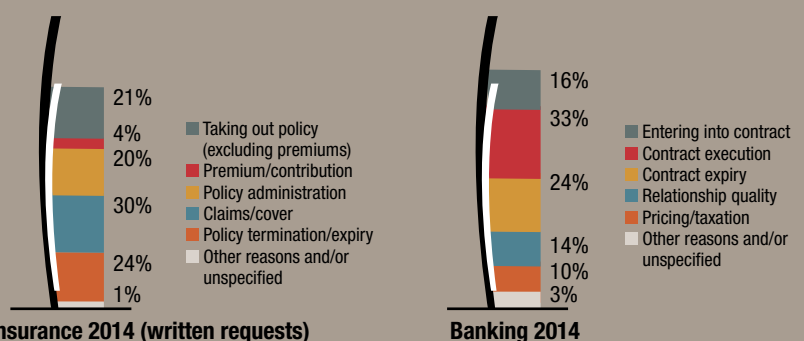
The overall distribution of written requests in the insurance sector was unchanged. In banking, the proportion of requests relating to accounts increased while that relating to loans decreased.

#### Breakdown of requests in 2014 by category



Requests relating to insurance mainly concerned claims management or cover under non-life policies, followed by policy termination or maturity. The proportion of written requests relating to underwriting increased. In banking, contract execution continued to represent a predominant proportion of requests received.

#### Breakdown of requests in 2014 by subject



The ACPR took action in response to almost 15% of the written requests it handled in 2014, for non-compliance by a company or institution with statutory, regulatory or contractual provisions.

# 3 ACTIVITIES LINKED TO REGULATION AND “SOFT LAW”

## 3.1 THE NEW STATUS OF CROWDFUNDING INTERMEDIARY: CONDUCT OF BUSINESS RULES

In France, to foster the development of crowdfunding in a secure environment, the public authorities adjusted the legal framework by issuing Ordinance 2014-559 of 30 May 2014. The new framework, which entered into force on 1 October 2014, introduced two new statuses: that of crowdfunding adviser for platforms offering investments in securities and that of

crowdfunding intermediary for platforms handling donations and loans, with or without interest. Crowdfunding intermediaries, who are registered in the ORIAS database, must comply with a set of conduct of business rules:

- ▶ with regard to the public: they must publish information about their identity and the criteria they use to select projects and project owners. Crowdfunding intermediaries must also publish an annual activity report,
- ▶ with regard to lenders and donors: they must provide accurate details of the characteristics of projects and, if applicable, the associated loans. They must indicate whether there is a cooling-off period and provide, via their platform, a tool for assessing the potential loan

amount in accordance with the lender's income and expenses,

- ▶ and with regard to project owners: they must make available a standard agreement formalising the conditions of finance, and provide a summary document covering all details of the financing transaction.

Crowdfunding intermediaries also have a general obligation to warn about the risks associated with crowdfunding and to monitor and arrange financing transactions if their platforms experience difficulties. Finally, they must ensure that interest rates on the loans they offer do not exceed the usury rate, and provide all necessary information about all the costs charged by their platforms.







### 3.2 EFFECTS OF ACT 2014-344 OF 17 MARCH 2014 ON CUSTOMER PROTECTION (THE “HAMON ACT”)

The Act of 17 March 2014 on consumption, known as the “Hamon Act”, introduced new consumer rights including, in particular, the following:

- ▶ the right for home loan borrowers to replace the payment protection insurance offered by the lender with a policy offering an equivalent level of cover within 12 months of the date on which the loan offer was signed, at no cost. The Act also confirms policyholders’ right to terminate payment protection insurance at its annual renewal date, including when they sign up for a collective policy,
- ▶ the right for customers wishing to change credit institution to have access to a bank account switching service at no cost. In particular, the target institution takes care of transferring all standing orders and direct debits to the new account,
- ▶ the right for holders of insurance policies constituting an addition to goods or services to terminate such policies within 14 days if they can prove that they have equivalent prior cover,
- ▶ the right for holders of car insurance, comprehensive home insurance and affinity insurance to terminate policies renewable by tacit agreement any time after the first year of cover,
- ▶ and the right for all policyholders to be informed of the reasons when an insurer terminates their policy at renewal.

### 3.3 RECOMMENDATION ON AGREEMENTS CONCERNING THE DISTRIBUTION OF LIFE INSURANCE POLICIES

Under the banner of the ACPR/AMF Joint Unit, on 3 July 2014 the ACPR adopted a recommendation on agreements between product manufacturers and distributors in life insurance. The recommendation clarifies a number of points that must be included in such agreements to ensure that end customers receive appropriate advice and that advertising communications are compliant. For example, it specifies deadlines and procedures for signing off advertisements and for the transmission of essential policy information by the product manufacturer. Furthermore, this information needs to be clarified. It is also recommended that the same approach be adopted when, in relations between two intermediaries, one is in contact with the insurance institution and the other maintains the relationship with the customer: distribution channels must not run counter to customers’ interests. This recommendation has been appealed before the *Conseil d’État* on grounds of ultra vires, without suspensive effect.

### ACTIVITIES OF THE ACPR/AMF JOINT UNIT IN 2014

The ACPR/AMF Joint Unit was established in 2010 in response to the growing number of players able to distribute the full range of insurance, banking and savings products. It has become a key vehicle for active coordination between the two authorities and continues to pursue its mission of investor protection.

In 2014, in addition to carrying out 33 joint inspections, the two authorities published an ACPR recommendation and an AMF position/recommendation on agreements between manufacturers and distributors of life insurance policies and contracts in financial instruments, applicable from 1 January 2015.

The work of the Joint Unit is detailed in its annual report.

# 4 Participating

## IN AML/CTF



1. ACPR supervision in 2014
2. Work on legal instruments in respect of AML/CTF

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**T**he ACPR ensures that entities under its supervision comply with requirements on anti-money laundering and counter-terrorist financing (AML/CTF).

It undertakes ongoing supervision (in particular by analysing responses to questionnaires) and carries out on-site inspections. In this way, the Authority ensures that anti-money laundering and counter-terrorist financing procedures put in place by institutions are compliant and that institutions fulfil their due diligence requirements in practice.

# 1 ACPR SUPERVISION IN 2014



## 1.1 ONGOING SUPERVISION

In 2014, the ACPR analysed responses to the second joint questionnaire covering institutions in the banking sector (credit institutions, investment firms, payment institutions and electronic money institutions) and in life insurance, as defined in Instruction 2012-I-04 of 28 June 2012.

### A. MONEY CHANGERS

The ACPR analysed responses from money changers. Almost 80% of money changers claimed to have updated their internal written rules since 2013. This may have been connected with the adoption of Instruction 2013-I-10 of 3 October 2013 and the appended methodological guide reiterating the principal anti-money laundering and counter-terrorist financing (AML/CTF) obligations to which they are subject. However, inconsistencies were found in responses relating to remote foreign exchange transactions.

### B. PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS HAVING THEIR REGISTERED OFFICES IN THE EUROPEAN UNION OR THE EUROPEAN ECONOMIC AREA AND USING AGENTS OR DISTRIBUTORS TO CONDUCT BUSINESS IN FRANCE

For the first time, the ACPR reviewed annual reports submitted by such institutions in accordance with Instruction 2013-I-08. Payment institutions, which mostly operate fund remittance services, define predetermined amounts above which customers will be asked for additional information about transactions. These amounts often appear high relative to the average size of transactions carried out. The ACPR has focused particular atten-





tion on compliance by these institutions with the requirement to submit suspicious transaction reports and systematically communicate information to Tracfin. Electronic money institutions appear mainly to operate within the framework of the exemption from the requirement to implement due diligence obligations allowed for by the Monetary and Financial Code in respect of electronic money.<sup>46</sup>

All responses and information submitted to the Authority are analysed and the findings are taken into account when drawing up the annual programme of surveys.

It is important that an effective mechanism be put in place to implement restrictive measures in force (against terrorism and concerning economic sanctions and measures to combat proliferation), including domestic measures. This mechanism must be appropriate to institutions' structure and activities and must, in particular, enable asset freezes to be implemented without delay. Reference information can be found on the website of the directorate general "Treasury" ([www.tresor.economie.gouv.fr/lutte-contre-le-blanchiment-des-capitaux-et-le-financement-du-terrorisme](http://www.tresor.economie.gouv.fr/lutte-contre-le-blanchiment-des-capitaux-et-le-financement-du-terrorisme)).

## ■ SUMMARY OF RESPONSES TO THE AML/CTF QUESTIONNAIRE FOR THE BANKING AND INSURANCE SECTORS

### ► LIFE INSURERS

Institutions continued their efforts to comply with AML/CTF regulations. Companies subject to the Insurance Code appear to have made the most progress in this area, followed by provident institutions. Mutual insurers, on the other hand, have made slower progress. As regards requirements concerning the organisation of AML/CTF measures, internal control remains insufficient.

As regards the observance of due diligence obligations, institutions do not always have the required "Know Your Customer" information at their disposal. Furthermore, improvements need to be made in detecting unusual or suspicious transactions: many institutions content themselves with detecting transactions that exceed certain thresholds (in particular the EUR 150,000 threshold found in legislation prior to the third anti-money laundering directive on closer examination of transactions, while the new regulations had been in force for five years when responses were submitted). The ACPR pays particular attention to due diligence measures put in place in respect of holders of guaranteed investment contracts, particularly when such contracts are repaid and the holders presenting them are not the initial subscribers.

These various findings may explain why insurance institutions still appear to submit few suspicious transaction reports. Furthermore, such reports are only submitted by a small number of institutions.

### ► BANKING INSTITUTIONS

Credit institutions<sup>47</sup> appear to maintain a satisfactory level of compliance. However, they must ensure that "Know Your Customer" information is updated at a frequency aligned with each customer's classification.

It was found that there is room for improvement in the implementation by investment firms of additional due diligence measures, particularly with regard to politically exposed persons and the obligation on closer examination of transactions.

For payment institutions, there is room for improvement in "Know Your Customer" information about new customers, particularly as regards their professional, economic and financial situation, as well as the identification of politically exposed persons at the outset of new business relationships.

46. See the fifth point of Article R. 561-16 of the Monetary and Financial Code.

47. Since responses to the AML/CTF questionnaire related to 2013, the box makes no distinction between credit institutions and financing companies.

## 4. PARTICIPATING IN AML/CTF

### 1. ACPR supervision in 2014

#### 1.2 On-site inspections

## 1.2 ON-SITE INSPECTIONS

In 2014, 38 on-site inspections including an AML/CTF component were conducted at institutions in the banking and insurance sectors. There were fewer such inspections in the banking sector in 2014 due to the Authority's on-site supervision staff being tied up in the comprehensive balance sheet assessment.



In 2014, the ACPR conducted 38 on-site inspections which included an AML/CTF assessment.

Depending on the seriousness of the breaches discovered, on-site inspections may give rise to an action letter from the ACPR's Secretary General, administrative enforcement measures or disciplinary proceedings.

The ACPR Sanctions Committee imposed a sanction comprising AML/CTF charges against a money changer, bringing the total number of sanctions in this area since the ACPR was established in March 2010 to 11. Five disciplinary proceedings were underway at end 2014.

Six cease-and-desist orders were issued in relation to AML/CTF issues (bringing the total since the ACPR was established to 21).

Furthermore, in accordance with paragraph II of Article L. 561-30 of the Monetary and Financial Code, the ACPR notifies Tracfin of failures to submit suspicious transaction reports identified in the course of its on-site inspections. When the ACPR submits information to Tracfin about amounts or transactions liable to arise from tax evasion referred to in Article L. 561-15 of the Monetary and Financial Code, it advises the tax authorities in line with Article L. 84 D of the Tax Procedures Guide.

## EXECUTION OF AML/CTF OBLIGATIONS BY INSTITUTIONS ESTABLISHED OVERSEAS

An ACPR adviser to overseas note-issuing institutions oversees those institutions' participation in the ACPR's supervisory activities in respect of AML/CTF. In 2014, 12 on-site inspections were conducted at institutions in the banking and insurance sectors at the request of the ACPR's Secretary General.

The ACPR adviser also represents the Authority in communications to reporting institutions established overseas. In 2014, he was asked to support the communication sent to relevant financial institutions on the risk of money laundering linked to the change in the CFP franc banknote range in Pacific communities.

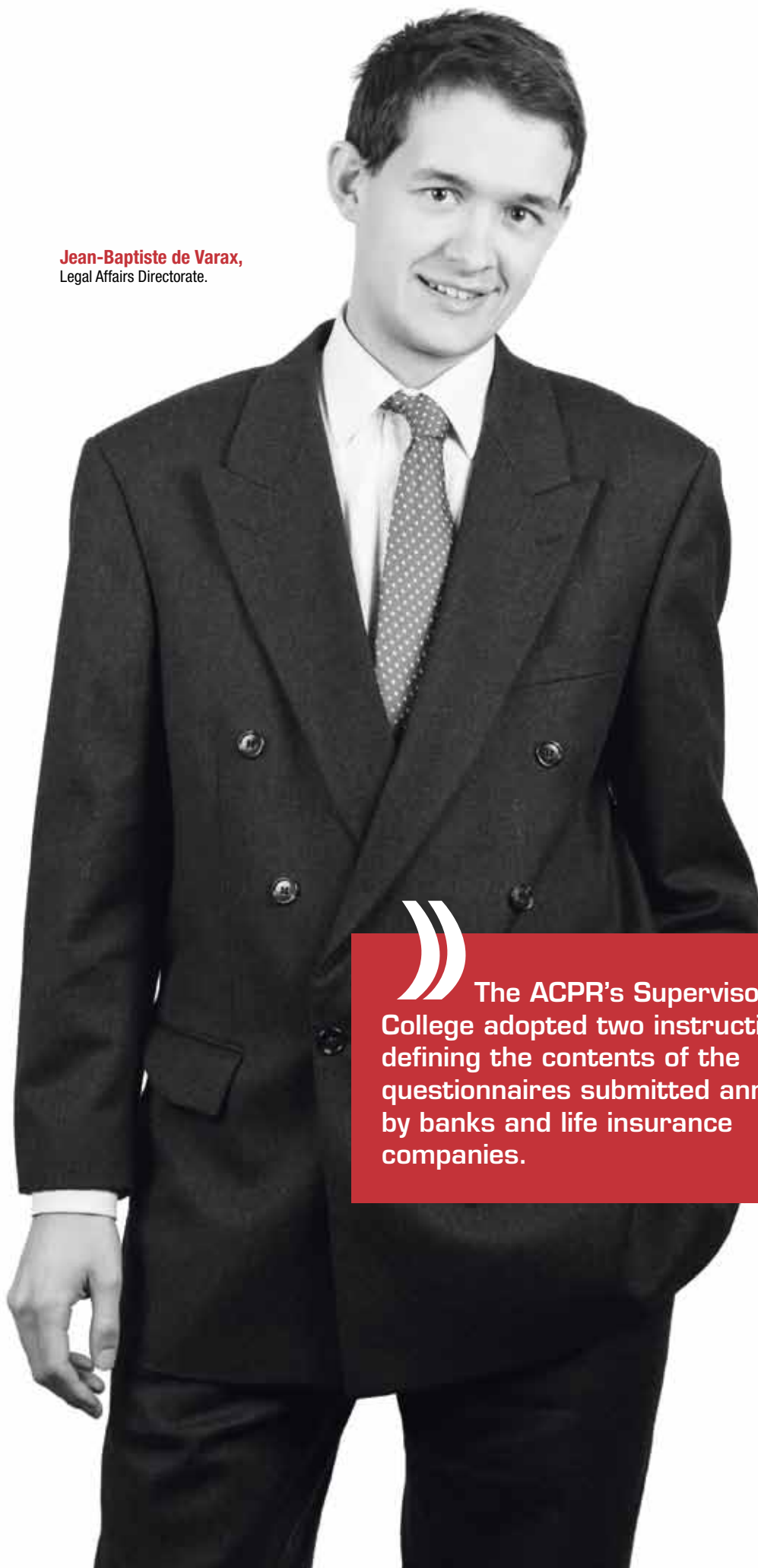
The highlight of this campaign was a joint trip with Tracfin to New Caledonia and French Polynesia.

On-site visits to institutions in the banking and insurance sectors also continued.

Three years after the role of ACPR adviser to overseas note-issuing institutions was created, a review of overseas activities carried out by the ACPR in connection with AML/CTF, and in particular potential risks specific to money laundering and terrorist financing identified during on-site inspections, will be drawn up in the course of 2015.



**Jean-Baptiste de Varax,**  
Legal Affairs Directorate.



The ACPR's Supervisory College adopted two instructions defining the contents of the questionnaires submitted annually by banks and life insurance companies.

# WORK ON LEGAL INSTRUMENTS IN RESPECT OF AML/CTF

**T**he ACPR's Supervisory College adopts instructions and explanatory documents (guidelines, sector enforcement principles and positions) in respect of AML/CTF.

The ACPR's Anti-Money Laundering Consultative Committee is tasked with providing an opinion to the College on these various documents prior to their adoption. The committee met five times in 2014.

## 2.1 INSTRUCTIONS

In 2014, the Supervisory College adopted two instructions amending **Instruction 2012-I-04 of 28 June 2012** defining questionnaires submitted annually to institutions in the banking and life insurance sectors.

