

ACPR
ANNUAL REPORT
2016

The annual report reviews the activity of the *Autorité de contrôle prudentiel et de résolution* (ACPR; the Authority) and its departments.

This document is supplemented by two issues of *Analyses et Synthèses*, which present information about the financial situation in the two sectors.

It will also be supplemented by a statistical section in the third quarter of 2017.



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Editorial

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

The ACPR once again played a central role in maintaining financial stability in 2016. I would like to thank the committed and highly professional men and women within the General Secretariat, as well as the various supervisory and resolution colleges.

A KEY PLAYER IN THE BANKING UNION

In the banking sector, 2016 was the second year of fully-fledged operation of the Single Supervisory Mechanism (SSM). It was therefore an opportunity to consolidate the terms of operation of Joint Supervisory Teams, enhance the shared methodology for assessing banking risks (known as SREP, for "Supervisory Review and Evaluation Process") and carry out stress tests. Significant progress was also made on the Single Resolution Mechanism (SRM), which forms the second pillar of the European banking union, with the preparation of preventive resolution plans for "significant" banking groups, in cooperation with the Single Resolution Board (SRB). As European coordination and harmonisation bodies, the SSM and the SRM are fully supported by the expertise and personnel of domestic supervisory authorities. The success and long-term viability of the European banking union therefore depend on a strong ACPR, with the resources needed to fulfil its statutory objectives, which are critical to financial stability.

At the international level, finalisation of the Basel III Accord remains desirable. The current discussions are aimed at reviewing risk measurement methods used by banks to ensure their solvency, notably by making the results of internal models easier to compare. However, the ACPR will work to ensure that any agreement results in a robust and balanced framework that remains sensitive to risk and allows banks to continue to play a part in financing the economy.

A NEW REGULATORY FRAMEWORK FOR INSURANCE

In the insurance sector, the European "Solvency II" directive, defining new market regulations applicable throughout the European Union, entered into force on 1 January 2016. Thanks to the unwavering commitment and intense preparatory work of institutions and the ACPR over a period of several years, the switch to this new regulatory framework for the insurance sector proceeded satisfactorily. More than 500 institutions, representing 60% of insurance institutions in the French market and 99% of the sector's total balance sheet assets, are now governed by Solvency II. These institutions have a median solvency capital ratio (SCR), calculated in accordance with the new standards, of over 200%, based on opening prudential disclosures submitted to the ACPR. While the quality of these disclosures was satisfactory, efforts to improve the quality of prudential data submitted to the ACPR must continue. Another area of progress under Solvency II is strengthening governance

through the appointment of two effective managers. While inspections undertaken from Q2 2016 onwards were dedicated to checking compliance with quantitative requirements, the focus in 2017 will be more squarely on institutions' governance arrangements.

The ACPR's involvement in international insurance sector negotiations is essential. The ultimate aim is to put in place a coherent global supervisory framework, notably by establishing common principles (Insurance Core Principles – ICPs), including, where possible, common capital requirements (Insurance Capital Standards – ICSs) which, like Solvency II, are harmonised and sensitive to risk, as well as resolution standards.

TWO CROSS-CUTTING CHALLENGES: THE INTEREST RATE ENVIRONMENT AND DIGITISATION

The regulatory environment and its changing landscape is not the only focus of attention for the ACPR. In 2016, constant vigilance was required in light of the potential implications of the interest rate environment for the financial sector as a whole. More recent questions have focused on the effects of **interest rate rises**, which are manageable as long as they are gradual. The ACPR's Supervisory College also examined the adaptability of credit institutions' business models to a **prolonged low interest rate environment** that puts pressure on banks' margins, so as to ensure their long-term financial stability. In the insurance sector, the ACPR carried out cross cutting analysis across the French market as a whole to define measures that could, if needed, be adopted by the *Haut Conseil de la stabilité financière* (HCSF – Financial Stability Oversight Board), which has new powers to intervene under the "Sapin II" Act passed in 2016. At individual institution level, in the context of institutions' assessments of their own capital requirements in accordance with Solvency II, the ACPR asked insurers to undertake a specific analysis simulating what might happen if the current low interest rate environment were to persist for a long period. Furthermore, French insurers and the ACPR took part in stress tests carried out by EIOPA. While the results of these various simulations were reassuring, the ACPR is encouraging institutions not only to adapt the rates paid out on their life insurance policies, but also, in light of the implementation of Solvency II, to thoroughly assess their investment policies and their approach to managing the associated risks.

The progress of the **digital economy** and the development of FinTechs also played a central role in the ACPR's priorities. The emergence of these new players, and potentially of major platforms such as GAFA, has even more implications for "established players" in both the banking and insurance sectors. The latter are faced with the risk of losing market share and seeing their income streams eroded, but also with opportunities offered by digitisation. While competition from new players is

to be desired, notably to ensure that new services are offered to consumers, it must take place within a balanced framework, particularly from a regulatory perspective. As such, the ACPR is keen to help ensure that innovation and financial stability are fully compatible. While the digitisation of existing players and the rise of FinTechs offer a wealth of opportunities to manage costs, improve accessibility and diversify financial services, their development also comes with specific risks – and thus a need for increased supervision – in terms of anti-money laundering, fund security, cybersecurity and the use of personal information. To facilitate contact between the ACPR and these new players, a FinTech Innovation unit was set up in 2016 in close cooperation with the AMF. The market and the authorities were thus able to initiate constructive dialogue, one example of which was a FinTech Forum held in summer 2016.

OTHER CRITICAL OBJECTIVES, NOTABLY IN CUSTOMER PROTECTION AND ANTI-MONEY LAUNDERING

In 2016, the ACPR also paid particular attention to other key supervisory themes in the **insurance** sector. For example, the Authority was particularly vigilant to ensure that structures and business models were adapted to regulatory changes, in connection not only with the implementation of Solvency II but also the entry into force of the *accord national interprofessionnel* (ANI – national cross-industry agreement). In this context, the ACPR's Supervisory College reviewed and approved numerous applications to transfer portfolios, merge companies or create prudential groups to enable institutions to achieve critical mass. The ACPR also closely monitored the development of "euro-growth" contracts and supplementary pension plans.

In the **banking** area, a number of thematic reviews were initiated in the context of the SSM and will continue in 2017. One of these aims to assess banks' business models and drivers of profitability. Another aims to measure preparedness for the implementation of the new IFRS 9 accounting standard, which will introduce far-reaching changes to the recognition of financial instruments and provisioning rules. Another particular focus of attention is non-performing loans (NPLs), which continue to encumber bank balance sheets in certain euro area jurisdictions. At the domestic level, 2016 saw the completion of a first round of on-site inspections linked to implementation of the Banking Separation and Regulation Act. While progress remains to be made, the ACPR noted institutions' efforts to comply with the new requirements introduced by this Act.

Lastly, customer protection and anti-money laundering and counter-terrorist financing continue to be critical objectives and ongoing focuses of supervision for the ACPR. In 2016, the ACPR's supervisory priorities in this area related to the effectiveness and monitoring of mechanisms for reporting suspicions to Tracfin, as well as the configuration of procedures for freezing assets.



The ACPR also conducted specific inspections at institutions, notably to prompt them to improve their knowledge of customers and ultimate beneficiaries of contracts, including those whose business relationships are established by subsidiaries located abroad, such as those that may have been mentioned in affairs like the "Panama Papers" scandal. In customer protection, in 2016 the ACPR focused more specifically on health insurance policies (notably in the context of the national cross industry agreement), the unbundling of payment protection insurance (in the context of the Hamon Act) and the treatment of unclaimed policies (in the context of the Eckert Act). These subjects will remain priorities in 2017. Finally, the ACPR is actively involved in European work in the field of customer protection, notably in view of a capital markets union, one of whose vital roles would be supervision of business practices relating to cross-border marketing of financial contracts.

Interview

with **Édouard Fernandez-Bollo**,
Secretary General of the ACPR



WHAT WERE THE MAIN AREAS OF WORK IN 2016?

Our work was naturally focused on the key challenges facing the financial system.

In particular, we closely monitored the **impact of low interest rates**, both on bank margins following the acceleration in mortgage early redemptions and, in insurance, by putting in place specific monitoring of those activities most exposed to interest rate changes in the new regulatory environment. We therefore entered into constructive dialogue with the most significant institutions in the market to address our individual monitoring concerns, as well as, more generally, to help fulfil our statutory objective of ensuring financial stability.

Another critical area was the **development of new technologies**, first of all in terms of **stepping up cybersecurity** for both banks and insurance institutions, which were questioned about their governance, information systems security and data quality.

In the context of our FinTech Innovation unit, we kicked off a review of innovations initiated by insurers and banks, which will have to **adapt their business models** in light of the creation of new products and distribution channels, the development of innovative payment methods, and changes in the use of data for business purposes.

In the area of governance, we undertook a thematic review of practices by asking banks to respond to a questionnaire, in line with work carried out by the European Central Bank for the most significant banks, and we took specific action on governance arrangements within insurance institutions and the introduction of “key functions”, including drawing up a specific policy to ensure consistent treatment.

Specifically in the area of risk, in addition to recurring surveys on **real estate risk** borne by the banking sector, our priority was to ensure that France’s unique guarantee system is properly understood and adequately taken into account within various international workstreams. We also identified the need to increase the resilience of insurance institutions issuing such guarantees.

In 2016, we also finalised and disseminated procedures for assessing **preventive recovery plans** for institutions covered by BRRD, namely all credit institutions and a significant proportion of investment firms.

With respect to supervision of business practices, our activities focused on payment methods and health insurance. Inspections focusing on conditions of access and exercise – with an emphasis on the financial guarantee protecting customers – were carried out at intermediaries. Cross-cutting inspections focused on business relationships, distance selling in connection with new technologies, bundling and the freedom to provide services. In a fast-changing environment, our activities focused primarily on improving our system for detecting and monitoring anomalies and market developments.

Lastly, in anti-money laundering and counter-terrorist financing, the inspection programme focused on the implementation of asset freezes and the analysis of obstacles – notably legal ones – to the exchange and escalation of information from foreign establishments of cross-border groups.

Furthermore, the ACPR continued to participate in **developing the regulatory framework**. In the banking sector, this involved carrying out impact studies aimed at finalising the Basel III Accord and measuring banks’ preparedness and the impact of the new IFRS 9 accounting standard on their solvency ratios. In the insurance sector, the impact of new European regulations (Solvency II) and domestic regulations (notably the national cross-industry agreement) on the profitability of various business areas was monitored particularly closely throughout the year.

WHAT ARE THE SUPERVISORY PRIORITIES FOR 2017?

The ACPR's supervisory activities in 2017 will be based around the following five priorities:

- 1) Our cross-cutting priorities are concerned with monitoring various types of risk, starting with **macroeconomic risk linked to the post-crisis low growth outlook and low interest rates**, taking into account the prospect of interest rate rises. Our aim is to assess the impacts on business model profitability and viability. The **regulatory impact** in the broadest sense will also need to be taken into account by both sectors, as will **operational risk linked to the development of FinTechs** and, more generally, all risks linked to **information systems security**. **Compliance risk and supervision of governance practices** and conduct of business will be the subject of specific monitoring. We will remain vigilant with regard to **sector-specific risks** linked to macroeconomic risk – e.g. risks relating to residential and commercial property. Lastly, certain risks that emerged in 2016 will require continued monitoring in 2017, such as the **implications of Brexit**, the risk of contagion linked to problems faced by certain European banks, and difficulties encountered by certain institutions operating under the freedom to provide services, for which supervisory tools need to be adapted.
- 2) **In banking**, the SSM's supervisory priorities revolve around business models and drivers of profitability, credit risk and risk management. At the domestic level, our supervisory priorities will focus firstly on the financing of residential and commercial property, with a particular emphasis on the most vulnerable institutions. Recovery plans for credit institutions and investment firms, required by BRRD, will be assessed as and when submitted, expected to be between December 2016 and June 2017.
- 3) **As regards insurance sector supervision**, we will be working to ensure the consistency and reliability of data submitted by insurers to enable comparative analysis and facilitate harmonisation of institutions' disclosures. Furthermore, we will be closely monitoring the management of insurance institutions' assets and their implementation of the "prudent person" principle established by Solvency II, as well as the introduction of new governance arrangements.
- 4) **In anti-money laundering and counter-terrorist financing (AML/CTF)**, as well as responding to reports from Tracfin, our priorities in 2017 will concern implementation of provisions relating to asset freezes and supervision of the centralised coordination of the AML/CTF function within banking groups.
- 5) **Lastly, our activities connected with supervision of business practices** will continue in areas related to the

In 2017, we need to support implementation of steady state arrangements under Solvency II and continued work on the banking union.

marketing cycle (conflicts of interest, product governance, advertising and pre-contract information, duty to advise and management of contracts over their full term) and those related to a particular marketing method or customer group (distance selling, bundling, freedom to provide services, and vulnerable customer groups).

HOW WILL THE ACPR CONTINUE TO ADAPT IN RESPONSE TO THE NEW CHALLENGES THAT LIE AHEAD?

Legislation has provided a number of options for adopting ordinances in areas directly related to the ACPR's activities (anti-money laundering, insurance resolution): we will therefore need to carefully monitor all work that might be completed this year in these areas. In 2017, we must also: support implementation of steady state arrangements under Solvency II; support continued work on the banking union; implement changes resulting from new international regulations in insurance, banking and customer protection; and support implementation of the new anti-money laundering and counter-terrorist financing requirements – all areas in which the European dimension is increasingly significant. At the same time, we must continue our efforts to better support – from licensing through to supervision and responding to difficulties – new financial players and, more broadly, be able to analyse and monitor the effects of innovation on the financial system as a whole, and particularly emerging risks.

It is therefore up to us to prove that we are able to effectively and appropriately meet all these challenges, fully playing our part in the simplification and efficiency effort undertaken by the Banque de France under its 2020 transformation plan. We play a key role in the refocussing planned by the Banque de France over this period, and already made a substantial start on this cross-cutting modernisation effort in 2016 by setting up the Financial Stability unit and stepping up our international activities with the International Association of Insurance Supervisors (IAIS) and the Basel Committee.

OVERVIEW OF THE ACPR

The *Autorité de contrôle prudentiel et de résolution* (ACPR, Authority) is the body responsible for supervising the banking and insurance sectors. It ensures the stability of the financial system and the protection of customers and policyholders. It is funded by contributions from supervised institutions and is provided with resources – notably human and IT resources – by the Banque de France, to which it is attached. The ACPR controls access to the banking and insurance professions and oversees compliance with applicable regulations in each sector. In banking, the ACPR assists the European Central Bank in its supervision of euro area banks, in the context of the Single Supervisory Mechanism (SSM).

The ACPR also has powers in the area of bank resolution, which it largely exercises in the context of the Single Resolution Mechanism (SRM). Thanks to this institutional architecture, the ACPR has particularly rich cross-functional expertise that helps represent the French approach to supervision within European and international institutions.

2016 KEY FIGURES

1,046
STAFF IN 2016,
up 3% relative to end 2015

405
DECISIONS
CONCERNING
INDIVIDUAL ENTITIES
made by the Supervisory
College

of which **234**
in banking
and **171**
in insurance



Accenti all ↑

1. STRUCTURE OF THE ACPR

To help it fulfil its statutory objectives, the ACPR has a number of official bodies: the Supervisory College and its various configurations (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, [three consultative committees](#) (covering prudential affairs, anti-money laundering and counter-terrorist financing, and business practices) and a Scientific Consultative Committee.

The ACPR's Supervisory College (at 31 December 2016)



Anne Le Lorier⁴, first Deputy Governor of the Banque de France
Édouard Fernandez-Bollo⁵, Secretary General of the ACPR

Chairman:

M. François Villeroy de Galhau¹
or the designated Deputy Governor, **Robert Ophèle²**

A vice-chairman with professional experience in insurance matters, appointed by the ministers with responsibility for the economy, social security and mutual insurance:
Bernard Delas³, Vice-Chairman, ACPR

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

Chairman of the *Autorité des normes comptables*:

Patrick de Cambourg⁶

Chairman of the AMF:

Gérard Rameix⁸

Appointed by the President of the National Assembly:

Anne Epaulard¹²

Appointed by the President of the Senate:

Monique Millot-Pernin¹⁰

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

Henry Toutée¹⁴, member of the *Conseil d'État*

Appointed at the recommendation of the Chairman of the *Cour de Cassation*:

Francis Assié¹⁵, counsellor

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

Christian Babusiaux¹³, presiding judge at the *Cour des comptes*

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

Emmanuel Constans⁹

Thomas Philippon¹¹

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

Jean-Louis Faure¹⁶

Jean-Luc Guillotin¹⁷

Jean-François Lemoux¹⁸

Philippe Mathouillet¹⁹

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

Christian Duvillet²³

Martine Lefebvre²²

Ariane Obolensky²⁰

Christian Poirier²¹

Furthermore, the Director-General of the Treasury, **Odile Renaud-Basso**, or her representative **Corso Bavagnoli⁷**, sits on the College in all its configurations, and the Director of the Social Security administration or his or her representative sits on the Insurance Sub-College or other configurations dealing with entities governed by the Mutual Insurance Code or the Social Security Code. While they do not have a vote, they are entitled to request that matters be deliberated a second time.

The Resolution College (at 31 December 2016)

Chairman:

François Villeroy de Galhau¹

Designated Deputy Governor:

Robert Ophèle²

Chairman of the AMF:

Gérard Rameix³

Director of the Treasury
or his representative:

Corso Bavagnoli⁴

Chairman of the Deposit Insurance
and Resolution Fund:

Thierry Dissaux⁵

Presiding judge at the Commercial
Chamber of the *Cour de cassation*
or his or her representative:

Jean-Pierre Rémercy⁶

Find out about the different configurations:

- [Sector sub-colleges](#)
- [Scientific Consultative Committee and other consultative committees](#)



ACPR General Secretariat (at 1 April 2017)



Operational departments overseen by the General Secretariat

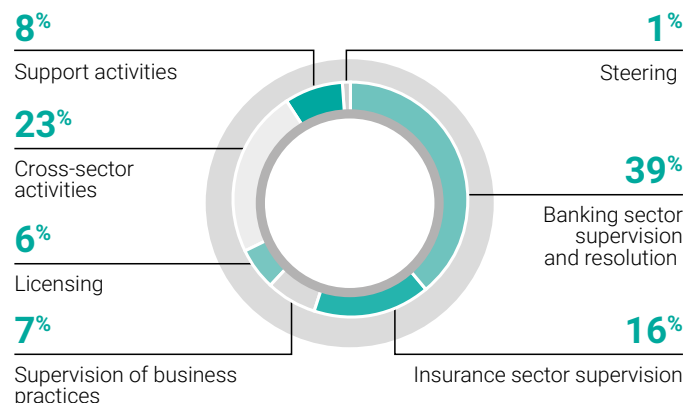
At end 2016, the General Secretariat of the ACPR had 1,046 staff, all employed by the Banque de France. In 2016, the ACPR pursued a proactive recruitment policy, with the workforce growing by 3% relative to end 2015. In 2016, the ACPR continued with its intensive training efforts to support new staff members and maintain the level of knowledge within ACPR departments amid substantial regulatory change. As such, ACPR staff received approximately 57,000 hours' training in 2016.

Training now includes an additional European dimension, in the form of a training programme defined at the level of the Single Supervisory Mechanism (SSM) and launched in 2016. Certain ACPR training sessions have been opened up to employees of authorities making up the SSM (and vice versa), helping ensure convergence of supervisory practices and build a common supervisory culture in Europe.

There was little change in the relative weighting of the Authority's areas of activity in 2016.



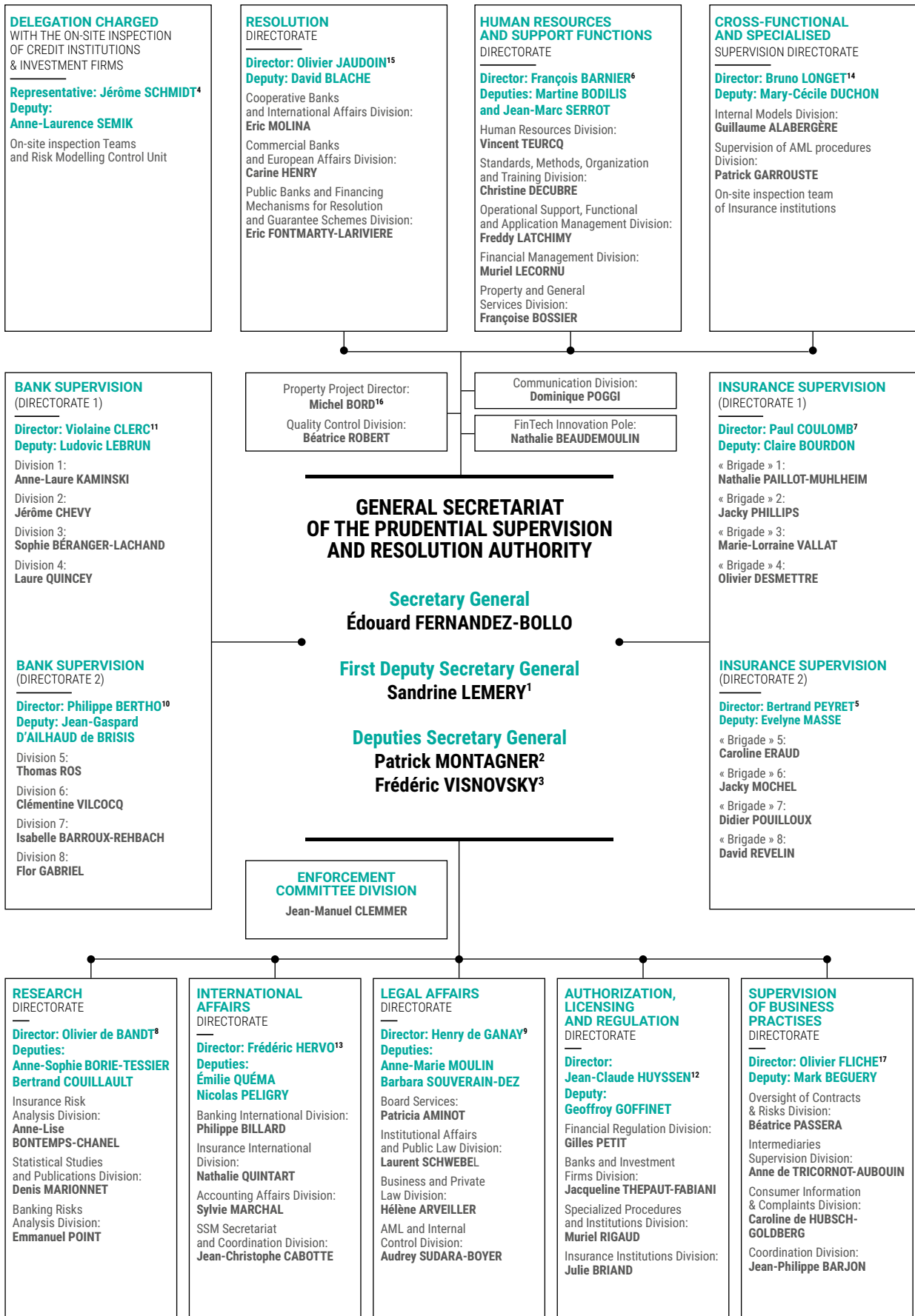
Workforce distribution



QUALITY CONTROL AT THE ACPR

The ACPR's General Secretariat promotes an approach of continuous performance improvement. Since end 2015, it has been supported by a quality control department whose two main levers are as follows: (i) assessment, via quality diagnostics carried out in accordance with an annual work programme, of the operation of internal activity processes; and (ii) assessment of operational risks associated with those processes. The aim of these analyses is to identify areas for improvement and propose and implement measures to simplify, rationalise or secure processes. This approach is intended to support the ACPR in its transformation and help it remain constantly adaptable.

Organisation chart at 1 April 2017



2. SUPERVISORY COLLEGE ACTIVITIES

2.1. Key areas of focus in 2016

The ACPR's activities were based on the principal risks identified in 2016 through half-yearly systemic risk assessment exercises⁽¹⁾ (cf. table on page 15):

The Supervisory College also identified sector-specific risks in banking and insurance:

- operational risks linked to information systems security and the development of FinTechs;
- compliance risks (relating to business practices, anti-money laundering and counter-terrorist financing, and market practices);
- risks linked to governance.

In 2016, the Supervisory College dealt with a number of cross-sector issues relating to these risks:

- In banking, the College examined the situation of groups as regards financing of residential and commercial property, continued efforts to adapt business models to the low interest rate environment, the results of work to identify national and global systemic institutions⁽²⁾ and the results of domestic and European stress tests.
- In insurance, the College particularly monitored the implementation of Solvency II as well as arrangements for adapting insurers' business models to the low interest rate environment, notably in life insurance and long-term guarantees. The consequences, in terms of risks associated with the search for yield, methods for determining life insurance revaluation rates, and the effects of regulatory changes on the structure of the sector (notably the national cross-industry agreement, which made supplementary health insurance for employees mandatory), were also specifically examined.



CREATION OF THE JOINT ACPR AND BANQUE DE FRANCE FINANCIAL STABILITY UNIT

Financial stability covers a huge area and involves numerous teams with a broad range of expertise within the Banque de France and the ACPR, including monetary policy operations, supervision of financial markets and payment systems infrastructure, and monitoring of individual credit institutions, insurance institutions and mutual insurers*.

The importance of stability-related issues is reflected in the desire, following the financial crisis, to have a more secure financial system that promotes growth across the euro area and the French economy. To this end, the Banque de France and the ACPR are committed to increasing their ability to anticipate developments and their effectiveness, so as to optimise their influence on financial stability and regulation.

To achieve these goals, a Financial Stability unit has been set up to unify the activities of the main Banque de France and ACPR units dedicated to such matters.

The aim is to coordinate the preparation of international negotiating positions and boost synergies in all areas of study relating to regulation and financial stability. The role of this unit is to develop shared analysis drawing on the available range of analysis and research skills, notably so as to enhance the half-yearly report assessing risks to the French financial system. Thanks to this coordinated analysis of issues connected with systemic institutions, and to insights on the relationship between micro-prudential and macro-prudential objectives, the Financial Stability unit provides expertise that strengthens the risk-based approach adopted by the ACPR in its supervisory duties.

* The *Autorité des marchés financiers* (AMF – French Financial Markets Authority) is an independent public authority responsible for ensuring that savings invested in financial products are protected and investors are provided with adequate information, as well as supervising the orderly operation of markets.

(1) This report on the assessment of risks and vulnerabilities in the French financial system brings together analysis undertaken by staff at the Banque de France and the ACPR.

(2) For more details, see the "[Systemically important entities](#)" page of the ACPR website.

