

2022

ANNUAL REPORT

ACPR

BANQUE DE FRANCE



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This annual report presents an overview of the different activities of the *Autorité de contrôle prudentiel et de résolution* and its services. It will be supplemented in the third quarter of 2023 by a **statistical report on the French banking and insurance market**.

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



Governor's Editorial

In 2022, we witnessed a series of destabilising events and a sharp increase in geopolitical, economic and financial uncertainty, which has continued into early 2023 and even intensified with severe pressure in the banking sector in the United States and Switzerland. In these circumstances, the French financial sector has demonstrated remarkable resilience. Nevertheless, we need to remain extremely vigilant in light of the most recent events in terms of both oversight and regulations actually applied. In addition to these transitory shocks, we are having to respond to more acute structural challenges.

I wish to pay tribute to the hard work of the 1,050 men and women of the ACPR who support the Single Supervisory Mechanism by performing their inspections, which have become more essential than ever in these turbulent times.

I would like to express my sincere thanks to Dominique Laboureix for his work over the last three years as Secretary General and to wish him well in his new position as Chair of the European Single Resolution Board. I would also like to take this opportunity to extend a warm welcome to Nathalie Aufauvre, previously Director General Financial Stability and Operations, who has been at the head of the ACPR since January 2023.

1 | 2022 and early 2023 dominated by major financial stability challenges

While the French financial sector's direct exposure in Russia and Ukraine is low, the war in Ukraine has had a major impact on the real economy and on the financial sphere. However, the French economy has proven more resilient than expected and GDP grew by 2.6% in 2022. Certain markets have experienced significant volatility and turmoil, especially as a result of the UK sovereign debt crisis, the sharp rise in margin calls on commodity derivative markets and the failure of certain non-banking and non-insurance players.

This instability continued in March 2023 with the failure of several US regional banks and the emergency takeover of Credit Suisse. The knock-on effects on the markets and overall trust in the financial system heighten the need for vigilance. It should be stressed that, unlike all European banks, the US regional banks that failed were not subject to the Basel III regulatory framework. As such, these failures make a good case for an effective, general and rapid deployment of Basel III requirements, rather than an overhaul of them, which would merely delay their application. The example of Credit Suisse – which was subject to Basel III – illustrates another imperative, namely intrusive supervision, performed by highly qualified professionals, quick in its reaction, and applied forcefully. This proactive supervision, consisting of regular comprehensive stress testing, is one of the major achievements of our European Banking Union, underpinned in particular by the expertise of the ACPR. With regard to these banking crises, the situation of French banks also illustrates the resilience of their diversified business model, which is generally benefiting from rising interest rates. Consequently, they appear well equipped to handle the monetary policy tightening needed to get inflation back down to target levels.

French banks and insurers proved highly resilient in 2022, with income and net earnings remaining at high levels and even growing in the wake of an already exceptional 2021, while they maintained high levels of liquidity and solvency (14.9% for the six main French banks, 247% for the insurance sector at the end of December 2022). In 2022, in spite of a marked slowdown towards the end of the year, life insurance benefited from record inflows into unit-linked products amidst high market volatility. However, good momentum in unit-linked products must not be to the detriment of either the duty to provide advice or customers' interests, issues that the ACPR will continue to track closely in 2023.

2 | Reinforcing the regulatory and oversight framework for more structural risks

Significant regulatory advances have been made in banking and finance under the impetus of the French Presidency of the Council of the European Union (FPEU). In the insurance sector, the European Council adopted general guidelines on the revision of the Solvency II Directive in June 2022 after many months of negotiation, and it is hoped that the European Parliament will take similar action. In banking, work on transposing the Basel III Accords into European law has continued apace, culminating in the adoption of a compromise by the Council in November 2022. Outside of banking and insurance, there is still an urgent need to strengthen the regulatory framework for non-bank financial institutions (NBFIs) at both micro and macroprudential levels to control excessive use of leverage and contain liquidity risk.

In the **climate** arena, major progress was achieved in 2022 in transparency and reporting standards, particularly with Article 29 of the French Energy and Climate Act, which came into force for French financial market players. Both national and European authorities have performed climate stress tests, and the ACPR and AMF published their third joint report on the monitoring and assessment of the climate-related commitments made by Paris financial centre players.

In terms of support for the **digital transition** and enhancing **cyber risk** governance, we strongly welcome the implementation of the regulation on digital operational resilience for the financial sector (DORA) was implemented at the end of 2022. As regards **crypto-assets**, successive collapses in the values of certain instruments and exchange platforms illustrate the need for stricter oversight and better management of direct and indirect exposure to such assets.

In the **fight against money laundering** and terrorist financing, the ACPR continued to contribute its expertise to negotiations on the anti-money laundering legislative and regulatory package. We should all be proud of the top score attributed to France by the Financial Action Task Force (FATF) in its May 2022 assessment report, further recognition of the overall quality of the ACPR's work.



Nathalie Aufauvre,
ACPR Secretary General

Interview with the Secretary General

What is your overall assessment of 2022 at the ACPR?

I joined the ACPR in January 2023 and I would like to congratulate the General Secretariat teams on all of their hard work in 2022, a particularly hectic year marked by new and unprecedented challenges. After two years dominated by the health crisis and its enduring economic impacts, 2022 witnessed fresh macroeconomic and financial uncertainties linked to the consequences of the war in Ukraine, more severe inflationary pressure and the resulting rise in interest rates.

In these circumstances, I would like to acknowledge the commitment and adaptability of the men and women of the ACPR. By way of an example, at the outbreak of the war in Ukraine at the end of February 2022, a crisis committee was set up to organise the Authority's action in both the banking and insurance sectors. The teams analysed the micro- and macro-economic consequences of the conflict, particularly for the institutions under its supervision. At the same time, they closely monitored supervised entities and paid special attention to heightened risks, such as cyber risk. ACPR supervisors were involved in monitoring the sanctions handed down by the French Treasury.

What were the main achievements in terms of human resources?

We onboarded over 200 new employees in 2022 to perform our new inspections, moving us closer to the cap of 1,080 set by the legislator. Continuing to develop international mobility opportunities has also been a key focus as a means of strengthening our participation in the European System of Central Banks (ESCB) and the Single Supervisory Mechanism (SSM) and fostering a shared supervisory culture. Exchanges of staff members with the SSM under the Schuman programme and an agreement with the ECB, and with the UK Prudential Regulation Authority, as well as the integration of staff into the ECB's Suptech teams, are just a few examples.

What were the key developments in the prudential oversight of banking and insurance?

In banking, in addition to the Supervisory Review and Evaluation Process (SREP) conducted annually for the supervised entities, ACPR inspection staff took part in thematic reviews organised by the SSM around various topics, including the resilience of the sector in the wake of the pandemic, business models and monitoring of emerging risks. The ACPR also tracked the consequences of rising interest rates closely in terms of the profitability of institutions and changes in credit risk.

In insurance, the ACPR paid especially close attention to the economic situation. The acceleration in inflation weighed heavily on insurers' costs and inflows to life insurance declined sharply in the second half of the year, although unit-linked products remained buoyant. The rapid rise and volatility of interest rates in 2022 resulted in a slight deterioration in the average solvency ratio across the sector. The ACPR also continued to be involved in European negotiations on the ongoing review of the Solvency II Directive.

What were the new developments in terms of authorisations?

The number of licensed institutions in the banking sector increased in 2022, mainly due to the growth of the payments industry, continuing a trend that began several years ago. We also focused on implementing the new regulations applicable to crowdfunding service providers and the new European legislative framework applicable to financial holding companies.

What were your main focuses in the fight against money laundering and terrorist financing (AML/CFT) in 2022?

As part of its AML/CFT arsenal, the ACPR updated its annual questionnaires designed to assess the exposure of supervised financial institutions to risks of money laundering and terrorist financing as well as the quality of their systems. It has also designed a new more specific questionnaire for digital asset service providers (DASPs).

The ACPR conducted its first on-site inspections of DASPs and two of these culminated in the organisations in question being struck off by the *Autorité des marchés financiers* (AMF). It published sector guidelines for DASPs on how to comply with AML/CFT obligations, reflecting the specific features and risks of the crypto-asset sector.

The ACPR also continued to work with the European Banking Authority (EBA) and the AML/CTF Advisory Committee (COLB) on various projects such as the AML (Anti-Money Laundering) package and harmonising remote customer identification practices used by financial institutions in Europe.

What actions and innovations were deployed by the ACPR's Fintech Hub?

In 2022, the Fintech-Innovation hub was actively involved in European and international working groups on artificial intelligence, open finance and the regulation of crypto-assets. It also focused on issues relating to innovative models such as decentralised finance (DeFi).

Five digital tools designed to enhance our controls are currently being deployed as part of the Suptech approach. The ACPR also organised a *Tech Sprint* in 2022 around the impact of confidential data sharing in the fight against money laundering and terrorist financing which helped inform discussions around this topic. Lastly, the review of the first year of the FinTech charter, which makes the authorisation process for innovative project initiators more transparent, attests to the quality of application processing.

What were the main customer protection initiatives taken in 2022?

The ACPR continued to perform its inspections and focused its recommendations on priority areas like instalment-based payments and short-term loans, the supervision of wholesale brokers and banking services that target minors. As regards marketing insurance products through unsolicited phone calls, the ACPR strengthened systems for controlling sales quality as a means of enhancing consumer protection. It also published two recommendations, one on the handling of complaints and the other on the promotion of extra-financial features in life insurance advertising, especially in sustainable finance.

Lastly, the ACPR helped to implement the reform of the brokerage industry, notably by vetting seven professional associations.

What are the priority focuses for 2023?

Once again this year, our priorities and work areas are largely driven by current events and the unprecedented economic conditions in which we are conducting our inspections.

Our priority is to monitor the impact of macro-economic and financial developments linked to the war in Ukraine, rising interest rates and inflation on the banks and insurers we supervise. We also continue our commitment to tackle climate change and adapt the financial system to the challenges of the digital revolution. The protection of customers in the banking and insurance sectors also continues to be a key focus, and we will be looking carefully at governance of the marketing of banking and insurance products, while continuing our work on life insurance fees.

1

ABOUT THE ACPR

Key figures

2022

42

SUPERVISORY
COLLEGE
MEETINGS

4

RESOLUTION
COLLEGE
MEETINGS

7

SANCTIONS
COMMITTEE
MEETINGS

666

BANKING
SECTOR
INSTITUTIONS
SUPERVISED

664

INSURANCE
COMPANIES
AND MUTUAL
INSURERS
SUPERVISED

1022

STAFF ON
AVERAGE OVER
THE YEAR

1. Statutory objectives

The ACPR supervises the banking and insurance sectors. It is responsible for preserving the stability of the financial system, protecting customers and insurance policyholders, and supervising compliance with anti-money laundering and counter-terrorist financing (AML/CTF) rules. It also has powers to prevent and resolve crises in both these sectors.

Since the European banking union was set up in 2014, the ACPR has discharged its banking-related prudential responsibilities within the framework of the Single Supervisory Mechanism (SSM) and the Single Resolution Mechanism (SRM).

The Business Growth and Transformation (Pacte) Act of 22 May 2019 extended the ACPR's powers to include some digital asset service providers (digital asset custody, buying or selling digital assets in exchange for legal tender). The *Autorité des marchés financiers* (AMF – Financial Markets Authority) is in charge of registering these providers, while the ACPR must give its assent to such registration and is responsible for ensuring that the firms comply with AML/CTF rules.

2. Organisation

2.1 Decision-making bodies

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

To provide it with further information on some of the topics it has to address, the ACPR's Supervisory College is supported by an Audit Committee, four consultative commissions covering prudential affairs, AML/CTF, business practices, and climate and sustainable finance respectively, and a Scientific Consultative Committee. These different bodies met 18 times in 2022.

For further information on the consultative commissions, go to:

<https://acpr.banque-france.fr/lacpr/colleges-et-commissions/commissions-consultatives>



The Supervisory College (at 1 January 2023)



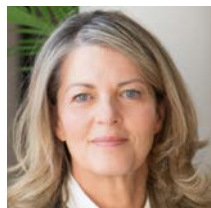
François VILLEROY de GALHAU
Governor of the Banque de France, Chairman of the ACPR



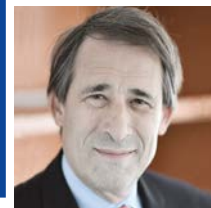
Denis BEAU
Deputy Governor of the Banque de France



Jean-Paul FAUGÈRE,
Vice-Chairman of the ACPR



Marie-Anne BARBAT-LAYANI
Chair of the AMF



Robert OPHÈLE¹
Chairman of the *Autorité des normes comptables*



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



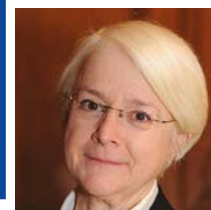
Valérie MICHEL-AMSELLEM
Counsellor at the *Cour de cassation* appointed at the recommendation of the Chairman of the *Cour de cassation*



Raoul BRIET
Honorary presiding judge at the *Cour des comptes*, appointed at the recommendation of the Chairman of the *Cour des comptes*



Anne ÉPAULARD
Professor of Economics at Paris-Dauphine University, appointed by the President of the National Assembly



Anne LE LORIER
Honorary Deputy Governor of the Banque de France, appointed by the President of the Senate



Cécile GÉRARD



Jean-Luc GUILLOTIN

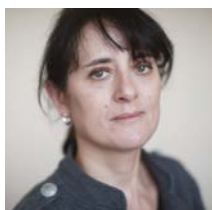


Anne LARPIN-POURDIEU



Olivier MESNARD

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



Patricia CRIFO

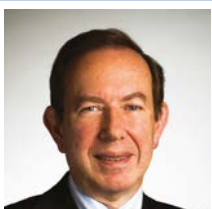


David NOGUÉRO

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



Pascal DURAND



Christian LAJOIE



Isabelle LEFEBVRE



Catherine THÉRY

Appointed for their expertise in banking, electronic money issuance and management, payment services or investment services

The following do not have a vote, but may request that matters be deliberated a second time:

Emmanuel MOULIN

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

Franck Von LENNEP

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

¹ From 6 February 2023.

The Resolution College (at 1 January 2023)



François VILLEROY de GÁLHAU
Governor of the Banque de France, Chairman of the ACPR



Jean-Paul FAUGÈRE,
Vice-Chairman of the ACPR



Gabriel CUMENGE
Deputy Director for Banking and Public-Interest Financing, representing Emmanuel MOULIN, Director General of the Treasury



Marie-Anne BARBAT-LAYANI
Chair of the AMF



Denis BEAU
Deputy Governor of the Banque de France



Vincent VIGNEAU
Presiding judge at the Commercial, Financial and Economic Chamber of the *Cour de cassation*



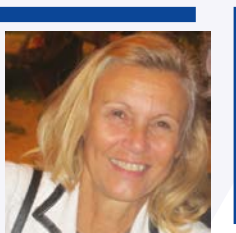
Thierry DISSAUX
Chairman of the Executive Board of the Deposit Insurance and Resolution Fund

The Sanctions Committee (at 1 January 2023)

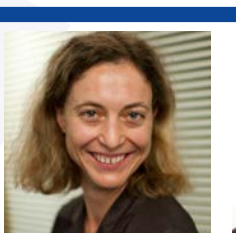


Appointed by the Vice-Chairman of the *Conseil d'État*

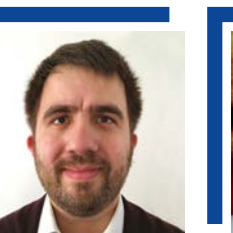
Alain MÉNÉMÉNIS
Member of the *Conseil d'État*, Chairman



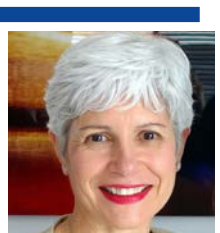
Martine JODEAU
Member of the *Conseil d'État*, Alternate



Gaëlle DUMORTIER
Member of the *Conseil d'État*, Full Member



Matias de Sainte Lorette
Junior Member of the *Conseil d'État*, Alternate

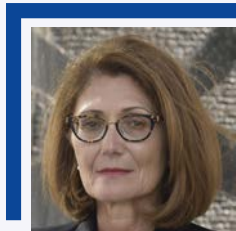


Appointed by the Chairman of the *Cour de cassation*

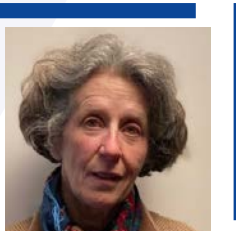
N...
Counsellor at the *Cour de cassation*, Full Member

Edith SUDRE
Counsellor at the *Cour de cassation*, Alternate

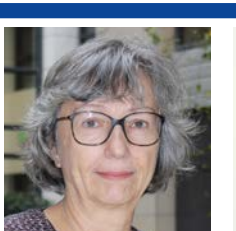
Appointed for their expertise in matters that are helpful for the ACPR to meet its statutory objectives



Claudie BOITEAU
Full Member



Dorothée de KERMADEC-COURSON
Alternate



Elisabeth PAULY
Full Member



Philippe BRAGHINI
Alternate



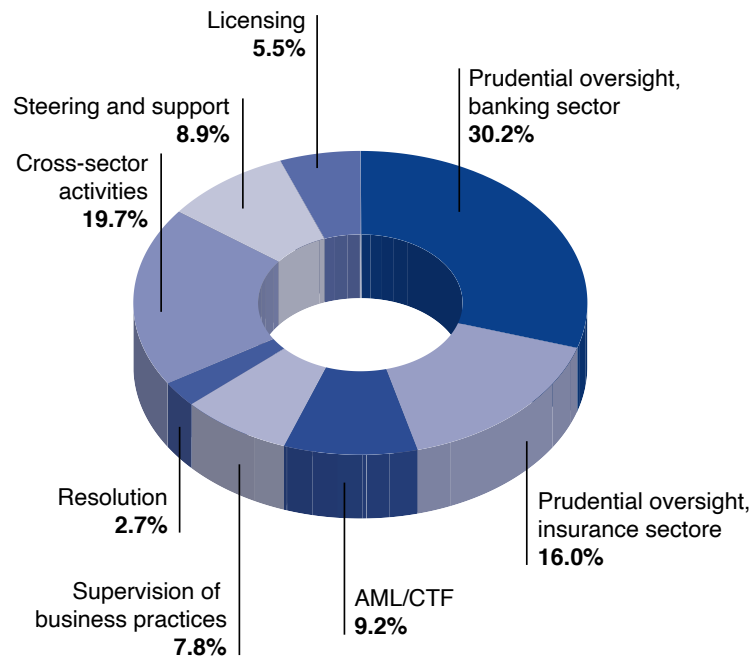
Thierry PHILIPPONNAT
Full Member



Philippe LAIGRE
Alternate

2.2 General Secretariat

The ACPR's departments are overseen by the General Secretariat. The average annual headcount in full-time equivalent (FTE) terms stood at 1,022 in 2022, as compared with the cap of 1,080.² At 31 December 2022, the staff headcount comprised 1,085 employees (1,050.3 FTE), including 554 men and 531 women. These staff members, who have a wide range of backgrounds, are distributed as follows in the Authority's different areas of activity.



² The staffing cap, which was set at an average of 1,050 FTE until the end of 2021, required external recruitment to be scaled back and then halted over the course of that year. The cap was raised to 1,080 from 2022, with the hiring drive starting to take effect in the second half.

ACPR General Secretariat (at 1 May 2023)



General Secretariat



From left to right
 Front row: Evelyne MASSÉ, Frédéric VISNOVSKY, François HAAS
 Second row: Patrick MONTAGNER, Nathalie AUFAUVRE

Directors



From left to right
 Emmanuel ROCHER, Grégoire VUARLOT, Marie Lorraine VALLAT, Laurent CLERC, Olivier FLICHE, Barbara SOUVERAIN DEZ,
 Frédéric HERVO, Emilie PEREZ ALEXANDRE, Bruno LONGET, Anne Sophie BORIE TESSIER, Geoffroy GOFFINET, Philippe BERTHO
 Not present: Ludovic LEBRUN, Eric MOLINA

3. Supervisory priorities for 2023

At its plenary meeting on 6 December 2022, the ACPR College adopted the priorities that will guide the Authority's activities in 2023, over and above its day-to-day prudential supervisory tasks:

1. Continue to monitor the risks linked to developments in the international economic and geopolitical situation, and especially rising energy prices and dimming growth prospects. Activities will include prudential oversight of the banking and insurance sectors, with a particular focus on how these institutions are impacted by the situations of the most exposed geographical areas and sectors. Work will also involve monitoring the mechanisms implemented by institutions to apply the sanctions imposed by national and international authorities in connection with the war in Ukraine, to assess management of legal and reputational risks.
2. Monitor the consequences of higher interest rates, inflation and fluctuations in property and financial asset values, which have been magnified by the effects of the war in Ukraine. Attention will be paid to analysing and monitoring banks' and insurers' balance sheet risks (refinancing, asset-liability management) and to monitoring the macroprudential decisions taken by France's *Haut Conseil de Stabilité Financière* (HCSF – High Council for Financial Stability). ACPR personnel will take part in the Europe-wide stress test to assess the ability of banks to cope with a simulated shock on a three-year horizon, featuring an extremely adverse macroeconomic scenario. The test will be applied to ten French groups that account for approximately 28% of the assets of the European Union (EU) banking system. The situation of other banking sector institutions (investment firms, payment and electronic money institutions) will be closely supervised amid heightened volatility on financial markets and tighter financial conditions.
3. Maintain the ACPR's commitment in support of the SSM for major institutions. Supplementing the two priorities listed above, the SSM's supervisory priority areas for 2023 include:
 - digitalisation challenges and governance issues, with continuing work to assess the ability of banks to adjust their business models, organisational structures and risk management to cope with the growing challenges of the digital transition;
 - efforts to combat climate change and physical and transition risks.

4. Continue work to address structural risks, which will include:

- Keeping up the fight against climate change. The ACPR has pioneered the analysis and recognition of the impact of physical and transition risks on financial institutions, conducting a pilot exercise in 2021. In 2023, the Authority will pursue these efforts (insurance exercise, input to international work).
- Monitoring technological developments and associated risks, in particular IT risk, information system strategy and cyber risk. These efforts will include an analysis looking at the rise of new digital financial intermediaries in the banking and insurance sectors.
- Carrying on regulatory work, which will concentrate on completion of the European CRR3 regulation and CRD6 directive for the banking sector, European negotiations on the Solvency II Review in the insurance sector, and implementation of the European Commission's digital finance roadmap (PSD3, DORA).
- In consumer protection, paying special attention to governance arrangements for the marketing of banking and insurance products, implementation of the April 2022 brokerage reform and the fight against greenwashing.
- In anti-money laundering and counter-terrorist financing (AML/CTF) activities, finalising the thematic review of automated transaction monitoring systems, conducting inspection campaigns targeting digital asset service providers, and participating in negotiations on the AML package presented by the Commission in 2021.

In resolution, the Resolution College adopted the following priorities at its meeting on 25 November 2022:

- continue to pursue a strategy of exerting influence to ensure application by banks of minimum requirements for own funds and eligible liabilities (MREL) that, on the one hand, ensures equal treatment with international banks subject to total loss-absorbing capacity (TLAC) requirements, and, on the other, best reflects the spirit of the regulations, especially as regards exemptions from individual requirements (internal MREL) granted to national subsidiaries;
- expand work to operationalise the insurance resolution strategies identified in the first resolution plans approved in 2022, including proper execution of the selected resolution tools, while continuing to take part in work on draft European legislation on resolution in the insurance sector.



2

PRUDENTIAL SUPERVISION



Key figures

2022

285

LICENSING AND
AUTHORISATION
DECISIONS

24

MEETINGS OF THE
ECB S PRUDENTIAL
SUPERVISORY BOARD

101

ON-SITE INSPECTIONS
RELATING
TO PRUDENTIAL
SUPERVISION

14

ANALYSES ET
SYNTHÈSES REPORTS
PUBLISHED

31

MEETINGS
ATTENDED OF
DECISION-MAKING
BODIES OF EUROPEAN
SUPERVISORY
AUTHORITIES

11

FORMAL NOTICES

1. Changes to the structure of the French financial system

Summary of ACPR licensing and authorisation decisions

	Total	Insurance	Banking
Granting of licences, authorisations and registrations	54	21	33
Licence extensions	14	4	10
Waivers and exemptions from licensing and authorisation requirements	12	0	12
Amendments to licences and authorisations	13	5	8
Withdrawals of licences and authorisations	31	18	13
Risk transfer agreements	10	10	0
Administrative changes	20	10	10
Changes in ownership	81	21	60
Mergers, demergers and/or portfolio transfers – Insurance sector	42	42	0
Other	8	4	4
TOTAL	285	135	150

Opinions on applications to register digital asset service providers (DASPs)¹ 36

¹ DASAPs are registered with the AMF once the ACPR has given its assent.

1.1 Insurance sector

In FY2022, 12 funds for supplementary occupational retirement provision (FRPS) were created: AG2R LA MONDIAL, CNP, ARIAL CNP ASSURANCE (conversion from insurance company to FRPS), BNP PARIBAS CARDIF, SWISSLIFE FRANCE, GENERALI FRANCE, GARANCE, AGEAS FRANCE, CCPMA, CREDIT AGRICOLE ASSURANCES, UMR and KERALIS (see box on undertakings for supplementary occupational retirement provision, page 28).

When this factor is stripped out, the trend in 2022 echoed that of previous years, with a small decrease in the total number of institutions licensed in the insurance sector, linked essentially to the ongoing decline in the number of mutual insurers, which was partly offset by the creation of nine new insurance undertakings:

- two reinsurance captives, PUBLICIS RE and SORELAC (Lactalis Group)
- PRONOE PREVOYANCE, the death & disability subsidiary of SAM Mutuelle de Poitiers Assurances;
- LMG ASSURANCES, the health, death & disability subsidiary of Mutuelle Générale;
- DESCARTES INSURANCE, which proposes to insure businesses and governments against climate and natural catastrophe risks;
- AXA SA, which was licensed as a reinsurance company following the reorganisation of its group;
- ALAN INSURANCE, which was licensed as an insurance company following the reorganisation of its group;
- and two securitisation fund (FCT) sub-funds bearing insurance risks: “157 RE 23” for CCR RE (for the fifth time), and “WAKAM Alt 23” for WAKAM (for the first time).

The ACPR also authorised 42 portfolio mergers or transfers, which caused 14 licenses to lapse fully (primarily in the mutual insurance sector) and two licenses to lapse partially.

There were 21 authorisations for significant ownership changes, which included the sale by Crédit Agricole Assurances of LA MÉDICALE to Generali France.

Finally, in 2022, the ACPR took

- 790 decisions concerning appointments of effective managers and key function holders in the insurance sector, compared with 758 in the previous year;
- 147 decisions on European passports enabling French institutions to do business in other European Economic Area (EEA) countries, compared with 185 in 2021.

1.2 Banking sector³

The number of licensed institutions in the banking sector increased over the course of the year. Continuing the trend of recent years, this growth was essentially attributable to new licences granted in the payments sector.

In 2022, licences were issued to three credit institutions, four investment firms, 11 payment or electronic money institutions, three account information service providers, one third-party financing company⁴ and three financing companies, two of which were granted a dual licence as a financing company and payment service provider.

³ Credit institutions, financing companies, investment firms, payment institutions, electronic money institutions.

⁴ Institution set up to provide property owners with a third-party financing service as defined by Article L. 381-1 of the Construction and Housing Code.

Notable authorisations included the following:

- licences were issued to the first two credit and investment institutions (CIIIs): Portzamparc and Bank of America Securities Europe. Initially classified as investment firms (IFs), these two institutions were authorised as CIIIs owing to their systemic importance, as they fulfil the criteria set by the Investment Firms Directive (2019/2034/EU) and the Investment Firms Regulation (2019/2033/EU) on the prudential regime applicable to investment firms (see box on the new class of credit and investment institution, page 23);
- a licence was issued to MARARA PAIEMENT, a payment institution that is a subsidiary of the French Polynesian Post and Telecommunications Office (OPT), a public industrial and commercial institution entirely owned by French Polynesia. MARARA PAIEMENT has taken over the operation of payment services, which was previously delegated to a different subsidiary of the OPT group. Aiming to pursue the OPT group's role, namely to promote banking inclusion among the people living on the remote islands of French Polynesia, MARARA PAIEMENT offers payment services and payment account management services to customers in the region through a network of branches and automated teller machines (ATMs);

- a licence was issued to payment institution FIFA CLEARING HOUSE, whose purpose, in connection with the new electronic player transfer monitoring system put in place by FIFA, is to improve payment of training rewards (solidarity contribution and training compensation) to training clubs following transfers;
- the licence granted to payment institution FDJ Services in 2021 was extended to enable FDJ to launch a new invoice payment collection service within its network of agents (tobacconists principally). To get ready for the launch of this business, over 2022, the ACPR registered more than 9,000 agents for FDJ SERVICES.

In 2022, the ACPR also issued:

- 60 authorisations concerning ownership changes at institutions from the sector;
- 1,954 decisions concerning appointments/renewals of appointments of effective managers and members of supervisory bodies, of which 462 were the subject of an ECB decision;
- 603 decisions on European passports enabling French institutions to do business in other EEA countries, and, conversely, allowing EEA institutions to operate in France;
- 13,420 decisions authorising the agents of payment service providers, 1,626 of which concerned agents in other EEA countries.

PEER REVIEW⁵ BY THE EUROPEAN BANKING AUTHORITY (EBA) ON THE AUTHORISATION REQUIREMENTS OF PAYMENT INSTITUTIONS AND ELECTRONIC MONEY INSTITUTIONS

In July 2022, the EBA began a peer review of application by national competent authorities of the guidelines on the information to be provided in order to license payment institutions and electronic money institutions. The final report, which was published on 11 January 2023, highlighted the robustness of the licensing system set up by the ACPR. No non-compliance issues were found with the procedures put in place by the ACPR.