**Instruction 2014-I-01 of 10 February 2014** included financing companies and electronic money institutions within the scope of reporting institutions following legislative changes introduced in 2013, creating these two types of financial institutions.<sup>48</sup>

**Instruction 2014-I-06 of 2 June 2014** updated the questionnaires and the methodological guide to reflect regulatory changes introduced since the instruction was adopted. In particular, two questions were added to take into account the obligation to systematically disclose information to Tracfin (known as "COSI") introduced by Act 2013-100 of 28 January 2013 and Act 2013-672 of 26 July 2013. Furthermore, specific questions relating to payment services providers were adapted to cover the activities of electronic money institutions.

Instruction 2012-I-04 will need to be updated in 2015 to replace references to Regulation 97-02 of the Banking and Financial Regulatory Committee (CRBF, *Comité de la réglementation bancaire et financière*)<sup>49</sup> of 21 February 1997 with



48. Act 2013-100 of 28 January 2013 on various measures to bring French law into line with European Union law in the areas of the economy and finance created electronic money institutions. Ordinance 2013-544 of 27 June 2013 on credit institutions and financing companies created financing companies.

49. CRBF Regulation 97-02 of 21 February 1997, as amended, on internal control at credit institutions and investment firms.





references to the Order of 3 November 2014 on internal control at banking, payment services and investment services firms subject to supervision by the ACPR.

## 2.2 EXPLANATORY DOCUMENTS

In March 2014, the Supervisory College adopted guidelines on AML/CTF in the area of wealth management. This document was the subject of prior consultation with professionals from supervised institutions at four meetings of the AML Consultative Committee.

These guidelines followed the findings of on-site inspections on compliance with AML/CTF obligations in the area of wealth management published in March 2012.<sup>50</sup> The guidelines now apply to all wealth management activities regardless of sector, including life insurance activities aimed at customers seeking wealth management services.

They define wealth management as a service provided by a financial institution, encompassing banking, financial and insurance services specifically for high net worth individuals. They draw on the interpretive note of Financial Action Task Force (FATF) Recommendation 10, which expressly cites private banking as a higher-risk activity in respect of money laundering and terrorist financing.

They clarify the ACPR's expectations in respect of risk classification, implementation of due diligence measures and Tracfin reporting requirements. The Authority's position is that, in principle, a risk profile of the business relationship must be drawn up and that financial institutions must consider whether to put in place enhanced due diligence measures. In addition, particular attention must be paid to the criteria for reporting suspected tax evasion as well as to transactions involving complex legal arrangements, sophisticated products or trust-type structures.

Finally, wealth management activities call for a specific internal control system and AML/CTF governance arrangements within groups, adapted to suit activities and establishments in other countries, where applicable. The person responsible for the group's AML/CTF arrangements must ensure the consistency and convergence of local due diligence procedures so as to guarantee that the AML/CTF measures applied are at least equivalent to those in force in France. In this regard, the guidelines reiterate that the ability to exchange information within the group is of particular importance.

The Anti-Money Laundering Consultative Committee continued work to overhaul and update the **sector enforcement principles on AML/CTF for the insurance sector**. Industry discussions mainly



related to the implementation of the provisions of Article L. 561-8 of the Monetary and Financial Code, and in particular those relating to the termination of business relationships, with the aim of clarifying how this article should be implemented in light of the provisions of the Insurance Code. The Supervisory College adopted the sector enforcement principles on 12 February 2015.

At the end of 2014, the Anti-Money Laundering Consultative Committee also began work on revising the **ACPR/Tracfin joint guidelines on suspicious transaction reporting**. The guidelines will be broadened to cover the obligation to systematically disclose information (known as "COSI").

50. In 2010 and 2011, the *Autorité de contrôle prudentiel* (ACP) carried out on-site inspections of AML/CTF arrangements at 21 credit institutions, investment firms and insurance firms engaging in wealth management activities. The findings are available at the following address (in French only): [http://www.acpr.banque-france.fr/fileadmin/user\\_upload/acp/Controle\\_prudentiel/Lutte\\_anti-blanchiment/2012-02-Bilan-sur-la-gestion-de-fortune.pdf](http://www.acpr.banque-france.fr/fileadmin/user_upload/acp/Controle_prudentiel/Lutte_anti-blanchiment/2012-02-Bilan-sur-la-gestion-de-fortune.pdf)

# 5 Sanctioning

## VIOLATIONS

1. Cases referred to the committee in 2014	108
2. Decisions handed down in 2014	110
3. Information on appeals against sanctions committee rulings	116



**T**he Sanctions Committee is tasked with sanctioning violations of the laws and regulations applicable to reporting institutions.

It issues independent rulings on cases referred to it by the Supervisory College after ensuring that due procedure is followed in accordance with the *inter partes* principle.

# CASES REFERRED TO THE COMMITTEE IN 2014

# 9

rulings handed down  
in 2014

Average time taken  
to reach a decision:

# 10

months

# E

leven disciplinary cases were brought before the Sanctions Committee in 2014, compared with seven in 2013 and five in 2012. The Committee has handled a total of 37 such cases since it was formed in 2010.

The following observations may be made.

- ▶ For the first time, most of the cases brought before the committee in 2014 involved institutions in the insurance sector (seven cases), with complaints relating to a variety of subjects, including identifying deceased policyholders and locating the beneficiaries of life insurance policies terminated by death, as in 2013, but also anti-money laundering and counter-
- ▶ terrorist financing (AML/CTF), compliance with the “principle of specialisation” and requirements to inform and advise customers.
- ▶ Two payment institutions, one electronic money institution and one money changer were charged with violations relating to AML/CTF, ringfencing of funds and prudential rules on own funds.
- ▶ No cases were brought against credit institutions in 2014, when the ACPR’s main focus in this sector was the Asset Quality Review (AQR) that preceded the implementation of the Single Supervisory Mechanism (SSM).
- ▶ Of the 11 cases handled by the committee, 2 resulted from non-compliance with cease-and-desist orders.







# THE SANCTIONS COMMITTEE



## THE SANCTIONS COMMITTEE

(As at 31 December 2014)

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

- 2 Rémi Bouchez**, member of the *Conseil d'État*, Chairman, and **10 Jean-Claude Hassan**, member of the *Conseil d'État*, alternate  
**12 Jean-Pierre Jouguelet**, member of the *Conseil d'État*, full member, and **4 Denis Prieur**, member of the *Conseil d'État*, alternate.

Appointed by the Chief Justice of the *Cour de Cassation*:

- 1 Claudie Aldigé**, counsellor at the *Cour de Cassation*, full member, and **5 Yves Breillat**, counsellor at the *Cour de Cassation*, alternate.

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

- 3 Francis Crédot**, full member, and **8 Louis Vaurs**, alternate  
**9 Pierre Florin**, full member, and **7 Jean Cellier**, alternate  
**11 André Icard**, full member, and **6 Charles Cornut**, alternate

# 2 DECISIONS HANDED DOWN IN 2014

## A. NUMBER AND NATURE OF SANCTIONS

In 2014, the Sanctions Committee returned 9 rulings, compared with 10 in 2013,<sup>51</sup> 7 of which were rulings on the merits. Two rulings targeted institutions in the banking sector, three were aimed at insurance firms, one related to a money changer and one covered an insurance intermediary.

The committee issued six reprimands and a ten-year ban on doing business, together with seven fines ranging from EUR 10,000 to EUR 50 million,<sup>52</sup> giving a total amount of EUR 102.13 million (compared with EUR 15.42 million in 2013). The bulk of this total was made up of three fines imposed on insurance firms for violations mainly relating to requirements arising from Act 2007-1775 of 17 December 2007 on identifying deceased policyholders and locating the beneficiaries of life insurance policies terminated by death (with these three fines totalling EUR 100 million).

All rulings handed down in 2014 were published in non-anonymous format.

## B. TIME TAKEN TO REVIEW CASES

Many of the cases reviewed by the committee in 2014 related to complex issues giving rise to lively discussion between the parties and resulting in particularly large case files (for example, one case file contained more than 80,000 pages). Frequent requests from the parties to be allowed more time to submit their observations also contributed to a slight lengthening in the average time taken to handle cases,<sup>53</sup> which came out at ten months in 2014, as in 2012, compared with nine months in 2013.

At 31 December 2014, the committee had nine cases in progress, the oldest of which had been referred in December 2013; the average age of ongoing cases at that date was six and a half months.

## C. MAIN LESSONS FROM RULINGS HANDED DOWN IN 2014

### GENERAL AND PROCEDURAL MATTERS

#### 1. Compliance with defence rights and the *inter partes* principle

The [Société Générale ruling of 11 April 2014 \(case no. 2013-04\)](#)<sup>54</sup> notes that this principle does not imply that the proceeding must reply in detail to all the observations made by the respondent institution, but that it is up to the committee to weigh up all the arguments put to it and the replies or silences given in response.



51. The committee's rulings, which are published in the ACPR's official register, may also be consulted in the compendium of previous decisions posted on the Authority's website.

52. This is the largest fine ever imposed by the Authority.

53. The period from the date on which a case is referred to the committee to the date on which a ruling is notified.

54. Société Générale's appeal against this ruling is currently before the *Conseil d'État*.



**Raphaël Thébault,**  
Secretariat of the Sanctions  
Committee.



In 2014, the Sanctions Committee issued six reprimands and a 10-year ban on exercising activities, accompanied by seven fines totalling EUR 102.13 million.



### 2. Rules of evidence applied to a disciplinary proceeding

In its aforementioned [Société Générale decision](#), the committee reiterated that, for each complaint, it checks whether the Authority bringing the case provides evidence of the alleged violations and considers that the Authority has fulfilled this duty when the evidence provided by it makes a violation sufficiently plausible and the respondent refrains from providing evidence to the contrary that it has or is required to have in its possession. See also on this subject the [ARCA Patrimoine ruling of 18 June 2013 \(case no. 2012-07\)](#), point 1.1.

### 3. Principle that offences and penalties must be defined by law

In this same case no. 2013-04, it was pointed out that Articles 9 and 40 of Regulation 97-02 of 21 February 1997 on internal control at credit institutions and investment firms,<sup>55</sup> which referred to the need for the resources allocated to inspections to be appropriate to the institution's activities, size and geographical footprint and stated that reporting institutions must “draw up and maintain pro-

cedural manuals appropriate to their various activities”, were not sufficiently precise. After reiterating that the requirement for precision in defining offences did not have the same scope as far as administrative sanctions and criminal penalties are concerned, the committee considered that the requirements resulting from these articles were defined in sufficiently clear and precise terms to be free of any ambiguity. On this same subject, however, the committee considered, in its [Cardif Assurance Vie decision of 7 April 2014 \(case no. 2013-03 bis\)](#), when reviewing a complaint, that the provisions referred to were not sufficiently precise to provide a basis for sanctions: it rejected the charge alleging failure to put in place an overall system to monitor the number and value of life insurance policies terminated by death, on the grounds that neither Article L. 132-8 of the Insurance Code nor any of its implementing texts explicitly required it.

55. Regulation repealed by the Order of 3 November 2014 on internal control at banking, payment services and investment services firms subject to supervision by the ACPR.





#### 4. Absence of a limitation rule and proportionality of sanctions

In the absence of an applicable limitation rule, the committee judged, in its [Allianz Vie ruling of 19 December 2014 \(case no. 2014-01\)](#), in accordance with the principle of proportionality of sanctions, that actions the most recent of which were committed 15 years before the case was brought before the committee were too old to contribute to the determination of a disciplinary sanction. See also on this subject the second procedural question in the [UBS France ruling of 25 June 2013 \(case no. 2012-03\)](#) and the *Conseil d'État* Order of 25 July 2013, *Banque Populaire Côte d'Azur*, no. 366640.

### ON THE MERITS

#### 1. Compliance with minimum capital requirements applicable to investment services providers

In a [ruling of 19 March 2014 \(case no. 2013-02\)](#), the committee judged that the applicable minimum capital requirement (namely EUR 1.1 million if the service provider holds client funds) applies in full and without any possibility of exemption, even if those funds are only held for a short interim period and for only a portion of the business. Failure to comply with this rule over a period of one year, with very significant divergences from the aforementioned requirements, is a serious and prolonged breach of an essential standard likely to constitute grounds for withdrawal of the licence, even if there was no intention on the part of the firm and regardless of any loss suffered by the market or customers. The committee nevertheless considered, in the case in point, that decisions made by the firm to put an end to the breach should be taken into account.

#### 2. Compliance with the requirement to identify deceased life insurance policyholders and locate the beneficiaries

Act 2007-1775 of 17 December 2007 tightened the requirements on insurers with regard to identifying deceased life insurance policyholders and locating the beneficiaries of policies taken out by them. In 2014, the committee reviewed three cases in which the main charge was failure to comply with the requirements arising from this act: [Cardif Assurance Vie \(case no. 2013-03 bis\)](#), [CNP Assurances \(case no. 2013-05\)](#) and [Allianz Vie \(case no. 2014-01\)](#).

On completing this review, with regard to the first of these two requirements, the committee judged that the provisions of Article L. 132-9-3 of the Insurance Code, which are clear, require life insurance firms to find out whether any policyholders have died across their entire portfolio; since the legislation provides for neither transitional measures nor partial or phased searches, it is incumbent upon insurance firms not to exclude any category of policies from their

searches and to put in place all the resources needed to apply an across-the-board and systematic approach. Consequently, and for the purposes of the initial implementation of the Act, if firms had initially limited the scope of searches conducted via the national register of natural persons (RNIPP) – often described as “prioritisation” – as a result of technical or practical constraints, such limitation had to form part of a predetermined overall approach to be completed within a short time frame. As regards the use of tools other than the RNIPP to meet the requirement of identifying deceased policyholders, the committee indicated that it was up to the institutions using such tools to show that they offered at least an equivalent level of effectiveness for that purpose.



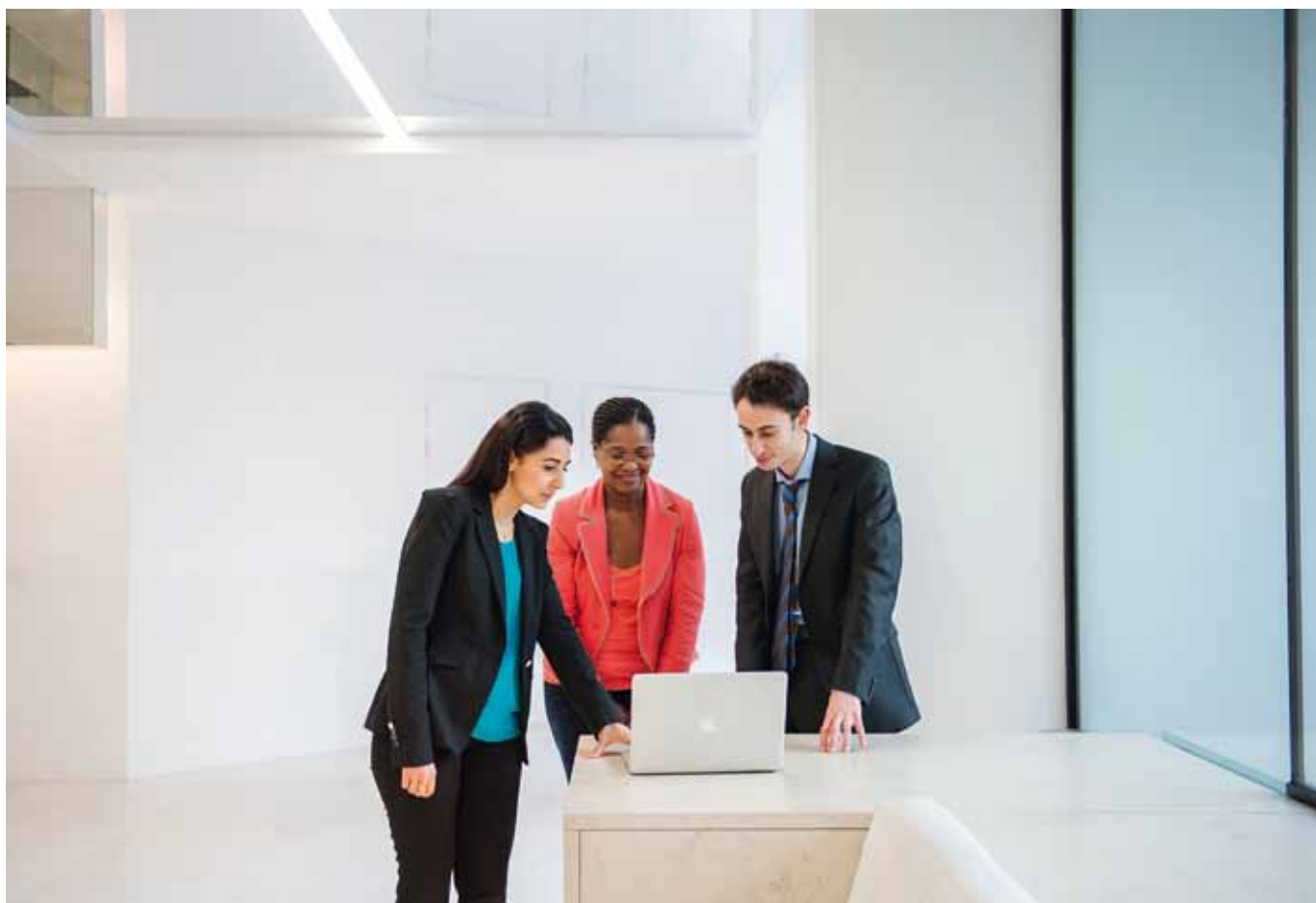
With regard to the second requirement, the committee judged that Article L. 132-8 of the Insurance Code put in place a best endeavours obligation under which reporting institutions must, once they are aware that a policyholder is deceased, actively search for the beneficiaries of the life insurance policy. This requirement entered into force on 19 December 2007, the day after the aforementioned act was published, with no transitional measures or deferred or phased entry into force, and applies to all policies held by insurers, whether entered into before or after that date and regardless of the date on which the policyholder died. Furthermore, while the general approach adopted, the procedures drawn up and the resources assigned by the insurer to this search should be taken into account, compliance with the requirement to conduct an active search is assessed in light of the care taken in handling each individual case, where any inaction, especially for a long period, on the face of it constitutes a violation.

