

**France: Financial Sector Assessment Program—
Detailed Assessment of Observance of Insurance Core Principles**

This paper was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed in June 2013. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of France or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

Copies of this report are available to the public from

International Monetary Fund • Publication Services
700 19th Street, N.W. • Washington, D.C. 20431
Telephone: (202) 623-7430 • Telefax: (202) 623-7201
E-mail: publications@imf.org Internet: <http://www.imf.org>

FINANCIAL SECTOR ASSESSMENT PROGRAM UPDATE

FRANCE

INSURANCE CORE PRINCIPLES

DETAILED ASSESSMENT OF OBSERVANCE

JUNE 2013

INTERNATIONAL MONETARY FUND
MONETARY AND CAPITAL MARKETS DEPARTMENT

Contents	Page
Glossary	3
I. Executive Summary, Key Findings and Recommendations	5
A. Introduction	5
B. Information and Methodology Used	5
C. Institutional and Market Structure—Overview	6
D. Main Findings	18
II. Recommended Action Plan and Authorities' Response	21
A. Recommended Action Plan	21
B. Authorities' Response to the Assessment	22
III. Detailed Assessments.....	24
Tables	
1. Insurance Premiums Collected	7
2. Insurance Penetration and Density.....	8
3. Total Number of Companies in the Market	8
4. Products, Market Shares, and Concentration: Nonlife Insurance	8
5. Products, Market Shares, and Concentration: Life Insurance.....	9
6. Market Shares of the Largest Companies	10
7a. Profitability and Efficiency: Nonlife Companies.....	10
7b. Profitability and Efficiency: Life Companies	11
8. Composition of Asset Portfolios: Life insurance.....	12
9. Composition of Asset Portfolios: Five Largest Life Companies	13
10. Composition of Asset Portfolios; Nonlife Companies.....	13
11. Indicators of Capital and Solvency	15
12. Summary Observance of the Insurance Core Principles.....	20
13. Summary of Grading.....	20
14. Recommendations to Improve Observance of Insurance Core Principles.....	21

GLOSSARY

ACAM	<i>Autorité de contrôle des assurances et des mutuelles</i> (Insurance Supervisor prior to ACP)
ACP	<i>Autorité de Contrôle Prudentiel</i> (Prudential Supervisory Authority)
ALFA	<i>Agence pour la Lutte contre la Fraude à l'Assurance</i> (agency for the fight against fraud in insurance)
ALM	Asset-liability management
ANC	<i>Autorité des normes Comptables</i> (Accounting Standards Board)
AMF	<i>Autorité des marchés financiers</i> (Financial Markets Authority)
AML	Anti-money laundering
ART	Alternate risk transfer
ASM	Available solvency margin
CC	Consumer Code
CCAMIP	<i>Commission de Contrôle des Assurances, des Mutuelles et des Institutions de Prévoyance</i> (Insurance Supervisor prior to ACAM)
CCLRF	<i>Comité consultatif de la législation et de la réglementation financières</i> (Consultative Committee for Financial Regulation)
CCR	<i>Caisse Centrale de Réassurances</i>
CDA	<i>Code des assurances</i> (Insurance Code)
CDC	<i>Code de Commerce</i> (Commercial Code)
CDM	<i>Code de la mutualité</i> (Mutual Insurance Code)
CEIOPS	Committee of European Insurance and Occupational Pensions Supervisors
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CFT	Combating the financing of terrorism
CMF	<i>Code Monétaire et Financier</i> (Monetary & Financial Code)
CNCC	<i>Compagnie Nationale des Commissaires aux Comptes</i> (Institute of Chartered Accountants)
CRO	Chief Risk Officer
CSS	<i>Code de la sécurité sociale</i> (Social Security Code)
DSS	<i>Direction de la Sécurité Sociale</i>
DGT	<i>Direction Générale du Trésor</i> (Directorate-General of the Treasury)
EEA	European Economic Area
EIOPA	European Insurance and Occupational Pensions Authority
ERM	Enterprise risk management
EU	European Union
FATF	Financial Action Task Force
FCD	Financial Conglomerates Directive
FIU	Financial Intelligence Unit
GF	Guarantee Funds
HRSM	Higher required solvency margin

IAIS	International Association of Insurance Supervisors
IAS	International Accounting Standards
ICP	Insurance Core Principles
IFRS	International Financial Reporting Standards
IT	Information technology
MCR	Minimum capital requirement
MEFI	Ministry of Economy, Finance, and Industry
MFC	<i>Code monétaire et financier</i>
MLR	Money laundering regulations
MLRO	Money Laundering Reporting Officer
MMOU	Multilateral Memorandum of Understanding
MOCE	Margin over current estimates
MOU	Memorandum of Understanding
OECD	Organization for Economic Co-operation and Development
OPCVM	<i>Organismes de Placement Collectif en Valeurs Mobilières</i>
ORIAS	Organization for the Register of Insurance Intermediaries
ORSA	Own-Risk and Solvency Assessment
P&C	Property and Casualty Insurance
ROSC	Report on the Observance of Standards and Codes
RSM	Required solvency margin
SCR	Solvency Capital Requirement
SPV	Special purpose vehicle
TP	Technical provisions

I. EXECUTIVE SUMMARY, KEY FINDINGS AND RECOMMENDATIONS

A. Introduction

1. **This assessment was conducted in early 2012 with the on-site mission occurring from January 10 to January 27, 2012.**¹ France undertook an initial *Financial Sector Assessment Program (FSAP)* in 2004, which was reported on in June 2005. At that time, the insurance supervisory authority was the *Commission de Contrôle des Assurances, des Mutuelles et des Institutions de Prévoyance (CCAMIP)*. The current supervisory authority is the *Autorité de contrôle prudentiel (ACP)*, which was formed on March 9, 2010, from the merger of the licensing authorities (*Comité des entreprises d'assurances (CEA)*, for insurance institutions, and the *Comité des établissements de crédit et des entreprises d'investissement (CECEI)*, for credit institutions and investment firms) and the supervisory authorities (*Autorité de contrôle des assurances et des mutuelles (ACAM)*, in the insurance sector, and the *Commission Bancaire*, in banking).

2. **The initial FSAP was benchmarked against the Insurance Core Principles (ICPs) issued in 2003, while the current FSAP is benchmarked against the revised ICPs issued in October 2011.** The change in the benchmark means the current assessment is a new assessment rather than an update. The 2011 ICPs contain 26 core principles, which cover much of the same subject matter as the 2003 ICPs; but, importantly, the new ICPs include far more extensive requirements relating to risk management in insurers (including a new specific ICP on enterprise risk management for solvency purposes), and they include a new specific ICP covering macroprudential issues. The 2011 ICPs contain standards within each ICP against which assessments have to be made; whereas the 2003 ICPs contained essential and advanced criteria within each ICP against which assessments had to be made.

B. Information and Methodology Used

3. **An effective system of insurance supervision needs a number of external elements, or preconditions, all of which exist in France—a developed country with an advanced economy.** These preconditions include sound and sustainable macroeconomic and financial sector policies; a well-developed public infrastructure; effective market discipline in financial markets; mechanisms for providing an appropriate level of protection (or public safety net); and efficient financial markets.

4. **In making the assessment for each ICP, all of that ICP's standards were considered and the assessment for each ICP was rated as Observed, Largely Observed, Partly Observed, or Not Observed.** The level of observance was determined as follows:

¹ The assessment was conducted by Mr. Tom Karp and Mr. Donald McIsaac, both retired senior insurance supervisors contracted as Insurance Regulation and Supervision Advisors by the IMF.

- Observed – all of the standards for that ICP are observed, with the supervisory authority having the legal authority to perform the required tasks as well as exercising this authority satisfactorily.
- Largely Observed – only minor shortcomings exist, which do not raise any concerns about the supervisor’s ability to achieve full observance.
- Partly Observed – where shortcomings are sufficient to raise doubts about the supervisor’s ability to achieve full observance.
- Not Observed – where no substantive progress toward observance has been achieved.

5. **The assessment is based solely on the laws, regulations, and other supervisory requirements and practices in place at the time of the assessment.** This is particularly relevant as France—like numerous other EU countries—is working to develop Solvency II requirements, but as yet has not taken concrete intermediate steps toward implementing similar requirements, especially related to risk-management requirements for insurers.

6. **The ACP’s comprehensive self-assessment against the ICPs was a major source of information used in the assessment.** Details were also provided by the ACP in response to an extensive questionnaire sent to them by the assessors. The ACP maintains a useful website (www.acp-banque-france.fr), which contains copies of all laws and regulations applicable to French insurers; copies of all guidelines and official notifications issued to the insurance industry; and comprehensive statistics of the industry’s performance and which is used as a vehicle for distributing discussion drafts of proposed changes in the regulatory system or requirements.

7. **The assessors held extensive discussions on the self-assessment, regulatory requirements, and supervisory practices with numerous ACP officers, and discussed the French insurance market and regulatory system with many industry personnel.** The assessors met with trade associations for insurers and intermediaries, executives of major life and nonlife insurance companies, ratings agencies, representatives from the accounting profession and the accounting standard setter, representatives from the actuarial profession, and auditors of insurance operations. The willing cooperation of all those visited assisted the assessors in gaining a proper understanding of the French insurance market and how the regulatory system impacts market participants.

C. Institutional and Market Structure—Overview

8. **The ACP is an independent administrative authority attached to the Banque de France and is responsible for the supervision of banking and insurance.** Its statutory objectives are to maintain financial stability and to provide protection for banks’ customers and for insurance policyholders and beneficiaries. This includes consumer protection responsibility as well as prudential supervision. The ACP also represents France for matters

within its jurisdiction in Europe as well as in international negotiations. While the corporate functions and some cross-sectoral functions (i.e., research, policy & international, legal, authorizations, and business conduct) operate across all of the ACP, banking and insurance supervision is conducted in distinctively separate departments of the ACP. Consequently, much of insurance supervision is conducted similarly to how it was conducted within ACAM. There is an innovative means of coordination between the ACP and the AMF to implement joint supervision of the marketing of financial products and product provider obligations toward their customers.

Market overview and analysis

9. **France has one of the most developed insurance markets in the world.** As the following table indicates, premium volumes for the French insurance market rank among the highest in Europe.

Table 1. France: Insurance Premiums Collected

(In millions of U.S. dollars)

	2008	2009	2010
Life Premiums			
Germany	110,148	111,916	114,868
France	206,765	221,250	220,383
United Kingdom	286,112	216,719	213,831
Spain	39,133	39,186	34,674
Italy	82,623	115,290	122,063
Netherlands	38,811	33,758	25,102
Nonlife Premiums			
Germany	130,213	127,945	124,949
France	151,618	146,990	148,337
United Kingdom	109,515	95,446	96,191
Spain	46,645	43,589	41,408
Italy	58,066	54,070	52,285
Netherlands	75,706	74,385	71,954

Source: Swiss Re Sigma reports. Figures for France were supplied by ACP.

Table 2. France: Insurance Penetration and Density

	Life Insurance			Nonlife insurance		
	2008	2009	2010	2008	2009	2010
Insurance penetration	7.3%	8.4%	8.6%	5.3%	5.6%	6.2%
Insurance density	3,233	3,441	3,409	2,371	2,286	2,444

Source: ACP. Insurance penetration is measured as total premium as a percentage of GDP.

Note: Insurance density is measured as total premium per capita (expressed in U.S. dollars, using each year's exchange rate).

Table 3. France: Total Number of Companies in the Market

(Breakdown according to legal definition)

Number of insurance entities	At 12/31/2009	At 12/31/2010
Life insurers and composite insurers	103	102
Nonlife insurers	244	235
Reinsurers	21	20
Total Insurance Code	368	357
Provident institutions - Social Security Code	56	53
Mutual Insurers Book II – Mutual insurance code	844	719
Total authorized entities and entities not requiring authorization	1,268	1,129

Source: ACP.

Note: The expression "Code" refers to the *Code des Assurances* (CDA), the French insurance law, or laws that apply to other types of institutions. The expression "Total Insurance Code" refers to the total number of companies licensed under the DA. The European passport enables EU-foreign investors to establish branch offices in France or provide services without having a permanent establishment. For non-EU investors, they can establish a branch or a subsidiary and the entity will have to comply with French regulations.

Table 4. France: Products, Market Shares, and Concentration: Nonlife Insurance

Nonlife insurance companies (only insurance code): Activity in France			
Premiums (in percent)	2008	2009	2010
Motor insurance	34.2	34.0	33.1
Property insurance	25.6	26.3	25.7
General liability insurance	5.8	5.9	5.4
Natural disaster insurance	2.5	2.4	2.3
Other insurance	6.3	6.6	6.6
Transport insurance	1.9	1.8	1.7
Construction insurance	4.7	4.4	4.1
Credit insurance and surety bonding	1.7	1.5	1.7
Corporal damages	17.2	16.9	19.4

Source ACP.

Table 5. France: Products, Market Shares, and Concentration: Life Insurance

	12/31/2008	12/31/2009	12/31/2010
Long-term savings	73.0	76.8	77.9
Investment-linked	16.5	12.9	13.2
Pensions	1.5	1.3	1.3
Term Life Insurance	9.0	9.0	7.6

Source: ACP. Life insurance (only insurance code) activity in France.

Note: Premium: life only (includes life and composite insurance); *long-term savings:* life and capital redemption insurance, and euro or foreign currency individual and group insurance contracts; *investment-linked:* unit-linked life insurance; *pensions:* occupational retirement insurance in a narrow definition. These plans should be ring-fenced according to the insurance code. The figures for both tables are for full accounting years.

10. **With regard to market shares, the top 12 life insurance companies account for 69 percent of total life premiums.** The market is quite granular, the biggest company accounting for 14 percent of the total life premium, and the twelfth company for 2 percent. With regard to nonlife, the market is even more granular. The top 12 companies account for 52 percent of the total nonlife premium. The biggest one accounts for 9 percent of the total life premium and the twelfth accounts for 2 percent. With regard to the product mix, the Property and Casualty Insurance (P&C) market is very mature.

11. **With regard to life insurance, potential future growth areas are difficult to ascertain, given the current environment.** Baby boomers may now wish to use their life insurance as saving products, and there is growing competition with banking savings products. The unique nature of the life insurance market in France is discussed in a later section of this paper.

12. **There is no evidence of a monopoly in the insurance market.** For example, one of the most concentrated is the medical general liability market. It is a “niche” (less than 1 percent of the premiums), which implies high technical skills. It attracts about 15 players. The first ones account for 40–60 percent of the market. If anything, this niche can be said to be oligopolistic. ACP analysts have supplied the following table to indicate the market shares of the largest companies.

13. **We are advised that this market picture has been stable for some time.** One of the recent objectives of ACP has been to reduce the number of players competing in the marketplace. Companies have been encouraged to consider portfolio transfers or outright mergers in order to make the industry more efficient. Regulations are more burdensome, and the imminent arrival of Solvency II will impose even greater requirements on local companies as a result of the obligation for scenario testing and new formulas for measuring

solvency. All of this may well be accompanied by the adoption of the latest International Financial Reporting Standards (IFRS) recommendations for insurance company accounting.