The exercise found that the ACPR reviews licence applications for payment institutions and electronic money institutions within the median timeframes observed in the EEA, i.e. between seven and nine months. Just four countries recorded faster processing times. However, the report underlined a universal finding among authorities about a lack of preparation among some applicants, which resulted in significantly longer processing times. The ACPR therefore urges applicants to make use of the informational materials posted on its website, so that they can get their applications as ready as possible.⁶

The report also recommended a number of regulatory changes, which the ACPR supports, as part the review of the Second Payment Services Directive (PSD2), aimed at clarifying the distinction between electronic money and payment services, defining different payment services and setting the minimum staffing requirements that institutions must meet in the regions where they are licensed.

⁵ Peer review by national supervisory authorities that are members of the EBA.

⁶ [My Fintech Journey](#), on the ACPR website.

BUY NOW, PAY LATER (BNPL) SOLUTIONS

Buy now, pay later (BNPL) and split payment solutions are seeing strong growth in France, owing to the ease and speed with which shoppers can access them.

These types of solutions typically entail granting “advances to customers”, which are treated as loans from a legal perspective and therefore subject to legal and regulatory obligations. Only credit institutions and financing companies are allowed to offer loans as part of their routine business, while payment institutions and electronic money institutions may do so only on an ancillary basis.

Institutions granting loans must also meet supplementary capital requirements to cover credit risk and operational risk, and establish appropriate internal control and AML/CTF procedures. Finally, the granting of credit is subject to obligations regarding disclosures to borrowers about the annual percentage rate (APR) and the usury rate, as the ACPR recently reiterated in a press release on 31 March 2023.⁷

Accordingly, any institution considering offering this type of service is strongly advised to conduct an analysis of its legal classification and to contact the ACPR with any questions.

ENTRY INTO EFFECT OF EUROPE'S NEW REGULATORY FRAMEWORK FOR CROWDFUNDING SERVICE PROVIDERS

Under Regulation (EU) 2020/1503 on European crowdfunding service providers for business, which came into effect on 10 November 2021, equity crowdfunding and crowdlending platforms must apply to be authorised as crowdfunding service providers (CSPs) under the harmonised European framework.

The new regime will allow these platforms to act as intermediaries to fund commercial projects up to EUR 5 million throughout the European Union.

The national regime governing crowdfunding intermediaries (CIs) will remain in place and cover funding for consumer projects as well as business funding via free loans and donations.

The AMF has been appointed as the competent authority to license and supervise CSPs. The ACPR, meanwhile, must give its assent to participants whose programme of operations includes loan facilitation.

For a transitional period running until 10 November 2023, the European regime will run in parallel alongside the existing national regimes for CI platforms and crowdfunding advisers (CAs). After that date, a licence will be required to continue conducting the activities covered by the regulation. For this reason, affected participants are urged to submit their licence applications to the AMF as soon as possible, or face finding themselves doing business illegally once the abovementioned deadline is past.

⁷ [Press release of 31 March 2022](#), on the ACPR website.

CLARIFICATION OF AUTHORISATION AND PRUDENTIAL MONITORING REGIMES FOR FINANCIAL HOLDING COMPANIES

In 2022, the ACPR implemented Europe's new legislative framework for financial holding companies. The Fifth European Capital Requirements Directive (CRD5 – 2019/878/EU) introduced new approval obligations for financial holding companies (FHCs) and mixed FHCs (MFHCs), together with a procedure covering exemptions from the approval obligations. In addition, the Investment Firms Directive (IFD – 2019/2034/EU) and the Investment Firms Regulation (IFR – 2019/2033/EU) on the prudential regime applicable to investment firms created a new category of financial holding companies called investment holding companies (IHCs). Some IHCs are subject to prudential obligations.

The entry into force of these provisions entailed discussions about how to transpose the new European requirements into national law. In January 2023, the ACPR therefore published a position⁸ setting out its expectations for the authorisation and prudential monitoring of financial holding companies under its supervision.

The position details the obligations applicable to these companies, including approval obligations, or, where applicable, approval exemption obligations, as well as prudential obligations, based on their position in the ownership chain.

Once approved, these financial holding companies must comply with the prudential requirements set down by the Monetary and Financial Code. As part of its oversight duties, the ACPR assesses the fitness and propriety of the senior executives and members of the supervisory bodies of these companies. In 2022, the ACPR approved four FHCs and registered one IHC. A complete list of holding companies supervised by the ACPR is posted on the [regafi.fr](https://www.regafi.fr) website.

THE NEW CLASS OF CREDIT AND INVESTMENT INSTITUTION

As a result of the entry into force in June 2021 of the IFD and IFR on the prudential requirements applicable to investment firms, systemically important investment firms were reclassified as credit institutions under CRD (2013/36/EU) and CRR (575/2013/EU) on the access to the activity of credit institutions and the prudential supervision of credit institutions. The purpose of this reform is to ensure that systemically important investment firms are under the direct supervision of the ECB through the Single Supervisory Mechanism (SSM). Other investment firms, i.e. those not authorised as credit and investment institutions (CIIs), continue to be subject to supervision by national authorities.

A new class of credit institution was established under French law (Art. L. 516-1 of the Monetary and Financial Code), namely that of credit and investment institutions (CIIs). While CIIs are treated as credit institutions, their distinguishing characteristic is that they may only provide investment services and cannot engage in credit transactions or take repayable funds from the public.

By end 2022, the ACPR had received seven CII licence applications from investment firms licensed in France. Two of these, Portzamparc and BofA Securities Europe SA, received their licences. The others are expected to be authorised in 2023.

⁸ [Position 2022-P-02](#), on the ACPR website.

EUROPEAN DATABASE ON THE FITNESS AND PROPRIETY OF SENIOR EXECUTIVES

Under the mandates entrusted to them, the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA) are responsible for facilitating the exchange of information between competent authorities for fitness and propriety assessments conducted in connection with acquisitions of qualifying holdings⁹ and appointments of effective managers, members of corporate bodies and key function holders at supervised entities.¹⁰

To facilitate these exchanges and make exhaustive and secure information available, EIOPA is steering the development of a database covering 27 EU countries, which will enable each national competent authority to identify people who are under assessment or who have already been assessed by another competent authority.

From 2024, the ACPR will provide the database with information about the assessments that it conducts in the banking, insurance and financial market sectors. The ACPR will also check the database whenever a new assessment is performed and, if applicable, will approach authorities that have previously conducted assessments, helping to improve the efficiency and consistency of assessments across Europe.



⁹ A holding is described as a "qualifying" holding when it represents 10% or more of capital or voting rights or if it confers significant influence over the entity.

¹⁰ Articles 31a of the three founding regulations of the European Supervisory Authorities: Regulation (EU) No. 1093/2010, Regulation (EU) No. 1094/2010 and Regulation (EU) No. 1095/2010.

ASSESSING THE GOOD REPUTE OF EFFECTIVE MANAGERS AND KEY FUNCTION HOLDERS

– In the banking sector:

- Introduction of a voluntary ex ante notification procedure for parent companies of significant banking groups:

On 1 March 2022, the ECB launched an initiative inviting the parent companies of significant banking groups under its direct supervision to submit appointment packages for effective managers ahead of their official appointment as soon as there is a clear intention to appoint them. This approach is voluntary and performed in accordance with the national regulatory framework.

The aim is to accelerate the fit and proper assessment procedure and to identify at the earliest possible stage any points that might require special attention with respect to the proposed candidate.

The procedure was followed for the first time in 2022 and saw final decisions issued within three weeks following the official appointments of managers, as compared with an average of 110 days when appointments are notified ex post.

- Diversity criterion:

As part of fit and proper assessments of effective managers and members of corporate bodies, the ACPR monitors the application by supervised institutions of the legal and regulatory provisions governing gender equity and diversity.

In particular, the ACPR ensures that the diversity provisions set down in the Commercial Code, the Monetary and Financial Code and specific legislation in this area, including the Copé-Zimmermann Act of 27 January 2011 and the Rixain Act of 24 December 2021, are correctly applied.

Against this backdrop, the ECB's new fit and proper questionnaire, which has been in force since 15 June 2022, requires institutions to submit a quantitative and detailed internal policy covering equity and diversity, along with evidence of compliance with national provisions in this area. Accordingly, the ACPR will integrate this aspect when analysing the collective fitness of the management body.

These expectations form part of efforts to promote more diverse backgrounds in management bodies, in line with the latest EBA/ESMA joint guidelines published in July 2021 on assessing the suitability of members of management bodies.

– In the insurance sector:

As part of ratifying the appointments or reappointments of effective managers, members of corporate bodies and key function holders at supervised entities in the insurance sector, in the summer of 2021, the ACPR College had to make a decision for the first time on the appointment of an effective manager who, despite not being convicted of an offence, did not meet the criteria to be considered of good repute. ACPR College therefore blocked this appointment. The decision was appealed before the *Conseil d'État*, but the appeal was dismissed.

In a ruling on the case handed down in July 2022, the *Conseil d'État* provided clarification on the concept of good repute. In particular, it confirmed that the analysis of whether a person is of good repute may extend beyond the scope of *res judicata* and need not be limited to the convictions explicitly mentioned in Articles L. 322-2 of the Insurance Code, L. 114/21 of the Mutual Insurance Code and L. 931-7-2 of the Social Security Code. It also reiterated that, in accordance with Article 273 of Delegated Regulation EU 2015/35 of 10 October 2014, the assessment of whether a person is of good repute shall include an assessment of that person's honesty and financial soundness based on evidence regarding their character, personal behaviour and business conduct including any criminal, financial and prudential elements relevant for the purposes of the assessment. This entails examining the person's past conduct, as evidence of their integrity, to determine whether there is a risk that the person might not perform their duties in compliance with the applicable regulations, rules and guidelines.

The *Conseil d'État* ruling thus upheld the ACPR College's decision concerning its assessment of the good repute of an effective manager or key function holder.

Summary of institutions authorised to do business in France

Insurance sector	31/12/2021	31/12/2022	Change 2022/2021
Insurance undertakings			
Insurance companies	258	257	- 1
Funds for supplementary occupational retirement provision	8	20	12
Reinsurance companies	14	16	2
Non-EU country branches	4	4	0
Insurance Code	284	297	13
Provident institutions	33	33	0
Institutions for supplementary occupational retirement provision	1	1	0
Social Security Code	34	34	0
Mutual insurers governed by Book II and not backed by larger partners	265	254	-11
Mutual insurers for supplementary occupational retirement provision	1	1	0
Mutual reinsurers	2	2	0
Mutual insurers governed by Book II and backed by larger partners	82	76	-6
Mutual Insurance Code	350	333	-17
Total licensed undertakings and undertakings not requiring a licence	668	664	-4
Banking sector	31/12/2021	31/12/2022	Change 2022/2021
Credit institutions (licensed in France and Monaco)			
Credit institutions licensed in France	319	321	2
Institutions licensed for all banking activities	249	250	1
Banks	153	155	2
<i>o/w branches of institutions with registered offices in non-EU countries</i>	21	23	2
Mutual and cooperative banks	78	77	-1
Municipal credit banks	18	18	0
Specialised credit institutions (formally financial companies or specialised financial institutions until end-2013)	70	69	-1
Credit and investment institutions	0	2	2
Credit institutions licensed in Monaco	19	19	0
Total credit institutions (licensed in France and Monaco)	338	340	2
Total investment firms (licensed by the ACPR)	102	102	0
<i>o/w branches of institutions with registered offices in non-EU countries</i>	2	2	0
Financing companies			
Financing companies	131	128	-3
<i>o/w mutual guarantee companies</i>	38	38	0
Dual status: financing companies and investment firms	3	3	0
Dual status: financing companies and payment institutions	17	16	-1
Total financing companies	151	147	-4
Total payment institutions (licensed by the ACPR)	49	51	2
Total account information service providers	8	8	0
Total electronic money institutions (licensed by the ACPR)	16	18	2
TOTAL LICENSED BANKING INSTITUTIONS	664	666	2
Total third-party financing companies	5	5	0
Total money changers	211	211	0
TOTAL OTHER INSTITUTIONS AUTHORISED BY THE ACPR	216	216	0
Branches of EEA institutions operating under the freedom of establishment			
Branches of insurance undertakings	57	56	-1
Branches of credit institutions	65	71	6
Branches of investment firms	33	30	-3
Branches of payment institutions and electronic money institutions	15	17	2
Total branches operating under the freedom of establishment	170	174	4

2. Prudential oversight

2.1 Insurance sector

2.1.1 Impact of the economic environment on the insurance sector

In 2022, insurance undertakings were faced with an unprecedented financial situation since the introduction of Solvency II, as inflation surged and interest rates rose swiftly. This new financial and economic environment had a mixed impact on the insurance market.

Loss experience increased as the number of claims rose in several areas, including auto and property insurance. At the same time, inflationary pressures pushed up the costs borne by insurers, particularly in non-life segments offering long-term guarantees (such as construction, medical liability and non-life annuities in the auto segment), in terms of both claim benefits and expenses incurred. This undermined the profitability of non-life insurers and caused combined ratios to increase. Accordingly, the sector will face the challenge in 2023 of determining appropriate pricing adjustments for 2023 amid a competitive environment and a tougher economic situation. Factoring inflation, both in claim-related costs and in projected expenses, into provisioning models and the Own Risk and Solvency Assessment (ORSA) process also needs to be a priority.

Meanwhile, notwithstanding the positive impact expected in the longer term, higher interest rates had mixed effects on the insurance sector in 2022, driving a slight overall decrease in solvency ratios, which nevertheless remain at elevated levels. Likewise, the identified risk of life insurance contract surrenders in the event of an increase in interest rates has not yet materialised. The appropriateness of life insurance surrender distributions should nevertheless be a point to watch, at a time when interest rates are persistently higher than they have been in recent years. Furthermore, duration gaps on insurer balance sheets, particularly in life insurance, need to be taken into account and anticipated, because they could drive significant asset-liability management changes.

Finally, the impact of Russia's invasion of Ukraine and the effects of the war were closely scrutinised by the ACPR. A crisis unit was set up in 2022 as soon as the conflict broke out, and, in the insurance sector, enhanced monitoring was set up with the main insurers that are either representative of the market or exposed to specific risks. This made it possible to quickly identify and monitor changes in insured risks, assets and interests in Russia, Belarus and Ukraine. Enhanced monitoring also made it possible to track developments in cyber risk management and the implementation of asset freeze measures at insurance undertakings. Overall, the war has had a small direct impact on French insurance companies and groups due to their limited business operations in the affected countries.

2.1.2 Quality of prudential calculations and reporting

The reliability of financial information is heavily dependent on the quality of the upstream data. As regards the challenges involved in estimating technical provisions and assessing solvency, the quality of data input to these calculations should at least meet a common set of requirements, whether the data are generated by internal information systems or external service providers, such as asset managers or entities delegated to manage contracts and claims. This common set of requirements should also apply irrespective of the procedures used to calculate capital requirements, i.e. using the standard formula, proprietary parameters, or a partial or full internal model. While integration of these requirements has been apparent since the Solvency II Directive entered into effect, ACPR personnel have noted that the implementation of projects aimed at controlling data quality is flagging, as evidenced by the various schemes that are still being rolled out. On-site inspections and the questionnaire-based survey (see box on the main findings of the survey on data quality management and the management of information system security, page 29) continue

to point to gaps in quality governance and management, as well as in controlling the risks of poor data quality. These observations call once again for immediate and vigorous corrective measures. One undertaking was issued with a warning in 2022.

Reporting to the ACPR (financial statements and regulatory reports) is expected to integrate data with the following qualities: data should be appropriate (fit for purpose), accurate (no material errors or omissions), exhaustive (make it possible to understand all the main risk groups to which insurance undertakings are exposed) and traceable (internal and external data sources must be documented). ACPR personnel assess data quality at several stages: when prudential reports are submitted, via automated controls integrated in the ACPR's information systems, as part of ongoing supervision by means of special purpose analytical tools, and during on-site inspections. While reporting quality improved in 2022 in terms of completeness and punctuality, there is still room for improvement, and the ACPR will continue to watch this area due to its strategic importance to insurance undertakings.

The work done by the ACPR to communicate and raise awareness within the industry about data quality during market-wide meetings and via the ACPR and e-Surfi assurance websites, forms part of a broader international drive. International and European authorities, including EIOPA, the ECB and the International Monetary Fund (IMF), keep a constant watch on data quality.

2.1.3 Oversight of outsourced activities

In recent years, more and more insurance undertakings have entrusted the execution of increasingly important or critical activities or functions (defined under prudential regulations as key functions and activities or functions whose interruption could have a significant impact on the company) to external service providers. While in many cases outsourcing enables undertakings to concentrate on their core business, be more flexible and rationalise processes and resources, it also creates new risks – especially operational risks – that need to be measured and controlled. In this regard, it is worth reiterating that undertakings that outsource activities and functions remain fully responsible for compliance with all the obligations placed upon them.

The ACPR pays special attention to compliance with obligations relating to the management of risks involved in outsourcing any activity and function, and especially those deemed to be important or critical. ACPR inspections in recent years have highlighted shortcomings in ex ante decision-making processes, in the formal drafting, steering and oversight of outsourcing policies, and in the information submitted to the ACPR.

The use of outsourcing requires a written contract to be agreed between the undertaking and its provider that contains mandatory clauses clearly setting out the rights and obligations of the parties, as well as the service provider's commitment to comply with all legal, regulatory and administrative standards as well as any policies approved by the insurance undertaking.

Furthermore, the undertaking must guarantee that the service provider will provide access to data on outsourced activities and functions not just to the statutory auditors but also to itself and to the ACPR. The service provider is in fact under obligation to cooperate with the ACPR. Finally, the insurance undertaking must have a formal service provider oversight policy.

Outsourcing of critical or important activities or functions must not impair the quality of the undertaking's governance arrangements, unduly increase operational risk, or interfere with the ongoing delivery of a satisfactory level of service for insured parties. For this reason, the insurance undertaking must analyse, for each outsourced activity, the cost of the service, its ability to find another service provider or take over the activity directly if necessary, and the potential consequences of a delay or default on the part of the service provider. Furthermore, while

key functions – actuarial, risk management, compliance and internal audit – may be outsourced, the persons responsible for these functions must be named and remain within the insurance undertaking.

Regarding published information, the solvency and financial condition report must describe the outsourcing policy. Furthermore, if an important or critical function is outsourced, the regular report to the supervisor must provide justification for outsourcing, describe the oversight arrangements and provide information about service providers and the persons in charge of outsourced key functions. The ORSA report should also cover outsourcing-related risks.

2.1.4 Information system security and cyber risk

With the rise of digitalisation in the insurance sector, cyber risk has become a major and structural risk for insurance undertakings, given the data that they hold and because this risk could be a source of major business disruptions. Following the Covid-19 crisis, which severely tested organisations and processes, the Russia-Ukraine war further increased awareness about the need to anticipate crisis scenarios.

Furthermore, insurance undertakings operate in an environment in which they are connected to multiple parties: by entering into partnerships and outsourcing agreements with brokers, delegated managers, managers of third-party payers, medical partners, IT service providers, and so on, they open up their information systems to the outside world, increasing their surface of exposure to cyber risk.

In 2022, the ACPR once again took steps to impress upon insurance undertakings that cyber risk is real and should not be underestimated, by conducting:

- on-site inspections looking at management of “non-IT security” risks and third-party payer cash flows. For the first time ever, a warning was issued following an information system security inspection;

- enhanced monitoring of the cyber risk of the main insurers as part of monitoring the effects of the Russia-Ukraine war;
- ex post analysis of attacks on insurers;
- presentations to insurers about digital resilience issues;
- a questionnaire-based survey of the insurance market (see box on the main findings of the survey on data quality management and the management of information system security, page 29);
- collection of information about digital service providers, at EIOPA’s initiative, from a panel of insurers and brokers. This initiative was conducted as part of preparations for the entry into effect of the European DORA Regulation on keeping a register of critical service providers.

This work highlights the fact that strong and explicit support from effective managers, coupled with cyber risk analyses that take account of the environment in which activities are conducted, are essential to setting up effective security organisations and systems. Furthermore, existing information system security mechanisms should be adapted or new mechanisms should be introduced when, for example, upgrading the sales approach via internet-based solutions, changing internal processes or managing obsolescent legacy information systems. Finally, no matter how large or small the undertaking, defining and monitoring security objectives, particularly if services are outsourced (cloud or otherwise), forms a vital part of the minimum set of requirements needed to manage data security and safeguard core business activities.

UNDERTAKINGS FOR SUPPLEMENTARY OCCUPATIONAL RETIREMENT PROVISION

The result of European-level developments, undertakings for supplementary occupational retirement provision were established by Ordinance No. 2017-484 of 6 April 2017, which created specific legal vehicles to manage funded contracts linked to the end of professional life for each of France’s three codes: funds for supplementary occupational retirement provision under the Insurance Code, mutual insurers or unions for supplementary occupational retirement provision under the Mutual Insurance Code, and institutions for supplementary occupational retirement provision under the Social Security Code.

The benefit of the new scheme is that it allows participants with a supplementary occupational retirement provision business to use a specific structure covered by a special-purpose prudential regime, thereby lessening the prudential constraints, i.e. reduced level of capital used and financial management more tailored to long-term commitments through coverage of pension liabilities under IORP II regulations and application of Solvency I indicators.

To take advantage, entities had to be licensed by the ACPR before 31 December 2022. After a tentative start, the Pacte Act No. 2019-486 of 22 May 2019, which introduced new Retirement Savings Plan (RSP) products, contributed greatly to the scheme’s success.

The French insurance market now has 22 ACPR-licensed undertakings for supplementary occupational retirement provision. Two additional proposals will be reviewed in 2023, after the applicants provided evidence of legal reorganisation measures allowing them to receive an exemption from the 31 December 2022 deadline under Article L. 384-1(3) of the Insurance Code.

MAIN FINDINGS OF THE SURVEY ON DATA QUALITY MANAGEMENT AND THE MANAGEMENT OF INFORMATION SYSTEM SECURITY

In May and June 2022, the ACPR conducted a questionnaire-based survey of the insurance market, covering management of the quality of data inputs to prudential calculations and the management of information system security. This regular survey is a way to assess the market's maturity on these themes and to identify any developments in practices.

In terms of data quality, the survey results highlighted deficiencies that were also discovered during on-site inspections:

- while management frameworks appear to be defined, a large share of respondents are still in the process of deploying the associated systems, as reflected, for example, in a lack of data directories, even at large entities. Furthermore, data criticality assessments are not performed on a systematic basis across all categories of entity;
- data from outside partners do not get the same attention as internal data: partners are required to conduct few quality checks, which is especially detrimental because in many cases external data are not integrated within the scope of the internal data quality management system. In addition, transmission procedures do not appear to be closely supervised: data granularity differs from that of internal data, requiring conversion steps and manual integration, both of which increase operational risk in terms of data integrity, exhaustiveness and accuracy;
- the internal control system to address the risk of poor data quality is not always complete. This is illustrated especially by the proportion of undertakings (25%) that do not include data quality in the scope of permanent control, the proportion of undertakings (33%) that have never audited the robustness and effectiveness of their data quality management system or the share of actuarial functions (25%) that do not rely on a formal reporting system summarising data quality indicators to assess the adequacy and quality of the data used to calculate technical provisions.

As regards measures to manage risks connected with information system security (ISS), insurers' self-assessments are more bullish than the reality observed during on-site inspections. Thus, while the establishment of a security strategy that is consistent with the strategic goals for commercial growth and that captures risks appears to be well anchored in respondents' practices:

- the information security function (as defined by Guideline 7 of the ACPR's ICT Notice)¹¹ appears to be widely deployed, but the requirements to ensure its independence from operational functions are not met in every case (notably the function should not report to the Information System division);
- recognition of IS security in risk management and internal control systems is still too limited. Information system security risk tolerance is not systematically defined and adverse cyber scenarios are rarely examined in the work done to prepare ORSAs, even though cyber risk is included in the risk profile;
- the business continuity approach seems to have been adopted on the whole. However, it suffers from two failings that render it ineffective: the lack of an ex ante analysis of business needs and the lack of regular operational tests to check the robustness of the business continuity plan;
- analysis and steering efforts are still needed as regards outsourcing. For one thing, even though outsourcing has become more widespread, risk analysis, notably of IS security issues, is not always performed on a systematic basis. Yet massive use of cloud services has changed the nature of the risks to which undertakings are exposed, meaning that the true security level of these services is not measured. For another, the reversibility of outsourced services is not systematically and specifically studied or considered.

¹¹ [Notice on the procedures used by insurance sector undertakings and undertakings for supplementary retirement provision to implement the guidelines of the European Insurance and Occupational Pensions Authority on the security and governance of information and communication technologies of 18 June 2021](#), on the ACPR website.

2.2 Banking sector

2.2.1 Role of the ACPR in the oversight of large banking groups supervised by the ECB

Within the framework of the Single Supervisory Mechanism (SSM), the ACPR provides significant support in the ongoing supervision of France's 11 major banking groups, or significant institutions (SIs),¹² which are directly supervised by the ECB. This supervision is performed by Joint Supervisory Teams (JSTs) made up of staff supplied by the ECB, the ACPR and the other national authorities from countries where these banks do business. ACPR staff are also involved in the work of five other JSTs in charge of supervising European SIs operating in France through subsidiaries or branches. Reporting to the JST coordinator at the ECB and the local coordinator at the ACPR, the ACPR's staff executed the annual supervision programme, which was designed to reflect the size and risk profile of each banking group and SSM priorities for 2022.

In 2022, besides the specific work done following Russia's invasion of Ukraine (see box on monitoring the banking sector during the Russia-Ukraine crisis, page 33), supervisory work was organised around the annual Supervisory Review and Evaluation Process (SREP). Following this exercise, each institution is assigned an overall score that provides the basis for any supplementary capital requirements, also known as Pillar 2 Requirements (P2R), which are in addition to capital requirements under the solvency ratio. These requirements are further rounded out by Pillar 2 Guidance (P2G), which is designed to ensure that institutions have sufficient capital to cover the entire business cycle, including periods of stress. In 2022, for the first time, the JSTs considered whether to apply an additional capital requirement linked to the leverage ratio.

The JSTs also conducted cross-cutting thematic reviews that were determined and operationally implemented according to the SSM's prudential priorities for 2022. These were organised around three main areas:

- monitor the resilience of the sector as it emerges from the Covid-19 crisis;
- ensure the sustainability of business models through initiatives relating to the digital transition strategy and governance;
- monitor emerging risks (including climate risk, see 4.4.2 on integrating climate risk in banking supervision).

Given the abrupt change in the macroeconomic and financial environment facing European banks, the JSTs analysed the impacts of the situation on the sector and checked that the financial projections used by banking groups took account of the most recent developments, including the new interest rate environment, as well as current financing conditions. In line with the SSM's priorities, work continued on credit risk, and particularly on leveraged finance, after the supervisor published its expectations in this area. Likewise, special attention was paid to the composition and orderly operation of the supervisory bodies that oversee overall governance arrangements. Work was also done in 2022 on monitoring climate risk, with the launch of an initial climate stress test and a second thematic review, whose findings were released in July¹³ and November¹⁴ respectively.

2.2.2 Oversight of Less Significant Institutions (LSIs)

The ACPR is responsible for the day-to-day supervision of 103 less significant institutions (LSIs)¹⁵ that are subject to indirect ECB supervision. The ECB is working to harmonise the practices used by national supervisors for this population, including by developing shared priority action areas, a common methodological framework and associated IT tools, and also by carrying out analyses at the overall level of the SSM. Some of these analyses are conducted on a cross-cutting basis, while others are rolled out more locally. The ECB also has the right to inspect work by national supervisory authorities on LSIs and conducts regular monitoring of institutions in special situations, e.g. in potential breach of regulatory requirements.

From a methodological point of view, a soft launch was carried out in 2022 of a new assessment grid for LSI exposures to leverage risk under the SREP framework. The goal is to identify risks that are inadequately captured by minimum regulatory requirements (Pillar 1) in order to determine whether additional leverage-related requirements need to be imposed. The approach tested in 2022 is designed to guide inspectors' analyses, while incorporating an expert assessment component. The soft launch not only made it possible to gain a better understanding of the issues specific to each institution, but also revealed the strong resilience of French LSIs to leverage risk.

As regards technical systems, monitoring of French LSIs switched in 2022 to the IMAS for LSIs IT platform provided by the ECB to national authorities for annual bank assessments. This interface follows the SREP assessment methodology exactly, consistent with the more in-depth approach applicable to large groups under direct ECB supervision (see 2.2.1. on the role of the ACPR in the oversight of large banking groups supervised by the ECB), while capturing the simpler and smaller-scale risk profile of LSIs. The analytical approach used by the IMAS for LSIs platform is in line with that used previously by the ACPR, but incorporates a larger number of statistical indicators and more detailed questions. The fact that IMAS accommodates a huge sample of LSIs (including all those that are prioritised due to their size) facilitates cross-cutting analytical work steered by the ECB, as well as information-sharing and cooperation by SSM stakeholders. For these reasons, the ACPR plans to optimise use of the platform for French LSIs and is a leader in this area among the major European authorities.

In terms of recurring supervisory work, 2022 was shaped by the phases of the annual supervision cycle.

- Accordingly, in addition to identifying priority LSIs based on size or risk level, in the first half the ACPR revised the list of small and non-complex institutions (SNICs), which are eligible for certain proportionality measures introduced by the CRD5/CRR2 reforms.¹⁶ In 2022, 40 or so French LSIs (or LSI subsidiaries) were classified as SNICs, with few changes compared with the previous year.

¹² Bank of America Securities Europe, BNP Paribas, BPCE, Bpifrance, Confédération Nationale du Crédit Mutuel, Crédit Agricole SA, HSBC Continental Europe, La Banque Postale, RCI Banque, SFIL and Société Générale.

¹³ 2022 climate risk stress test, July 2022, on the ECB website.

¹⁴ Results of the 2022 thematic review on climate-related and environmental risks, November 2022, on the ECB website.

¹⁵ This figure includes only institutions subject to indirect ECB supervision (LSIs), and not all institutions that are licensed and supervised exclusively by the ACPR, which include financing companies, investment firms and payment institutions, for example.

In early 2022, it included two non-SSM EEA branches, 21 subsidiaries of French LSIs and 80 French lead companies or independent LSIs.