► Summary of principal risks to the French financial system at end December 2016⁽³⁾

PRINCIPAL RISKS TO THE FRENCH FINANCIAL SYSTEM ⁽¹⁾	JUNE 2016	DEC 2016
MACROECONOMIC RISK		
Resilience of growth in France and the euro area in an environment characterised by depressed global growth, risk to the growth of emerging economies (notably China) and increasing uncertainty as regards economic policy.	→	↑
RISK RELATED TO THE LOW INTEREST RATE ENVIRONMENT		
Downward pressure on the profitability of banks and insurance institutions. Increase in household and business debt. Increase in interest rate risk in Europe via transmission of US interest rate rises.	→	→
MARKET RISK		
Increased market volatility as a result of political uncertainty and increased interest rate risk as a result of steepening yield curves and widening spreads, giving rise to the risk of an abrupt correction in the price of bond assets.	→	→
REAL ESTATE RISK		
Increased vigilance in relation to some segments of the commercial property market. Monitoring of mortgage approval criteria as a result of rising household debt.	↑	↑
REGULATORY RISK FOR FRENCH BANKS		
Strong regulatory pressure to adjust French banks' business models ⁽²⁾ and balance sheets to comply with Basel ratios; additional adjustment cost to banks still uncertain. Uncertainty surrounding final negotiations on Basel III.	↑	→

(1) The current level (represented by the colour code) is based on an "expert" judgement reflecting both the probability of materialisation of the risk and its potential systemic impact over a six-month period. The change (represented by the direction of the arrow) corresponds to the change in the risk since the last risk assessment. The vulnerabilities identified result from an examination of the various indicators in the risk mapping (with scores reflecting the severity of risks to financial stability) as well as information of a more qualitative nature.

(2) Changing customer behaviours, the digital revolution and the arrival of new players mean there is a need for French banks to constantly adapt their business models.

KEY FIGURES FOR THE FRENCH BANKING AND INSURANCE SECTORS AT END 2016

Total consolidated balance sheet assets

BANKING
EUR **7,866.2**
billion

INSURANCE
EUR **2,675**
billion

**Bank loans
to non-financial customers**
88.3%
OF GDP

**Employees in the finance
and insurance businesses**
858,500

(3) The next risk assessment will be published at end June 2017.

2.2. ACPR decisions

Summary of decisions by the Supervisory College concerning individual entities

	TOTAL	of which	Banking sector	Insurance sector
Licensing and authorisation	185		86	99
Supervision (monitoring of prudential ratios, exemptions)	68		35	33
Administrative enforcement measures	11			
Warnings		0	0	0
Cease-and-desist orders (issued by the Chairman acting under delegated authority)		5	5	0
Requests for recovery programmes		1	0	1
Placing under special supervision		0	0	0
Limitation of activity		2	2	0
Placing under provisional administration		0	0	0
Reappointment of a provisional administrator		0	0	0
Withdrawals of licenses without consultation		1	0	1
Other		2	1	1
Other binding measures	58			
Appointment of a liquidator		3	2	1
Reappointment of a liquidator		1	1	0
Injunctions on capital requirements		46	46	0
Requests for short-term funding plans		0	0	0
Injunctions with coercive fines		1	1	0
Other		7	4	3
Initiation of disciplinary proceedings	10		9	1
Other measures concerning individual entities (including initiation of joint decision-making processes, opening of <i>inter partes</i> proceedings, etc.)	73		42	31
TOTAL DECISIONS CONCERNING INDIVIDUAL ENTITIES	405		234	171

List of decisions on general issues adopted in 2016 and published in the ACPR's official register or on its website

INSTRUCTIONS	
Instruction 2016-I-01	establishing application thresholds for quarterly information submissions for supervised institutions
Instruction 2016-I-02	setting out terms of exemption for institutions referred to in Article 3 of Instruction 2016 I-01
Instruction 2016-I-03	setting out terms of exemption from the requirement to submit information on external ratings in detailed reports on investments and derivatives
Instruction 2016-I-04	on disclosures for the purposes of financial stability (insurance sector)
Instruction 2016-I-05	on submission of prudential reports to the ACPR by insurance and reinsurance institutions
Instruction 2016-I-06	on the content of applications to enter into or amend risk transfer agreements
Instruction 2016-I-07	on information to be provided to the ACPR on statutory auditors
Instruction 2016-I-08	amending Instruction 2012-I-01 on the procedure for requesting an opinion on the appointment of statutory auditors and special examiners
Instruction 2016-I-09	on the coverage ratio for mortgage credit institutions and home loan companies
Instruction 2016-I-10	amending Instruction 2009-01 of 19 June 2009 on implementing a unified financial reporting system
Instruction 2016-I-11	amending Instruction 2015-I-13 on disclosures of prudential financial information applicable to significant groups and entities
Instruction 2016-I-12	amending Instruction 2013-I-10 of 3 October 2013 on information about money changers' anti-money laundering and counter-terrorist financing systems
Instruction 2016-I-13	amending Instruction 2013-I-08 on information to be submitted pursuant to the sixth paragraph of Article L.561-3 and the third paragraph of Article D.561-3-1 of the Monetary and Financial Code
Instruction 2016-I-14	on submission of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees, repealing Instruction 2009-04 of 19 June 2009 on additional submissions for calculating contributions due from institutions subject to guarantee schemes for deposits, securities and bank guarantees
Instruction 2016-I-15	on annual prudential reports to be submitted by institutions under the ACPR's supervision not covered by the "Solvency II" regime
Instruction 2016-I-16	on annual prudential reports to be submitted by institutions under the ACPR's supervision covered by the "Solvency II" regime
Instruction 2016-I-17	on submission of prudential documents to the ACPR by insurance and reinsurance institutions covered by the "Solvency II" regime
Instruction 2016-I-18	on submission of prudential documents to the ACPR by insurance and reinsurance institutions not covered by the "Solvency II" regime
Instruction 2016-I-19	on disclosure arrangements concerning reports S.16.01, S.19.01, S.20.01, S.21.01, S.29.03 and S.29.04 under Commission Implementing Regulation (EU) 2015/2450 to be disclosed by insurance and reinsurance institutions covered by the "Solvency II" regime
Instruction 2016-I-20	on the size of reporting ranges for reports S.21.01 and S.21.03 under Commission Implementing Regulation (EU) 2015/2450 to be disclosed by insurance and reinsurance institutions covered by the "Solvency II" regime
Instruction 2016-I-21	on systemic risk indicator reporting obligations pursuant to Article 131 (2) of Directive 2013/36/EU (CRD) aimed at identifying Global Systemically Important Institutions (G-SIIs)

INSTRUCTIONS	
Instruction 2016-I-22	amending Instruction 2012-I-04 of 28 June 2012 on information about anti-money laundering and counter-terrorist financing arrangements
Instruction 2016-I-23	on the submission date of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees, amending Instruction 2016-I-14 of 24 June 2016 on submission of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees
Instruction 2016-I-24	on collection of information about exposure to Belgian housing arising from business carried on under the freedom to provide services
Instruction 2016-I-25	on transmission of information to the ACPR by undertakings referred to in the fourth paragraph of Article L.310-3-1 of the Insurance Code
Instruction 2016-I-26	on submission of the mandatory annual report on unclaimed life insurance policies
Instruction 2016-I-27	amending Instruction 2014-I-13 of 29 September 2014 on collection of information about remuneration
Instruction 2016-I-28	on submission of information needed to calculate contributions to guarantee schemes for deposits, securities and bank guarantees
Amendment to the annexes to Instruction 2015-I-15	on applications for administrative licences, or licence extensions, for insurance and reinsurance institutions

RECOMMENDATIONS	
Recommendation 2016-R-01	on use of social media for commercial purposes
Recommendation 2016-R-02	on handling of complaints
Recommendation 2016-R-03	on advertising materials for passbook savings accounts
Recommendation 2016-R-04	on marketing of unit-linked life insurance policies consisting of complex financial instruments, issued in accordance with point 3 of the second paragraph of Article L.612-1 of the Monetary and Financial Code
Annexes to recommendation 2013-R-0	on gathering information via digital interfaces

POSITIONS
Amendment to Position 2012-P-02 on placement and marketing of financial instruments
ACPR position on the implementation of guidelines issued by the European Banking Authority (EBA) on limits on exposure to shadow banking entities laid down in Article 395 of Regulation (EU) 575/2013 of 26 June 2013 ("CRR")

NOTICES
Notice of compliance with guidelines issued by the European Banking Authority (EBA) on sound remuneration policies (EBA/GL/2015/22)
ACPR notice on the appointment of "effective managers" and "key function holders" under the "Solvency II" regime
Notice on prudential ratio calculation methods under CRD IV

GUIDELINES AND SECTOR ENFORCEMENT PRINCIPLES
Sector enforcement principles on anti-money laundering and counter-terrorist financing obligations in connection with the right to a bank account
Joint guidelines issued by the directorate general "Treasury" and the ACPR on the implementation of asset freezes

List of parliamentary hearings

Date	Topic	Requesting party	ACPR representative
9 February 2016	Information report on the shadow financial system	Senate European Affairs Committee (rapporteur, François Marc)	Édouard Fernandez-Bollo, Secretary General
1 March 2016	Information report on the tie-up between the AFD and the CDC	Senate Finance Committee (joint rapporteurs, Mrs Keller and Mr Collin)	Frédéric Visnovsky, Deputy Secretary General
13 April 2016	Draft bill on independent administrative authorities	National Assembly Law Committee (rapporteur, Jean-Luc Warsmann)	Édouard Fernandez-Bollo, Secretary General
29 April 2016	Transparency, anti-corruption and economic modernisation bill	National Assembly Finance Committee (rapporteur, Romain Colas)	Édouard Fernandez-Bollo, Secretary General
18 May 2016	Combatting international tax evasion and fraud	Senate Finance Committee	Édouard Fernandez-Bollo, Secretary General
25 May 2016	Information report on the resources available to ISIS	National Assembly fact-finding mission on the resources available to ISIS (rapporteur, Kader Arif)	Édouard Fernandez-Bollo, Secretary General
29 June 2016	Application of the Act on inactive bank accounts and unclaimed life insurance policies	Senate (Hervé Maurey)	Édouard Fernandez-Bollo, Secretary General
12 July 2016	Application of the Act on inactive bank accounts and unclaimed life insurance policies	National Assembly Finance Committee (joint rapporteurs, Mrs Dalloz and Mr Fauré)	Patrick Montagner, Deputy Secretary General
19 October 2016	Evaluation of the Act on the prevention of tax fraud and serious economic and financial crime	National Assembly Law Committee (co-rapporteurs, Mrs Mazetier and Mr Warsmann)	Patrick Montagner, Deputy Secretary General
14 November 2016	Prevention of money laundering and tax evasion	European Parliament Committee of Inquiry	Patrick Montagner, Deputy Secretary General

3. HIGHLIGHTS OF 2016

1 January

New Solvency II European insurance sector regulations enter into force.

29 April

In accordance with the Eckert Act of 13 June 2014, the ACPR submits a report to Parliament on the status of unclaimed life insurance policies and the Authority's efforts to make insurers pay out to beneficiaries.

31 March

The ACPR, the AMF, the public prosecutor at the Tribunal de grande instance de Paris (Paris Regional Court) and the DGCCRF⁽¹⁾ hold a press conference on online financial scams, forex and binary options. The four institutions commit to denouncing such practices so as to limit their effects through coordinated action. They highlight the need for increased public awareness.



23 May

The Authority presents its sixth annual report to the press.



1 June

The ACPR sets up a FinTech Innovation unit dedicated to welcoming FinTechs and analysing the impact of innovations on the banking, payment services and insurance businesses. The unit will serve as the entry point for FinTechs applying to the ACPR for a licence.

16 June *The ACPR holds a conference dedicated to new banking regulations as well as data quality and the robustness of information systems. Over the course of the day, almost 900 market professionals attend.*



29 July *The European Banking Authority (EBA) publishes the results of its stress test, begun at the end of February 2016, on the 51 most significant banking groups, covering 70% of total assets in the European banking system, including 37 groups supervised directly by the European Central Bank. French banks demonstrate a very high level of resilience in the stress test.*

28 September *The ACPR and the AMF simplify and speed up licensing procedures in connection with the United Kingdom's exit from the European Union.*

15 December *EIOPA publishes the results of its stress tests. The French market proves resilient, in line with the European average.*

18 July *The ACPR and the AMF launch the FinTech Forum for discussing regulatory and supervisory matters with FinTech professionals.*



25 November *The ACPR holds a conference for banking and insurance professionals, on the subject of FinTechs and supervision of business practices.*



PRUDENTIAL OVERSIGHT: LICENSING AND SUPERVISION

The ACPR ensures the stability of the financial system. This involves issuing licences to institutions in the banking and insurance sectors and carrying out ongoing supervision of all reporting entities. To help it perform these duties, the ACPR has a number of directorates responsible for licensing, supervision and research to analyse the principal risks facing the financial system as a whole.

2016 KEY FIGURES

355

LICENSING AND
AUTHORISATION
decisions

195 in banking
and **160** in insurance

472

CREDIT
INSTITUTIONS
licensed in France
and Monaco

846

REGISTERED
insurance institutions



Summary of ACPR licensing and authorisation decisions

	ACPR total		
	TOTAL	Banking	Insurance
Granting of licences, authorisations and registrations	32	29	3
Licence renewals	24	12	12
Waivers and exemptions from licensing and authorisation requirements	15	15	0
Amendments to licences and authorisations	4	4	0
Withdrawals of licences and authorisations	54	39	15
Risk transfer agreements	6	0	6
Administrative changes	84	36	48
Changes in ownership	59	54	5
Mergers, demergers and/or portfolio transfers - insurance sector	64	0	64
Other	13	6	7
TOTAL	355	195	160

1. INSURANCE SECTOR

Change in number of insurance institutions

Number of insurance institutions	2015	2016	Change
Life and combined insurance companies	90	85	-5
<i>o/w combined</i>	39	37	-2
Non-life insurance companies	191	188	-3
<i>Total insurance undertakings</i>	281	273	-8
Reinsurance companies	16	14	-2
Branches from non-EU countries	4	4	0
Insurance Code	301	291	-10
Provident institutions	37	37	0
Social Security Code	37	37	0
Mutual insurers and unions governed by Book II of the Mutual Insurance Code	488	446	-42
<i>o/w mutual insurers backed by larger partners</i>	149	127	-22
Mutual Insurance Code	488	446	-42
Number of branches of EEA insurance undertakings established in France	76	72	-4
Total licensed undertakings and undertakings not requiring a licence	902	846	-56

1.1. Licensing and authorisation

Licensing activity was mainly driven by mergers and portfolio transfers, many of them involving mutual insurers and unions of mutual insurers.

Specialised new players, notably using new digital technologies, also emerged.

Lastly, ACPR staff handled numerous cases relating to the implementation of governance rules under Solvency II (over 800 notifications of the appointment or reappointment of effective managers and 2,000 notifications of key function holders).

These notifications presented relatively few difficulties from the perspective of appointees' reputation and expertise. Firms were asked to provide additional training for a few effective managers and key function holders.

However, with regard to effective managers and key function holders, initial notifications gave rise to much discussion as to the basis for organisational choices and the functioning of governance arrangements.

ACPR NOTICE OF 2 NOVEMBER 2016 ON THE APPOINTMENT OF EFFECTIVE MANAGERS AND KEY FUNCTION HOLDERS UNDER THE SOLVENCY II REGIME

Pursuant to Article L.612-23-1-II of the Monetary and Financial Code, institutions subject to Solvency II must notify the ACPR of the appointment and reappointment of effective managers and key function holders so that the Authority can assess their reputation, expertise and/or professional experience. Furthermore, the ACPR must review organisational arrangements relating to key function holders and effective managers, notably as regards their positioning and availability and concurrent holding of more than one corporate office.

The ACPR deemed it useful to issue a notice on 2 November 2016 informing the industry of the principles it wishes to see applied in this area.


This notice firstly reiterates the critical role played by boards of directors and supervisory boards in terms of oversight and supervision. It emphasises the heightened responsibility of the board of directors which, with the entry into force of Solvency II, is placed at the heart of institutions' governance systems. In particular, the board must approve written policies before they are implemented within the institution. It is also responsible for appointing effective managers, whose activities it supervises, and key function holders.

Furthermore, each institution must have at least two effective managers. The notice reiterates the areas of expertise in which the latter must have a minimum level of qualifications or experience. It also highlights the requirements in terms of the powers and availability effective managers must have. Lastly, the notice sets out the criteria that must be met by any other effective managers appointed, over and above those laid down in the regulations, in terms of areas of expertise and powers.

Finally, as regards key function holders, after reiterating the areas of expertise in which they must, for each function, have a minimum level of qualifications or experience, the notice explains that their position in the hierarchy must be such that they can perform their duties objectively, impartially and independently within the institution or group in question. In particular, they must have access to all the information they need. Key function holders must also be able to inform the board of directors, directly and at their own initiative, of any major problems they encounter in performing their duties.

The baseline situation laid down in the regulations indicates that key function holders should report to one of the effective managers and be responsible for only one key function. However, exceptions to this baseline situation may be considered, notably in keeping with the principle of proportionality applied to the size of the institution or group (EUR 50 million in premiums and/or EUR 250 million in technical provisions, as the case may be) and the complexity of the risks borne. As such, key function holders may be permitted to be responsible for more than one key function in certain cases; the special case of the key function of internal audit is subject to stricter conditions, as laid down in Article 271 of the Delegated Regulation.

Responsibility for a given key function across a group may be considered, subject in particular to certain conditions relating to resource allocation and the availability of the relevant persons.

More information can be found at acpr.banque-france.fr 

1.2. Supervision

A. Implementation of Solvency II

The most significant event in the insurance sector in 2016 was the entry into force of the Solvency II prudential framework. In spite of its scale, this regulatory reform proceeded satisfactorily thanks to the quality of preparatory work and a high level of commitment on the part of insurers and the ACPR. As an evolving regulation, Solvency II will be the subject of a number of technical adjustments. The revised directive, scheduled for 2018, will make the necessary adjustments to this new prudential framework. In all, based on the various criteria, more than 500 insurance institutions in France are now subject to the new regulation. Other institutions – mainly those covered by the Mutual Insurance Code, including mutual insurers backed by larger partners – will remain subject to Solvency I.



AUTHORISATIONS AND NOTIFICATIONS UNDER SOLVENCY II

The new regulation includes a number of measures for which institutions and groups can qualify subject to ACPR authorisation. It also requires institutions and groups to notify the ACPR of various operations linked to their functioning. These measures include, in particular, the following:

- recognition of certain own-fund items when calculating solvency (ancillary own funds, unlisted items);
- use of transitional arrangements for calculating technical provisions to smooth the financial impact of the switch to Solvency II (matching adjustment, transitional rates and technical provisions);
- use of special arrangements for calculating solvency to better reflect the risk profile (internal models, undertaking-specific parameters, duration-based SCR⁽¹⁾ equity models);
- notification of effective managers and key function holders;
- notification of outsourcing of important or critical activities or functions;
- creation of group social protection insurance companies (SGAPS), in addition to existing group mutual insurance companies (SGAMs) and mutual insurance holding companies (UMGs), for which requirements have been tightened;
- exemptions in connection with supervisory disclosures (partial or full exemption from the requirement to submit quarterly reports, produce a single ORSA⁽²⁾ for a group and its members or a single Solvency and Financial Condition Report aimed at the general public for a group and its members, exemption from the requirement to publish certain information aimed at the general public).

The ACPR had allowed applications for most of these measures to be filed in 2015 so that insurance institutions could benefit from them as soon as the new regime entered into force. The measures for which the most applications were submitted include the use of the transitional measure on technical provisions (9 authorisations granted to date), calculation of regulatory capital based on an internal model or undertaking-specific parameters (16 authorisations) and, more recently, simplified reporting arrangements for groups (21 authorisations).

(1) Solvency Capital Requirement.
(2) Own Risk and Solvency Assessment.

► Compliance with requirements under the regulation's three "pillars"

The new regulation rests on three "pillars". Quantitative requirements (Pillar 1), which relate in particular to the amount of capital required via the calculation of a Solvency Capital Requirement (SCR) and a Minimum Capital Requirement (MCR), have been met without difficulty.

The market's median SCR has been estimated at over 200%, a level that appears satisfactory. Very few institutions did not meet their SCR at 1 January 2016. Some of those that did not have been granted a transitional period that gives them until 31 December 2017 to comply, provided that they met their prudential requirements under the Solvency I regime at 31 December 2015.

Pillar 2, on institutional organisation and governance, led certain institutions to make the necessary adjustments, with a few firms not completing the required organisational changes in 2016.

Implementation of the provisions of Pillar 3 requires institutions to submit disclosures and draw up reports (notably the Own Risk and Solvency Assessment). The frequency of supervisory disclosures and obligations to report information to the market has increased significantly. As regards quarterly disclosures, 2016 was an interim year for opening balance sheets and quarterly reports under Solvency II, with the new regime coming into full force in May 2017 (annual and quarterly reports, specific national templates and reports).

► Quality of submissions and opening balance sheet

The ACPR places great importance on data quality. Firstly, as regards quantitative submissions, the switch to Solvency II was made easier by preparatory exercises undertaken by the ACPR in recent years⁽¹⁾ with the aim of encouraging French groups and institutions to familiarise themselves with the new XBRL data transmission format and the extent of the requirements regarding the quality of data transmitted.

Of the 826 French insurance institutions identified at end December 2015, 60% have been submitting Solvency II data since 1 January 2016. They represent 99% of the French insurance sector's total balance sheet.

The 2016 opening submission under Solvency II was an opportunity to take initial stock of the entire population subject to the new regime. The quality of these initial submissions was satisfactory overall (with 97% of individual entity submissions containing no anomalies), as was the quality of the quarterly submissions that followed.

The main areas for improvement remain overall compliance of taxonomy checking, compliance with submission deadlines (notably for consolidated group reports) and the need to improve the overall consistency of figures, including consistency between group submissions and submissions for individual entities making up those groups. An analysis of initial submissions highlights the fact that particular attention will need to be paid to data sourced from external providers acting on behalf of insurance institutions, quality control of policy and claims data input into management systems, and automation of actuarial processes.

Beyond their obligations to submit information to the ACPR, the reliability of information systems and the quality of data must remain an ongoing priority for institutions. These are crucial elements of business management (valuation of commitments, portfolio segmentation, establishment of pricing, calculation of solvency, etc.) that must be subject to governance arrangements at the highest level. High-quality information is critical to the successful implementation of the three "pillars" of the Solvency II regulation and to prudential supervision decisions made by the ACPR.

2016 MARKET SURVEY ON GOVERNANCE OF INFORMATION SYSTEMS AND QUALITY OF DATA

In 2016, the ACPR carried out an initial market survey, in the form of a questionnaire, on arrangements put in place by insurance and reinsurance institutions to ensure data quality, govern information systems and manage information systems security. Over 300 institutions, representing almost 90% of the market, responded. The survey, which will be repeated, provides the ACPR with an overall view of these issues, and in particular the growing challenges of information systems security, and enables it to deepen dialogue and discussion with institutions.

Around half of institutions said they were satisfied with the maturity of their management of data quality. However, governance arrangements in this area need to improve further, notably as regards the scope covered.

Three-quarters of firms, representing over 90% of total sector revenue, said they were satisfied with the maturity of their IT systems governance. However, improvements are required to their IT risk management systems. Furthermore, firms representing two-thirds of the market (by revenue) said they were satisfied with the maturity of their management of outsourced activities.

Three-quarters of institutions said they had attained a good level of maturity with regard to information systems security. Most of them have a head of IT security. The use of penetration testing is widespread and insurers say they are able to either restart critical information system services or switch to failover systems. Eighty percent of institutions said they had fallen victim to cyberattacks, mainly via identity theft or malware. More than one-third of respondents said they had yet to put in place systems to identify cyberattacks.

(1) On 2013 and 2014 annual reports and the quarterly report for Q3 2015.

► **Supervisory activities specific to the implementation of Solvency II (including Solvency II on-site inspections and individual feedback to those institutions having made the least progress)**

The entry into force of Solvency II at the beginning of 2016 and the prospect of the need to produce a closing balance sheet at end 2016 marked the end of the ACPR's programme assessing institutions' preparedness for the implementation of this regulation. The final inspections under this programme were kicked off in the first half of the year. The ACPR also placed the emphasis on calculating technical provisions and the solvency capital requirement. Around 40 on-site inspections were carried out on this specific subject.

At the same time, the ACPR monitored the use and development of previously approved internal models (change of model policy).

Generally speaking, while notable efforts have been made by the industry in recent years, enabling the new regulation to come into effect under favourable conditions, further effort is required in a number of areas: production of prudential balance sheets, and notably methods for calculating the "best estimate" of technical provisions, contract boundaries, and underwriting shock in relation to the solvency capital requirement.

The prudent person principle in relation to management of investments and asset/liability matching, and the principle of investing in the "best interest" of policyholders, must also constitute areas of focus for institutions in a low interest rate environment.

EIOPA STRESS TESTS

In 2016, EIOPA ran a stress test specific to the insurance sector. Given that it was the first year of application of the Solvency II regime, and in light of the risks identified for the sector, the scope of the exercise was restricted to the low interest rate environment, through two instantaneous scenarios at end 2015: a "double-hit" scenario consisting of simulating a rise in spreads at the same time as a fall in yields; and a "low-for-long" scenario consisting of simulating a long-term lowering of the yield curve.

A total of 236 firms from across Europe took part in the exercise, representing 77% of life and health insurance technical provisions (excluding unit-linked products). Seventeen of these firms were French. A further 17 more modest-sized institutions were also called upon to supplement analysis of the French market's risks and vulnerability to a low interest rate environment.

The exercise confirmed the overall resilience of the European and French markets, albeit with significant disparities, both between institutions and from one domestic market to another.

At the European level, the results showed that institutions started from a position of being adequately capitalised, with an average solvency ratio of 196% (136% excluding the measures in the long-term guarantee package). Both scenarios produced significant effects: under the double-hit scenario, the excess of assets over liabilities across all European participants declined by EUR 160 billion; under the low-for-long scenario, the excess declined by EUR 100 billion.

As regards the French market, life insurers participating in the European exercise presented a starting solvency ratio equal to the European average (196%). Excluding the measures in the long-term guarantee package, the ratio was higher than the European average (152% vs. 136%).

The absolute change in the ratio of assets to liabilities (down 1.38 percentage points under the double-hit scenario and 1.34 percentage points under the low-for-long scenario, starting from an initial ratio of 105.4%) remained below the European average. Meanwhile, the relative change in the excess of assets over liabilities (down 32.1% under the double-hit scenario and 21.8% under the low-for-long scenario) was just above the European average.

In accordance with the recommendations published by EIOPA for the attention of national authorities following this stress test, the ACPR will remain vigilant in the coming months as to the implications of the low interest rate environment for the French life insurance market, particularly as regards the implementation of risk management policy, methods of calculating commitments and the assessment of institutions' risks at the level of the group to which they belong (rather than solely on an individual basis). In particular, the Authority has encouraged insurers to limit and monitor the risks they take with the aim of protecting their solvency over the long term, and to adopt a prudent approach to revaluation for 2016.