Table 6. France: Market Shares of the Largest Companies

(In percent of market shares)

	Life	Nonlife
First	14	9
Second	13	8
Third	8	5
Fourth	7	4
Fifth	6	4

Source: ACP.

14. **With regard to profitability and efficiency, ACP officials provided the following ratios to indicate sector performance.**

Table 7a. France: Profitability and Efficiency: Nonlife Companies

Category	Sector-Performance Indicator	Nonlife (in percent)
Premium retention ratio All activities	Net premium written / gross premium written	84.0
Claims Ratio 1/ Activity in France	Incurred claims / net premiums earned	74.6
Expense Ratio 1/ Activity in France	Overhead expenses / net premiums earned	34.1
Combined Ratio1/ Activity in France	(Claims + expenses) / net premiums earned	99.8
Premium leverage ratio All activities	Net premiums written /(capital + surplus)	126.0

Source ACP. Nonlife entities operating under the Insurance Code (activity in France except for the premium retention ratio and premium leverage ratio, in which the data were available only on a global basis).

1/ Figures are “gross” of reinsurance—this ratio is estimated based on net premiums.

Table 7b. France: Profitability and Efficiency: Life Companies

Category	Sector Performance Indicator	Life (in percent)
Premium retention ratio All activities	Net premium written / gross premium written	94
Premium leverage ratio All activities	Net premiums written / (capital + surplus)	276
Mortality experience	Actual / expected rate of mortality	Not available
Investment income All activities	Net rate using formula $2I / (A+B-I)$ <i>In which: I = []; A = []; and B = []</i>	5.0
Leverage All activities	Total equity / total liabilities	3.6
Voluntary terminations Activity in France	Surrender values paid / net premiums written	32

Source: ACP. Life insurance entities operating under the Insurance Code (except nonlife part of composite insurers). (Activity in France for voluntary terminations.)

15. The ACP Annual Report provided the following summary of the profitability of insurance operations for the year 2010:

- In 2010, the turnover of the sector grew by nearly 8 percent. This increase is due to both life and nonlife operations, which grew by 5 percent and 13 percent, respectively, over last year.
- In 2010, the technical result from life operations amounted to €5.1 billion, an increase of 11 percent compared to 2009, and that of nonlife operations was €3.6 billion, an increase of 14 percent.
- The increase in revenue from investments for nonlife business (+11 percent) helped offset the significant increase in claim payments for the year, caused in part by exceptional climatic events (Xynthia storm; flooding; and difficult weather conditions during the winter).
- Concerning life assurance, benefit payments and investment revenue collected in life insurance reached levels above those recorded in 2008, but were slightly down compared to those observed in 2009.

- For the whole sector—after taking into account the investment revenue attributed to “own” funds, exceptional items, and taxes—the net gain for the year amounted to €9.4 billion against €8.2 billion in 2009.
16. **Regarding asset portfolios, the ACP—together with the Bank of France—published a study at year-end 2010 showing that:**
- Investments by insurance entities are mainly confined to France or the euro area. With respect to mutual companies, 40.5 percent of investments are securities issued by entities located in France and 34.7 percent are issued by entities located in the euro area. This follows a requirement to invest in assets denominated in the same currency as liabilities, with a tolerance of 20 percent (R332-1 Insurance Code). Thus, the euro permits a higher diversification in insurance corporations’ portfolios.
 - According to regulation R332-2 Insurance Code, insurance corporations must invest in bonds and bills negotiated on recognized markets. This is particularly the case for bonds and bills issued by nonfinancial corporations. Such investments represent 7 percent of securities issued by resident entities. Investments in shares are limited (11.6 percent) compared to investments in bonds or fixed-return securities (68.3 percent)
 - The ACP provided the following tables to indicate composition of the asset portfolios.

Table 8. France: Composition of Asset Portfolios: Life insurance

(in percent)	2008	2009	2010
Total (without unit linked)	100.0	100.0	100.0
<i>Real estate</i>	2,9	2,8	2,8
<i>Shares</i>	6,35	6,6	6.2
<i>Funds (OPCVM)</i>	14,4	14,5	11,8
<i>Bonds</i>	75,4	75,6	78,3
<i>Others</i>	0,95	0,5	0,9

Source: ACP.

Table 9. France: Composition of Asset Portfolios: Five Largest Life Companies

(in percent)	2008	2009	2010
Total (without unit linked)	100	100	100
<i>Real estate</i>	3	3	3
<i>Shares</i>	7	8	6
<i>Funds (OPCVM)</i>	13	14	11
<i>Bonds</i>	74	73	77

Source: ACP.

Table 10. France: Composition of Asset Portfolios–Nonlife Companies

(In percent)	2008	2010
Total (without unit linked)	100	100
<i>Real estate</i>	6	5
<i>Shares</i>	23	21
<i>Funds (OPCVM)</i>	18	14
<i>Bonds</i>	53	61
<i>Others</i>	-	

Source: ACP.

Connectedness and Bancassurance

17. **The French financial sector is concentrated and connected through cross-shareholdings and lending.** Those connections are well diversified both geographically and in terms of activities. Cross share-holdings with the banking sector are numerous and take various forms, reflecting both marketing and financial strategies. Insurers and banks hold each other's shares and bonds. In 2010, 17 percent of French insurers' assets were related to financial institutions. Some institutions are also linked through parent-subsiary arrangements. Most of the French banks hold insurance company subsidiaries; the opposite, insurance companies holding bank subsidiaries, is much less frequent (Axa is one example). Major banks and their insurance subsidiaries include:

- *BNP Paribas* with *Cardif* for life and *Avanssur* (an AXA subsidiary) for nonlife insurance policies;

- *Groupe Banque populaire Caisse d'Epargne (BPCE)* with *Assurance Banque Populaire vie, prévoyance et non-vie* for life and nonlife insurance policies;
- *Groupe Crédit Agricole* with *Pacifica* for nonlife and *Predica* for life insurance policies;
- *Groupe Crédit Mutuel* proposes life and nonlife insurance policies;
- *HSBC France* with *HSBC Assurances* for life and nonlife insurance policies;
- *Banque Postale* with *Banque Postale Prévoyance* for life insurance policies; and
- *Société Générale* with *Sogecap* for life and *Sogessur* nonlife insurance policies.

18. **Banks, having the benefit of their retail network to sell insurance policies, have seen their market share increase significantly during recent years.** Indeed, the policyholders' liabilities of bancassurers represent approximately 40 percent of total life insurers' technical provisions. Insurance companies' deposits with banks amounted to €10.5 billion as of end-2010 (representing 0.5 percent of the total assets of the insurance sector).

19. **Financial soundness indicators for the sector are presented in Table 11.**

20. **As discussed elsewhere, France, along with other European countries, will adopt Solvency II as a standard to be maintained by all licensed insurance entities.** At the present time, this standard is not applied in France and—while the above figures suggest a robust industry with plenty of capacity to absorb shocks—it is worth reviewing the current practices employed by the supervisor to monitor financial strength.

21. **The current “Solvency I” system involves both an “asset coverage” test and a “solvency margin” test.** Under the asset test, companies must demonstrate they possess sufficient assets of acceptable quality to equal or exceed their liabilities to policyholders (in other words to “cover” the liabilities). The test applies strict rules regarding what assets may be counted, imposing both qualitative and quantitative limitations. Presuming that the coverage test is satisfied, the second test—the “solvency” test—measures what are called “own funds” against a formula requirement for capital. That capital formula is not a risk-based formula and is not sensitive to the size and nature of the company's obligations. What is pertinent here is that fact that EU supervisors, including the French, have devoted more energy to the coverage test. In practice, most interventions have arisen when companies have failed the coverage test, as opposed to the solvency margin test.

Table 11. France: Indicators of Capital and Solvency^{1/}

(In percent)

Category	Financial Soundness Indicators	Nonlife	Composite and Life
Capital Adequacy	Net premium/capital +surplus	126	276
	Capital/total assets	21.4	3.6
	Capital/technical reserves		4.0
Asset Quality	(Real estate + unquoted equities + debtors)/ total assets	NA	0.8
	Debtors / (Gross premium + reinsurance recoveries)	13.9	6.8
	Equities / total assets		4.5
	Nonperforming loans to total gross loans		0.3
Reinsurance and Actuarial issues	Risk retention ratio (net premium / gross premium)	84	94.1
	Net technical reserves / average of net claims paid in last three years	260	
	Net technical reserves / average of net premium received in last three years	260	
Claims Performance Ratio	Claims outstanding/ Total claims paid	6.3	14
Management Soundness	Gross premium / number of employees (Gross premiums life only for life and composite company)	0.9	1.7
Liquidity	Liquid assets / Current liabilities (liquid assets: definition used: only bonds guaranteed by Organization for Economic Co-operation and Development (OECD) States)	20.6	29.9
Sensitivity to Market risk	Net open foreign exchange position / capital	Negligible	Negligible
Market solvency margin ratio	Surplus capital / required solvency I capital)	401.8	125.6
	Balance sheet margin coverage ratio, without and with unrealized gains (Equity adjusted for unrealized gains (losses)/ regulatory margin requirement)	576.7	178,9
Group Exposures	Group debtors / total assets	1	n.a.

Source: ACP.

1/ Statistics cover entities licensed under the insurance code, excluding the nonlife part of composite insurers. It is also worth noting that, as of end- 2010, there are accumulated unrealized gains of €55 billion.

Current market issues

22. **Life insurance, which is dominated in France by medium- to long-term savings products that offer a guarantee of return of premiums plus annually declared earnings rates, is facing business model and profitability pressures.** Around 85 percent of life insurance premiums relate to such guaranteed products, which are viewed in France as retirement savings vehicles to fund future pension gaps and build wealth for heirs. Benefit payouts from such products are taxed at concessional rates, as long as they are taken after eight years. Since the 1990s, regulations have prohibited life insurers from offering multi-year guaranteed earnings rates, and, in recent years, further regulations have limited insurers' ability to offer promotional rates to attract new business. While many such products include profit-sharing arrangements—which provide flexibility for insurers to declare guaranteed rates that are different from rates actually earned—such flexibility is now limited, as actual earnings have been falling over time, with interest rates and profit-sharing reserves have been reduced.

23. **There is substantial competition among life insurers each year when the forthcoming years guaranteed earnings rates are declared; in the low earnings rate environment, there is now also increased competition with bank deposit products—including the Livret A passbook deposits.** In late 2011, net collections for such products (i.e., premiums, fewer benefits paid to policyholders, including early redemptions) reduced significantly and became negative for some insurers. Factors such as competing savings products, uncertainties surrounding the continuation of the products tax advantages, the maturing of the stock of policies and growth in retired policyholders, and increased financial uncertainties due to insurer's sovereign debt exposures are thought to be reasons for this. Although structural factors in France support the demand for medium- to long-term savings (especially for retirement), it appears that life insurers are facing continued pressure on net collections for such products. A sharp increase in medium- to long-term interest rates could lead to significantly higher early redemptions and substantial forced sales of insurers' assets in a depressed market. While there has been some effort to increase the sale of unit-linked life insurance products—which are more profitable for insurers—the complexity of the product, potential for misselling (especially if it involves connected bank loans), and volatile equity markets have made growth difficult.

24. **Bancassurance has been very successful in France, especially in life insurance, where bancassurers dominate with about a 60 percent share of gross premiums written.** But competition from bank deposit products and Basel III liquidity requirements is favoring bank balance sheet growth over life insurer balance sheet growth. Basel III capital rules may require banks to deduct some of their equity in insurance companies from their bank regulatory capital. If this occurs, there may be some change in the life insurance competitive landscape or some capital restructuring in the bancassurer insurance subsidiaries. Bancassurers have only been competing in the nonlife insurance market since the 1990s, with their focus mainly on motor and property insurance. Bancassurer penetration is increasing,

with their share of gross premiums now above 10 percent, although this is concentrated somewhat in the hands of two bancassurers.

25. **The French nonlife insurance market is very mature, highly competitive, relatively saturated for individual policies, and heavily driven by government-mandated motor and household insurance, with low growth prospects, but overall stable.** Mutuels have about 25 percent of the property market and 30 percent of the motor market; along with the increasingly popular direct insurance distribution, they contribute substantially to the sector's competition. Pricing and profitability in nonlife is usually cyclical, with competition for market share driving down profitability until escalating claims costs force pricing increases to restore profitability, although major catastrophes can affect this cycle. The French nonlife sector exhibits this cyclical characteristic, but less so than it has historically. More recently, underwriting performance has been recovering due to price increases and a benign claims environment, after a few years of aggressive pricing. However, lower investment returns will weigh on profitability. While natural catastrophes can seriously impact nonlife profitability and pricing, the mandatory inclusion of some natural disasters within insurance contracts, the unlimited state-guaranteed reinsurance coverage through the *Caisse Centrale de Réassurances* (CCR), and the CCR-managed national natural disaster compensation scheme, covering floods, droughts, and earthquakes, all work to limit this impact.

Solvency II

26. **In November 2009, the Council of the European Union and the parliament adopted the Solvency II Directive² to introduce a new insurance regulatory framework, which allows insurance and reinsurance undertakings to conduct insurance business throughout the European internal market, but which also provides more effective solvency requirements in the light of market developments.** The Solvency II approach is to be economic, risk-based, and provide incentives for insurers to properly measure and manage their risks. Harmonization is to be increased with specific rules for the valuation of assets and liabilities, including technical provisions. Solvency requirements are to be based on economic valuation of an insurer's whole balance sheet, with valuation standards compatible with international accounting developments to the extent possible. The Solvency Capital Requirement (SCR) is to be determined as the economic capital to be held by an insurance entity to ensure the entity will still be in a position, with a probability of at least 99.5 percent, to meet its obligations to policyholders and beneficiaries over the following 12 months. Within the supervisory regime, there is also to be a minimum level of security below which the amount of an insurance entity's financial resources should not fall (i.e., the Minimum Capital Requirement (MCR)). Insurance entities are to also have, as an integrated

² Directive 2009/138/EC of the European parliament and of the Council of November 25, 2009 on the taking up and pursuit of the business of Insurance and Reinsurance (Solvency II).

part of their business strategy, a regular practice of assessing their overall solvency needs with a view to their specific risk profile (i.e., Own-Risk and Solvency Assessment (ORSA)). The results of each ORSA should be reported to the insurance supervisory authority.

27. **Since 2004, the European Insurance and Occupational Pensions Authority (EIOPA) and its predecessor, the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS), have been advising the European Commission on the Solvency II project.** There have been numerous consultation papers, quantitative impact studies, and advice to the Commission. The commencement date of the Solvency II regime has not yet been decided, but EIOPA is working toward a commencement date of January 1, 2014. Technical standards covering the detail of numerous elements of the Solvency II regulatory requirements are needed, but are yet to be finalized. Delays in finalizing these are hampering the ability of national regulatory and supervisory authorities to implement modern, risk-based insurance regulatory requirements.