¹⁶ These chiefly include eligibility for a simplified (but more conservative) calculation of the net stable funding ratio (NSFR), as well as a number of streamlining measures covering the calculation of interest rate risk, financial reporting and supplementary liquidity reporting.

- As every year, ACPR personnel devoted considerable time to ensuring the reliability of the European reports (FINREP/COREP) submitted by French LSIs, since harnessing these data is a critical first step in most prudential analyses. Regrettably, the filing of these reports still involves a great many exchanges and reminders owing to inaccuracies or delays. In addition to generating extra work, these deficiencies create major difficulties when it comes to assessing institutions' profiles, checking compliance with prudential standards and compiling reliable SSM-level statistics. This can skew comparisons between French LSIs and other euro area entities, often to the detriment of French institutions. In 2022, work on the European reports was supplemented by a review of prudential disclosures published by French LSIs under transparency requirements (Pillar 3), which also identified a number of oversights and communication deficiencies.
- Spring and summer 2022 were devoted to conducting the annual SREP assessments of the risk profile of each institution. As a result of these assessments, supplementary capital requirements (Pillar 2 requirements) were imposed on about half of all LSIs, following a process over the autumn during which both sides presented their views. As with major groups, SREP assessments were affected in 2022 by the macroeconomic downturn (see box on monitoring the banking sector during the Russia/Ukraine crisis, page 33). The potential impacts on LSI investment portfolios (e.g. increased unrealised capital losses owing to higher interest rates or equity market volatility) and loan portfolios were closely examined. Assessments also factored in the findings of the questionnaire on the management of IT and cyber risk (see box on supervision of the IT and cyber risks of banking sector institutions under ACPR jurisdiction, page 34), which remains one of the main sources of risk for smaller banks. While the French LSI sector has demonstrated resilience during the wave of crises since 2019, the population continues to face significant issues relating to profitability, adjustments to business models and the effectiveness of internal control systems.
- Finally, the ACPR decided in April 2022 to reduce the frequency of updates for the preventive recovery plans (PRPs) of most French LSIs, as these institutions satisfy quantitative and qualitative criteria making them eligible for streamlined obligations in this area.¹⁷ The institutions in question now need to update every two years, compared with one previously. In fact, the vast majority of LSIs are now familiar with this exercise, and PRPs filed with the ACPR are satisfactory on the whole, requiring far smaller adjustments than when the requirement was introduced back in 2016.

In addition to the initiatives specific to the ACPR already mentioned above, the SSM led a number of thematic reviews in the European LSI sector, to which ACPR supervisory personnel made an active contribution. These included:

- a review of governance arrangements at a broad representative sample of institutions, as well as of supervisory procedures used by national authorities in the area;
- an examination of issues linked to growing use by LSIs of online deposit collection platforms, including international platforms;
- an initial assessment of progress made by entities newly established in continental Europe following Brexit, notably in terms of their risk management capabilities;
- plus exploratory work on fintechs. In 2023, in view of the current environment, greater emphasis will be placed on analysing liquidity, interest rate and operational risks.

2.2.3 Supervision of institutions not covered by the SSM

First and foremost, the ACPR is in charge of the prudential oversight of two parts of the Caisse des Dépôts et Consignations (CDC), namely the Central Sector, which acts as the lead institution of the CDC group, and the ring-fenced Savings Funds, which hold much of France's regulated savings. Consistent with its public interest tasks and special status, the CDC is covered by a regulatory framework and supervisory processes that, while specific, are derived from the best practices applied to large institutions. In 2022, supervisory teams looked specifically at the CDC's internal control and risk management system, particularly as regards operational and IT risks, consistent with the ACPR's supervisory priorities.

In addition, besides large banking groups and LSIs, the ACPR is also the exclusive supervisor of a range of institutions with a variety of business activities and risk profiles, including financing companies, non-EU country branches, investment firms, payment institutions, electronic money institutions and account information service providers. The ACPR is in charge of their supervision, which is covered by specific regulatory frameworks. As with credit institutions, special attention was paid to the impact on these entities of the war in Ukraine, inflationary pressures and the increase in interest rates. As part of this, the ACPR gathered information specifically about the Ukrainian war from a section of institutions under its supervision. This information was used to measure the volume of business done with the Ukraine, Russia and Belarus zone, to set up enhanced supervision of the most at-risk institutions and to ensure that prohibited transactions were blocked. In this regard, while financing companies, payment institutions and electronic money institutions were relatively unaffected by the direct consequences of the crisis, some investment firms were subject to enhanced supervision, in particular due to their exposure to international markets. Finally, as last year, cyber risk was identified as a growing threat and gave rise to specific work in 2022 (see box on supervision of the IT and cyber risks of banking sector institutions under ACPR jurisdiction, page 34).

The ACPR is also responsible for supervising 25 branches of credit institutions whose registered offices are in third countries, i.e. outside the European Union. Based in France (or in Monaco in some cases), these "non-EU country" branches are automatically subject to all the European regulations applicable to banks. However, they may apply for a full or partial exemption, subject to certain equivalence and reciprocity requirements. To assess compliance with these requirements, the ACPR checks whether the rules and prudential requirements applicable in the country where the branch's head office is located are at least equivalent to European regulations and also ensures that the branches of French banks based in these countries can benefit from reciprocal treatment under equivalent conditions.

In the case of investment firms and parent undertakings classified as investment holding companies, the number of licensed entities in France continued to increase in 2022, reaching over 100 in early 2023. On 8 December 2022, Bank of America Securities Europe became the first entity based in France to be licensed as a credit and investment institution (CII) (see chapter 2 – 1.2, page 21), a new designation created under IFR/IFD regulations¹⁸ and designed for large, or "Class 1", investment firms. Unlike other investment firms, which are subject to the IFR/IFD prudential regime, CIIIs are subject to the same regulations as credit institutions (CRR-CRD)¹⁹ and are covered by SSM supervision, either directly, which is the case for Bank of America Securities Europe, or indirectly.

¹⁷ See Article L. 613-35 II of the Monetary and Financial Code and Delegated Regulation (EU) No. 2019/348 of 25 October 2018.

¹⁸ Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements applicable to investment firms and Directive (EU) 2019/2034 of the European Parliament and of the Council on the prudential supervision of investment firms, on the eur-lex.europa.eu website.

¹⁹ Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No. 648/2012, on the eur-lex.europa.eu website.

In addition, the ACPR continued work on setting up the new prudential regime for investment firms (IFR-IFD). It changed the framework of the internal control report that institutions are required to file with the ACPR, tailoring it to accommodate the specific features of investment firms subject to the new regime. Similarly, work was begun to support firms in drafting their internal capital adequacy and risk assessment process (ICARAP) reports, the first of which are due in 2023.

Within the supervised population, the number of payment institutions (PIs), electronic money institutions (EMIs) and account information service providers (AISPs) increased further, reaching 73 on 31 December 2022. These participants, many of which were recently licensed, need to be closely monitored, as the long-term viability of their business models still remains to be demonstrated in some cases, and their long-term funding is not always secured. In 2022, the ACPR paid particularly close attention to the compliance of customer fund protection systems set up by PIs and EMIs, as these institutions are required to send the Authority documentation on any change in this area. In particular, with instant credit transfer activity on the rise, the ACPR made sure that customer fund protection systems met ring-fencing requirements.

For the most part, financing companies, of which there were 147 on 31 December 2022, saw their activity resume in 2022, after business volume and profitability declined in 2021. The ACPR noted a pick-up in the profitability of the companies under its supervision, driven in particular by a resurgence in business activity and provision write-backs made possible by the emergence from the Covid crisis. In today's setting of renewed inflation and uncertainty about global activity, the situation needs to be subject to enhanced monitoring. Several markets, including consumer credit, leasing, factoring and sureties, showed signs of stress in late 2022, as demand softened and delinquencies rose slightly. On the regulatory front, the ACPR worked to identify institutions qualifying as small and non-complex institutions, as it did with LSIs (see 2.2.2. on the oversight of less significant institutions).

Finally, the ACPR works in conjunction with the Banque de France and the AMF to supervise LCH SA, the central counterparty based in France. Entry into effect of the new European regulation, which establishes a

recovery and resolution regime specifically for central counterparties,²⁰ resulted in significant work to assess the compliance of LCH SA's 2022 recovery plan.

2.2.4 On-site inspection of credit institutions

The Delegation responsible for the on-site inspection of credit institutions and investment firms (DCP) handles the ACPR's on-site prudential inspections in the banking sector (and a portion of AML/CTF inspections).

In all, DCP inspectors carried out 56 prudential inspections in 2022:

- 31 inspections at major French groups under direct ECB supervision within the framework of the SSM;
- seven "outbound" cross-border inspections of institutions based in another Member State, which it carried out on the ECB's behalf;
- 18 inspections of institutions supervised directly by the ACPR, including LSIs, payment institutions, electronic money institutions, investment firms and, for the first time in 2022, digital asset service providers (DASPs).

In the case of the 31 inspections conducted on behalf of the ECB,

- one-third involved reviewing internal models used to calculate Pillar 1 capital requirements, chiefly for credit risk;
- others tackled themes such as governance, credit and market risk, data quality (BCBS 239),²¹ the ICAAP or cybersecurity. In addition, two first climate risk inspections were conducted in 2022.

DCP inspectors were also involved in eight ECB "inbound" cross-border inspections conducted by head inspectors from other national authorities or the ECB in France.

Building on 2021, credit risk-focused thematic inspections helped to assess the impact of the Covid-19 crisis on the robustness of banking assets, notably as part of SSM inspection campaigns on targeted portfolios, such as leveraged finance, commercial property and retail portfolios.

After a period that was affected by the pandemic, in 2022 the ACPR was able to resume its close work with institutions during on-site inspections.

²⁰ Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties, on the eur-lex.europa.eu website.

²¹ Standard issued by the Basel Committee aimed at strengthening banks' risk data aggregation capabilities and internal risk reporting practices, in order to enhance risk management and decision-making processes at banks.

MONITORING THE BANKING SECTOR DURING THE WAR IN UKRAINE

When Russia invaded Ukraine in February 2022, the ACPR began monitoring the effects on the French banking sector, directly in the case of institutions under its supervision or via participation in the Joint Supervisory Teams in the case of institutions under ECB jurisdiction.

Monitoring was organised around three key themes:

- identify and monitor direct exposures of French banking institutions in Russia and Ukraine;
- monitor operational implementation and the effects of international sanction decisions;
- identify and monitor second-round effects linked to the deterioration in the situation and economic and financial prospects in context of the war.

As part of monitoring first-round effects, especially in the case of institutions with a significant local presence, the ACPR examined the conditions under which local activities are required to be carried out or interrupted and analysed the financial impact of these activities on French institutions. In a setting of heightened cyber risk, the ACPR also raised awareness among institutions about the need to maintain a high level of preparedness and vigilance to cope with potential attacks on information systems, including via local bases.

The ACPR also took part in monitoring proper operational implementation of international sanctions by French banking institutions, based on regular reporting established specifically in this context.

In addition, detailed analyses were performed to understand and measure potential second-round effects. With the war triggering significant volatility on certain market segments, particularly those depending on energy or commodity prices, monitoring was set up to track exposures to the main affected sectors. Since the war also contributed to deep-seated changes in the macroeconomic environment in which banks operate, the ACPR worked to identify sectors with the primary exposure to these second-round effects. It examined the due diligence implemented by institutions to anticipate potential difficulties and made sure that the profitability, solvency and liquidity trajectories prepared by institutions properly reflected the war's economic and financial consequences.

Many exchanges were organised on an ongoing basis with affected institutions as part of this work. At this stage, all institutions supervised either directly by the ACPR or jointly with the ECB are demonstrating the soundness and resilience needed to cope with the immediate consequences of the war. Monitoring of the medium-term effects, such as more pronounced inflation or a less settled geopolitical situation, will be extended in 2023.



SUPERVISION OF THE IT AND CYBER RISKS OF BANKING SECTOR INSTITUTIONS UNDER ACPR JURISDICTION

IT risk poses a growing threat. The financial sector's efforts to respond to the challenges of digitalisation coupled with increased use of work-from-home arrangements and outsourcing expose institutions to cyberthreats and the risk of IT dependence.

For this reason, work was done in this area in 2022 by the Bank Supervision Directorates, particularly through on-site inspections and self-assessment questionnaires. A cross-cutting study of IT risk management was conducted at banks under direct ACPR supervision. This involved sending out a questionnaire to a broad sample of institutions, including all LSIs and credit institutions based in Monaco, plus a selection of non-EU country branches, payment institutions, electronic money institutions, investment firms and financing companies. The questionnaire included questions about financial and human resources, the IT environment, the risk level, IT risk management and an incident table for payment institutions, electronic money institutions and financing companies.

The analysis of the questionnaire responses revealed several findings:

- on the whole, members of the supervisory bodies of respondent institutions too often have limited expertise in IT risk, despite the central and strategic role played by information systems in finance. Moreover, a significant share of institutions do not keep their supervisory body sufficiently regularly informed about this topic;
- the majority of respondent institutions outsource a large share of their IT services, including for critical activities. But this heavy use of outsourcing is not always accompanied by a sufficiently robust set of governance arrangements. For example, at many institutions, key performance and risk indicators for service providers are monitored either insufficiently frequently or not at all;
- the number of cyberattacks suffered by surveyed institutions in 2021 (10% of LSIs, 22% of payment institutions, 14% of financing companies and 10.7% of investment firms) illustrates the need for institutions to continue to be on their guard and to strengthen their IT risk management systems.

Other supervisory activities focused on IT risk will be carried out in 2023. Supervisory personnel will pay particular attention to measuring progress by institutions on the three points mentioned above.

COVERED BOND PUBLIC SUPERVISION

Covered bonds, which are referred to in the French Monetary and Financial Code as *obligations foncières ou de financement de l'habitat*, play a key role in the refinancing of credit institutions. Under provisions transposing Directive (EU) 2019/2162 on covered bonds, on 8 July 2022, the ACPR was entrusted with new powers in the area of covered bond public supervision.

To harmonise the conditions for the issuance of covered bonds across the European Union, Directive No. 2019/2162 defined the structural features of these instruments, including the fact that investors are protected by a dual recourse mechanism that grants them a claim against both the issuer and the assets making up the cover pool, as well as the composition of the cover pool. It also set down the coverage and liquidity requirements that must be met by credit institutions issuing covered bonds and the information to be disclosed to covered bond investors. The directive introduced a "European Covered Bond" label for issues that comply with all the conditions set down for these financial instruments, along with a "European Covered Bond Premium" label for issues that also meet the requirements of Article 129 of Regulation (EU) No. 575/2013 of the European Parliament and of the Council (CRR). The premium label affirms the quality of the cover pool assets and consequently allows investors who acquire these financial instruments to receive preferential prudential treatment.

As it is responsible for the licensing and ongoing supervision of credit institutions based in France and authorised to issue covered bonds, namely mortgage credit institutions, home loan companies and Caisse de Refinancement de l'Habitat, the ACPR is now responsible for issuing prior authorisation for new covered bond programmes as well as for granting and supervising the labels introduced by the directive. To this end, the ACPR keeps an updated list on its website of covered bond issuers based in France, as well as of all the covered bonds issued by these institutions since 8 July 2022 and assigned one of the directive's two labels.

In 2022, all covered bond issues that were assigned a label by the ACPR received the premium label.

3. Active involvement in efforts to adapt the regulatory framework

3.1 Insurance sector

Regulatory work was carried out in the first half of 2022 under France's presidency of the Council of the European Union. The ACPR was heavily involved in these efforts. Highlights during France's presidency included the Council's adoption of a general approach on the text of the Solvency II Directive.

The Authority was also involved in reviewing the IORP II Directive applicable to undertakings for supplementary occupational retirement provision. This work began in June 2022, with EIOPA scheduled to provide advice to the European Commission on 1 October 2023.

European regulatory reporting requirements were substantially revised and published (for first-time application on 31/12/2023), notably to include and enhance data intended to capture risks that are currently insufficiently covered or not covered at all, such as climate risk and the risk linked to the distribution of cyberinsurance contracts, while

also tailoring reporting requirements to the nature, size and complexity of insurers' activities. The ACPR participated in this work and presented the main impacts to representatives of insurers.

Finally, to encourage undertakings to better identify and assess their cyber risk exposure, the Authority published a communication in September urging them to review all cyber risk coverage contained in their policies and, where necessary, to clarify policy terms and conditions and make their wording more explicit. This communication followed an EIOPA publication to which the Authority contributed and a public consultation that ran until July 2022, which found that insurance undertakings in Europe still do not sufficiently measure their risk exposure in relation to non-affirmative cyber insurance risk. Given the extremely elevated nature of this risk, the ACPR called on insurers and their clients to work together to examine the preventive measures needed to limit damages.

SOLVENCY II REVIEW

As part of the review of the Solvency II Directive, in December 2020 the European Insurance and Occupational Pensions Authority (EIOPA) submitted its response to the European Commission's request for advice. The Commission then published a draft amendment.²² This served as the basis for negotiations in the Council of the European Union, which was chaired by France from 1 January to 30 June 2022.

Work within the EU Council began in October 2021 and continued under France's presidency (PFUE). ACPR joined the PFUE team alongside the Treasury and France's Permanent Representation to the EU with the aim of adopting a general approach, which was achieved in mid-June 2022. The ACPR set three objectives:

- overall neutrality of quantitative requirements on the French market: this objective is expected to be met, although some structural measures still remain to be determined;
- support for long-term sustainable investment: Member States, which are divided on the question, deferred to the delegated regulation. On the sustainable finance portion, the Solvency II review goes beyond the amendments that came into force in August 2022, with several measures covering the ORSA, for example, or the review of the parameters for the natural catastrophe sub-module;
- finally, better regulation of cross-border activities and improved application of proportionality.

In 2023, the European Parliament is expected to adopt its draft, which will pave the way for the three institutions to begin a trilogue process. The review will conclude with amendments to the delegated regulation and the creation of regulatory technical standards (RTS) and implementing technical standards (ITS). The provisions are expected to come into application by 2025.

²² Insurance rules' review: encouraging solid and reliable insurers to invest in Europe's recovery, on the website of the European Commission.

HOLISTIC FRAMEWORK AND FSB DECISION ON IDENTIFYING SYSTEMICALLY IMPORTANT INSTITUTIONS

The Financial Stability Board (FSB) decided on 6 December of last year to discontinue use of the methodology for identifying global systemically important insurers (G-SIIs) and instead to use the holistic framework for the assessment and mitigation of systemic risk in the insurance sector, which it considers to be more robust and comprehensive in preventing the emergence of systemic risk in the insurance sector. Adopted in 2019, the framework is based on three pillars, which complement each other:

- A global macroprudential monitoring exercise, which includes an individual insurer monitoring component focusing on certain potential global systemically important groups, as well as sector-wide monitoring, which is devoted to a complete and forward-looking assessment of the possible build-up of systemic risk in the insurance sector. The results of these analyses and qualitative contributions inform collective annual discussions by members of the International Association of Insurance Supervisors (IAIS) on potential global systemic risk and coordinated supervisory responses.
- Specific measures intended to assess and mitigate the potential build-up of systemic risk applied to a broader scope of entities comprising internationally active insurance groups (IAIGs) as well as other groups that national supervisors believe should be included. These measures cover requirements for ongoing supervision, macroprudential supervision and crisis management.
- An assessment of the uniform implementation of these measures by national authorities; this third component of the holistic framework comprises an important part of the process defined at international level, because it gives the overall system a more binding quality.

However, the FSB retains the option, where circumstances warrant, of identifying an insurance undertaking that it deems to have global systemic importance, along with the measures from the holistic framework that should be applied to that entity. With this in mind, starting in 2023, the FSB will publish in its annual resolution report the list of insurance undertakings for which recovery and resolution requirements are needed. Initially proposed by national authorities, the list may be supplemented by the FSB.

3.2 Banking sector

As a member of the Basel Committee, the ACPR was involved in drafting the first international prudential standard on the treatment of bank exposures to crypto-assets and supported its adoption on 16 December 2022. This was the result of several years of analysis of the crypto-asset market by the Committee (see box on Basel treatment of crypto-assets, page 39).

The ACPR Secretary General also co-chaired the work of the Task Force on Evaluation, which was responsible for conducting the Committee's first global review of the Basel III reforms. It took more than 25 plenary sessions and dozens of sub-group conference calls to coordinate these analyses, which were entirely performed remotely. The work, which began in late 2020, concluded with the publication of two reports in 2022. The first, released in October,²³ expanded on the analysis published in July 2021²⁴ on the takeaways from the pandemic and underlined the importance of setting up and then carefully employing safety buffers to smooth the impact of internal and external shocks. The second, released in December,²⁵ gives a general review of the impacts and efficacy of the Basel Committee reforms. In particular, it shows how the Basel reforms were chiefly responsible for the reduction in systemic risk and increased resilience of the banking sector in terms of both capital and liquidity resources, with the different regulatory ratios working in tandem to make the sector more resilient. The analysis also found that the reforms did not cause banks' funding costs to increase.

At European level, the ACPR provided support to the Treasury within the PFUE framework. The work done in this regard notably paved the way for the Council of the EU to adopt a general approach on the review of the CRR3/CRD6 package aimed at finalising implementation in the European Union of the Basel III standards (see box below).

Within the European Banking Authority (EBA), the ACPR made an active contribution to updating Europe's supervisory framework for interest rate risk in the banking book (IRRBB) and credit spread risk in the banking book (CSRBB), by helping to draft guidelines and regulatory standards published by the EBA on 20 October 2022. This work will help to strengthen European supervision of these risks, in accordance with the Basel Agreement of April 2016, at a time of major interest rate movements. The ACPR also took part in work that led to the publication of three key technical standards on the internal model approach for market risk, thereby continuing transposition into the European framework of Basel reforms under the Fundamental Review of the Trading Book (FRTB). Regarding securitisation rules, the ACPR contributed to the EBA's response published in December 2022 following the Commission's request for advice. This technical contribution from the EBA should make it possible to clarify and revise certain prudential aspects of the securitisation framework under European regulations. Finally, the ACPR was involved in work to draft regulatory standards for the supervisory approval of internal models covering bilateral margins exchanged by institutions on non-centrally-cleared derivatives. This work will continue in 2023.

TRANSPOSING AGREEMENTS FINALISING BASEL III IN THE EU

On 27 October 2021, the European Commission submitted a legislative proposal for a new CRR3/CRD6 Banking Package to the European co-legislators (European Parliament and Council of the European Union). The main goal of the proposal was to implement in the European Union the final portion of the Basel III reforms, which began with the adoption of the Basel Committee Agreement on 7 December 2017. This agreement completes efforts to enhance the prudential regime for the banking sector by revising the measurement of risk-weighted assets (credit risk, market risk and operational risk) and establishing an output floor for institutions using internal models to calculate risks, set at 72.5% of capital requirements measured under standardised approaches. Besides transposing the final portion of Basel III, the Commission also proposed several major changes aimed at enhancing the measurement and management of environmental, social and governance risks by banks and improving the European supervisory framework, in particular by harmonising the prudential treatment of non-EU country branches.

The ACPR contributed actively to the preparatory work that led to publication of the European Commission's proposal and continues to provide its expertise in the ongoing negotiations. In accordance with the European legislative process, talks on these draft proposals began within the Council of the European Union in late 2021 under the Slovenian presidency, before entering a more active phase under the French presidency in the first half of 2022. The ACPR worked extremely hard in support of the French Treasury and France's Permanent Representation to the European Union during these efforts, helping to achieve real headway under the French presidency, which led to the adoption of a compromise (general approach) by the Council at the ECOFIN meeting of 8 November 2022 under the Czech presidency. Parliamentary negotiations, meanwhile, are expected to conclude with the adoption of a compromise in the first quarter of 2023. This will then be followed by a reconciliation or "trilogue" phase involving the co-legislators, during which the ACPR will continue to provide support and expertise. The Commission's stated goal is to have the new requirements come into application on 1 January 2025.

The ACPR supports the Council's compromise, which takes full account, as did the Commission's initial proposal, of Europe's specific characteristics and which provides sufficient time, by setting a deadline of 2032, for banks to adjust to the new supervisory features, while ensuring that Europe's framework is ultimately in full compliance with the Basel framework.



23 [Buffer usability and cyclicalities in the Basel framework](#), 5 October 2022, on the BIS website.

24 [Early lessons from the Covid-19 pandemic on the Basel reforms](#), 6 July 2021, on the BIS website.

25 [Evaluation of the impact and efficacy of the Basel III reforms](#), 14 December 2021, on the BIS website.

WORKING TOWARDS AN INTEGRATED REPORTING SYSTEM FOR COLLECTING BANK DATA

Owing to the continued emergence of new regulatory reporting requirements to meet prudential, resolution and statistical needs, and to fulfil the mandate entrusted to it by the European Commission, in December 2021 the EBA published a feasibility study on an integrated reporting system.

The study sets out a long-term vision to increase efficiency and reduce reporting costs not just for credit institutions, but also for European institutions and national supervisory authorities. The effort to improve efficiency is organised around three goals: set up a common data dictionary, establish joint governance by the involved authorities and centralise data collection.

In addition, the ECB is working to harmonise, standardise and integrate the existing requirements of the European System of Central Banks (ESCB) for the collection of statistical information from banks. This approach is divided into two components:

- the Integrated Reporting Framework (IReF), which seeks to integrate, in the first stage, the Eurosystem's statistical reporting obligations for banks;
- and the Banks' Integrated Reporting Dictionary (BIRD), which is designed to facilitate the extraction of information stored in the internal systems of affected institutions.

To help these different initiatives to progress and converge, the ACPR and the Banque de France are working together, in conjunction with other European authorities, on projects that are specific to the two European institutions but also on successful coordination, in order to promote convergence in methods, tools and formats. This coordination is being implemented in particular through the High-Level Task Force (HLTF), an informal grouping comprising the EBA and the ECB that aims to promote joint governance of this project.

3.3 Digital finance

The ACPR supported work done in 2022 within the framework of Europe's digital finance strategy, which resulted, among other things, in measures to fortify the regulatory framework applicable to crypto-assets and the operational resilience of financial participants.

The European Markets in Crypto-Assets (MiCA) Regulation is set to be formally adopted by the European Parliament and the Council of the European Union in early 2023. It establishes a novel, harmonised regulatory framework in Europe for the crypto-asset market and introduces a classification system for crypto-assets backed by reserves (stablecoins), which are subject to enhanced requirements, asset-referenced tokens (ARTs), which are crypto-assets in the form of tokens backed by several legal tender currencies or other types of assets and which are intended to be used for investment purposes, and finally e-money tokens (EMTs), which are crypto-assets in the form of tokens backed by an official currency and used for payment purposes. The MiCA Regulation sets out requirements for digital asset service providers (DASPs), which will ultimately replace the provisions introduced by France's Pacte Act of 22 May 2019. It also hands new supervisory powers to competent authorities.

The operational resilience of financial institutions, which refers to the capacity of institutions to maintain their essential operations in the event of problems and to resume normal operations quickly, is the subject of the Digital Operational Resilience Act (DORA) published in the Official Journal of the European Union on 27 December 2022. The new framework introduced by DORA will entail a restructuring of the system for the prudential supervision of IT risk applicable to all financial participants, including institutions from the banking and insurance sectors, via measures to enhance cyber resilience.

The third component in Europe's strategy, Regulation 2022/858, which introduces a pilot regime for market infrastructures based on distributed ledger technology (DLT), will enter into application on 23 March 2023. The regulation defines DLT as any technology that enables transactions to be recorded in a repository that is shared across, and synchronised between, a set of network nodes using a consensus mechanism. It sets up a temporary derogatory regulatory framework, for an initial period of three years, which may be renewed once, to test the use of DLT in securities trading and post-trading activities, enabling tokenised securities to be issued, stored and transferred on a distributed ledger. The regulation will make it possible to encourage the use of DLT in the post-trading sector, to trial the issuance of tokenised financial instruments and to determine, following the trial period, whether European legislation needs to be adjusted.

DORA REGULATION

Europe's Digital Operational Resilience Act (DORA) is designed to harmonise and strengthen the requirements applicable to the digital operational resilience of financial participants. It will enter into application in January 2025. It was adopted thanks to an agreement reached during France's presidency of the Council of the European Union and in which the Banque de France and the ACPR both played a part.

DORA will impose rules for the security of networks and information systems on 20 or so categories of financial entities, including credit institutions and insurance entities.

DORA is based on four pillars. The first seeks to bolster the requirements covering governance and management of risk linked to information and communication technologies. The second concerns reporting of major incidents by financial entities to the supervisor, while the third deals with the implementation of an operational resilience testing programme by all financial entities, plus threat-led penetration tests for systemically important entities. DORA's fourth pillar establishes a novel regime for the direct supervision by the European Supervisory Authorities of a number of critical IT service providers. DORA's benefit lies in its holistic approach, which is intended to strengthen the overall cybersecurity systems of financial sector entities.

The regulation will entail operational challenges for companies and supervisors, but is not expected to impose a disproportionate regulatory burden. In fact, it builds on existing rules and practices, but introduces a single framework that should make it possible to rationalise some of the current costs.

With DORA now officially adopted, pragmatic and efficient implementation of the regulation is the main challenge. The ACPR and the Banque de France are fully involved in the European-level discussions on the technical standards that will clarify the regulation.

BASEL TREATMENT OF CRYPTO-ASSETS

On 16 December 2022, the Basel Committee adopted an international standard on the prudential treatment of banks' exposures to crypto-assets, which is set to apply from 1 January 2025. The agreement illustrates the strong and shared resolve of central banks and international supervisory authorities, including the ACPR, to closely regulate the development of banks' crypto-asset activities. The international standard sends a strong signal to the market and comes at a timely moment, given the volatility observed on the crypto-asset market in 2022.

The Basel Committee's goal was to establish a standard that would enable prudent and conservative capital treatment to be applied to the riskiest crypto-assets, while not stifling responsible innovation.

The aim is to ensure that banks' crypto-asset exposures are adequately capitalised, so that banks can absorb potential future shocks on the market, which has already exhibited severe volatility.