B. ACPR areas of focus in insurance sector supervision

The insurance sector's exposure to changes in interest rates, particularly in the new regulatory environment, was the subject of specific monitoring, both across the sector as a whole and at the individual level, for the most exposed segments (life insurance savings, long-term guarantees and pensions). As such, following the "ORSA – Low interest rates" exercise run in 2015, the Authority wrote to around 100 institutions and conducted over 40 interviews to discuss the results of the exercise with the largest institutions in the market. These activities were supplemented by on-site inspections. Lastly, the ACPR took part in stress tests run in 2016 by European authorities (the European Insurance and Occupational Pensions Authority, EIOPA – cf. box on page 28).

The low interest rate environment should prompt insurance institutions not only to moderate payouts of technical and financial policyholder surpluses, but also to rigorously and regularly assess their investment policy and, where applicable, reconsider their asset allocation choices. Furthermore, to be fully effective, these actions must be accompanied by careful monitoring – notably through risk management systems – of portfolio changes and market indicators (notably interest rates) to which institutions' liabilities are sensitive. As such, institutions tempted, amid low returns on standard bonds, to resort to more complex assets will need to be able to demonstrate sufficient expertise in valuing such instruments as well as great rigour in monitoring and managing risks.

Moreover, new European and domestic regulations (notably Solvency II and the national cross-industry agreement/ANI of 2013) are likely to prompt insurance institutions to make changes to their business models. Their impact on the profitability of the various segments was monitored particularly closely by the ACPR throughout 2016.

C. Special institutions and activities

► Systemically important insurance groups

In November 2016, the Financial Stability Board (FSB) published a list of nine insurers considered globally systemic (Global Systemically Important Insurers or G-SIIs) – i.e. insurers whose failure would have a major impact on the global financial system. In particular, this list – unchanged from the 2015 list – includes French group AXA and European groups Allianz and Aviva, both of which have French subsidiaries.

A Crisis Management Group (CMG) has been put in place for each of the G-SIIs identified, consisting of the group's supervisor and the main local supervisors. The role of this group is to put together a preventive strategy for the orderly cessation of each G-SII's activities, known as a "resolution plan"; in the event of an extreme crisis, this strategy would seek to preserve financial stability and protect policyholders without the need for public support. Each G-SII must also submit an annual systemic risk management plan, liquidity risk management plan and crisis recovery plan to its CMG.



MACROPRUDENTIAL MEASURES

The low interest rate environment must be taken into account when assessing the sustainability of the life insurance business model, which is based on granting policyholders a capital guarantee and paying out returns derived from a stock of old bonds. Although the level of guaranteed rates is low in France, institutions will have to continue lowering revaluation rates on life insurance policies, in spite of their efforts in an environment of intense competition. All European Union countries are faced with this problem. For this reason, the European Systemic Risk Board published a report in 2016 aimed at evaluating the effects of the interest rate environment on the financial sector as a whole. The report, which the ACPR was involved in writing, lists macroprudential instruments whose use could be explored in the insurance sector: revision of guaranteed minimum rates, restriction of dividend payments until the minimum regulatory SCR threshold is met, discretionary reductions in benefits, etc.

For more information, the full report is available from the European Systemic Risk Board.




► Medical liability insurance

Act 2007-127 of 30 January 2007 on the organisation of certain health professions and the repression of identity theft and the illegal exercise of such professions requires insurance firms covering, in France, the civil liability risks referred to in Article L.1142-2 of the Public Health Code (namely medical liability risks) to provide the ACPR with accounting, prudential or statistical data on those risks. The Act stipulates that the Authority will “analyse this data, transmit it in aggregated form and report on it to the ministers with responsibility for the economy and social security”.

► “Euro-growth” contracts

In 2015, the public authorities opened discussions intended to foster the development of “euro-growth” contracts, a savings vehicle introduced in 2014 with characteristics halfway between those of a euro-denominated product and a unit-linked product. A few months after the directorate general “Treasury” had held a public consultation on various options under consideration for a temporary incentive scheme to promote euro-growth contracts, the ACPR published a paper on 14 March 2016 on the role of euro-growth contracts in the French life insurance market.

More information can be found at acpr.banque-france.fr 

Highlighting the increased risks to life insurers posed by the lastingly low interest rate environment – notably due to the gradual dilution of returns on their general assets – the Authority reiterated in this paper that life insurers needed to take all necessary steps to manage these risks and constantly adapt their asset portfolios to the economic environment. In this regard, euro-growth contracts may help institutions move towards this goal insofar as they broaden the range of possible products.

Regarding the proposed incentive mechanisms, all three of which were based on transferring unrealised gains from general assets to the euro-growth pocket in line with amounts paid or transferred into that pocket, an in-depth impact study showed that their effects on the level of unrealised gains in euro funds would remain relatively limited. However, the Authority reiterated that the complexity of euro-growth contracts meant insurers had a specific duty to provide policyholders with relevant information, and that any potential incentives should be introduced completely transparently.

A decree and an order published in July 2016 introduced the option for insurers to make use of such a mechanism for the period 2016-2018, within certain clearly defined limits, and set out the associated policyholder information requirements. However, inflows into euro-growth contracts have remained very modest, with a total of just under EUR 285 million collected in 2016.

► Pensions: supplementary occupational pension funds and points-based pension schemes

The “Sapin II” Act, passed at the end of 2016, authorised the government to legislate by ordinance to introduce into domestic law a new type of institution, the supplementary occupational pension fund (FRPS – *fonds de retraite professionnelle supplémentaire*), that would be governed by rules resulting from the transposition of the IORP (Institutions for Occupational Retirement Provision) Directive and not the Solvency II Directive. In particular, this differentiated prudential framework is intended to make it easier for future FRPSs to invest in diversification assets, with a long-term view, notably by measuring their balance sheet at historical cost rather than market value. ACPR staff have taken part in industry discussions on this subject, particularly as regards impact studies, in view of licensing applications and portfolio transfers that will follow the publication of the corresponding texts, slated for 2017. Existing assets likely to be switched to this new prudential regime have also been closely monitored by the Authority’s supervisory staff, since they often include significant guaranteed rates and/or tables, notably during the annuity payout phase.

In line with the transposition of Solvency II, the Sapin II Act also allows the government, by way of ordinance, to modernise and harmonise the provisions of the three codes relating to points-based pension schemes (known as *branche 26*) while improving policyholder information about the specific status of the insurance agreement for which they have signed up. ACPR staff carried out a review of the impact of implementation of Solvency II on these points-based schemes as at 1 January 2016, in an unfavourable economic environment. This review, together with on-site inspections at a few institutions in 2016, showed that the best estimate of corresponding commitments, which requires detailed modelling (of pricing, revaluation, investment policy, etc.) over very long timelines, is not always correctly calculated. The review also confirmed that, while the average return on assets representing commitments currently continues to exceed the discount rate on liabilities, if the current environment were to persist, this return would be steadily eroded. As such, the institutions in question will need to use all available levers to manage this risk. The ACPR will therefore remain extremely vigilant in this area.

THE NEW POWERS OF THE HAUT CONSEIL DE STABILITÉ FINANCIÈRE (HCSF)

Article 49 of the Sapin II Act amends Article L.631-2-1 of the Monetary and Financial Code and grants the *Haut Conseil de stabilité financière* (HCSF – Financial Stability Oversight Board) new macroprudential powers in respect of the insurance sector. As such, the HCSF will be authorised, at the proposal of the governor of the Banque de France and chairman of the ACPR, following an opinion from the Authority’s Supervisory College, to suspend, delay or limit, for all or part of the insurance market in France, payment of surrender values, the option to switch investments or the payment of advances on contracts. The HCSF will also have the option of temporarily limiting the free disposal of insurance institutions’ assets or certain transactions or activities, including acceptance of premiums or payments. In particular, the new measures broadening the HCSF’s powers are aimed at preventing the risks – to savers and the financial system as a whole – that would result from massive outflows from funds invested in life insurance contracts. They therefore increase the security of the system for the benefit of savers. However, since the HCSF can only activate these new measures to prevent risks representing a serious and blatant threat to the financial position of the life insurance market in France or the stability of the financial system, they are only to be used in absolutely exceptional circumstances. Lastly, the Sapin II Act gives the HCSF the power to adjust the rules governing the setting aside and writing back of policyholder surpluses.

2. BANKING SECTOR

2.1. Licensing and authorisation

CREDIT INSTITUTIONS (licensed in France and Monaco)	2015	2016	Change
Credit institutions licensed in France	383	354	-29
Institutions licensed for all banking activities	288	274	-14
Banks	180	169	-11
<i>o/w branches of institutions having their registered offices in non-EU countries</i>	20	20	0
Mutual and co-operative banks	90	87	-3
Municipal credit banks	18	18	0
Specialised credit institutions (formally financial companies or specialised financial institutions at end 2013)	95	80	-15
Branches of EEA credit institutions operating under the freedom of establishment	68	68	0
Credit institutions licensed in Monaco	21	21	0
TOTAL CREDIT INSTITUTIONS (licensed in France and Monaco)	472	443	-29
FINANCING COMPANIES			
Financing companies	160	158	-2
Dual status: financing companies and investment firms	4	4	0
Dual status: financing companies and payment institutions	20	21	1
TOTAL FINANCING COMPANIES	184	183	-1
INVESTMENT FIRMS			
Investment firms licensed by the ACPR	78	76	-2
<i>Branches of investment firms operating under the freedom of establishment</i>	53	55	2
TOTAL INVESTMENT FIRMS	131	131	0
PAYMENT INSTITUTIONS			
Payment institutions licensed by the ACPR	24	26	2
<i>Branches of payment institutions operating under the freedom of establishment</i>	9	12	3
TOTAL PAYMENT INSTITUTIONS	33	38	5
ELECTRONIC MONEY INSTITUTIONS			
Electronic money institutions licensed by the ACPR	6	7	1
<i>Branches of electronic money institutions operating under the freedom of establishment</i>	1	1	0
TOTAL ELECTRONIC MONEY INSTITUTIONS	7	8	1
TOTAL MONEY CHANGERS	180	180	0

A. Authorisation applications in the context of the SSM

► Conversion of credit institutions into financing companies

Changes of status continued in 2016 with the implementation of the European CRR⁽²⁾, which defines credit institutions as legal entities whose business is to receive repayable funds from the public and grant loans. Credit institutions not receiving repayable funds from the public have therefore had to change their status. Furthermore, Article 23 of the “Energy Transition for Green Growth” Act, enacted on 17 August 2015, and its implementing decree of 25 November 2015, provided for the possibility of creating third-party financing companies whose business is to finance improvements to the energy efficiency of residential buildings.

► Harmonisation and simplification of European procedures

France accounts for almost half of all notifications received by the European Central Bank (ECB) in respect of applications to ratify the members of credit institutions’ governing bodies.

During this second year of operation of the SSM, the number and use of procedures requiring an ECB decision highlighted the need to define an approach to harmonising and simplifying such procedures, particularly in the areas of governance (procedure for appointing the members of credit institutions’ governing bodies⁽³⁾) and the acquisition of qualifying holdings⁽⁴⁾.

In France, Decree 2016-1560 of 18 December 2016 (published in the Official Journal on 20 November 2016)⁽⁵⁾ serves to simplify the procedure for reappointing natural persons as members of the board of directors, supervisory board or equivalent body of a credit institution, an investment firm other than a portfolio management company, or a financing company. From now on, whenever a supervised institution certifies, in a notification of reappointment, that the status of the person concerned has not changed relative to the evaluation criteria (reputation, experience and expertise, availability and independence of mind), the ACPR will be assumed to have given its consent upon receipt of such notification.

At ECB level, delegation procedures should be put in place to simplify the signature process. Regarding expectations as to the content of applications submitted by institutions, the ECB has launched a consultation on a harmonised guide⁽⁶⁾ that aims to inform the persons concerned of their obligations as well as to clarify which interpretations of the evaluation criteria have been adopted and define shared best practice.

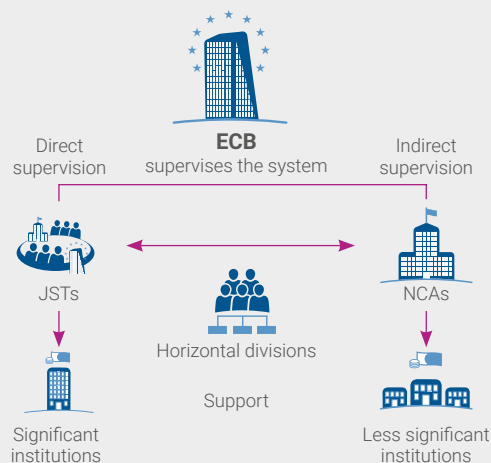
As regards obligations relating to the acquisition of holdings in supervised institutions, following draft revised guidelines issued by the European Banking Authority (EBA) on the assessment of qualifying holdings, work to harmonise the applicable procedures is in progress, notably for “parallel” procedures (capital transactions taking place in more than one country and therefore entailing close coordination between the various involved authorities). This work continues in 2017, notably to simplify procedures for appointing members of credit institutions’ governing bodies in the context of acquisitions of qualifying holdings and to provide a more detailed definition of action in concert.

ORGANISATION OF BANKING SUPERVISION

With effect from 4 November 2014, the ACPR exercises its powers within the framework of the Single Supervisory Mechanism (SSM), the first pillar of the European Banking Union, which places responsibility for supervising all euro area banks on the European Central Bank (ECB), in coordination with competent national authorities (NCAs).

This single supervision is exercised in two ways:

- The ECB directly supervises institutions considered “significant”, in coordination with NCAs.
- National authorities supervise “less significant institutions”, under the supervision of and within the framework laid down by the ECB.



(2) Capital Requirements Regulation.

(3) Procedures for assessing reputation and expertise.

(4) Procedures governing regulatory disclosures of the crossing of share ownership thresholds.

(5) Decree 2016-1560 of 18 December 2016 amended Article R.612-29-3 of the Monetary and Financial Code implementing Article L.612-23-1 of that same code.

(6) “Guide to fit and proper assessment”, out to public consultation from November 2016 to January 2017.

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

Furthermore, the ACPR is still responsible for supervising institutions other than credit institutions (investment firms,

financing companies, payment institutions and electronic money institutions), as well as for all duties falling outside the scope of CRD IV⁽⁷⁾ and CRR⁽⁸⁾: anti-money laundering and counter-terrorist financing, consumer protection, the European Market Infrastructure Regulation (EMIR) and the Banking Separation Act.

B. Licensing of new players in the payments sector

The growth trend in the payment services and electronic money sector seen in 2015 continued in 2016. Another 15 companies qualified for the exemption laid down in Article L.521-3 or L.525-5 of the Monetary and Financial Code.

Article 94 of Act 2016-1321 of 7 October 2016, known as the "Digital Republic Act", added Articles L.521-3-1 and L.525-6-1 to the Monetary and Financial Code, amending the conditions under which providers of electronic communication networks or services could (i) provide payment services and issue and (ii) manage electronic money. As such, the conditions under which licence exemptions may be granted were broadened to include donations to organisations raising funds from the public, purchases of electronic tickets, digital goods and voice services. Amounts are capped at EUR 50 per payment

transaction and EUR 300 per month. This exemption must be notified to the ACPR, which has three months to notify the organisation of its opposition if it deems that the qualifying conditions are not met. Three operators (Orange, SFR and Bouygues Telecom) have been granted exemption under the terms of these articles.

This trend is likely to continue in 2017, amid continuing rapid technological development and growing expectations among users of payment services (development of digital technology, growth in e-commerce, personalised customer journeys, etc.). The approaching implementation date of Payment Services Directive 2 (13 January 2018) should also generate licensing and registration applications from new players, notably payment initiators and account information aggregators.

IMPLICATIONS OF THE UNITED KINGDOM'S EXIT FROM THE EUROPEAN UNION

Following the United Kingdom's decision on 23 June 2016 to leave the European Union, and the likely implications of that decision as regards eligibility for the European financial passport, the ACPR and the AMF decided to put in place arrangements to facilitate the transition for operators wishing to move some of their activities currently based in London to France. In a press release dated 28 September 2016, the two authorities announced that they were simplifying and speeding up licensing procedures for insurance institutions, investment firms, electronic money institutions and payment institutions licensed in the United Kingdom wishing to move activities to France, either in the form of branch operations or directly from their home countries (under the freedom to provide services). Credit institutions were excluded from this procedure, since licensing for such institutions falls within the jurisdiction not only of the ACPR but also of the ECB.

As a result of these simplifications, the Authority set up a dedicated electronic mailbox, agreed to accept documents in English where these are already available and, consequently, assigned English-speaking lead case managers, who will also be able to provide all the advice and information needed to ensure that the application process proceeds as smoothly as possible, even before applications are filed.

These measures were welcomed by institutions, which entered into preliminary contact with the aim of surveying the initial options available to them. The main questions raised included the conditions for potentially outsourcing critical services to London, the continued use of internal models already approved by the UK supervisor, remote booking, and compensation.

More information can be found at acpr.banque-france.fr 

(7) Capital Requirements Directive.
(8) Capital Requirements Regulation.



2.2. Prudential supervision

A. Banking supervision under the Single Supervisory Mechanism

The 11 Joint Supervisory Teams (JSTs), largely made up of ACPR representatives, undertake ongoing supervision of major French banking groups. ACPR staff also contribute to the work of eight other JSTs tasked with supervising French establishments – subsidiaries or branches – of significant financial institutions supervised directly by the ECB. These JSTs consolidated their working arrangements in 2016, and now operate as true coordinated single supervisory teams for each banking group, made up of experts from the various national authorities and the ECB coordinating their day-to-day work to carry out document-based inspections, as laid down in the SSM's framework regulation and the associated supervisory manual (a guide to supervisory practices is also available to the public).

More information can be found at acpr.banque-france.fr

Working under the authority of the JST's coordinator and their local coordinator, the ACPR's supervisory staff implemented the annual supervision programme, drawn up in keeping with the size and risk profile of each banking group and the SSM's priorities for 2016. In addition to their fundamental contribution to work carried out at consolidated level, French teams are also responsible more specifically for monitoring French subsidiaries of banking groups.

In this context, the French contingent of joint teams ensures the reliability and quality of data included in the various

periodic and non-periodic prudential and accounting reports, and analyses that data. This analysis feeds into monitoring reports drawn up periodically by risk category, which contribute to the annual assessment of risks for each major banking group (Supervisory review and Evaluation Process – SREP). In 2016, additional liquidity reports were collected and a thematic review was undertaken on data aggregation and risk reporting.

In coordination with the ACPR's and the ECB's authorisation departments, French teams also handle applications relating to the reputation and experience of managers of French entities, entailing significant additional contact with institutions.

In 2016, the SREP methodology (under which each institution is assigned an overall score as well as potential additional capital requirements) was amended so that additional capital requirements even more closely reflect the individual profile of each bank. These methodological changes related in particular to measures taking into account the results of European stress tests and the introduction of Pillar 2 guidance to accompany additional capital requirements. This additional measure is intended to reflect the supervisor's expectations over and above minimum and additional requirements on the one hand and regulatory buffers on the other. Since it does not constitute a directly mandatory standard, this Pillar 2 guidance is not included when calculating the Maximum Distributable Amount (MDA)⁽⁹⁾. This revised methodology was published by the SSM in December 2016.

(9) Level of shareholders' equity below which restrictions apply to the dividend distributions and the payment of coupons on Tier 1 equity instruments.

As part of follow-up actions subsequent to the thematic reviews carried out in 2015, JSTs issued governance and risk appetite recommendations to banking groups to guide them as they implement best practice in this area. These recommendations are followed up, and in-depth reviews on the same theme are conducted for some institutions. Furthermore, requests for corrective action were sent out following the thematic review on leveraged financing, to improve banks' management of this risk. Lastly, the thematic review on cybersecurity also resulted in on-site inspections and the identification of points to watch.

In implementing the priorities defined under the SSM for 2016, the JSTs initiated thematic extending over two years, covering business models and drivers of profitability, as well as preparedness for the implementation of the new IFRS 9 accounting standard. Discussions with institutions on these two subjects therefore continue in 2017.

In accordance with the decision by the Supervisory Board, 38 inspections were undertaken on behalf of the ECB at the largest institutions. Of these, 11 concerned the approval and/or review of internal models. Themes reviewed as part of general inspections included the management of interest rate risk on the banking book; systems for managing and controlling IT, credit and counterparty risk; and governance and data quality. Also in 2016, JST experts on internal models worked to prepare for the review of internal models to be undertaken by on-site inspection teams in 2017.



In 2016, the ECB pursued its aim of developing uniform standards for the supervision of smaller institutions that remain under the direct supervision of national authorities (Less Significant Institutions – LSIs), of which there are 138 in France (and more than 3,400 under the SSM as a whole). To this end, ACPR staff contributed to work to implement Joint Supervisory Standards (JSSs). The latter related to definition of the supervision programme, crisis recovery plans and supervision of banks specialising in vehicle finance. Various projects initiated in 2016 will continue in 2017, such as the preparation of Joint Standards on crisis management and licensing of FinTechs, and implementation of the IFRS/national GAAP conversion tool currently under development.

In November 2016, the ECB launched a consultation on options and discretionary powers in relation to prudential requirements applicable to LSIs. A regulation and a guide on these same subjects have already been published for Significant Institutions (SIs); the aim of this approach is to ensure that the provisions put in place by competent national authorities provide for an effective and consistent supervisory system across the euro area while taking into account the principle of proportionality.

These principles led the ECB to present proposed guidelines aligned with the decisions already made for SIs, and binding upon competent national authorities once approved by the ECB's Governing Council. As such, it is proposed that an exposure will be considered in default if it is 90 days overdue, with no option of extending this period to 180 days for exposure secured on real property or exposure to public sector entities.

The ECB is also planning non-binding recommendations aimed at establishing a framework for analysing certain options and discretionary powers. These are intended to encourage competent national authorities to adopt options and powers that are, in some cases, the same as those adopted for SIs – e.g. for exemptions to prudential requirements at individual entity level – and in other cases specific to LSIs, such as exemptions to cross-border liquidity requirements.

Other work concerns the development of the SREP methodology for LSIs – including the review of ICAAP⁽¹⁰⁾ and ILAAP⁽¹¹⁾ – which will need to be finalised in 2017 so that national authorities can use it as part of the 2018 SREP, as well as trials of the IMAS tool, which will be extended to end 2018.

Arrangements for indirect supervision by the ECB also translated into regular visits and contact via the ECB's specialist country teams, the introduction of an early warning system in the event of difficulties, and the transmission of comments following notifications issued by the ACPR on its decisions concerning LSIs.

(10) Internal Capital Adequacy Assessment Process (ICAAP).

(11) Internal Liquidity Adequacy Assessment Process (ILAAP).

B. Prudential supervision of domestic regulations and non-SSM European regulations

A significant proportion of supervisory activities in 2016 had to do with implementation of the provisions of France's Banking Separation Act. On-site inspections were carried out at the six main supervised banking groups. The key findings of these inspections resulted in cross-sector feedback being issued to the industry in the second half of 2016 and action letters being sent to each institution.

While progress remains to be made, these inspections highlighted the amount of effort made by the industry to comply with the new requirements resulting from the Act. In particular, they resulted in capital market activities being more transparent to the supervisor through mapping exercises and helped further enhance risk management arrangements.

The major areas of focus resulting from these on-site inspections concern the following:

- institutions' failure to provide adequate operational definitions of central concepts under the Act, such as sound and prudent management and directional positions;
- granularity of the mapping of capital market activities used;
- quality and accuracy of mandates.

Work was also undertaken, in conjunction with the industry, on market-making indicators periodically provided to the ACPR, with the aim of fostering a consistent approach across the industry. Feedback on this work is planned for the first half of 2017.

As regards routine ongoing supervision activities for institutions falling outside the scope of the SSM, ACPR staff focused on in-depth analysis of institutions' risk profiles and changes in those profiles, as well as risk management and internal control systems and policies in place and the robustness and performance of institutions' business models.

IMPLEMENTATION OF THE NEW PRUDENTIAL REGIME APPLICABLE TO "BRANCHES FROM NON-EU COUNTRIES"

Prudential regulations applicable to branches of credit institutions having their registered office in a state that is neither a European Union Member State nor a party to the agreement on the European Economic Area (known as "branches from non-EU countries") were amended by Ordinance 2015-558 of 21 May 2015 and the Order of 11 September 2015. These texts implemented Article 47 of CRD IV, which stipulates that Member States should not apply to branches of credit institutions having their head office in a non-EU country provisions that result in more favourable treatment than those accorded to branches of credit institutions having their head office in the European Union.

Branches from non-EU countries are licensed as specialised banks or credit institutions other than mortgage credit institutions and home loan companies. The aforementioned ordinance, supplemented by the aforementioned order, stipulates that branches from non-EU countries are subject to the various prudential rules laid down in CRD IV and Regulation 575/2013 of the European Parliament and of the Council ("CRR") with effect from 1 July 2016.

However, the ordinance provides for exemption from the prudential standards on solvency, large exposures, liquidity and leverage as well as associated public disclosure requirements (known as "Pillar 3 public disclosures"). To qualify for these exemptions, which

may be full or partial, an entity must meet a number of criteria, mainly having to do with commitments to be given by the branch's head office (notably to supervise operations and make available sufficient funds to cover commitments), the regulatory and supervisory environment in the country where the institution has its head office, and the possibility for branches of French credit institutions established in the country where the institution has its head office to qualify for these same exemptions (the "reciprocity" criterion).

Applications analysed by the ACPR's Supervisory College have more specifically highlighted the discriminatory power of this reciprocity criterion. With the exception of one application, where the deciding factor was the regulatory and supervisory environment in the country where the institution had its head office, the lack of reciprocity was the main determining factor in decisions by the Supervisory College to refuse exemption or grant only partial exemption. As such, on a strictly symmetrical basis, some exemptions granted have been limited to certain standards or transaction types (e.g. transactions in foreign currency) or have led to the liquidity standard defined in CRR being replaced by the liquidity coefficient resulting from implementation of the provisions of the Order of 5 May 2009 on the identification, measurement, management and control of liquidity risk.

Of the various categories of institution supervised by the ACPR, **payment institutions and electronic money institutions** have been the focus of particular attention. In keeping with the need to ensure the security of payments and client funds, particular vigilance has been exercised with regard to compliance with regulatory requirements on the segregation of client assets. In response to serious breaches in this area, the ACPR College adopted a precautionary measure temporarily suspending an institution's activities until sufficient guarantees had been put in place to cover amounts due to clients, as indeed subsequently happened. Furthermore, with a number of operators in this fast-growing sector not yet having reached financial equilibrium, the ACPR has been very careful to ensure that institutions maintain a satisfactory capital structure, often in excess of minimum regulatory requirements.