28. **The ACP's Solvency II preparations are well developed, but France has been awaiting finalization of the EU technical standards before moving to implement Solvency II-type requirements.** It is not practical to introduce new quantitative requirements for insurer solvency capital determination ahead of the finalization of the relevant EU technical standards. However, it is possible and practical to introduce new—or improved—qualitative requirements for insurer ORSA processes and practices before the finalization of the EU technical standards; by doing this, insurance supervisors will generate improved insurer practices earlier, which will place their insurers in a good position for this component of the implementation of Solvency II. ORSA practices are not definitive like capital requirements; they have to be tailored to the insurer, and they are expected to improve as insurers become more familiar with them and as industry practice evolves over time. ICP 16 includes requirements that are essentially the same as good ORSA practices.

D. Main Findings

29. **Insurance regulation and supervision are still predominantly carried out using a Solvency I approach, and the insurance sector remained resilient through the recent global financial crisis.** A thorough approach to assessing insurer technical provisions and their coverage by admissible assets—as well as assessing current and likely future solvency of insurers against Solvency I solvency margin requirements—has led to financially sound insurers. Individual French insurance companies have not needed any government or industry support.

30. **The independence of the ACP, or at least the perception of independence, may be compromised by the involvement of the *Direction Générale du Trésor* (DGT) and *Direction de la Sécurité Sociale* (DSS) representatives in ACP College and Sanctions Committee meetings, and the mechanisms for determining industry contributions to ACP funding.** It is recommended that consideration be given to removing the DGT and DSS

representatives from ACP meetings; this would remove the potential for one means of governmental influence on ACP decisions and would substantially improve the perception that the ACP is independent. Separate coordination arrangements between the ACP on the one hand, and the DGT and DSS on the other hand, could be established to ensure that effective advice, knowledge about crucial supervisory decisions, and the reasonings behind proposed regulatory changes still occur. Consideration could also be given to establishing a more transparent mechanism for adjustments to the industry contributions to the funding of the ACP. While it has not been a problem to date, such a mechanism would allow the ACP to have any future situation of funding constraints dealt with transparently, and thus increase the perception of the ACP's independence.

31. **Regulatory requirements and supervisory assessment of insurer's financial soundness, and governance and risk management, will need to change dramatically with the implementation of Solvency II.** A number of ACP staff has been heavily involved in, and contributing to, EU—particularly EIOPA—work on Solvency II. Within the ACP, there is a Solvency II project led by a steering committee chaired by the secretary general. This project involves eight streams of work managed by task forces covering: international issues; internal models; balance sheet impact; information technology (IT) systems and reporting; transposition to French law; supervisory approach; and industry market preparation. Actual regulatory and supervisory changes have been held off until all the details of Solvency II are finalized. It is recommended that there be early introduction of specific requirements for insurers' Boards in the areas of risk-appetite statements, risk management within the appetites, delineation of responsibilities between the Board and key persons in control functions, remuneration policy, and a duty to act in the interests of policyholders.

32. **The assessment of the suitability of persons involved in insurance operations is not sufficiently extensive and does not cover enough roles in insurers.** Fit-and-proper assessments of persons at licensing, change of control, mergers and acquisitions, as well as when people move away, do not cover all Board members or persons controlling key functions. The EU Solvency II Directive requires that all persons that perform key functions are fit and proper, so changes will need to be made with the implementation of Solvency II. In addition, it is recommended that the ACP power to remove unsuitable persons is extended to cover all such roles. There has been some reluctance for the ACP to use such removal powers due to the high burden of proof needed to determine unsuitability. Notwithstanding this, the ACP should be more prepared to use these powers or find other ways of dealing with this issue (e.g., placing onerous requirements on the insurers to assess and regularly certify suitability).

33. **Public disclosure requirements on insurers need improvement, but are awaiting Solvency II implementation.** Currently, disclosure requirements cover the financial statements, including major methodologies and assumptions that are used. Disclosure of further detail and wider information will also be required with the full implementation of Solvency II. Further details about the valuation of technical provisions, including

assumptions used and the level of uncertainty associated with the amount of the provisions, should be required. Wider information should also be required, such as: risk types; risk exposures and concentrations; risk-management policies, systems, and procedures; corporate governance framework; and sensitivity results from forms of stress testing.

Table 12. France: Summary Observance of the Insurance Core Principles

Insurance Core Principle	Level
ICP1 - Objectives, Powers, and Responsibilities of the Supervisor	O
ICP2 - Supervisor	LO
ICP3 - Information Exchange and Confidentiality Requirements	LO
ICP4 - Licensing	LO
ICP5 - Suitability of Persons	PO
ICP6 - Changes in Control and Portfolio Transfers	LO
ICP7 - Corporate Governance	PO
ICP8 - Risk Management and Internal Controls	LO
ICP9 - Supervisory Review and Reporting	LO
ICP10 - Preventive and Corrective Measures	O
ICP11 - Enforcement	O
ICP12 - Winding-up and Exit from the Market	O
ICP13 - Reinsurance and Other Forms of Risk Transfer	O
ICP14 - Valuation	LO
ICP15 - Investment	O
ICP16 - Enterprise Risk Management for Solvency Purposes	PO
ICP17 - Capital Adequacy	LO
ICP18 - Intermediaries	O
ICP19 - Conduct of Business	O
ICP20 - Public Disclosure	PO
ICP21 - Countering Fraud in Insurance	O
ICP22 - Anti-Money Laundering and Combating the Financing of Terrorism	O
ICP23 - Group-wide Supervision	O
ICP24 - Macroprudential Surveillance and Insurance Supervision	LO
ICP25 - Supervisory Cooperation and Coordination	O
ICP26 - Cross-border Cooperation and Coordination on Crisis Management	O
<i>Aggregate Level:</i> Observed (O); largely observed (LO); partly observed (PO); not observed (NO); not applicable (N/A).	

Table 13. France: Summary of Grading

Aggregate Level	Instances
Observed (O)	13
Largely observed (LO)	9
Partly observed (PO)	4
Not Observed (NO)	-
Total	26

II. RECOMMENDED ACTION PLAN AND AUTHORITIES' RESPONSE

A. Recommended Action Plan

34. The following recommendations aim to suggest measures to further improve insurance regulations and supervision.

Table 14. France: Recommendations to Improve Observance of Insurance Core Principles

ICP	Recommendation
2	It is recommended that consideration be given to removing the DGT and DSS representatives from ACP meetings. This would remove the potential for one means of governmental influence on ACP decisions and would substantially improve the perception that the ACP is independent. Separate coordination arrangements between the ACP on the one hand, and the DGT and DSS on the other, could be established to ensure effective advice, knowledge about crucial supervisory decisions, and the reasonings behind proposed regulatory changes still occur.
2	Consideration could also be given to establishing a more transparent mechanism for adjustments to the industry contributions to the funding of ACP. While it has not been a problem to date, such a mechanism would allow the ACP to have any future situation of funding constraints dealt with transparently, and thus increase the perception of the ACP's independence.
3	Consideration should be given to allowing the ACP to exchange information with authorities outside the EU/European Economic Area (EEA), even if there is no formal agreement in place.
5	It is recommended that the ACP power to require removal of unsuitable persons be extended to all insurers' Board members and to all key persons in control functions, but it is noted that this is expected to occur via the transposition of final Solvency II requirements into French law.
5	The ACP should also consider being more proactive in advising other authorities about unsuitable persons.
7	<p>It is recommended that enforceable requirements be introduced for insurer Boards to:</p> <ul style="list-style-type: none"> • Determine and document their actual risk appetite, and their strategy for keeping their risks within this stated appetite; • Clearly define the roles and responsibilities allocated to the Board, senior management, and key persons in control functions; • Have an appropriate number and mix of individuals to ensure adequate knowledge, skills, and expertise; • Act in the interests of policyholders; and • Adopt an effective remuneration policy that does not induce excessive or inappropriate risk taking. <p>It is noted that many of these are likely to be required via the implementation of Solvency II requirements.</p>
8	Requirements for insurers to have internal audit and actuarial functions should be introduced. It is noted that they will be required via the Solvency II directive.

ICP	Recommendation
8	Consideration should also be given to specifically requiring insurers to retain responsibility for any material function that is outsourced and for producing ACP guidelines on the issues, which should be included in outsourcing agreements.
9	It is recommended that there be significant retraining of supervisory staff in the economic valuation approaches underlying Solvency II, the revised Solvency II reporting requirements, and Solvency II ORSA requirements.
9	Consideration should be given to establishing within the ACP a quality-control function aimed at achieving greater consistency of supervisory assessments, and establishing a clear ACP policy or approach aimed at achieving greater consistency in aligning the supervisory response to the seriousness of the supervisory assessment.
14	It is recommended that the ACP develop the necessary tools to be used in the supervision of insurance companies, such that the valuation of assets and liabilities conforms to Solvency II expectations. For example, for life insurance business, this will imply replacing the current practice of computing policy liabilities using original pricing assumptions with an approach that fixes assumptions based on current estimates, plus a margin over current estimates (MOCE).
16	It is recommended that the ACP develop expertise in the area of enterprise risk management (ERM), as it will be expected to develop standards and provide guidance to insurance companies in the application of ERM techniques to the measurement of solvency.
17	It is recommended that ACP, in preparing for the implementation of Solvency II, provide training to staff that will be expected to cope with new measures for assessing the adequacy of capital. It will also be necessary to develop a framework of regulatory responses that will involve solvency control levels, which trigger different degrees of intervention by the supervisor.
20	It is recommended that the ACP take a more active approach to obliging insurance companies to disclose relevant, comprehensive, and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities. Perhaps this could be accomplished by providing public access to specific company data on a website.
24	It is recommended that the ACP continue to develop macroprudential surveillance approaches from a multi-disciplinary and cross-sectoral perspective to identify trends and developments in all sectors of the economy, which might impact the risk profile of insurers negatively.

B. Authorities' Response to the Assessment

35. The French authorities welcome the IMF review of the French regulatory and supervisory insurance framework. The FSAP has been a useful exercise, and has further enhanced the “peer review culture” in ACP’s departments. ACP expresses its most sincere appreciation and thanks the IMF and its knowledgeable and experienced assessors for the dedication, time and resources committed to the assessment.

36. The French authorities broadly agree with the IMF assessment. In the view of the French authorities, it has to be underlined that this assessment has been made on the basis of the newly revised ICP (dated October 2011) which made the exercise of observation much more demanding than before. These ICP partly echo Solvency II requirements and approach, still to enter into force. By construction, some ICP currently regarded as “partly observed” or

“largely observed” would probably have been deemed “observed” if Solvency II was already in place.

37. Besides, there are a few differences of views between IMF and the French authorities. These are as follows:

- On ACP independence (ICP 2), while stressing that the clear intention of the authorities is to create an independent supervisory authority, soundly governed and adequately resourced, the IMF raises some concerns. The Authorities believe that the ACP is indeed fully independent and the assessment itself emphasizes that no evidence of problems has been found. Regarding the involvement of the Ministry of Finance (through the *Directeur général du Trésor* or his representative) within ACP Board, it should be noted that the role and powers of the representative of the Ministry of Finance are fully set in the law, which gives no membership status in the Board and Enforcement Committee. This provides for transparency about the position of the Ministry of Finance, to the full knowledge of all stakeholders. The only right attributed by law is to ask for a second deliberation in the Board for matters other than sanctions. The request for a second round of deliberations has no effect on the eventual content of the decision but gives the Board an opportunity to review its decision, within a very short space of time, so as to consider all its consequences and to ensure it is reasonably undisputable. The Authorities believe this arrangement provides a clear framework for ACP and Ministry of Finance effective and timely cooperation, bringing valuable benefits and providing for robust guarantees for the independence of the regulators also in comparison to other examples at the international level.
- On ICP 7 about effective corporate governance framework, we share most of the views of the IMF. However, it should be noted that provisions are already in place, which define roles and responsibilities of the insurer’s governing bodies.
- French authorities have already taken steps to deal with the shortfalls detected by IMF. Most of them will be addressed through the transposition and implementation of the Solvency II regime in French regulation.

III. DETAILED ASSESSMENTS

ICP/Std.	Description	Level
ICP 1	<p>Objectives, Powers, and Responsibilities of the Supervisor The authority (or authorities) responsible for insurance supervision and the objectives of insurance supervision are clearly defined.</p>	Observed
Assessment	<p>Article L612 of the <i>Code Monétaire et Financier</i> (CMF) clearly sets out that the ACP is the independent authority responsible for financial system stability and the prudential supervision of banking and insurance. It specifies that the ACP is responsible for the supervision of insurance undertaking's compliance with the legislation and regulatory requirements applicable to them. The relevant legislation and regulatory requirements vary depending on the legal form that an insurance undertaking has, but they do include the following:</p> <ul style="list-style-type: none"> • Monetary and Financial Code (CMF); • Insurance Code (CDA) – for insurance companies; • Social Security Code (<i>Code de la sécurité sociale</i>, CSS) – for provident funds; • Mutuals Insurance Code (<i>Code de la mutualité</i>, CDM) – for mutuals; • Consumer Code (CC); and • Commercial Code (<i>Code de Commerce</i>, CDC) – for shareholder companies. <p>The ACP's statutory objectives are to maintain financial stability and to provide protection for banks' customers and for insurance policyholders and beneficiaries. The ACP also represents France for matters within its jurisdiction in Europe as well as in international negotiations.</p> <p>The ACP was established by Order No. 2010–76 of January 21, 2010, and assumed its functions on March 2010. It is the product of the merger of the two licensing authorities for banking and insurance, and the two supervisory authorities for banking and insurance. It is attached to the Banque de France, but has its own organizational and operating structure designed to endow it with the competencies needed to carry out its responsibilities.</p> <p>Article L612 of the CMF also states that the ACP has all the powers needed to exercise its functions, including the powers of supervision, powers to make administrative policing measures, and powers to issue sanctions.</p> <p>As well as prudential supervision of insurance, the ACP is also responsible for consumer protection supervision in insurance. So it has the powers to, and does, act to promote and maintain fair dealings between insurers and their consumers, as well as promoting and maintaining safe and stable insurance markets for the benefit of and protection of policyholders.</p> <p>While the ACP does not have the authority to directly initiate legislation or to make regulations, it does propose corrections or improvements to the Ministry of the Economy, Finance, and Industry (MEFI). There is a close working relationship between the ACP and the staff in the Insurance Division of the DGT within the MEFI), which has responsibility for the relevant legislation and regulations. A representative of the DGT attends ACP College meetings, essentially as an observer, so that the DGT is aware of situations which may indicate a legislative change is needed. The ACP is also a member, along with industry and other representatives, of the Consultative Committee</p>	