The standard also introduces holding limits for the riskiest crypto-assets, to prevent the development of excessive bank exposures to high-risk crypto-assets.

The December 2017 agreements finalising Basel III did not include specific treatment for crypto-assets. Thanks to this international standard, the risk that different jurisdictions might adopt diverging approaches has in principle been averted.

The Basel standard is going to be the subject of additional work on certain specific points, while bank exposures to crypto-assets continue to be monitored.

4. Supervision of climate risk

4.1 Joint report with the AMF and work by the consultative commission on climate and sustainable finance

On 25 October 2022, the ACPR and the AMF published their third monitoring report on the climate commitments by members of the Paris financial centre, including banks, insurers and management companies.²⁶

While continuing work on the fossil fuel policies of members of the financial centre and examining the financial exposure of these participants to fossil fuels, the third report also focused on the governance arrangements for the commitments made by financial institutions.

The exercise revealed several findings:

- on the one hand, members of the financial community have been hard at work in this area, with progress noted particularly during the first two years, especially in terms of exit dates and exclusion criteria. Year after year, however, approaches continue to be rather disparate;
- on the other, recommendations set out in the last two reports have not been widely followed overall. Operational implementation of commitments remains insufficient and the commitments made by certain institutions within “net zero” alliances are still too recent to support any conclusions.

Broadly, a significant gap persists between the level of transparency currently observed under voluntary commitments and the regulatory requirements in the process of being applied and still to come, whether at domestic or European level. The report is therefore a call to financial institutions to act quickly to close this gap.

4.2 Assessing sensitivity to climate risk

4.2.1 SSM climate risk stress test

In 2022, the ACPR contributed, in connection with the SSM, to the ECB’s climate risk stress test.²⁷ In all, 104 euro area banking groups, including ten French groups, took part in the test, which comprised three modules. First, a qualitative questionnaire aimed at assessing banks’ current capabilities in terms of stress testing physical and transition risks. The second module estimated the sustainability of banks’ business models in the face of transition risk via two metrics, measuring:

- the contribution of the heaviest greenhouse gas (GHG) emitting sectors to banks’ profitability;
- the average carbon intensity of companies financed by banks.

The final module comprised a stress test assessing losses generated by credit risk (and in some scenarios, losses stemming from market activities) resulting from four sets of scenarios involving transition and physical risks:

- three long-term scenarios through to 2050, partly derived from work by the NGFS;²⁸
- two short-term scenarios (including a disorderly transition to a low-carbon economy);
- a drought and heat scenario;
- and a flood scenario.

Operational and reputational risks were also assessed qualitatively in this module.

The test results were released on 8 July 2022²⁹ and highlighted three aspects. First, the ECB stressed that 59% of participating banks had not fully integrated climate change-related risks in their internal stress testing infrastructure and therefore did not meet the supervisor’s expectations. Institutions have until 2024 to remedy this situation.³⁰ The exercise also highlighted the fact that gaps in the collection of key data for the assessment of these risks, such as GHG emissions or energy performance diagnostics for financed real property, remain significant and involve massive use of estimates of uncertain robustness. Finally, banks’ projections in the third module show that credit risk tends to increase in adverse scenarios (i.e. disorderly transition and drought and flood scenarios), but the impacts remain relatively modest. The explanations given for this included challenges in properly capturing the financial impacts of the scenarios used and the fact that these scenarios were not considered to be particularly severe.

4.2.2 EIOPA climate risk stress test

The stress test conducted in 2022 on undertakings for supplementary occupational retirement provision in Europe was the first climate exercise carried out by EIOPA. It assessed the impact of a disorderly and sudden transition, reflected in financial shocks to the equities and bonds of highly exposed sectors and countries (GHG emitters or highly sensitive to carbon pricing). The impact of these shocks on the assets of participants, characterised by long-term investments, was significant (-13% or EUR 225 billion in market value), but was limited in particular by the integration of ESG criteria³¹ in investment policies.

This first stress test by EIOPA heralds the start of a cycle of recurring climate exercises. As part of the Fit for 55 framework, the European Commission commissioned the three European Supervisory Authorities to carry out a coordinated climate exercise covering the entire European financial system. Discussions are under way in 2023 within EIOPA to determine how to apply the exercise in the insurance sector.

²⁶ Third joint ACPR-AMF report: Monitoring and assessing the climate commitments of members of the financial centre, 25 October 2022, on the ACPR website.

²⁷ ECB Banking Supervision launches 2022 climate risk stress test, 27 January 2022, on the ECB website.

²⁸ The Network for Greening the Financial System, first set up by the Banque de France in late 2017, brings together central banks and supervisors from more than 120 countries, which are cooperating to bring change to the financial sector by integrating issues of managing climate risk and transitioning to a sustainable economy. The Banque de France provides the NGFS’s global secretariat.

²⁹ Press release Banks must sharpen their focus on climate risk, ECB supervisory stress test shows, 8 July 2022, on the ECB website.

³⁰ Press release ECB sets deadlines for banks to deal with climate risks, 2 November 2022, on the ECB website.

³¹ Environmental, social and governance criteria. ESG criteria are used to assess the integration of sustainability and long-term challenges in the strategies of economic participants, such as businesses and local authorities.

4.3 ACPR involvement in international work

Within the FSB, the ACPR was particularly involved in preparing two major publications: first, the report presented to the G20 on regulatory and supervisory approaches aimed at limiting the risks of fragmentation of regulation and initiatives; second, the report cosigned by the Network for Greening the Financial System (NGFS) on the analysis of climate scenarios, published in November. The second of these reports was intended to assess the microprudential and macroprudential impacts of climate-related financial risks and called for institutions and supervisors to develop a forward-looking approach to this risk. Regarding work done by the NGFS, the ACPR is contributing to discussions on the procedures used by supervisors to recognise the transition plans drawn up by financial institutions. The ACPR is also participating in work on risks linked to loss of biodiversity and environmental damage. The group's goal is to start by mapping current knowledge and initiatives in the area, before drawing up a harmonised conceptual framework and recommendations to guide central bank actions.

At the level of the Basel Committee, the ACPR took part in work covering all the pillars of the prudential framework, which gave rise to two publications in 2022. In June, the Basel principles for the management and supervision of climate-related financial risks detailed the Committee's expectations for institutions and supervisors. A set of FAQ on climate-related financial risks helped to clarify how the Basel principles should be interpreted, assuming no changes to the framework.

The ACPR also continued its involvement in work by the EBA. Headway was made on a range of subjects in 2022: a consultation paper on integrating climate change-related financial risks in Pillar 1 was published and presented to the financial community; a public consultation on greenwashing was drafted; and discussions were held on using transition plans as a supervisory tool. The ACPR also contributed to the EBA's work on integrating ESG risks in banks' Pillar 3 disclosure requirements. A technical standard on disclosure was formally adopted in December 2022, with the first reports due in 2023.

Regarding application of the Sustainable Finance Disclosure Regulation (SFDR), work was done within the joint committee of the European Supervisory Authorities to answer questions from supervised institutions. These responses were published as two sets of FAQs in 2022. In addition, the joint committee is tasked with proposing amendments to the technical implementing regulation with a view to extending the list of harmful-impact indicators, clarifying the methodologies used to calculate these indicators and strengthening disclosure obligations for "green" products.

For the insurance sector, integration of climate change-related risks continued in 2022. Internationally, following the publication of a paper on the risks linked to biodiversity loss by the Sustainable Insurance Forum (SIF), three working groups were set up to continue the work. As a result of this, member questionnaires were sent out, to which the ACPR responded. The working groups are tasked with considering: (1) capital requirements; (2) net zero transition; and (3) insurability of risks linked to climate change. Within Europe, following technical advice from EIOPA in 2019, in which the ACPR was heavily involved during the negotiation phase, amendments to the Solvency II Delegated Regulation entered into application in August 2022. As a result, sustainability risks are now integrated in the governance and risk management of undertakings: these risks must be taken into account when calculating the overall solvency requirement intended to cover the risks to which the insurer is exposed in the medium term. They must also be considered in insurers' written risk management and remuneration policies.

Finally, the ACPR and the Banque de France issued a joint response to the public consultations organised by the European Financial Reporting Advisory Group (EFRAG) and the International Sustainability Standards Board (ISSB) on their draft sustainability disclosure standards. As part of this, the ACPR took part in the working groups of France's National Accounting Standards Board (ANC), the EBA, EIOPA, the Basel Committee and the IAIS, helping them to draft their respective replies. In addition, the ACPR was involved in drafting the advice by the EBA and EIOPA on the post-consultation version of the European sustainability standards prepared by EFRAG and submitted in November 2022 to the Commission.

4.4 Climate risk in prudential supervision

4.4.1 Integrating climate risk in the insurance sector

In 2022, a number of European and domestic provisions came into effect requiring enhanced transparency with regard to extra-financial disclosures by financial institutions, and particularly by insurance undertakings. For example, Article 29 of France's Energy and Climate Act³² supplements and replaces Article 173 of the Energy Transition for Green Growth Act and clarifies the provisions concerning required disclosures by financial market participants. Article 29 and its implementing decree³³ require participants to publish a report detailing the procedures used to integrate environmental, social and governance quality (ESG) criteria, particularly in relation to climate and biodiversity. Article 29's requirements integrate those of the SFDR.³⁴

Under the resulting obligations, all undertakings supervised by the ACPR and licensed to carry out life insurance transactions must publish a report. The first reports were to be published no later than six months after close of the financial year of supervised entities, i.e. 30 June 2022. The expected information and the level of detail required are adjusted based on the size and activity of the entity. Published reports were reviewed by supervisory teams to clarify the supervisor's expectations for future publications.

At the end of December, the ACPR published Instruction 2022-I-24,³⁵ which detailed the scope of application, the content of the report, the information to be provided and application procedures from 2023 onwards for FY2022 extra-financial disclosures. Since the scope of application of the obligations under Article 29 of the Energy and Climate Act does not overlap exactly with that of the SFDR obligations, the instruction details the obligations arising under the scopes established by the different provisions.

Since climate change could impact insurers' balance sheets, the ACPR now integrates this risk in its supervisory process. A report on the governance of climate change-related risk in the insurance sector was published in February 2022,³⁶ identifying practices that may be used to capture all issues linked to climate change impacts and enhance the governance of these risks. In addition to gathering information during ongoing supervision, the ACPR conducted on-site inspections on the integration of climate risk in purchase and provisioning practices, calculation of capital requirements and governance arrangements.

Finally, the ACPR continued its work on climate stress testing. Following a pilot exercise conducted between July 2020 and April 2021 in partnership with banks and insurers, the ACPR continued market-wide work with insurance undertakings with a view to getting ready for the next exercise, which is scheduled for 2023-2024.

³² Energy and Climate Act No. 2019-1147 of 8 November 2019.

³³ Article L. 533-22-1 of the Monetary and Financial Code and Decree D. 533-16-1 amended by Decree D. 2021-663 of 27 May 2021 clarify the required information.

³⁴ European Regulation of 27 November 2019, whose main provisions took effect on 10 March 2021.

³⁵ Instruction 2022-I-24, 14 December 2022, on the ACPR website.

³⁶ Report on the governance of climate change-related risk in the insurance sector, 17 February 2022, on the ACPR website.

4.4.2 Integrating climate risk in banking supervision

In 2022, in keeping with European and international priorities, and particularly the objectives established within the framework of the Paris Agreement, the ECB and national authorities continued and stepped up work on the integration of climate and environmental risks in the supervision of European banks. As part of this, the Single Supervisory Mechanism (SSM) launched three major exercises, to which the ACPR made a significant contribution and which provided input, for the first time, to the Supervisory Review and Evaluation Process (SREP). As a result, the ability of banks to integrate climate and environmental issues in management of their “classic” risks, e.g. credit risk, is now considered when assessing their overall risk profile, which forms the basis for the supplementary capital requirements (Pillar 2) assigned to them each year.

In the first place, the ECB and national authorities carried out a thematic review devoted to an in-depth analysis of the policies and procedures of 107 significant institutions and 79 smaller institutions based on the 13 “prudential expectations” published by the ECB in November 2020.³⁷ This led to the publication of a good practices guide³⁸ to inform banks’ thinking about ways to implement these expectations, as well as requests for individualised corrective measures, with the aim of ensuring that banks’ practices are aligned with ECB expectations by the end of 2024.

The main findings of the thematic review showed that all the banks in the sample had begun initiatives to identify and manage climate and environmental risks, with 80% of them considering themselves to be significantly exposed to these risks. Likewise, some institutions identified non-climate environmental risks, such as biodiversity and pollution. However, significant progress still needs to be made, in particular to make quantitative analyses more granular and more forward-looking. Furthermore, most banks have not yet translated their strategic objectives into operational requirements, for example by imposing limits or thresholds.

In 2022, the SSM also conducted the first European climate stress test, which found that approximately 60% of participating banks had not yet integrated climate factors in their internal testing infrastructures and that the supervisor’s expectations, particularly in terms of the nature and granularity of risk data, or inclusion in business management, had not yet been met. For the record, the ACPR pilot exercise in 2021 showed that French banks have moderate exposure and vulnerabilities to transition risk.

The SSM’s analysis of bank disclosures on climate and environmental themes revealed encouraging progress, with approximately 70% of banks communicating on the oversight of climate and environmental risks by the management body and 50% publishing key indicators. However, 75% of banks failed to explain the impacts of climate and environmental factors on their risk profile and fewer than half of all banks described the strategic impact of these risks on their business model.

³⁷ [Guide on climate-related and environmental risks](#), on the ECB website.

³⁸ [Good practices for climate-related and environmental risk management](#), on the ECB website.

ESTABLISHMENT OF A REGULATORY FRAMEWORK FOR ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) DISCLOSURES OR SUSTAINABILITY REPORTING

Efforts to establish a European regulatory framework for ESG disclosures made headway in 2022, with the adoption of several pieces of European legislation.

The Corporate Sustainability Reporting Directive (CSRD) (2022/2464) was adopted by the Parliament on 10 November 2022 and by the Council of the European Union on 28 November 2022 and published in the Official Journal of the European Union on 16 December 2022. It seeks to strengthen ESG disclosure obligations for companies. The draft expands the scope of the obligation to include all large companies, which are required to perform an audit of ESG information, meet more detailed disclosure obligations and use an electronic disclosure format aimed at facilitating the introduction of a European Single Access Point (ESAP). Under the proposal, the first corporate disclosures would be required in 2025 for companies already publishing extra-financial disclosures and in 2026 for the rest.

The Sustainable Finance Disclosure Regulation (SFDR) (2019/2088) applies to asset managers and investment advisers and concerns the asset management activities of banks and insurers. It makes them subject to disclosure obligations on the adverse environmental, social and governance impacts of their investment policies and the ESG characteristics of the investment products that they market. The regulation entered into application on 10 March 2021 and was supplemented by a technical regulation setting out detailed disclosure obligations as well as harmful-impact indicators for investment policies, which will take effect on 1 January 2023. The European Supervisory Authorities also published a joint declaration on 2 June 2022 to clarify the provisions of the technical regulation (JC 2022 23), while the European Commission published a set of FAQ on SFDR application on 14 July 2022. The ACPR will be required to supervise application of SFDR provisions by life insurers.

Work by the EBA on the integration of ESG risks in bank disclosure requirements under CRR Pillar 3 led to the publication of a technical standard on 19 December 2022 in the Official Journal of the European Union.³⁹ First-time publication is expected in 2023 in respect of the reference date of 31 December 2022. The technical standards include qualitative and quantitative tables. As supervisor for the banking sector, the ACPR checks the quality of disclosures by supervised entities under CRR Pillar 3.

Meanwhile, the International Sustainability Standards Board (ISSB), which was set up in 2021 and whose purpose is to standardise ESG information internationally, conducted a public consultation at the end of the first half of 2022 on two draft standards covering general principles for ESG reporting and climate-related disclosures respectively. Following a public consultation in the summer, EFRAG submitted a set of 12 sustainability standards to the European Commission to clarify CSRD obligations. The ACPR and the Banque de France strongly support the proposal to adopt a concordance table for international and European standards to facility interoperability between the two sets of standards.



³⁹ Regulation (EU) 2022/2453, on the eur-lex.europa.eu website.

3

CUSTOMER PROTECTION



Key figures

2022

101

ON-SITE
INSPECTIONS

2,410

ADVERTISEMENTS
ANALYSED

7

QUESTIONNAIRE-
BASED SURVEYS

6

FORMAL NOTICES

The ACPR supervises business practices in a market comprising several hundred credit institutions and insurance undertakings, along with more than 70,000 intermediaries listed in the register of insurance, banking and finance intermediaries doing business in the banking and insurance sectors (ORIAS). To guide its supervisory activities effectively in order to zero in on priority topics and improve practices in the areas of greatest risk, the Authority has introduced a wide variety of innovative monitoring tools, including analysing letters from customers and advertisements, harnessing information from the customer protection questionnaires submitted by supervised institutions each year, and summarising the findings of on-site inspections and questionnaire-based surveys of regulated companies. It cooperates with the AMF through the ACPR/AMF Joint Unit, as well as with European partners, consumer associations, industry organisations and ombudsmen. It informs and warns customers regularly about improper practices that are detected. The ACPR also conducts numerous initiatives to watch for and prevent financial scams.

1. Findings from on-site inspections

1.1 Loan insurance

Since the adoption of the 2010 Lagarde Act, and with regular impetus from the *Comité consultatif du secteur financier* (CCSF – Consultative Committee for the Financial Sector), French lawmakers have amended the applicable legislation several times to support the freedom to choose loan insurance. The Lemoine Act, which entered into force on 1 June 2022 for new loan contracts and on 1 September for existing contracts, now makes it possible to change a loan insurance contract at any time, provided an equivalent level of coverage is maintained.

On-site inspections and documentary audits by the ACPR reveal that, in terms of the technical balance, loan contracts broadly favour insurers, with a loss ratio of approximately 35%. The technical features of the contracts promoted by banking networks, which continue to dominate the market (76%), and the remuneration arrangements put in place have the potential to create conflicts of interest.

This view is shared by EIOPA, which published a report on 4 October on loan insurance (including contracts covering consumer loans), which was based on questionnaires sent to more than 150 banks and a similar number of insurers located in different European Union countries. Following the study, EIOPA issued a warning in which it highlighted elevated levels of profitability at insurers, challenges for consumers in comparing products, and the presence of conflicts of interests in connection with distribution arrangements.

The ACPR will continue to keep a close eye on these issues, and especially management of conflicts of interest. Specifically concerning loan insurance contracts for consumer loans, the ACPR reiterates that distributors whose main business consists in selling goods or services that are unrelated to the loan insurance product being marketed, such as boilers, solar panels, furniture or vehicles, for example, should be treated as intermediaries operating on a principal, rather than an ancillary, basis, owing to the nature of the insurance provided over the life of the coverage sold, in accordance with the provisions of Article L. 511-1 of the Insurance Code. They are therefore required to be registered with the ORIAS and must meet the professional capacity and ongoing training requirements set down respectively in Articles R. 512-8 et seq. and Article L. 511-2 II of the Insurance Code.

1.2 Wholesale brokers: distributors that are responsible for leading their networks

Between 2019 and 2021, the ACPR conducted inspections at wholesale brokers, looking at the sale of health and death and disability insurance contracts, mainly through distribution networks specialising in unsolicited phone marketing. These inspections found significant breaches relating to partner selection and the monitoring of sales quality as well as practices that were not in customer interests, such as incorrect presentation of the intermediary and the proposed product, failure to provide customers with precontractual information, and use of fake e-mail addresses to sign contracts in the place of customers.

The Authority warned several wholesale brokers to discontinue these practices and instructed them to act swiftly to introduce corrective measures. The ACPR reiterates that a wholesale broker using other distributors for marketing must implement a partner selection system based on quantitative and qualitative criteria tailored to the distribution channels. It should assess their ability to distribute insurance products and their command of key aspects of the regulations. The broker should also monitor sales quality by setting up warning indicators and overseeing proper use of its purchase systems.

The ACPR will continue working in 2023 to make sure that wholesale brokers, as the leaders of their distribution networks, strengthen their systems for selecting partners and monitoring sales quality.

1.3 Credit distribution: participants expected to take greater responsibility

1.3.1 Marketing of loan consolidation solutions: inspection takeaways

In 2022, the ACPR conducted several inspections of networks specialising in loan consolidation. These concerned a number of distributors, but also the lead institutions of networks, franchisers and “packagers”, which act as wholesalers by organising the work of their networks of distributors (agents or brokers) and providing them with the documents intended for customer information.

Besides the recurring lack of traceability for due diligence checks performed by intermediaries on precontractual information and customer warnings, inspections also highlighted insufficient transparency and incorrect information about the identity of the intermediary, the list of active bank partners in loan consolidation, and the level of remuneration received by the partner bank, which was often understated. Information gathered about customer resources and expenses, and about the long-term nature of these resources and expenses, was rarely exhaustive. Customers were not always asked about their cash needs and often were not informed about the essential features of the proposed loan or about the transaction's economic bottom line. Customers were rarely alerted when the total cost of loan consolidation was extremely high or when the loan repayment period was significantly increased. In addition, the customer information documents made available to distributors by the network's lead institution did not always enable distributors to comply with current regulations. Finally, some bank partners offer incentivising remuneration via bonus commissions based on quantitative targets that are inconsistent with the requirement to act in customers' best interests.

1.3.2 Split payments and short-term loans

In 2022, ACPR personnel shared the best practices revealed by the questionnaire carried out in late 2021, which were published in the *ACPR Review* and also in the 2021 annual report of the Observatory for Banking Inclusion.

2. Implementing the new rules

2.1 Governance of insurance products still needs to be strengthened

In 2022, the ACPR conducted a series of inspections at designers and distributors of insurance products, in order to check the procedures used to apply the requirements introduced in 2018 by the Insurance Distribution Directive for product governance and managing conflicts of interest. These requirements were found to have been unevenly implemented.

In 2023, the ACPR will therefore continue to work on drafting a recommendation aimed at ensuring that professionals set up systems that are better at protecting customer interests, particularly as regards the definition of target markets and distribution strategies, product monitoring and remuneration policies for distributors and their sales personnel.

This recommendation forms part of work being led by EIOPA to analyse the costs of insurance-based investment products and their value for money. The ACPR also conducted a survey and a market analysis on the costs and performance of life insurance products, which notably revealed that no correlation could be established between these two elements. Work to improve the necessary transparency in this area will be pursued.

2.2 Sale of insurance policies through unsolicited phone calls: promoting greater customer protection

With ACPR inspections confirming the persistence of bad practices in the sale of insurance policies through unsolicited phone calls, French lawmakers responded by introducing new provisions to strengthen consumer protection. Participants are expected to show real awareness about these issues in 2023.

Since 1 April 2022, distributors making unsolicited phone calls must obtain explicit agreement from the customer to continue the phone conversation, make sure that the customer has received the

These best practices chiefly cover:

- accessibility and clarity of applicable charges, particularly regarding late payment penalties;
- improvements to advertising communications by disclosing the annual percentage rate (APR) and the nature of the "loan" transaction and by including a worked example and a warning message about the risks associated with debt;
- enhancement of precontractual information by providing a summary fact sheet and schedule before signature, indicating the eligibility criteria applied and requiring the customer to read the general terms and conditions during the process of taking out the loan;
- analysis of borrower solvency by gathering personal and financial information before contract signature, checking thresholds for total outstanding amounts or number of contracts, and consulting the National Database of Household Credit Repayment Incidents (FICP);
- keeping the borrower informed during the life of the contract by providing a repayment schedule and issuing notifications ahead of each payment.

These best practices have already been implemented by some lending institutions. Promoting their widespread uptake is all the more important because the future Consumer Credit Directive, which is expected to be adopted in 2023, will include these split payments and mini-loans in its scope of application.

precontractual documentation, and give the customer 24 hours to become familiarised with the documentation. Under no circumstances may the distributor sign the insurance contract in the customer's stead.

The new framework also requires distributors to record and retain all calls related to purchase of insurance. This will allow the ACPR, but also firms, as they implement their systems to check sales quality notably under product governance, oversight and internal control obligations, to ensure that sales are conducted in compliance with the rules (identification of the caller, statement about the sales nature of the call, proper presentation of coverage, duty to provide advice).

2.3 Brokerage associations called on to discharge their duties

The brokerage reform introduced by the Act of 8 April 2021 was designed as a way to support skill-building in the brokerage industry, with a view to enhancing customer service. It includes the obligation for any new broker and its agents to belong to a licensed professional association prior to being registered in the ORIAS, from 1 April 2022 onwards. This reform will take full effect in 2023.

In March 2022, the ACPR issued licences to seven associations. When issuing licences, the ACPR paid special attention to the resources put in place by the associations to discharge their duties as effectively as possible, particularly in the areas of mediation, supervision of compliance with the requirements for access to and pursuit of the profession (financial guarantees, liability insurance, good reputation, professional capacity and ongoing training), as well as procedures for preventing conflicts of interest.

Once they were licensed, the ACPR supported the professional associations to help them to discharge their duties with regard to their members. In 2023, the discussions that were already under way will continue, with consultations on the framework for the annual report that each association will be required to submit to the Authority. Finally, the ACPR will pay attention to the representativeness of these associations, following the expiry of the two-year period provided for by the legislation.

2.4 Sustainable finance: implementing the rules

Sustainability refers to the integration of environmental, social and governance factors by financial participants and their products and services. A European regulatory framework has been established to improve the transparency of the financial sector in terms of sustainability disclosures and help investors to take informed decisions.

In response to the greenwashing risk observed in certain advertising communications relating to life insurance, in December 2022 the Authority published a recommendation⁴⁰ on promoting the extra-financial features of such products.

This recommendation, which will be applicable from 1 April 2023 at the latest, seeks to ensure that promotional claims relating to extra-financial features are properly supported and correctly reflect the characteristics of the marketed products. The Authority also supported professionals in implementing the EIOPA guidelines published in July 2022 on taking customer sustainability preferences into account.

In 2023, the Authority will continue its progressive support and supervisory approach, notably following the entry into effect on 1 January 2023 of the technical standards of the Sustainable Finance Disclosures Regulation (SFDR) and standardised extra-financial disclosure documents.

RECOMMENDATION ON COMPLAINTS HANDLING

On 9 May 2022, the ACPR College approved a new recommendation on complaints handling, which seeks to ensure that all professionals from the banking and insurance sectors set up simple and readily accessible systems to allow people with complaints to receive high-quality responses promptly.

Recommendation 2022-R-01, effective 31 December 2022, is also intended to enable complaints to be more effectively identified and monitored, particularly when handling is outsourced to a third party, to ensure that any problem, regulatory breach or bad practice is properly identified and remedial measures are taken as quickly as possible.

⁴⁰ Recommendation 2022-R-02 of 14 December 2022 on promoting extra-financial features in life insurance advertising communications, on the ACPR website.

MONITORING ADVERTISING AND SUSTAINABLE FINANCE

The system put in place by the ACPR over a decade ago to monitor advertising communications makes it possible to track advertisers' sales strategies and identify potential situations of non-compliance with regulations or recommended best practices.

In 2022, over 1,000 life insurance advertisements were analysed. A sharp increase was noted in the number of advertisements highlighting the "sustainable" aspect of life insurance, e.g. by drawing attention to solidarity-related, green or responsible features of the products (20% of advertisements analysed). In half of all cases, this theme was the advertisement's central element.

In addition, some advertisements failed to provide a sufficiently clear and balanced picture of the product's risks and rewards, and the ACPR took action in relation to several advertisers that mentioned the risk of capital loss only as a footnote. It also published an article in the *ACPR Review* in July 2022 to remind the market as a whole of the best practices introduced by Recommendation 2019-R-01 of 6 December 2019.

Furthermore, imprecise and overly positive wordings in advertisements promoting extra-financial features may mislead consumers about the actual commitments made by advertisers or the extra-financial components of contracts and their investment vehicles. To strengthen transparency and ensure better balanced information, while preventing the risks of greenwashing, the ACPR College adopted a new recommendation on 14 December 2022, which supplements that of 2019 on life insurance advertisements and which will be effective in April 2023.⁴¹

BANKING SOLUTIONS FOR MINORS: BREACHES AND AREAS FOR IMPROVEMENT

Banking solutions targeting minors are seeing strong growth. In the first half of 2022, the ACPR conducted a questionnaire-based survey of 12 payment service providers to draw up an inventory of market practices relating to products offered to customers aged between 12 and 17. This revealed that some service providers offer payment instruments that are not appropriate for minors (such as chequebooks or payment cards not offering automatic balance checks and in some cases providing deferred debit features), as they can lead to unauthorised overdrafts. Furthermore, the consent of two legal representatives was not always obtained in cases where this is required by the regulations, in particular to close a minor's account and transfer the related funds. Institutions can help to safeguard minors' interests more effectively by:

- ensuring that agreement is obtained from (i) at least one legal representative for actions that may seem routine but that carry risks, such as adding a credit transfer beneficiary, increasing the ceiling for a card and presenting a cheque for collection, and (ii) two legal representatives for debit transactions initiated by one representative, where the institution knows that the parents are separated;
- adopting specific detection criteria for this customer segment to issue warnings in the event of fund movements that are unusual due to their nature, amount or recurrence.

Finally, minors need to be better informed and more involved, by requiring them to be present when a new relationship is established at a branch, by providing them with a detailed fact sheet explaining how their account works, or by having them sign the general terms and conditions of the account agreement when they reach the age of majority.

The ACPR shared the survey's main findings widely, both during a conference on 5 December at the Palais Brongniart⁴² and in a press release issued on 10 January 2023.⁴³

⁴¹ Recommendation 2022-R-02 of 14 December 2022 on promoting extra-financial features in life insurance advertising communications, on the ACPR website.

⁴² Presentation of the findings of the ACPR survey of banking solutions for minors, on YouTube.

⁴³ Press release of 10 January 2023, on the ACPR website.

ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (AML/CTF)

4



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AML/CTF COLLEGES
ORGANISED

6

FORMAL NOTICES

The ACPR makes sure that the entities under its supervision and significant institutions supervised directly by the ECB as regards prudential aspects comply with their anti-money laundering and counter-terrorist financing (AML/CTF) obligations. The ACPR checks the compliance of the preventive arrangements put in place as well as the effective implementation of AML/CTF due diligence measures. It also monitors the effectiveness of systems to detect people or entities subject to restrictions or asset freeze measures, as well as flows of money organised on behalf of such persons.

1. Supervisory activities

1.1 Risk-based supervision

The risk-based supervisory approach implemented by the ACPR was determined to be robust by the Financial Action Task Force (FATF) in its most recent assessment of France's AML/CTF framework, for which the final report was published in May 2022. The approach is based on a methodology for assessing the ML/TF risk profile of supervised entities. This assessment then determines the level of supervision applied to each entity.

The approach is continually being adjusted. Work done in 2022 streamlined the treatment of entities with a weaker ML/TF risk profile, to allow more resources to be concentrated on higher-risk situations. The preparation of a new specific annual questionnaire targeting digital asset service providers (DASPs) and revisions to the annual questionnaires for money changers and for entities from the banking and insurance sectors were also part of efforts

to deepen the risk-based approach (see box on the new AML/CTF questionnaires, page 53).

Supervised professions that are not covered by an annual questionnaire are subject to specific reviews tailored to their particular characteristics. In 2022, two reviews of this type were begun, covering crowdfunding intermediaries and brokers respectively. The responses will continue to be analysed in 2023 and will be used to provide feedback to affected professionals.

In terms of on-site inspections, that is, on the premises of supervised entities, the ACPR continued to develop targeted inspection procedures, by carrying out more on-site visits (short assignments lasting a few days, conducted in mainland France and overseas) and by conducting two series of thematic on-site inspections more or less simultaneously at several major financial entities.



NEW ANNUAL AML/CTF QUESTIONNAIRES

In 2022, the ACPR overhauled the annual questionnaires that it uses to assess the ML/TF risk exposure of the financial institutions that it supervises and the quality of their systems to prevent these risks. A key aim of the reform was to enhance the ACPR's ability to adjust the intensity of supervision to suit the level of risk, in accordance with Article L. 561-36 of the Monetary and Financial Code, amended by Ordinance No. 2020-115 of 12 February 2020.

The questionnaire for money changers was therefore expanded to include new questions about activities involving precious metals and stones (mainly gold), which the ACPR was given responsibility for supervising by Ordinance No. 2020-1342 of 4 November 2020. Other new questions were added to cover currencies handled, supply of foreign currency, and links between money changers.

The questionnaire applicable to most other financial institutions covered by an annual questionnaire, or approximately 1,000 entities, was significantly amended by Instruction 2022-I-18. The previous version of the questionnaire, the bulk of which dated back to 2017, was chiefly intended to check the AML/CTF system's compliance with various aspects of the regulations.

The new questions are primarily statistical in nature and seek to identify risk areas (new clients, internationally active businesses or associations) more effectively, to measure cash flows (notably risky movements such as deposits and cash withdrawals), and to monitor application of enhanced due diligence measures in the event of heightened risk (e.g. gathering proof of address, proof of income, or asset statements when establishing new business relationships). More questions were also added for correspondent banking and money remittance activities, which are exposed due to cross-border cash flows, as well as for asset management activities, including private banking (especially the use of complex or international structures), life insurance and investment services. Information will now also be collected for each of the foreign entities of French groups, supplementing the data already obtained under prudential supervision.

New questions were also included that allow entities to self-assess the compliance of their systems at a more granular level, using a 1-4 scale created by the ACPR, based on their own internal control results. Statistical questions seek to obtain a more refined assessment of the quality of personnel training, the quality of the system's governance, the depth of due diligence measures (ID verification methods, including those that go beyond the regulatory minimum in the event of heightened risk, frequency of updates) and the distribution of customers by risk level, compared against external factors (such as the number of court orders, customers subject to financial sanctions, or Tracfin designations).

Steps to promote proportionality were taken, with the introduction of several streamlined questionnaires. Accordingly, the number of questions that an institution has to answer depends on its activities and the associated risks. For example, a full-service bank at the head of a group will have to answer 355 questions, whereas a mutual insurer marketing low-risk products will answer 85.

The new questionnaire for money changers will apply for the first time in 2023 in respect of FY2022. The general questionnaire will apply one year later (2024 for FY2023).

1.2 Individual oversight

Ongoing supervision is based on the responses provided by financial institutions to the annual AML/CTF questionnaires. This work is then enriched through the analysis of business models and money laundering and terrorist financing (ML/TF) risk exposures, interviews with institutions and other information that they are asked to provide (annual AML/CTF report, internal audit reports, etc.), the findings of on-site inspections and visits carried out by the ACPR and information exchanges with Tracfin. This yields an assessment of the ML/TF risk profile of each supervised undertaking. In 2022, the risk profiles of 913 institutions were reassessed (or assessed for the first time in the case of newly licensed or registered institutions).

In total, 38 on-site inspections, including five conducted jointly with a prudential inspection, and nine on-site visits were performed in 2022. The 2022 programme included the first on-site inspections of DASPs, two of which resulted in the firms in question being struck off by the AMF. Depending on the seriousness of the breaches found,

on-site inspections may give rise to an action letter from the ACPR's Secretary General, a formal notice, or, in the most serious cases, the initiation of disciplinary proceedings by the Supervisory College. In 2022, the ACPR's Sanctions Committee imposed three disciplinary sanctions relating to AML/CTF and asset freeze measures. The ACPR also initiated six sets of disciplinary proceedings and issued six formal notices and 26 action letters.

As in 2021, the ACPR's inspections particularly targeted the payment services sector, and especially business models based on large numbers of agents or distributors. The recently published national analysis of ML/TF risks⁴⁴ highlighted an increase in situations where French IBANs opened by misappropriating the identity of another person or organisation are being used to obtain the proceeds of fraud through credit transfers, with the payer being manipulated by the fraudster. The available statistics, which are corroborated by ACPR inspections, show that new institutions that specialise in certain payment services, that use networks of non-financial agents or distributors, such as supermarkets, tobacconists, telephony, etc.,

⁴⁴ National analysis of ML/TF risks in France by the French Treasury, January 2023, on the ACPR website.

and that establish new business relationships on a non-face-to-face basis, are proportionately more exposed to this type of fraud. With the spread of “reverse” models for the marketing of white label solutions, the agents and distributors of licensed institutions are now developing new services and have technical control over them. This may be a factor of increased risk, if the licensed institution does not have the resources to ensure the regulatory compliance for which it is responsible.

In addition to carrying out supervisory measures and initiating disciplinary proceedings against a number of institutions whose faulty systems may have facilitated laundering, the ACPR issued a warning to the wider French financial community via its AML/CTF consultative commission and during the Fintech Forum in October 2022.⁴⁵ It reiterated the importance of implementing appropriate due diligence measures when establishing relationships with new customers, stressing that institutions should take special care to check the customer’s identity and detect any discrepancy between the customer’s transactions and profile. This last point is one of the goals of the thematic questionnaire on automated systems to detect suspicious transactions, which was sent in 2022 to a sample of institutions. The new annual questionnaire (see box, page 53) also stresses this issue, including through a new question on identity theft. Finally, the ACPR cooperated with the supervisory authorities of other European Union Member States on several foreign participants operating in France via branches or under the freedom to provide services and whose accounts were particularly used to receive the proceeds of fraud.

1.3 Other supervisory activities

In 2022, the ACPR conducted a thematic review of 36 groups and entities spanning virtually all financial activities (retail banking including online banking, private banking, consumer credit, investment services, foreign branches, insurance, money remittance, fintechs) to assess the operation and performances of automatic transaction monitoring

tools used by supervised institutions. The review made it possible to identify a number of best practices and is expected to give rise to the publication of a summary report. This work will also be used to inform discussions with foreign authorities, particularly within the Basel Committee’s anti-laundering group.

The ACPR General Secretariat organised 37 colleges of AML/CTF supervisors. These colleges, which covered the banking and insurance sectors, comprised between three and several dozen AML/CTF supervisors, plus the EBA in some cases. By the same token, the ACPR was asked to be part of more than 70 AML/CTF colleges and continues to participate in new colleges organised by its sister authorities. The colleges are used to share individual ML/TF risk assessments between member authorities. The ACPR can thus take account of this information in the consolidated assessment of groups for which it is the lead supervisor.

The ACPR continued to exchange information with France’s financial intelligence unit (Tracfin) and sent over 400 suspicious transaction information items relating to cases identified by on-site inspections and not reported by the inspected institution, whether in the banking or insurance sector. Similarly, the ACPR sent more than 130 notifications to France’s Directorate General for Public Finances about transactions raising tax-related suspicions.

Finally, the ACPR makes sure that the entities under its supervision have appropriate internal control systems so that they can properly implement the provisions needed to apply the OECD agreement on the automatic exchange of tax information. Within this framework, each year financial institutions report information about their non-resident customers to the tax authorities, and this information is then exchanged between the relevant tax authorities. Financial institutions must therefore ensure that the financial accounts of their customers are correctly identified, especially as regards their tax residency. The ACPR conducts checks via the annual questionnaire and on-site inspections.

MONITORING SANCTIONS IMPOSED ON RUSSIA AND BELARUS

As soon as the first targeted financial measures were imposed on Russia and Belarus, the ACPR set up a special purpose questionnaire for supervised entities to identify the accounts and transactions affected by the sanctions. This monitoring was performed in close collaboration with France’s Treasury, which is the competent authority for the targeted financial sanctions. Accordingly, the ACPR and the Treasury were in regular dialogue about late reporting or difficulties encountered by financial institutions.

A series of on-site inspections was also conducted to ensure that the asset freeze measures were properly implemented. Initial feedback on these inspections was provided at the ACPR conference on 5 December 2022. Overall, inspected institutions are in a position to detect listed persons and entities, but must remain vigilant on three essential points: contractual clauses with the providers supplying their lists must allow them to detect a new listed person or entity promptly; the quality of information in their databases, which is a prerequisite for effective comparison with the data published on asset freeze lists, needs to be improved; and the tools used must be calibrated to be able to detect relevant spelling variations.

⁴⁵ [AML/CTE presentation at the ACPR-AMF Fintech Forum of 19 October 2022, on the ACPR website.](#)

2. Risk-based approach

2.1 Risk-based approach

The ACPR was involved in updating the national ML/TF risk analysis led by France's AML/CTF Advisory Committee, which comprises the relevant national authorities. In particular, the ACPR contributed to two of the committee's working groups, covering digital assets and overseas territories respectively, and was also involved in updating the assessment of risks associated with financial services, for which it drew on the findings of ongoing supervision and on-site inspections. This work continued in the first half of 2023, with a view to updating the ACPR's sector analysis of ML/TF risks, which takes the results of the national risk analysis and goes into them in greater detail.

The ACPR also played an active part in work within the EBA aimed at clarifying certain procedures for implementing AML/CTF obligations with regard to banking inclusion requirements. This work aims to update EBA guidelines on ML/TF risk factors, to help financial institutions working with NGOs to apply their obligations while taking account of the characteristics of customers operating in the humanitarian sector. The ACPR also took part in drawing up new guidelines on access to financial services. These are intended to help financial institutions to set up systems to assess and mitigate the risks presented by certain vulnerable customer categories, rather than systematically refusing to enter into business relationships.

2.2 More effective due diligence

Customers must be reliably identified if AML/CTF and due diligence measures implemented by financial institutions to detect suspicious transactions are to be effective. This issue is particularly important as more and more business relationships are being established remotely, and especially over the Internet, which exposes institutions to specific fraud and identity theft risks. The ACPR therefore participated actively in drawing up new EBA guidelines intended to support financial institutions using technological solutions to check their customers' identities remotely. The purpose of the document is to promote technological tools that ensure a high level of AML/CTF assurance and to harmonise practices in Europe, in order to provide a more level playing field for service providers.

As part of the AML package, which seeks to reform European AML/CTF regulations, the EBA is going to be asked to draw up guidelines aimed at harmonising and promoting best practices in Europe's digital assets sector. With this in mind, the European authority has set up working groups, which the ACPR is actively supporting. Work is being done especially to clarify the procedures for implementing the new requirements under the AML package covering transparency for crypto-asset transfers. These requirements, which stem from FATF recommendations, are intended to be more effective at preventing crypto-assets from being used by criminals and to facilitate the implementation of financial sanctions.

SECTOR ENFORCEMENT PRINCIPLES APPLICABLE TO DASPs

In December, the ACPR released its sector enforcement principles for DASPs. This soft law document, which was drafted in partnership with the financial community, explains how DASPs should implement their AML/CTF obligations, taking into account the specific features and risks of the crypto-asset sector. In particular, the document sets out procedures for conducting the due diligence measures expected of DASPs and details the information that should go into suspicious transaction reports to Tracfin. Regarding the financial sanctions imposed by the European Union in connection with the war in Ukraine, the principles clarify the procedures for implementing wallet freeze measures and reiterate the warning criteria used to support suspicions concerning attempted use of crypto-assets to breach or circumvent restrictive measures.

2.3 Changes to the European framework

The ACPR continued to provide its expertise during European negotiations on the AML package presented by the European Commission in July 2021. Discussions within the Council under France's presidency of the European Union made it possible to establish a negotiating position on the draft regulation aimed at creating a new European authority to supervise AML/CTF and coordinate financial intelligence units, called

the Anti-Money Laundering Authority (AMLA). As regards AML/CTF obligations applicable to financial institutions, discussions under France's presidency of the EU made it possible to promote tougher requirements for due diligence measures (transparency for transfers of funds and crypto-assets, more reliable customer identification, etc.) and for the systems put in place by institutions to apply these obligations effectively. The Council's negotiating position on the draft regulation and revised anti-laundersing directive was adopted in December 2022.

5

INNOVATION AND NEW TECHNOLOGIES



Key figures

2022

218

MEETINGS WITH
INNOVATORS

500

PARTICIPANTS AT
THE FINTECH FORUM

For some years, the ACPR has been closely monitoring developments in the financial sector resulting from the dissemination and adoption of new technologies. In 2016, the ACPR set up a dedicated structure, the Fintech-Innovation Unit, and a space for dialogue with the innovation ecosystem, the ACPR-AMF Fintech Forum. The Authority's goals are to promote the adoption of new technologies within a controlled framework and to support the transformations taking place in the sector.

1. Dialogue with the fintech⁴⁶ community

With the Fintech-Innovation Unit, the ACPR provides a gateway for innovators, whether they are individuals, firms or licensed institutions. The unit helps them to understand the applicable rules and guides them through the authorisation process. A total of 137 projects were presented in 2022. Of these, 47% were focused on the payments sector, 13% on investment, 12% on lending and 12% on crypto-assets. In addition, approximately 80 participants from the innovation ecosystem contacted the unit to discuss innovation more generally, bringing the overall number of annual contacts with project contributors and innovators to 218.

The Fintech-Innovation Unit also helps to nurture the French fintech ecosystem by meeting or dealing with industry associations, fintech incubators and think tanks. For the second year running, it was involved in organising French Fintech Week, alongside the AMF, France Fintech and Le Swave.

As part of this, the supervisory authorities coordinated the annual ACPR-AMF Fintech Forum on 19 October at the Gaveau concert hall in Paris. Around 500 people attended the annual gathering, building on the success of previous editions of the event. Panel discussions shed light on the prospects for open finance and issues linked to the emergence of decentralised or disintermediated finance (DeFi),⁴⁷ while teaching workshops gave attendees the opportunity to learn about different aspects of regulation for financial innovation.

The unit also makes an active contribution to working groups set up by European and international bodies, including the European Forum of Innovation Facilitators (EFIF), EIOPA, EBA, the Basel Committee and the International Association of Insurance Supervisors (IAIS), to monitor the development of new technologies in the financial sector, the risks linked to their use and appropriate regulatory developments. In 2022, this work focused in particular on artificial intelligence, open finance and the rules applicable to crypto-assets.

THE FINTECH CHARTER: ONE YEAR ON

On 10 January 2022, the ACPR published a fintech charter to facilitate the authorisation process and make it more transparent. The charter summarises the main authorisation procedures for fintechs falling under the ACPR's responsibility, the ACPR's commitments and also its expectations for licence applicants, to ensure that applications are optimally prepared.

One year on following publication of the charter, the ACPR acted on its commitment to review the timelines applied in its dealings with project contributors and authorisation applicants. In 2022:

- the unit was contacted by 137 project contributors. In 95% of cases, acknowledgement of receipt, identifying the case officer, was sent within two business days. In 91% of cases, an initial exchange took place and a first response was provided within the stipulated timeframe of two weeks;
- during the authorisation journey, out of 145 applications handled, the average time taken to determine the legal classification and verify the completeness of applications was 14 days. The charter stipulates a timeframe of two to three weeks depending on the procedures involved. The time taken to review supplementary information requests was ten days. The charter stipulates a timeframe of two weeks.

The ACPR is keeping up its efforts to align more closely with target timelines, not just on average but also in each individual case.

⁴⁶ The term "fintech" refers to any technological innovation in financial services that could result in new business models, applications, processes or products with a significant impact on financial services. By extension, the term is used to refer to new financial participants, especially in lending, payments, financial product distribution and savings management, whose business models are derived from these technological innovations and which address changing customer needs and behaviours.

⁴⁷ Decentralised or disintermediated finance (DeFi) refers to a set of crypto-asset services that are comparable to financial services but performed without the involvement of an intermediary. DeFi is generally characterised, at least in theory, by the use of public blockchains, smart contracts, decentralised governance arrangements and the absence of depositories.

2. Observing, supporting and anticipating the development of innovative technologies

Through its many interactions with market participants, the Fintech-Innovation Unit acts as an innovation observatory for the ACPR. By contributing to international work and publishing its own research, it reports on current developments in the financial sector.

2.1 Working towards a European and potentially international framework for crypto-asset services

The legal framework currently applicable in France to digital asset services was introduced by the 2019 Pacte Act. This framework will cease to apply with the entry into force of the European MiCA Regulation (see box below on the Market In Crypto-Assets Regulation and chapter 2 – 3.3, page 38). The working groups and networks led by the European Supervisory Authorities, including the EBA, are tasked with preparing the implementing instruments for the future regulation. With this in mind, 2022 was devoted to studying the participants and technologies that need to be regulated, but also to getting ready for the issues raised by other innovative models, such as DeFi.

Paralleling the work at European level, discussions are taking place within the FSB to prepare global goals for the regulation and supervision of crypto-assets, while the Basel Committee has adopted a standard for the prudential treatment of bank exposures to crypto-assets (see box on the Basel treatment of crypto-assets, page 39). The IAIS Innovation Forum is also monitoring and discussing developments in the insurance sector.

2.2 Other topics being studied in Europe and internationally

The ACPR is also monitoring other technology themes, including some that are specific to the financial sector and others that are more cross-cutting in nature, owing to the impact that they could have on the financial sector and innovation within the sector. These chiefly include artificial intelligence, digital identity and potential open finance scenarios.

- Artificial intelligence (AI)

The ACPR is taking part in international work aimed at exploring AI use cases in the financial sector and studying their potential implications for supervisors. The ACPR is also following discussions on the draft AI Act for Europe published by the European Commission in April 2021.

- Digital identity

The European Commission proposed a framework revising the Electronic IDentification And Trust Services (eIDAS) Directive in June 2021. The proposal, which is currently under trilogue negotiations, would ensure the interoperability of solutions proposed by Member States by means of a digital identity wallet. In December 2022, the Commission selected four consortiums to propose possible forms for such a wallet. The use cases being explored include using a digital identity to access financial services.

- Open finance

Ahead of the review of the Second Payment Services Directive (PSD2) scheduled for 2023, in 2022 the European Commission launched consultations on application of the directive, its ability to accommodate the emergence of new services and risks, and the future open finance framework. A draft instrument could be published in 2023.

EUROPE'S MARKETS IN CRYPTO-ASSETS (MICA) REGULATION⁴⁸

Following the political agreement reached under the trilogue process during France's presidency of the Council of the European Union, the MiCA Regulation was adopted by the Committee of Permanent Representatives (COREPER) and the Committee on Economic and Monetary Affairs (ECON) in October 2022. It was then adopted by the European Parliament on 20 April 2023, with a view to the new provisions of the regulation entering into effect between July 2024 and January 2025.

Inspired in part by France's experience with the Pacte Act, the MiCA Regulation will regulate crypto-asset issuers and service providers, which will be required to be licensed and to comply with a specific prudential regime. The goal is to protect users more effectively and ensure the stability of the financial system.

The draft regulation identifies three classes of crypto-assets: (i) electronic money tokens (EMTs), which refer to the value of a currency that is legal tender and whose prudential regime is based on the regime for electronic money, (ii) asset-referenced tokens (ARTs), which are backed by several currencies that are legal tender or other assets and whose prudential regime reflects the composite nature of this backing, and (iii) other crypto-assets, which are merely required to be registered.

The MiCA Regulation also provides a definition for "significant" ART and EMT issuers, which will be subject to enhanced requirements and be supervised by the European Banking Authority, assisted by colleges made up of the affected supervisors.

⁴⁸ See also chapter 2 – 3.3 – Digital finance, page 38.

3. Preparing the supervisory methods of the future

The ACPR is resolved to adapt to the changes affecting its activities resulting from the digital transformation of the sectors under supervision. By dialoguing and experimenting with participants, but also by exploring and developing tools to support supervision, it plays a role in monitoring and anticipating developments.

3.1 The ACPR's supotech approach

First introduced in 2019, the supotech approach is designed to boost the ACPR's supervisory capabilities using new data processing and artificial intelligence technologies. It is included in the Banque de France's strategic plan for 2024.

Over 2022, ACPR continued to develop tools inspired by intrapreneurial initiatives. In addition, several trials under the roadmap for the 12 priority supotech projects, which was drawn up in 2021 for the 2022-2024 period, were successfully launched.

Accordingly, five projects planned for 2022 are currently in an advanced testing and deployment stage. One of these aims to generate automatic compliance analyses for consumer credit advertisements, while another automatically transcribes phone calls during non-face-to-face marketing of financial products. In 2023, the ACPR will conduct new trials covering new use cases.

3.2 ECB supotech projects

The ACPR is participating actively in the supotech initiative launched by the ECB's Single Supervisory Mechanism (SSM). Several members of personnel were involved in the first projects or tools developed under the approach in 2022 by the SSM, which included the establishment of a virtual lab to promote collaboration and development, a text analysis tool, and automation of administrative processes. By participating in the SSM supotech roadmap, the ACPR also gets the opportunity to talk about projects and share experiences with other national authorities in Europe. Once a year, the SSM shares its thoughts and advances in this area more broadly during the Supervision Innovators Conference.

2022 TECH SPRINT ON CONFIDENTIAL DATA POOLING

In early 2022, the ACPR launched a trial project to analyse the impact of confidential pooling of data and collaborative calculations on the performance of algorithms used to detect suspicious transactions for AML/CTF purposes.

As part of this, a tech sprint⁴⁹ on confidential data pooling, which took place over the summer and ended in September, sought to identify technological solutions capable of demonstrating that several participants can collaborate by sharing their data sets safely.

The 12 solutions designed and presented during the tech sprint by service providers, including startups and business consortiums, showcased global state-of-the-art technologies for safeguarding confidentiality, also known as privacy-enhancing technologies (PETs), including homomorphic encryption, multiparty secure computation, federated learning, secure hardware enclaves and differential privacy. A summary report published by the ACPR detailed the main takeaways from the event and described the features of the solutions presented.⁵⁰

⁴⁹ Also known as a regulatory hackathon, a tech sprint is a limited-time innovation competition on a specific topic.

⁵⁰ [Summary report](#), December 2022, on the ACPR website.



RESOLUTION



Key figures

2022

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RESOLUTION
PLANS ADOPTED

5

SRB MEETINGS
ATTENDED

As the National Resolution Authority (NRA), the ACPR is tasked with preserving financial stability, ensuring the continuity of the activities, services and operations of institutions whose failure would have serious consequences for the economy, protecting depositors and insurance policyholders, and avoiding or limiting as far as possible reliance on public financial support. All resolution powers are entrusted to the ACPR Resolution College, which meets quarterly. It adopts preventive resolution plans, coordinating where necessary with foreign authorities, and assesses the resolvability⁵¹ of banks and insurance undertakings.

In the banking sector, the Single Resolution Board (SRB) has resolution powers over significant institutions (SIs) and other cross-border groups. SRB and NRA teams collaborate in Internal Resolution Teams (IRTs).⁵² The ACPR belongs to 16 IRTs for French groups or foreign groups with a subsidiary based in France. If the SRB takes a resolution decision concerning the French-based entities of these groups, the ACPR is responsible for ensuring that it is properly executed.

The ACPR retains direct resolution responsibility for French less significant institutions (LSIs), insurance undertakings and central counterparties.

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

Implementation of the Single Resolution Mechanism (SRM) was further strengthened in 2022. The ACPR was actively involved in work on operational planning for the management of banking crises at the IRTs for French banks and foreign banks with a subsidiary in France.

Resolution plans are drawn up as part of the European mechanism for managing banking crises, which gives supervisory and resolution authorities the means to take action to prevent and manage crises. This mechanism is intended to cover the five objectives of resolution, namely:

- ensure the continuity of critical functions,
- avoid significant adverse effects on financial stability,
- protect public funds,
- protect covered depositors,
- and protect client funds and assets.

The authorities draw up a preventive resolution plan for each banking group, including a preferred resolution strategy. In 2022, the ACPR obtained SRB recognition of the alternative resolution strategies for French banking groups, integrating transfer tools.

The ACPR also continued to work closely with the French Treasury as it took part in preparatory work by the European Commission on the review of the Crisis Management and Deposit Insurance (CMDI) framework. A legislative proposal is expected in the first half of 2023. In the regulatory field, 2022 saw the adoption of Regulation (EU) 2022/2036 of 19 October 2022 amending the Bank Recovery and Resolution Directive (BRRD)⁵³ and the SRM Regulation.⁵⁴ Changes notably include the introduction of a deduction regime for own funds and eligible liabilities that delivers equivalent outcomes whether instruments are issued directly by the subsidiary to the resolution entity or whether a “daisy chain” approach is employed, in which a subsidiary issues instruments to an intermediate entity, which in turn issues instruments to the resolution entity. This mechanism, which will apply as from 1 January 2024, is already being reviewed⁵⁵ to examine potential frictions and unintended consequences for the structures of European banking groups.

The first SRB report on assessing the resolvability of banks under its direct responsibility was also published in 2022, on 13 July. This novel exercise, which the SRB intends to repeat each year, is part of efforts by resolution authorities to be more transparent. Institutions received a detailed assessment of their situation.

⁵¹ The idea is to assess an entity's eligibility for resolution mechanisms as an alternative to liquidation.

⁵² IRTs are made up of staff from the Single Resolution Board (SRB) and National Resolution Authorities (NRAs) from the banking union countries in which the parent company or subsidiaries of the cross-border group are based. IRTs were set up for institutions that come under the direct responsibility of the SRB within the Single Resolution Mechanism.

⁵³ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.

⁵⁴ Regulation (EU) No. 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund.

⁵⁵ A review clause was inserted in Regulation (EU) 2022/2036 in order to study the materiality of certain frictions that were observed between the MREL framework and the prudential framework for own funds.

Regarding Minimum Requirements for own funds and Eligible Liabilities (MREL), the ACPR published a study⁵⁶ comparing the overall level of loss-absorbing capacity requirements of systemically important US banks relative to European institutions.

This revealed that MREL requirements in the banking union are about 3.5 percentage points of risk-weighted assets higher than the total loss-absorbing capacity (TLAC) requirements applicable in the United States.

The ACPR is also responsible for drafting preventive resolution plans for almost 130 institutions under its direct or exclusive supervision. This responsibility extends to less significant credit institutions falling within the scope of the SSM, credit institutions based in Monaco, some investment firms excluding banking group subsidiaries, institutions based in non-EU overseas territories, and financing companies subject to resolution excluding banking group subsidiaries (currently this involves just one company in France). This scope is adjusted based on licensing-related changes, such as new licences or licence withdrawals, but also to reflect the activity and balance sheet size of institutions, which may be moved from the category of significant credit institutions under direct SRB responsibility (SIs) to that of less important credit institutions under the ACPR's direct responsibility (LSIs), or vice-versa. This year, the ACPR Resolution College adopted 43 preventive resolution plans under the 2022 resolution cycle, concerning 39 investment firms, one credit institution based in Monaco, two institutions based in the overseas territories and one financing company.

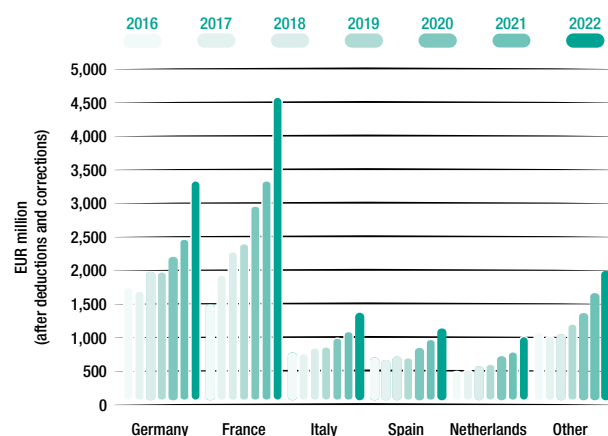
Regarding the resolution plans of investment firms, the entry into force of Europe's Investment Firms Directive 2019/2034 (IFD) and Investment Firms Regulation (EU) 2019/2033 (IFR) on the supervision and prudential requirements applicable to investment firms affected updates to these plans:

- under French law, the scope of investment firms subject to the legal provisions relating to resolution differs from the scope of the BRRD as amended by IFD. Since the BRRD is a minimum harmonisation directive, Member States are allowed to maintain or set rules that go beyond the requirements of the BRRD without conflicting with that directive, which is the case in France. Accordingly in France, the scope of firms subject to resolution covers 12 additional investment firms compared with the scope under BRRD.
- IFR/IFD introduced four classes of investment firms, namely Class 1, Class 1B, Class 2 and Class 3, in accordance with Article L. 531-4 of the Monetary and Financial Code. Depending on how they are classified, firms are subject to different prudential requirements (i.e. CRR/CRD requirements or those set down by IFR/IFD), including different reporting requirements. In terms of MREL calibration, the requirements for these 39 investment firms are expressed solely as a percentage of the total risk exposure amount (TREA), given that leverage ratio exposure has not been applicable to Class 2 and Class 3 firms since IFR/IFD came into force.