For investment services providers, the ACPR closely monitored institutions' actual profitability in a still challenging market, with a particular focus on intermediaries specialising in debt securities affected by the decline in business resulting from the low interest rate environment. It also maintained close supervision of a number of operators that deemed it necessary to diversify their service offering to support their business model, but whose situation, given the significant costs incurred, was liable to suffer as a result.

Supervisory staff also stepped up their awareness-raising efforts among **investment firms** with regard to the preparation of initial preventive recovery plans to be submitted to the ACPR for authorisation.

As regards **market infrastructures**, the French clearing house was the focus of significant supervisory activity in 2016 as a result of its numerous growth initiatives. In particular, the ACPR had to approve multiple changes in risk management mechanisms resulting from the expansion of its offering. Alongside the AMF and the Banque de France, the ACPR jointly leads the supervisory college of the French clearing house established by Regulation (EU) 648/2012 (known as "EMIR"⁽¹²⁾), which brings together a significant number of foreign authorities. At the same time, the ACPR was involved in work on forthcoming European legislation on crisis recovery and resolution for clearing houses, and set up the first crisis management group focused on the French clearing house. Lastly, the ACPR participated in several European supervisory colleges of clearing houses.

On-site banking supervision staff also provided assistance to the European central banking system, carrying out 16 audits of mechanisms for selecting credit claims provided as collateral for intraday monetary policy and credit operations.

CLOUD COMPUTING

As a result of the digital transformation, financial institutions are having to make substantial recurring investments in their information systems to enable them to provide customers with increasingly personalised service, manage structural costs and strengthen compliance with regulatory requirements. In response to the need for more flexible and agile information systems, banks and insurers are increasingly taking an interest in public cloud computing. New financial players like FinTechs also favour these types of solutions, which provide rapid access to information systems that can easily adapt to their growth. While interest in cloud computing is legitimate, the ACPR calls on institutions to also take into consideration the associated specific risks so as to determine appropriate internal control arrangements. In light of the challenges associated with information systems security, business continuity and data confidentiality, in 2013 the ACPR published a paper identifying the risks associated with cloud computing and setting out its recommendations in this area. In particular, this paper affirms that public cloud computing must be considered an essential outsourced service. This implies – among other requirements – the financial institution's right to audit the service provider. Institutions must also assess the sensitivity of data and/or applications to be transferred and, where applicable, ensure that relevant safety conditions are met. In 2016, the ACPR reaffirmed these intangible principles in the course of its inspections and discussions with financial institutions. In 2017, it will continue to contribute to the work of the EBA aimed at harmonising supervisory authorities' requirements in this area.

More information can be found at
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Lastly, the ACPR worked to implement requirements in relation to preventive recovery plans. BRRD⁽¹³⁾ requires Member States to ensure that each institution “draws up and maintains a recovery plan providing for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial situation”, where applicable drawn up on a consolidated basis for a group. Such plans must be assessed by the supervisory authority.

A European Commission delegated regulation (2016/1075) details the content of recovery plans, and the EBA has published a set of guidelines clarifying certain aspects of recovery plans, such as scenarios and a minimum list of qualitative and quantitative indicators to be included.

The provisions of the Bank Recovery and Resolution Directive (BRRD) were transposed into French law by Ordinance 2015-1024 of 20 August 2015. Article L.613-35 of the Monetary and Financial Code defines the conditions for the preparation, assessment and implementation of preventive recovery plans, the content of which was clarified by the Order of 11 September 2015. LSIs and investment firms licensed for proprietary trading, underwriting, investment (with or without guarantee), operation of a multilateral trading facility or custody account-keeping must submit a preventive recovery plan to the ACPR. Furthermore, the second sub-paragraph of Article L.613-34 of that same code stipulates that “the Supervisory College may, following an opinion from the Resolution College, subject a financing company or parent of a financing company [...] to the obligation to draw up a preventive recovery plan”.

The level of obligations placed on institutions required to draw up a preventive recovery plan is determined by the Supervisory College (second sub-paragraph of

Article L.613-35 of the Monetary and Financial Code), which can authorise institutions to draw up this plan using a simplified approach, provided that such authorisation does not constitute an obstacle to the implementation of early intervention measures. This simplified approach concerns the content and detail of plans as well as the date by which initial plans must be drawn up and the frequency with which they must be updated.

In 2016, the ACPR established practical arrangements for implementing preventive recovery plans for LSIs. In doing so, it took into account ECB recommendations in this area aimed at ensuring that competent national authorities are consistent in the requirements they place upon institutions. In particular, these recommendations clarify which institutions are likely to be eligible for simplified requirements, and set out the content of such requirements and the dates by which the initial plan must be submitted and subsequently updated.

While all preventive plans must include five key sections (executive summary, governance, strategic analysis, communication and information plan, and analysis of preparatory measures), the ACPR determines the level of required obligations on a case-by-case basis, based on institution-specific criteria (size, business, risk profile, etc.) and macroeconomic criteria (impact of a failure on the financial markets or the economy). Dates for submitting initial recovery plans to the ACPR have been staggered between December 2016 and December 2017, taking into account each institution’s status, funds (or securities) collected and covered by the deposit (or securities) guarantee scheme, and any Pillar 2 capital requirement to which the institution may be subject.

ACPR AND ECB ACTIVITY IN THE BANKING SECTOR WITH REGARD TO CYBER RISK

Banks and insurers, like most businesses, are completely reliant on computer systems. As such, IT risk, recognised as a form of operational risk, is a focus of particular scrutiny for supervisors. As early as 2015, when it took responsibility for the European supervisory mechanism, the ECB made cybersecurity in the banking sector one of its priority areas for action. A thematic survey was undertaken to identify institutions’ strengths and weaknesses. This was followed by a series of on-site inspections in which the ACPR took part, carrying out its own penetration tests where appropriate. Institutions were asked for action plans to remedy the various shortcomings identified. A database on cybersecurity incidents is also in the process of being set up under the auspices of the ECB. Alongside these efforts, the ACPR decided to strengthen its arrangements so as to develop its capacity to intervene in this area. A network of IT experts was put in place for both the banking and insurance sectors. The ACPR is continuing its work on cybersecurity by developing an assessment questionnaire, which it will use in 2017 to assess the status of the 150 or so French LSIs.

(13) Bank Recovery and Resolution Directive.

2.3. Resolution

Implementation of the Single Resolution Mechanism (SRM) continued in 2016. The ACPR prepared preventive resolution plans for French credit institutions within the banking union designated as "significant" by the European Central Bank, and took part in the first colleges of resolution authorities, held in the final quarter of the year to sign off these plans. This work was undertaken in cooperation with the Single Resolution Board (SRB).

The ACPR's work related firstly to resolution plans for four major French banking groups (BNP Paribas, BPCE, Crédit Agricole and Société Générale). As well as writing plans for these systemically important institutions, the ACPR focused on drawing up transitional resolution plans for other French groups under the direct jurisdiction of the SRB, namely significant institutions under the SSM and cross-border groups. These plans are as yet only partially compliant with the requirements set out in Article 12 of Directive 2014/59/EU (known as the Bank Recovery and Resolution Directive, or BRRD). The ACPR will continue its analyses in 2017, as well as preparing plans for "less significant" institutions, which remain under its direct responsibility.

At the same time, the Authority took part in methodological work led by the SRB on the preparation and handling of resolution situations, as well as the effective implementation of the Single Resolution Fund (SRF), managed by the SRB.

A manual aimed at standardising the work of national resolution authorities within the banking union for the euro area was published by the SRB in September 2016 ([available from the SRB website](#)). It sets out the information needed by national authorities to perform their duties, as well as the structure and content of preventive resolution plans.

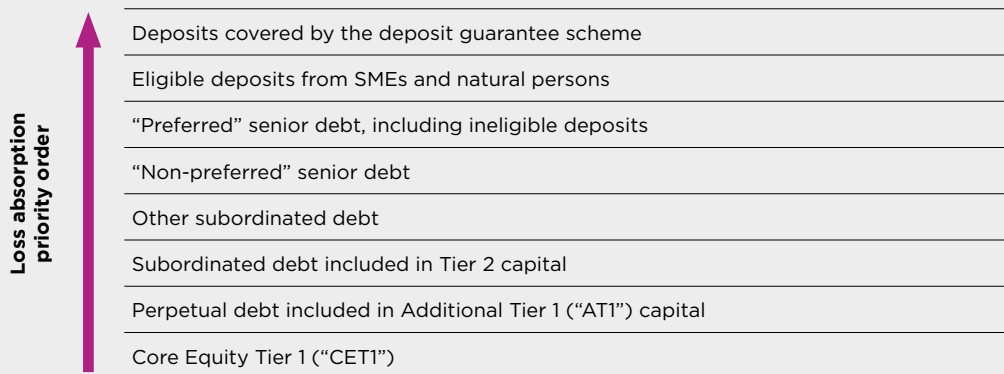
The Single Resolution Fund (SRF) is funded by contributions from credit institutions and certain investment firms in the 19 member states of the banking union. Its gradual ramp-up over an eight-year transitional period (2016-2023) is intended to ensure that, by 31 December 2023, its funds equate to 1% of total deposits covered for the 3,800 or so institutions falling within its scope. The SRB is responsible for calculating contributions, and the ACPR continues to collect them for France and transfer them to the SRF. It also remains the preferred contact point for institutions so that ongoing dialogue is maintained with domestic contributors. A single data collection model was used for the first time in 2016 to calculate contributions to both the SRF and the National Resolution Fund, which is intended to fund the resolution of institutions located overseas and in Monaco, independent investment firms and branches of credit institutions from non-EU countries. The adoption by institutions of these new reporting procedures entailed significant work for the ACPR in managing data submissions and checking and revising data.



NEW CREDITOR HIERARCHY FOR CREDIT INSTITUTIONS IN FRANCE

Act 2016-1691 of 9 December 2016 on transparency, anti-corruption and economic modernisation altered the hierarchy of creditors of credit institutions. Article 151 of the Act created a new class of bank debt instruments available to absorb losses in the event of liquidation or resolution, commonly known as “non-preferred senior debt”. This new category of debt will be called on just after subordinated debt but before senior debt, now known as “preferred senior debt”. This measure is intended to facilitate bail-ins for resolution purposes and help institutions comply with the TLAC (total loss-absorbing capacity) requirement, which has been defined at the international level.

This approach has various advantages, prompting the European Commission to promote it in its proposals on harmonising the hierarchy of bank creditors presented in November 2016 as part of a legislative package for European banks. Firstly, only non-structured securities issued on or after entry into force of the reform can belong to this new class – i.e. the reform does not have retroactive effect. Secondly, debt maturing in less than one year is not eligible, thus avoiding any impact on banks’ short-term credit ratings. Lastly, issuance agreements for securities belonging to the new category must explicitly state their rank in the hierarchy of creditors. The text thus offers sufficient flexibility that French banks can choose whether or not to issue these new securities. The main French banking groups began issuing these securities in December 2016.



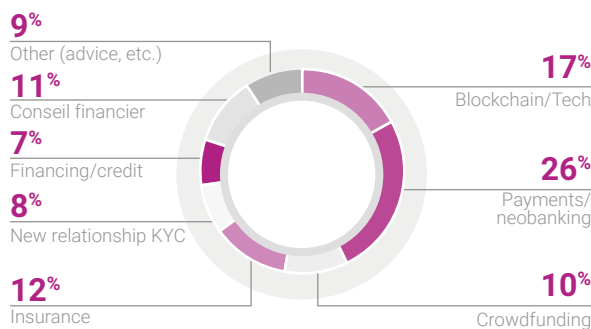
3. ADAPTING SUPERVISION FOR FINTECHS AND DIGITAL FINANCE

3.1. FinTech Innovation unit: an approach geared towards openness

On 1 June 2016, the ACPR established the FinTech Innovation unit to reach out to innovative financial operators and prepare for their regulation. The unit works closely with the FinTech, Innovation and Competitiveness unit established by the AMF on the same date. To help with their efforts, project owners have a dedicated e-mail address⁽¹⁴⁾ and an information section on the ACPR's website⁽¹⁵⁾. Meetings or telephone interviews with operators are arranged within two weeks, involving suitable in-house experts to answer project owners' questions as early in the process as possible.

Since its inception, the unit has had more than 100 visits; for regulated financial activities, 26% of visits have related to the payments sector, 12% to insurance, 11% to financial advice and 10% to crowdfunding. Other interviews were conducted with technology providers, with two areas particularly well represented: blockchain technology (17%) and digitisation of new customer relationships (8%).

Breakdown of innovative operators visiting the FinTech Innovation unit



► Payments

As has been observed in other European countries, the payments market continues to be of particular interest to French FinTechs, which are seeking to propose more modern, more flexible or smarter payment solutions, or to present themselves as a simpler kind of "bank" offering a more functional payment account on a mobile phone, with an associated payment card and no overdraft. Account information aggregators – which, along with payment initiators, will be supervised by the ACPR with effect from 2018 under the second European Payment Services Directive (PSD2) – are also actively growing. Due to their business model based on attractive prices, payment operators seek

to quickly scale up their business to achieve profitability through volume. Some players, already licensed as payment institutions, wish to add aggregation and payment initiation services to their existing services, or to target additional categories of customers. Other payment operators extend their business outside France, with the priority on other European markets and Africa.

► Crowdfunding

At end 2016, the French market had 102 crowdfunding platforms: 56 crowdfunding intermediaries, 39 crowdfunding advisers and 7 dual-status entities. Given the high level of competition, the sector is expected to consolidate, with the first mergers already completed and some operators going out of business. In fact, the market is highly concentrated: the top three loan platforms together account for around 75% of the market. According to data published by industry group *Financement Participatif France*, the volume of loans granted more than doubled in a year (from EUR 88 million in 2014 to EUR 196 million in 2015); however, volumes remain very marginal compared with bank loans. Platforms tend to become institutionalised in order to increase volumes and boost profitability. In this vein, some are entering into partnerships with investment funds.

► InsurTech

Many start-ups propose their offerings and technologies to insurance firms to enhance their services throughout the value chain. This includes proposals to use Big Data and Open Data⁽¹⁶⁾ for pricing and underwriting purposes, development of robots and connected objects for prevention purposes, and analytical techniques for fraud prevention. The insurance sector is also characterised by the development of new distribution channels using mobile technology (such as "chatbots"), notably related to the development of the sharing economy.

► Financial advice

The financial advice segment has seen the arrival of new players⁽¹⁷⁾ sometimes referred to as robot advisers, which claim to be able to provide automated and personalised financial advice on managing savings. This advice is based wholly or partly on algorithms, which appear to be of varying degrees of sophistication, with varying levels of human involvement in the customer experience. Such players also face profitability challenges, forcing them to win significant numbers of customers when their business model is oriented towards end customers.

(14) fintech-innovation@acpr.banque-france.fr

(15) <https://acpr.banque-france.fr/lacpr/missions/pole-acpr-fintech-innovation.html>

(16) Big Data is the use of computerised statistical techniques to process large volumes of data. Open Data means data that is freely available to anyone.

(17) These operators often have dual status as financial investment advisers or management companies (under AMF jurisdiction) and insurance intermediaries (under ACPR jurisdiction).

► Established players and FinTechs

Faced with the FinTech phenomenon, established players are trying to identify the most fitting strategies to develop their own culture of innovation and meet the challenges posed by the digital transformation. Their responses generally consist of a combination of in-house initiatives, partnerships with FinTechs and minority or majority investments in FinTechs. Relationships with FinTechs – which intensified in 2016 – thus take a variety of forms (incubators, sponsorships, contractual relationships, cross-disciplinary workshops, etc.). For example, there has been an increase in partnerships with payment account information aggregators, robot advisers and crowdfunding platforms.

Lastly, banks and insurance undertakings are testing out the technological innovations that underpin FinTechs. For example, experiments on blockchain technology are being run internally by consortia (R3 and LaBChain), as well as

through bilateral approaches with start-ups, notably to work on opportunities recently opened up by regulations on the use of blockchain for mini-bonds⁽¹⁸⁾ and unlisted securities⁽¹⁹⁾. Unlike the blockchain technology used for bitcoin, which is a public blockchain (with anonymization and no barriers to entry), projects under consideration tend to lean more towards the development of private blockchains (with user identification and controlled access). At the same time, under the influence of open innovation, blockchain technology is rapidly evolving to overcome the difficulties identified in experiments, while discussions are beginning on the legal and governance challenges posed by the use of this type of system in the financial arena.

Other areas of technological development receiving substantial investment in both the banking and insurance sectors relate to data processing, artificial intelligence and connectivity.

3.2. Constructive dialogue with the market: the FinTech Forum

Launched on 18 July 2016 at the initiative of the ACPR and the AMF, the Forum has 36 members, mainly from FinTechs and associated industry groups, but also including banks and insurers, the Banque de France and the directorate general “Treasury”. Given the cross-industry nature of the topics discussed, the CNIL⁽²⁰⁾ and Tracfin are also involved in the Forum’s discussions. The Forum exists to foster consultation and dialogue with FinTech professionals with the aim of better understanding the regulatory and supervisory issues linked to financial innovation, in a spirit of openness to innovation but also a desire to manage risks.

The main topics raised by the Forum at this stage have to do with (i) defining a more proportionate approach to regulation and supervision of new players, (ii) modernising rules on remote customer identification and (iii) working on the implications and limitations of the use of customer data. A dedicated working group has already been set up on the issue of proportionality. It will also examine the regulatory sandbox (a specific legal framework for testing certain innovations in real-world conditions), taking into account the European framework applicable to financial activities and challenges linked to fair competition between financial players. In light of initiatives underway in some countries, this topic is also under discussion with the European Commission.

3.3. Risks and benefits associated with FinTechs and digital finance

In theory, digital innovation should increase the breadth of available financial services as well as making them more accessible, more transparent and cheaper as a result of renewed competition and highly product-specific pricing. Together with RegTech (regulatory technology), digital innovation can also help make the financial system more secure and improve compliance with regulatory requirements and fraud prevention.

However, beyond the expected benefits, this digital revolution is not without its risks. These risks mainly relate to anti-money laundering and counter-terrorist financing, cybersecurity, security of client funds and payments (notably

in the area of payment services), consumer information (notably in the areas of automated advice and crowdfunding) and compliance issues linked to the use of personal information about customers. Of course, established players are also faced with these risks. Digital finance requires increased vigilance from operators and supervisors alike, and calls for renewed cooperation between supervisors. This is reflected in France in the FinTech Forum, and at the European and international level in working groups of supervisors to discuss more consistent approaches to fostering innovation without compromising consumer protection or financial stability.

(18) Ordinance 2016-520 of 28 April 2016 on *bons de caisse* (short-term notes issued by credit institutions).

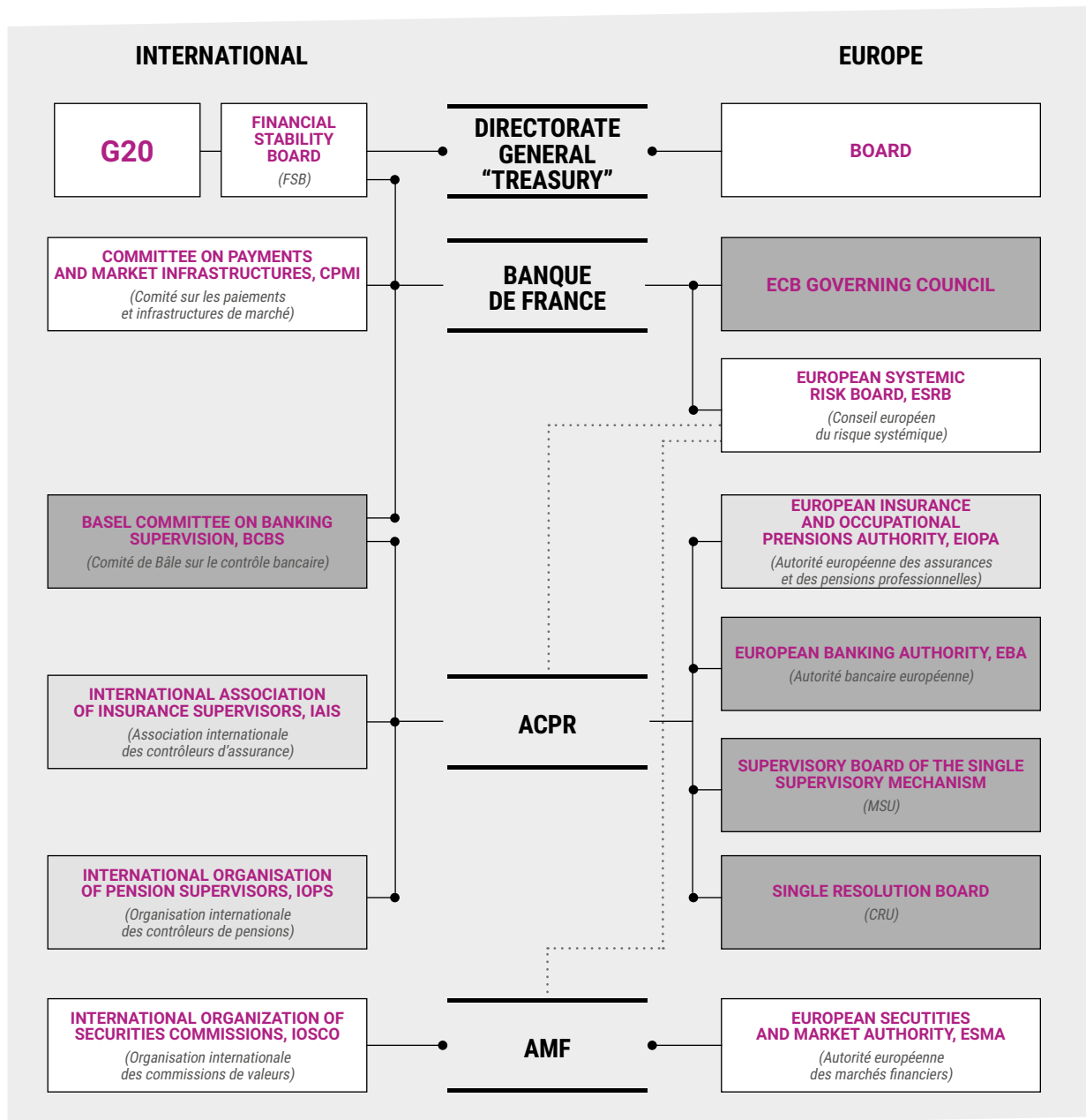
(19) “Sapin II” Act of 9 December 2016 on transparency, anti-corruption and economic modernisation.

(20) *Commission nationale de l’informatique et des libertés*, the French data protection agency.

4. ACPR INVOLVEMENT IN EUROPEAN AND INTERNATIONAL BODIES

The ACPR's influence in European and international negotiations arises both from its direct participation in the decision-making structures of the various bodies of which it is a member and from its involvement in associated working groups, including in particular those tasked with drawing up and updating prudential standards. As such, the ACPR is represented in a total of 345 working groups.

The ACPR sits on the management boards of the EBA and EIOPA, which consist of six representatives of national authorities. Over and above decisions concerning internal management, these boards have an important strategic role in defining activity, notably by establishing work programmes. The ACPR is also represented on the Basel Committee and the Executive Committee of the International Association of Insurance Supervisors (IAIS).





4.1. Banking

The ACPR has helped define important prudential standards, both with the European Union and beyond.

► With the European Union

• Prudential regulations and Capital Markets Union

In 2016, the bulk of the work undertaken by the EBA on prudential regulation was linked to fulfilment of the mandate granted to it by legislation in the context of CRD IV and CRR, adopted in 2013. This work included significant developments relating to internal risk assessment models (model evaluation procedures, definition of default, estimating parameters, etc.), assessment of the impact of introducing a leverage ratio at the European level and recommendations on how it should be calibrated, and arrangements for publicly disclosing qualitative and quantitative information associated with the LCR⁽²¹⁾.

Draft guidelines were also drawn up on internal governance and, jointly with ESMA (the European Securities and Markets Authority), on evaluating the aptitude of members of governing bodies and key function holders, while specific work was undertaken on securitisation (guidelines on implicit support for securitisation transactions, a report on risk retention, appropriate diligence and publication).

In 2016, the EBA also fulfilled some of the mandates entrusted to it by the Second Payment Services Directive (PSD2), such as drawing up technical standards setting out the framework for cooperation and information exchange between competent authorities in relation to payment institutions operating on a cross-border basis, and the development of regulatory technical standards aimed at payment services providers concerning requirements on strong customer authentication and the protection of customer information.

The ACPR also contributed to EBA calls for advice, of which the European Commission required a growing number in 2016, to prepare for the revision of the CRD IV package, with a notable focus on giving a central role to questions of proportionality and taking into account specifically European issues and the financing of the economy. These opinions related in particular to procedures for revising requirements governing market and counterparty risk, remuneration, exposure to central counterparties and an appropriate outline for Europe-wide implementation of the net stable funding ratio (NSFR). A discussion paper focusing on the review of the prudential regime applicable to investment undertakings was also published.

All in all, in 2016, the EBA adopted and submitted to the European Commission 22 technical standards and published 12 sets of guidelines, 18 advices and 38 reports.

(21) Liquidity Coverage Ratio.

Under the Capital Markets Union project, the European Commission launched a series of initiatives aimed at gathering arguments and positions from the various stakeholders. Given the importance of these projects, the ACPR, in conjunction with the Banque de France, took part in these discussions, notably by responding to the call for contributions on the regulatory framework for financial services and the public consultation on covered bonds.

The ACPR also had significant involvement in the Commission's targeted consultations aimed at preparing updated prudential regulations in the banking sector (the CRD IV package), which were finally published on 23 November 2016. The aim of this revision is to incorporate into the European regulatory corpus a series of standards of the Basel Committee on Banking Supervision (BCBS) approved since the CRD IV package entered into force, and to take into account European objectives.

● **Bank resolution**

The ACPR was also involved in EBA-led European workstreams on the resolution of banking crises.

● **Adoption of regulatory standards and work in progress**

In 2016, the European Commission adopted a number of delegated acts relating to bank resolution. With the notable exception of the technical standard on valuation, most of these acts (in the form of regulatory technical standards [RTSs] or implementing technical standards [ITSs]) were adopted in the first half of 2016 – such as, in particular, technical standard (EU) 2016/1450 of 23 May 2016 on MREL (Minimum Requirement for own funds and Eligible Liabilities).

Furthermore, in accordance with the provisions of Article 4 of BRRD, in 2016 the EBA kicked off work on arrangements for implementing simplified requirements on recovery and resolution plans in the various Member States. A progress report should be published in 2017. An RTS on the simplified requirements is also under development. It is set to replace the existing guidelines published on 7 July 2015.