ICP/Std.	Description	Level
	for Financial Regulation (CCLRF), which suggests regulatory changes and comments on draft changes to the law and regulations.	
Comment	There is a clearly defined authority responsible for insurance supervision, with appropriate statutory objectives and adequately broad powers.	
ICP 2	<p>The supervisor, in the exercise of its functions and powers:</p> <ul style="list-style-type: none"> • Is operationally independent, accountable, and transparent; • protects confidential information; • has appropriate legal protection; • has adequate resources; and • meets high professional standards. 	Largely Observed
Assessment	<p>The ACP is an independent administrative authority (with financial autonomy) even though it does not have legal personality (which means that the French government shall be liable for any adverse consequences that may result from the ACP's activities).</p> <p>Governance of the ACP is through a Board called the College, which is chaired by the Governor of the Banque de France, has a Vice Chairman with expertise in insurance and has 19 members in total, including the Chair of the AMF, two persons appointed by the presidents of the Senate and the National Assembly, judges appointed by the high courts, and others appointed for their expertise in banking and insurance. The College members with banking and insurance expertise are appointed by the Minister for Economy Finance and Industry for a five-year term, with up to one reappointment as long as the member is not over 70 years of age. College members must not be practicing professionals with any supervised entity and they are subject to an ACP code of ethics. College members can be dismissed only due to either violations of their duties, or incompetence. Dismissal is by the body or Minister that appointed them, but it can only occur with the agreement of the majority of the ACP College. While there is no explicit requirement that the reasons for dismissing members of the College should be publicly disclosed, the reasons would be provided to the dismissed member, who could appeal the dismissal; therefore, an arbitrary dismissal is virtually impossible.</p> <p>The following further governing bodies exist:</p> <ul style="list-style-type: none"> • a Banking Sub-College – consisting of the ACP Chair and Vice Chair, the four banking experts, and two other College members without banking or insurance expertise, which deals with individual banking issues; • an Insurance Sub-College – consisting of the ACP Chair and Vice Chair, the four insurance experts, and two other College members without banking or insurance expertise, which deals with individual insurance issues; • a restricted College – consisting of eight of the 19 members of the full College, which deals with individual issues that have a significant impact on either banking or insurance or overall financial stability; and • a Plenary College – consisting of the 19 members of the full College, which deals with general matters relating to financial stability, supervisory priorities, principles relating to organization and operation, budget, and internal procedures. <p>A Sanctions Committee, entirely separate from the College, is required through the Monetary and Financial Code to sanction individual violations of the laws and regulations applying to licensed institutions. This is to meet the requirements of the European</p>	

ICP/Std.	Description	Level
	<p>Convention on Human Rights to ensure independence and impartiality, so it provides a clear distinction between the policing, investigations, and sanction functions.</p> <p>The College has set up an Audit Committee, dealing with budgetary issues. It has also set up the following consultative committees, with the Chair and Vice Chair of these committees being members of the College, while other committee members are representatives of professional associations or experts:</p> <ul style="list-style-type: none"> • a Prudential Affairs Committee – consisting of 14 members, which provides opinions on draft ACP prudential reporting requirements, explanatory notices, and guides; • an Anti-Money Laundering Committee – consisting of 17 members, which provides opinions on draft ACP instructions, and guidelines dealing with anti-money laundering (AML) and the financing of terrorism (CFT); • a Business Practices Committee – consisting of 16 members, which provides opinions on draft ACP documents relating to the business practices of licensed institutions, and to gather information and suggestions on consumer protections issues; and • a Scientific Consultative Committee – consisting of 10 members, which aims to promote synergy between financial research and prudential supervision, and keep abreast of relevant scientific developments. <p>The ACP's most senior management consists of a Secretary General, a First Deputy Secretary General, and four Deputy Secretaries General. The Secretary General is appointed by the Minister for the Economy Finance and Industry, following proposal from the ACP Chair. The First Deputy Secretary General is appointed by the ACP Chair following consultation with the ACP Vice Chair, and the ministers responsible for the economy, social security, and mutuality, to ensure the First Deputy Secretary General's experience in banking or insurance complements that of the Secretary General. The four other Deputy Secretaries General are appointed by the ACP Chair.</p> <p>Two government officials (detailed below) attend College and the non-deliberative part of Sanction Committee meetings; however, they have no vote on the College but can request a second deliberation (except on sanctions), except that this has never been utilized:</p> <p>a representative of the DGT – attends all College meetings;</p> <ul style="list-style-type: none"> • a representative of the DSS – attends College meetings involving discussions on issues and entities governed by the CDM or the CSS. <p>There are 13 departments within the ACP as follows:</p> <ul style="list-style-type: none"> • Three banking supervision departments: <ul style="list-style-type: none"> ○ supervision of general and specialized credit institutions; ○ supervision of mutual institutions and investment firms; and ○ on-site inspections of credit institutions and investment firms. • Three insurance supervision departments: <ul style="list-style-type: none"> ○ insurance supervision directorate 1; ○ insurance supervision directorate 2; and ○ cross-functional and specialized supervision. 	

ICP/Std.	Description	Level
	<ul style="list-style-type: none"> • Two corporate function departments: <ul style="list-style-type: none"> ○ financial affairs; and ○ IT, methods, and human resources. • Five cross-sectoral departments: <ul style="list-style-type: none"> ○ research directorate; ○ policy and international; ○ legal affairs; ○ authorization, licensing, and regulation; and ○ supervision of business practices. <p>ACP staff members are legally employees of the Banque de France and assigned to the ACP. The ACP is financed by contributions from supervised institutions for the cost of supervision. The contributions are specified in law and collected by the Banque de France, which can also provide additional funds to the ACP. The Parliament sets the range of the rates for industry contributions and sets a total limit on ACP headcount. The funds are allocated to the ACP, which decides how to utilize them. Prior to the approval of the budget by vote of the College in plenary session, the ACP Audit Committee examines the ACP's one-year budget and can either recommend its adoption by the College or provide observations. A three-year forward financial projection, including human resources plan, is also presented to the ACP Audit Committee; but it is not submitted to the vote of the College. The ACP budget is an annex to the Banque de France budget. Due to reserves brought forward from the previous insurance supervisory body, the ACP initially had a surplus of funds; these reserves were used to finance the deficit in the 2011 ACP budget, but will not be sufficient to fully cover the deficit in the 2012 ACP budget. Due to concerns about the need for increased funds and a fairer sharing of the cost of contributions between the banking and insurance industries, the ACP College has recommended to the MEFI that there be increases in the contributions of the insurance sector, and to a lesser extent the contributions of the banking sector. This has not hampered the financing of ACP's insurance supervision operations.</p> <p>The insurance regulatory requirements that the ACP enforces are contained in the numerous laws (i.e., codes). In keeping with its transparency policy, ACP publishes on its website (usually under its Official Register) numerous types of information about regulatory and supervisory issues, approaches, and decisions:</p> <ul style="list-style-type: none"> • a Chart of Supervision – describes how it undertakes insurance supervision; • important information about changes to the laws and regulations; • lists of regulated institutions; • ACP position papers (e.g., sales of life insurance); • ACP guidelines on specific issues (e.g., AML); • ACP recommendations on specific issues; • ACP instructions on specific issues (e.g., reporting forms); • ACP warnings and decisions in general and relating to individual institutions; and • ACP principles for implementation of new requirements. <p>The ACP does propose legislative and regulatory changes to the DGT when it feels this is needed, and the DGT and DSS officials who attend College meetings become aware in detail of cases supporting such proposals. Any legislative or regulatory change is passed through the CCLRF for consultation and comment on draft changes. The ACP</p>	

ICP/Std.	Description	Level
	<p>does have the power to specify the details for statutory returns and it consults before it makes changes to these.</p> <p>Supervision of insurance undertakings is conducted initially via one of the insurance supervisory departments, while supervision of insurance intermediaries and the conduct of business supervision of insurers is conducted by the supervision of business practices department. Delegations exist from the College, which allow some individual supervisory decisions to be taken by the Chairman or by the Secretary General of the ACP. All individual entity supervisory decisions are either advised to the College or are taken by the College, with formal sanctions taken only by the Sanctions Committee. College decisions can be approved by written procedures, or teleconference rather than awaiting the next meeting. Article L612-14.3 provides that—in exceptional cases—the ACP Chair may make urgent individual entity supervisory decisions that the College would normally take, and advise the College afterwards.</p> <p>Appeals against supervisory decisions, including sanctions, to the administrative supreme court are provided for in the CMF. Such appeals do not result in a stay of the supervisory decision, although the supreme court has the ability to make a temporary quick decision using emergency procedures, which may result in its ruling the supervisory decision is stayed, if it believes the supervisory decision is outside the ACP's powers or totally without ground.</p> <p>The CMF specifies that any person who participates, or has participated, in supervisory activities is bound by professional secrecy conditions and is subject to penalties for any secrecy breaches. There are some exceptions to secrecy requirements, which relate to certain judicial authority requests. The ACP applies confidentiality requirements to the information it receives and only passes confidential information onto supervisors and other authorities who have the legal ability to receive it and which are subject to treating the information confidentially.</p> <p>Senior officials and employees of the ACP are protected by the general principles of administrative law, applicable as if they were public servant in charge of a public function. Where senior officials and employees are pursued for actions taken in the course of their duties, they may not incur personal liability for actions taken and/or omissions made while discharging duties in good faith. If there is any action initiated against an ACP official or employee, the costs of defending their actions are covered by the ACP.</p> <p>The ACP's financial resources and autonomy allow it to recruit from the public and private sectors and it has done so in its short history to increase its staff to almost 1,000 employees. Recruitment has been from the Banque de France, the private sector, and new graduates. Staff and new recruits appear very strong in technical skills, with many of the graduates recruited for insurance supervision having actuarial training and qualifications. Some senior staff involved in insurance supervision have a number of years experience working in the insurance industry. ACP's new-recruit internal training stretches over two years and involves about 20 percent of the staff's time over that period. ACP is able to contract out its work if needed to with Article L612-23 allowing for this but also specifying that the ACP requires outside contractors to comply with protocols dealing with conflict of interests and information secrecy. Generally outsourcing is only done for back-office type functions (i.e., some human resources and finance functions), which are outsourced to the Banque de France, specific regional</p>	

ICP/Std.	Description	Level
	<p>inspections of intermediary operations (also outsourced to the Banque de France, which has many regional offices), and occasional special activities where the ACP does not have the resources in house. Most direct supervision activities are conducted within the ACP.</p> <p>The ACP has its own ethical rules applying to all staff, and specific committees are brought into being to deal with situations where ACP employees want to leave and join the private sector.</p>	
Comment	<p>There is no explicit requirement that the reasons for dismissing members of the College must be publicly disclosed.</p> <p>It is recommended that consideration be given to removing the DGT and DSS representatives from ACP meetings. This would remove the potential for one means of governmental influence on ACP decisions and would substantially improve the perception that the ACP is independent. Separate coordination arrangements between the ACP on the one hand, and the DGT and DSS on the other hand, could be established to ensure effective advice, knowledge about crucial supervisory decisions, and the reasonings behind proposed regulatory changes still occurs.</p> <p>Consideration could also be given to establishing a more transparent mechanism for adjustments to the industry contributions to the funding of ACP. While it has not been a problem to date, such a mechanism would allow the ACP to have any future funding constraints dealt with transparently, and thus increase the perception of the ACP's independence.</p>	
ICP 3	<p>Information Exchange and Confidentiality Requirements</p> <p>The supervisor exchanges information with other relevant supervisors and authorities subject to confidentiality, purpose and use requirements.</p>	Largely Observed
Assessment	<p>The ACP has the legal authority and power to obtain information from insurance undertakings under its supervision (CMF Article L612-24) and to exchange supervisory information with relevant authorities (CMF Article L631-1 for French authorities; CMF Article L632-1 for European authorities or authorities belong to the EEA; CMF Article L632-7 for relevant authorities outside the EEA). Relevant French authorities include the Banque de France, the AMF, and the deposit and guarantee funds set up for banking and insurance. Relevant EU and EEA authorities include financial supervisors but also—when an emergency might threaten financial stability—ministries responsible for financial affairs.</p> <p>The existence of an agreement or understanding on information exchange is a prerequisite before the ACP can exchange information with authorities that are not part of the EU or EEA (CMF Article L632-7). The ACP can and does exchange information with authorities outside of the EU and EEA, but only after concluding agreements. The ACP is a party to the International Association of Insurance Supervisors (IAIS) Multilateral Memorandum of Understanding (MMOU), which has a number of non-EU and non-EEA signatories.</p>	

ICP/Std.	Description	Level
	<p>The ACP operates according to the Sienna Protocol, which outlines how insurance supervisory authorities of the member states of the EU and EEA will collaborate in applying the EU Insurance Directives and undertaking insurance supervision.</p> <p>For insurance groups with operations outside of France—but especially within the EU or EEA, the ACP either participates in or chairs supervisory colleges that are mostly set up and operating in accordance with the Helsinki Protocol and EIOPA Insurance Groups Supervision Committee guidelines. This includes the ACP participating in supervisory colleges established in respect of an insurance group operating across borders.</p> <p>Authorities within the EU and EEA to which the ACP would be passing confidential information, are all bound by confidentiality requirements emanating from EU Insurance Directives. The vetting process of all signatories to the IAIS MMOU includes checking that they are subject to adequate confidentiality requirements. Before entering into any bilateral memorandum of understanding (MOU), the ACP assesses the level of confidentiality requirements of the counterpart authority.</p> <p>CMF Articles stipulate that confidential information received by the ACP can only be further disclosed with the agreement of the originating authority, and only for the purposes for which the agreement was given. If such information is intended to be used for another purpose, it is compulsory that the ACP obtain the further agreement of the originating authority. The ACP operates accordingly and— if these processes are followed—it permits information it provides to be passed on to further authorities,.</p> <p>There are certain judicial authorities to which the ACP is compelled to provide confidential information, if requested. The ACP is only required to disclose information to criminal courts, not to civil courts. The ACP practice in respect of such requests from the relevant judicial authorities is to inform them that the information was obtained in confidence before complying with any request.</p>	
Comment	<p>The EU/EEA framework for information exchange and confidentiality requirements is extensive and detailed. The ACP is subject to this and complies with it.</p> <p>Consideration should be given to allowing ACP to exchange of information with authorities outside the EU/EEA even if no formal agreement is in place.</p>	
ICP 4	<p>Licensing</p> <p>A legal entity that intends to engage in insurance activities must be licensed before it can operate within a jurisdiction. The requirements and procedures for licensing must be clear, objective, public, and consistently applied.</p>	Largely Observed
Assessment	<p>Insurance entities cannot conduct insurance business without an authority to do so from the ACP. The ACP can issue insurance authorities under:</p> <ul style="list-style-type: none"> • the CDA (Article L321-1) to stock companies or mutual insurance companies; • the CDM (Article L211-7) to mutual societies; and • the CSS (Article L931-4) to provident funds. <p>The CDA also specifies that insurers can only conduct the types of business or “insurance classes” for which they have been authorized.</p>	