To cover the costs of crises at banking institutions, a Single Resolution Fund (SRF) for credit institutions within the banking union and a National Resolution Fund (NRF) for institutions that remain under the ACPR's exclusive responsibility were set up in 2016 and 2015 respectively. These funds, whose target level of 1% of covered deposits is expected to be reached by 31/12/2023 for the SRF and 31/12/2024 for the NRF, continued to be financed in 2022 by contributions from institutions.

In 2022, 296 French institutions (compared with 307 in 2021) contributed over EUR 4.6 billion to the SRF, or an increase of 39% relative to 2021. This was partly due to the significant increase in the annual target for contributions to be raised from the banking union, which was set at EUR 14.25 billion for the 2022 campaign, up from EUR 11.29 billion in 2021. Contributions to the NRF totalled EUR 9.753 million in 2022, compared with EUR 12.03 million in 2021⁵⁷ and included contributions from certain institutions licensed in France, the overseas territories and Monaco. France and Germany are the banking union's two largest national contributors to the SRF (see chart).

SRF contributions by licensed institutions in banking union member countries



Source : <https://www.srb.europa.eu/system/files/media/document/Annex%20II%20-%202022%20SRF%20Ex-ante%20Contributions%20-%20Common%20Data%20Points%20-%20EN.pdf>

National contributions vary according to the size of the domestic banking sector, the size of individual institutions and risk indicators, which explains the relative size of the French and German contributions. The ACPR also calculated and notified institutions of their contributions to the guarantee schemes for deposits, securities and bank guarantees managed by the *Fonds de garantie des dépôts et de résolution* (FGDR – Deposit Insurance and Resolution Fund). Approximately EUR 819 million was raised for the largest of these mechanisms, namely the deposit guarantee scheme. Furthermore, on 1 September 2022, the European Commission gave authorisation to lower the target level for the financial resources available to this scheme to at least 0.5% of covered deposits instead of 0.8%. This target must be met by 3 July 2024.⁵⁸ The ACPR provided ongoing support to Treasury departments in responding to requests from the Commission in connection with France's application for a derogation from the funding target. Every five years, however, France is required to review its continued compliance with the authorisation requirements and report back to the Commission.

⁵⁶ Loss-absorbing capacity requirements in resolution for G-SIBs in the EU and the US, 13 December 2022, on the ACPR website.

⁵⁷ Covered deposits for 2021 at institutions subject to the NRF, which are used as the basis to determine the amount to be raised, fell by around 6.5% compared with 2020 owing to an error by one institution, which had previously reported all of its eligible deposits and failed to apply the cap of EUR 100,000 per depositor.

⁵⁸ With regard to paragraphs 2 and 6 of Article 10 of Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast).

2. Developing the institutional and operational framework of the insurance resolution regime

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

Under crisis management provisions, the ACPR's Resolution College can obtain enhanced powers over failing insurers and take resolution measures to maintain the continuity of functions that are considered to be critical⁵⁹ to the real economy or to financial stability.

The regime is modelled on the regime for credit institutions and investment firms. It applies to all insurance undertakings subject to the Solvency II prudential regime, although its preventive component applies only to the largest insurance groups and undertakings, namely those whose total assets have exceeded EUR 50 billion at least once in the last three financial years.

These institutions are required to prepare preventive recovery plans, which they must submit to the ACPR's Supervisory College. These plans describe, among other things, how undertakings could take steps to cope with crisis scenarios. For each of these

undertakings, the Resolution College adopts a preventive resolution plan, in which it sets out the strategy that it would follow in the event that the undertaking actually fails or is expected to fail. In particular, it determines whether a resolution strategy is needed to preserve any critical functions and, if applicable, what form this would take, or whether a liquidation strategy could be deployed.

In 2022, the Resolution College adopted the first preventive resolution plans for all affected insurance undertakings. These resulted from work done since 2020 by the ACPR Resolution Directorate. Some of this work, on resolution tools and the identification of critical functions notably, was posted on the ACPR website.⁶⁰ The initial plans provide a detailed analysis of the activities of different undertakings, along with an analysis of critical functions in the case of undertakings performing such functions, as well as an initial study of their "separability" from the rest of the group. In particular, as regards undertakings performing critical functions, the plans offered an opportunity for the Resolution College to identify preferred and alternative resolution strategies involving appropriate resolution tools that it is currently considering in the event of the institution's failure.

CRITICAL FUNCTIONS OF INSURANCE UNDERTAKINGS

Critical functions are activities, services or operations executed by an insurance entity, undertaking or group subject to the crisis prevention and resolution regime and displaying the following characteristics, as stated in Article L. 311-2 of the Insurance Code:

- they are provided by said entity to unrelated third parties;
- the inability of said entity to perform them would be likely to have a significant impact on financial stability or on the real economy;
- said entity's activities, services or operations cannot be replaced at a reasonable cost and within a reasonable time.

The continuity of critical functions performed by the insurance undertaking in question is one of the goals of insurance resolution set down in Article L. 311-22 of the Insurance Code.

To establish a preventive resolution plan, the Resolution College must first map any critical functions carried out by the entity in question. To do this, it proposed a two-part analytical methodology: define a list of activities deemed to be inherently critical and then set a criticality threshold to identify, for each of these activities, insurance undertakings whose market share is sufficiently large that the activity constitutes a critical function. At this early stage in the insurance resolution planning cycle, the threshold has been set at 10%. In the future, it could be adjusted to more effectively capture the specific features of each entity and its functions that are assumed to be critical.

Moreover, as critical functions are those that must be maintained in the context of crisis management, insurance undertakings also need to identify them at their own level, in their preventive recovery plans.

⁵⁹ [Identification of the critical functions of insurance undertakings](#), on the ACPR website.

⁶⁰ [Implementation of resolution instruments applicable to insurance undertakings and resolution strategies](#), on the ACPR website.

IRR D

On 22 September 2021, the European Commission published a proposal for a directive for the recovery and resolution of insurance and reinsurance undertakings (IRR D).

The IRR D framework integrates the main principles and most of the instruments and powers outside the scope of ordinary law that are included in European banking law (BRRD) and French law in the insurance recovery and resolution regime. The European proposal thus incorporates the four objectives of insurance resolution, namely to protect policyholders, preserve financial stability, ensure the continuity of critical functions and protect public funds. In terms of powers, national resolution authorities will be given powers to make transfers without consultation as well as an additional power relative to that conferred by the French regime to write down and convert capital and debt instruments, including insurance liabilities. Currently, the French regime only allows liabilities due to policyholders to be reduced during a portfolio takeover via a transfer without consultation; the reduction percentage must be proposed by the transferee and accepted by the Resolution College. Furthermore, relative to Europe's existing banking regime, a new tool for the run-off of a failing undertaking was created to support market exit.

Negotiations within the EU Council got under way in late 2021 and continued in 2022, notably under the French presidency during the first half. A general compromise was adopted on 20 December 2022 by the Committee of Permanent Representatives (COREPER). The European Parliament began its review of the text in summer 2022, with finalisation opening the way for trilogue discussions to begin. Within these two bodies, France's delegation, to which staff from the ACPR's Resolution Directorate provided major technical support, lobbied for a full crisis prevention and resolution regime.

In particular, it argued that the crisis resolution component should be sufficiently broad in scope to ensure a minimum level of coverage in each national market and thereby preserve a robust and credible European regime as well as fair treatment for all European insurers.

France also advocated for the introduction of minimum requirements for resolution financing, to guarantee policyholders resolution protection at least equivalent to that offered by liquidation. This would be based on national schemes for which contributions could be raised either ex post or ex ante. Unlike under the banking resolution regime, there are no plans to have a framework equivalent to MREL.

Finally, the importance of better regulation of cross-border activities was stressed. The adoption of a European resolution regime could pave the way for a Europe-wide "country of origin" approach to the implementation of policyholder claim protection mechanisms. Under this approach, the fund responsible for compensating policyholders whose insurer has defaulted is that of the Member State in which the company that provided the insurance service has its headquarters, regardless of the state where the transaction took place or the nationality of the policyholder.

3. The central counterparty resolution regime

Central counterparties (CCPs) remain under the direct responsibility of national authorities in the Europe Union. In France, the CCP is LCH SA.

In 2022, the ACPR continued work involved in applying the European CCP Recovery and Resolution Regulation (CCPRRR).⁶¹ Application of this regulation was phased in over 2022, with recovery provisions coming into effect on 12 February and resolution provisions on 12 August. Accordingly, LCH SA presented the national competent authorities for CCP supervision, namely the ACPR, the AMF and the Banque de France, with its first recovery plan, whose compliance with CCPRRR was assessed. The ACPR, which is the official resolution authority for CCPs, began preparatory work for the organisation in 2023 of the first College of LCH SA Resolution Authorities, which it will chair.

At international level, the ACPR participated in work by a specialised group of the Financial Stability Board, which focused on the resolvability assessment process and on deepening work on the adequacy of financial resources for CCP resolution. Within this framework, the French resolution authority will take part in analyses by the FSB Resolution Steering Group, which is currently working, among other things, to identify the characteristics of potential alternative or supplementary funding sources relative to existing resources. These efforts will continue in 2023, with a view to publishing a consultative document.

⁶¹ Regulation (EU) 2021/23 of the European Parliament and of the Council of 16 December 2020 on a framework for the recovery and resolution of central counterparties.

7

ACTIVITY OF THE SANCTIONS COMMITTEE



Key figures

2022

7

NEW CASES

7

RULINGS HANDED DOWN

13.5

MONTHS ON AVERAGE TAKEN
TO HANDLE A CASE

1. Overview

Seven new sets of proceedings were referred to the Committee in 2022. After slowing sharply in 2021, the number of cases is rising gradually towards pre-Covid levels (between seven and 12 annually).

The Committee handed down seven decisions.⁶² This was on a par with the previous year when it handed down eight.

Unusually, most of the Committee's rulings concerned customer protection, with four of its seven decisions involving breaches in this area, while the other three concerned anti-money laundering and counter-terrorist financing (AML/CTF) breaches.

2. Main lessons from the 2022 rulings

2.1 Customer protection

In Mutex Ruling No. 2021-02 of 30 March 2022 (reprimand and fine of EUR 8 million, decision published on a non-anonymous basis for five years), the Committee issued its first ever sanction for non-compliance with Insurance Code provisions on the obligation to identify the death of the insured and conduct a search for beneficiaries of death cover included in pension contracts.

An 87.5%-owned subsidiary of mutual group VYV, Mutex is a public limited company licensed to provide accident, illness, life, death, wedding and birth insurance as well as insurance linked to investment funds. Under its pension business, it offers "Madelin"-type individual contracts as well as group contracts governed by Article 82 or Article 83 of the General Tax Code.

The Committee ruled that Mutex had failed to set up an appropriate system or put in place the resources needed to fulfil its obligation to promptly identify the deaths of holders of its pension contracts and to identify beneficiaries, and that it had failed to meet its obligation to set up effective systems for unclaimed policies.⁶⁴

Mutex also failed to meet its obligations to provide information to holders of "Article 83" contracts, which was especially detrimental as it prevented holders from knowing that the benefits to which they were entitled could be liquidated.

In determining the sanctions, the Committee took account of Mutex's sound financial position and considered the remedial actions taken, even though these were carried out by the company in a non-timely fashion in many cases.

Unclaimed insurance contracts were also central to MGEN Vie Ruling No. 2020-10 of 12 May 2022 (reprimand and fine of EUR 1 million, decision published on a non-anonymous basis for five years).

MGEN Vie is a mutual insurer governed by Book II of the Mutual Insurance Code. It does not have its own resources, and MGEN manages its contracts on its behalf. It is licensed to provide life, death, wedding and birth insurance.

The death cover that it offered included "funeral expenses", as well as "death and disability" benefits since 1 January 2009. The death and disability cover included a standard clause, which applied in the absence of a "beneficiary clause" stipulated by the holder, in which MGEN was named as the final beneficiary.

Although it dismissed the argument in which MGEN Vie claimed that the disciplinary procedure was flawed, the Committee reiterated that inspectors have a duty to be impartial and fair.

The Committee issued six reprimands, three bans on doing business, plus nine fines ranging from EUR 100,000 to EUR 8 million.⁶³

Total fines amounted to EUR 14.40 million. The Committee also decided to name the entities concerned by its seven decisions.

The average time between when a case was brought before the Committee and when notification of the sanction ruling was provided was 13.5 months, or two months more than in 2021. This reflected the complexity of certain cases and the resulting increase in the time taken for the College and affecting undertakings to present their views, as well as specific procedural difficulties involving one case.

Considering the merits, the Committee ruled that MGEN Vie had failed to implement specific procedures to inform death and disability coverage holders about the naming of beneficiaries and the consequences of this, whereas lawmakers had introduced an obligation at the end of 2005 to provide precontractual information to ensure that holders make fully informed choices between including a specific beneficiary clause or having a standard clause apply. It noted the seriousness of this first breach.

It further considered that MGEN Vie had failed to fully comply with its obligations relating to the establishment of AGIRA systems (which manage information on insurance risk), that in a number of instances, the company's efforts to track down beneficiaries were, as at the inspection date, insufficient and that, in several other cases, the death and disability benefit was wrongly paid to MGEN in its capacity as final beneficiary, owing to various errors. The Committee pointed out that it had repeatedly stressed the importance that insurance undertakings should place on the due diligence tasks that they are required to perform in the management of life insurance contracts in order to identify deaths and search for beneficiaries. However, it considered that, on this point, the procedure found evidence only of individual failings, notably in terms of searching for beneficiaries, and did not, given the nature of the sample files examined, demonstrate that these shortcomings pointed to broader deficiencies in the firm's systems to deal with unclaimed policies.

Finally, the Committee stressed that MGEN Vie was responsible for making sure that the interests of contract beneficiaries were fully taken into account by MGEN, to which it had entrusted the management of its contracts, especially since the standard clause in death and disability contracts named MGEN as the final beneficiary. However, with reference solely to the provisions of a European regulation on the prevention of conflict of interest situations in which "those involved in the implementation of the undertaking's strategies and policies" could find themselves, the Committee considered that the procedure had not found a failure to meet any obligation on this point.

Natixis Interépargne (NIE) Ruling No. 2021-03 of 30 May 2022 (reprimand and fine of EUR 3 million, decision published on a non-anonymous basis for five years) concerned the implementation of obligations provided for under the Eckert Act⁶⁵ by an employee savings account-keeper.

NIE has belonged to the BPCE group since 2009. It is licensed as an investment firm to provide order reception/transmission and custody account-keeping services. NIE works as a custody account-keeper in the field of employee savings, serving 67,000 corporate customers.

⁶² 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.

⁶³ The difference between the number of rulings (seven) and the number of sanctions imposed is due to the fact that in Résurgence Assurances Ruling No. 2021-04 of 17 October 2022, sanctions were imposed on the legal entity and two of its senior managers.

⁶⁴ This decision follows on from Tutelaire Ruling No. 2019-02 of 10 December 2019, in which the Committee reiterated that obligations placed on insurers in terms of identifying deceased policyholders and searching for beneficiaries, which were introduced into the Mutual Insurance Code and Insurance Code by Act No. 2007-1775 of 17 December 2007 and amended by Act No. 2014-617 of 13 June 2014, apply to commitments "whose execution depends on the length of human life", without any restriction.

⁶⁵ Act No. 2014-617 of 13 June 2014 on inactive bank accounts and unclaimed life insurance contracts.

The Committee observed that NIE had failed to identify a number of inactive accounts, in particular because it considered that contact from the employer could be taken into account to determine whether an account was active or inactive. Failings were also noted in the system for identifying the deceased holders of inactive accounts.

The Committee noted a number of other failings, notably concerning the conditions for transferring the assets of inactive accounts to the Caisse des Dépôts et Consignations (CDC), including insufficient use of alternate means of contact to inform holders that their account was inactive, failure to use such means to inform holders of inactive accounts that assets would shortly be transferred to the CDC, and procedures for reconciling accounts held by a single holder that prevented full compliance with the ban on transferring assets held in a savings account to the CDC while the same holder has another active account open with the entity.

However, the Committee dismissed a significant complaint concerning the cap on fees charged on the assets of inactive accounts upon their transfer to the CDC. It noted that the application procedures were not clearly defined by the instruments establishing this cap. The principle that offences and penalties must be defined by law therefore prevented a breach from being punished in any case.

The Committee considered that, even if the consequences were limited and even if the account-keeper had not benefited from the undue custody of assets, the breaches noted, which resulted from errors of legal analysis but also operational shortcomings and a lack of internal control, reflected inadequate and non-timely efforts by NIE to meet the Eckert Act requirements, whose importance had been repeatedly stressed.

To determine the sanctions, it took account not only of NIE's financial position, but also the challenges involved in applying the Eckert Act for an account-keeper in the employee savings segment and, conversely, the fact that NIE was a leading account-keeper and had the human and financial resources that should have enabled it to meet its obligations within the statutory timeframe. The Committee also noted that although the company had certainly taken many remedial measures and that these seemed capable of correcting a large share of the notified breaches, it had done so only very gradually.

In [Résurgence Assurances \(formerly Viva Conseil\) Ruling No. 2021-04](#) of 17 October 2022 (ban on doing business as an insurance intermediary for seven years and fine of EUR 20,000 for the legal entity and *de facto* manager, ban on doing business for five years and fine of EUR 10,000 for the *de jure* manager, decisions published on a non-anonymous basis for seven and five years respectively), the Committee was required to rule for a second time on the non-face-to-face marketing of insurance contracts by Viva Conseil, an insurance broker,⁶⁶ following an initial sanction through Ruling No. 2019-05 of 28 February 2020.

The Committee noted that while Viva Conseil had already taken some remediation measures, the breaches found during the last disciplinary procedure, including breaches of the obligation to provide accurate and adequate precontractual information in a durable medium and in a timely fashion, and of the intermediary's obligation to provide advice, were essentially ongoing. The Committee reiterated that these obligations were imposed to protect customers against the risks of abuse by insurance distributors. It stressed that a serious failure to meet the obligations to provide information and advice amounted to an utter disregard for the requirements placed upon the insurance brokerage profession, and it noted that such breaches could be seriously detrimental to the interests of people who are targeted by marketing, and especially those who are vulnerable due to their age or situation.

⁶⁶ This company was previously disciplined by the Committee in 2020 (reprimand and ban on selling insurance contracts for two months) for failing to meet its obligations to systematically provide, in a durable medium and before conclusion of the contract, the precontractual information required by Article L. 112-2-1 of the Insurance Code. It had additionally failed to supply any of the essential information that insurance intermediaries are required to provide and failed to fulfil its duty to provide advice ([Viva Conseil Ruling No. 2019-05](#) of 28 February 2020).

The Committee considered that the company's *de jure* and *de facto* managers could be disciplined under Article L. 612-41 of the Monetary and Financial Code, as the procedure demonstrated that there was evidence proving their direct and personal responsibility for the alleged breaches by the company, without the need to determine whether the alleged actions of the interested parties resulted from an intent not to comply with the applicable obligations. In any case, it stressed that in a very small company such as Viva Conseil, breaches by the company may in principle be attributed directly to its senior managers.

The Committee noted that in this case, the *de jure* manager, who could not have failed to be aware of her responsibilities in this capacity, had done nothing to ensure that the company took the necessary steps to end the breaches revealed in 2018 by the first inspection, while the *de facto* manager had not decided on the necessary corrective measures, which he claimed moreover to be impossible to implement.

In determining the sanctions, the Committee took into account the particular seriousness of the breaches and, in deciding on the scope of the ban on doing business imposed on the company's senior managers, the fact that the unmet obligations applied not only to the intermediation activity performed according to the procedures selected by Viva Conseil (non-face-to-face sales), but also to all other insurance intermediation procedures, which warranted the ban on doing business as an insurance intermediary irrespective of the approach taken.

2.2 Compliance with AML/CTF and asset freeze measures

In its [Office des postes et télécommunications de Nouvelle-Calédonie \(OPT-NC\) Ruling No. 2020-11](#) of 9 February 2022 (reprimand and fine of EUR 150,000, decision published on a non-anonymous basis for five years), the Committee punished, for the very first time, a public industrial and commercial institution providing financial services.

The Committee found that OPT-NC's AML/CTF system had serious shortcomings, which was not disputed. These problems affected several essential aspects of the system, including risk classification and transaction monitoring. Accordingly, due diligence obligations were only very partially respected, whether regarding the identification and ID verification of beneficiary owners, knowledge of the purpose and nature of business relationships, ongoing due diligence measures or the identification of politically exposed persons. Internal control failings contributed to the sub-standard condition of this system.

Furthermore, when the inspection was carried out, the system to detect persons subject to asset freeze measures was organised such that the institution was unable to meet its obligations in this area.

In determining the sanctions, the Commission considered a number of specific circumstances to uphold the principle of proportionate punishment.

In particular, it took into account the period of considerable strategic uncertainty and instability in governance arrangements following the State's transfer of OPT-NC to New Caledonia. For several years, OPT-NC had been in negotiations with a bank on a takeover of its financial services and it had also considered discontinuing its financial activities, which are highly loss-making. In the end, however, the institution decided to maintain them in order to avoid depriving certain populations of access to these services.

The Commission was also extremely mindful of the fact that the institution had set in train a three-year remediation plan that included extremely significant spending relative to the small share of revenue attributable to financial services (approximately 3%) and the losses generated by these services.

In its [W-HA Ruling No. 2021-01](#) of 1 March 2022 (reprimand and fine of EUR 700,000, decision published on a non-anonymous basis for five years), the Committee punished deficiencies in the AML/CTF and asset freeze arrangements of W-HA, an electronic money institution (EMI) that is also a payment service provider and a 100%-owned Orange subsidiary.

The disciplinary procedure essentially concerned the “Orange Money France” (OMF) service, which allowed any customer with a mobile plan to open an electronic money account and wire money to the accounts of customers resident in France or customers of Orange EMI subsidiaries resident in certain sub-Saharan African countries.

The Committee considered that the complaints notified to W-HA were entirely substantiated, notably regarding the lack of customer knowledge about the OMF product and failings in the system to monitor and analyse customer transactions, which was essentially based on maximum amounts for transactions and which prevented the firm from properly monitoring, detecting and dealing with unusual transactions. This resulted in many failures to report suspicious transactions.

These breaches were especially serious because the OMF product, like any wire transfer activity, carried an elevated ML/TF risk, which was further exacerbated by the risks associated with the countries to which the funds were sent and by the use of cash by OMF customers.

The W-HA asset freeze system was not appropriate either, because deficiencies in updating customer files and the lists of people subject to restrictive measures made it impossible for the institution to meet its obligations in this area.

In determining the sanctions, the Committee considered the company’s financial position and corrective measures taken since the on-site inspection. Dismissing the company’s arguments, the Committee considered, after detailing its assessment criteria on this point, that ACPR staff could not be regarded as having approved the AML/CTF system proposed by W-HA for the OMF product during exchanges that took place at the end of 2015 (which would have ruled out any sanctions) and it stressed that the fact that ACPR staff had not raised any objections did not relieve W-HA of the obligation to take all necessary steps, once the product was launched, to ensure effective monitoring of transactions carrying elevated AML/CTF risks, as the company had itself noted during its exchanges with the ACPR. However, the Committee recognised that the company had contacted the ACPR unprompted in late 2015 to present the OMF product and its AML/CTF arrangements.

In [Caisse Régionale de Crédit Agricole Mutuel du Languedoc \(CRCAM Languedoc\) Ruling No. 2021-05](#) of 1 December 2022 (reprimand, fine of EUR 1.5 million, decision published on a non-anonymous basis for five years), the Committee observed in the first place that, during the on-site inspection, the system in place to monitor and analyse CRCAM Languedoc customer transactions was based on an incomplete set of scenarios, which prevented the institution from detecting certain types of unusual transactions. It noted that this partial failure of a component in the AML/CTF system was a significant breach of obligations that have long been established under the laws and regulations and whose

scope has been explained many times in rulings by the Committee, which has previously stressed the importance for undertakings subject to the requirements of having a scenario establishing a relationship between a customer’s income and transactions.

It considered that the other complaints against the credit institution related to one-off problems, whether they concerned Know-Your-Customer-related deficiencies, failures to perform enhanced reviews or failures to report suspicious transactions, since the few instances of failings noted during the procedure did not in and of themselves demonstrate a system-wide failure of CRCAM Languedoc’s AML/CTF arrangements..

In determining the sanctions, the Committee took account of CRCAM Languedoc’s financial position and remediation measures taken by the institution, which included bolstering the staff assigned to financial security and improving the AML/CTF transaction monitoring system.

2.3 Appeals against Sanctions Committee rulings

[Caisse Régionale de Crédit Agricole Mutuel du Languedoc \(CRCAM Languedoc\) Ruling No. 2021-05](#) of 1 December 2022 is being appealed before the *Conseil d’État*.

In Ruling No. 449164 of 20 October 2022, the *Conseil d’État* dismissed the appeal by BD Multimédia requesting a change to the Committee’s [BD Multimédia Ruling No. 2019-07](#) of 23 December 2020, which provided for the decision to be published in a non-anonymous format for three years.

The company had argued that, due to its minor role on the payment services market, publication on a non-anonymous basis would be enough to uphold the public interest. It claimed that publishing the decision on a non-anonymous basis for three years in the ACPR register, which can be accessed from the ACPR’s website, was excessive. It also argued that the breaches that it had committed were relative in nature and did not warrant publishing the decision on a non-anonymous basis. According to the company, non-anonymous publication could affect its image and reputation, at a time when its business was suffering a severe deterioration. Finally, it argued that the publication format, as an ancillary sanction, was not proportionate to the principal sanction imposed, which was confined to a reprimand and a small fine of EUR 20,000.

The *Conseil d’État* pointed out that, besides its punitive aspect, the purpose of the decision to publish the Sanctions Committee’s sanction at the expense of the interested party is to make all interested parties aware not just of the breaches committed but also of the resulting sanctions, in order to meet public interest requirements relating to the protection of customers of concerned institutions, the maintenance of orderly financial markets and, where applicable, the effectiveness of the fight against money laundering and terrorist financing.

It found that BD Multimédia did not have grounds to argue that publication on a non-anonymous basis of the sanction imposed on it by the Committee on 23 December 2020 was disproportionate relative to the provisions of Article L. 612-39 of the Monetary and Financial Code, and that, accordingly, it could not ask for this ruling to be changed.



8

BUDGET AND ACTIVITY MONITORING



Key figures

2022

208.1

INCOME

215.1

EXPENSES

-7

BALANCE

EUR MILLION

1. Budget of the ACPR

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

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

Banque de France's cost accounting model. Capital expenditure is incurred by the Banque de France, with the ACPR budget recording the associated depreciation and amortisation expenses.

The report on the ACPR budget outturn for 2022 was submitted to the Audit Committee on 22 February 2023 and approved by the College at its plenary meeting of 9 March 2023. The Authority ended 2022 with a deficit of EUR 7 million. After taking into account this deficit, the balance of contributions carried forward totalled EUR 41.4 million.

Table 1: Summary of 2021 and 2022 expenses and income

Expenses and income in EUR million	2021	2022	2022 / 2021	
			Amount	%
<i>Contributions from supervised institutions (for information)</i>	207.1	223.7	16.6	8%
Tax allocation cap	195	195	0	0%
Caisse des Dépôts et Consignations (CDC)	10	10	0	0%
Other income	2.1	3.1	1	48%
Income (A) taking into account the tax allocation cap	207.1	208.1	1	0.48%
Personnel costs	120.8	123.1	2.3	2%
IT	36.1	33.7	-2.4	-7%
Real estate	21.6	22.2	0.6	3%
Other expenses	25.3	27.4	2.1	8%
Amortisation and depreciation	7	8.8	1.8	26%
Expenses for the year (B)	210.8	215.1	4.3	2%
Budget balance (A)-(B)	-3.8	-7	-3.2	84%

1.1 Income

The Authority's receipts essentially comprise contributions for the cost of supervision provided for in MFC Article L. 612-20 and payable by entities supervised by the ACPR.⁶⁷

Total income in FY2022 amounted to EUR 208.1 million, taking into account the tax allocation cap, an increase of less than 1% compared with 2021. The amount exceeding the cap of EUR 195 million (unchanged since 2018), which increased to EUR 27.7 million versus EUR 11.5 million last year, was paid back to the general State budget.⁶⁸

The increase in contributions actually received in 2022 (more than 8% higher than in 2021) was essentially due to an unprecedented increase in contributions paid by the insurance sector, which climbed by more than 17% compared with last year. The contribution base for 2022

is based on gross life and non-life premium income earned in 2021, which was considered to be a record year for net inflows, particularly in life insurance. The increase in contributions paid by the banking sector also contributed to the growth, although to a lesser extent, and reflected the economic impact of the health and Ukrainian crises, which played a part in increasing banks' capital requirements.

At the end of the period, the overall collection rate for contributions was 99.35%, on a par with 2021 (99.31%).

The amount paid by Caisse des Dépôts et Consignations (CDC), which does not come under MFC Article L. 612-20, is included under other income received by the ACPR. It was set at EUR 10 million per year for the 2020-2025 period by an order from the Minister for the Economy, based on an opinion by the CDC Oversight Board published on 12 June 2020.

⁶⁷ Procedures for calculating contributions for the cost of supervision per category of contributing entity in force in 2022: for the banking sector, the rate applied to banks' capital requirements or minimum capital requirements was set at 0.66%, with a minimum contribution of EUR 500; for the insurance sector, the rate applied to written premiums and contributions was set at 0.23%, with a minimum contribution of EUR 500; flat-rate contributions were set at EUR 1,000 for money changers, EUR 500 for mutual insurers and unions referred to in Book I of the Mutual Insurance Code that manage mutual insurance payments and contracts on behalf of mutual insurance companies and unions referred to in Book II, and EUR 150 for insurance and reinsurance brokers and for intermediaries in banking transactions and payment services; the flat-rate contribution for crowdfunding intermediaries and non-profit associations was EUR 100. Finally, the flat-rate contribution for mixed financial holding companies and mixed parent undertakings of financing companies was set at EUR 5,000.