● **Implementation of the Minimum Requirement for own funds and Eligible Liabilities (MREL)**

On 14 December 2016, the EBA published a report on arrangements for implementing the MREL (Minimum Requirement on own funds and Eligible Liabilities), which it submitted to the European Commission at the same time. MREL is the minimum required level of liabilities eligible for bail-in in the event of resolution, under BRRD terminology.

In particular, the report sets out a number of recommendations aimed at improving the harmonisation and effectiveness of MREL, which is intended to be applied to all banks that could be the subject of a resolution procedure. In this regard, the scope of MREL is broader than that of TLAC, which only covers global systemically important institutions.

The themes and options developed include, in particular, (i) alignment of the denominator of MREL with the same reference values as TLAC; (ii) extension of a Pillar 1 MREL requirement to all systemic institutions, including at the national level; and (iii) absence of automatic sanctions in the event of a breach of MREL requirements if an institution is unable to resume debt issuance as a result of market tensions. In 2017, the EBA report should serve as a key reference for national authorities in discussions over the European Commission's new legislative proposals on integrating TLAC into European law and revising the MREL mechanism.

● **Setting target contributions to the resolution fund**

An EBA report analysing the appropriateness of target levels of contributions to the resolution fund was published on 31 October 2016. This report recommends that the reference to "covered deposits" be replaced with "total liabilities", since the latter corresponds more closely to consistency criteria vis-à-vis the regulatory framework and the methodology for calculating contributions to the resolution fund, and to the simplicity criterion promoted by the legislation. However, the report proposes a number of options concerning the operational implementation of this new target: (i) total liabilities; (ii) total liabilities less covered deposits; (iii) total liabilities excluding own funds less covered deposits. The latter option is considered the most appropriate relative to the full range of criteria adopted. The report also states that any change in the reference base should be accompanied by a change in the reference rate (currently 1% of deposits covered). It now falls to the European Commission to examine whether to put forward a legislative proposal.



► International

• Basel Committee (BCBS)

The activities of the BCBS in 2016 mainly related to the finalisation of the Basel III Accord. This large-scale project, aimed at thoroughly reviewing the risk measurement methods used by banks to determine their solvency, represents the final brick in the prudential edifice constructed in response to the financial crisis since 2008. The ACPR's goal in these negotiations is to secure a robust and balanced framework that will improve the comparability of ratios between international banks while maintaining a sufficient degree of risk sensitivity.

As well as work linked to the finalisation of Basel III, 2016 also saw the publication of a number of international standards. For example, a revised framework for minimum own fund requirements in relation to market risk was published in January 2016, concluding work that began several years earlier with the aim of conducting a thorough review of the rules applicable to the trading book. A new standard on interest rate risk in the banking book (IRRBB) was published in April 2016. This aims to ensure that banks have sufficient capacity to absorb potential interest rate shocks, and to limit the possibilities for arbitrage between the banking and trading books. In particular, it provides for stricter disclosure requirements and more detailed recommendations concerning expectations relative to banks' interest rate risk management processes. However, no Pillar 1 own funds requirement is laid down to cover this risk.

Furthermore, in July 2016 the EBA published updated rules on securitisation to provide for specific more favourable treatment of securitisation transactions considered "simple, transparent and comparable". In November 2016, it also published a standard setting out the regulatory treatment applicable to securities aimed at boosting total loss-absorbing capacity (TLAC). Lastly, the BCBS continued its discussions on the prudential treatment of sovereign risk.

• Resolution

The Financial Stability Board (FSB) has undertaken significant work on the resolution of systemically important credit institutions.

• Internal TLAC

In December 2016, the FSB published a report on requirements in respect of internal TLAC (total loss-absorbing capacity)⁽²²⁾. This document, which was put out to public consultation until 10 February 2017, recommends that each parent or "resolution entity" of a group should put in place internal loss absorption mechanisms for significant subsidiaries, in accordance with technical procedures summarised in 20 principles. In particular, the report defines procedures for identifying significant subsidiaries (i.e. those representing at least 5% of a group's risk-weighted assets or net banking income), procedures for activating internal mechanisms, and the role and characteristics of intragroup guarantees, notably in the form of pre-positioned subordinate financing (of between 75% and 90% of the amount that would have been calculated had the entity been subject to a TLAC requirement on an individual basis). Work on internal TLAC is set to continue in 2017 to take into account comments received during the consultation.

PREPARATIONS FOR FINALISATION OF THE BASEL III ACCORD

Work to finalise Basel III aims to replace the standard method currently used to calculate risk exposure at the same time as improving the comparability of risk-weighted assets used to calculate the solvency ratio, so as to avoid unwarranted differences between banks using internal models. The work also aims to introduce a specific leverage charge for systemic banks over and above the 3% minimum.

As regards market risk, the fundamental review of the trading book was completed in January 2016. As regards credit risk and operational risk, the BCBS published proposals in the first half of 2016. These proposals involved, in particular, the introduction of new standardised approaches (to replace existing approaches), stricter supervision of internal models (which may take the form of restrictions or even, in some cases, prohibitions on modelling) and the introduction of a capital floor for banks using internal models, which would be calculated as a percentage of capital requirements under standard approaches.

The BCBS's work on these various subjects continued throughout the second half of the year so as to incorporate the findings of public consultations and impact studies. This work was not finalised in 2016. In accordance with the mandate entrusted to the BCBS by the G20, these changes should promote a level playing field without leading to a significant increase in overall own funds requirements in the banking sector.

(22) <http://www.fsb.org/2016/12/guiding-principles-on-the-internal-total-loss-absorbing-capacity-of-g-sibs-internal-tlac/>

- **Continuity of access to market infrastructures**

The FSB continued its work on continuity of access to market infrastructures (clearing houses, central depositaries, etc.) for systemic banks in the event of resolution. In this context, a consultation paper published at the end of 2016 identified various obstacles to continued access and proposed a number of solutions favouring continuity, both at infrastructure level and at intermediaries or institutions themselves. In particular, the paper highlights the need for cooperation between authorities – infrastructure supervisors on the one hand and resolution authorities on the other. It also raises the question of contractual relationships, and in particular cross-border recognition of resolution measures by market infrastructures. The work on continuity of access should culminate in recommendations being drawn up in the course of 2017.

- **Implementation of bail-in measures**

The FSB continued its discussions on systemic banks' ability to implement bail-in measures. Three key themes – the scope of instruments eligible for bail-in, valuation of those

instruments, and technical management of bail-in operations by market infrastructures – have already been the subject of an in-depth study. Three additional themes are in the process of being reviewed: issues linked to securities law, governance of the bail-in process, and external communications, particularly with the market. This work should culminate in the publication of a recommendations paper in the course of 2017.

- **Clearing house resolution**

A paper on the resolution of systemic clearing houses was put out to public consultation. It sets out the main resolution challenges for these types of entities. In particular, four points were highlighted: (i) elements of the debate setting the flexibility of resolution instruments over against the predictability of intervention by resolution authorities; (ii) sources of financing; (iii) difficulties posed by cross-border resolution; and (iv) resolution strategies. Following this first public consultation, the FSB is to publish proposed detailed recommendations on the resolution of clearing houses, in view of their final adoption in the course of 2017.

	TLAC	MREL according to BRRD	MREL incorporating TLAC (currently being negotiated)
Legal instrument	Term sheet, international agreement at G20 level	Article 45 of BRRD	Proposed European Commission amendment to BRRD/CRR of 23 Nov 2016
Nature of standard	Pillar 1 requirement, uniform standard	Pillar 2 requirement, case-by-case approach. Level set by resolution authority for each institution.	Pillar 1 requirement for G-SIBs Pillar 2 requirement for all
Scope	Global systemically important banks (G-SIBs)	All credit institutions (including subsidiaries in the case of groups)	All credit institutions (including subsidiaries in the case of groups)
Entity concerned	Group parent	Individual and consolidated level. Exemptions possible.	Individual (group parent and significant subsidiaries) and consolidated level. Exemptions possible.
Main eligibility criteria	Unsecured and subordinated debt (with exceptions) Residual maturity greater than 1 year	Unsecured debt, but no subordination requirement Residual maturity greater than 1 year	Unsecured debt. Subordination required for Pillar 1. Residual maturity greater than 1 year
Calibration	<ul style="list-style-type: none"> • 16% of RWAs with effect from 1 Jan 2019, then 18% of RWAs with effect from 1 Jan 2022 • Leverage ratio requirement of 6% during first phase (1 Jan 2019), then 6.75% from 1 Jan 2022 	Around two times prudential requirements Adjustments possible	Around two times prudential requirements. Adjustments possible. Distinction between a requirement and “guidance”, non-compliance with which is not systematically sanctioned. Pillar 1 requirement consistent with TLAC (for G-SIBs).
Calendar	Implementation in two phases: 1 Jan 2019, then 1 Jan 2022	<ul style="list-style-type: none"> • 2016: EBA RTS on MREL, transposed into European law by a delegated act of 23 May 2016 • 2016: initial indicative MREL targets determined by SRB • 14 Dec 2016: EBA report on MREL mechanism 	2017-2018: integration of TLAC into European law via revision of BRRD and CRR

4.2. Insurance

► Europe

One of the key areas of work related to the first stages of the review of the Solvency II prudential framework. The new Solvency II regulatory framework, which entered into force on 1 January 2016, provides for a review of calibration of the solvency capital requirement (SCR) in 2018 and a review of measures introduced by the Omnibus II directive pertaining to the “long-term guarantee package” in 2020.

As regards the revision of the standard formula for calculating SCR, the European Commission referred to EIOPA for its opinion at the beginning of July 2016. In this context, EIOPA began work that has already resulted in the publication of a consultation paper and a data collection exercise. The major objective of this revision is to simplify the standard formula, thus facilitating consistent interpretation across the European Union.

Irrespective of these review clauses, which were provided for by the regulations from the outset, EIOPA also undertook work to review the calibration of capital requirements associated with investments in infrastructure providers. This work gave rise to the publication and transmission of a report to the European Commission. It supplemented work done in 2015 resulting in reduced capital requirements for investment in infrastructure projects.

To ensure the effectiveness of measures in the “long-term guarantee package”, EIOPA has to submit an annual report to the European Parliament, the Commission and the Parliament on the use of long-term guarantees. The first such annual report highlighted the fact that these measures are very widely used across the European market (accounting for 30% of technical provisions), with a significant impact on solvency ratios. In particular, the volatility adjustment is by far the most used measure in the European Union.

Alongside this review work, EIOPA proposed a new methodology for calculating the UFR (Ultimate Forward Rate), the rate towards which insurance liability discounting curves converge, which has not been reappraised since it was set in 2010. EIOPA's preparatory work resulted in a paper put out to public consultation from April to July 2016 and the completion of an impact study in the latter part of the year.

As regards work on pension products, a draft European directive, IORP II, was formally adopted in December 2016⁽²³⁾, since pension funds are not subject to Solvency II. IORP II mainly introduces new governance arrangements and sets out rules for cross-border business, notably in cases where

policyholders' rights are transferred. At the same time, in February 2016 EIOPA issued an opinion on the creation of a Pan-European Personal Pension (PEPP). In the second half of 2016, the European Commission drew on this opinion to hold a public consultation aimed at identifying potential obstacles to individual pension plans.

Lastly, EIOPA initiated discussions on the implementation of a European resolution regime for insurance institutions, leading to a paper on this subject being put out to consultation towards the end of the year. This should be followed by proposals from EIOPA.

► International

The IAIS's most notable workstreams relate to systemic insurers, preparation of an international capital standard and resolution of insurers.

On the basis of an IAIS proposal, in November 2016 the FSB published a list of insurers considered globally systemic, identical to the list published in 2015⁽²⁴⁾. It also asked the IAIS to present to it, in Q1 2017, a programme of work to continue revising the assessment methodology used to identify systemic insurers, a new version of which the IAIS adopted in 2016.

The IAIS has for several years been developing a common framework (ComFrame) designed to apply harmonised group-level supervision to all internationally active insurance groups (IAIGs). ComFrame should ultimately include a quantitative component (International Capital Standard – ICS), notably based on a harmonised capital requirement – a necessary step in ensuring comparable prudential treatment at the international level. The ICS should be a risk-sensitive solvency standard, after the example of Solvency II. These developments require data to be collected from an international sample of major groups.

The IAIS has also undertaken to draft two prudential standards on resolution: an Insurance Core Principle (ICP) for all insurers and insurance groups and another ICP, incorporated into ComFrame, that will apply only to internationally active insurers. The ACPR will play an active role in drafting these texts, which should be adopted by the IAIS in autumn 2017. They propose that resolution authorities be granted broad powers, including the power to transfer portfolios and business lines and, in accordance with the hierarchy of creditors, the power to reduce certain liabilities when no other options are available.

(23) Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of Institutions for Occupational Retirement Provision (IORP).

(24) Aegon N.V., Allianz SE, American International Group, Inc., Aviva plc, AXA S.A., MetLife, Inc., Ping An Insurance (Group) Company of China, Ltd., Prudential Financial, Inc., and Prudential plc.

4.3. Accounting standards and audit

For several years, the ACPR's activities in the areas of accounting, financial reporting and external audit have taken into account the work of the International Accounting Standards Board (IASB), as well as multiple workstreams initiated both in France and internationally. In 2016, the ACPR contributed to numerous working groups set up by French bodies (the accounting standards authority, ANC), European bodies (the EBA, the ECB and EIOPA) and international bodies (the Basel Committee and the IAIS).

► Accounting standards

Implementation in the European Union of the IFRS 9 accounting standard, which will replace IAS 39 and introduces a new methodology for impairment of assets and receivables based on the principle of provisioning some or all expected losses, was approved at end November 2016 and will enter into force on 1 January 2018. Regulators and supervisors are engaged in various workstreams to ensure it is properly implemented:

- The work of the Basel Committee on revising the prudential treatment of accounting provisions following adoption by the IASB (IFRS 9) and the US FASB (CECL) of standards on the provisioning of expected losses: in October 2016, the Committee published a consultation paper⁽²⁵⁾ proposing that the current treatment of accounting provisions for calculating capital requirements be maintained during the interim period, and a discussion paper⁽²⁶⁾ on the various longer-term solutions available.
- The EBA's 2016 impact study on IFRS 9, the findings of which were published in November 2016: this study identified some initial learning as to institutions' preparedness, the methodological choices made and potential impacts on CET1 capital. Furthermore, the EBA prepared a European version of guidance published by the BCBS at the end of 2015 on the optimal implementation of principles on the provisioning of expected losses and, in particular, the IFRS 9 model, via guidelines set to be published in the first half of 2017.
- Domestic work led by the ANC ahead of implementation of IFRS 9.

In January 2016, the IASB published a new standard on leases, IFRS 16, which requires the lessee to recognise in assets the right to use the leased assets. The Basel Committee and the EBA began work in 2016 to define the prudential treatment applicable to this new category of asset.

Lastly, work continues on the future standard on the recognition of insurance contracts by the issuer, IFRS 17, which will replace the current IFRS 4 (Phase 1).

► Financial reporting

The ACPR, which has long been committed to improving prudential disclosures (known as "Pillar 3 disclosures"), continued its involvement in the work of the Basel Committee on the revised regulatory framework (with a Phase II consultation paper published in April 2016 and the final paper due to be published at end 2017). This involvement also had a European dimension: in mid-December, the EBA published guidelines⁽²⁷⁾ aimed at transposing Phase I of the new disclosure requirements under the Basel Committee's revised Pillar 3, published in January 2015, for the European Union's largest banking groups, pending revision of Regulation (EU) 575/2013.

► Reporting to the authorities

The EBA initiated work on revising FINREP reporting under national accounting standards. The draft regulatory text including adapting reporting to IFRS 9 and new reports under national accounting standards were published on the EBA website in November 2016. The ECB is also currently undertaking work in this area.

► Audit

The European audit reform, which entered into force on 17 June 2016⁽²⁸⁾, bolstered the independence and powers of authorities supervising statutory auditors, as well as strengthening international cooperation. Following transposition of this reform into domestic law, the structures and powers of the Statutory Auditors' Oversight Board, HC3⁽²⁹⁾, were substantially modified; moreover, the ACPR is now represented within the HC3 College.

At the European level, the focus in 2016 was on finalising the wording of guidelines aimed at promoting effective dialogue between accounting auditors of public interest entities⁽³⁰⁾ and supervisors: the EBA and EIOPA published guidelines set to enter into force in 2017.

(25) <http://www.bis.org/bcbs/publ/d386.pdf>

(26) <http://www.bis.org/bcbs/publ/d385.pdf>

(27) <http://www.eba.europa.eu/documents/10180/1696202/Final-report+on+the+Guidelines+on+disclosure+requirements+under+Part+Eight+of+Regulation+575+2013+%28EBA-GI-2016-11%29.pdf>

(28) Directive 2014/56/EU amending statutory audit and Regulation (EU) 537/2014, which applies only to public-interest entities.

(29) *Haut Conseil du Commissariat aux Comptes* (Statutory Auditors' Oversight Board).

(30) Public-interest entities include: listed undertakings, credit institutions and insurance firms, as well as entities designated by Member States as public-interest entities – e.g. undertakings that are of significant public relevance because of the nature of their business, their size or the number of their employees.



EUROPEAN WORK ON NON-PERFORMING LOANS (NPLS)

In the wake of the economic slowdown that followed the 2008 crisis, non-performing loans increased significantly in Europe, reaching 5.4% of gross outstanding loans in H2 2016⁽¹⁾, compared with 1.8% in 2007. NPLs have been a more serious problem in some countries, several of which are still struggling to reduce their stock of non-performing loans.

Against this backdrop, various initiatives have been kicked off to propose a Europe-wide approach to NPLs, which pose a risk to the health of the European banking sector and the EU economy.

As early as 2014, the EBA proposed a single definition of NPLs with the aim of providing a consistent view of the situation of European banks. Individual banks' situations were overseen by the ECB, which required those institutions with the most worrying levels of NPLs to draw up action plans aimed at improving their risk profiles. On the strength of this experience, the European supervisor at the same time drafted guidelines detailing its expectations as regards the management of NPLs, the final version of which is expected sometime in the first half of 2017, together with a report analysing factors affecting banks' ability to reduce their NPL ratios.

To assess the risks to Europe's economy and financial stability that would be engendered by persistent high levels of NPLs, discussions were also initiated by the European Systemic Risk Board and the European Commission's Financial Services Committee. These workstreams should culminate in proposed measures favouring more effective management of NPLs by banks.

(1) <https://www.eba.europa.eu/-/eba-sees-high-npl-levels-and-low-profitability-as-the-main-risks-for-eu-banks>

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

Anti-money laundering and counter-terrorist financing (AML/CTF) is a priority within the ACPR's supervisory activities. The ACPR is also conducting work on legal instruments in respect of AML/CTF. In 2016, the ACPR published guidelines jointly with the directorate general "Treasury" on the implementation of asset freezes, as well as sector enforcement principles on AML/CTF obligations in connection with the right to a bank account.

2016 **KEY FIGURES**

30

ON-SITE

AML/CTF inspections
conducted

691

**ACTION
LETTERS**

sent out in 2016



1. ACPR SUPERVISION IN 2016



AML/CTF is a priority within the ACPR's supervisory activities. During 2016, 30 on-site inspections were undertaken in respect of AML/CTF, 7 of them in the insurance sector. Five of these inspections concerned institutions located overseas. Meanwhile, ongoing supervision draws mainly on financial institutions' responses to dedicated annual questionnaires, as well as annual internal control reports. Analysis of these responses and reports may, where applicable, give rise to action letters and in-depth supervision meetings: a total of 691 action letters were sent out in 2016, and the ACPR adviser undertook 5 on-site visits to overseas institutions at the request of the ACPR's Secretary General.

In 2016, particular attention was paid to the following:

- the effectiveness of suspicious transaction reporting arrangements, including Tracfin reporting deadlines; in

this context, a particular focus of attention is reports sent by Tracfin on the subject of AML/CTF, in accordance with the first paragraph of Article L.561-30 of the Monetary and Financial Code on financial institutions' reporting practices and the appropriateness of due diligence measures put in place by certain institutions in individual cases;

- reviewing the effectiveness of group-level arrangements, and of the actual implementation of equivalent due diligence measures at foreign subsidiaries and branches (where not prevented by local law);
- the configuration of asset freeze mechanisms, including filtering customer databases and transaction flows, notably following the inclusion of specific questions on this point in annual AML/CTF questionnaires.

THESE INSPECTIONS AIM TO ENSURE THAT GROUPS ARE EFFECTIVELY MANAGING THE RISKS INHERENT IN BUSINESS UNDERTAKEN BY FOREIGN ENTITIES.

The ACPR thus wrote to all banks with a private banking business, as well as to insurance institutions potentially affected by virtue of their business, asking them to detail any links to Panamanian firms providing offshore domiciliation services and, where applicable, their trust administration activities and any equivalent arrangements on behalf of third parties. Based on the responses received, the ACPR asked a number of institutions to have their periodic control functions carry out internal inspections. In particular, they were asked to ensure that these inspections check the reliability and completeness of information submitted to the ACPR by the groups in question and verify checks carried out by local entities on compliance with groups' internal standards on the prevention of money laundering and customers' compliance with tax legislation. The ACPR also carried out on-site inspections at certain groups, including extended inspections at certain foreign entities, with the authorisation of the competent host country authority. These inspections aim to ensure that groups are effectively managing the risks inherent in business undertaken by foreign entities, and to supplement action taken by authorities in the host country, which are responsible for checking that locally applicable AML/CTF arrangements are properly implemented.

In the **banking sector** more specifically, institutions offering payment services were also inspected, as were money changers. The ACPR focused in particular on funds transfer services, which are considered high risk, particularly in respect of terrorist financing. It carried out on-site inspections at payment services providers licensed in France or operating within France under the freedom of establishment, either in the form of a branch or using agents.

Furthermore, given growth in online banking, the ACPR reviewed the status of remote account-opening, where the customer is not physically present for identification purposes, to verify additional checks put in place by the relevant banks. In this scenario, regulations require institutions to adopt two of the four additional measures listed in the first paragraph of Article R.561-20 of the Monetary and Financial Code. This analysis revealed that implementation of these required additional checks was sometimes lacking, and action letters were sent out to the institutions in question. The ACPR reiterated the need to manage the specific risk associated with entering into new business relationships remotely, notably in light of the upsurge in document fraud⁽¹⁾.

It should be noted that, with the transposition of the Fourth Anti-Money Laundering Directive, remotely entering into new business relationships in the banking sector is still considered a high risk for money laundering/terrorist financing, unless accompanied by sufficient guarantees in respect of identification and verification.

In the **insurance sector** more specifically, inspections mainly focused on large life insurers and a few brokers, particularly following reports to the ACPR by Tracfin. A particular focus of attention was due diligence measures put in place by institutions with regard to the repayment of bearer guaranteed investment contracts, which carry a high risk of money laundering; total assets under such contracts still amounted to almost EUR 8 billion at end 2015.



(1) The ACPR had already had occasion to alert reporting institutions to the upsurge in document fraud (cf. ACPR/Tracfin joint guidelines on obligations to report and disclose information to Tracfin, published November 2015).



Following its on-site inspections, the ACPR notified Tracfin, in accordance with the second paragraph of Article L.561-30 of the Monetary and Financial Code⁽²⁾, of failures to report suspicious transactions identified in reports, as well as notifying the tax authorities where criteria for tax evasion were identified. Depending on the seriousness of the failings identified, on-site inspections may give rise to an action letter from the ACPR's Secretary General, a cease-and-desist order or, in the most serious cases, initiation of disciplinary proceedings by the Supervisory College. Ongoing supervision is undertaken to ensure that measures to remedy the shortcomings identified are quickly adopted; however, additional on-site inspections may still subsequently be carried out to check the effectiveness of such corrective action.

Following initiation of disciplinary proceedings by the Supervisory College, the ACPR's Sanctions Committee issued and published 6 AML/CTF-related disciplinary sanctions in 2016, 2 of them against life insurers, 2 against money changers (one of them overseas, in Saint Martin) and 2 against credit institutions, bringing the number of AML/CTF-related sanctions issued by the ACPR since its creation in 2010 to 22. Six other disciplinary proceedings including AML/CTF charges were in progress at the end of 2016. Two cease-and-desist orders were issued and 29 action letters sent out to institutions. (For more information about the activities of the Sanctions Committee in 2016, see section 5.)

A review of the various supervisory activities undertaken in 2016 highlights the need for institutions to:

- better identify the risks to which their business exposes them so as to be able to draw up a suitable classification of those risks and put in place appropriate due diligence measures supported by effective monitoring tools;
- strengthen due diligence in respect of customer identification and KYC, including identification of beneficial owners, ensuring that both the information gathered and the risk profile of each business relationship is regularly updated;
- have in place robust internal control arrangements covering the full range of AML/CTF procedures, including at group level, to ensure that equivalent due diligence measures are actually implemented at foreign entities;
- improve their suspicious transaction reporting procedures, in terms of both timeliness and quality of information disclosed to Tracfin, including in particular an analysis of the suspicious transactions that resulted in the report being made;
- improve their asset freeze procedures, including in particular the frequency of filtering of the customer database;
- improve detection of transactions liable to be linked to terrorist financing, notably taking into account the typologies distributed by Tracfin and the Financial Action Task Force (FATF).

During annual meetings with the governing bodies of major groups, the ACPR underscored its expectations with regard to AML/CTF and the need for executive and supervisory bodies to have at their disposal the information needed to verify the quality and effectiveness of AML/CTF procedures and ensure that necessary corrective action is taken.

2. WORK ON LEGAL INSTRUMENTS IN RESPECT OF AML/CTF

In 2016, the ACPR published guidelines jointly with the directorate general “Treasury” (DGT) on the implementation of asset freezes, as well as sector enforcement principles

on AML/CTF obligations in connection with the right to a bank account.

2.1. Joint ACPR/DGT guidelines on the implementation of asset freezes

The ACPR adopted guidelines on the implementation of asset freezes aimed at financial institutions supervised by it. It published these guidelines on 14 June 2016.

They were drawn up jointly with the directorate general “Treasury”, which is the competent authority in respect of financial sanctions and asset freezes, and gave rise to an in-depth consultation in the context of the ACPR’s Consultative Committee on AML/CTF.

The guidelines set out the asset freezing measures applicable in France, which derive from the following:

- European regulations establishing restrictive measures⁽³⁾;
- orders issued by the competent ministers (the Minister with responsibility for the Economy or the Minister with responsibility for the Interior), issued either in connection with counter-terrorist financing⁽⁴⁾ or to transpose resolutions of the United Nations Security Council or decisions of the Council of the European Union into domestic law⁽⁵⁾.

Asset freezes must be implemented as soon as they enter into force, and place financial institutions under an obligation to perform. Their implementation does not form part of a risk-based approach.

Financial institutions are expected to freeze funds, financial instruments and economic resources that belong to or are owned, held or controlled by a person or entity that is the subject of an asset freeze (hereinafter “designated persons or entities”). They are also prohibited from directly or indirectly making funds or economic resources available to designated persons or entities.