ICP/Std.	Description	Level
	<p>(These insurance classes are provided for at EU level; cf. Annex A of Dir. 73/239 in nonlife). A specific license is required for firms that are headquartered in France and specialize in reinsurance. Similar provisions apply under the CDM and CSS, but for a limited number of lines of business.</p> <p>Insurance and reinsurance entities regularly authorized by an EEA supervisory authority and having their headquarters in the EEA are also authorized to conduct insurance business in France directly or via their branches.</p> <p>A non-EEA entity wanting to undertake insurance business in France via a branch must be specifically authorized by the ACP to do so. An insurance authorization is not required for fully reinsured mutuals or mutuals that have had their insurance obligations taken over (although not via a legal portfolio transfer) by another mutual. Such cases are still notified to the ACP which grants specific exemptions from authorization.</p> <p>The documents required for an application for authorization are specified in the relevant law (i.e., CDA Articles A 321-1 and A 321-7 to A 321-9; or CDM Article A 211-1; or CSS Article A 931-2-1); these include: five-year business and financial plans; draft insurance contract documents; details of the entity's organization, governance, and management structures; and senior personnel.</p> <p>Authorizations are only granted if the entity has sufficient human and financial resources to undertake its proposed activities, and the senior personnel are fit and proper. Authorizations specify the types of insurance business that may be undertaken; however, the fit and proper requirements are applied only to the chair of the Board and to some of the first layer of senior management of the applying entity.</p> <p>There is a specialized insurance licensing unit within one of the ACP's departments, which manages the licensing process and handles all the documentation. Initially there are meetings with a potential license applicant involving this licensing unit and ACP staff from the Brigade (units within one of the insurance directorates) that would be eventually supervising the applicant. As the application material is lodged, it is assessed separately by both the licensing unit and the relevant Brigade staff. The Brigade staff produce a paper with their assessment of the application, and this is combined with the licensing units assessment and other material for consideration by the ACP Insurance Sub-College, which decides whether to provide the authority or not. The assessments consider if these are elements of the proposed operation which might hinder its effective supervision.</p> <p>The ACP is required under the CDA (L. 321-1), and does in practice, consult home supervisors of entities with insurance authorities from EEA countries when those entities want to establish insurance subsidiary in France. Consistent with the freedom of establishment within the EEA, which means the authorization granted by the home supervisor is automatically valid for insurance business in France. There is no such consultation required when a EEA insurer wants to establish branch operations in France: in such case, the home supervisor must inform the ACP, which in turn can but is not obliged to liaise with the home supervisor (CDA L. 362-1&2). For the establishment of an insurance branch from a country outside the EEA (very rare) the ACP would conduct a full authorization process (CDA L.321-9). The ACP would not necessarily contact the home supervisor, but would require a copy of the home country insurance authorization (CDA A. 321-8).</p>	

ICP/Std.	Description	Level
	<p>There is a maximum period of six months within which the ACP must consider authorization applications (CDA R 321-4 and CDM R 211-9). In practice, the application process is longer than this as there may be numerous discussions with the applicant entity before a formal application is lodged.</p> <p>The relevant laws (i.e., CDA, CDM, and CSS) allow the ACP to place restrictions on the type of insurance business which may be undertaken by an authorized insurer. If an authorized insurance entity does not undertake a line of business for which it is authorized within a reasonable time, the authorization for that line of business lapses and must be reapplied for before writing that business. Further conditions (e.g., contract changes, extra capital) may be required by the ACP as a condition on an authority. If the ACP proposes to refuse the authority in full or in part, it advises the applicant, who then has 15 days to respond to the ACP. The ACP considers the response before making its final authorization decision. If the authorization is refused, the applicant may appeal the ACP decision to the administrative supreme court (CMF L 612-16).</p>	
Comment	The suitability of all persons responsible for all key functions are not assessed. Home supervisors of applicants from outside the EEA are not automatically consulted.	
ICP 5	<p>Suitability of Persons The supervisor requires Board members, senior management, key persons in control functions and significant owners of an insurer to be and remain suitable to fulfill their respective roles.</p>	Partially Observed
Assessment	<p>Suitability of persons is assessed at the time of application for authorization to undertake insurance business. When there is a change in senior personnel of an insurer, the ACP has no direct authority to object to such a change.</p> <p>The individuals who are usually assessed for their suitability include:</p> <ul style="list-style-type: none"> • the chairman of the Board when the insurance undertaking has a single-tier Board system; • the chairman of the management Board when the insurance undertaking has a two-tier Board system; • the chief executive officer (CEO); • the deputy CEO; or • anyone who effectively exercise equivalent above positions. <p>For mutual insurers regulated under the CDA, the whole of the management body is assessed for suitability. On the contrary, for mutual insurers regulated under the CDM the suitability of management is not assessed.</p> <p>There is no suitability assessment of key persons responsible for control functions, or of members of the Board(s) other than the chair.</p> <p>The law contains provisions, which include a list of criminal offences that prevent individuals from being suitable.</p> <p>The law also requires that the individuals have sufficient experience and professional ability.</p> <p>When senior personnel of an insurance undertaking change, it is only for the above identified positions that the insurer must notify changes to the ACP.</p>	

ICP/Std.	Description	Level
	<p>For changes in control or significant ownership levels, the ACP generally does assess the suitability of new significant owners, and it does consider their ability to contribute financial resources to the insurance undertaking.</p> <p>The ACP has powers to require the removal of unsuitable persons, but only those for which it can assess suitability. In instances where the ACP considers an insurance entity has an unsuitable person in a senior or key role, it would approach the entity and request removal or change. In such situations, the ACP would look to use other powers and sanctions it has to achieve a change in personnel.</p> <p>The ACP exchanges information on the suitability of senior and key personnel with other authorities, only in respect of the above identified positions and usually only in relation to new authorizations and when other authorities make requests.</p>	
Comment	<p>The range of positions for which suitability of persons is assessed does not extend to all insurer Board members and all key persons in control functions. The ACP power to require removal of unsuitable persons does not extend to all insurer Board members and all key persons in control functions. It is recommended that the requirements be extended, but it is noted that this is expected to occur via the transposition of final Solvency II requirements into French law.</p> <p>The ACP should also consider being more proactive in advising other authorities about unsuitable persons.</p>	
ICP 6	<p>Changes in Control and Portfolio Transfers</p> <p>Supervisory approval is required for proposals to acquire significant ownership or an interest in an insurer that results in that person (legal or natural, directly or indirectly, alone or with an associate), exercising control over the insurer. The same applies to portfolio transfers or mergers of insurers.</p>	Largely Observed
Assessment	<p>A definition of control is contained in the CDC which essentially defines control of an entity as existing if a party:</p> <ul style="list-style-type: none"> • has direct or indirect holding of the majority of the voting rights; or • has, during two consecutive business years, appointed the majority of the members of the company's administrative, management, and supervisory structures (this is presumed if a party holds—directly or indirectly—more than 40 percent of the voting rights, and no other party holds a greater proportion); or • has the right to exercise a dominant influence on the entity due to a contract or a provision of the law. <p>Under the CDA, the ACP must be notified whenever a party—acting alone or in concert with others—acquires, extends, reduces, or ceases to hold (directly or indirectly) shares in an insurance undertaking:</p> <ul style="list-style-type: none"> • in which changes in the shareholding of an insurance undertaking are proposed that affect 10, 20, 33, or 50 percent of the voting rights; or • an insurance undertaking becomes, or ceases to be, a subsidiary. 	

ICP/Std.	Description	Level
	<p>These requirements apply also to insurance holding companies having their head office located in France, as well as mixed financial holding companies having their head office located in France and belong to a financial conglomerate whose surveillance is coordinated by the ACP. The above notification must be prior to any change, and ACP must authorize such increases in shareholdings. When shareholdings are being reduced, the ACP checks that the change does not jeopardize the insurance undertakings license conditions.</p> <p>The ACP must assess any notification within 60 days and may refuse approval on grounds related to:</p> <ul style="list-style-type: none"> • the reputation of the acquirer; • the reputation and professional experience of any person that will manage the undertaking; • the financial soundness of the acquirer, given the insurance undertaking; • the capacity of the insurance undertaking to fulfill insurance regulatory requirements; or • suspicions concerning an operation of money laundering or financing of terrorism. <p>When licensing a new insurer, significant new owners are required to provide the same information relating to their fitness and propriety as initial owners—even though the required information is provided for by different texts: Art. A321-1 for licensing; “instruction” (available on ACP’s website) for acquiring a qualifying holding, which is referred to in Art. R.322-11-1.1.2°. In terms of supervisory practice, the review of the owners’ fitness and propriety is exercised with the same intensity when licensing a new insurer or when authorizing a significant new owner.</p> <p>For cases involving intermediate or ultimate owners outside France, the ACP has the power to—and does—exchange information with EU/EEA authorities; but it only exchanges information with authorities outside the EU/EEA when it has a formal MOU.</p> <p>The ACP requires information related to the acquirer’s financial soundness and a three-year business plan for the insurance undertakings in cases when the acquirer is applying for approval to acquire shares in an insurance undertaking. This requirement follows the EU Directive, but is not as extensive as the information required when applying for a new license.</p> <p>The ACP does assess the financial soundness of the acquirer and the suitability (but only similarly as under ICP 5) of the acquirer.</p> <p>Article R322 of the CDA requires insurance undertakings to advise the ACP each year of the identity of shareholders holding at least 10 percent of the voting rights or capital of the undertaking, and the size of such holding. The article also states that the provision of such information is aimed at protecting the interests of policyholders, so the ACP has the ability to refuse applications prejudicial to policyholder interests.</p> <p>French legislation does not include express provisions relating to demutualization or vice versa; however, it would be performed through the creation of a new entity, to which the portfolio of the changing entity will be transferred. The new entity will be subject to licensing, and the portfolio transfer will be subject to approval of the ACP.</p>	

ICP/Std.	Description	Level
	<p>The transfer of portfolio (totally or partly) of direct insurance undertakings needs prior approval of the ACP (CDA Article L324, CDM Articles L212, CSS Article L931). Notification of a proposed transfer occurs via publication in the <i>Journal Officiel</i>, but there is no direct notification to policyholders. The policyholders and other creditors can present their objections during the two months following publication (CDA R 324-1 and CDM L 212-11). The ACP assesses whether the interests of the policyholders of both the transferee and the transferor are protected. When assessing a portfolio transfer the ACP considers:</p> <ul style="list-style-type: none"> • the definition and delineation of the portfolio being transferred; • if the contractual rights and guarantees are modified in any way; • if the technical provisions being transferred are adequately determined; • if the assets being transferred are of good quality and adequate quantity; and • if the transferee will meet both the coverage of the technical provisions with adequate admissible assets and meet the required solvency margin. <p>However, it is rare for the ACP to require an independent actuary's report on such transactions.</p> <p>The approval by the ACP makes the transfer valid vis à vis the policyholders, subscribers, beneficiaries, and creditors. The policyholders can immediately cancel their contract even if the ACP approves the transfer. For portfolio transfers of life business, the transferee must post the transferred assets into separate accounts to ensure that the future profits shared to the transferred policyholders are fair. Portfolio transfers for reinsurance undertakings may also be approved by the ACP, which assesses if solvency requirements are met. But ACP approval is for regulatory purposes only, as it does not make such transfers legally valid because cedants can still oppose such a transfer.</p>	
Comment	Supervisory authorities outside the EEA are only consulted when a formal MOU is in place. The review of significant new owners should include measures designed to ensure that new beneficial ownership is not structured so as to hinder effective supervision or expose the insurer to undue risk.	
ICP 7	<p>Corporate Governance</p> <p>The supervisor requires insurers to establish and implement a corporate governance framework that provides for sound and prudent management and oversight of the insurer's business, and adequately recognizes and protects the interests of policyholders.</p>	Partially Observed
Assessment	<p>There are provisions in the CDC that deal with the responsibilities of Boards, but these are high-level requirements for all companies, which are aimed at having Boards determine the direction of the company's business and overseeing their implementation. The CDC (Article L823-19) also requires companies to have an audit committee.</p> <p>In addition, most insurers are required under the CMF (Article L511-46) to have a risk committee to deal with risk-management policies, procedures, and systems. This may be a separate committee or the function may be performed by the insurer's audit committee.</p>	

ICP/Std.	Description	Level
	<p>There are further provisions in the CDA, CDM, and CSS that deal with the responsibilities of Boards, including in respect of such matters as internal controls, solvency management, investments, and reinsurance.</p> <p>Insurers are required to produce a Board-approved internal control report annually, which is lodged with the ACP and must deal with:</p> <ul style="list-style-type: none"> • the objectives, methodology, and general organization of its internal control and measures taken to ensure independence and effectiveness of internal control; • procedures to ensure that business activities are conducted according to policies and strategies established by the Board; • the methods used for measurement, evaluation, and control of investment; • the internal management control of investments, including division of responsibilities; • procedures to identify, manage, and assess the risks associated with commitments of the insurer, including methods to control compliance; • procedures to monitor claims management; • procedures for preparing and auditing financial and accounting reporting; and • procedures and internal controls for risks of money laundering and terrorist financing. <p>Insurers are required to produce annually a Board-approved solvency report, which is lodged with the ACP and deals with:</p> <ul style="list-style-type: none"> • technical provisions – breakdown by type and sensitivity to particular stress scenarios; • policyholder participations (only life insurance); • investments – including exposures by type of investment, counterparty, geography, currency; hedging approach; sensitivity to particular stress scenarios; • reinsurance – program approach; retention limits; counterparty exposure; and • solvency margin and ratios – required margins, actual solvency, sensitivity of solvency ratios to particular stress scenarios. <p>Insurers are required to produce a Board-approved reinsurance policy statement, which is a high-level statement of their approach to reinsurance.</p> <p>Examples of internal control reports, solvency reports, and reinsurance policy statements have been reviewed to establish that this content is actually provided. It appears that generally it is, but that the quality of these reports does vary substantially by insurer, with some needing much improvement.</p> <p>In 2011, the ACP College focused on the issue of corporate governance in supervised entities, and some on-site inspections looked in detail at this issue with a report to the College on findings. Normal on-site inspections of insurers also considered corporate governance, and supervisors looked at the quality and richness of information provided to Boards and Boards' deliberations by inspecting Board packs and Board minutes.</p>	