⁶⁸ In theory, excess contributions due over the cap were EUR 12.1 million in 2021 and EUR 28.7 million in 2022. The amount paid back to the State budget is determined based on contributions actually received during the year, regardless of the year for which they were due. The ACPR paid back EUR 11.5 million to the State in 2021 and EUR 27.7 million in 2022.

Other income also includes services provided by employees of the ACPR General Secretariat to the Banque de France in connection with the supervisory tasks assigned to the Bank and work on behalf of the *Comité consultatif de la législation et de la réglementation financières* (CCLRF – Advisory Committee on Financial Legislation and Regulation), as well as services provided to the AMF in connection with work done on its behalf. These services and assignments are increasing and explain the change in income between 2022 and 2021.

1.2 Expenses

Expenses in FY2022 came to EUR 215.1 million, an increase of 2% relative to 2021. They went up due to growth in personnel costs and IT-related amortisation and depreciation expenses. This reflected steps by the ACPR to upgrade its information system, which included overhauling the system for collecting and processing data submitted by supervised entities, launching several intrapreneurship projects that came out of the innovation programme, and making the necessary switch to paperless exchanges with supervised entities owing to the lockdowns and widespread use of work-from-home arrangements.

1.3 Three-year forecasts

Personnel costs increased relative to 2021 and amounted to EUR 123.1 million, chiefly reflecting the impacts of the price effect (i.e. wage index increase decided in July 2022) and the age and job skill coefficient.

In 2022, the average annual headcount stood at 1,022 FTE staffmembers. At 31 December 2022, the ACPR had 1,050.3 FTE staff (1,085 staffmembers in total), a difference of 30 relative to the target of 1,080 FTE set in November 2021. The difference is due to the consequences of the exceptional situation in FY2021, when, after significant efforts conducted in 2019-2020 to establish an active new hiring policy, which proved successful, recruitment had to be checked owing to the staffing cap of 1,050 FTE in effect between 2018 and 2021. In November 2021, the Budget Act ratified the increase in the ACPR staffing cap to 1,080. Accordingly, at the very end of 2021 and in early 2022, the ACPR began a new hiring drive, which started seeing results in the second quarter of 2022.

Table 2: Forecast income (EUR thousand)

Income	Actual budget 2022	Budget 2023	Estimate 2024	Estimate 2025	Estimate 2026
Contributions from supervised entities	223,744	227,746	232,129	236,617	240,050
Tax allocation cap	195,000	195,000	195,000	195,000	195,000
<i>Amount exceeding the cap</i>	<i>-28,744</i>	<i>-32,746</i>	<i>-37,129</i>	<i>-41,617</i>	<i>-45,050</i>
Caisse des Dépôts et Consignations	10,000	10,000	10,000	10,000	10,000
Other income	3,081	2,879	3,182	2,871	2,924
Income taking into account the tax allocation cap	208,081	207,879	208,182	207,871	207,924
<i>Total income without the tax allocation cap</i>		<i>240,625</i>	<i>245,311</i>	<i>249,488</i>	<i>252,974</i>

Table 3: Breakdown of contributions by supervised entities (EUR thousand)

Contributions (EUR thousand)	Actual budget 2022	Budget 2023	Estimate 2024	Estimate 2025	Estimate 2026
Credit institutions and investment firms, MFHCs-MPUFCs*	149,960	155,955	159,072	162,252	164,684
Insurance institutions (insurers, mutual insurers and provident institutions)	66,143	64,133	65,414	66,722	67,723
Intermediaries in banking transactions and payment services	3,616	3,629	3,629	3,629	3,629
Insurance and reinsurance brokers, microcredit associations and CIs**	3,819	3,829	3,829	3,829	3,829
Money changers	206	200	185	185	185
Total	223,744	227,746	232,129	236,617	240,050

* Mixed financial holding companies, mixed parent undertakings of financing companies.

** Crowdfunding intermediaries.

For FY2023, total contributions are up on 2022 and could reach EUR 227.7 million without the cap.

In the insurance sector, gross life and non-life premium income earned in 2022, which forms the base for insurer contributions due in respect of FY2023, fell sharply following the health crisis and especially after 2021, which saw particularly robust life insurance inflows. Amounts are therefore expected to decrease in 2023 to be on a par with 2020. Life insurance contributions earned in 2022 were down 3% and loss experience was significant over the year in non-life insurance.

In the banking sector, contributions are expected to go up by 4% owing to the change in the contribution base (value of risk-weighted assets at end-2021). This increase is attributable to the economic and geopolitical environment, which has prompted the banking sector to adopt a prudent approach.

For insurance and reinsurance brokers and intermediaries in banking transactions and payment services, the same contribution amount as in 2022 was kept for 2023 and reflects the number of these intermediaries registered in the ORIAS at 1 April 2022. At this stage, the health crisis has not had the adverse effects that might have been feared for the continued survival of these entities, as their numbers actually increased in 2022 by 2.7% for brokers and 4.9% for intermediaries relative to 2021, a year in which their populations had already reported growth. However, the brokerage reform that came into force in February 2023 could lead to changes in these numbers.

For FY2024 to FY2026, previous developments are taken into account and adjusted based on the economic outlook and currently available data, giving a 2% increase through to 2025 and then 1.5% in 2026 for the banking and insurance sectors, marking a return to pre-2020 trends.

These estimates obviously remain uncertain, particularly when considered against the Ukrainian crisis and future developments in the geopolitical and economic situation. Banque de France forecasts are however confident that growth will make a comeback and that inflation will be contained.

For intermediaries, the contribution amount is hard to assess because most of the entities that make up the group are small. The decision has therefore been taken to keep the 2023 population and amount for the entire three-year period.

Other income corresponds mainly to services charged out to the Banque de France in proportion to supervisory work performed on its behalf by ACPR staff. These receipts are calculated on the basis of a flat-rate amount that is set for the year and based on actual costs observed in previous years. The estimated amount for 2023 is adjusted upwards by 2.5% for 2024, 2.1% for 2025 and 2% for 2026. In 2024, the ACPR is also set to receive a grant for its participation in research work on climate risk supported by the French Environment and Energy Management Agency (ADEME) for 2022-2023.

The contribution from the CDC was recorded at EUR 10 million for the 2020 to 2025 period, in accordance with the order published in June 2020. It was recorded at an identical amount in 2026 but is expected to be the subject of a new order in 2025.

The estimated amount of receipts from contributions could come to EUR 227.7 million in total in 2023. Taking into account the 2023 tax allocation cap of EUR 195 million and other income, the ACPR's total receipts for 2023 are expected to be EUR 207.9 million.

For the following years, the amount of contributions under MFC Article L. 612-20, excluding the cap, could total EUR 232.1 million for 2024, EUR 236.6 million for 2025 and EUR 240.1 million for 2026. Adding the contribution from the CDC and other income linked to services charged to the Banque de France, total income is estimated at EUR 245.3 million for 2024, EUR 249.5 million for 2025 and EUR 253 million for 2026.

The ACPR's expenses were estimated based on the following assumptions:

Expense projections for 2024-2026 were prepared based on currently available information but could be revised given the uncertainty of forecasts. Inflation projections were drawn up using the data mentioned in the macroeconomic projections published by the Banque de France for 2022-2025 in December 2022. The following inflation forecasts were taken into account in respect of the price effect impacting the 2024-2026 spending forecasts:

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(annual % growth)	2019	2020	2021	2022	2023	2024	2025
Real GDP	1.9	-7.9	6.8	2.6	0.3	1.2	1.8
HICP	1.3	0.5	2.1	6.0	6.0	2.5	2.1
HICP excluding energy and food	0.6	0.6	1.3	3.5	4.0	2.8	2.2

Data adjusted for working days. Projections prepared based on technical assumptions established as at 23 November 2022.

Source: Insee for 2019, 2020 and 2021 (quarterly national accounts of 28 October 2022), Banque de France projections.

Table 4: Forecast expenses (EUR thousand)

Expenses	Actual budget 2022	Budget 2023	Budget 2024	Budget 2025	Budget 2026
Personnel costs	123,073	139,080	144,171	148,152	151,115
Overheads	83,223	88,658	86,219	87,932	89,145
Amortisation and depreciation	8,827	9,341	9,819	10,010	9,447
Expenses for the year	215,123	237,079	240,210	246,094	249,706

In terms of headcount and personnel costs, the ACPR aims to have sufficient resources to fulfil its tasks and maintain its influence in the French and European institutional landscape. Its staffing cap, which was 1,050 FTE until November 2021, was raised to 1,080 FTE from 2022 onwards. Accordingly, external recruitments were reduced and then completely halted in 2021, before the hiring drive was restarted in 2022 and began to bear fruit in the second quarter.

To reach the new cap of 1,080 FTE by the end of FY2023, the ACPR has engaged in a sustained recruitment push aimed at hiring over 100 people. Steps taken to make the ACPR more attractive and raise its profile included organising a job-dating event in April 2023, stepping

up participation in job fairs at top educational institutions and putting out more videos and messages on social media. Although a pick-up in departures (resignations, sabbatical leave, leave to set up a company, etc.) has been observed, reflecting a catch-up effect linked to the Covid period, this should be offset by the substantial number of planned hires. However, these forecasts are subject to developments on the job market and significant uncertainties linked to the economic situation.

In 2023, the aim is to consolidate progress towards the 1,080 FTE target by the end of the year and achieve 1,060 FTE on an average annual basis. **By 2025**, the goal is to reach 1,080 FTE on an average annual basis.

Table 5: Personnel by major function (average FTE)

Average FTE	2022	2023	2024-2026
Prudential oversight, banking sector	367	385	391
<i>o/w SSM – prudential oversight</i>	<i>235</i>	<i>236</i>	<i>237</i>
Prudential oversight, insurance sector	190	200	202
Supervision of business practices	80	85	91
AML/CTF	93	93	93
Steering and support	92	94	97
Cross-cutting risk analysis and inspection support	201	203	206
Total	1,022	1,060	1,080

The additional staff will be focused on the ACPR's priority work areas. First, monitoring the cyclical risks associated with the consequences of the war in Ukraine and developments in the international situation, while also monitoring the economic situation, and in particular the risks associated with vulnerabilities in the international financial system, will remain two major work areas. Measures will include prudential oversight of the banking and insurance sectors, with special attention paid to ensuring the resilience of supervised entities. In addition, the ACPR plans to devote considerable resources to monitoring risks linked to the increase in interest rates, inflation and changes in asset valuations. Targeted measures will be conducted to step up supervision of entities with the greatest exposure to degraded macroeconomic conditions. At the macroprudential level, the ACPR will participate in reviewing the renewal of the "Art. 458-Large Exposures" decision.

The ACPR will also maintain its commitment in support of the SSM for major institutions. The bulk of the resources allocated to this area are for banking supervision staff working in the JSTs and on-site inspection teams. These resources are being used to continue work on governance issues and the challenges connected with the digital transition, while also deepening supervision of climate and environmental risks.

In the area of customer protection, the ACPR will pay close attention to governance arrangements for the marketing of banking and insurance products. In AML/CTF, it will continue to adapt its risk-based supervisory approach.

Measures will also be taken and are set to last over several years to respond to structural challenges and other risks, including:

- climate change-related risk, including through significant input by the ACPR to work being done by European and international bodies (contribution to global climate risk stress testing, monitoring of commitments by financial institutions and contribution to regulatory work, including integration of ESG risk)
- risks linked to digitalisation (development of DeFi, cyberthreat and risks of IT dependency),

- regulatory work areas (final transposition of Basel III in the European Union, Solvency II Review, creation of the European Anti-Money Laundering Authority, AI regulations, continued work on MiCA and DORA);
- anticipation of emerging risks (contact with innovators, research, working groups on regulatory questions, trials).

Finally, the ACPR will continue work aimed at ensuring that its framework is adequate. Regarding oversight of the CDC, the ACPR will continue to increase staffing, particularly to implement the specific assessment methodology developed in 2021. Meanwhile recommendations arising from evaluations of AML/CTF systems (by the FATF, Council of Europe and *Cour des Comptes*) will be integrated in the national action plan and taken into account by the ACPR. Furthermore, the ACPR will continue to be heavily involved in the Banque de France's strategic plan for 2021-2024. This involvement includes the development of suitable tools to conduct its tasks, such as supotech and innovation initiatives, the development of statistical and data analysis tools, but also contributions to the European work agenda on issues relating to stability or the implementation of mobility programmes aimed fostering a shared supervisory culture.

For FY2023, based on a central scenario featuring an average annual forecast headcount of 1,060 FTE, personnel costs are budgeted at EUR 139.1 million, applying the scales used for all Banque de France personnel. Factoring in projected changes in staffing and wage increase mechanisms⁶⁹ and possible inflation rate movements, personnel costs could be **EUR 144.2 million in 2024, EUR 148.2 million in 2025 and EUR 151.1 million in 2026**.

Overheads include services provided by the Banque de France to the ACPR, which are either billed at their actual cost or charged out based on the Banque de France's cost-accounting model, and expenses that are directly incurred by the ACPR. For some years, the ACPR has been engaged in a process aimed at curbing its current operating expenses, which are primarily made up of IT and property costs.

⁶⁹ Age and job skill coefficient.

Table 6: Forecast overhead expenses (EUR thousand)

Expenses	Actual budget 2022	Budget 2023	Budget 2024	Budget 2025	Budget 2026
Property (rents, rental expenses)	22,197	22,941	23,050	23,527	23,915
IT	33,656	35,824	32,286	32,756	33,119
Reallocations and charging out of pooled BDF services excluding IT and property ⁷⁰	17,700	18,085	18,722	19,307	19,693
Overheads managed by the ACPR (excluding IT)	9,670	11,808	12,161	12,342	12,418
Overheads	83,223	88,658	86,219	87,932	89,145

The Bank bills the ACPR for **property expenses** (rents and rental expenses) at their actual cost. These expenses have declined significantly in recent years after the ACPR's entire workforce moved to new buildings in 2018. They factor in over the three-year period the increase in rents based on the ILAT index (index of rents for service-based activities: average rate of 5% applied based on developments on the professional property market). For 2024-2026, the ACPR will keep up its efforts to rationalise property expenses.

IT expenses include costs relating to projects and the maintenance of IT applications, the costs of services carried out by the Banque de France for the ACPR in the context of the pooled support resources covered by the provisions of MFC Article L. 612-19, and charges by the European Central Bank (ECB) relating to IT resources provided to national supervisory authorities within the framework of the SSM. All of these IT costs are expected to increase over 2024-2026.

After several years of stable IT costs, the significant increase stems from the need for the ACPR to upgrade its information system. As part of this, the Authority is engaged in setting up a platform developed by the Banque de France that will enable cross-disciplinary data to be harnessed effectively, which accounts for the growth in costs between 2022 and 2023. After the first batch of the platform came onstream in 2021, preparatory work for a second batch is under way, with the aim of deployment at the end of 2023. Starting in 2024, the ACPR will bill other Bank directorates for using the application, allowing it to project a decrease in overall IT expenses. In addition, there was an acceleration in IT projects designed to take exchanges paperless or digital, a switch that became even more urgent with the crisis. These initiatives are particularly focused on exchanges with supervised entities. Five projects from the innovation programme also went live in 2022. The amounts charged out for 2023 are based on actual costs in 2021 and factor in the ACPR's needs in terms of the technical infrastructure required for project development. In 2025 and 2026, these expenses are expected to increase slightly to reflect changes in inflation and the ACPR's headcount. Finally, funding envelopes for European applications are in the process of being drawn up and charged, and the amounts are expected to increase with the deployment of new projects (IReF and Common Data Management).

The ACPR will pursue efforts to control expenditures that it incurs directly over the 2024-2026 period and will continue to pay close attention to inspection expenses and to the carbon footprint of staff travel. Inspection expenses are however estimated to go up owing

to the resumption of business travel for on-site inspections and the increase in headcount. Conversely, international travel is down, reflecting new videoconferencing meeting approaches introduced since the pandemic as well as a determination to reduce the ACPR's environmental footprint. The ACPR is participating actively in efforts to meet the Banque de France's net zero goal and has set an intermediate target, which was revised in early 2023, for the reduction of its greenhouse gas emissions.

However, the ACPR does not have control over all its expenses, and its contributions to the operation of the two sector authorities (EBA and EIOPA) increased by EUR 1 million (25%) between 2019 and 2022. Contributions went up because UK financing stopped following Brexit, but also because of the impact of the health crisis, which, among other things, prompted the European agencies to invest heavily in digitalising their information systems. In addition, against an inflationary backdrop, pay rises have been announced for the staff of these agencies, in line with the provisions applicable to European Commission employees. Accordingly, based on a review of the initial budget documents submitted by the abovementioned institutions, these expenses are expected to increase overall during the three-year period.

The ACPR's overheads, which it manages directly, also include spending on documentation, postal and telecommunication expenses and other miscellaneous expenses. Together, these items, including inspection expenses and contributions to European agencies, amounted to EUR 9.7 million in 2022, excluding spending related to IT project ownership and management, and are expected to be EUR 11.8 million in 2023 and approximately EUR 12 million thereafter, notably owing to the resumption of on-site inspections.

The capital expenditure needed for the ACPR to carry out its tasks is made on the ACPR's behalf by the Banque de France, with only **amortisation and depreciation expenses** (cf. Table 4) included in the ACPR's budget. While these were essentially linked to property-related expenses until 2020, since 2021 there has been a sharp increase in amortisation and depreciation expenses relating to major IT projects. Total amortisation and depreciation expenses came to EUR 8.8 million in 2022, but are estimated to rise to EUR 9.3 million in 2023, EUR 9.8 million in 2024, and EUR 10 million in 2025, before easing to EUR 9.5 million in 2026 owing to the end of the amortisation period for the first batch of the data platform, which came onstream in 2021.

⁷⁰ Pooled support functions (IT package, training and other support functions and services, including FIBEN) are charged out at full cost based on the Banque de France's cost accounting model.

Table 7: Summary of expenses and income

Expenses and income	Actual budget 2022	Budget 2023	Budget 2024	Budget 2025	Budget 2026
Contributions from supervised institutions	223,744	227,746	232,129	236,617	240,050
<i>Tax allocation cap</i>	<i>195,000</i>	<i>195,000</i>	<i>195,000</i>	<i>195,000</i>	<i>195,000</i>
Amount exceeding the cap	-28,744	-32,746	-37,129	-41,617	-45,050
Caisse des Dépôts et Consignations	10,000	10,000	10,000	10,000	10,000
Other income	3,081	2,879	3,182	2,871	2,924
Income (A) taking into account the tax allocation cap	208,081	207,879	208,182	207,871	207,924
Total income without the tax allocation cap	236,825	240,625	245,311	249,488	252,974
Personnel costs	123,073	139,080	144,171	148,152	151,115
Overheads	83,223	88,658	86,219	87,932	89,145
Amortisation and depreciation	8,827	9,341	9,819	10,010	9,447
Expenses for the year (B)	215,123	237,079	240,210	246,094	249,706
Budget balance (A)-(B) assuming the funding cap is set at EUR 195 million	-7,042	-29,200	-32,028	-38,223	-41,782
Reserve with cap set at EUR 195 million	41,422	12,222	-19,806		

Overall, the estimated expenses for **FY2023** point to a substantial increase in operating expenses attributable to three main spending items: personnel costs, overheads and amortisation and depreciation expenses. Given the tax allocation cap of EUR 195 million and including the contribution from the CDC and “other income”, the balance in 2023 is expected to show a **EUR 29.2 million** deficit.

Overall, **estimated expenses for 2024 to 2026** show further growth in personnel costs, as well as in overheads to a lesser extent, driven by increased staffing, and in amortisation and depreciation expenses.

Even taking these increases into account, the receipts provided for by the Monetary and Financial Code without applying the funding cap and including the CDC’s contribution and “other income” would be enough to cover expenses.

Table 8: Summary of budget balance assumptions

Expenses and income	Actual budget 2022	Budget 2023	Budget 2024	Budget 2025	Budget 2026
Budget balance (A)-(B) assuming the funding cap is held at EUR 195 million	-7,042	-29,200	-32,028	-38,223	-41,782
Reserve with cap maintained at EUR 195 million	41,422	12,222	-19,806		
Budget balance (A)-(B) assuming the funding cap is raised to EUR 230 million			2 972	-3 223	-6 782
Reserve with cap set at EUR 230 million			15,194	11,971	5,189

After recognising a deficit of EUR 7 million for 2022, at 31 December 2022 the balance of contributions carried forward (reserve) stood at EUR 41.4 million. The reserve was therefore tapped for the second year running. Meanwhile, EUR 27.7 million in respect of excess amounts received was paid back to the State, up from EUR 11.5 million in 2021, making an increase of 140% on the previous financial year. For 2023, assuming the cap is maintained at EUR 195 million and with an expected deficit of EUR 29.2 million, the reserve, which would be reduced accordingly, is forecast to be EUR 12.2 million.

Maintaining the cap at EUR 195 million would not permit a balanced budget and would result in a prolonged structural deficit, because the shortfall would be EUR 32 million in 2024, EUR 38.2 million in 2025 and EUR 41.8 million in 2026. The deficit can be absorbed by the reserve (ACPR contributions carried forward) only until 2023. From 2024 onwards, the reserve will be too small.

In terms of projections for the following years, given the increase in the staffing cap to 1,080 FTE, personnel costs are set to continue going up, as will IT expenses linked to application maintenance costs and the amortisation of projects involved in the overhaul of the ACPR information system, which began in 2021. Accordingly, unless the funding cap for FYs 2024 and following is raised, the balance of contributions carried forward will not be enough to cover the total amount of forecast expenses and the reserve will be entirely depleted by 2024.

Paradoxically, the amounts paid back to the State are projected to increase steadily and significantly over the same period (over EUR 40 million estimated in 2025 and 2026). The cap would need to be raised to at least EUR 230 million to cover the forecast budget through to 2026, but with significant depletion of the reserve.

Discussions are currently being held with the Treasury, with the support of the ACPR's Audit Committee, to explore solutions that would allow the ACPR to operate a balanced budget.

2. Activity and performance indicators

The ACPR has a series of indicators to assess the Authority's effectiveness in carrying out its tasks.⁷¹

These activity and performance indicators are grouped here according to the ACPR's broad tasks, namely: conduct risk-adjusted prudential supervision, oversee proper application by the financial sector of AML/CTF measures, protect customers, resolve and prevent crises, participate in European and international supervisory harmonisation, and participate in the response to new challenges.

The activity indicators cover the organisation of supervisory college meetings, relations with financial centre participants, preventive activities, and the ACPR's involvement in the main European and international bodies.

The statistical elements of the following indicators are calibrated based on the staffing resources assigned to the ACPR to fulfil its tasks. The expected increase in headcount in FYs 2023 to 2026 will enable the ACPR to cover the expansion of tasks assigned to it, by integrating the recognition of emerging risks, new standards to supervise and new technologies, while also stepping up supervision of the most sensitive areas and maintaining or growing the ACPR's influence in the French and European institutional landscape. At this stage, the indicators presented below can only partially capture the step-up in the ACPR's activity.

The performance indicators measure, among other things, progress in executing the on-site inspection programme.

2.1 Execution of the inspection programme

Indicator 1 – Performance – Execution of the inspection programme – summary

	2022					2023	2024	2025	2026
	Initial programme (1)	Additional programme (2)	Cancelled (3)	Begun (1)+(2)-(3)	of which completed	Initial programme	Projection	Projection	Projection
Number of inspections	255	28	39	244	94	253	262	262	262
Prudential, banking sector	55	3	2	56	16	56	58	58	58
Prudential, insurance sector	43	10	8	45	12	44	46	46	46
AML/CTF	47	6	11	42	17	47	48	48	48
Business practices	110	9	18	101	49	105	110	110	110

Clarification

The inspection programme comprises, for the current year, the initial programme, additional inspections, cancelled inspections (e.g. replaced by an additional inspection or cancelled due to circumstances) and inspections that have begun (whose start date may be at any time over the course of the year).

Completed inspections are inspections for which the institution's observations have been received and the report has been finalised and sent to the institution.

The forecast targets for 2024 to 2026 are projections that could be realised assuming target staffing levels for the different areas (cf. section on three-year forecasts).

Source: Data from SGACPR indicators, extracted from the application used to track execution of inspection programmes.

The initially planned inspection programme was broadly executed in 2022 with a few adjustments, even though on-site inspections did not resume until the second quarter of 2022.

The fact that the lion's share of the inspection programme planned for 2022 – a programme that was prepared as for a standard year

and did not take into account health and geopolitical developments – was completed reflects the return to a normal post-Covid situation.

This indicator is covered by detailed comments in the following sections, based on the themes covered by inspections.

⁷¹ The numbers provided in this report show the actual data for FY 2022 (the data provided for FY 2022 in the 2021 annual report were provisional).

2.2 Conduct risk-adjusted prudential supervision

Indicator 2 – Performance – Execution of the prudential supervision inspection programme

	2022					2023	2024	2025	2026
	Initial programme	Additional programme	Cancelled	Begun	of which completed	Initial programme	Projection	Projection	Projection
Number of inspections	98	13	10	101	44	100	104	104	104
Prudential, banking sector	55	3	2	56	16	56	58	58	58
SSM-SI	37	1	0	38	6	38	39	39	39
SSM-LSI / Non-SSM	18	2	2	18	10	18	19	19	19
Prudential, insurance sector	43	10	8	45	12	44	46	46	46

Clarification

Cf. indicator 1

In 2022, the ACPR had initially planned to conduct 55 prudential inspections in the banking sector, including 37 for the ECB. In the end, 56 inspections were begun in 2022, after several adjustments. Note that in addition to the 38 inspections actually carried out in 2022 for the ECB, nine “inbound” cross-border inspections were also performed. These inspections cover institutions that are active in France, but are led by head inspectors from the ECB or other national supervisory authorities and involve staff from the Directorate for On-site Inspections.

In terms of prudential inspections in the insurance sector, slightly more on-site inspections were actually conducted in 2022 than were originally

planned. The initial programme of 43 inspections had to be adjusted to reflect new priorities that emerged over the year. Accordingly, additional inspections supplemented the initial programme on specific themes, such as governance and ESG criteria.⁷²

In the coming years (2024-2026), the ACPR plans to maintain a significant supervisory effort, commensurate with its headcount and the needs resulting from regulatory changes, national and European financial developments and contribution requests from the ECB.

Indicator 3 – Activity – Number of meetings of prudential supervisory colleges

		2022	2023
	Total	9	23
Banking	Organised by the ACPR (Home college)	3	2
	Organised by other supervisory authorities (Host college)	6	21
	Total	52	46
Insurance	Organised by the ACPR (Home college)	26	26
	Organised by other supervisory authorities (Host college)	26	20

Clarification

The supervisory colleges are standing bodies for cooperation and coordination among the supervisory authorities of the main entities that make up a banking or insurance group, with a view to facilitating supervision on a consolidated basis.

A college is required to be set up for groups with at least one subsidiary in a Member State other than that where the parent company has its headquarters:

- Home college: the parent company is headquartered in France. The ACPR coordinates the college as the supervisory authority for the group's lead entity.
- Host college: the parent company is headquartered in the EU outside France and has at least one subsidiary in France. The ACPR sits on the college as the supervisory authority for an EU subsidiary. The colleges led by the ECB for SIs are counted under host colleges.

Source: Data taken from SGACPR indicators and gathered from supervisory directorates.

⁷² Environmental, social and governance.

In 2022, there were over 60 meetings of prudential supervisory colleges. Each college meeting, whether a home or host gathering, entails a considerable amount of work and exchanges for the ACPR in the lead-up period, and several preparatory meetings have to be organised, representing a significant workload for staff of the affected supervisory departments. In 2022, there were more host college meetings in

the insurance sector than forecast, owing to the determination of supervisors to conduct enhanced supervision of certain groups.

In addition, the ACPR belongs to several supervisory colleges for central counterparties, alongside the Banque de France and the AMF (notably those responsible for Eurex and LCH). In 2022, the ACPR participated in ten of these college meetings.

Indicator 4 – Activity – Relations with financial centre participants on prudential topics

		2022
Meetings of the consultative commission on prudential affairs		3
Conferences and seminars		12
Supervisory conference		1
Publications		15
<i>Analyses et synthèses and Débats économiques et financiers</i>	<i>Banking</i>	5
	<i>Insurance</i>	7
Other publications on the ACPR website	<i>Banking</i>	3
	<i>Insurance</i>	0
Research papers published other than in ACPR and BDF collections		0

Source: Data taken from SGACPR indicators.

The ACPR uses various media to communicate with the financial community about prudential topics. It communicates regularly about its activities by publishing thematic analyses and studies over the course of the year. In 2022, analyses published by the ACPR covered the following themes, among others: financing of property professionals by French banks in 2021; home financing in 2021; the situation of insurers subject to Solvency II in France at end-2021 and in the first half of 2022; the situation of major French banking groups in 2021; 2021 revaluation of life insurance and guaranteed investment policies; and the state of the insurance market in 2021. Analyses were also released in 2022 on supplementary health insurance between 2012 and 2020, supplementary pensions at end-2020, and an overview of new payment participants.

During 2022, the ACPR published two studies in the *Débats économiques et financiers* series. These consisted of an analysis of the resilience of financial conglomerates and a review of the literature on interactions between capital and liquidity standards for banks under Basel III.

In addition, the *ACPR Review*, which is issued three times a year to 3,000 subscribers and made freely available on the ACPR website, regularly tackles topical subjects dealing with prudential issues or questions of customer protection.

In addition to publishing studies and statistics, the ACPR organises academic conferences and research seminars to present the work of invited researchers or ACPR members. It also finances the ACPR Chair, an initiative supporting research into regulation and systemic risk, whose main tasks are to organise research activities, facilitate contacts between the academic world and the ACPR, and develop an internationally-open centre for discussion and ideas focused on the management of systemic risk. In 2022, with the return to a normal post-Covid situation, the Chair was able to hold monthly monitoring meetings.