### 3. Execution requirement for fixed-term policies (Article L. 113-5 of the Insurance Code)

In its aforementioned [ruling of 19 December 2014](#) handed down to Allianz Vie, the committee judged that Article L. 113-5 of the Insurance Code, although arising from old legislation and formulated in general terms, places an obligation upon insurers to pay out benefits after the risk has materialised or upon expiry of the policy and thus requires insurers, upon expiry of a fixed-term life policy, to carry out the due diligence needed to pay out the capital so as to fulfil their contractual obligations.

### 4. Operational implementation of provisions governing the “right to a bank account”

In its [ruling of 11 April 2014 \(case no. 2013-04\)](#) relating to facts similar to those on which it had ruled in the LCL case reviewed in 2013 ([ruling of 3 July 2013, case no. 2012-09](#)), the committee judged that the texts governing the right to a bank account, which are aimed at a population that is assumed to be vulnerable, stipulate the requirement for the designated institution to open a deposit account for the individual in question and to provide him or her with basic banking services free of charge. It follows from this that the service provided following contact between the institution and the individual





in question may only differ if the latter terminates the relationship or expressly requests additional services, in which case the institution must be able to provide evidence of such termination or request. It also follows that if the institution proposes or agrees to provide additional services to a customer eligible for the right to a bank account, it must put in place suitable pricing and organisational measures to separate out the price of the additional services offered and used, so that their relative cost can be assessed.

### 5. Insurance intermediation and compliance with the fitness and properness condition

In a case brought against insurance broker Teucer Gestion Privée, the main charges against the company and its manager, an insurance intermediary, were of having misappropriated insurance premiums paid by 12 customers, in particular by using them to cover the company's cash requirements and pay its suppliers and by transferring part of them to the manager's personal account. Although the criminal court has not yet ruled on this misappropriation of funds, the committee ruled that the manager no longer meets the fitness and properness condition to which he is subject. See [ruling of 17 July 2014 \(case no. 2014-02\)](#).

### ON THE SCALE OF FINES IMPOSED

In reviewing cases relating to life insurance policies not paid out, given the nature and duration of the alleged violations and the size of the fines proposed in the proceeding, the committee found it necessary to clarify the approach it adopts to determine the fines it imposes.

Ruling out an approach resulting in an initial theoretical amount that may be well above the statutory maximum of EUR 100 million before being reduced to that maximum, the committee applied the following method in the three rulings, explained in its rulings for the first time:

*"To ensure that the amount of the fine imposed by it is proportionate within the maximum amount laid down in legislation, the Sanctions Committee must assess the severity of the violation(s) it considers to have been established, notably in light of the nature of the obligations at issue in those violations, their number and duration, the harm they may have caused to customers or third parties as well as any undue savings or earnings that may have resulted for the sanctioned entity; the Committee must also take into account, where applicable, the speed and extent of any corrective measures put in place and, finally, ensure that the fine considered is not excessive relative to the sanctioned entity's financial capacity; in line with the principle of proportionality, a fine equal to the statutory maximum, combined with a temporary ban on carrying on the principal*



*business, as requested by the College's representative in this case, could only be imposed to crack down on violations that are exceptionally serious in light of these various assessment criteria" (Allianz Vie ruling, Recital 40).*

Applying this analysis approach, the committee found that the shortcomings and delays in applying the provisions arising from the Act of 17 December 2007 had initially resulted in the respondent insurance firms incurring lower expenses than necessary and unduly holding onto amounts (totalling very large sums in two of the three cases) that should have been paid out to the beneficiaries. As regards the severity of the violations, it also found that in some cases, the policyholder's wishes had not been respected, with the beneficiary having died without being notified of the stipulation in his or her favour or the policy being subject to the 30-year limitation period. Finally, the committee ruled that this had resulted in a loss for the beneficiaries noted on the policies as well as, more generally, an adverse effect on the policyholders' confidence in life insurance products.

This was the basis for the scale of the fines imposed in light of the violations committed in each case: EUR 10 million for Cardif Assurance Vie, EUR 40 million for CNP Assurances and EUR 50 million for Allianz Vie.



# INFORMATION ON APPEALS AGAINST SANCTIONS COMMITTEE RULINGS

## 1. *Conseil d'État* ruling on UBS France (UBSF) of 5 November 2014 (appeal no. 371585)

In the context of the appeal by UBS France against the committee's ruling of 25 June 2013 (case no. 2012-03), the *Conseil d'État* had, in a ruling of 15 January 2014, refused to refer to France's Constitutional Court a constitutional question seeking a declaration that the provisions of the Monetary and Financial Code on the rules applicable to credit institutions in respect of internal control delegate power to the minister with responsibility for the economy to define how those rules are to be implemented, and that they define the ACPR's powers of sanction, on the grounds that the question misunderstood the rights and freedoms guaranteed by the Constitution.

Furthermore, the *Conseil d'État* completely rejected the appeal lodged by UBSF in a ruling of 5 November 2014. This ruling serves as a reminder that, while it is not a national law jurisdiction, the ACPR's Sanctions Committee is subject to the requirements relating to defence rights and impartiality that arise from point 1 of Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). It then sets aside the various criticisms made by UBSF in this area, relating in particular to the late disclosure of one of the anonymous whistleblowing messages and the failure to add another of those messages to the case file, approaches made to the ACPR by a member of Parliament concerning the case and the publication of post on his blog, and the committee's potential pre-judgement or bias as regards accusations of unlawful marketing and complicity in tax evasion also brought against UBSF.



Concerning the alleged failure to understand the principle that offences and penalties must be defined by law and its consequences, the *Conseil d'État* found, with regard to the provisions of the aforementioned CRBF Regulation 97-02 relating specifically to compliance monitoring, and notably those found in Article 11-3, that while they "allow credit institutions some freedom of assessment, [...] they nevertheless refer to identifiable and unambiguous obligations known to professionals". While the *Conseil d'État* gave no further justification for this last statement, it undoubtedly took implicitly into consideration (as the reporting judge had done explicitly) the recommendations of the Basel Committee and the former Banking Commission on compliance monitoring.

The *Conseil d'État* then applied the solution already identified in connection with the AMF's Enforcement Committee, according to which "in applying an existing rule to facts giving rise to the violations it sanctions, the Enforcement Committee may clarify its scope, provided that, at the date of the disputed facts, the applicable rule was sufficiently clear, such that it appeared reasonably foreseeable by the professionals concerned that any breach of it constituted a violation liable to be sanctioned". Finally, it deemed that this foreseeability requirement was fulfilled in the case in point since, according to its analysis, the Sanctions Committee had confined itself to seeking to identify whether, "in the circumstances in question, the compliance requirement laid down by these provisions [those of Regulation 97-02] was actually implemented".





## 2. *Conseil d'État* ruling on Banque populaire Côte d'Azur (BPCA) of 15 December 2014 (appeal no. 366640)

In the appeal against the [ruling of 10 January 2013](#) (case nos. 2012-04 and 2012-04 bis), the *Conseil d'État* decided, in a [ruling of 25 July 2013](#), not to refer any of the four constitutional questions raised by BPCA to France's Constitutional Court. These questions related to the lack of a limitation period for disciplinary proceedings, the alleged failure to separate departments responsible for proceedings from those responsible for investigations, the absence of any obstacle in the Monetary and Financial Code that would prevent the person who referred the matter from participating in the deliberation, and finally, the absence of any guarantee, arising from the provisions of Article L. 612-38 of that same code, against the ACPR instigating disciplinary proceedings on its own initiative.

Furthermore, the *Conseil d'État* completely rejected the appeal lodged by BPCA in a [ruling of 15 December 2014](#). In particular, the *Conseil d'État* ruled that the cancellation of the previous sanction decision handed down by the former Banking Commission on 18 December 2009 in [Conseil d'État ruling 336839 of 11 April 2012](#) meant the ACPR was free to instigate a new disciplinary proceeding for the same violations without breaching the *non bis in idem* rule.

On the validity of the [ruling of 10 January 2013](#), the *Conseil d'État* ruled that the change in the applicable regulation in respect of AML/CTF subsequent to the date on which the violations were committed did not, for the purposes of applying the principle that offences and penalties must be defined by law and the principle of non-retroactivity of harsher criminal laws, constitute a less harsh new law that the Sanctions Committee ought to have applied, with such a change affecting neither the incrimination nor the sanction.

The *Conseil d'État* went on to set aside arguments intended to contest the committee's assessment of BPCA's compliance with its obligation to report suspicious transactions, both initial and additional, and its obligation of ongoing due diligence, as well as arguments put forward against the grounds for the decision confirming violations in respect of internal procedures, compliance with due diligence obligations in the processing of cheques, internal control arrangements in connection with anti-money laundering, and compliance risk.

Finally, the *Conseil d'État* set aside arguments put forward against the sanction imposed, ruling that it was proportionate to the nature, number and severity of the charges against BPCA. It also found that sufficient reasons had been presented for the sanction and that, while the committee was at liberty to take into account the effects of the publication of an earlier decision to determine the nature and extent of sanctions handed down to the same entity, the *non bis in idem* rule did not prevent it from ordering the publication of the contested decision.

## 3. Withdrawal by Tunisian Foreign Bank (TFB) of its appeal against the ruling of 1 March 2013

TFB had appealed the [ruling of 1 March 2013](#) in which the committee had handed down a reprimand accompanied by a fine of EUR 700,000 for violations relating to its internal control systems and accounting arrangements. In a ruling of 23 December 2014, the *Conseil d'État* took formal note of TFB's withdrawal of its appeal.

## 4. Ongoing appeals before the *Conseil d'État*

At 31 December 2014, two appeals against rulings issued by the committee were ongoing before the *Conseil d'État*. They concerned the [ruling of 25 November 2013 on Caisse d'Épargne et de prévoyance du Languedoc-Roussillon](#) (case no. 2012-01) and the [ruling of 11 April 2014 on Société Générale](#) (case no. 2013-04).



# 6 action

ACPR

IN EUROPEAN  
AND INTERNATIONAL BODIES

1. Banking sector
2. Insurance sector
3. Accounting, prudential reporting and audit

120  
125  
130



**T**he ACPR represents France in international supervisory bodies, playing an active role in international and European banking and insurance bodies dealing with prudential, accounting and customer protection questions.

The International Affairs Directorate is responsible for cross-cutting issues affecting the banking and insurance sectors in the areas of prudential and accounting regulations.

ACPR representatives participated in

255

working groups or sub-groups

ACPR representatives chaired

24

groups

**R**epresented in the decision-making bodies of the Basel Committee and the European Banking Authority (EBA) by its Secretary General Edouard Fernandez-Bollo, the ACPR has played an active role in numerous strategic issues linked to the definition of European technical standards and future international prudential standards. This work has involved regular discussions with industry representatives, particularly in the context of public consultations and impact studies.

## 1.1 EUROPE

In 2014, the bulk of the work led by the EBA on prudential regulation was linked to the mandate granted to it by European legislation in the context of CRD IV<sup>56</sup> and the CRR.<sup>57</sup> This work included important developments relating to internal approaches, the definition of own funds and oversight of compensation. In other areas, the Payment Services Directive granted mandates to the EBA.

### • Market risk

The ACPR was involved in drawing up two technical standards on internal market risk models, one on the definition of extensions and changes to models and the other on the methodology for assessing internal models. It also helped draw up a report on the expense relating to the credit valuation adjustment (CVA) by participating in the collection and analysis of data from 32 banks in 11 European countries (including 4 French banks) as well as in discussions with the financial community on the findings and recommendations put forward. Finally, in connection with the implementation of annual benchmarking for internal models, hypothetical test portfolios were defined and a draft technical standard harmonising the benchmarking methodology was finalised.

### • Credit risk

The EBA's work also related to credit risk, with a number of draft technical standards published for public consultation and subsequent submission to the European Commission. For example, the conditions for applying a materiality threshold for defaults were clarified, as were the conditions under which competent authorities can authorise an institution to use historical data covering a shorter period to estimate its parameters (probability of default, loss given default, etc.).





The ACPR contributed to defining many European technical standards.

### • Definition of own funds

Similarly, the ACPR was involved in drawing up technical standards on own funds, which clarified a number of articles of the CRR, relating in particular to the concepts of foreseeable dividends, direct and indirect funding, and the procedures to be followed for reducing an institution's own funds.

### • Oversight of compensation

The ACPR was also involved in drawing up the technical standard on risk takers in relation to the oversight of compensation, which, for the first time in Europe, harmonises the methodology for identifying personnel whose compensation is subject to prudential oversight. To ensure the consistent implementation of provisions governing compensation, the ACPR is also involved in updating EBA guidelines. This work has notably given rise to the publication of an opinion on the criteria defining the fixed and variable components of compensation.

### • Payment services

Finally, the Authority is actively involved in work initiated by the EBA on payment services, which in 2014 led to the publication of guidelines on the security of online payments. Analysis is also underway on the benefits and risks of virtual currencies, innovative payment instruments (such as mobile payments) and crowdfunding, with a view to possible regulation or the harmonisation of domestic legislation at the European level. In this regard, the EBA has, in particular, suggested that European lawmakers apply the provisions on anti-money laundering and counter-terrorist financing to market participants operating at the interface between virtual currency and real money.



**Olya Rangelova,**  
International Affairs Directorate.



In 2014, the ACPR participated in over 250 international working groups or sub-groups and played an active role in many strategic areas.



## 1.2 INTERNATIONAL

The Basel Committee has continued to reform the international framework of prudential standards, with a number of important standards introduced or amended in 2014.

### • Liquidity ratios

At end October 2014, the Basel Committee published the final version of the standard on the Net Stable Funding Ratio (NSFR), which aims to improve banks' resilience by requiring them to fund a minimum proportion of their assets with stable funds over a one-year horizon. The ACPR was actively involved in this work with a view to arriving at a balanced calibration of this ratio, with two objectives: controlling excessive transformation while recognising the essential role of banks in financing the economy, and encouraging stable funding of banking activities by limiting the use of short-term market funding.

### • Counterparty risk

The ACPR was also involved in the review of standard approaches to determining counterparty risk, which led to the development of a single standard approach (SA-CCR), the final version of which was published by the Basel Committee in March 2014. The Authority notably contributed to quantitative work to measure the potential impact of this new single methodology and finalise its calibration.

### • Leverage ratio

The phased introduction of the leverage ratio continued in 2014, with the Basel Committee publishing new calculation procedures which were subsequently transposed at the European level by a Commission delegated act. The leverage ratio, which must be published by credit institutions with effect from 2015, continues to be

monitored by Basel Committee and EBA working groups in which the ACPR participates, on the basis of data provided by institutions. Adjustments are likely to be introduced before this management standard becomes binding in 2017.

### • Systemically important banks (G-SIBs)

The ACPR has contributed to the work of the Financial Stability Board (FSB) on the loss-absorbing capacity in resolution of G-SIBs (Global Systemically Important Banks). This work, which continues in 2015, has identified the TLAC (Total Loss-Absorbing Capacity), i.e. the minimum volume of debt available to absorb losses as a priority with a view to recapitalising under a resolution regime (see Chapter 2, section 4.2), as a key tool for anticipating situations where public authorities must support institutions whose collapse would be excessively damaging to the economy and to financial stability ("too big to fail" banks).

### • Securitisation

In December 2014, the Basel Committee published the final text resulting from the work of the working group on the revision of the prudential framework governing banks' securitisation activities. The new framework, which is less dependent on external ratings, simpler and considerably more conservative, includes new approaches to weighting securitisation exposure, structured into a single hierarchy as opposed to the previous dual one, that is standardised across institutions (the IRB or Internal Ratings Based approach). The ACPR is supporting discussions aimed at better differentiating simple, standard and transparent securitisation from other types of securitisation.

## 6. ACPR ACTION IN EUROPEAN AND INTERNATIONAL BODIES

### 1. Banking sector 1.2 International

#### ■ THE POST-CRISIS AGENDA AND ADJUSTMENTS TO THE BASEL III FRAMEWORK

Having been transposed into European law with the entry into force of the CRD IV legislative package on 1 January 2014, the **Basel III framework has since continued** to evolve through work by the Basel Committee and the EBA to adjust and consolidate international standards.