The guidelines also draw institutions’ attention to the very broad scope of asset freezes, including the funds, financial instruments and economic resources liable to be frozen⁽⁶⁾, as well as persons or entities to which such measures are liable to be applied⁽⁷⁾.

To this end, financial institutions must put in place effective mechanisms for detecting designated persons or entities, covering both customer databases (stocks) and transactions (flows), according to the following:

- a frequency that enables asset freezes to be put in place as soon as the relevant texts are published or updated, taking into account constraints related to computerised filtering;
- appropriate configuration, notably excluding “exact match” filtering.

The ACPR, which ensures that asset freezes are implemented, can take action, including disciplinary measures, in relation to inadequate mechanisms or serious deficiencies in implementation.

When entering into new business relationships, it is up to financial institutions to have in place arrangements to detect designated persons or entities before opening accounts or entering into loan or insurance contracts. For existing business relationships, the entry into force of an asset freeze results in transactions or the performance of a contract being suspended. Institutions must in all cases report action taken to implement asset freezes to the directorate general “Treasury” as quickly as possible.

However, automatic across-the-board DGT authorisations are provided for to allow processing of transactions to meet the basic needs of designated persons or entities⁽⁸⁾.

Money changers and institutions executing funds transfer transactions, whose specific characteristic consists of receiving and remitting cash, are required not to execute the transaction. They must retain funds remitted to them in cash, in a suspense account or a secure location, except in situations where the physical security of their personnel could be endangered.

More information can be found at acpr.banque-france.fr 

(3) These regulations are implemented on the basis of Article 215 on the functioning of the European Union. They transpose into domestic law asset freezes agreed by the United Nations Security Council or contained in decisions of the Council of the European Union in the context of the common foreign and security policy.

(4) Cf. Article L.562-1 of the Monetary and Financial Code.

(5) Cf. Article L.562-2 of the Monetary and Financial Code. This text is intended to mitigate the time required to transpose United Nations Security Council resolutions and decisions of the Council of the European Union, which are not directly applicable, by way of a directly applicable European regulation.

(6) For example, funds deposited or paid into an account or a life insurance contract, interest and income from financial assets, non-life insurance contracts, financial securities, safe custody.

(7) For example, a customer, representative, joint account-holder or joint signatory of a contract, payer of a contract, beneficiary of a contract, indemnity or transfer of funds, corporate officer and legal representative of a legal entity, or beneficial owner.

(8) For example, taking out legally compulsory insurance (e.g. home and motor insurance) or group insurance, including health, incapacity, disability, death and retirement cover when such a policy is required by the employer.

2.2. Sector enforcement principles on anti-money laundering and counter-terrorist financing obligations in connection with the right to a bank account

On 10 June 2016, the ACPR adopted sector enforcement principles on anti-money laundering and counter-terrorist financing obligations in connection with the right to a bank account. These were updated in December 2016 to address specific situations linked to asylum-seekers and persons presumed to be illegal immigrants.

The sector enforcement principles reiterate the obligations and the procedure with respect to the right to a bank account⁽⁹⁾ as well as applicable AML/CTF obligations⁽¹⁰⁾, pointing out that these are two separate regulations to which credit institutions are simultaneously subject. Illegal immigrants and asylum-seekers are still entitled to exercise the right to a bank account.

Institutions must take into account the right to a bank account when drawing up their classification of money laundering and terrorist financing risks and their AML/CTF procedures.

An account may only be opened under the right to a bank account once the documents required by account-opening regulations have been provided, including those laid down in customer due diligence requirements in respect of AML/CTF. Failing this, no business relationship may be entered into, in accordance with Article L.561-8 of the Monetary and Financial Code.



Due diligence measures implemented, notably concerning knowledge of the business relationship, must be appropriate to the risks and proportionate. In this regard, opening an account under the right to a bank account is not in itself a criterion for high risk of money laundering or terrorist financing. It is up to institutions to assess the level of risk, taking into consideration the fact that such an account comes with only basic banking services.

High-risk situations may arise both at the account-opening stage and during the life of an account. In such situations, institutions must step up due diligence measures and gather more information about the business relationship.

If an institution does not manage to gather risk-appropriate information or supporting documentation from a beneficiary of the right to a bank account, that institution is required:

- not to enter into a business relationship, pursuant to Article L.561-8 of the Monetary and Financial Code;
- in the course of an existing business relationship, to refrain from executing suspicious transactions and to submit a suspicious transaction report to Tracfin, and even to close the account, subject to the two-month notice period laid down in Article L.312-1 of that same code.

Where a business relationship is not entered into or an account is closed, the institution must notify the Banque de France and the beneficiary of the right to a bank account. The letter notifying closure of the account should give reasons, while complying with the ban on divulging suspicious transaction reports.

As regards persons presumed to be illegal immigrants and asylum-seekers, institutions must put in place due diligence measures commensurate with the risks presented by the business relationship and with the types of documentation such persons are able to provide, given their circumstances. The sector enforcement principles give specific examples of documents accepted as evidence in respect of AML/CTF (valid foreign passport, confirmation of an asylum application, certificate of address, etc.). Institutions' procedures must also be appropriate to such persons' circumstances.

The sector enforcement principles set out the risk of document fraud and encourage institutions to exercise particular vigilance with regard to examining the authenticity of identity documents presented.

More information can be found at acpr.banque-france.fr 

(9) Article L.312-1 of the Monetary and Financial Code.

(10) Articles L.561-5ff. of that same code.



2.3. Participation in international and European initiatives

In 2016, **at the international level**, the ACPR took part in work to clarify due diligence measures to be implemented in the context of correspondent banking, both by the FATF, which published guidelines on this subject in October 2016, and by the Basel Committee, which put out to public consultation a draft revision of its January 2014 guidelines on sound management of money laundering and terrorist financing risk. These workstreams, coordinated by the Financial Stability Board, form part of efforts to prevent de-risking and financial exclusion.

The FATF guidelines reiterate that there is no requirement to know customers of a correspondent bank's client institution (i.e. no "KYCC"). Correspondent banks need only conduct due diligence on respondent institutions in keeping with the risk presented by the correspondent banking relationship. Furthermore, the guidelines acknowledge that correspondent banking activities do not always carry the same level of risk. While "additional" due diligence specific to cross-border correspondent banking activities is required in all cases, this is without prejudice to the client institution's level of risk. Indeed, in accordance with the risk-based approach, due diligence measures with regard to client institutions should not be systematically tightened. The only thing expressly ruled out for such correspondent banking activities is the implementation of simplified due diligence measures.

At the European level, the ACPR helped draw up joint guidelines for European supervisory authorities (ESAs) on **AML/CTF supervision based on a risk-based approach**, which were published in November 2016. It is also involved in drawing up the following:

- **regulatory technical standards on permanent representatives of European payment institutions and electronic money institutions operating under the freedom of establishment in another Member State**, a draft of which will be put out to public consultation by ESAs in the near future;
- guidelines on **money laundering and terrorist financing risk factors and simplified or enhanced due diligence measures to be implemented**, to be published in the near future;
- guidelines on **information accompanying funds transfers, pursuant to Regulation (EU) 2015/847 of 20 May 2015, due to enter into force on 26 June 2017**.

The ACPR also has also taken part in ongoing European negotiations for the purposes of **revising Directive (EU) 2015/849** of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, known as the Fourth Anti-Money Laundering Directive.

At the domestic level, the legislative component of work to transpose the Fourth Directive culminated in the publication of Ordinance 2016-1635 of 1 December 2016 strengthening France's AML/CTF arrangements. The ACPR is also working on the regulatory aspects of transposition.

CUSTOMER PROTECTION

In fulfilling its statutory objective of protecting customers, the ACPR uses various approaches specific to its status as an authority: discussions with domestic, European and international partner authorities, as well as with consumer associations and industry bodies, analysis of customer complaints, and monitoring of innovation in terms of contracts and practices. These various approaches all provide the Authority with information that helps it identify key issues and risks in relation to customer protection. These topics are included in the inspection programme and in thematic inspections undertaken by ACPR staff. Supervisory activities can relate to all entities supervised by the ACPR, including undertakings and intermediaries, in the banking and insurance sectors.

2016 KEY FIGURES

6,577
LETTERS AND
E-MAILS RECEIVED
from customers of banks
and insurers

78
ON-SITE
INSPECTIONS

3,933
ADVERTISEMENTS
ANALYSED



1. PROCESSING CUSTOMER CORRESPONDENCE RECEIVED



REMINDER OF THE ACPR'S ROLE

When informed by customers of difficulties encountered with their bank, insurer or intermediary, the ACPR responds by providing guidance on appropriate steps to take (notably referring to institutions' in-house complaints departments and, where necessary, to the relevant ombudsman), as well as general information on applicable regulations. However, it is not the ACPR's role to settle disputes between entities and their customers.

When it is made aware of information that suggests questionable practices or breaches of regulations, the ACPR may, as part of its supervisory activities, ask the entity in question for a more detailed explanation, notably as to the extent of the practice and any corrective action being considered. Information gathered in this way is very valuable to the ACPR: it provides insight into the reality of difficulties encountered by customers and the quality of entities' business practices, thus helping the Authority monitor the market and prevailing trends. This enables the ACPR to subsequently manage its supervisory activities more effectively.

The ACPR also uses this information to better inform users of the banking and insurance sectors by making available to them, at www.abe-infoservice.fr, concrete answers to questions and practical information.

In the context of the ACPR/AMF Joint Unit, the "Assurance Banque Épargne Info Service" platform, set up in 2010 with the help of the Banque de France, offers three channels through which members of the public can obtain general information:

- the www.abe-infoservice.fr website;
- a national helpline available at **0 811 901 801** (a premium-rate number charged at 5 centimes a minute plus the cost of the call);
- a postal address for submitting information or documents by post:
Assurance Banque Épargne Info Service, 61 Rue Taitbout, 75009 Paris, France.

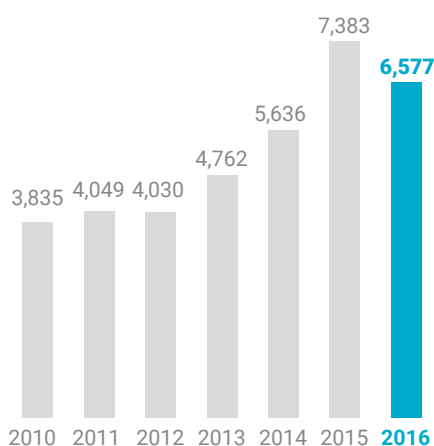
Customer requests received by the ACPR in figures

In 2016, the ACPR received 6,577 letters and e-mails from customers, down 11% after increasing by 31% in 2015.

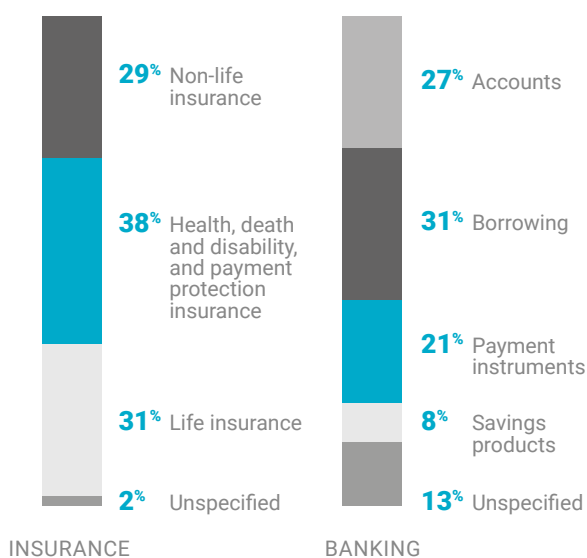
All information thus brought to the ACPR's attention was examined as part of the Authority's monitoring of business practices; in around 10% of cases, the ACPR asked the institutions or intermediaries in question for explanations.

Lastly, the ACPR received numerous reports of online scams in 2016. To warn members of the public of the upsurge in fraudulent investment or credit offers, the ACPR, the AMF, the Directorate General for Competition Policy, Consumer Affairs and Fraud Control (DGCCRF) and the public prosecutor at the *Tribunal de grande instance de Paris* (Paris regional court) held a joint press conference on this topic on 31 March 2016 (cf. box).

Number of written requests received by the ACPR



Breakdown of requests by category and subject



SCAMS: FEEDBACK FROM THE JOINT ACPR/AMF/DGCCRF/PUBLIC PROSECUTOR'S PRESS CONFERENCE

The ACPR has observed an upsurge in reports of online scams. In response to this widespread phenomenon, four public sector institutions (the ACPR, the AMF, the DGCCRF and the public prosecutor at the Paris regional court) held a joint press conference on 31 March 2016 to denounce such practices. Furthermore, the ACPR is working to have illegal domain names and sites shut down, and issues regular alerts to the general public on identity theft (as does the Banque de France), as well as on fraudulent business proposals. Eight press releases were issued on this subject in 2016, some of them jointly with the AMF.

More information can be found at acpr.banque-france.fr

2. LESSONS LEARNED FROM INSPECTIONS UNDERTAKEN IN THE BANKING AND INSURANCE SECTORS

The ACPR's jurisdiction in respect of customer protection covers all operators distributing products other than financial instruments in the banking and insurance sectors.

In 2016, the Authority's priority areas for action included health insurance contracts, unbundling of mortgages and payment protection insurance, and unclaimed life insurance policies.

2.1. Personal health insurance contracts: the need for tailored advice

The high customer take-up rate and regular changes in the legal environment make the health insurance market a highly competitive sector in which intermediaries play an important role. Against this backdrop, certain marketing practices have developed, such as unsolicited marketing in person or by telephone, along with specific methods of remunerating intermediaries.

These practices can have an impact on the quality and objectivity of advice provided to customers or, more frequently, on customers' understanding of contracts offered to them. Given the cost to a household of a health insurance contract, it is especially necessary that customers be provided in due time with formal, personalised advice culminating in the proposal of a contract suited to their needs.

To identify a customer's requirements and needs, that customer must be asked for information directly related to the characteristics of a health insurance contract. As such, it may be necessary to ask customers about their ability to pay uninsured medical costs, as well as about the sector classification of the professionals they usually consult. Specific, concrete information can be provided in response, in the form of realistic example repayments.

Inspections highlighted shortcomings, both in the questions put to customers and in the way some intermediaries present themselves, as well as in the pre-contract information issued. As regards unsolicited marketing by telephone, inspections also revealed a lack of clear information on the conditions for entering into a contract, with customers not always understanding what they were signing up for.

Although the amount of premiums is a factor that must be taken into account, advice based purely on this one factor is inadequate and sometimes misleading. Inspections confirmed that, given the marketing methods used, prices communicated to customers often change between the date they sign up and the effective date of a contract, which is sometimes several months later, thus corresponding with the next premium payment. As such, it can be misleading to compare proposed prices with prices for a current policy. Only more comprehensive, specific and personalised advice can guarantee informed customer consent, irrespective of the marketing method used. Lastly, noting that some operators undertake to cancel their customers' existing contracts, the ACPR reiterates the importance of checking, before any such undertaking is given, the conditions under which such contracts may be terminated.

2.2. Unbundling payment protection insurance from mortgages

Unbundling⁽¹⁾ means borrowers can freely choose the insurance policy that covers their mortgage, as long as the cover provided is at least equivalent to that provided under the policy proposed by the lender. The ACPR's activities in relation to the practical application of unbundling identified a number of difficulties, as well as best practice.

To enable them to look for suitable alternatives on the market, loan applicants need to be provided with the lender's personalised insurance requirements as early as possible. Similarly, to avoid incomplete applications and processing delays, customers should always be provided with a list of the documents required for an unbundling application before they ask.

The Authority has detected certain practices liable to limit applicants' ability to freely choose their insurer or slow down the application process. The ACPR is working to correct such practices: requests from external insurers should be processed within the required timescales, compatible with the proposed property purchase; all cover provided by external insurers should be taken into account, including cover formalised in documents other than the general terms and conditions; and excessive formal requirements as to the documentation required for an application should be avoided.

Furthermore, if the proposed third party policy is not acceptable, the lender must explicitly communicate as such to its customer or the latter's representative. In this regard, it is not sufficient to simply make a counter-proposal with a lower price. Lenders must also be able to identify all requests for third party insurance received and the responses given to them (including requests denied and those where a final credit agreement has not been entered into), failing which it is assumed that the ongoing supervision system has not been effectively deployed.

With the aim of reporting and publicising best business practice ensuring the fair and transparent treatment of applications for third party insurance, the ACPR issued draft recommended best practice on this subject towards the end of 2016.

UNCLAIMED LIFE INSURANCE POLICIES

On 29 April 2016, the ACPR submitted a report to Parliament on unclaimed life insurance policies and efforts to make insurers pay out to beneficiaries.

A total of 28 life insurance institutions have been followed up in the context of a specific action plan. These actions have led insurers to tighten up arrangements for dealing with unsettled policies so as to improve their identification and pay out all amounts due. In 2015 alone, these insurers paid out some EUR 2 million in unclaimed capital to beneficiaries. The stock of unclaimed policies at end 2015 is estimated to be at least EUR 5.4 billion. However, further research led to a reduction in the amounts to be ultimately deposited with *Caisse des dépôts et consignations*.

Parliament welcomed "the scale and effectiveness of the ACPR's efforts to hold insurers to their obligations" and commissioned a second report for June 2018, relating more specifically to arrangements put in place by institutions to favour the liquidation of supplementary pension contracts.

CROWDFUNDING

The ACPR has closely monitored the development of crowdfunding ever since the regulatory framework governing it was established. In 2016, the Authority undertook targeted inspections while carrying out ongoing monitoring and educational activities, an example being a joint ACPR/AMF information meeting for sector professionals.

Concerned about the clarity and accuracy of information disclosed to internet users, the ACPR notes that a number of crowdfunding intermediaries still need to improve their identifying information, notably to ensure that lenders can clearly distinguish between genuine crowdfunding platforms and fraudulent websites.

Crowdfunding intermediaries must explicitly present projects in concrete terms on their websites: each lender must be able to identify the reason for which funds are being sought and understand the criteria and selection conditions used by the intermediary. Shortcomings have also been found in relation to information on default rates and the risks associated with the lending transaction.

The inspections undertaken have highlighted the need for crowdfunding intermediaries to be attentive to the regulations applicable to payment services. It is up to each crowdfunding intermediary to make sure each of its projects complies with the regulatory framework, and, in particular, when it wishes to offer the service, to ensure that it is able to initiate transactions to the payment accounts of both lenders and project owners.

3. CONSUMER PROTECTION AND REGULATION: TAKING ACTION ON BEST PRACTICE AND PREPARING THE MARKET FOR NEW REGULATIONS

The Monetary and Financial Code gives the ACPR the power to issue best practice recommendations. This “soft law” instrument is intended to help promote sound practices in the French market. The ACPR works to ensure these practices are put into effect by the entities it supervises.

In 2016, the *Conseil d'État* clarified the legal scope of recommendations published by the ACPR, rejecting the appeal on grounds of abuse of authority brought by certain industry groups with the aim of overturning ACPR Recommendation 2014-R-01 on life insurance policy distribution agreements.

The *Conseil d'État* found that the recommendation was not imperative in nature and did not amend the legal ordinance.

The ACPR confined itself to “encouraging entities in the sector in question to adopt rules of professional best practice in respect of the distribution of life insurance policies”, in accordance with Article L.612-29-1 of the Monetary and Financial Code, leaving them the option of adopting equivalent practices as long as those practices provide equivalent protection of customers' interests.

The ACPR adopted or revised five recommendations in 2016, notably aimed at taking account of new practices linked to the digitisation of the economy and the low interest rate environment.



3.1. Recommendation on gathering KYC information

The ACPR supplemented Recommendation 2013-R-01 on the collection of Know Your Customer information under the duty to provide advice in life insurance. Life insurance policies are increasingly being marketed through distance selling via websites and mobile applications. These digital interfaces are used at every stage of the marketing process, from information collection through to contract signature, and including the provision of advice. The appendix now attached to the recommendation sets out examples of how to

operationally implement the sections on information collection and traceability, use of information and procedures put in place. Operators are encouraged to adapt these proposals to suit the level of complexity of the policies they offer and their own marketing procedures, depending on whether they use a digital interface only or combine a number of distribution channels.

More information can be found at acpr.banque-france.fr 

3.2. Recommendation on the use of social media

In line with discussions within the ACPR/AMF Joint Unit, the ACPR recommended best practice on fair and transparent communication on social media used for business purposes. This best practice is based on the general principle that the rules applicable to communication disseminated through other media also apply to social media. It reiterates the principle that the issuer should be clearly identified and recommends that content be distributed by clearly identifiable business accounts set up in the name of the institution or a person authorised to

communicate on its behalf. The ACPR also recommends that institutions work to ensure that the content they distribute is balanced in nature, including when it is the result of content shared by a third party. Putting these principles into practice means institutions determine their own rules on distributing content via social media as well as procedures for monitoring compliance with those rules.

More information can be found at acpr.banque-france.fr 

3.3. Recommendation on the handling of complaints

The ACPR revised its recommendation on the handling of complaints following the transposition of the European directive on alternative dispute resolution for consumer disputes. This revision aims to promote best practice among banks and insurers in fulfilling the requirement to provide consumers with details of the relevant ombudsmen within whose jurisdiction their dispute falls.

It was also an opportunity to clarify what is covered by the two-month deadline for responding to complainants, which continues to raise difficulties in practice. These developments are in keeping with the work of the ACPR/AMF Joint Unit.

More information can be found at acpr.banque-france.fr 

3.4. Recommendation on advertising for passbook savings accounts

The ACPR published a recommendation on advertising for passbook savings accounts, excluding regulated savings products. This recommendation supplements best practice already issued on advertising for other savings products. Offers promising a promotional interest rate or financial bonus are all the more attractive for their apparent simplicity. However, some such offers are, in reality, complex because of the large number of conditions attached to

them. It is therefore important to present offers clearly and intelligibly so that consumers are not misled. In particular, the recommendation proposes that institutions clearly present the characteristics of the product and the offer and set out the benefits being promoted, and the attached conditions, in a balanced manner.

More information can be found at acpr.banque-france.fr 

3.5. Recommendation on “complex products” (2016-R-04)

In 2016, the ACPR and the AMF updated their shared policy⁽²⁾, within their respective jurisdictions, on the marketing in France of complex financial instruments, which aims to limit the complexity of financial instruments.

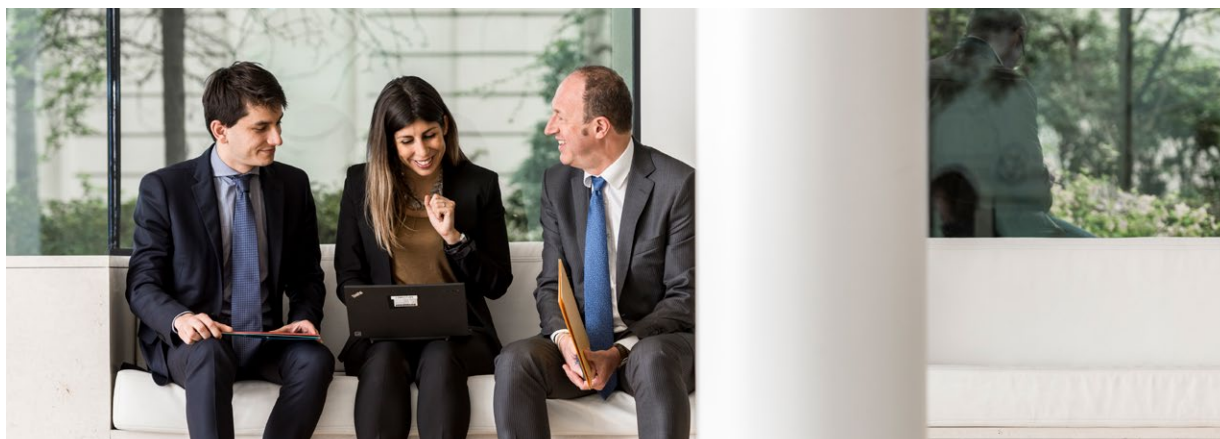
For over a year, the ACPR and the AMF have observed the creation of new indices, used increasingly frequently as underlyings for complex financial instruments (mainly structured debt instruments), marketed in France to retail clients in the form of securities accounts or as investment vehicles for life insurance policies. The rules governing the composition and calculation of such indices appear complex (sometimes even allowing the issuer or a third party some discretion in calculating their performance) and are often the result of sophisticated financial engineering.

Noting a shift in the complexity of the calculation formula away from the financial instrument itself and towards the

underlying index, in December 2016 the AMF and the ACPR presented their respective Colleges with an update of their policy to take into account this development. This update consisted of clarifying the AMF position and the ACPR recommendation by adding examples that better capture the complexity of a financial instrument. Each of the examples given is intended to illustrate how the complexity criterion in question should be understood by the issuers or distributors of these complex financial instruments, and to draw their attention to areas of particular concern for the two authorities.

Over the next few years, the AMF and the ACPR will remain attentive to innovations as well as to changes in the environment and in European regulations, with the aim of adapting their policy on the marketing of complex financial instruments.

More information can be found at acpr.banque-france.fr 



WORK OF THE ACPR/AMF JOINT UNIT

Since 2010, the ACPR/AMF Joint Unit has taken joint action to protect customers and furthered discussion on business practice issues. In 2016, the Joint Unit worked on digitisation, remote marketing and crowdfunding. The two authorities also updated their shared policy on complaints handling and complex products and underlying indices. Lastly, coordinated inspections mainly focused on operators with more than one status (e.g. financial investment adviser and insurance broker). These revealed issues in respect of pre-contract information, training and professional competence. The work of the Joint Unit is detailed in its annual report.

4. CONSUMER PROTECTION AND EUROPE

Recent years have seen a flurry of European regulatory developments in relation to consumer protection. The ACPR participates in European workstreams as a member of the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the Joint Committee of European Supervisory Authorities. A major trend within all European legislation is a move away from regulation focused on operators' practices towards regulation aimed at ensuring the primacy of customers' interests across the entire commercial chain, including at product design stage. This approach is reflected in guidelines and technical advices published by European supervisory authorities, and mainly hinges around four workstreams pursued in 2016.

Firstly, as regards pre-contract information, a number of standardised document templates have emerged, aimed at simplifying pre-contract documentation so that it can be understood by anyone. Through the Joint Committee, the ACPR was involved in drawing up a technical advice on the PRIIPS regulation⁽³⁾, sent to the European Commission in February 2016. Q&As on this same regulation are expected in 2017, with the aim of informing industry operators on technical aspects of implementation of the delegated acts.