The ACPR also organises a one-day conference every year. The event is broadcast live on the Authority's website to allow as many people as possible to attend, in addition to the 750 or so in-person participants. Around 2,000 people logged in remotely during the session in December 2022. This one-day conference tackles topical issues of interest to the ACPR.

To inform the College's decisions on regulatory or policy developments, the ACPR relies on its consultative commissions, including the consultative commission on prudential affairs, which meets several times a year. Three meetings were held in 2022.

2.3 Oversee proper application by the financial sector of AML/CTF measures

Indicator 5 – Performance – Execution of the AML/CTF inspection programme

	2022					2023	2024	2025	2026
	Planned under the programme	Additional programme	Cancelled	Begun	<i>o/w completed</i>	Planned under the programme	Projection	Projection	Projection
Number of inspections	47	6	11	42	17	47	48	48	48

Clarification

Cf. indicator 1

The ACPR had initially planned to carry out 47 inspections in 2022. These were supplemented by five mixed inspections that were performed in conjunction with banking-sector prudential inspections. The 2022 AML/CTF inspection programme was adjusted at the end of 2022 to take account of the cancellation of several inspections, chiefly on-site visits. In all, 42 AML/CTF inspections were begun in 2022, comprising 33 on-site inspections and nine on-site visits (27 conducted by the AML/CTF Directorate and 15 by the Delegation responsible for on-site inspections), to which were

added five on-site inspections that were performed in conjunction with banking-sector prudential inspections and recorded under prudential inspections for the banking sector (see chapter 4, point 1.2, on detailed inspection findings).

For FYs 2024 to 2026, the ACPR plans to pursue its supervisory efforts, keeping up a similar number of AML/CTF inspections as in 2023. The programme may also be amended by adding or cancelling inspections over the year based on information provided by Tracfin.

Indicator 6 – Activity – Number of AML/CTF supervisory college meetings

		2022	2023
	Total	73	73
Banking	Organised by the ACPR (Home college)	31	31
	Organised by other supervisory authorities (Host college)	42	42
	Total	6	6
Insurance	Organised by the ACPR (Home college)	6	6
	Organised by other supervisory authorities (Host college)	0	0

Clarification

Cf. indicator 3

AML/CTF supervisory colleges strengthen the supervision of cross-border groups by enabling deeper information exchanges between competent authorities. European AML/CTF supervisors may also decide, within this framework, to implement coordinated measures, such as joint on-site inspections.

In early 2020, in accordance with EBA guidelines, the ACPR began the work needed to set up the AML/CTF colleges for which the ACPR would act as lead supervisor. Deployment of these colleges is now fully operational, with the ACPR organising 37 meetings of AML/CTF supervisory colleges in 2022. These colleges, which cover the banking and insurance sectors, comprise between three and several dozen AML/CTF supervisors, plus the EBA in some cases. By the same token, the ACPR was asked to be part of more than 40 meetings of AML/CTF colleges and continues to participate in new colleges organised by its sister authorities. Since the insurance sector has fewer cross-border groups, just five AML/CTF supervisory college meetings were organised in 2022.

Indicator 7 – Performance – Questionnaire response and processing rates

	2022		
	Response rate	Analysis rate	Percentage of summary reports prepared
Multi-year target: 100%	97%	100%	100%

Clarification

Under AML/CTF rules, each year reporting entities must submit ten computerised tables with information on the previous financial year by 28 February. These tables make up the AML/CTF questionnaire. The questionnaire responses are analysed to ensure that the AML/CTF system deployed by the financial institution is compliant with the rules and seems, based on the responses provided by the institution, suited to the risks associated with the entity's business, customers, products, distribution channels and bases. To analyse the responses, supervisory departments must draw on their knowledge of all the data or information collected on the institution in question.

Ratios are calculated as follows:

- Questionnaire response rate = number of questionnaires received / number expected;
- Analysis rate = number of questionnaires analysed / number of questionnaires to analyse (number of questionnaires to analyse = number of questionnaires sent by the AML/CTF Directorate in the first quarter of each year, determined according to a risk-based approach, for the directorate to analyse over the course of the year).

Source: Data taken from SGACPR indicators.

Several campaigns reminding entities about submitting their questionnaires made it possible to achieve a response rate of 97% in 2022. The few institutions that failed to submit questionnaires are small entities that do not pose major AML/CTF risks.

The campaign to analyse questionnaires and draft summary reports was completed on 15 October 2022. Note that the methodology used to analyse questionnaires was revised in 2022 to reflect a risk-based supervisory approach and deployment of the new annual questionnaires (see chapter 4, point 1.1).

Indicator 8 – Activity – Relations with financial centre participants on AML/CTF topics

	2022
Meetings of the AML/CTF consultative commission	5
Publications on the website on AML/CTF topics	1
o/w Guidelines	0
o/w Sector enforcement principles	1

Clarification

Guidelines and sector enforcement principles are explanatory documents designed to clarify the expectations of the authorities regarding the implementation by supervised institutions of obligations relating to the topic addressed in the document. They may be drafted in partnership with another authority, institution or entity, such as the Treasury or Tracfin.

Source: Data taken from SGACPR indicators.

The AML/CTF consultative commission meets to consider draft ACPR instructions relating to AML/CTF, draw up guidelines or sector enforcement principles that aim to facilitate the implementation of regulations by financial institutions, share risk analyses with industry and the main competent authorities (ACPR, AMF, Tracfin, Treasury) and discuss topical national, European and international regulatory developments.

In 2022, the AML/CTF consultative commission alerted the financial community about the need to implement appropriate due diligence measures when establishing relationships with new customers, stressing that institutions should pay particular attention to checking customer identities and detecting any mismatches between customer transactions and profiles.

In December 2022, the ACPR released its sector enforcement principles for digital asset service providers (DASPs). The document,

which was drawn up in partnership with the financial community, explains how these entities should apply their AML/CTF obligations. It details the due diligence procedures expected of DASPs as well as the information to include in Tracfin suspicious transaction reports (see chapter 4, point 2, box on sector enforcement principles applicable to DASPs).

The draft regulation establishing a European AML/CTF authority (AMLA), which was the subject of a compromise between the Council and the Commission in June 2022, is currently being discussed within the European Parliament prior to trilogue negotiations in the second half of 2023. The ACPR played an active part in drafting the regulation and will continue to be involved during the trilogue negotiations, alongside the Treasury. The ACPR is also contributing directly to discussions aimed at promoting Paris as the location for the new authority's headquarters (see chapter 4, point 2.3).

2.4 Protect customers

Indicator 9 – Performance – Execution of the business practices inspection programme

	2022					2023	2024	2025	2026
	Planned under the programme	Additional programme	Cancelled	Begun	o/w completed	Planned under the programme	Projection	Projection	Projection
Number of inspections	110	9	18	101	49	105	110	110	110

Clarification

Cf. indicator 1.

The number of inspections actually carried out over 2022 was adjusted on an ongoing basis to reflect the active population and the nature of the inspections planned (see detailed conclusions of inspections in chapter 3, point 1). In addition, owing to staffing constraints within the Supervision of Business Practices Directorate, six on-site inspections were cancelled and postponed until 2023.

For the 2023-2025 period, besides the planned inspection programme, staff from the Supervision of Business Practices Directorate will pay special attention to implementation of the brokerage reform, which took full effect in 2023. Inspections will also concentrate on governance arrangements for the marketing of banking and insurance products whose benefits to customers are unproven.

Indicator 10 – Activity – Supporting developments in the financial centre and informing the public

	2022
Meetings of the consultative commission on business practices	4
Publications on the ACPR website	2

Analyses published by the ACPR covered the following themes: main trends and issues in 2021 in relation to life insurance advertising,

findings of the questionnaire-based survey by the ACPR on short-term credit and split payment solutions.

Indicator 11 – Activity – Informing the general public

	2022
Warnings and press releases on the ABEIS website	23
Number of blacklisted websites or entities	3,912
Recommendations on the ACPR website	2
Number of advertisements checked – Banking	1,408
Number of advertisements checked – Insurance	1,002

Source: Data taken from SGACPR indicators.

The “scams” taskforce set up in 2020 continued its work in 2022, which resulted in additions to the ACPR’s blacklist of websites without authorisation to offer loans, savings passbooks, payment services or insurance contracts. In 2022, over 1,240 addresses were added, bringing the number of unauthorised sites to 3,912.

The ACPR issued two recommendations in 2022: the first dealt with the promotion of extra-financial features in life insurance advertising communications⁷³ and seeks to ensure that promotional claims relating to extra-financial features are properly supported and correctly reflect the characteristics of the marketed products; the second addressed complaints handling and aims to make sure that all banking and insurance sector professionals set up simple and readily accessible

systems to allow people with complaints to receive high-quality responses promptly (see chapter 3, point 2.4).

The ACPR continued to monitor advertising communications, analysing over 1,000 life insurance advertisements in 2022 and more than 1,400 in the banking sector. These analyses flagged overly positive wordings with the potential to mislead consumers about the actual commitments made by advertisers or the extra-financial aspects of contracts.

These analysis and monitoring activities were particularly carried out within the ACPR-AMF Joint Unit, which is responsible for coordinating the two authorities’ monitoring and supervisory activities in the area of business practices.

2.5 Resolve and prevent crises

Indicator 12 – Activity – Number of resolution plans adopted

	Banking SI		Banking LSI		Insurance	
	2022	2023	2022	2023	2022	2023
Planned number of resolution plans	16	14	40	48	14	4
Number of resolution plans adopted	15		43		13	

Source: Data taken from SGACPR indicators and gathered from the Resolution Directorate.

The ACPR maintained its involvement in European bodies, where work is continuing to fortify the system for managing banking crises. It also continued its efforts aimed at strengthening the resolvability⁷⁴ of banking groups.

In the banking sector, 15 resolution plans for significant institutions were adopted. Adoption of the resolution plan for Axa Bank Belgique was pushed back owing to the bank’s takeover by Crelan. In the case of less significant institutions, the difference between the number of

plans adopted in 2022 (43) and the number that was initially planned (40) was due to the creation of three new entities.

France was one of the first countries in Europe to set up a recovery and resolution regime for the insurance sector, and the first resolution plans were drawn up for 13 insurance undertakings. The 14th resolution plan scheduled under work conducted in 2022 was that of Aviva, which was taken over by AEMA.

⁷³ Recommendation [2022-R-02 of 14 December 2022](#) on promoting extra-financial features in life insurance advertising communications, on the ACPR website.

⁷⁴ The idea is to assess an entity’s eligibility for resolution mechanisms as an alternative to liquidation and, where applicable, ensure the entity’s capacity to be subject to resolution measures.

Indicator 13 – Activity – Relations with financial centre participants on resolution topics

	2022
Number of publications	1
Number of meetings, Banking sector	125
Number of meetings, Insurance sector	7

Source: Data taken from SGACPR indicators.

In 2022, the ACPR published a paper on resolution on its website, entitled “Loss-absorbing capacity requirements in resolution for G-SIBs in the EU and the US”.

In the banking sector, meetings organised in 2022 included workshops, senior management meetings (SMMs) and high-level meetings (HLMs),

which were attended by participants from the Single Resolution Board (SRB), the Banque de France and the ACPR.

Meetings in the insurance sector were held between insurance groups and the ACPR.

2.6 Participate in European and international supervisory harmonisation

Indicator 14 – Activity – ACPR involvement in European and international working groups and committees

Number of working groups and committees in which the ACPR participates	2021	2022
International bodies (BCBS, BIS, Fed, FSB, IAIS)	84	86
European agencies (EBA, EC, ECB, EIOPA, SRB, ECB-SSM)	221	260

Clarification

This indicator measures the ACPR's capacity to play an active role in international and European institutions.

Source: Data taken from SGACPR indicators, extracted from monitoring of involvement in working groups by the International Affairs Directorate.

During France's presidency of the EU Council, the ACPR was heavily involved in a wide range of regulatory work, which led to the adoption by the Council of a general approach on the text of the Solvency II Directive, a general approach on the review of the CRR3/CRD6 package aimed at finalising implementation of the Basel III standards in the European Union, and the adoption of Europe's Digital Operational Resilience Act (DORA), which is designed to harmonise and strengthen the requirements applicable to financial participants in terms of their digital operational resilience (see chapter 2, point 3, boxes on the Solvency II review, EU transposition of agreements finalising Basel III, and the DORA Regulation).

ACPR staff were also closely involved in work by EIOPA in 2022, including the review of the IORP II Directive and the communication on identifying and assessing insurers' cyber risk exposure.

Since 2020, the ACPR Secretary General has sat on the Management Board of the EBA, as well as the Board of Supervisors. In addition, the First Deputy Secretary General sits on the EIOPA Management Board.

In 2022, acting within the EBA, the ACPR made an active contribution to updating the European supervisory framework for interest rate risk

in the banking book (IRRBB) and credit spread risk in the banking book (CSRBB) by taking part in work to draft guidelines and regulatory standards published by the EBA on 20 October 2022. The ACPR was also involved in work leading to the publication of three technical standards concerning the internal model approach for market risk. The ACPR contributed to the response from the EBA published in December 2022 following the Commission's request about securitisation rules.

Finally, the ACPR took part in work to draft regulatory standards covering supervisory approval of internal models on bilateral margins exchanged by institutions on non-centrally-cleared derivatives. This work will continue in 2023.

As part of the AML package, which seeks to reform European AML/CTF regulations, the ACPR took part in working groups set up by the EBA to clarify the procedures for implementing the new requirements provided for under the AML package in terms of transparency for crypto-asset transfers.

On digital finance, the ACPR also provided input to European work, including on the Markets in Crypto-Assets (MiCA) Regulation.

Indicator 15 – Activity – Number of ACPR employees holding positions at European or international institutions

	2022	2023
International bodies (BIS, BCBS and IAIS)	8	8
Number of seconded employees	7	7
<i>Holding key positions</i>	4	4
Number of non-seconded employees holding key positions	1	1
European agencies (EBA, EIOPA, ESMA, etc.)	37	37
Number of seconded employees	35	35
<i>Holding key positions</i>	5	5
Number of non-seconded employees holding key positions	2	2
European Banking Union (ECB-SSM and SRM)	82	82
Number of seconded employees	82	82
<i>Holding key positions</i>	6	6
Number of non-seconded employees holding key positions	0	0

Clarification

In the case of seconded employees, key positions mean management positions (at least deputy head of division at the ECB, deputy head of unit in other institutions), while for ACPR employees they mean a seat on a management board or executive committee.

Source: Data taken from SGACPR indicators and gathered from the Human Resources Directorate.

Besides staff who are seconded to international and European institutions, ten or so employees are being loaned out while remaining on ACPR's payroll. Sometimes, these arrangements are part of two-way swaps with the host institution. This is for example the case with the UK's Prudential Regulation Authority (PRA) and the ECB. This policy is primarily designed to foster a shared supervisory culture, share best practices, and encourage international career paths. The ACPR also engages in one-way personnel loans as a means to have a direct say in ongoing work and projects.

In 2022, the ACPR loaned five employees to take part in work on innovation and climate stress testing and to be part of the team

running the Integrated Reporting Framework (IReF) project, whose goal is to overhaul the organisation of the European statistics process.

The swap programme set up with the ECB and launched in 2021, which aims to foster a shared supervisory culture through exchanges and professional development, has proven extremely successful. Six colleagues from each institution took part in the first exchange and a new cohort involving three swaps was launched in 2023.

2.7 Helping to meet new challenges

Indicator 16 – Activity – Relations with financial centre participants on financial innovation

FINTECH	2022
Meetings of the Fintech Forum and its working groups	11
Industry/Forum gatherings attended, including webinars	28
Number of publications relating to financial innovation	11
Number of meetings with innovators	218

In 2022, the Fintech Unit continued to provide its expertise to innovators, guiding them through the authorisation process and helping them to understand the applicable rules. During the year, with over 200 recorded contacts, more than 130 projects were presented to the unit, involving the payments, crypto-assets and investment sectors.

Through its support role, the Fintech Unit also meets with industry associations, fintech incubators and think tanks. As part of this, it was involved for the second year running in organising French Fintech Week, alongside the AMF, France Fintech and Le Swave.

On 19 October 2022, the annual ACPR-AMF Fintech Forum took place. Covering the themes of open finance and issues linked to the emergence of decentralised or disintermediated finance (DeFi), panel discussions and teaching workshops gave attendees the opportunity to learn about the challenges of fintech.

Analyses published by the Fintech Unit tackled the following themes, among others: digital finance participants: a step towards profitability; the summary report from the tech sprint on confidential data pooling; the summary report from the tech sprint on the explainability of artificial intelligence algorithms; the Fintech Charter and “My Fintech Journey” educational content.

European and international bodies, including the European Forum of Innovation Facilitators (EFIF), EIOPA, EBA, the Basel Committee and the International Association of Insurance Supervisors (IAIS), set up working groups to which the unit is making an active contribution. These groups are tasked with monitoring the development of new technologies in the financial sector, the risks linked to their use and appropriate regulatory developments. Work in 2022 focused in particular on artificial intelligence, open finance and the rules applicable to crypto-assets.

Indicator 17 – Activity – Implement a supotech strategy for augmented supervision

SUPTECH	2022
Number of projects brought onstream	3
Number of products currently at the incubation/execution stage	12

Forming part of the Banque de France’s 2024 strategic plan, the supotech approach aims to boost the ACPR’s supervisory capabilities by harnessing new data processing and artificial intelligence technologies.

Tools inspired by intrapreneurial initiatives continued to be developed in 2022. The Fintech Unit began five trials from the roadmap drawn

up in 2021 for 2022-2024 and covering 12 priority supotech projects. The seven remaining trials will be conducted in 2023 and 2024.

In 2022, three projects resulting from the intrapreneurship programme went live, after deployment of the first two in 2021. The analytical tools in question are intended for use by ACPR inspectors.

Indicator 18 – Activity – Relations with financial centre participants on sustainable finance issues

Climate and sustainable finance	2022
Meetings by consultative commissions	6
Number of experts in the Climate Change and Supervision Network (at 31 December)	33
Number of publications	3
Research papers published other than in ACPR and BDF collections	0

In partnership with the AMF, the ACPR is contributing to work on monitoring and assessing the climate and sustainable finance commitments made by members of the financial centre. As part of this, for the third year in a row, the ACPR and AMF published a joint monitoring report on the climate commitments by members of the Paris financial centre, including banks, insurers and management companies. In addition to examining the fossil fuel policies of members of the financial centre and the financial exposure of these participants to fossil fuels, the third report also focused on the governance arrangements for the commitments made by financial institutions.

Analyses published by the ACPR covered the governance of climate change-related risk in the insurance sector and climate transition scenarios and financial risks.

First established in 2019, the commission on climate and sustainable finance aims to promote the adoption of uniform methods to measure and communicate on the climate commitments of financial institutions, to ensure that they can be compared and monitored over time. The commission met six times in 2022.

In 2022, the ACPR contributed, in connection with the SSM, to the ECB’s climate risk stress test. Over 100 euro area banking groups, including ten French groups, took part in the exercise, which illustrated the driving role played by French authorities and the Paris financial community in the fight against climate change. The test’s results were published on 8 July 2022 (see chapter 2, point 4-2).

Internationally, the ACPR was involved in the work of the EBA, the Basel Committee and the FSB, contributing extensively to the publications and advice issued by these bodies (see chapter 2, point 4-3).

Indicator 19 – Activity – Relations with financial centre participants on cyber risk issues

Cyber risk	2022
Publications	11

Source: Data taken from ACPR indicators.

The ACPR continues to keep a close watch on cyber risk, which has become a major threat to the financial system, by taking a threefold approach based on regulation, supervision and cooperation. It took part in negotiations on Europe’s Digital Operational Resilience Act (DORA), which is designed to harmonise and strengthen the requirements applicable to financial participants in terms of their digital operational resilience and which will come into application in January 2025. ACPR personnel are currently involved in drafting DORA implementing instruments. The ACPR is also working to raise awareness in the financial sector about the implementation of the new regulation, including at its annual conference and through presentations to industry.

In supervision, based on the current rulebook and its own supervisory tasks, the ACPR continues to perform documentary audits and on-site inspections on information system security at institutions under its supervision. It may also conduct investigations that lead to requests for these same institutions to carry out corrective measures.

Reflecting its belief that strengthened cooperation at domestic, European and international levels helps to make the financial sector more resilient to cyber risk and maintain financial stability, the ACPR participates in several cross-border working groups, particularly within the Financial Stability Board, the G7, the European Systemic Risk Board and the International Association of Insurance Supervisors. It contributes actively to the reports compiled by these groups. It additionally takes part in cybercrisis management exercises, both domestically, within the Marketwide Robustness Group, and internationally; in June 2022, the Banque de France, the ACPR and the Monetary Authority of Singapore (MAS) conducted a joint cybercrisis simulation exercise aimed at testing the effectiveness of their coordination and response in the event of an IT attack on several Singaporean subsidiaries of French banks.



ACRONYMS USED

ABEIS	<i>Assurance Banque Épargne Info Service</i>
ACPR	<i>Autorité de contrôle prudentiel et de résolution</i> (Prudential Supervision and Resolution Authority)
AMF	<i>Autorité des marchés financiers</i> (Financial Markets Authority)
AMLA	Anti-Money Laundering Authority
AML/CTF	Anti-money laundering and counter-terrorist financing
ANSSI	<i>Agence nationale de la sécurité des systèmes d'information</i> (National Cybersecurity Agency)
API	Application Programming Interface
ARCEP	<i>Autorité de régulation des communications électroniques, des postes et de la distribution de la presse</i> (Regulatory Authority for Electronic Communication, Postal Services and Print Media Distribution)
ASF	<i>Association française des sociétés financières</i> (French Association of Financial Companies)
CCP	Central CounterParty
CII	Credit and investment institution
COREP	COmmon solvency ratio REPorting
CRD	Capital Requirements Directive
CRR	Capital Requirements Regulation
CSRBB	Credit Spread Risk in the Banking Book
CSRD	Corporate Sustainability Reporting Directive
DASP	Digital asset services provider
DGCCRF	<i>Direction générale de la concurrence, de la consommation et de la répression des fraudes</i> (Directorate General for Competition Policy, Consumer Affairs and Fraud Control)
EBA	European Banking Authority
ECB	European Central Bank
EEA	European Economic Area
EFRAG	European Financial Reporting Advisory Group
eiDAS	Electronic IDentification And Trust Services
EIOPA	European Insurance and Occupational Pensions Authority
EMIR	European Market Infrastructure Regulation
ESRB	European Systemic Risk Board
FATF	Financial Action Task Force
FBF	<i>Fédération bancaire française</i> (French Banking Federation)
FCT	<i>Fonds commun de titrisation</i> (securitisation fund)
FINREP	FINancial REPorting
Fintech	Financial technology
FRTB	Fundamental Review of the Trading Book
FSB	Financial Stability Board
HCSF	<i>Haut conseil de stabilité financière</i> (High Council for Financial Stability)
IAIS	International Association of Insurance Supervisors
IFRS	International Financial Reporting Standards
IMAS	Information Management System
IORP	Institution for Occupational Retirement Provision
IPCC	Intergovernmental Panel on Climate Change
IRRBB	Interest Rate Risk in the Banking Book
IRRD	Insurance Recovery and Resolution Directive
ISSB	International Sustainability Standards Board
JST	Joint Supervisory Team
LCR	Liquidity Coverage Ratio
LSI	Less Significant Institution
MiCA	Markets in Crypto-Assets
MREL	Minimum Requirement for Own Funds and Eligible Liabilities

NGFS	Network for Greening the Financial System
NRA	National Resolution Authority
ORIAS	<i>Organisme pour le registre unique des intermédiaires en assurance, banque et finance</i> (France's national insurance, banking and finance intermediary register)
ORSA	Own Risk and Solvency Assessment
PACTE	<i>Plan d'action pour la croissance et la transformation des entreprises</i> (Action Plan for Business Growth and Transformation)
SFDR	Sustainable Finance Disclosure Regulation
SI	Significant Institution
SNCI	Small and Non-Complex Institution
SRB	Single Resolution Board
SSM	Single Supervisory Mechanism

ANNEXES

Annex 1 : Decisions taken by the Supervisory College concerning individual entities in 2022⁷⁵

	TOTAL	of which	BANKING SECTOR	INSURANCE SECTOR
Supervision (monitoring of prudential ratios, exemptions)	109		26	35
Administrative enforcement measures				
Warning	0		0	0
Formal notice (issued by the Chairman acting under delegated authority)	23		13	10
Request for a recovery programme	3		0	3
Placement under special supervision	0		0	0
Limitation of activity	6		0	6
Placement under provisional administration	2		0	2
Reappointment of a provisional administrator	1		0	1
Other	0		0	0
Other binding measures				
Appointment of a liquidator	0		0	0
Reappointment of a liquidator	0		0	0
Capital requirement injunction	2		2	0
Request for short-term funding plans	2		0	2
Injunction with coercive fines	2		1	1
Other	9		0	9
Initiation of disciplinary proceedings	7		5	2
Other measures concerning individual entities (including decisions on financial companies, initiation of joint decision-making processes, opening of inter partes proceedings, lifting of enforcement measures, etc.)	156		99	57
Total decisions concerning individual entities	274		146	128
Number of appeals referred to the <i>Conseil d'État</i> against Supervisory College decisions	3		0	3

75 Excluding licences and authorisations.

Annex 2**List of decisions on general issues published in 2022 in the ACPR's official register or on its website****INSTRUCTIONS**

Instruction 2022-I-01	on information about anti-money laundering and counter-terrorist financing arrangements at institutions mentioned in paragraph 7 ^a of Article L. 561-2 of the Monetary and Financial Code and established in France
Instruction 2022-I-02	on the supervision of risks to home loans in France
Instruction 2022-I-03	on the coverage ratio of mortgage credit institutions and home loan companies and the regulatory reports mentioned in Article 10 of CRBF Regulation No. 99-10 of 9 July 1999
Instruction 2022-I-04	on the disclosure by mortgage credit institutions and home loan companies of information about the quality of assets financed and outstanding mortgage bonds and home loans respectively
Instruction 2022-I-05	on information to be submitted to the ACPR by mortgage credit institutions and home loan companies in connection with the issuance of "European Covered Bond" and "European Covered Bond (Premium)" certifications
Instruction 2022-I-06	amending Instruction 2021-I-03 of 11 March 2021 on setting up the unified reporting system for banks and equivalents
Instruction 2022-I-07	amending Instruction 2017-I-24 on the submission to the ACPR of various accounting, prudential and disclosure documents (banking sector) amended by Instruction 2019-I-07
Instruction 2022-I-08	amending Instruction 2020-I-10 of 15 July 2020 on reporting prudential financial information linked to exposures subject to measures applied in response to the Covid-19 crisis
Instruction 2022-I-09	amending Instruction 2018-I-07 of 9 July 2018 on licence withdrawal, authorisation and registration of credit institutions, financing companies, third-party financing companies, investment firms, payment institutions, account information service providers or electronic money institutions amended by Instruction 2019-I-20 of 23 April 2019
Instruction 2022-I-10	on the withdrawal of credit institution licences
Instruction 2022-I-11	on the business practices and customer protection questionnaire
Instruction 2022-I-12	repealing and amending Instruction 2016-I-16 of 27 June 2016 on the annual prudential documents to be provided by institutions under the ACPR's supervision and covered by the "Solvency II" regime
Instruction 2022-I-13	repealing and amending Instruction 2016-I-17 of 27 June 2016 on the submission to the ACPR of prudential documents by insurance and reinsurance institutions covered by the "Solvency II" regime
Instruction 2022-I-14	on information to be submitted to the ACPR by mortgage credit institutions and home loan companies in connection with the authorisation of issuance programmes
Instruction 2022-I-15	on the disclosure of supplementary information applicable to Class 2 and 3 investment firms and to investment holding companies defined by Investment Firms Regulation (EU) 2019/2033
Instruction 2022-I-16	on information about anti-money laundering and counter-terrorist financing arrangements at money changers
Instruction 2022-I-17	amending Instruction 2021-I-15 on the submission of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees
Instruction 2022-I-18	on information about anti-money laundering and counter-terrorist financing arrangements
Instruction 2022-I-19	on the collection of information on remuneration at entities subject to Regulation EU/575/2013 and repealing Instruction 2014-I-13 of 29 September 2014 and Instruction. 2016-I-27 of 20 December 2016
Instruction 2022-I-20	on the collection of information on remuneration at entities subject to Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements applicable to investment funds
Instruction 2022-I-21	on the collection of information on high earners at entities subject to Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on the prudential requirements for credit institutions and investment firms and Regulation (EU) 2019/2033 of the European Parliament and of the Council of 27 November 2019 on the prudential requirements for investment firms
Instruction 2022-I-22	amending Instruction 2013-I-13 of 12 November 2013 on the forms for reporting a credit institution licence exemption for the provision of banking payment services, reporting an electronic money institution licence exemption for the issuance and management of electronic money, and reporting a payment institution licence exemption for the provision of payment services, amended by Instructions 2018-I-01 and 2018-I-02 of 21 February 2018 and by Instruction 2019-I-17 of 23 April 2019

Instruction 2022-I-23	on information to be submitted to the ACPR by mortgage credit institutions and home loan companies in connection with the issuance of “European Covered Bond” and “European Covered Bond (Premium)” certifications
Instruction 2022-I-24	on the annual documents to be provided by insurance undertakings and undertakings for supplementary occupational retirement provision subject to the provisions of Article 29 of Energy and Climate Act No. 2019-1147 and the provisions of Article 4 of Regulation (EU) 2019/2088 of the European Parliament and of the Council of 27 November 2019 on sustainability-related disclosures in the financial services sector

RECOMMENDATIONS

Recommendation 2022-R-01 of 9 May 2022 on complaints handling

Recommendation 2022-R-02 of 14 December 2022 on promoting extra-financial features in life insurance advertising communications

POSITIONS

Position 2022-P-01 on the notions of “limited network of acceptors” and “limited range of goods and services”

ACPR Position on recognition and prudential monitoring of financial holding companies



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