ICP/Std.	Description	Level
	<p>There is no specific requirement for insurers to determine and document their actual risk appetite and their strategy for keeping their risks within this stated appetite.</p> <p>There is no requirement for insurer's Boards to clearly define the roles and responsibilities allocated to the Board, senior management, and key persons in control functions. The internal control report discusses more how risks are meant to be controlled, but not where in the insurer the responsibilities lie.</p> <p>Boards are not specifically required to have an appropriate number and mix of individuals to ensure adequate knowledge, skills, and expertise. The ACP does not assess the suitability of all Board members and does not have the authority to require changes to address a shortage of such knowledge, skills, and expertise.</p> <p>Provisions in the CDC, CDA, CDM, and CSS exist to require Board members of insurers to act in good faith, honestly and not for personal gain.</p> <p>There is no specific requirement that insurer Board members act in the interests of policyholders.</p> <p>There is no specific requirement that an insurer's Board adopts an effective remuneration policy that will not induce excessive or inappropriate risk taking.</p> <p>Insurer Boards are essentially required to ensure there are adequate systems and controls to ensure there is reliable financial reporting and effective communication with the supervisor.</p> <p>Via the internal control reporting and on-site inspections, the supervisor has adequate information to assess the level of oversight by insurer Boards of senior management functions.</p>	
Comment	<p>There are no specific requirements for insurer Boards to:</p> <ul style="list-style-type: none"> • determine and document their actual risk appetite and their strategy for keeping their risks within this stated appetite; • clearly define the roles and responsibilities allocated to the Board, senior management, and key persons in control functions; • have an appropriate number and mix of individuals to ensure adequate knowledge, skills, and expertise; • act in the interests of policyholders; and • adopt an effective remuneration policy that will not induce excessive or inappropriate risk taking. <p>In practice, insurance supervisors consider many of these issues during on-site inspections and assessment of insurers. However, it is recommended that enforceable requirements for insurer Boards to do the above tasks be introduced. It is noted that many of these are likely to be required via the implementation of Solvency II requirements.</p>	

ICP 8	<p>Risk Management and Internal Controls</p> <p>The supervisor requires an insurer to have, as part of its overall corporate governance framework, effective systems of risk management and internal controls, including effective functions for risk management, compliance, actuarial matters, and internal audit.</p>	Largely Observed
Assessment	<p>The CMF requires most insurers to have a risk management committee.</p> <p>The CDA, CDM, and CSS require insurers to have an internal control function and annually produce an internal control report, which is approved by the insurer's Board and lodged with the ACP.</p> <p>From a review of examples of lodged internal reports, it is clear that these cover the identification of an insurer's risk and contain descriptions of how the particular risks are managed. Risks covered include:</p> <ul style="list-style-type: none"> • underwriting; • claims management; • technical provisioning; • product pricing; • investments; • asset and liability management; and • a range of operational risks – e.g., legal and regulatory compliance, AML and CFT, outsourced functions. <p>In practice, many insurers—especially the large ones— have internal audit areas capable of providing the insurer's Board with some independent assurance in respect of governance, risk management, and internal controls. While internal audit is mentioned as a means of managing many of the above risks, there is no specific requirement for insurers to have a dedicated internal audit function. This will be a requirement via the Solvency II directive.</p> <p>Risk management in insurers is an increasingly important and fast growing activity. It is becoming more common within insurers to have a substantial risk management function that operates across all aspects of the insurer and that reports to a Chief Risk Officer (CRO), who usually reports to the CEO of the insurer. It is also usual for the CRO to have a further direct reporting line to a Board risk management committee or to the Board as a whole. A major objective for such structures and reporting is to provide the CEO and Board with an assessment of risk in the insurer that is independent of the financial performance function, which reports through the Chief Financial Officer (CFO). While such arrangements are common in the major— especially the listed—insurers, the only specific requirement is for most French insurers to have a Board risk management committee.</p> <p>The ACP places considerable reliance on the internal control report and functions in an insurer to deal with risk management. But effective good risk management practice is more about developing a strong culture of risk awareness, quantification, and management in all parts of an insurer, so that risk is an essential consideration in all</p>	

	<p>major business and operational decisions, rather than being something that is controlled after the event by one area of the insurer. An effective risk management function will be a requirement for insurers under the Solvency II directive.</p> <p>Many insurers have their own actuarial staff, or use actuarial consultants, to provide advice on product pricing and the setting of their technical provisions. These issues are closely examined by qualified actuaries in the ACP as well as part of the ongoing assessment of insurer's solvency. However, there is no specific requirement for insurers to do this or have an effective actuarial function that does this. This will be a requirement via the Solvency II directive.</p> <p>In instances where insurers outsource functions to third parties, the CMF provides that the ACP has the power to examine and supervise the service provider carrying out the outsourced functions. In on-site inspections of insurers, the outsourcing of material functions is examined and the internal controls to manage the risks associated with this outsourcing are considered. ACP inspection of the actual service provider is legally possible, but only in countries in which an agreement exists that allows the ACP to so inspect. This is often dealt with by requiring specific clauses on inspection to be included in outsourcing agreements between insurers and service providers.</p>	
Comment	<p>There is considerable overlap between this ICP and ICP 16.</p> <p>There is considerable emphasis placed on the internal control function and reporting by insurers, but not adequate requirements for insurers to have internal audit and actuarial functions. Requirements for insurers to have these functions should be introduced. It is noted that they will be required via the Solvency II directive.</p> <p>Consideration should also be given to specifically requiring insurers to retain responsibility for any material function that is outsourced and to producing ACP guidelines on the issues that should be included in outsourcing agreements.</p>	
ICP 9	<p>Supervisory Review and Reporting</p> <p>The supervisor has an integrated, risk-based system of supervision that uses both off-site monitoring and on-site inspections to examine the business of each insurer; evaluate its condition, the quality, and effectiveness of its Board and senior management; and compliance with legislation and supervisory requirements. The supervisor obtains the necessary information to conduct effective supervision of insurers and evaluate the insurance market.</p>	Largely Observed
Assessment	<p>Within the ACP, the supervision of insurers for financial soundness is generally carried out within one of the two insurance supervision directorates. Each is organized into Brigades that have a portfolio of insurers for which they are responsible. There is some specialization in the portfolios of some Brigades (e.g., health mutuals predominantly in one or two Brigades). Upon receipt of the annual filings from each insurer, the responsible Brigade staff perform an analysis of the material filed, with particular emphasis on the insurer's solvency level but always considering technical provision adequacy, assets, and life insurance participation to policyholders. This analysis, along with information from the most recent on-site inspections of the insurer, results in a short supervisory summary note on each insurer, which includes ACP internal ratings for:</p>	

- robustness of the insurer's technical provisions;
- actual level of the insurer's solvency;
- the quality of information received from the insurer; and
- the prospective financial condition of the insurer.

This assessment of the insurer is used to determine the appropriate depth and level surveillance on on-site inspection to be applied on the coming year to that insurer and whether any further supervisory action will be needed.

It should be understood that the current approach to assessing an insurer's solvency (i.e., assessing adequate technical provisions are covered by adequate admissible assets and whether there are adequate realizable own funds to cover the required solvency margin) will change dramatically with the introduction of Solvency II. This will have a monumental impact on how supervisors go about assessing an insurer's financial strength.

Additionally, market analyzes are produced twice a year based on all insurers reported information. These consider trends in such issues as business growth, profitability, technical provisioning, asset mix, counterparty exposure, reinsurance usage, and participations to life policyholders. The analyses are presented to the ACP College along with suggested areas of concern or interest that could warrant further, more detailed examination. This process also leads to some on-site inspections or surveys of insurers to explore the areas of concern.

At any time as issues arise in the markets, the ACP senior staff may suggest specific issues that should be examined further (e.g., sovereign debt exposures, increases in life insurance surrenders, governance); or ACP College members may request a further examination of specific issues.

Complaints received may also lead to a particular insurance operation being inspected, or to a specific issue being examined further.

All of the above activities feed into each Brigade's plan for more detailed examinations of their insurers and for their on-site inspections.

Usually insurers are given about two weeks' notice of an on-site inspection. Inspections often drill into considerable detail on aspects of an insurer's operations, are also broad ranging, and can involve a number of supervisors over an extended period of time (possibly months). A report on the inspection is produced with initial conclusions, which is then sent to the insurer for response. After the insurer's response, the ACP will finalize its conclusions and send the final version to the insurer, with a copy to the insurer's auditors. The ACP requests the insurer provide a copy of its final report to the insurer's Board. However, there is no structured quality control undertaken of supervisor assessments or on-site inspection conclusions aimed at achieving greater consistency across supervisors.

There is also no clear ACP-wide system of classifying the seriousness of supervisory conclusions, which would then determine how the conclusions are communicated to the insurers and what level of supervisory response should occur for given levels of serious findings. The ACP College or Sub-College has the ability to provide input on cases; along with ACP senior management oversight, this determines how each case is handled individually.

	<p>Supervisory reports are reasonably detailed, including a conclusions section generally 1– pages long, and—when need be—annexes in which supervisory comments on minor issues can be regrouped. Such structure of the reports normally permit insurers to promptly identify serious supervisory concerns, when any. Further to this, and as provided for by the “<i>Charte du contrôle de l’ACP</i>” (available on ACP’s website), a meeting of the supervisory team with the insurer would normal take place before the report is sent.</p> <p>The ACP has the authority under the CMF to set the details of the statutory reporting of insurers to the ACP. The ACP has detailed requirements for both annual and quarterly reporting, which covers such items as:</p> <ul style="list-style-type: none"> • financial statements; • solvency reports; • internal control reports; • reinsurance policy statements; • asset exposures; • detailed list of assets; and • quarterly sensitivity analysis. <p>At times the ACP also institutes special reporting across all insurers or major sectors of the market (e.g., weekly reporting on life insurer’s customer-related cash flows).</p> <p>Supervisory staffs in the Brigades are also in more regular contact with the insurers they supervise if they become aware of issues from public or other sources. There is adequate power for ACP staff to obtain any information about the operation of insurers.</p> <p>While the accounting and consolidation standards that apply to insurer financial statements are not set by the ACP, it actively participates in the determination of these standards with the relevant French bodies, i.e., the <i>Autorité des marchés financiers</i> (ANC), the <i>Compagnie National des Commissaires aux Comptes</i> (CNCC), and the DGT.</p> <p>An insurer’s Board must approve the financial statements, internal control, and solvency report, which are lodged with the ACP.</p> <p>There must be an audit of the annual financial statement. In France, most companies are required to have a joint audit involving two audit firms with the signing partners from each firm both responsible for the whole audit.</p> <p>While there is no specific legal requirement for insurers to notify the ACP of a material change that could affect their condition, it is the practice that insurers do this. Any breach of requirements, including the solvency requirements, must be notified by the insurer to the ACP. Furthermore auditors are required to advise the ACP if they become aware of a breach in requirements that could have a detrimental effect on the financial condition or solvency of the insurer they audit.</p> <p>During on-site inspections, supervisory staff regularly verifies the validity of information provided by insurers in their financial statements and statistical reports.</p>	
--	---	--

	<p>Professional secrecy provisions apply to auditors, but they are able to freely exchange information with ACP staff.</p> <p>There are annual high-level meetings between ACP senior people and representatives from the audit firms.</p>	
Comment	<p>Data collections are comprehensive and reasonably detailed, but it is noted that much of this will change as the detail reporting requirements under Solvency II are finalized and implemented across Europe. Also, the way supervisors will be required to assess an insurer's solvency will change fundamentally and be much more complex. These changes will require significant retraining of supervisory staff and possibly the need to recruit some staff more experienced in the economic valuation approaches underlying Solvency II.</p> <p>Consideration should be given to establishing within the ACP a quality control function aimed at achieving greater consistency of supervisory assessments.</p> <p>Consideration should also be given to establishing a clear ACP policy or approach aimed at achieving greater consistency in aligning the supervisory response to the seriousness of the supervisory assessment. One way of achieving this would be by means of a matrix, which is typically referred to as a Ladder of Intervention or a Supervisory Guide.</p>	
ICP 10	<p>Preventive and Corrective Measures</p> <p>The supervisor takes preventive and corrective measures that are timely, suitable, and necessary to achieve the objectives of insurance supervision.</p>	Observed
Assessment	<p>Conducting insurance activities without a license is a criminal offence, with the court able to impose a sanction including imprisonment and a fine amounting to €75,000.</p> <p>The ACP has a wide range of preventive and corrective measures (flowing from the CMF) that it can take, and they fall into the following categories:</p> <ul style="list-style-type: none"> • warnings – usually applied when customer treatment is inappropriate, or business conduct practices not appropriate; • remedial actions— requirement to improve practice or financial condition; and • protective measures – to limit inappropriate insurer activities that may be detrimental to policyholder interests (e.g., restrict types of new business, require sale of certain assets). <p>In addition, the ACP may release to the public any information that it considers necessary to accomplish its missions. In October 2010, the ACP required MUT'EST to cease selling its PrÉVIEsion life insurance product and the ACP published this fact on its website.</p> <p>The supervisory process of analysis of returns, insurer assessment, and on-site inspection has a heavy emphasis on the adequacy of an insurer's technical provisions and their coverage by admissible assets. When the ACP concludes that an insurer's technical provisions are not adequate, this is reported to the insurer with a request to increase its technical provisions. Usually insurers accept the conclusion of the ACP and increase their technical provisions. If an insurer does not accept the ACP's conclusion, the ACP can move to take administrative action.</p>	

	<p>A similar process would be followed when minor breaches of requirements, or unacceptable business practices relating to dealings with customers, occurs.</p> <p>Usually administrative actions (including warnings) and protective measures against a party are decided to be taken by one of the ACP Colleges, on the recommendation of senior ACP management. These would usually be initiated if the normal supervisory review process identified a case in which these measures were needed, or if an insurer was not responding appropriately to supervisor requests.</p> <p>The party is notified of the possible grounds for action and has the ability to provide written comments (for administrative actions) or is summoned before the College (for protective measures).</p> <p>The types of administrative remedial actions which could be taken include:</p> <ul style="list-style-type: none"> • increase technical provisions; • restructure reinsurance arrangements; • obtain expert reports – special independent valuations of assets, advice on the adequacy of specific procedures, or systems and improvements needed; and/or • restructure or stop certain sales practices. <p>The types of protective measures available include:</p> <ul style="list-style-type: none"> • restricting the types of insurance business undertaken; • requiring the sale of specific assets, or requiring a restructure of an insurer’s investment mix; • requiring the suspension of surrender payments, or granting of policy loans; • requiring transfer of some or all of an insurer’s portfolio of insurance business; and/or • limiting the distribution of dividends to shareholders. 		
Comment	A wide range of preventive and corrective measures are available and appear to be used.		
ICP 11	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; padding: 5px;"> <p>Enforcement</p> <p>The supervisor enforces corrective action and, when needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p> </td> <td style="width: 20%; padding: 5px; text-align: center;"> <p>Observed</p> </td> </tr> </table>	<p>Enforcement</p> <p>The supervisor enforces corrective action and, when needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>	<p>Observed</p>
<p>Enforcement</p> <p>The supervisor enforces corrective action and, when needed, imposes sanctions based on clear and objective criteria that are publicly disclosed.</p>	<p>Observed</p>		
Assessment	<p>When the ACP requires an insurer to take specific remedial action the ACP practice is to designate a particular “controller” (supervisor) who is responsible for checking that the remedial action is in fact taken according to the set out plan. Similarly where an insurer is placed under special surveillance, the ACP determines the templates or details of the special reporting and designates a particular “controller” who is responsible for receiving the special reporting within the pre-determined deadlines.</p> <p>The ACP has the ability to enforce the wide range of preventive and corrective measures (flowing from the CMF) which it can take if an insurance undertaking does not comply with the ACP required remedial action.</p>		