The ACPR was involved in work by the Basel Committee that led to the end-2014 publication of a consultation document on the **reform of the standard approach to calculating credit risk**, which concerns fundamental aspects such as the reference to external ratings on which it aims to reduce the automatic dependence, and the new method for calculating weightings, which seeks to increase comparability with IRB (Internal Ratings Based) approaches and improve the risk sensitivity of coefficients. In 2015, a Quantitative Impact Study (QIS) will be kicked off to measure the effect of this reform on banks' capital requirements.

The ACPR also plays a very active role in work on the **fundamental review of the trading book**: it chairs the working group, the sub-group responsible for the standard approach and the QIS team that has instigated two studies, one on hypothetical portfolios and one on real portfolios. A consultative document on the standard approach and the treatment of internal hedges was also published towards the end of the year.

The reform of the standard approach also relates to the measurement of own funds requirements intended to provide protection against **operational risk**. A new method was put out to public consultation towards the end of 2014.

Similarly, **rules governing interest rate risk within the banking portfolio** are the subject of work involving the ACPR, with the aim of strengthening the stability of the financial system by improving banks' resilience to potential interest rate shocks. A public consultation based on an initial draft standard is planned for 2015, to be accompanied by a QIS aimed at facilitating the calibration of the future standard, which should be adopted in 2016.

Finally, to free up capacity to finance the economy in an environment of tighter prudential constraints on bank balance sheets, the EBA, with the support of the ACPR, developed criteria for identifying **"simple, standard and transparent" securitisation transactions**, and may propose to the European Commission that a more favourable prudential treatment be adopted for such transactions in the future. At the same time, in 2015 the ACPR will continue to take part in the work of the Basel Committee, which could also result in internationally recognised differentiated treatment for this type of securitisation transaction.

#### ■ EUROPEAN AUTHORITIES IN BANKING AND INSURANCE

##### Macro-prudential supervision

##### European Systemic Risk Board (ESRB)

Early warning mechanism  
Information on systemic risks



Information on micro-prudential  
developments

##### Micro-prudential supervision

European Banking  
Authority  
(EBA)

European Insurance  
and Occupational  
Pensions  
Authority  
(EIOPA)

European Securities  
and Markets  
Authority  
(ESMA)

National supervisory authorities: ACPR, AMF, etc.





## 2.1 EUROPE

The ACPR continues to play an active role in key workstreams undertaken by the European Insurance and Occupational Pensions Authority (EIOPA). This work is linked, on the one hand, to the finalisation of the Solvency II regulatory framework, and on the other, to the monitoring of consumer protection issues and the analysis of questions relating to financial stability, crisis management and pension funds.

As well as participating in all EIOPA working groups, and more specifically those dedicated to building the Solvency II prudential framework, the ACPR either serves or has served as chair or deputy chair of three committees:

- ▶ the Financial Requirements Committee (FinReq), responsible for aspects linked to Pillar 1 (quantitative requirements) of Solvency II,
- ▶ the Internal Governance, Supervisory Review and Reporting Committee (IGSRR), responsible for aspects relating to Pillars 2 (governance and ORSA: Own Risk and Solvency Assessment) and 3 (reporting) of Solvency II,

- ▶ and the Insurance Groups Supervision Committee (IGSC), which focuses on issues specific to the application of the Solvency II standards to groups.

The Authority has also stepped up its involvement in a number of sub-committees (notably by chairing four sub-groups).

All these working groups report to EIOPA's Board of Supervisors (BoS), on which the ACPR is represented by Sandrine Lemery, First Deputy Secretary General. Furthermore, in 2014 Sandrine Lemery joined the Management Board, which oversees EIOPA's administration.

In 2014, EIOPA continued to draw up technical standards and guidelines. These mainly related to the implementation of Solvency II and consumer protection.

### • Implementing technical standards for Solvency II



In the first half of 2014, EIOPA adopted a first wave of implementing technical standards (ITSs) for Solvency II. These technical standards entered into force on 1 April 2015 and are directly applicable. A second wave of ITSs, relating to factors linked to the calculation of the Solvency Capital Requirement (SCR), risk management and, more specifically, the procedure for adopting additional capital requirements, as well as transparency in relation to both national supervisors and the public, was put out to consultation in early December 2014 and should be submitted to the European Commission by 30 June 2015.



**Nicolas Joly**, specialist in technical provisions at the International Affairs Directorate

## 6. ACPR ACTION IN EUROPEAN AND INTERNATIONAL BODIES

### 2. Insurance sector

#### 2.1 Europe

#### • EIOPA guidelines and recommendations on Solvency II

The ACPR was fully involved in drawing up preparatory guidelines published by EIOPA in 2014 on the collection of information, the ORSA, governance and the assessment of internal models during the pre-application phase. It ensured that these guidelines were implemented at the domestic level, notably by organising Solvency II preparedness exercises for the French market.

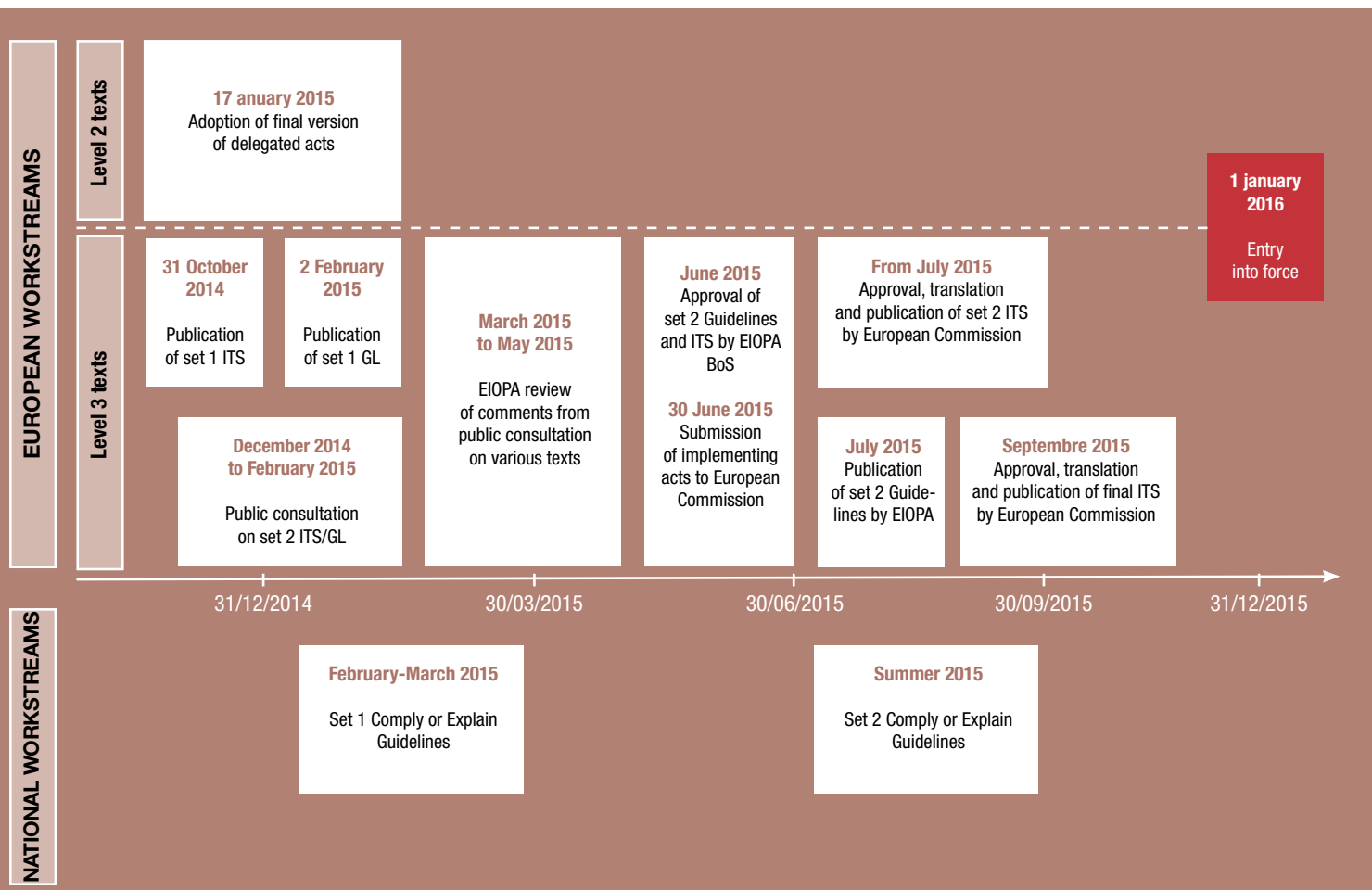
Furthermore, as well as being involved in drafting EIOPA guidelines and recommendations and analysing comments put forward by the industry during public consultations, the ACPR prepared exercises on achieving compliance with the guidelines, which will be published in the course of 2015. A first batch will be aimed at harmonising procedures used by national supervisory authorities to approve the use of internal models and of certain specific measures (for example, the use of the matching adjustment or ancillary own funds), as well as harmonising the operation of supervisory

colleges and the prudential supervision process. A second batch will complete the regulatory framework by adding provisions relating to Pillars 2 and 3 of Solvency II.

#### • Upcoming implementation of Solvency II

In 2014, preparations were made for the implementation of Solvency II on 1 January 2016. First, the Omnibus II Directive, passed by the European Parliament in March 2014, amended the directive by seeking to facilitate the transition from Solvency I to Solvency II and by amending in particular the prudential balance sheet valuation rules applicable to long-tail insurance segments (mainly retirement insurance and non-surrenderable life insurance policies). Second, on 10 October 2014 the Commission adopted draft delegated acts (Level 2) including implementing measures for the directive; these delegated acts were published on 17 January 2015. Finally, the guidelines and technical standards issued by EIOPA are gradually entering into force.

### ■ LEVEL 3 FINALISATION





In 2014 the ACPR prepared for the implementation of Solvency II.

### • Peer reviews

In 2014, the ACPR was the subject of peer reviews organised by EIOPA relating to:

- ▶ the freedom to provide services in the insurance field,
- ▶ the transposition into domestic law of the IORP Directive 2003/41 (Institutions for Occupational Retirement Provision),
- ▶ and the operation of supervisory colleges.

These EIOPA-led review exercises aim to harmonise supervisory practices among authorities in the European Union, in particular by promoting observed best practice. As part of this work, the ACPR has to respond to questionnaires sent out by EIOPA. However, it also helps draft reports sent out to authorities under review.

### • Pension funds

The ACPR, in cooperation with the directorate general “Treasury”, participated in negotiations over the proposed revision of the Institutions for Occupational Retirement Provision Directive (the IORP Directive). This revision, which only relates to the qualitative aspects of the prudential framework (governance and disclosures), was agreed by the European Council. Negotiations will therefore be able to continue in 2015, henceforth involving the European Parliament.

Alongside this revision of the qualitative framework, the ACPR chaired EIOPA’s work on the quantitative aspects of the prudential framework with a view to drafting a consultation document proposing potential areas for revision. This document was published towards the end of 2014. A quantitative impact study will be conducted in 2015 to analyse the effects of the proposed changes, with recommendations to be put to the European Commission towards the end of the year for the subsequent revision of the quantitative aspects of the IORP Directive.

## 2.2 INTERNATIONAL

The ACPR is actively involved in the work of the International Association of Insurance Supervisors (IAIS), within which its influence has increased, as illustrated by the appointment of Sandrine Lemery to the Executive Committee, which makes decisions intended to achieve the objectives laid down in the association’s strategic programme. The ACPR plays an active role on three key committees:

- ▶ 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, macro-prudential tools to better capture and prevent risks to financial stability,
- ▶ the Technical Committee, which is responsible for drawing up international standards for more effective and transparent supervision, mainly to limit the scope for regulatory arbitrage by insurers,
- ▶ and the Implementation Committee, whose goal is to implement standards, assess their impact and foster cooperation between supervisors.

The Authority has also significantly stepped up its involvement in committees and sub-committees, in particular by taking up the chairmanship of the Market Conduct Working Group and the vice-chairmanship of the Supervisory Development Working Group.

#### • Development of specific provisions for systemic insurers

Under the mandate received from the Financial Stability Board in 2011, the IAIS has continued its work to identify and draw up specific standards for systemic insurers and reinsurers (Global Systemically Important Insurers or G-SIIs). Moreover, a milestone was achieved at the last G20 summit in Brisbane in 2014 with the adoption of a simple capital requirement common to all systemic insurers, the Basic Capital Requirement (BCR). This requirement is intended to underpin the implementation of a further capital requirement, the Higher Loss Absorbency (HLA) requirement, the calibration of which should be

finalised by the end of 2015 (see inset). The formula finally adopted for calculating the BCR is very similar to that defended by EIOPA, demonstrating the effectiveness and benefit of adopting a common position at the European level.

At the same time, in 2015 the ACPR is continuing its involvement in the work of the IAIS concerning the definition of an Insurance Capital Standard (ICS), which should ultimately replace the BCR, to enable more accurate risk assessment and provide a common framework for the supervision of major international groups (Internationally Active Insurance Groups or IAIGs).

## ■ FIRST STEPS TOWARDS A COMMON INTERNATIONAL FRAMEWORK ON CAPITAL REQUIREMENTS IN INSURANCE

In the wake of the 2008 crisis, international organisations decided to develop an appropriate regulatory framework to detect and regulate macro-prudential and systemic risks. After first focusing its attention on the banking sector, in 2011 the Financial Stability Board mandated the IAIS to identify systemic insurers and develop specific measures to prevent or mitigate the risks they are likely to generate.

The first step consisted of developing a methodology for identifying systemic insurers. This step was completed in July 2013 with the publication of a list of nine institutions (Allianz SE, American International Group, Inc., Assicurazioni Generali S.p.A., Aviva plc, Axa S.A., MetLife, Inc., Ping An Insurance Group Company of China, Ltd., Prudential Financial, Inc. and Prudential plc) together with three key measures: the adoption of resolution plans by institutions, enhanced supervision and the application of a capital surcharge. This list of nine systemic insurers was confirmed at the last G20 summit in Brisbane. However, discussions are underway over the possibility of revising this methodology, notably to include reinsurers.

As regards the measures identified in July 2013, work on the requirement to draw up recovery and resolution plans (RRPs) began in late 2013. The measure consisting of an additional capital requirement specific to systemic insurers (the HLA or Higher Loss Absorbency) should be finalised in autumn 2015 ready for adoption at the G20 summit in November. To implement this requirement, a common baseline requirement is needed for all systemic insurers. A simple formula, the BCR (Basic Capital Requirement), was therefore developed and adopted at the G20 summit in Brisbane in November 2014.

This formula, which is calculated at consolidated group level, is being developed to reflect the main categories of risk affecting the activities of G-SIIs. For the purposes of simplicity, the BCR implicitly assumes a degree of portfolio diversification and does not take into account any factors linked to the effectiveness of asset-liability matching. It should be noted that the results of calculations carried out during work to calibrate the BCR will not be made public before 2019.

Alongside this continuing work, the IAIS initiated the development of an Insurance Capital Standard (ICS), which will replace the quantitative component of ComFrame.<sup>58</sup> *This standard must provide a harmonised framework for balance sheet valuations and the composition of own funds with a view to defining a common capital requirement. Insofar as it better takes into account diversity and is more sensitive to the risks facing institutions, the ICS is intended ultimately to replace the BCR. To this end, an initial public consultation was launched on 17 December 2014; this should be followed by a consultation covering ComFrame as a whole in late 2015. The ICS is due to be finalised by 2018 for implementation by international groups (IAIGs) from 2019.*

Industry input is vital to the successful completion of this international work, including both public consultations and exercises to gather the data needed to help calibrate future standards (the ICS and the HLA).

58. *Common Framework for the Supervision of Internationally Active Insurance Groups*: ComFrame's aim is to facilitate and harmonise supervision of internationally active insurance groups.





## • Dialogue between the European Union and the United States

Insurance sector regulation requires international harmonisation, which also relies on bilateral mutual recognition agreements. It is with this in mind that dialogue has been opened up between the European Union and the United States to identify and correct differences in insurance supervision.

A key event in transatlantic relations in 2014 was the recognition of France as a qualified jurisdiction by the NAIC (National Association of Insurance Commissioners), which represents American supervi-

sors. This recognition should lead to a reduction in collateral requirements imposed on French reinsurers in the United States, subject to certain conditions.

## • Peer reviews and investigations

The ACPR was the subject of a peer review on the implementation of a number of Insurance Core Principles, the findings of which were passed on to the FSB. The Authority responded to several questionnaires covering the supervision of insurance institutions and the adoption, where applicable, of preventive and corrective measures and sanctions.

## ■ ACPR INVOLVEMENT IN INTERNATIONAL AND EUROPEAN CONSUMER PROTECTION INITIATIVES

### ► INTERNATIONAL

The ACPR is a member of the IAIS's Market Conduct Working Group (MCWG). In 2014, the group published an application paper on the current state of supervisory practices in the insurance sector among IAIS member authorities. Ongoing work relates to risks associated with business practices and the supervision of insurance intermediaries. This work will continue in 2015 under the chairmanship of Olivier Fliche, ACPR director of Supervision of Business Practices, who was appointed to head up the group in December.