European regulators have also put in place a framework governing the design phase for financial products and post-distribution monitoring of such products ("product governance and monitoring"). Institutions must have in place internal policies and processes for identifying the target customers to whom each product is best suited and monitoring product behaviour throughout the business relationship. The delegated acts of the Insurance Distribution Directive (IDD) will clarify arrangements for implementing these practices. However, they have already been preceded by preparatory guidelines adopted by EIOPA, with which the ACPR has expressed its intent to comply. The Authority has similarly expressed its intent to comply with the product governance guidelines adopted by the EBA.

A third focus of work in 2016 was the management and prevention of conflicts of interest. European regulators are keen to limit conflicts of interest involving sales professionals, so that customers' interests are taken into account in all circumstances. Extensive work was undertaken on this subject by the EBA, which published guidelines (applicable from 2017), as well as by EIOPA, which drafted a technical advice to be adopted by the European Commission in the form of a delegated act of the IDD.

A final focus of work in 2016 was advice provided to customers. Under French law, professionals have a duty to obtain informed consent from customers; in the insurance sector, this is reflected in the "duty to advise". The ACPR has endeavoured to ensure that the French practice is reflected in delegated acts of the IDD.

Looking forward, the ACPR has taken part in discussions initiated by the European Commission under the capital markets union action plan. The ACPR's response to the Green Paper on retail financial services highlights the potential benefits of digital financial services and financial innovation, for both businesses and consumers, while insisting that consumers' needs be taken into account. The ACPR also emphasised the need to more effectively govern cross-border offerings.



INTERNATIONAL CUSTOMER PROTECTION

At the international level, the ACPR participates in the consumer protection work of two international bodies: the International Association of Insurance Supervisors (IAIS) and FinCoNet. In 2016, the IAIS's Market Conduct Working Group published a report on the supervision of intermediaries in respect of business practices.

FinCoNet was formed in 2013 with the aim of promoting cooperation between supervisors tasked with protecting customers in the banking sector. It published two reports in 2016: one on fees and incentives on credit products and the other on online and mobile payments.

(3) Packaged Retail and Insurance-based Investment Products.

ACTIVITY OF THE SANCTIONS COMMITTEE: PUNISHING VIOLATIONS

The Sanctions Committee is tasked with sanctioning violations of the laws and regulations applicable to supervised institutions. It issues independent rulings on cases referred to it by the Supervisory College after ensuring that due procedure is followed in accordance with the *inter partes* principle.

2016 KEY FIGURES

11
RULINGS HANDED
DOWN

10.3
MONTHS
taken to handle
an average case

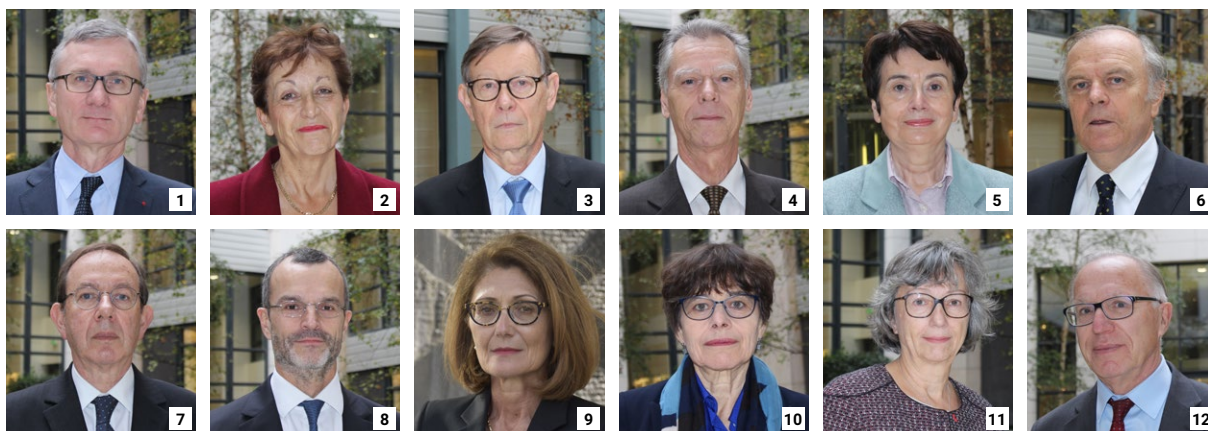


1. CASES REFERRED TO THE COMMITTEE IN 2016

Ten disciplinary proceedings were referred to the Committee in 2016, one fewer than in 2015 and 2014. The following points may be highlighted:

- Unlike in 2015, most proceedings were in the banking sector and the majority related to reporting institutions' obligations in respect of anti-money laundering and counter-terrorist financing (AML/CTF); proceedings for non-compliance with these obligations were brought
- against five credit institutions, two money changers and one payment institution.
- Two cases had to do with customer protection, each raising questions that the Committee had not yet had cause to consider (procedures for making contractual amendments to life insurance contracts; requirements in respect of internal control and the duty to advise for a credit institution acting as an insurance intermediary).

SANCTIONS COMMITTEE



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

Rémi Bouchez¹, member of the *Conseil d'État*, Chairman, and **Monique Liebert-Champagne**², member of the *Conseil d'État*, alternate;

Jean-Pierre Jouguelet³, member of the *Conseil d'État*, full member, and **Denis Prieur**⁴, member of the *Conseil d'État*, alternate.

Appointed by the Chairman of the *Cour de Cassation*:

Claudie Aldigé⁵, Counsellor at the *Cour de Cassation*, full member, and **Yves Breillat**⁶, Counsellor at the *Cour de Cassation*, alternate.

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

Christian Lajoie⁷, full member, and **Thierry Philipponnat**⁸, alternate;

Claudie Boiteau⁹, full member, and **Christine Meyer-Meuret**¹⁰, alternate;

Elisabeth Pauly¹¹, full member, and **Francis Crédot**¹², alternate.

2. RULINGS HANDED DOWN IN 2016

2.1. Number, nature and object of sanctions issued

In 2016, as in 2015, the Committee issued 11 rulings, all of which were rulings on the merits⁽¹⁾, and one of which was issued after two related proceedings were combined.

Four of these rulings were handed down to insurance institutions (undertakings or mutual insurers covered by the Insurance Code, one provident institution subject to the Social Security Code and another operating under the freedom to provide services). Three rulings were handed

down to credit institutions, one of them after a proceeding resumed following a decision by the *Conseil d'État*. The final four rulings were handed down to more modest-sized institutions: two insurance brokers and two money changers.

Of these 11 rulings, 6 had to do with breaches of AML/CTF requirements, 2 related to governance matters and 3 concerned customer protection (obligations on insurance brokers; right to a bank account).

(1) [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.

The Committee issued reprimands in eight cases and warnings in three cases. These penalties were accompanied by fines ranging from EUR 40,000 to EUR 2.5 million, with total fines coming to EUR 6.47 million, compared with

EUR 9.33 million in 2015. Just one of these rulings was published in a form in which the institution was not publicly named, since the institution in question had been absorbed by merger in the course of the disciplinary proceeding.

2.2 . Time taken to review cases

The cases reviewed by the Committee last year gave rise to extensive discussions between the parties, with frequent requests to be allowed additional time to submit their written observations. Nevertheless, the average time taken to review cases was 10.3 months, compared with 10 months in 2015.

At 31 December 2016, eight cases were still ongoing, all of them referred to the Committee in 2016 and the oldest dating back to February 2016. The average age of cases in progress at that date was just over five months.

2.3. Overview of rulings handed down in 2016

A. General and procedural matters

► Principle that offences and penalties must be defined by law

A number of times in 2016, the Committee had to apply case law according to which the rule on which the objection is based must be sufficiently clear at the date of the facts, such that it appears reasonably foreseeable by the professionals in question that the actions at issue constitute a violation of their obligations, and as such are liable to be sanctioned. Adherence to this principle is verified through *in concreto* analysis; however, in its *Caisse d'épargne et de prévoyance du Languedoc Roussillon* ruling of 20 January 2016, no. 374950⁽²⁾, the *Conseil d'État* ruled that this principle of foreseeability does not prevent the Committee from clarifying the scope of a rule the first time it is called to consider its application.

As such, the Committee ruled that the following were sufficiently clear and foreseeable:

- Articles R.322-53-2, R.322-58 and R.322-84 of the Insurance Code on governance rules for mutual insurance companies ([ruling on company C as successor in interest to company A, and company B of 11 March 2016, nos. 2015-02 and 2015-03](#));
- the terms "sufficient resources" and "procedural manuals" used in Article 9 and Article 40 of Regulation 97-02 on internal control at credit institutions and investment firms ([Société Générale ruling of 19 May 2016, no. 2013-04](#));
- Articles R.931-3-22 and R.931-3-23 (former) of the Social Security Code prohibiting the conclusion of remunerated agreements with close relations of executives relating to transactions conducted by a provident institution and requiring directors of such institutions to serve on a non-remunerated basis ([Crepa ruling of 19 July 2016, no. 2015-11](#));
- the reference to the average amount of transactions carried out by a money changer with occasional customers to determine the threshold for unusually large transactions that should prompt that money changer to carry out an enhanced review as defined in the second paragraph of

Article L.561-10-2 of the Monetary and Financial Code ([Société d'exploitation Merson ruling of 15 December 2016, no. 2016-03](#)).

► Compliance with rules governing the burden of proof in disciplinary law

2016 also saw debates on the burden of proof in disciplinary matters. Applying the principles set out in this area in the *Conseil d'État* ruling of 14 October 2015 (no. 381173), the Committee found that in some cases, following the *inter partes* debate, information brought by the proceeding in support of the objection did not constitute sufficient basis for a sanction (*Uifrance Patrimoine* ruling of 14 April 2016, no. 2015-05, finding 18; aforementioned *Société Générale* ruling of 19 May 2016, finding 8; and *Santiane* ruling of 22 December 2016, no. 2015-09, findings 10 and 15).

B. On the merits

► Compliance with governance and operating rules for insurance institutions

In its aforementioned ruling of 11 March 2016, the Committee sanctioned two institutions belonging to the same mutual insurance group for certain aspects of their governance. The first, which was the group's central structure, was charged with no longer having the minimum number of members that must comprise a mutual reinsurance company and of having granted its managing director the right to review appointments of managing directors of mutual insurers belonging to the group, a prerogative belonging solely to the boards of directors of the latter. The second institution, a mutual insurance company, was charged with having infringed a number of the rules governing the operation of such institutions, relating in particular to the composition of general meetings and boards of directors and members' voting rights. While the authorities' previous position led the Committee to set aside some of the objections on the merits, it nevertheless sanctioned these institutions for failing to comply with rulings ordering them to put an end to these violations.

(2) See page 109 of the 2015 annual report.

Furthermore, in 2016, the Committee for the first time handed down a ruling to a provident institution covered by the Social Security Code. In its aforementioned ruling of 19 July 2016, it sanctioned the allocation of duty allowances to directors who were board members, reiterating that the rule on non-remuneration of directors of a provident institution, which results from the joint and non-profit-making nature of such institutions, “does not include, with regard to the latter, the mitigations that exist for mutual insurance companies and mutual insurers covered by the Mutual Insurance Code”. Similarly, the Committee then found that, by prohibiting directors of provident institutions and their close relations from directly or indirectly receiving any remuneration for operations carried out by the institution, the Social Security Code intended to establish rules preventing conflicts of interest and ensuring no bias on the part of directors that are stricter than those that apply to other categories of institution, including in particular those governed by the Insurance Code or the Mutual Insurance Code, and that this stricter requirement covers all of a provident institution’s operations, and not only its insurance business. The Committee also clarified that the fact that the disputed agreements had subsequently proved profitable for the provident institution was of no consequence for the objection.

► Compliance with requirements upon insurance brokers as to professional competence and the duty to inform and advise

In its aforementioned ruling of 14 April 2016, the Committee found that the course run by the company to train its employees, some of whom did not have the required professional competence, did not meet the requirements laid down in regulations in view of the acquisition of level I and II competence, in terms of either its duration or its content. Furthermore, the course record, which was incomplete, did not allow employees to confirm that they had acquired the level of competence needed to work as an insurance broker.

In its aforementioned ruling of 22 December 2016, the Committee found that, notwithstanding the vagueness of the regulations on level III professional competence, it was up to the employer to ensure that training delivered to its sales professionals enable them to perform their marketing duties in compliance with the rules on pre-contractual disclosures, particularly in the case of distance selling. The Committee also recognised as established a number of violations of the duty to advise: in particular, the degree of precision with which sales staff, before writing health insurance policies, gathered information on the potential customer’s demands and needs was found to be insufficient as a subsequent basis for personalised advice. Similarly, the reasons for the advice given ought to have been disclosed to the customer in sufficient detail.

► Compliance with AML/CTF obligations by insurance sector institutions

Following the first rulings handed down in 2015 to firms in the insurance sector for violations of AML/CTF obligations, in 2016 the Sanctions Committee sanctioned another two insurance institutions for violations of this type.

In its [Skandia Life ruling of 29 July 2016, no. 2015-10](#), the Committee identified a number of shortcomings in the company’s arrangements relating both to internal procedures and to the monitoring of business relationships, resulting in serious breaches of due diligence and reporting requirements; deficiencies were also found in respect of asset freezes. With regard to a branch of a foreign institution, the Committee found that the fact that the Luxembourg supervisor had not initiated disciplinary proceedings against Skandia Life SA after conducting an inspection at the latter’s head office was of no consequence as to the proceeding brought before the Committee.

As regards the obligation to have in place appropriate systems for assessing and managing the risk of money laundering and terrorist financing, the Committee reiterated, in its [AXA France Vie ruling of 8 December 2016, no. 2015-08](#), that, due to their specific nature, bearer guaranteed investment contracts should be considered within an insurance institution’s risk classification as carrying a high level of AML/CTF risk, including where the customer does not request fiscal anonymity; the Committee also considered it a shortcoming of this classification that it set euro thresholds at a level too high to be operationally useful, though it did not uphold insufficiencies in the classification of risks presented by certain types of legal entity, except in the case of non-profit entities (aforementioned ruling, findings 14 and 21).

► Other sanctions related to AML/CTF

In its [Isbank ruling of 29 April 2016, no. 2015-06](#), the Committee found that, at the date of the on-site inspection, there were serious shortcomings in AML/CTF arrangements at the French branch of Isbank AG, as regards the criteria for distinguishing between occasional customers and business relationships, as well as monitoring and analysis of business relationships. Moreover, the sanctions handed down were in response to a number of shortcomings in the handling of individual cases, notably relating to the institution’s compliance with its reporting obligations, as well as its non-compliance with a cease-and-desist order requiring it to put an end to the shortcomings identified.

In its [Saxo Banque France ruling of 28 December 2016, no. 2016-01](#), the Committee clarified the extent of additional due diligence measures expected of institutions when their customers are not physically present for identification purposes. On this subject, the Committee found that the use of bank details could not be considered an additional measure distinct from the measure relating to the first payment from an account in the customer’s name with a bank established in a European Union Member State or an equivalent non-EU country.

Lastly, in two cases concerning money changers ([Quick Change ruling of 20 June 2016, no. 2015-07](#), and [Société d’exploitation Merson ruling of 15 December 2016, no. 2016-03](#)), the Committee once again emphasised that, by virtue of the very nature of their business, money changers are particularly exposed to the risk of participating in money laundering and terrorist financing, and must consequently exercise a high degree of vigilance with regard to that risk.

► Right to a bank account

Following the *Société Générale* order issued by the *Conseil d'État* on 14 October 2015 (no. 381173)⁽³⁾, the Committee resumed this proceeding, in which the institution was charged with violating its obligations in relation to the right to a bank account as well as with shortcomings in its associated internal control arrangements. In its aforementioned ruling

of 19 May 2016, the Committee found that evidence for the first objection, relating to account-opening policy under legal rules governing the right to a bank account, was not always reported in accordance with the rules laid down by the *Conseil d'État*. However, it found that the other alleged violations, notably relating to services provided to individuals qualifying for that right and to account-closing procedures, were established.

3. APPEALS AGAINST SANCTIONS COMMITTEE RULINGS

Excluding cases reviewed in the early part of 2016, which were commented on in the previous annual report, the *Conseil d'État* issued the following rulings pursuant to appeals against rulings by the Committee.

3.1. *Conseil d'État Cards Off* order of 21 September 2016 (no. 389792)

In this order, the *Conseil d'État* rejected the appeal brought by Mutualize Corporation, ruling that the deduction of intangible assets when calculating shareholders' equity, as laid down in CRB Regulation 90-02 on equity, was a prudential standard resulting directly from European Union directives and not an accounting policy. The difference in the nature and

purpose of these standards implies that there can be no doubt as to the principle of equality in the different treatment applied to intangible assets under the accounting and prudential approaches. Furthermore, the *Conseil d'État* did not find the sanction handed down by the Sanctions Committee to be disproportionate⁽⁴⁾.

3.2. *Conseil d'État State Bank of India (SBI)* order of 5 October 2016 (no. 389377)

The *Conseil d'État* similarly rejected the appeal brought by SBI, noting firstly that the fact that the inspection report had been provided to the institution in question at the same time as the statement of objections, rather than before the objections were brought, did not constitute an irremediable infringement of defence rights. It further found that the buyer

loans granted by the institution to Indian importers could not be considered interbank loans, even though they were guaranteed by Indian banks. That being the case, the charge based on insufficient due diligence by the bank in relation to credit risk was well-founded.

3.3. Ongoing appeals before the *Conseil d'État*

At 31 December 2016, two rulings handed down by the Committee were the subject of appeals before the *Conseil d'État*. These appeals were brought against the [Vaillance](#)

[Courtaige ruling of 20 July 2015 \(proceeding no. 2014-11\)](#) and the aforementioned ruling of 11 March 2016 (proceedings nos. 2015-02 and 2015-03).

(3) See page 108 of the 2015 annual report.

(4) A reprimand and a EUR 100,000 fine.

BUDGET AND ACTIVITY MONITORING

The ACPR has specific budgetary resources in the form of contributions for supervision costs collected from supervised institutions by the Banque de France and allocated in full to the Authority.

These contributions may be supplemented by additional funds allocated by the Banque de France. Since 2011, the Authority has used indicators to monitor its activities so as to measure the effectiveness of its actions in fulfilling its statutory objectives.

2016 KEY FIGURES

EUR **194.4**
MILLION
Total budget

84.78%
OVERALL
COMPLETION RATE
of inspection programmes



1. BUDGET OF THE ACPR

1.1. Budget



In accordance with Article L.612-18 of the Monetary and Financial Code, the ACPR is financially independent within the limits of the contributions paid by institutions under its supervision. The Banque de France may allocate additional funds to the Authority.

The ACPR's budget consists of all of its receipts and expenses, and is an annex to the budget of the Banque de France.

Pursuant to Article L.612-19 of the Monetary and Financial Code, the ACPR relies on support functions provided by the Banque de France in order to benefit from the pooling of certain costs (property management, IT, personnel management, etc.). It also relies on certain operating functions of the

Banque de France, notably as regards the use of databases.

The services that the ACPR and the Banque de France provide to each other are measured on the basis of the Banque de France's cost accounting and are charged out in accordance with the financial agreement between the Banque de France and the ACPR. The Banque de France also incurs capital expenditure on behalf of the ACPR; the ACPR budget includes the associated depreciation and amortisation expenses.

The report on the ACPR budget outturn for 2016 was submitted to the Audit Committee on 23 February 2017 and approved by the College at its plenary meeting of 6 March 2017.

1.2. Budget summary

The Authority ended 2016 with a EUR 1.1 million deficit. After taking into account the deficit, the balance of contributions carried forward, which totalled EUR 24.2 million, comes to EUR 23.2 million.

Summary of 2016 expenses and income

Expenses and income in EUR millions	2015 actual	2016 actual	2016 actual / 2015 actual	
			Amount	%
Contributions from supervised institutions	184.7	189.3	4.6	2.5%
Caisse des dépôts et consignations	3.6	2.4	-1.2	-33.4%
Other income	1.5	1.6	0.1	6%
Income (A)	189.8	193.3	3.5	1.9%
Personnel costs	104.5	108.9	4.4	4.2%
IT	24.2	23.4	-0.8	-3.3%
Property	27.1	28.0	0.9	3.4%
Other expenses	32.9	33.2	0.3	0.9%
Amortisation and depreciation	1.0	0.9	-0.04	-3.8%
Expenses for the year (B)	189.6	194.4	4.8	2.5%
Budget balance (A) - (B)	0.2	-1.1	-1.3	NS

A. Receipts

Receipts from contributions for the cost of supervision totalled EUR 189.3 million, up 2.5%.

The increase in contributions from credit institutions and investment firms was due to higher capital requirements; for *insurance institutions*, it was the result of higher life insurance inflows.

The increase in the number of *insurance and reinsurance intermediaries* (up 2.4%) and *intermediaries in banking transactions and payment services* (up 10.9%) explains the increase in contributions from such operators.

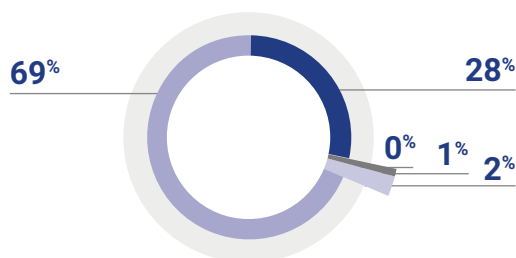
Expenses charged to Caisse des dépôts et consignations, determined by agreement between the two parties in accordance with Article L.518-15-3 of the Monetary and Financial Code, totalled EUR 2.4 million.

► Breakdown of contributions for the cost of supervision

Income (EUR millions)	2015 actual	2016 actual	2016 actual / 2015 actual	
			Amount	%
Credit institutions and investment firms	127.4	129.6	2.2	1.7%
Insurers, mutual insurers and provident institutions	52.2	53.7	1.5	2.9%
Money changers	0.2	0.2	0.001	0.6%
Intermediaries in banking transactions and payment services	2.2	2.4	0.2	11.4%
Insurance and reinsurance intermediaries, microcredit associations and crowdfunding intermediaries	3.2	3.3	0.1	2.9%
Sub-total: institutions subject to Art. L.612-20 of the Monetary and Financial Code	185.2	189.2	4.0	2.19%
Cancellations and provisions for risk of non-collection (net reversals)	-0.5	0.1		
Contributions net of provisions and cancellations	184.7	189.3	4.7	3%
<i>Caisse des dépôts et consignations</i>	3.6	2.4	-1.2	-33%
Other receipts	1.5	1.6	0.1	6%
Net income	189.8	193.3	3.5	1.9%

► Respective share of 2016 income of supervised institutions covered by Article L.612-20 of the Monetary and Financial Code

By amount called (EUR 189.2 million)



■ Credit institutions and investment firms
■ Insurers, mutual insurers and provident institutions
■ Intermediaries in banking transactions and payment services

By number of calls (38,981)



■ Insurance and reinsurance intermediaries, microcredit associations and crowdfunding intermediaries
■ Credit institutions and investment firms
■ Intermediaries in banking transactions and payment services
■ Money changers

Other ACPR receipts

Other receipts mainly consist of amounts charged out for services performed by the ACPR on behalf of the Banque de France (on-site inspections at banks to check portfolios

offered to the ECB as collateral; hosting the secretariat of the Advisory Committee on Financial Legislation and Regulations [CCLRF]).

B. Expenses

The ACPR's expenses in respect of 2016 totalled EUR 194.4 million, up 2.5%. Since the ACPR is an offshoot of the Banque de France, its operating expenses are either incurred directly by its departments or charged out by the Banque de France. Personnel costs and rental costs for operating premises are those actually incurred for the Authority.

A number of services provided by the Banque de France, notably in terms of support (recruitment, internal audit, IT, training, etc.), are charged out at their full cost, determined on the basis of the Banque de France's cost accounting, as laid down in the Monetary and Financial Code (Article R.612-14).

► Summary of 2016 expenses

Expenses (EUR millions)	2015 expenses	2016 expenses	2016/2015 difference
Personnel	104.5	108.9	4.2%
IT	24.2	23.4	-3.3%
Property	27.1	28.0	3.4%
Other expenses	32.9	33.2	0.9%
Amortisation and depreciation	1.0	0.9	-3.8%
Total expenses (B)	189.6	194.4	2.5%

Personnel costs increased by 4%, mainly driven by growth in the workforce. In spite of savings on IT projects, some of which were scaled down or postponed, and on a number of items of overheads, total overheads increased by 1.6%.

The ACPR has put into effect a plan aimed at better managing its overheads, the full effects of which should begin to be seen in 2017. The amortisation and depreciation expense decreased relative to 2015.



2. ACTIVITY MONITORING

Choice of strategic themes

The ACPR's strategy derives from its statutory objectives, which are laid down in law (ensuring the stability of the financial system and protection of the customers of supervised institutions), with a focus on efficiency of action. The ACPR's Secretary General has broken this strategy down into five strategic themes:

- Undertake prudential supervision aimed at preventing systemic risks**
 Goal 1: monitor the impact of changes in the risks of supervised entities, and more specifically those considered most vulnerable or which are the largest.
- Strengthen protection for financial consumers**
 Goal 2: monitor the evolution of business practices.
- Strengthen the ACPR's proactive role in the area of AML/CTF**
 Goal 3: step up the ACPR's activities in the area of AML/CTF through inspections and measures in support of new standards.
- Help define and implement financial system regulations**
 Goal 4: monitor regulatory developments and how well supervised institutions adapt to them.
- Monitor the efficiency of the ACPR's actions**
 Goal 5: manage the time taken to undertake inspections.



Goal 1: Monitor the impact of changes in the risks of supervised entities, and more specifically those considered most vulnerable or which are the largest

	2015 actual	2016 actual	Multi-year target
Indicator 1.1: Completion rate of prudential inspection programmes in insurance	91%	83%	100%
Indicator 1.2: Completion rate of prudential inspection programmes in banking	96%	92%	100%

In fulfilling its domestic statutory objectives as prudential supervisor, the ACPR completed the bulk of inspections scheduled at the beginning of the year on the basis of risk analysis resulting from ongoing supervision. However, it occasionally had to cancel inspections to make way for other inspections that became necessary during the course of the year. In the banking sector, the ACPR cannot undertake all inspections requested by the ECB at the most significant institutions and can only undertake a small

number of inspections (11 in 2016) at entities falling under the jurisdiction of the domestic authority.

Furthermore, the Authority undertakes year-round ongoing supervision based on regulatory reports, interviews with entities' top management and cross-cutting analysis to detect areas of weakness and ask for corrective action to be taken before the situation deteriorates.

Goal 2: Monitor the evolution of business practices

	2015 actual	2016 actual	Multi-year target
Indicator 2.1: Completion rate of inspection programmes in the area of business practices	93%	93%	100%

A total of 78 inspections were initiated in 2016, compared with 82 in 2015. However, inspections focused on themes identified as supervisory priorities (bank charges, debt consolidation loans and unclaimed contracts).