	<p>Disciplinary proceedings toward a sanction are initiated by the ACP College which notifies the party that the matter has been referred to the ACP Sanctions Committee, which is separate from the Colleges. A range of sanctions can also be imposed by the ACP Sanctions Committee including:</p> <ul style="list-style-type: none"> • public warnings; • reprimand; • prohibition on conducting certain transactions, for a period up to 10 years; • temporary suspension of managers, for a period up to 10 years; • compulsory dismissal of managers; • partial or total withdrawal of license; and • striking from the list of licensed person. <p>Additionally a fine of up to €100 million (€1 million for mutuals) may be imposed on organizations either in addition to or in place of these penalties.</p> <p>The Sanctions Committee has a policy of usually publishing its decisions.</p> <p>Appeals against decisions of the Sanctions Committee are to the administrative supreme court. Appeals can be initiated by the sanctioned entity or the ACP Chair.</p> <p>While Article L612 of the CMF provides the ACP the authority to remove all or part of the Board and some senior management of an insurance undertaking, this has never been used because there has not yet been a need to use this power. However, these powers do not extend to key persons in control functions. The ACP practice is to use its influence with insurers to have them rectify the problem and remove the persons of concern.</p> <p>Article L612 of the CMF also provides the ACP the authority to appoint a temporary administrator, who assumes full control of the insurer. Such an appointment can be made in emergency situations without providing the insurer to be heard before making the appointment.</p> <p>Deliberately misreporting to the supervisor or failing to provide information to the supervisor in a timely fashion is liable to criminal sanctions of up to one year's imprisonment and a penalty of €15,000 per day (CDA Article L310, CDM Article L510, and CSS Article L951). In addition, in cases when the insurer simply fails to transmit required data or information to the ACP, the ACP can issue an injunction and impose a daily penalty up to €15.000; the daily penalty is to be paid until the ACP receives the required data or information.</p> <p>After considering the situation of <i>Universal Assurances</i> (an insurance intermediary firm) in February 2011, the ACP Sanctions Committee reprimanded one individual, and fined a further individual the amount of €10,000, banning the latter individual from operating as an insurance intermediary for 10 years.</p>
Comment	<p>The supervisor has adequate powers to enforce corrective actions, and where needed, impose sanctions. These powers are used in practice.</p>

ICP 12	<p>Winding-up and Exit from the Market</p> <p>The legislation defines a range of options for the exit of insurance legal entities from the market. It defines insolvency and establishes the criteria and procedure for dealing with insolvency of insurance legal entities. In the event of winding-up proceedings of insurance legal entities, the legal framework gives priority to the protection of policyholders and aims at minimizing disruption to the timely provision of benefits to policyholders.</p>	Observed
Assessment	<p>Insurers may voluntarily exit from the market or the ACP may initiate winding-up of an insurer. The ACP may withdraw the license of an insurer without court approval; once the license is withdrawn, winding-up commences automatically. License withdrawal decisions are taken by the ACP Sanctions Committee after a proposal from the ACP College. A license can be withdrawn if an insurer does not meet statutory requirements, no longer fulfils the conditions of its license, or does not meet solvency requirements. In practice, a license is also withdrawn—or altered—if an insurer does not begin to undertake the type of insurance business for which it was authorized.</p> <p>For a winding-up, two liquidators are appointed: one by the court and one (usually a specialist in insurance) is appointed by the ACP. The ACP advises the court on certain issues and works with the liquidators.</p> <p>Policyholder obligations rank behind some key creditors (i.e., liquidator fees, taxes, and employee obligations) but ahead of other creditors (CDA Article L326, CDM Article L212, CSS Article L931).</p> <p>Nonlife insurance contracts of the insurer in liquidation are terminated after 40 days, and the liquidator advises policyholders of this so they can arrange substitute cover. Remaining claims are then handled by the liquidator.</p> <p>For life insurer, liquidations the insurance contracts remain in force while the liquidators put together a plan to transfer the frozen life insurance liabilities and associated assets to another insurer. The liquidators put their plan to the court for approval, and once approved, the plan is auctioned.</p> <p>A life insurance warranty fund exists, which can provide funds to compensate policyholders for shortfalls from the liquidation of a life insurer. The fund was initially established by the life insurers following the failure of a small life insurer in the late 1990's. A levy of 0.005 percent of life technical provisions was established, with only half the levy collected. In fact, no compensation was paid as there turned out to be adequate assets to arrange a transfer of all policies. The collected monies remain part of the warranty fund and are invested on behalf of the fund by an investment manager.</p> <p>For nonlife insurance, a warranty fund also exists, but only for compulsory classes of nonlife business. There is a cap of €700 million on the total payouts from the fund, which currently has assets of about €250 million and has paid out some compensation to policyholders in respect of a few small insurer failures.</p>	
Comment	<p>Appropriate winding-up and exit provisions exist, and limited policyholder compensation arrangements exist. However, there have been very few cases where they have needed to be used.</p>	

ICP 13	<p>Reinsurance and Other Forms of Risk Transfer</p> <p>The supervisor sets standards for the use of reinsurance and other forms of risk transfer, ensuring that insurers adequately control and transparently report their risk transfer programs. The supervisor takes into account the nature of reinsurance business when supervising reinsurers based in its jurisdiction.</p>	Observed
Assessment	<p>The CDA specifies the documentation required for reinsurance business. During onsite inspections, inspectors verify the existence of appropriate documentation executed in a timely manner.</p> <p>The CDA does permit alternate risk transfer (ART) to the capital markets under specific circumstances. These arrangements require the establishment of a special purpose vehicle (SPV) under which the repayment rights of the funders are subordinated to the reinsurance obligations of the SPV. In practice, SPVs are not in common use in France.</p>	
Comment	None	
ICP 14	<p>Valuation</p> <p>The supervisor establishes requirements for the valuation of assets and liabilities for solvency purposes.</p>	Largely Observed
Assessment	<p>As of the date of the mission, France had not yet made the amendments to its legislation to require the implementation of Solvency II. The CDA contains detailed prescriptions for the valuation of assets and liabilities which meet all the requirements of Solvency I. It should be noted that, for solo reporting on individual insurance companies operating in France, there are no differences between general purpose financial reports (published and audited) and the balance sheet required for solvency reporting.</p> <p>Listed conglomerates must prepare the group statements following IFRS in which valuation rules for assets are different.</p> <p>It is expected that French law will be amended to introduce the necessary Solvency II changes before the end of 2012, with full implementation expected by 2014.</p> <p>According to accounting principles prescribed for France, assets are to be valued on an amortized cost basis and the liabilities are valued using the assumptions applied in pricing the contracts. The CDA restricts the choice of mortality tables and discount rates applied to liabilities. Realized gains and losses flow into income. Unrealized gains and losses are not booked, although write-downs flow directly to the income account. While these rules do not follow Solvency II, it can be said that the valuation of assets and liabilities is undertaken on a consistent basis. The unique exception relates to unit-linked contracts, in which assets are valued at market price and the value of liabilities is determined by the asset value.</p> <p>Discount rates used for insurance technical provisions are prescribed by the regulator and would not take into account the credit standing of the insurer.</p> <p>The CDA specifies that asset-liability management tests are to be performed and that the annual solvency report must include a description of the results.</p> <p>Under Solvency I, financial soundness is measured in a two-step process. The amount of technical provisions must first be covered by assets of acceptable quality that are</p>	

	<p>authorized by the CDA. The second test is the computation of the solvency margin. In actual practice, the amount of assets actually owned by most companies will exceed the amounts required by the coverage tests.</p> <p>The valuation of life insurance liabilities must follow the prescriptions in the CDA, which implies the use of pricing assumptions. However, there is a provision in the CDA which permits either the creation of a special provision or the recalculation of the reserves using more conservative mortality assumptions, should the supervisor determine that the original assumptions are no longer appropriate.</p> <p>For Life TPs, assumptions for calculating the TPs are normally the same as those applied for the pricing. These pricing assumptions are determined in a prudent way as defined in the Insurance Code; this relates to mortality/longevity elements, as well as to the discounting. The valuation thus includes an implicit risk margin.</p> <p>If assumptions turn out to be not as prudent as initially expected, specific devices are used to restore a correct level of implicit margin, such as the appropriation to the <i>Provision pour Aléas Financiers</i> or the calculation of life TPs using more conservative mortality tables (Art. A.331-1-2 c.ass.).</p> <p>Nonlife TPs are not discounted; they accordingly include an implicit MOCE.</p> <p>Under Solvency I rules, TPs are not computed based on separately identified “Current Estimates” plus an MOCE that reflect the expected present value of all relevant future cash flows that arise in fulfilling insurance obligations, using unbiased, current assumptions.</p> <p>According to the Insurance Code, discounting nonlife TPs is not allowed (except for a few types of long-term nonlife business paid as annuities, in which the rate used shall not be higher than yield on assets as calculated in accordance with the accounting rules in the home Member State, less an appropriate deduction).</p> <p>Life TPs cannot be discounted under a discount rate that is higher than the discount rate used for the pricing of the contract. Under no circumstances may the interest rate used be higher than the yield on assets as calculated in accordance with the accounting rules in the home Member State, less an appropriate deduction.</p> <p>For nonlife business, the CDA specifies that the claims provisions should be validated using run-off or triangle techniques to insure their sufficiency. It should be noted that nonlife TPs may not be discounted, a conservative approach.</p> <p>ACP has developed rules covering the valuation of guarantees and options, and—in some cases—these require the use of stochastic methods. For all practical purposes, these apply to unit-linked contracts with guarantees.</p> <p>The CDA does not require the appointment of an actuary, nor is it required that an actuary certify to the adequacy of the technical provisions. In those cases when a company chooses to use a mortality table other than those approved in the Code, that decision must be supported by the opinion of an independent actuary. In practice, most companies employ their own actuaries. Implementation of Solvency II will enhance the role of actuaries in financial reporting.</p>
Comment	<p>Solvency II requirements will alter the landscape in a significant manner. For all practical purposes, assets will be valued at their market values. Likewise, the discounting of liabilities will be carried out on the basis of “best estimate” assumptions with a safety margin. Accounts prepared under Solvency II are expected to demonstrate greater volatility than has been seen under Solvency I accounting practices.</p>

ICP 15	Investment The supervisor establishes requirements for solvency purposes on the investment activities of insurers in order to address the risks faced by insurers.	Observed
Assessment	<p>The investment activities of insurance companies are subject to both qualitative and quantitative limitations. The qualitative requirements in the CDA deal with the nature of assets, currency issues, and location. The Code also defines a list of eligible assets and quantitative limits. Limits are imposed on the composition of assets that may be counted toward coverage of technical provisions (the “Coverage” test). For example :</p> <ul style="list-style-type: none"> • Shares issued by noninsurance corporations: 10 percent • Real estate in OECD countries 40 percent <p>In practice, current company holdings are far below these limits. The CDA specifies that supervisory requirements (both qualitative and quantitative) are aimed at ensuring the best interests of policy holders or beneficiaries.</p> <p>Under the Code, the Board of Directors of each company must produce two annual reports, the Internal Control Report and the Solvency Report. The Internal Control Report includes, among other things, a description of the means used to ensure compliance with the rules. The Solvency Report, filed annually, describes the investment policy and the company’s asset and liability management program.</p> <p>Issues of security, liquidity, and diversification are also assessed through the stress-tests that each company must run on their assets and liabilities so as to measure their ability to pay their obligations to policyholders. The scenarios simulate shocks on interest rates and equity prices. These considerations are also part of the annual solvency report mentioned elsewhere in which risk limits associated with company investments are described (e.g., market risk, counterparty risk, liquidity risk).</p> <p>On-site reviews are carried out to ensure that supervisors have an in-depth understanding of the investment policy of the company. Focus is placed on the security, liquidity, and diversification of assets.</p> <p>Companies are required on a regular basis (quarterly or monthly depending on the nature of the reporting) to file supervisory reports related to their investments, notably comprising a summary of their investments by asset categories together with a split of their investments by main counterparties. Moreover, companies are required to maintain a detailed list of their investments on an on-going basis aimed at ensuring the consistency of their investments’ accounting treatment – this list being available for supervisors when carrying out their on-site reviews.</p> <p>In case of stressed market conditions and upon the request of the supervisor, companies could be required to provide for additional information regarding their assets (e.g., investments in specific counterparties, provisions entailed by asset devaluation). Under current arrangements, companies must report quarterly, giving the results of stress tests on both their assets and liabilities, in order to assess their financial risks on an ongoing basis. The companies must focus on their abilities to pay benefits to policyholders under stressed conditions (i.e., interest rates and share values are “shocked”).</p> <p>ACP, with the cooperation of the industry, has also conducted a number of stress tests to measure the impact on the financial condition of insurance companies under various</p>	

	<p>scenarios, while employing the new rules that will apply under Solvency II. Complex and less transparent assets are given special scrutiny. The company must demonstrate its knowledge of the underlying risks of such complex assets and its ability to manage them in terms of internal control processes, IT, and risk systems. Derivative products may be used for hedging purposes only and not for speculation.</p>	
Comment	<p>In many jurisdictions, supervisors have moved away from defining specific asset types, while retaining rules for percentage composition of a portfolio.</p>	
ICP 16	<p>Enterprise Risk Management for Solvency Purposes The supervisor establishes enterprise risk management requirements for solvency purposes that require insurers to address all relevant and material risks.</p>	<p>Partly Observed</p>
Assessment	<p>The CMF does require most insurers to have a risk management committee.</p> <p>The CDA specifies that the Internal Control Report should identify the procedures that the companies have in place for the identification, quantification, and control of risk management. The Internal Control Report is reviewed by ACP yearly, and on-site inspections can review the practical application. In cases of noncompliance, ACP can invoke certain powers of enforcement. In practice, ACP expects that the Report will contain a detailed description of assumptions and methods.</p> <p>Each insurer is expected to report all relevant categories of risks that are managed by the insurance company. Contrary to the expectation outlined in criterion 16.4, the CDA does not require the insurer to describe the relationship between tolerance limits, regulatory capital requirements, and the processes and methods for monitoring risks.</p> <p>The CDA specifies that an insurer's risk management policy should deal with asset-liability management (ALM), and the Internal Control Report should include an evaluation of the ALM activities. This is to be supported by the quarterly filing of templates, such as T3 and C6 bis, which call for stress testing the company's financial strength in light of changes in investment results.</p> <p>The CDA specifies that the management Board should establish risk tolerance levels in terms of market risk, counterparty risk, and liquidity risk.</p> <p>With respect to underwriting risk, the CDA specifies that the management Board should match its policy on reinsurance with its assessment of underwriting risk. Underwriting risk is reviewed during on-site inspections. The management Board of an insurance company is expected to establish risk tolerance levels in terms of market risks, counterparty risks, and illiquidity risks. There is nothing very precise concerning qualitative tolerance levels or material categories of risk in the French law. However, the managing Board has the opportunity, at least annually, to change tolerance limits. If it modifies these limits, the managing Board has to provide new information to the national supervisor.</p> <p>There is no mandatory obligation to have in place an ERM framework that is responsive to change in risk profile. The management Board has the opportunity to change tolerance levels of risk of the ERM if it considers that it is necessary. For instance, it could be necessary if the company experiences a change in its risk profile. Instructions concerning the solvency report, found in the CDA, require that the company describe a present and forward looking perspective of its solvency position. It must also describe the risk management procedure and methods used to protect the solvency of the undertaking.</p> <p>Many of the criteria in ICP 16 are presented in the context of Solvency II, which has not yet been implemented in France. For example, the concept of an "own risk and solvency assessment" (ORSA) has not been specifically prescribed in France. However, provisions in the CDA relating to the Solvency Report cover similar topics expected to be covered in</p>	