The ACPR is participating in work on the ten High-level Principles on Financial Consumer Protection, taken on at the request of the G20 and adopted by the Council of the Organisation for Economic Co-operation and Development (OECD). Each practice is illustrated by existing best practice in various countries. This work was presented at the G20 summit in Brisbane in November 2014.

The ACPR is a member of the International Financial Consumer Protection Organisation (FinCoNet). This organisation brings together national supervisory authorities responsible for protecting consumers in the financial sector. Since December 2014, the Authority has served as the organisation's treasurer, assisted by the OECD Secretariat. The organisation's first work was to draw up a report on credit cataloguing supervisory tools aimed at promoting market practices that take into account consumer protection.

### ► EUROPE

EIOPA's consumer protection work is entrusted to the Committee on Consumer Protection and Financial Innovation (CCPFI). In 2014, the Committee published a best practice report for insurance aggregators

reiterating their obligations with the aim of identifying areas for improvement. EIOPA's work in 2015 will be characterised by an increasing focus on issues linked to the protection of members of occupational pension schemes.

As regards the EBA, the Standing Committee on Consumer Protection and Financial Innovation (SCConFin) endeavoured to analyse the risks borne by consumers in the areas of crowdfunding and virtual currencies. The EBA also drafted delegated acts arising from the Payment Accounts Directive and began work on drafting guidelines on solvency analysis and arrears management, in line with the Mortgage Credit Directive.

Following the publication of the Joint Committee's high-level principles on product governance, the three European supervisory authorities were tasked with breaking these principles down into sectoral guidelines. The Joint Committee also looked into the placement of securities eligible as prudential own funds with customers of credit institutions and insurance institutions ("self placement") as well as defining common principles on the cross-selling of financial products.

The activities of the Joint Committee were also affected by the ramp-up of work linked to the PRIIPs Regulation (packaged retail investment and insurance-based investment products). The PRIIPs Regulation, published in December 2014, set the timetable for technical standards expected by the Joint Committee. Finally, EIOPA was mandated to draft a technical advice on authorities' powers to temporarily intervene in the promotion or sale of life insurance-based investment products.

For several years, the ACPR's activities in the areas of accounting, financial reporting and audit have taken into account the work of France's accounting standards board (Autorité des normes comptables, ANC) and of the International Accounting Standards Board (IASB), as well as multiple workstreams initiated both in France and internationally. The ACPR chairs the EBA's Standing Committee on Accounting, Reporting and Auditing and cross-cutting group.

### 3.1 ACCOUNTING STANDARDS

#### • Publication of the new IFRS 9 on financial instruments

The new IFRS 9 on financial instruments was published by the IASB in July 2014, and will replace the current IAS 39 with effect from 1 January 2018 (subject to adoption by the European Union). It is the fruit of a number of workstreams in which the ACPR played an active role internationally (through the Basel Committee and the IAIS), in Europe (through the EBA and EIOPA) and domestically with the ANC.

## ■ THE NEW IFRS 9 ON FINANCIAL INSTRUMENTS

IFRS 9 lays down principles for the classification and measurement of financial instruments, impairment and hedge accounting.

The new classification of financial assets is based on three accounting categories: amortised cost, fair value through other comprehensive income and fair value through profit or loss, which becomes the default category. The IASB has established two classification criteria: the business model (to do with the objective of holding an asset) and the cash flow characteristics of the financial assets in question.

The rules for classifying financial liabilities are unchanged relative to IAS 39. The main change relates to the re-measurement of own credit risk on financial liabilities recognised at fair value under the fair value option, which will henceforth be recognised in other comprehensive income, thus avoiding any counter-intuitive impact on profit and loss.<sup>59</sup>

The new impairment methodology is based on the principle of recognising expected credit losses in line with changes in an asset's credit quality, compared with the previous methodology, under which only incurred losses are recognised:

- ▶ For loans and debt securities not measured at fair value through profit or loss, from initial recognition and where there is no subsequent significant deterioration in credit risk, an impairment loss is recognised corresponding to expected credit losses over the residual life of the asset, taking into account the probability of an event of default within the next 12 months ("Stage 1").
- ▶ At each subsequent reporting date, if credit quality has deteriorated significantly ("Stage 2") and/or if an objective indicator of impairment has been identified ("Stage 3"), an impairment loss must be recognised corresponding to total expected credit losses over the asset's residual life (which must therefore be estimated based on probability of default to maturity).

Finally, the rules on hedge accounting, excluding hedging of dynamic portfolios (the IASB is in the process of developing a new approach to macro hedging) have been amended to better reflect institutions' true risk management activities. As such, some binding rules, such as the required level of effectiveness, have been withdrawn.



#### • Draft standard on insurance contracts

The ACPR continued its involvement in the work of the ANC, EIOPA and the IAIS on the draft IASB standard on insurance contracts, intended to replace the current IFRS 4 (Phase 1). In 2014, the CFO Forum (a body that brings together the Chief Financial Officers of leading European insurers) proposed an alternative model relating to participating contracts. In particular, it found that the provisions of the exposure draft and recent proposals from the IASB, in not adopting a similar treatment for all participative contracts and in prohibiting adjustments to the contractual service margin (representing unearned profit under the contract, the recognition of which is deferred) to reflect changes in financial assumptions, constitutes a major problem in reflecting the performance of such contracts over time.

#### • Work of the French accounting standards board (ANC)

The ACPR played an active role in work initiated by the ANC in 2013 to update bank accounting regulations in light of the entry into force of CRD IV and the CRR. This resulted in the adoption of two regulations in 2014: ANC Regulation 2014-02 on procedures for preparing the financial statements of financing companies and ANC Regulation 2014-07 on the financial statements of banking sector firms. As well as updating references to prudential regulations, the latter provided an opportunity to directly codify all existing bank accounting regulations into a single regulation and to identify those accounting regulations that would be worth revising. The ACPR is also participating fully in work by the ANC to put together a compendium of bank accounting policies issued by standards-setting bodies over time.

## 6. ACPR ACTION IN EUROPEAN AND INTERNATIONAL BODIES

### 3. Accounting, prudential reporting and audit

#### 3.1 Accounting standards



The ACPR also contributed to work by the ANC leading to the publication of the regulation on the accounting classification of bonds convertible into shares in insurance firms, mutual insurers and provident institutions. It was also involved in work led by the directorate general "Treasury" and the ANC aimed at updating accounting requirements for insurance firms, mutual insurers and provident institutions and referring to an ANC regulation for accounting rules applicable to individual and consolidated financial statements for those organisations under French GAAP. This work forms part of the adjustments made necessary by the transposition into French law of Solvency II.

#### • Financial reporting

The ACPR was involved, via the Basel Committee, in the process of revising requirements on the publication of prudential information (Pillar 3), resulting in the publication of a consultative document in June 2014 and the Basel Committee's in-principle agreement to the final document towards the end of the year. The Authority was also involved in drawing up EBA guidelines on the assessment, when preparing for Pillar 3, of materiality, proprietary information and confidentiality, as well as during the assessment of the appropriateness of reporting certain items more frequently in accordance with the provisions of the CRR. The draft guidelines were put out to consultation in June 2014 and the final document was published in December 2014.

#### • Supervisory reporting

A key development in 2014 was the introduction of new reporting requirements (including the new COREP and FINREP formats) included in the relevant implementing technical standard published by the EBA.

The ACPR remained fully engaged in reporting initiatives instigated by the ECB within the framework of the Single Supervisory Mechanism. In particular, the Authority was involved in implementing an information system for national authorities to transmit prudential data collected from significant banks to the ECB. Another large project was also kicked off: the preparation of a draft ECB regulation aimed at broadening the scope of FINREP reporting to include banks not subject to IFRS.

In insurance, the ACPR also played an active role in European work to finalise the various elements of reporting related to Solvency II: both quantitative reports and qualitative elements were put out to public consultation in December 2014.

Work in this area also continued in France, with the finalisation of specific national reports that institutions will be asked to submit in addition to standard European reports. These specific national reports encompass prudential, statistical and accounting information on issues specific to the French market. They were put out to consultation with French industry bodies at the end of 2014.





## 3.2 AUDIT

The ACPR is an active participant in a number of initiatives relating to the auditing of credit institutions and insurance institutions, both at the European level (EBA, EIPOA) and at the international level (Basel Committee, IAIS).

Work in 2014 related to the finalisation of guidance on statutory auditing of banks, published by the Basel Committee in March 2014. This guidance is structured into two parts, the first of which covers the role of the audit committee with regard to statutory auditors and their duties as well as relations between the banking supervi-

sor and statutory auditors. The second part sets out the supervisor's expectations with regard to statutory auditors (including expertise, independence and critical thinking) and their work. Meanwhile, the IAIS made comparable amendments to its Insurance Core Principles.

Furthermore, following the adoption by the European Parliament on 16 April 2014 of two texts that make up the European audit reform,<sup>60</sup> the EBA and EIOPA began work on drafting guidelines to facilitate effective dialogue between statutory auditors and authorities responsible for prudential supervision. This work should be completed by June 2016, when the new texts enter into force.



60. Directive 2014/56/EU amending statutory audit and Regulation (EU) 537/2014, which applies only to public-interest entities.

# 7 Budget

## AND ACTIVITY MONITORING

- 1. Budget
- 2. Performance monitoring

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The ACPR has specific budgetary resources in the form of contributions for supervision costs collected by the *Banque de France* from reporting institutions and allocated in full to the Authority. These contributions may be supplemented by additional funds allocated by the *Banque de France*.

Since 2011, the Authority has used indicators to monitor its activities so as to measure the effectiveness of its actions in fulfilling its statutory objectives.

## 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 institutions under its supervision. The *Banque de France* may allocate additional funds to the Authority.

The ACPR's budget, consisting of all of its receipts and expenses, is an annex to the budget of the *Banque de France*.

Pursuant to Article L. 612-19 of the Monetary and Financial Code, the ACPR has resources provided by the *Banque de France*. It relies on support functions provided by the *Banque de France* in order to benefit from the pooling of certain costs (property management, IT, personnel management, accounting, etc.). It also relies on certain operational functions of the *Banque de France*, especially as regards the use of databases needed to fulfil its statutory objectives.

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 agree-

ment it has with the ACPR.<sup>61</sup> 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; the ACPR budget includes the associated depreciation and amortisation expenses.

The ACPR's budget outturn report for 2014, which was put together based on these principles, was submitted to the Audit Committee, which approved it at its meeting of 18 February 2015. It was then validated at the plenary meeting of the College on 16 March 2015.

## 1.2 SUMMARY OF THE BUDGET

While the ACPR's preliminary budget forecasted a shortfall, the budget outturn report showed a 2014 budget surplus of EUR 1.1 million.

This surplus mainly resulted from a EUR 1.9 million increase in receipts in 2014 to EUR 186.2 million, while expenses grew at a slower pace, up EUR 1.4 million to EUR 185.1 million. Expenditure must be considered in light of key developments in 2014. The departure of large numbers of staff in connection with the Single Supervisory Mechanism (SSM) and the comprehensive assessment of bank balance sheets placed heavy demands on the ACPR's staff.

As well as the effect of the decrease in personnel costs, the difference between forecast and actual figures is also explained by substantial savings on IT expenses, travelling expenses and the cost of cross-cutting support functions charged out by the *Banque de France*.

Furthermore, exceptional expenses linked to the use of external auditors in connection with the comprehensive assessment of bank balance sheets totalled EUR 53.9 million. These expenses are not included in the ACPR's budget, since they were fully funded from the budget of the *Banque de France*.

### SUMMARY TABLE OF 2014 EXPENSES AND INCOME

RECEIPTS AND EXPENSES (EUR millions)	2013 RECEIPTS AND EXPENSES	UPDATED 2014 BUDGET	2014 RECEIPTS AND EXPENSES	GAP TO UPDATED BUDGET		DIFFERENCE BETWEEN 2013 AND 2014 EXPENSES	
				AMOUNT	%	MONTANT	%
Contributions from reporting institutions	181.4	184.6	183.7	-0.9	-0.49%	2.3	1.3%
Other receipts	2.9	2.4	2.5	0.1	4.17%	-0.4	-13.8%
<b>Total receipts (A)</b>	<b>184.3</b>	<b>187.0</b>	<b>186.2</b>	<b>-0.8</b>	<b>-0.43</b>	<b>1.9</b>	<b>1.0%</b>
Personnel	100.8	104.6	102.0	-2.6	-2.49%	1.2	1.2%
IT	23.8	25.4	23.8	-1.6	-6.30%	0	0.0%
Buildings	29.1	29.0	28.3	-0.7	-2.41%	-0.8	1.4%
Other expenses	30.0	32.5	31.0	-1.5	-4.62%	1	-1.3%
<b>Total expenses (B)</b>	<b>183.7</b>	<b>191.5</b>	<b>185.1</b>	<b>-6.4</b>	<b>-3.30%</b>	<b>1.4</b>	<b>0.8%</b>
Budget balance (A) - (B)	0.6	-4.5	1.1				

61. In accordance with the financial agreement, service costs were valued on the basis of semi-final costs for the purposes of preparing the 2014 budget outturn report. The final cost accounting breakdown of the *Banque de France's* costs is determined during the second quarter each year.





## A. RECEIPTS OF THE ACPR

### • Receipts from contributions for the cost of supervision totalled EUR 184.2 million

Receipts from contributions for the cost of supervision totalled EUR 184.2 million in 2014, excluding cancellations in respect of prior years and provisions set aside for the risk of non-collection. This amount was EUR 2.7 million higher than the 2013 figure (a 1.5% increase), with calls for higher contributions from credit institutions and investment firms as well as from insurers and mutual insurers. The number of contributing institutions declined across these last two categories. However, the increase in the calculation base, consisting of capital requirements for credit institutions and investment firms and of premiums for insurers, led to an increase in contributions of 1.1% and 3.3% respectively.

However, receipts from contributions for the cost of supervision paid by insurance sector institutions and *Caisse des Dépôts et Consignations* (CDC) were below the updated 2014 forecasts. The decrease in the contribution paid by the CDC resulted from the revision of its contribution as a prelude to the renegotiation, in 2015, of the



agreement between the ACPR and the CDC on the determination of expenses arising from supervisory activities. In the insurance sector, the difference is a result of the revision of the amount of net premiums collected by a small number of insurers. Finally, contributions collected from insurance and reinsurance intermediaries and from intermediaries in banking transactions and payment services were in line with expectations.

## DETAILED BREAKDOWN OF CONTRIBUTIONS FOR SUPERVISION COSTS BY CATEGORY OF REPORTING INSTITUTION

CONTRIBUTIONS BY CATEGORY OF REPORTING INSTITUTION (EUR thousands)	2013	2014	2013/2014 CHANGE	
			AMOUNT	%
Credit institutions and investment firms	125,587	126,975	1,388	1.1%
Insurers, mutual insurers and provident institutions	47,310	48,884	1,574	3.3%
<i>Caisse des dépôts et consignations</i>	3,639	3,200	-439	-12.1%
Money changers	172	176	4	2.3%
Intermediaries in banking transactions and payment services	1,821	1,866	45	2.5%
Insurance and reinsurance brokers and microcredit associations	2,999	3,084	85	2.8%
<b>Subtotal of contributions</b>	<b>181,528</b>	<b>184,185</b>	<b>2,657</b>	<b>1.5%</b>
Provision for risk of non-collection and cancelled contributions	161	533	372	231.1%
<b>Contributions net of provisions and cancellations</b>	<b>181,367</b>	<b>183,652</b>	<b>2,285</b>	<b>1.3%</b>

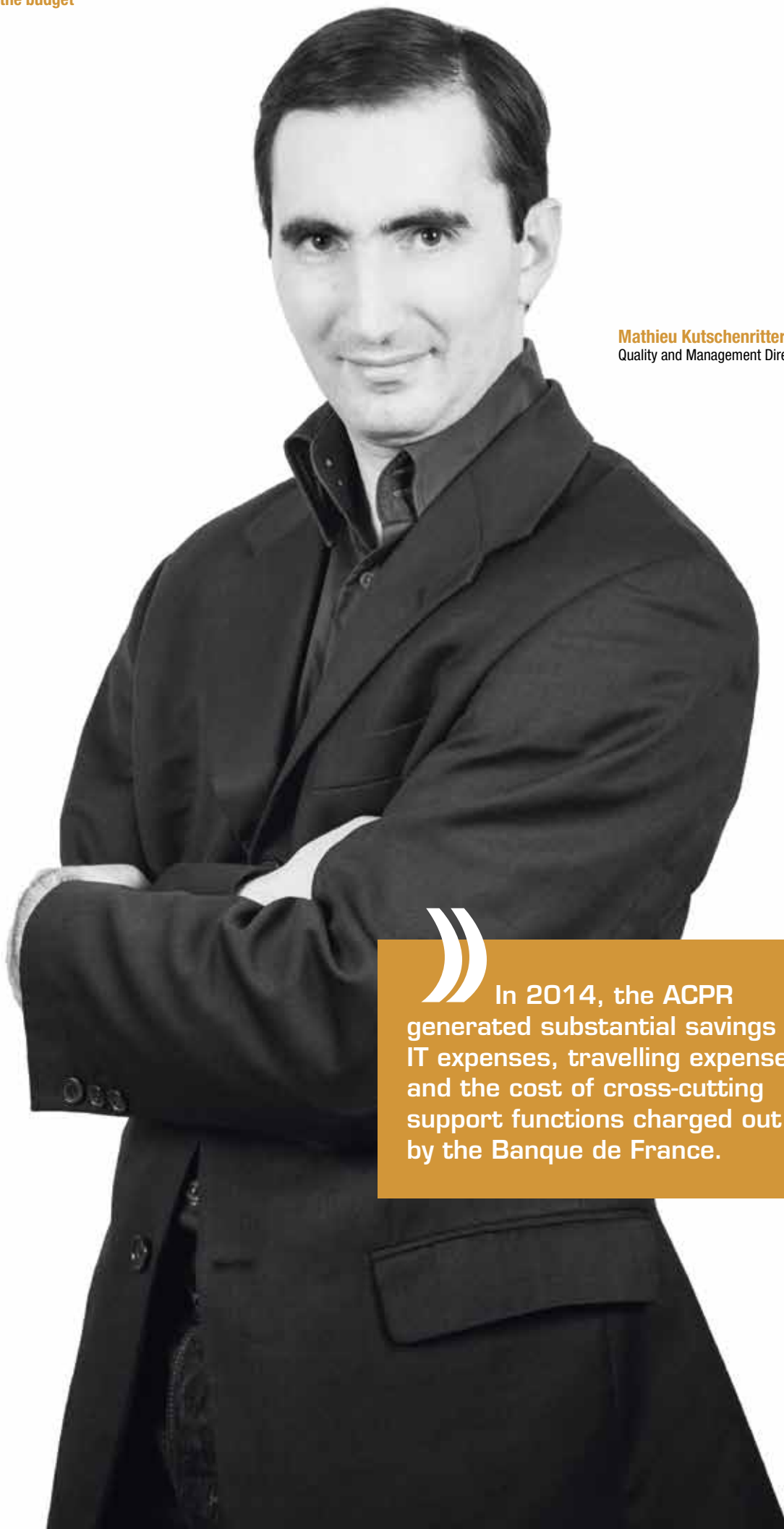
Credit institutions, investment firms, insurers, mutual insurers, provident institutions and *Caisse des dépôts et consignations* accounted for 97.2% of receipts from contributions for the cost of supervision in 2014.