Goal 3: Step up the ACPR's activities in the area of AML/CTF through prudential inspections and measures in support of new standards

	2015 actual	2016 actual	Multi-year target
Indicator 3.1: Number of sector enforcement principles and guidelines published by the ACPR	1 PAS, 1 LD	1 PAS, 1 LD	3
Indicator 3.2: Completion rate of inspection programmes in the area of AML/CTF	74.3%	75%	100%

The ACPR published a sector enforcement principles memorandum on AML/CTF obligations in respect of the right to a bank account and, jointly with the directorate general "Treasury", a guideline memorandum on the implementation of asset freezes. As regards on-site inspections, 30 such inspections were undertaken, a record for the Authority.

However, the 2016 programme in the insurance sector proved too full (13 inspections) to be completed as initially planned, given the resources required for other priority inspections.

Goal 4: Monitor how well supervised institutions adapt to regulatory developments

	2015 actual	2016 actual	2017 forecasts	Multi-year target
Indicator 4.1: Percentage of regulatory reforms in the banking arena whose impact has been measured through QISs, cross-cutting impact studies and industry consultations	Target achieved: estimates of the impact of proposed Pillar 1 measures on interest rate risk presented to the College at its plenary meeting in November	Target achieved: - Defined calibration of leverage ratio and NSFR; reviewed standardised approach to credit risk and operational risk, treatment of sovereign risk, TLAC, IRRBB, MREL and IFRS 9 - Presented impact of Basel reforms to the College at its plenary meeting in June - EBA impact study on IFRS 9	Finalisation of Basel III, IFRS 9	Measure impact of 100% of reforms
Indicator 4.2: Percentage of legislation and regulations adopted where positions defended by the ACPR have been adhered to	- Balanced calibration of NSFR maintained, as defended by the ACPR in the context of the work of the Basel Committee - ACPR positions not adhered to on the definition of new standards governing additional capital requirements for systemic insurers	Target achieved: in spite of difficulties harmonising methods for identifying systemic insurers and calibrating requirements, the list of systemic insurers signed off by the FSB in November meets France's main expectations	Calibration of surplus requirements for systemic insurers	100% of positions defended adhered to

In the context of the reforms initiated by the Basel Committee on Banking Supervision and the work of the International Association of Insurance Supervisors on systemic insurers,

the ACPR endeavoured to measure the impact of new standards on the industry and to promote what it considers essential positions. It will continue its efforts in this regard.

Goal 5: Manage the time taken to undertake inspections

	2015 actual	2016 actual	Multi-year target
Indicator 5.1: Total time taken to undertake inspections	428 days	405 days	< 1 year

The total time taken to undertake inspections remains higher than the multi-year target (365 days): some inspections took a long time due to the problems identified. Recruitment of

new staff in 2016, once the necessary training has been completed, means it will be possible in 2017 to initiate a programme to clear backlogs and shorten timescales.



ANNEX

List of ACPR publications in 2016

► **The ACPR's research is published in a review titled *Analyses et Synthèses* (containing analysis and comment on research carried out into risks in the banking and insurance sectors).**

In 2016, **20 issues** were published and **4 were translated into English**:

- “*Le financement des professionnels de l'immobilier par les banques françaises au premier semestre de 2016*” (“Financing of real estate professionals by French banks in the first half of 2016”), December 2016
- “*Les stress tests EBA/BCE de 2016*” (“EBA/ECB 2016 stress tests”), December 2016
- “*La situation des assureurs en France au regard des premières remises Solvabilité II en 2016*” (“Position of French insurers with regard to the first Solvency II submissions in 2016”), December 2016
- “*Enquête affacturage 2015*” (“2015 factoring survey”), October 2016
- “*La situation des principaux organismes d'assurance en 2015*”, September 2016

English version: “Position of the main French insurers in 2015”

- “*Le financement de l'habitat en 2015*”, July 2016
English version: “Housing finance in France in 2015”
- “*Analyse des taux de revalorisation des contrats individuels en 2015*” (“Analysis of individual contract revaluation rates in 2015”), July 2016
- “*Étude sur les taux de revalorisation des contrats collectifs d'assurance vie et PERP au titre de 2015*” (“Study on revaluation rates for group life insurance contracts and PERPs in 2015”), July 2016
- “*Le financement des professionnels de l'immobilier par les banques françaises au deuxième semestre de 2015*”, July 2016
English version: “French banks' lending to the professional real estate sector in the second half of 2015”
- “*Indicateurs de risque et vulnérabilités en assurance sur données historiques*” (“Indicators of risk and vulnerabilities in insurance based on historical data”), July 2016

► ***Débats économiques et financiers* are articles that solely reflect the views of their authors and may not express the position of the Authority. They encourage debate on economic issues in banking and insurance, regulation and prudential policy.**

Five issues were published in 2016:

- Eugenio Avisoa, “European banks' technical efficiency and performance: do business models matter? The case of European co-operatives banks”, December 2016
- O. de Bandt, B. Camara, A. Maitre and P. Pessarossi, “Optimal capital, regulatory requirements and bank performance in times of crisis: Evidence from France”, October 2016

- “*Le taux technique en assurance vie (Code des assurances)*” (“The technical rate in life insurance (Insurance Code)”), June 2016
- “*Les différentes composantes de l'assurance vie et leur évolution*” (“Components of life insurance and their evolution”), May 2016
- “*Éléments d'analyse des cycles en assurance non-vie*” (“Analysis of cycles in non-life insurance”), May 2016
- “*La situation des grands groupes bancaires français à fin 2015*”, May 2016
English version: “French banks' performance in 2015”
- “*Situation d'un échantillon de groupes d'assurance actifs en France à fin 2015*” (“Performance of a sample of active insurance groups in France at end 2015”), May 2016
- “*Analyse de l'évolution sur longue période des portefeuilles de crédits à la clientèle non bancaire*” (“Analysis of changes in portfolios of loans to non-bank customers over a long period”), April 2016
- “*Suivi de la collecte et des placements des 12 principaux assureurs-vie à fin décembre 2015*” (“Premium income and investments of the 12 largest life insurers to end December 2015”), March 2016
- “*Éclairages de l'enquête Patrimoine sur les comportements de rachat en assurance vie*” (“Insights from the Patrimoine survey of life insurance surrender behaviours”), March 2016
- “*Le financement des professionnels de l'immobilier par les banques françaises au premier semestre de 2015*” (“Financing of real estate professionals by French banks in the first half of 2015”), February 2016
- “*Suivi de la collecte et des placements des 12 principaux assureurs vie à fin septembre 2015*” (“Premium income and investments of the 12 largest life insurers to end September 2015”), January 2016

- M. Dietsch, K. Düllmann, H. Fraise, P. Koziol and C. Ott, “Support for the SME Supporting Factor – Multi-country empirical evidence on systematic risk factor for SME loans”, October 2016
- Isabel Argimon, Michel Dietsch and Ángel Estrada, “Prudential filters, portfolio composition and capital ratios in European banks”, August 2016
- Frédéric Vinas, “The real effects of universal banking on firms' investment: micro-evidence from 2004-2009”, May 2016

► Publications in the Banque de France working papers series

Two studies were published in 2016:

- O. de Bandt and M. Chahad, "A DGSE Model to Assess the Post-Crisis Regulation of Universal Banks", no. 602
- M. Bussière, J. Schmidt and F. Vinas, "International Banking and Cross-Border Effects of Regulation: Lessons from France", no. 599

► Publications in peer-reviewed journals and professional journals

Four studies were published in 2016:

- O. de Bandt and D. Durant, "*Un monde de taux d'intérêt bas – Impacts sur l'assurance vie*" ("A low-interest-rate world – Impacts on life insurance"), *Risques*, Issue 108, pp. 95-103
- G. Hauton and J.C. Héam, "Interconnectedness of financial conglomerates", *Risks*, Issue 3, pp. 139-163
- G. Hauton and J.C. Héam, "How to measure interconnect- edness between banks, insurers and financial conglomerates, *Statistics & Risk Modeling*", Volume 33, Issue 3-4, pp. 95-116
- A. Brodeur, M. Lé, M. Sangnier and Y. Zylberberg, "Star Wars: the Empirics Strike Back, *American Economic Journal: Applied Economics*", Jan 2016, Volume 8, Issue 1, pp. 1-32

ACPR seminars

► La Chaire ACPR organised ten research seminars in 2016:

- On 13 January, Pierre Picard (École Polytechnique) gave a presentation titled "Optimal insurance for catastrophic risk: theory and application to nuclear corporate liability"
- On 3 February, Puriya Abbassi (Deutsche Bundesbank) gave a presentation titled "Securities Trading by Banks and Credit Supply: Micro-Evidence"
- On 2 March, Ralph Koijen (London Business School) gave a presentation titled "Shadow Insurance"
- On 6 April, Fergal McCann (Central Bank of Ireland) gave a presentation titled "Credit conditions, macroprudential policy and house prices"
- On 4 May, Catherine Bruneau (Université Paris 1) gave a presentation titled "Liquidity and Equity Short term fragility: Stress-tests for the European banking system"
- On 1 June, Michael Kumhof (Bank of England) gave a presentation titled "Banks are not intermediaries of loanable funds – and why this matters"
- On 7 September, Yann Braouezec (IESEG School of Management) gave a presentation titled "Risk-based capital requirements and optimal liquidation in a stress scenario"
- On 5 October, Ansgar Walther (Warwick University) gave a presentation titled "Rules versus discretion in bank resolution"
- On 2 November, Hans Degryse (KU Leuven) gave a presentation titled "The impact of bank shocks on bank risk-taking and firm level outcomes"
- On 14 December, Steven Ongena (University of Zurich) gave a presentation titled "The countercyclical capital buffer and the composition of bank lending"

► The Authority also organised five other seminars open to outside attendees:

- On 27 January, Michel Dietsch (ACPR), Klaus Duellman (ECB), Henri Fraisse (ACPR), Philip Koziol (ECB) and Christine Otz (Bundesbank) gave a presentation titled "Support for the supporting factor – Multi-country empirical evidence on systematic risk factors for SME loans"
- On 29 June, Juliane Begenau (Harvard Business School) gave a presentation titled "Capital Requirements, Risk Choice, and Liquidity Provision in a Business Cycle Model"
- On 1 July, Dominique Durant (ACPR) gave a presentation titled "How to reach all Basel requirements at the same time?"
- On 8 October, Olivier Frecaut (IMF) gave a presentation titled "A National Wealth Approach to Banking Crises and Financial Stability"
- On 11 October, Christophe Pérignon (HEC) gave a presentation titled "Transparent Systemic-Risk Scoring"
- On 22 November, Pierre Pessarossi (ACPR) gave a presentation titled "Back-testing Bank Stress Tests"
- On 25 November, Édouard Chrétien (ACPR) gave a presentation titled "Traditional and Shadow Banks During The Crisis"

GLOSSARY

ACTUARY

A specialist who applies statistics and probability calculations to financial and insurance operations. In life and non-life insurance, actuaries analyse mortality patterns and use probabilities to assess risks and calculate premiums and technical and mathematical provisions.

ADD-ON

An additional requirement. In insurance, under Solvency II, an add-on is an additional capital requirement that may be imposed on an insurer or reinsurer in exceptional circumstances by reasoned decision of the supervisory authority. In practice, there are two types of additional capital requirement:

- "Pillar 1" capital add-ons linked to the quantitative requirement: these serve to correct the amount of the capital requirement when the risk profile diverges from the calculation assumptions used (standard formula or internal model).
- "Pillar 2" capital add-ons linked to governance: these serve to adjust the capital requirement when the quality of governance diverges from required standards such that risks can no longer be adequately measured or controlled.

ANC (*Autorité des normes comptables*)

The French accounting standards authority, responsible for setting accounting standards applicable in France. Ordinance 2009-79 of 22 January 2009 merged the CNC (*Conseil national de la comptabilité*) with the CRC (*Comité de la Réglementation Comptable*) to form the *Autorité des normes comptables* (ANC), the accounting standards authority.

AQR

See Comprehensive Assessment.

AREAS agreement (*S'assurer et Emprunter avec un Risque Aggravé de Santé*)

An agreement that aims to offer solutions to facilitate access to insurance and credit for persons who have, or have had, serious health problems.

BANKING BOOK

A set of assets or off-balance sheet items not belonging to the trading book.

BANKING UNION

A set of legislative measures aimed at enhancing financial stability in Europe. They include the Single Supervisory Mechanism, under which, with effect from 4 November 2014, the European Central Bank assumes responsibility for supervising euro area banks in liaison with national authorities. This supervision is direct in the case of large groups and indirect for others. Other measures include a Single Resolution Mechanism (SRM) with effect from 1 January 2015 and, in the longer term, a common deposit guarantee scheme.

CAPITAL (accounting definition)

All capital resources available to a company.

CAPTIVE

An insurance or reinsurance company set up by an industrial or commercial group exclusively for the purpose of covering its own risks. By creating a captive, the parent group is able to pool its insurance and reinsurance programmes to obtain better cover at more competitive prices in the international insurance market.

CCSF (*Comité consultatif du secteur financier*)

A consultative committee that addresses issues relating to how credit institutions, payment institutions, investment firms and insurance undertakings deal with their customers. It adopts appropriate measures in these areas, notably through opinions or general recommendations.

CDS (Credit Default Swap)

A contract whereby an institution wishing to protect itself against the risk of non-repayment of a loan makes a series of regular payments to a third party in exchange for receiving a predetermined amount if an event of default occurs.

COMPREHENSIVE ASSESSMENT

An assessment conducted by the ECB in collaboration with the competent national authorities of Member States participating in the Single Supervisory Mechanism (SSM) to assess the risks of national banking systems. The Assessment began in October 2013 and was completed before the SSM entered into force in November 2014. The three main goals of the Comprehensive Assessment were: transparency, enhancing the quality of information available on the condition of banks; repair, identifying and implementing necessary corrective actions; and confidence-building, assuring all stakeholders that banks are fundamentally sound and trustworthy. The Assessment consisted of two parts:

- an Asset Quality Review (AQR) to increase transparency with regard to banks' exposure (focusing in particular on the adequacy of provisions and the measurement of collateral, complex instruments and other high-risk assets); and
- a stress test to examine the resilience of bank balance sheets to crisis scenarios.

COREP (Common Reporting Framework)

A standardised reporting framework for Basel II solvency requirements.

CRD IV

Directive 2014/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, which deals with capital requirements.

CROWDFUNDING

A method of raising funds – generally of small amounts – from large numbers of members of the public to finance an artistic project (e.g. in music, publishing or film) or an entrepreneurial project. Crowdfunding campaigns may support local initiatives or projects promoting certain values. Crowdfunding is usually carried out via the internet and takes various forms: donations with or without some benefit in return, loans with or without interest, and subscriptions of securities.

CRR

Regulation (EU) 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms, which deals with capital requirements.

CVA (Credit Valuation Adjustment)

The estimated credit component of counterparty exposure to derivatives (e.g. via the counterparty's rating). The CVA is determined daily by taking into account changes in ratings and market prices, netting agreements and collateral. The higher the counterparty risk, the higher the CVA.

DELEGATED ACT

Under the terms of Article 290 TFEU, delegated acts are “non-legislative acts of general application to supplement or amend certain non-essential elements” of a legislative act. In order to be adopted, delegated acts require a delegation of authority, which is written into the legislative text and may be revoked by the Parliament or the Council at any time.

D-SIB (Domestic Systemically Important Bank)

In addition to Global Systemically Important Banks (see G-SIB), the Basel Committee has also looked at identifying Domestic Systemically Important Banks or D-SIBs. The CRD IV/CRR package calls for an equivalent category under EU law. This category will cover Other Systemically Important Institutions or O-SIIs.

EBA (European Banking Authority)

The supervisory authority for the European banking sector, established on 1 January 2011.

EFRAG (European Financial Reporting Advisory Group)

EFRAG was established in 2001 with the encouragement of the European Commission with the aim of participating in the development of IFRS published by the IASB and providing technical expertise and advice on accounting matters.

EIOPA (European Insurance and Occupational Pensions Authority)

The supervisory authority for the European insurance and occupational pensions sector, established on 1 January 2011.

EMIR (European Market Infrastructure Regulation)

A European regulation covering OTC derivatives, central counterparties and trade repositories.

ESRB (European Systemic Risk Board)

Organisation set up in the wake of the 2009 economic crisis and tasked with implementing macroprudential oversight and early assessment of systemic risk.

EUROPEAN DIRECTIVE

An act of the European institutions intended to harmonise Member States' domestic legislation. European directives set objectives for Member States to meet while allowing them freedom as to the forms and methods used.

EUROPEAN ECONOMIC AREA

An association set up for the purpose of extending the European Union's internal market to member States of the European Free Trade Association (EFTA) that do not wish, or are not ready, to join the EU. The EEA aims to “remove all obstacles to the creation of an area of complete freedom of movement similar to a national market”. As such, it is based on the four freedoms of the European Community: the free movement of goods, persons, services and capital among member countries.

EUROPEAN REGULATION

A law or regulation issued by European institutions that is mandatory and directly applicable in all Member States.

EUROPEAN UNION

The European Economic Community (EEC) was established by the Treaty of Rome in 1957 with the primary aim of creating a large common market with no internal borders. The Maastricht Treaty, which entered into force on 1 November 1993, replaced the European Economic Community with the European Community. The Lisbon Treaty, which entered into force on 1 December 2009, dismantled the pillar structure of the European Community by merging the pillars and transferring the Community's legal personality to a new entity, the European Union (EU). The EU's aim is to promote development, growth, employment, competitiveness and a high level of social and environmental protection throughout the Community in a manner consonant with solidarity between Member States. To achieve this aim, the EU prepares a range of sectoral policies, chiefly in the areas of transport, competition, fisheries and agriculture, asylum and immigration, energy and the environment. These policies are implemented via the decision process laid down in the founding treaties, including in particular the co-decision procedure.

FATF (Financial Action Task Force)

An intergovernmental organisation that aims to develop and promote national and international anti-money laundering and counter-terrorist financing policies.

FinCoNet

International Financial Consumer Protection Network, which brings together national supervisory authorities responsible for protecting consumers in the financial sector.

FREEDOM TO PROVIDE SERVICES

The right of an organisation having its registered office or a branch in a Member State of the European Economic Area to provide services in another EEA Member State. Thus, a company located in one Member State can insure a risk in another Member State.

FRTB (Fundamental Review of the Trading Book)

Fundamental review of the prudential treatment of banks' trading operations.

FSB (Financial Stability Board)

Established in 2009 as the successor to the Financial Stability Forum (FSF).

GHOS (Group of Central Bank Governors and Heads of Supervision)

This high-level group comprises central bank governors and heads of supervision from the Basel Committee member countries. The GHOS provides guidance on the Basel Committee's work and approves the new standards it produces.

GROUP MUTUAL INSURANCE COMPANIES (SGAM)

Group of insurers whose main objective is to establish strong and lasting financial solidarity links between members, and which comprise at least two affiliated bodies, one of which is a mutual insurance company. An SGAM operates with no share capital, but rather with an initial capital.

G-SIB (Global Systemically Important Bank)

The G20 asked the Basel Committee to develop an identification method and supervision measures for Global Systemically Important Banks in order to eliminate the risks that "too big to fail" banks pose for the financial system. The Financial Stability Board now publishes an annual list of these systemically important banks. The EU has transcribed the Basel rules on G-SIBs into European banking law with the entry into force of the CRD IV/CRR package.

G-SII (Global Systemically Important Insurer)

The G20 asked the IAIS to develop an identification method and supervision measures for Global Systemically Important Insurers in order to eliminate the risks that "too big to fail" institutions pose for the financial system. The Financial Stability Board now publishes an annual list of these systemically important insurers.

HCSF (*Haut Conseil de stabilité financière*)

Established by the Act of 26 July 2013 on the Separation and Regulation of Banking Activities to replace the *Conseil de régulation financière et du risque systémique* ("Corefris", Financial Regulation and Systemic Risk Board), the HCSF is responsible for ensuring financial stability in France and the ability to make a sustainable contribution to economic growth.

IAIS (International Association of Insurance Supervisors)

Organisation that aims to promote cooperation between its members, chiefly insurance supervisors or regulators, and to foster collaboration with supervisory authorities in other financial sectors, such as banking and securities markets. Such cooperation has become increasingly necessary due to the international expansion of insurance groups and their diversification into banking and asset management.

IASB (International Accounting Standards Board)

Organisation that draws up international accounting standards, ratified by the European Union, for consolidated financial statements.

IFRS (International Financial Reporting Standards)

International accounting standards proposed by the IASB, which are gradually replacing International Accounting Standards (IAS).

INTERMEDIARY

In insurance, an individual or entity on a restricted list that offers or helps to conclude insurance or reinsurance policies, in exchange for payment. Activities consisting solely in managing, estimating or settling claims are not considered intermediation.

JST (Joint Supervisory Teams)

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

LCR (Liquidity Coverage Ratio)

One-month liquidity ratio (currently under observation; compliance is required with effect from 2015).

LONG-TERM GUARANTEE PACKAGE

A set of six measures discussed by the trilogue parties for the Omnibus II Directive. The measures are aimed at reducing the impact of financial market volatility on the capital of institutions engaging in long-term activities. The measures include a Volatility Adjustment, a Matching Adjustment, an extrapolation period for the risk-free rate curve, transitional measures for rates and technical provisions, and extension of the solvency capital requirement recovery period under exceptional circumstances.

MCR (Minimum Capital Requirement)

Under Solvency II, the minimum amount of regulatory capital below which an institution's authorisation would be withdrawn. The MCR is expected to be calculated in a simpler and more robust manner than the Solvency Capital Requirement and cannot be less than a fixed absolute amount in euros.

MPE (Multiple Point of Entry)

A resolution approach under which resolution powers and instruments are exercised at the level of the various parts of the group by at least two different resolution authorities, which coordinate activities between themselves (as opposed to the Single Point of Entry, or SPE, approach).

MREL (Minimum Requirement for own funds and Eligible Liabilities)

The minimum required level of liabilities eligible for bail-in under the terminology of the Bank Resolution and Recovery Directive (BRRD).

NSFR (Net Stable Funding Ratio)

One-year liquidity ratio for banks (currently under observation; due to enter into force in 2018).

OMNIBUS II

A Directive amending the 2009 Solvency II Directive. Its primary objective was to adapt the Solvency II Directive to the new powers of EIOPA, following the establishment of the new European financial architecture. Furthermore, Omnibus II was intended to confirm the Solvency II implementation delay and set transitional periods for a number of measures (equivalence assessments, discount rates, etc.). In reality, the Omnibus II Directive provided an opportunity to review certain quantitative issues, such as long-term guarantees ("Long-Term Guarantee Package"). The trilogue parties ultimately agreed to a joint draft on 13 November 2013 and the European Parliament passed the Directive at its plenary session on 11 March 2014. The postponement of Solvency II implementation until 1 January 2016 was ultimately included in an ad hoc Directive called Quick Fix 2, passed on 11 December 2013.

ORIAS (Organisme pour le registre des intermédiaires en assurance, banque et finance)

Non-profit organisation responsible for establishing, maintaining and updating the register of authorised insurance, reinsurance, banking and finance intermediaries in France.

ORSA (Own Risk and Solvency Assessment)

Internal assessment by an institution (or group) of its risks and solvency, defined in Article 45 of the Solvency II Directive. The ORSA must illustrate the institution's or group's ability to identify, measure and manage factors that could affect its solvency or financial position. As such, its operational application makes it a primary strategic tool.

OTC DERIVATIVES

Derivatives that are traded over the counter (OTC).

PROVISIONAL ADMINISTRATION

A legal procedure whereby the powers of administration, management and representation of a company are transferred to a designated administrator. This measure, which is a derogation from general corporate law, removes the authority of the existing corporate bodies.

PRUDENTIAL OWN FUNDS

Funds made up of different categories of own funds: Common Equity Tier 1 Capital, Additional Tier 1 Capital and Tier 2 Capital. As the case may be, capital requirements are expressed as a minimum level of Common Equity Tier 1 Capital, as a minimum level of Tier 1 Capital (the sum of Common Equity and Additional Tier 1 Capital) or as a minimum level of total capital (sum of Tier 1 and Tier 2 Capital).

QIS (Quantitative Impact Study)

The European Commission asked EIOPA to conduct quantitative studies to measure the impact of Solvency II on the evaluation of the regulatory balance sheet and capital requirements.

RWA (Risk-Weighted Assets)

Risk-weighted assets are based on banks' exposures and their associated risk levels, which depend on counterparties' creditworthiness, measured using the methods provided for in the Basel III solvency ratio calculation framework (implemented in Europe by the CRR).

SCR (Solvency Capital Requirement)

Target amount of capital required under the European regulation, Solvency II. The SCR is the estimated amount of capital needed to absorb a shock produced by an exceptional loss. It is calculated based on the exposure to risk in connection with the activity of insurance companies, i.e. underwriting risk, credit risk, operational risk, liquidity risk and market risk. Companies should be able to choose between two different calculation models: a standard approach or an internal model.

SOLVENCY II PILLARS

The three Solvency II pillars are:

- Pillar 1: quantitative requirements, particularly for capital and technical reserves
- Pillar 2: qualitative requirements in respect of governance
- Pillar 3: regulatory reporting and public disclosure requirements

SOLVENCY MARGIN REQUIREMENT

The regulatory capital that an insurance company must hold in order to meet the commitments resulting from its business. Under Solvency I, in life insurance, the solvency margin requirement will depend on mathematical reserves for unit-linked and non-linked contracts, as well as capital at risk. In non-life insurance, it will depend on the amount of premiums or claims. Note that the vocabulary is changing: Solvency II refers to “a level of equity” or “capital requirement”. The bases for calculation are also changing, becoming more granular and covering more risks.

SPE (Single Point of Entry)

A resolution approach under which powers and instruments are exercised at group parent level by the home country authority, with host country authorities adopting measures to support resolution actions if necessary (as opposed to the Multiple Point of Entry, or MPE, approach).

SRM (Single Resolution Mechanism)

See Banking Union

SSM (Single Supervisory Mechanism)

See Banking Union

TLAC (Total Loss-Absorbing Capacity)

Requirements on holdings of capital or debt securities able to be converted in the event of liquidation.

TRACFIN (*Traitement du renseignement et action contre les circuits financiers clandestins*)

French financial intelligence unit, run by the finance ministry and responsible for preventing money laundering and terrorist financing.

TRADING BOOK

Set of positions in financial instruments and commodities held by an institution for trading purposes or to hedge other items in the trading book.

TRILOGUE

Tripartite discussions between the European Parliament, the European Commission and the Council of the European Union under the co-decision procedure.

VAR (Value at Risk)

The maximum potential loss caused by an unfavourable change in market prices, within a specified time period and at a given probability level (the “confidence level”). VaR is an overall probability measure of market risk.

Director of publication: Édouard Fernandez-Bollo

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PRESENT
PARTICIPATE
PROTECT
CONTRIBUTE
MONITOR **MANAGE**
SANCTION