As in previous years, receipts from contributions for the cost of supervision in 2014 were slightly impacted by contributions called in respect of past years that were cancelled as part of dispute handling procedures. These cancellations, which impact the 2014 budget of the ACPR only to the extent of contributions not provisioned,

primarily concern entities wrongly declared as intermediaries in banking transactions and payment services, or amounts due that were written off, particularly as part of insolvency proceedings. In 2013 and 2014, an exhaustive analysis of contributions called but not collected from 2010 to 2012 was carried out. This led to the identification of unrecoverable amounts owed resulting from the permanent failure of the reporting institution (due to delisting, winding-up or death). This analysis, which had no impact on the ACPR's budget given provisions already set aside, led to the identified amounts being written off in 2014.

### 1. Budget

#### 1.2 Summary of the budget



**Mathieu Kutschenritter,**  
Quality and Management Directorate.



In 2014, the ACPR generated substantial savings on IT expenses, travelling expenses and the cost of cross-cutting support functions charged out by the Banque de France.



## BREAKDOWN OF COLLECTION RATES BY CATEGORY OF INSTITUTION LIABLE FOR THE CONTRIBUTION FOR SUPERVISION COSTS

CONTRIBUTIONS COLLECTED TO 20 JAN 2015	2014 CONTRIBUTIONS					2013 CONTRIBUTIONS				
	NET CALLED		TO BE COLLECTED			NET CALLED		TO BE COLLECTED		
	Number of institutions called	Amount called*	Number of contributions called to be collected	Amount yet to be collected*	Collection rate	Number of institutions called	Amount called*	Number of contributions called to be collected	Amount yet to be collected*	Collection rate
Credit institutions and investment firms	295	126,975	6	5	100%	303	125,587	3	3	100.0%
Insurers, mutual insurers and provident institutions	761	48,884	22	14	100%	800	47,310	4	1	100.0%
<i>Caisse des dépôts et consignations</i>	1	3,200	-	-	100%	1	3,639	-	-	100.0%
Money changers	176	176	9	9	94.9%	172	172	6	6	96.5%
Intermediaries in banking transactions and payment services	12,437	1,866	1,487	223	88.0%	12,185	1,821	712	106	94.2%
Insurance and reinsurance brokers and microcredit associations	20,561	3,084	1,387	208	93.2%	20,095	2,999	709	106	96.5%
<b>Total</b>	<b>34,231</b>	<b>184,185</b>	<b>2,911</b>	<b>459</b>	<b>99.8%</b>	<b>33,556</b>	<b>181,528</b>	<b>1,434</b>	<b>221</b>	<b>99.9%</b>

\* EUR thousands.

At end January 2015, the ACPR had collected 99.8% of contributions for the cost of supervision in 2014. The amount remaining to be collected (EUR 0.5 million) mainly relates to intermediaries in banking transactions and payment services. At this stage in the collection cycle, the overall collection rate across these categories of reporting institution is comparable to that seen in the previous year. However, it is reasonable to expect an improvement throughout 2015: the calendar of calls for contributions and reminders for these specific categories naturally leads to contributions being collected later, after the year during which they are called. Finally, improvements in the identification of intermediaries in banking transactions and payment services, resulting from the voluntary registration scheme introduced in 2013, should limit the number of disputes and make the collection process more efficient.

Decree 2012-1516 of 27 December 2012 on the collection of the contribution empowers the Treasury's special receivables division to collect the contribution for supervision costs, sanctions and coercive fines laid down in point VIII of Article L. 612-20 of the Monetary and Financial Code. An agreement drawn up pursuant to this decree

governs the procedures for exchanges between the Treasury's special receivables division, the *Banque de France* and the ACPR. At the beginning of 2015, 70% of cases referred to the Treasury in 2013 and 2014 for recovery by legal means had been successfully collected.



### 1. Budget

#### 1.2 Summary of the budget

## THE LEGISLATIVE AND REGULATORY FRAMEWORK GOVERNING CONTRIBUTIONS FOR THE COST OF SUPERVISION

### ► 2014

In 2014, there were no changes in the legislative and regulatory framework governing contributions for the cost of supervision due from entities supervised by the ACPR.

Contribution rates applicable to entities in the banking sector (based on capital requirements) and the insurance sector (based on written premiums) were unchanged relative to 2013, at 0.066% and 0.021% respectively (see the Orders of 29 March 2013 on rates of contributions for the cost of supervision).

The lump sum contribution applicable to other categories of supervised entities and the minimum contribution also remained unchanged.

The provisions applicable to insurance brokers and intermediaries in banking transactions and payment services were unchanged relative to 2013.

### ► CHANGES IN 2015

For supervised entities in the banking sector, the implementation, effective 1 January 2014, of European regulations transposing Basel III into European law (CRD IV and the CRR) will result in an increase in the amount and quality of own funds held by institutions in this sector, thus increasing the calculation base for contributions for the cost of supervision due in 2015. However, this increase will be limited by the implementation of the decision made at the plenary meeting of the College on 8 December 2014 authorising financial conglomerates to deduct that portion of their contribution arising from their insurance subsidiaries, which themselves pay a contribution to the ACPR.

### • Other ACPR receipts

In addition to contributions for the cost of supervision, EUR 2.5 million was recognised in "Other receipts".

This amount, which declined relative to 2013, stems mainly from billings for services that the ACPR provided to the *Banque de France* and investment income on outstanding contributions carried forward.

## B. EXPENSES

Since the ACPR is an offshoot of the *Banque de France*, its operating expenses are either incurred directly by the General Secretariat or charged out by *Banque de France* units providing services.

Expenses charged out by the *Banque de France* mainly relate to salaries of permanent staff, rental and maintenance of operating premises, and IT and training-related services. With the exception of personnel expenses, they are charged out at their full cost based on the *Banque de France's* cost accounting model and in accordance with the terms of the financial agreement, which was renewed in December 2013.

The ACPR's expenses in respect of 2014 totalled EUR 185.1 million, up 0.8% relative to 2013.

### SUMMARY OF 2014 EXPENSES

EXPENSES (EUR millions)	2013 EXPENSES	2014 EXPENSES	2013/2014 CHANGE
Personnel	100.8	102.0	1.2%
IT	23.8	23.8	0.0%
Buildings	29.1	28.3	-2.7%
Other expenses	27.6	30.0	8.7%
Amortisation and depreciation	2.4	1.0	-58.3%
<b>Total expenses (B)</b>	<b>183.7</b>	<b>185.1</b>	<b>0.8%</b>







## • Personnel expenses (EUR 102 million)

### BREAKDOWN OF PERSONNEL EXPENSES

PERSONNEL EXPENSES BY CATEGORY (EUR millions)	2013	2014	2013/2014 CHANGE	
			AMOUNT	%
Basic pay, special allocations and performance bonuses	45.5	45.7	0.2	0.4%
Other components of compensation and other personnel expenses	18.8	19.3	0.5	2.7%
Tax and social security expenses	36.5	37.0	0.5	1.4%
<b>Total</b>	<b>100.8</b>	<b>102.0</b>	<b>1.2</b>	<b>1.2%</b>

Personnel expenses were 1.2% higher than in 2013 in spite of a decline in the average workforce. This difference is mainly explained by the implementation of the pay agreement entered into in 2014, which resulted in an increase in certain allowances. Furthermore, changes in the payment terms of performance bonuses resulted in an increase in expenses: bonuses paid out in 2014 related to both amounts due in respect of 2013 performance bonuses and the 2014 performance bonus, now paid annually.

The profile and breakdown of ACPR General Secretariat staff by activity is set out in Chapter 1 of this report.

Due to the higher than expected number of staff who left in connection with the SSM and the rate of recruitment, which directly affects average annual FTE<sup>62</sup> (999.6 vs. 1,010), personnel expenses were EUR 2.6 million less than originally estimated.

## • IT expenses (EUR 23.8 million)

At the overall level, IT expenses borne by the ACPR did not change year on year. These expenses consist of the cost of external project ownership and project management (EUR 6.3 million), the cost of renting and maintaining software (EUR 0.4 million) and the cost of services provided by the *Banque de France* to support the Authority's IT load or supply IT equipment (EUR 17.1 million).

The updated 2014 budget for IT projects and maintenance was EUR 8.3 million; actual expenses thus came in EUR 1.6 million below the original forecasts as a result of lower than expected application upgrade expenses in connection with the implementation of the SSM. The cost of IT services provided by the *Banque de France*, determined in accordance with the financial agreement between the ACPR and the *Banque de France*, totalled EUR 17 million. The structure of these rebilled costs was the subject of an in-depth review in 2014, leading to the adoption of lump sum billing. Following this work, the cost of these services remained comparable to 2013 levels (EUR 16.8 million).

These services included running the ACPR's information system on *Banque de France* infrastructure, as well as advice and design assistance in areas such as information systems architecture and project management. This item also includes all expenses incurred in supplying employees of the ACPR General Secretariat with individual IT tools (including collaborative working tools and telephony equipment).

## • Property expenses (EUR 28.3 million)

Property expenses declined slightly between 2013 and 2014 (down EUR 0.8 million) as a result of a reduction in the cost of services provided by the *Banque de France* (down EUR 0.2 million) and a correction to expenses relating to the cost of premises occupied by project management teams transferred to the Organisation and Information division of the *Banque de France* in 2013 (down EUR 0.9 million).

## 7. BUDGET AND ACTIVITY MONITORING

### 1. Budget

#### 1.2 Summary of the budget

##### • Other expenses (EUR 29.1 million)

OTHER EXPENSES (EUR millions)	2013	2014	2013/2014 CHANGE	
			AMOUNT	%
<i>Banque de France</i> services excluding buildings and IT	15.4	14.5	-0.9	-5.8%
Travelling expenses	4.0	3.4	-0.6	-15.0%
Other overheads	10.2	11.2	1.0	9.8%
<b>Total</b>	<b>29.6</b>	<b>29.1</b>	<b>-0.5</b>	<b>-1.7%</b>
Adjustment based on outturn	-2.1	0.8	2.9	
<b>Net amount</b>	<b>27.5</b>	<b>29.9</b>	<b>2.4</b>	<b>8.7%</b>

Other expenses, which totalled EUR 29.1 million prior to adjusting based on the 2013 outturn, declined slightly relative to 2013. This decline was the result of a number of changes in various items.

For example, costs relating to *Banque de France* services excluding buildings and IT declined by EUR 0.9 million relative to 2013. This change was mainly driven by a reduction in the cost of human resources management services (down EUR 0.6 million) and a drop in training costs (down EUR 0.2 million). The involvement of ACPR staff in the comprehensive assessment of bank balance sheets resulted in a reduction in training activities and a reduction in travelling expenses relative to 2013 (down EUR 0.6 million).

Other overheads, which include membership fees that the ACPR pays to participate in various bodies, increased by EUR 1 million relative to 2013. Most of this increase was accounted for by contributions to the operating costs of the European Banking Authority (EBA) and the European Insurance and Occupational Pensions Authority (up EUR 0.8 million).

Finally, overall expenses in 2014 increased by EUR 0.8 million, corresponding to an adjustment to clear the debit balance that arose when the final 2013 figures were determined.<sup>63</sup>

##### • Amortisation and depreciation (EUR 1 million)

The amortisation and depreciation expense, which corresponds to the ACPR's share of amortisation and depreciation expenses recognised by the *Banque de France*, declined relative to 2013.

## CONCLUSION

The ACPR recorded a surplus of EUR 1.1 million in 2014. In accordance with regulations in force, this surplus will be applied in full to contributions carried forward from previous years.





Since 2011, in response to a request from the Audit Committee further to a recommendation in a report by the public policy assessment and oversight committee on the operation of independent administrative authorities, the Quality and Management Directorate put in place a system to measure the ACPR's performance based on a series of indicators designed to assess the effectiveness of the Authority's actions in fulfilling its statutory objectives.

**A total of 18 performance indicators were selected in 2014,** structured around the following four strategic themes:

- ▶ preventing systemic risks,
  - ▶ contributing to financial system regulation and its implementation,
  - ▶ contributing to the implementation of the European banking union,
  - ▶ and strengthening protection for financial consumers.
- 1) The indicators selected to assess the ACPR's actions in **preventing systemic risks** relate to the following:
- ▶ processing licensing and authorisation applications within the applicable timescales,
  - ▶ assessment by the Supervisory College of the individual situations of entities supervised by the ACPR,
  - ▶ the ACPR's capacity to maintain or step up individual document-based inspections,
  - ▶ execution of the programme of on-site inspections,
  - ▶ and the expansion and intensity of ongoing supervision, which implies cooperation with foreign supervisors for the purposes of supervising cross-border groups.
- 2) The following objectives were selected to assess the ACPR's effectiveness in **helping define and implement domestic and European standards**:
- ▶ increase France's influence in the international regulatory system in order to ensure involvement in the standard-setting process from the outset,
  - ▶ and apply regulation at the operational level and provide reporting institutions with more information.
- 3) Given the institutional changes in relation to supervision that became effective in 2014 with the introduction of the Single Supervisory Mechanism (SSM), two indicators were put in place relating to the objective of **contributing to the creation of the European banking union**, relating to the following:
- ▶ the completion of stress tests as part of the European comprehensive assessment exercise,
  - ▶ and the preparation of recovery and resolution plans for France's five leading banks.
- 4) To measure progress in **protecting supervised entities' customers**, the objectives reflect the initial stages involved:
- ▶ improving consumer information about the ACPR's role in this area,
  - ▶ and expanding supervision of business practices.

## 2.1 STRATEGIC THEME: PREVENTING SYSTEMIC RISKS

### Operational objective 1: Process licensing and authorisation applications in due time

**INDICATOR:** Percentage of licensing and authorisation applications that are decided upon within the allotted deadline. This indicator is intended to assess the ACPR's ability to submit licensing and authorisation applications in the banking and insurance sectors to the Supervisory College within the stipulated timescales.

**TARGET: 100%**

**Result**

**98.7%**

of the **1,430** licensing and authorisation applications in the banking and insurance sectors were processed on time.

## 7. BUDGET AND ACTIVITY MONITORING

### 2. Performance monitoring

#### 2.1 Strategic theme: preventing systemic risks

**ANALYSIS OF THE RESULT:** There was a total of 1,296 licensing and authorisation applications in the banking sector in 2014. Activity was marked by fundamental changes in the sector linked to the entry into force of CRD IV, with the option for specialised credit institutions to opt for the new status of financing company, and by the development of payment services businesses. Applications in the insurance sector (which totalled 134) were dominated by the mutual insurance sector, which was affected by merger activity as groups sought to optimise own funds allocation ahead of the entry into force of Solvency II. Of these applications, 19 could not be processed within the applicable timescales. In four of these cases, the limited deadline overruns had no adverse effects. In the other cases, overruns were mainly due to the impact of the Supervisory College calendar, additional information that had to be obtained to complete the application process, a longer procedure as a result of the existence of repayable funds or interactions with another application, and the calendar of the AMF Board for those cases that had to be presented to it.

#### Operational objective 2: Measure the ACPR's activity in terms of examining the individual situations of supervised institutions

**INDICATOR:** Number of individual decisions made in the year, broken down by type of decision and number of cease-and-desist orders issued by the Chairman acting under the College's delegated authority. This indicator does not include licensing and authorisation decisions made by the Chairman acting under delegated authority. 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 granted to the College by law.

Result  
**722**

decisions on individual situations  
out of **787** decisions made  
by the ACPR College in 2014.

**ANALYSIS OF THE RESULT:** In 2014, the Supervisory College issued 364 licensing and authorisation decisions, including a significant number of financing company licences issued to legal entities previously licensed as specialised credit institutions which opted for the new status incorporated into the Monetary and Financial Code by Ordinance 2013-544 of 27 June 2013. A total of 358 individual decisions were also issued, 181 of which related to inspections.

The Authority also issued 103 administrative enforcement measures or other binding measures (see box in Chapter 1).

#### Operational objective 3: Measure the intensity of ongoing supervision

**INDICATOR 1:** Percentage of credit institutions, investment firms, financial holding companies, insurers and reinsurers, provident institutions and mutual insurance institutions covered by Book 2 of the Mutual Insurance Code with turnover of more than EUR 5 million, referred to in I of Article L.612-2 of the Monetary and Financial Code, whose risk profile has been fully assessed through ongoing supervision during the year under review. This indicator serves to verify that an annual risk profile assessment has been undertaken for all relevant institutions.

**TARGET: 100%**

Result

**81%**

of institutions covered by the indicator  
had their risk profiles fully assessed in 2014.

**ANALYSIS OF THE RESULT:** Staff in the ACPR's banking supervision directorates were heavily involved in the comprehensive assessment of bank balance sheets, with visible consequences for risk profile assessments that form part of the ongoing supervision programme. As such, in the banking sector, 66% of institutions had their risk profiles fully assessed. Meanwhile, the target was almost met in the insurance sector, with analysis sheets produced for 97.1% of supervised institutions.





**INDICATOR 2:** Number of institutions subject to specific supervision by the ACPR General Secretariat following a College decision. The purpose of this indicator is to identify 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 that same code.

### Result

Position at 31 December 2014:

# 22

institutions in the banking or insurance sector were subject to specific ongoing supervision following a College decision:

- **12** were under special supervision
- **10** were under provisional administration.

**ANALYSIS OF THE RESULT:** It should be noted that 19 of these institutions were already under specific ongoing supervision at 31 December 2013. One institution was placed under special supervision in 2014, and another was removed from such supervision. Four banking sector institutions and three insurance institutions were placed under provisional administration, while three banks and one insurer were removed from provisional administration.

### Operational objective 4: Ensure that the on-site inspections programme is implemented

**INDICATOR:** Number of on-site inspections for prudential and anti-money laundering purposes carried out during the year under review relative to the number of inspections set by the Secretary General on the basis of College policy.

**TARGET: 100%**

### Result

# 95%

of on-site inspections under the updated 2014 programme either completed or underway at end December 2014.

**ANALYSIS OF THE RESULT:** The updated 2014 inspection programme included 136 inspections: 43 in the banking sector and 93 in the insurance sector. The reallocation of resources for the purposes of the comprehensive assessment of bank balance sheets affected on-site inspection activity in the banking sector. At the year-end, 91% of on-site inspections in the banking sector had either been completed or were underway. In the insurance sector, 97% of scheduled inspections had either been completed or were underway, though difficulties were encountered in completing inspections focused on preparedness for Solvency II as a result of questions over the interpretation of regulatory texts and the need to take into account previous decisions.

### Operational objective 5: Actively cooperate with supervisors for the 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 in respect of colleges of supervisors. Accordingly, different indicators have been put in place for each sector in order to assess the efforts made by the ACPR General Secretariat in the area of consolidated supervision of banking and insurance groups.

**Measure active cooperation in the supervision of banking groups**

**INDICATOR 1:** Percentage of joint decisions obtained through colleges of supervisors, without referral to the EBA, on the capital adequacy of banking groups that the ACPR supervises on a consolidated basis.

**TARGET: 100%**



## 7. BUDGET AND ACTIVITY MONITORING

### 2. Performance monitoring

#### 2.1 Strategic theme: preventing systemic risks

**INDICATOR 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%**

Result

100%

of draft joint reports submitted to the ACPR College for the period under review.

100%

of responses sent in due time to the European consolidated supervisor.

**ANALYSIS OF THE RESULTS:** All joint assessment processes for groups with a European presence supervised by the ACPR on a consolidated basis led to joint decisions with the supervisors concerned in respect of 2014. Where the ACPR is the supervisor of French subsidiaries of European groups, the ACPR's contribution to the joint decision-making process was in all cases made within the timeframe specified in Directive 2009/111/EC of the European Parliament.

#### *Measure active cooperation in the supervision of insurance groups*

**INDICATOR:** Percentage of meetings of colleges of supervisors held in 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. Annual meetings of colleges of supervisors for European insurance groups are not mandatory. However, cooperation between supervisors is governed by EIOPA guidelines as well as 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; this indicator measures the ACPR's activity in terms of cooperation in the supervision of insurance groups.

**TARGET: 100%**

Result

100%

of college meetings concerning the six largest European insurance groups with a French parent and appearing on the EIOPA list were held in 2014.

**ANALYSIS OF THE RESULT:** The ACPR, as consolidated supervisor, held at least one college meeting in 2014 for each of the insurance groups with a French parent and appearing on the list of the largest European groups selected for inclusion in EIOPA's risk dashboard.

## 2.2 STRATEGIC THEME: CONTRIBUTING TO FINANCIAL SYSTEM REGULATION AND ITS IMPLEMENTATION

### 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 two members of staff seconded to the EBA and EIOPA. At least one member of staff seconded to the following institutions: Basel Committee Secretariat, European Central Bank (ESRB Secretariat), European Commission and other European institutions.



## Result

# 110

**members of staff seconded or made available as at 31 December 2014, 84 of them in respect of the SSM.**

**ANALYSIS OF THE RESULT:** The ACPR is represented within the EBA by six members of staff made available to it. One member of staff is made available to EIOPA, and two further members of staff were seconded at the beginning of 2015.

Three members of staff are in post at the Bank for International Settlements (BIS); one is a member of the FSB Secretariat and another is a member of the Basel Committee Secretariat. Five members of staff are seconded to the European Commission and three to the permanent representation of France to the European Union. Three members of staff are seconded to the European Securities and Markets Authority (ESMA).

As regards the ECB's supervisory activities, 84 members of staff are seconded in connection with the implementation of the SSM, 2 members of staff serve as deputy directors general at DG-MS I and DG-MS IV, and five serve as heads of division at DG-MS I, DG-MS II and DG-MS IV.

**INDICATOR 2:** Participation in international committees, working groups and sub-groups on banking and insurance issues.

Chairmanships or co-chairmanships of international working groups and sub-groups in which the ACPR participates.

## Result

# 255

**working groups or sub-groups in which representatives of the ACPR General Secretariat participate.**

# 24

**chairmanships held by representatives of the ACPR General Secretariat.**



**ANALYSIS OF THE RESULT:** By participating in various working groups and research groups forming part of international bodies, the ACPR ensures that it actively contributes to changes in the regulatory framework.

In the banking sector, the ACPR chairs the EBA's Standing Committee on Accounting, Reporting and Auditing. It also chairs a number of sub-groups and takes the lead role in various research initiatives: a transparency sub-group, the Sub-group on Innovative Products (falling under the Standard Committee on Consumer Protection and Financial Innovation) and a research initiative on asset valuation adjustment practices (falling under the Standing Committee on Regulation and Policy). The ACPR serves as joint chair of the Basel Committee's anti-money laundering expert group and chairs a sub-group on trading books falling under the Supervisory and Implementation Group and three sub-groups on trading books.

In the insurance sector, the ACPR chairs EIOPA's Financial Requirements Committee (FRC), serves as vice-chair of the International Governance, Supervisory Review and Reporting Expert Group, chairs an FRC sub-group on technical provisions, and manages six workstreams falling under the Insurance Group Supervision Committee and the Occupational Pension Committee and two workstreams on Global Systemically Important Insurers. The ACPR chairs the IAIS's<sup>64</sup> Market Conduct Working Group and leads research initiatives for the Accounting and Auditing Issues Subcommittee. It also chairs the FSB's Insurance Cross-Border Crisis Management Group and its Hub Governance Group.

### **Operational objective 2: Apply regulation at the operational level and provide reporting institutions with more information**

**INDICATOR:** Number of measures (instructions, guidelines, recommendations, etc.) adopted by the ACPR and published in its official register or communications media (website, *La Revue de l'ACPR*) or in the Official Journal for the purpose of implementing regulations. This indicator serves to assess the transparency policy that the ACPR College endeavours to promote, as described in a document published in the ACPR's official register in 2011.

64. International Association of Insurance Supervisors.

### 2. Performance monitoring

#### 2.2 Strategic theme: Contributing to financial system regulation and its implementation

##### Result

29

measures on general issues adopted by the ACPR in 2014.

**ANALYSIS OF THE RESULT:** In 2014, the Supervisory College adopted 29 measures on general issues which were published.

These measures included the following:

- ▶ 17 instructions adopted in the areas of anti-money laundering and counter-terrorist financing, regulation applicable to electronic money institutions, clearing of OTC derivatives transactions, capital requirements applicable to payment institutions and electronic money institutions, collection of information on compensation, appointment of statutory auditors, submission of prudential reports, and coverage ratios for mortgage credit institutions and home loan companies,
- ▶ one guideline on anti-money laundering and counter-terrorist financing,
- ▶ eight positions on governance, the application of Regulation 97-02 to intermediaries in banking transactions and payment services, the implementation of EBA guidelines on retail deposits subject to different outflows, the cost of locating beneficiaries of life insurance policies, non-guaranteed investment and crowd-funding,
- ▶ one recommendation on the distribution of life insurance policies and the handling of complaints,
- ▶ one notice on prudential ratio calculation methods under CRD IV,
- ▶ and a charter on the process for conducting on-site inspections.

## 2.3 STRATEGIC THEME: CONTRIBUTING TO THE IMPLEMENTATION OF THE EUROPEAN BANKING UNION

### Operational objective 1: Complete European stress tests as part of the third component of the comprehensive assessment exercise

**INDICATOR:** Successfully complete stress tests in preparation for the implementation of the SSM.

**TARGET:** In line with methodological and calendar constraints laid down by the EBA and the ECB, deliver the results of the stress test for the 13 French banks by end October.

##### Result

The stress tests were completed on time for all **13** French banks.

**ANALYSIS OF THE RESULT:** This exercise formed part of the comprehensive balance sheet assessment for banks under direct ECB supervision in preparation for the SSM. It was managed jointly by the EBA and the ECB, and covered 13 French banks. The methodology was constrained by the framework laid down by the EBA and quality assurance requirements defined by the ECB. The calendar left no room for manoeuvre: the results had to be delivered by end October.

The exercise gave rise to the following actions: collection of data from banks (6,300 files), analysis of 550 EBA/ECB automated monitoring files, iterations with banks (1,500 expert questions asked, 300 requests issued for more detailed interpretation of methodology, 3,200 e-mails handled, at least one face-to-face meeting held with each group or between one and three telephone meetings a week with each bank) and discussions with the EBA and the ECB (2,600 files exchanged, 1,000 e-mails, regular telephone meetings and reports, and 12 meetings in Frankfurt).

### Operational objective 2: Present recovery plans to the Resolution College

**INDICATOR 1:** Preparation of recovery and resolution plans for France's five leading banks. Given the recent introduction of bank crisis prevention and management procedures under the terms of the Act of 26 July 2013 and the entry into force in 2016 of the Single Resolution Mechanism, the ramp-up of resolution activities undertaken by the ACPR fulfils the Authority's objective of contributing to the creation of the European banking union.

**TARGET:** Present resolution plans for BNP Paribas and Société Générale to the Resolution College.



**Result**

**the target of defining two plans was achieved**

with the presentation to the Resolution College, on 27 November 2014, of resolution strategies for BNP Paribas and Société Générale.

**ANALYSIS OF THE RESULT:** The definition of resolution plans forms part of the French resolution framework laid down in the Act of 26 July 2013, which requires entities referred to in Article L. 613-31-11 of the Monetary and Financial Code to prepare a preventive recovery plan, specifying recovery measures in the event of a significant deterioration in their financial position. Such recovery plans fall under the supervision of the ACPR. At its meeting of 12 March 2014, the ACPR's Resolution College defined an overall resolution strategy. The priority was placed on assessing resolution plans for the top five French banking groups, given their preponderant role in the domestic banking system. In 2014, 15 people were assigned to the Resolution Directorate, which took on responsibility for assessing resolution plans for BNP Paribas and Société Générale.

## 2.4 STRATEGIC THEME: STRENGTHENING PROTECTION FOR FINANCIAL CONSUMERS

### Operational objective 1: Improve consumer information about the ACPR's role

**INDICATOR:** Contact made by the public with the ACPR on matters of customer protection. This indicator records the number of written requests and complaints received by the ACPR.

**Result**

**5,636**

**written requests and complaints were submitted to the ACPR.**

**ANALYSIS OF THE RESULT:** The number of complaints, which fluctuated around 4,300 a year up to 2012, began to rise from 2013 onwards, rising significantly in 2014, more specifically in relation to banking issues (accounts, loans, payment instruments, savings products, etc.). Requests relating to insurance concerned claims management or cover under non-life policies, followed by policy termination or maturity.

### Operational objective 2: Develop supervision of business practices

**INDICATOR 1:** Number of on-site inspections focusing specifically on business practices.

**INDICATOR 2:** Measure the diversity of supervision applied to different types of entities.

**INDICATOR 3:** Measure the diversity of supervision applied to different marketing methods.

**Result**

**81** on-site inspections concerning business practices carried out.

**3** on-site inspections at insurance firms,

**7** at credit institutions and **71** at intermediaries.

**51** operators of face-to-face sales and **9** operators of remote sales were inspected.

**ANALYSIS OF THE RESULT:** The number of on-site inspections completed or underway in respect of 2014 was higher than in 2013 (71 inspections). Inspections in the banking sector mainly related to revolving credit facilities, specific-purpose loans and debt consolidation loans. Inspections in the insurance sector related to advice associated with the insurance selling process among intermediaries, arrangements for managing legal protection insurance and the operation of payment protection insurance in compliance with the AERAS agreement.<sup>65</sup> Inspections in the intermediary sector related to agreements between suppliers and distributors and conditions of access and exercise for intermediaries.

65. AREAS: "S'assurer et emprunter avec un Risque Aggravé de Santé" ("Taking out insurance and borrowing with an aggravated health risk").

# ANNEX

## ■ LIST OF ACPR PUBLICATIONS IN 2014

The ACPR's research is published in a review titled *Analyses et Synthèses* (containing analysis and comment on research carried out into risks in the banking and insurance sectors).

### Fifteen issues were published in 2014:

- *“Suivi de la collecte et des placements des 12 principaux assureurs vie à fin décembre 2013”* (“Premium income and investments of the 12 largest life insurers to end December 2013”), February 2014
- *“Étude sur les taux de revalorisation des contrats individuels d’assurance vie au titre de 2013”* (“Study of revaluation rates for individual life insurance policies in 2013”), May 2014
- *“Étude sur les taux de revalorisation des contrats collectifs d’assurance vie et PERP au titre de 2013”* (“Study of revaluation rates for group life insurance policies and retirement savings plans in 2013”), May 2014
- *“Situation de cinq grands groupes actifs en France à fin 2013 et collecte en assurance vie”* (“Status of five major groups active in France at end 2013 and life insurance premium income”), May 2014
- *“La situation des grands groupes bancaires français à fin 2013”* (“Status of major French banking groups at end 2013”), May 2014
- *“Défaillances dans le secteur de l’assurance vie au Japon dans les décennies 1990 et 2000”* (“Failures in the Japanese life insurance sector in the 1990s and 2000s”), May 2014
- *“Le marché de la titrisation en Europe : caractéristiques et perspectives”* (“The European securitisation market: characteristics and outlook”), June 2014
- *“Le financement de l’habitat en 2013”* (“Residential property financing in 2013”), July 2014
- *“La situation des principaux organismes d’assurance en 2013”* (“Status of the main insurance institutions in 2013”), July 2014
- *“Le financement des professionnels de l’immobilier par les banques françaises en 2013”* (“Financing of the real estate industry by French banks in 2013”), September 2014
- *“Enquête affacturage 2013”* (“2013 factoring survey”), September 2014
- *“L’activité internationale des grands groupes bancaires français depuis 2006”* (“International activities of major French banking groups since 2006”), October 2014
- *“Suivi de la collecte et des placements des 12 principaux assureurs vie à fin juin 2014”* (“Premium income and investments of the 12 largest life insurers to end June 2014”), October 2014
- *“Suivi de la collecte et des placements des 12 principaux assureurs vie à fin septembre 2014”* (“Premium income and investments of the 12 largest life insurers to end September 2014”), December 2014
- *“L’identification des groupes bancaires et d’assurance d’importance systémique mondiale”* (“Identifying global systemically important banking and insurance groups”), December 2014

*Débats économiques et financiers* are articles that solely reflect the views of their authors and may not express the position of the Authority. They encourage debate on economic issues in banking and insurance, regulation and prudential policy.

### Six issues were published in 2014:

- Santiago Tavolaro and Frédéric Visnovsky, “What is the information content of the SRISK measure as a supervisory tool?”, January 2014
- Olivier de Bandt, Boubacar Camara, Pierre Pessarossi and Martin Rose, “Regulatory changes and the cost of equity: evidence from French banks”, March 2014
- Olivier de Bandt, Boubacar Camara, Pierre Pessarossi and Martin Rose, “Does the capital structure affect banks’ profitability? Pre- and post financial crisis evidence from significant banks in France”, March 2014
- Michel Dietsch and Cécile Welter-Nicol, “Do LTV and DSTI caps make banks more resilient?”, June 2014
- Mohamed Chaffai and Michel Dietsch, “Modelling and measuring business risk and the resiliency of retail banks”, December 2014
- Gaël Hauton and Jean-Cyprien Héam, “How to Measure Interconnectedness between Banks, Insurers and Financial Conglomerates”, December 2014



**Banque de France working documents** are papers which have gone through a referral process but which do not necessarily represent the opinion of the Banque de France or Eurosystem. ACPR researchers regularly publish within this framework.

### Three working documents were published in 2014:

- Claire Labonne and Gildas Lamé, “*Crédit et capital réglementaire : l’exigence est-elle contraignante ?*” (“Credit and regulatory capital: is the requirement binding?”), March 2014, no. 481
- Matthieu Bussière, Boubacar Camara, François-Daniel Castellani, Vincent Potier and Julia Schmidt, “*Transmission des chocs par les banques internationales – le cas de la France*” (“Transmission of shocks by international banks – the case of France”), May 2014, no. 485
- Thibaut Duprey and Mathias Lé, “*Processus d’ajustement du capital des banques et volume de prêts agrégé*” (“Bank capital adjustment processes and aggregate lending volumes”), July 2014, no. 499

## ACPR SEMINARS

The Authority organises research seminars under the banner of the “Regulation and Systemic Risks” research initiative, known as La Chaire ACPR, the main goal of which is to organise research activities, facilitate contact between academia and the ACPR and create a space for discussion and ideas, with an international outlook, in relation to the management of systemic risk.

### La Chaire ACPR organised **nine research seminars** in 2014:

- On 7 January, Bertrand Villeneuve (Université Paris-Dauphine) presented on “Speculation in commodity derivatives markets: A simple equilibrium model”
- On 4 February, Peter Raupach (Bundesbank) presented on “Robustness and informativeness of systemic risk measures”
- On 1 April, Evren Ors (HEC Paris) presented on “Risk-Based Capital Requirements for Banks and International Trade: Evidence from Basel 2 Implementation in Turkey”
- On 6 May, Caroline Siegel (Université de St Gallen) presented on “Basel Accords versus Solvency II: Regulatory Adequacy and Consistency under the Postcrisis Capital Standards”
- On 3 June, Albert Menkveld (University of Amsterdam) presented on “Crowded Trades: An Overlooked Systemic Risk for Central Clearing Counterparties”
- On 2 September, Jean-Charles Rochet (University of Zurich) presented on “Capital Regulation and Credit Fluctuations”
- On 7 October, Christophe Pérignon (HEC Paris) presented on “The Collateral Risk of ETFs”
- On 4 November, Tristan-Pierre Maury (EDHEC) presented on “Forecasting Excess Returns in the Housing Market with Local Cap Rates”
- On 2 December, Georges Dionne (HEC Montreal) presented on “The Governance of Risk Management: The Effects of Independence and Financial Literacy of Directors on Firm Value”

### The Authority also organised **two other seminars** open to outside attendees, on the following themes:

- On 13 October, Jean-Cyprien Héam (ACPR), presented on “How to Measure Interconnectedness Between Banks, Insurers and Financial Conglomerates?”
- On 8 December, Vasso Ioannidou (Lancaster University and the ECB) presented on “When do Laws and Institutions Affect Recovery Rates on Collateral?”

On 26 September, the Authority also held a seminar with Bafin (the German supervisory authority), the Toulouse School of Economics and Axa on “Insurance and systemic risk”, involving supervisors from a number of countries and representatives from academia and French and foreign insurance institutions.

# GLOSSARY

## ACTUARY

A specialist who applies statistics and probability calculations to financial and insurance operations. In life and non-life insurance, actuaries analyse mortality patterns and use probabilities to assess risks and calculate premiums and technical and mathematical provisions.

## ADD ON

An additional requirement. In insurance, under Solvency II, an add-on is an additional capital requirement that may be imposed on an insurer or reinsurer in exceptional circumstances by reasoned decision of the supervisory authority. In practice, there are two types of additional capital requirement:

- ▶ “Pillar 1” capital add-ons linked to the quantitative requirement: these serve to correct the amount of the capital requirement when the risk profile diverges from the calculation assumptions used (standard formula or internal model).
- ▶ “Pillar 2” capital add-ons linked to governance: these serve to adjust the capital requirement when the quality of governance diverges from required standards such that risks can no longer be adequately measured or controlled.

## AERAS agreement (*S'assurer et emprunter avec un risque aggravé de santé*)

An agreement that aims to offer solutions to facilitate access to insurance and credit for persons who have, or have had, serious health problems.

## ANC (*Autorité des normes comptables*)

The French accounting standards authority, responsible for setting accounting standards applicable in France. Ordinance 2009-79 of 22 January 2009 merged the CNC (Conseil national de la comptabilité) with the CRC (Comité de la réglementation comptable) to form the Autorité des normes comptables (ANC), the accounting standards authority.

## AQR

See Comprehensive Assessment.

## BANKING BOOK

A set of assets or off balance sheet items not belonging to the trading book.

## BANKING UNION

A set of legislative measures aimed at enhancing financial stability in Europe. They include the Single Supervisory Mechanism, under which, with effect from 4 November 2014, the European Central Bank assumes responsibility for supervising euro area banks in liaison with national authorities. This supervision is direct in the case of large groups and indirect for others. Other measures include a Single Resolution Mechanism (SRM) with effect from 1 January 2015 and, in the longer term, a common deposit guarantee scheme.

## CAPITAL (*accounting definition*)

All capital resources available to a company.

## CAPTIVE

An 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*)

A consultative committee that addresses issues relating to how credit institutions, payment institutions, investment firms and insurance companies deal with their customers. It adopts appropriate measures in these areas, notably through opinions or general recommendations.

## CDS (*Credit Default Swap*)

A contract whereby an institution wishing to protect itself against the 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 an event of default occurs.





## COMPREHENSIVE ASSESSMENT

An assessment conducted by the ECB in collaboration with the competent national authorities of Member States participating in the SSM to assess the risks of national banking systems. The Assessment began in October 2013 and was completed before the SSM entered into force in November 2014. The three main goals of the Comprehensive Assessment were: transparency, enhancing the quality of information available on the condition of banks; repair, identifying and implementing necessary corrective actions; and confidence-building, assuring all stakeholders that banks are fundamentally sound and trustworthy. The Assessment consisted of two parts:

- ▶ an Asset Quality Review (AQR) to increase transparency with regard to banks' exposure (focusing in particular on the adequacy of provisions and the measurement of collateral, complex instruments and other high-risk assets),
- ▶ and a stress test to examine the resilience of bank balance sheets to crisis scenarios.

## COREP (Common Reporting Framework)

A standardised reporting framework for Basel II solvency requirements.

## CRD IV

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 capital requirements.

## CROWDFUNDING

A method of raising funds – generally of small amounts – from large numbers of members of the public to finance an artistic project (e.g. in music, publishing or film) or an entrepreneurial project. Crowdfunding campaigns may support local initiatives or projects promoting certain values. Crowdfunding is usually carried out via the internet and takes various forms:

- ▶ donations with or without some benefit in return,
- ▶ loans with or without interest,
- ▶ and subscriptions of securities.

## 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 capital requirements.



## CVA (Credit Valuation Adjustment)

The estimated credit component of counterparty exposure to derivatives (e.g. via the counterparty's rating). The CVA is determined daily by taking into account changes in ratings and market prices, netting agreements and collateral. The higher the counterparty risk, the higher the CVA.

## DELEGATED ACT

Under the terms of Article 290 TFEU, delegated acts are “non-legislative acts of general application to supplement or amend certain non-essential elements” of a legislative act. In order to be adopted, delegated acts require a delegation of authority, which is written into the legislative text and may be revoked by the Parliament or the Council at any time.

# GLOSSARY

## **D-SIB (Domestic Systemically Important Bank)**

In addition to Global Systemically Important Banks (see G-SIBs), the Basel Committee has also looked at identifying Domestic Systemically Important Banks or D-SIBs. The CRD IV/CRR package calls for an equivalent category under EU law. This category will cover Other Systemically Important Institutions or O-SIIs.

## **EBA (European Banking Authority)**

The supervisory authority for the European banking sector, established on 1 January 2011.

## **EIOPA (European Insurance and Occupational Pensions Authority)**

The supervisory authority for the European insurance and occupational pensions sector, established on 1 January 2011.

## **EMIR (European Market Infrastructure Regulation)**

A European regulation covering OTC derivatives, central counterparties and trade repositories.

## **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 DIRECTIVE**

An act of the European institutions intended to harmonise Member States' domestic legislation. European directives set objectives for Member States to meet while allowing them freedom as to the forms and methods used.

## **EUROPEAN ECONOMIC AREA**

An 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". As such, it is based on the four freedoms of the European Community: the free movement of goods, persons, services and capital among member countries.

## **EUROPEAN REGULATION**

A law or regulation issued by European institutions that is mandatory and directly applicable in all Member States.

## **EUROPEAN UNION**

The European Economic Community (EEC) was established by the Treaty of Rome in 1957 with the primary aim of creating a large common market with no internal borders. The Maastricht Treaty, which entered into force on 1 November 1993, replaced the European Economic Community with the European Community. The Lisbon Treaty, which entered into force on 1 December 2009, dismantled the pillar structure of the European Community by merging the pillars and transferring the Community's legal personality to a new entity, the European Union (EU). The EU's aim is to promote development, growth, employment, competitiveness and a high level of social and environmental protection throughout the Community in a manner consonant with solidarity between Member States. To achieve this aim, the EU prepares a range of sectoral policies, chiefly in the areas of transport, competition, fisheries and agriculture, asylum and immigration, energy and the environment. These policies are implemented via the decision process laid down in the founding treaties, including in particular the co-decision procedure.

## **FATF (Financial Action Task Force)**

An intergovernmental organisation that aims to develop and promote national and international anti-money laundering and counter-terrorist financing policies.

## **FinCoNet**

International Financial Consumer Protection Network, which brings together national supervisory authorities responsible for protecting consumers in the financial sector.

## **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.

## **FSB (Financial Stability Board)**

Established in 2009 as the successor to the Financial Stability Forum (FSF).



### **GROUP MUTUAL INSURANCE COMPANIES (SGAM)**

Group of insurers whose main objective is to establish strong and lasting financial solidarity links between members, and which comprise at least two affiliated bodies, one of which is a mutual insurance company. An SGAM operates with no share capital, but rather with an initial capital.

### **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 IV/CRR package.

### **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.

### **HCSF (*Haut Conseil de stabilité financière*)**

Established by the Law on the Separation and Regulation of Banking Activities of 26 July 2013 to replace the Conseil de régulation financière et du risque systémique (“Corefris”, Financial Regulation and Systemic Risk Board), the HCSF is responsible for ensuring financial stability in France and the ability to make a sustainable contribution to economic growth.



# GLOSSARY

## **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 banking and securities markets. Such 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.



## **IFRS (International Financial Reporting Standards)**

International accounting standards proposed by the IASB, which are gradually replacing International Accounting Standards (IAS).

## **INTERMEDIARY**

In insurance, an individual or entity on a restricted list that offers or helps to conclude insurance or reinsurance policies, in exchange for payment. Activities consisting solely in managing, estimating or settling claims are not considered intermediation.

## **JST (Joint Supervisory Teams)**

Teams made up of personnel from the ECB and from the competent national authorities (CNAs) of countries in which credit institutions or significant subsidiaries of a given banking group are established. A JST is put in place for each significant institution, and is tasked with day-to-day supervision of that institution and implementation of the annual supervisory programme. Each JST is overseen by a coordinator within the ECB. Coordinators are appointed for three to five years and are responsible for the implementation of the supervisory duties and activities set out in the prudential supervision programme for each significant credit institution.

## **LCR (Liquidity Coverage Ratio)**

One-month liquidity ratio (currently under observation; due to enter into force in 2015).

## **LONG-TERM GUARANTEE PACKAGE**

A set of six measures 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.

## **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.

## **MPE (Multiple Point of Entry)**

A resolution approach under which resolution powers and instruments are exercised at the level of the various parts of the group by at least two different resolution authorities, which coordinate activities between themselves (as opposed to the Single Point of Entry, or SPE, approach).





### **MREL (Minimum Requirement for own funds and Eligible Liabilities)**

The minimum required level of liabilities eligible for bail-in under the terminology of the Bank Resolution and Recovery Directive (BRRD).

### **NSFR (Net Stable Funding Ratio)**

One-year liquidity ratio for banks (currently under observation; due to enter into force in 2018).

### **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 EIOPA, following the establishment of the new European financial architecture. Furthermore, Omnibus II should have intended to confirm the Solvency II implementation delay and set transitional periods for a number of measures (equivalence assessments, discount rates, etc.). In reality, 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 postponement 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.

### **ORIAS (*Organisme pour le registre des intermédiaires en assurance, banque et finance*)**

Non-profit organisation responsible for establishing, maintaining and updating the register of authorised insurance, reinsurance, banking and finance intermediaries in France.

### **ORSA (Own Risk and Solvency Assessment)**

Internal assessment by an institution (or group) of its risks and solvency, defined in Article 45 of the Solvency II Directive. The ORSA must illustrate the institution's or group's ability to identify, measure and manage factors that could affect its solvency or financial position. As such, its operational application makes it a primary strategic tool.

### **OTC DERIVATIVES**

Derivatives that are traded over the counter (OTC).

### **PROVISIONAL ADMINISTRATION**

A legal procedure whereby the powers of administration, management and representation of a company are transferred to a designated administrator. This measure, which is a derogation from general corporate law, removes the authority of the existing corporate bodies.



### **PRUDENTIAL OWN FUNDS**

Funds 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).

### **QIS (Quantitative Impact Study)**

The European Commission asked CEIOPS (now EIOPA) to conduct quantitative studies to measure the impact of Solvency II on the evaluation of the regulatory balance sheet and capital requirements.

### **RWAs (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 the Basel III solvency ratio calculation framework (implemented in Europe by the CRR).

# GLOSSARY

## **SOLVENCY II PILLARS**

The three Solvency II pillars are: • Pillar 1: quantitative requirements, particularly for capital and technical reserves; • Pillar 2: qualitative requirements in respect of governance; • Pillar 3: regulatory reporting and public disclosure requirements.

## **SOLVENCY CAPITAL REQUIREMENT (SCR)**

Target amount of capital required under the European regulation, Solvency II. The SCR is the estimated amount of capital needed to absorb a shock produced by an exceptional loss. It is calculated based on the exposure to risk in connection with the activity of insurance companies, i.e. underwriting risk, credit risk, operational risk, liquidity risk and market risk. Companies should be able to choose between two different calculation models: a standard approach or an internal model.

## **SOLVENCY MARGIN REQUIREMENT**

The regulatory capital that an insurance company must hold in order to meet the commitments resulting from its business. Under Solvency I, in life insurance, the solvency margin requirement will depend on mathematical reserves for unit-linked and non-linked contracts, as well as capital at risk. In non-life insurance, it will depend on the amount of premiums or claims. Note that the vocabulary is changing: Solvency II refers to “a level of equity” or “capital requirement”. The bases for calculation are also changing, becoming more granular and covering more risks.

## **SPE (Single Point of Entry)**

A resolution approach under which powers and instruments are exercised at group parent level by the home country authority, with host country authorities adopting measures to support resolution actions if necessary (as opposed to the Multiple Point of Entry, or MPE, approach).

## **SRM (Single Resolution Mechanism)**

See Banking Union.

## **TLAC (Total Loss-Absorbing Capacity)**

Requirements on holdings of capital or debt securities able to be converted in the event of liquidation.



## **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.

## **TRADING BOOK**

Set of positions in financial instruments and commodities held by an institution for trading purposes or to hedge other items in the trading book.

## **TRILOGUE**

Tripartite discussions between the European Parliament, the European Commission and the Council of the European Union under the co-decision procedure.

## **VAR (Value at risk)**

The maximum potential loss caused by an unfavourable change in market prices, within a specified time period and at a given probability level (the “confidence level”). VAR is an overall probability measure of market risk.

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