	<p>the ORSA. For example, the Solvency Report should describe a forward looking perspective of the company's solvency position, and should describe the risk management procedures and methods used to protect solvency.</p> <p>There is some overlap between the requirements of this ICP and those of ICP 8; however, for this ICP, requirements on insurers are substantial and should extend to an insurer's ERM covering:</p> <ul style="list-style-type: none"> • risk identification, quantification, and modeling; • substantial documentation of risk measurement; • day-to-day- operational controls; • interaction between risk tolerances, capital, and risk monitoring; • ALM and its relationship to product development, pricing, and investment management; • explicit investment policy and risk management procedures for complex investments; • explicit underwriting risk management policies; • quantitative and qualitative risk tolerances and how they are embedded into day-to-day operations; • feedback loops for responding to changes in risk profile; • Board responsible for ORSA and insurer actually performs ORSA; and • detailed requirements in respect of an ORSA. <p>The current requirements on French insurers do not cover the above list, however it is expected that they will via the implementation of Solvency II.</p>	
Comment	<p>Risk management considerations currently applied according to the requirements of the CDA are primarily written in the context of existing French practice. The requirement changes and practices expected with Solvency II implementation will be considerable and impact substantially to improve insurer risk management, but also the work of ACP supervisors in assessing insurer compliance with the requirements.</p>	
ICP 17	<p>Capital Adequacy The supervisor establishes capital adequacy requirements for solvency purposes so that insurers can absorb significant unforeseen losses and to provide for degrees of supervisory intervention.</p>	<p>Largely Observed</p>
Assessment	<p>The CDA requires the Board of an insurer to issue a Solvency Report, which is submitted to the ACP and to the external auditor. The Solvency Report must show that technical provisions are calculated in a way that ensures that they are sufficient to meet commitments to policyholders and cedents; explain the investment policy of the insurer; and analyze how the insurer will meet all its commitments in the mid- and long-run,. Insurers must assess their financial risks, in particular by stress-testing the potential impact on their balance sheet of changes in interest rates and in stock prices. The methodology of these assessments is determined by ACP and results must be submitted to ACP on a quarterly basis.</p>	
	<p>Capital Adequacy</p> <p>The ACP rules impose a coverage test whereby the total amount of technical provisions must be supported by a portfolio of assets of a specific quality and nature. This test is</p>	

	<p>somewhat more stringent than that in the EU Directives, by virtue of the narrower range of assets acceptable to ACP. These rules include currency matching rules, categories of authorized assets and ceilings for each, investment diversification rules (concentration of risk) and protection against the default of a reinsurer whose supervision has not been recognized equivalent to EU supervision (counterparty risk).</p> <p>The T3 template, created at the end of 2000, stress tests the matching of assets and liabilities. The template C6 bis, created in 2004, presents the results of the liquidity test, aimed at evaluating the capacity of companies to meet their obligations in deteriorated market conditions.</p> <p>Solvency Margin</p> <p>The Solvency Margin requirements are mainly based on the underwriting risks of the insurer (premiums and claims bases for nonlife insurers; mathematical provisions and capital at risk bases for life insurers) and on the reinsurance protection. In assessing whether reinsurance adequately protects the insurer, ACP takes account of the effective risk transfer, especially relevant to financial reinsurance and securitization. Deteriorating underwriting risk is also accounted for in the provision for unearned premiums. In practice, this provision actually represents a “reserve for unexpired risks.” On the basis of the results of the liquidity test, ACP can order that unrealized losses be deducted from the available solvency margin (ASM), when a solvency risk is identified. ACP can also oblige insurers to increase their required solvency margin (RSM), and has the power to revalue downwards all elements eligible for the available solvency margin.</p> <p>Supervisory Intervention</p> <p>France has not established formal solvency capital requirements that involve control levels that trigger different degrees of intervention. There is no “ladder of compliance;” nevertheless, the system of supervision is quite robust and is summarized in what follows.</p> <p>First and foremost among the supervisory tools of ACP is its control over the TPs that insurance companies establish in respect of obligations arising under insurance policies. The supervisor can direct an insurer to amend the assumptions that it uses to compute the TPs, and it can order a company to establish larger provisions if analysis—such as that in respect of the run-off of claims (“triangle method”)—indicates that provisions may be under-stated. In one precedent case, the supervisor ordered all companies to replace the assumptions used to calculate mathematical reserves for life insurance policies with more conservative assumptions. This had the effect of increasing the TPs.</p> <p>The second solvency measure is the “Coverage Test” described in an earlier paragraph. In practice, this is the supervisor’s most powerful tool. Supervisors report that most interventions occur when a company appears to be approaching the point where it cannot satisfy the coverage test. It has been estimated that any company passing the coverage test would have no difficulty passing the solvency margin tests required under Solvency I.</p> <p>There are two levels of capital requirements in which a shortage can trigger supervisory intervention: the RSM; and the Guarantee Funds (GF) that are provided for nonlife, life, and composite insurers, respectively. Following an infringement of the RSM, ACP would</p>
	<p>require a financial recovery plan (<i>program de rétablissement</i>). In the event of an infringement of the GF, ACP would require a short-term finance scheme (<i>plan de financement à court terme</i>).</p> <p>When an insurer is deemed to be at risk of failing to meet commitments toward</p>

policyholders, ACP has a range of powers. It can issue a warning and/or an injunction to the insurer, requiring a *program de rétablissement*, as mentioned above. It can prohibit the free disposal of assets; prohibit the surrendering of life policies; prohibit the payment of a dividend to the shareholders; remove part or all of the management team; transfer part or all of the insurance portfolio; appoint an administrative receiver; and/or withdraw the company's license.

The basic procedure is to compare the RSM to the amount of "own funds" available (discussed below).

Capital Adequacy Rules for Insurance Groups

The CDA details the provisions on supplementary supervision of insurance groups, including regulations governing the calculation of an adjusted solvency margin at the group level, and those dealing with the non-transferability of some solo own funds when determining own funds at group level. The supplementary supervision also provides for a close monitoring of intra-group transactions. The types of actions available to ACP depend on the location of the top company in the group.

For an insurer leading a group located in France, or belonging to a group whose head is in France, ACP can require whatever measures are necessary to bring the adjusted solvency margin into compliance with the regulations. ACP can sanction insurers as well as holding companies, in cases where the latter are not insurers.

For insurers belonging to a group whose head office is outside France, ACP can request an adjusted solvency calculation for the whole group; sanction the organism under its supervision in case of negative solvency margin, and (theoretically) request the adoption of measures necessary for the return to positive solvency. At the present time, the group solvency control level has not yet been brought into compliance with the expectation of ICP 17.

Dealing with Categories of Risk

Underwriting risk is—by and large—addressed in the RSM, whose calculation is based on underwriting elements, and in TPs, which should be calculated in a prudent way. This prudent calculation may include the mandatory use of some technical parameters, such as maximum discount rate and "minimum" mortality/longevity tables for life contracts. Market and concentration risks are generally addressed by the coverage obligation.

Specific market risks are also addressed by other specific technical liabilities such as:

- The capitalization reserve;
- The price contingencies reserve, which adds to the mathematical reserve in case of a sustained decrease in the return on assets contrasted with rate commitments on life insurance contracts, but which does not cover unit-linked operations and pay as you go pension schemes;
- The global expense reserve; and
- The liquidity risk reserve.

"General" counterparty risk is taken into account through the provision for permanent impairment. Reinsurance counterparty risk is addressed by the coverage obligation. For those reinsurers whose supervision has not yet been deemed equivalent to that of the EU, collaterals are required for the ceded liability to be recognized as an asset covering the technical provisions. Counterparty risk of some other types of creditors is also

addressed through the coverage obligation (e.g., recoverables on other insurers are recognized as covering assets, subject to ceilings calculated on the basis of effective past recoveries on similar credits). Operational risk is indirectly addressed in the RSM.

Variations in Regulatory Capital Requirement

When the financial situation of an insurer is deemed to be putting the interests of the policyholders at risk, the ACP may impose a higher required solvency margin (HRSM), based on the financial recovery plan the ACP has required from the insurer (up to two times the basic RSM). In a case where ACP determines that the results of the liquidity test demonstrate a solvency risk, ACP can deduct the provision for liquidity risk from the ASM.

Quality and suitability of capital resources

a) Going concern vs. wind-up basis. “Own funds” that can absorb losses on both a going-concern and wind-up basis are generally considered better, and are admitted more readily than own funds that are only available in the event of the winding-up of the insurer. Paid-up share capital, reserves, etc. are fully admitted while subordinated loans can only be admitted up to 50 percent of the lesser of the ASM and the RSM.

b) Availability. The extent to which the amount of own funds is, or is not, fully paid, is also considered. Paid up share capital is fully admitted, whereas only half of the unpaid share capital is admitted, up to 50 percent of the lesser of the ASM and the RSM. In the same vein, only fully paid subordinated loans can be taken into account. Other unpaid elements, such as nonlife mutuals members’ calls, are only admitted up to 50 percent of the lesser of the ASM and the RSM.

c) Permanence. The period for which the own fund is available is also considered. Subordinated loans with no specified maturity date can be admitted up to 50 percent of the lesser of the ASM and the RSM. Subordinated loans with a fixed maturity—which must be at least five years—are only admitted up to 25 percent of the lesser of the ASM and the RSM. (Please note that the total amount of admitted subordinated loans—without or with maturity date—is capped at 50 percent of the above mentioned amount.)

The repayment of a subordinated loan before its maturity date is permitted only after the prior consent of ACP. For subordinated loans without maturity date, any repayment is subject either to a five year’s notice or to the prior consent of ACP.

On a strict statutory basis, there is no specific provision linking the allowance of the capital element, with the duration of the insurer’s liabilities. By and large, the above-mentioned absence of maturity or five-year minimum duration or prior notice before repayment would normally ensure sufficient permanence in most cases. However, supervisory practice would disregard “short-term” subordinated loans subscribed by insurers assuring long-term liabilities such as life annuities.

Similarly, there are no specific regulatory provisions addressing specific clauses such as step-ups in interest rate, etc. Cases like these would be addressed in the supervisory practice. A subordinated loan with a step-up so considerable that the insurer would be compelled to reimburse the loan when the step-up becomes effective, would be regarded as a subordinated loan whose maturity date is the date of the step-up.

d) Absence of mandatory payments and encumbrances. None of the own funds admitted in the ASM is permitted to contain encumbrances.

	<p>The admission of own funds with mandatory payments, such as subordinated loans, is restricted as described above. The restrictions also apply to cumulative preferential shares. Own funds without mandatory payments, such as ordinary share capital or noncumulative preferential share capital, are fully admitted.</p> <p>At the present time, there is no provision for internal models as part of the supervisory system in France.</p>	
Comment	<p>The advent of Solvency II will mean important changes for the supervision of insurance companies in France. The new approach will involve new methods for establishment of values for assets and liabilities, and new techniques for determining the prescribed solvency margin. In all likelihood, the new system will involve solvency control levels which trigger different degrees of intervention by the supervisor. At first examination, the Solvency II approach may appear less conservative in some aspects, it can be hoped that the more specific identification and quantification of risks that Solvency II involves will produce a system of supervisory oversight that is no less effective than that which has prevailed in France for many years. It is recommended that ACP, in preparing for the implementation of Solvency II, provide more intensive training to staff who will be expected to cope with new measures for assessing the adequacy of capital.</p>	
ICP 18	<p>Intermediaries The supervisor sets and enforces requirements for the conduct of insurance intermediaries, to ensure that they conduct business in a professional and transparent manner.</p>	Observed
	<p>By virtue of the CDA and an EU directive, insurance intermediaries in France are required to register with a nonprofit organization known as Organization for the Register of Insurance Intermediaries (ORIAS). Registration must be renewed each year, and ORIAS verifies that the intermediary continues to comply with conditions of registration.</p> <p>ACP conducts on-site inspections of any legal entity acting as an insurance intermediary, whether it is registered or not, and has a special unit dedicated to on-site inspection of intermediaries.</p> <p>ACP can order ORIAS to cancel the registration of any intermediary that fails to meet requirements, and has the authority to issue sanctions which range from warning to withdrawal of registration and may include imposition of fines.</p> <p>Requirements for registration as an intermediary include a fit-and-proper test, evidence of formal education to a specified level, and a minimum amount of industry experience. The French Association of Insurance Brokers has adopted a code of good conduct that governs relationships between wholesale brokers and direct brokers.</p> <p>The CDA requires disclosure. Intermediaries must disclose their relationship with the insurance company, their independence, any potential conflicts of interest, and the procedures by which a customer can register complaints.</p> <p>Intermediaries must supply an analysis of the customer's needs before any sales are made. Proposals to be issued by the European Commission in 2012 will provide customers the right to request information on the remuneration of intermediaries. Intermediaries who handle cash flows between clients and insurance companies must be bonded either by a bank deposit or an insurance policy. In addition to financial guarantees, intermediaries must also hold professional indemnity insurance.</p>	

	<p>Bancassurance</p> <p>There are no specific provisions on “bancassurance” mediation. Consequently, “bancassureurs” are submitted to the very same regulations as “ordinary” brokers. In effect, inasmuch as a part of the bancassureurs’ activity falls into the scope of insurance mediation as defined by French and EU legislations, and inasmuch as they are remunerated for this activity, bancassureurs are considered as insurance intermediaries and have to register as such. As a consequence, they have to comply with the same regulations as any other intermediary. An example of this, the bank Société Générale, which sells insurance contracts of its life subsidiary Sogecap, is registered as an insurance broker.</p> <p>Regarding on-site inspections, there is no distinction between distribution channels of insurance products. Following the “fair treatment principle,” bancassureurs are submitted to the same intensity of inspections as other intermediaries. In practice, bancassureurs are inspected, either by ACP’s staff, or by inspectors working in local branches of Banque de France, under a delegation from ACP and under its close scrutiny.</p>	
Comment	Inspectors from Banque de France collaborate with ACP officials in supervision of the distribution of insurance products through bancassurance.	
ICP 19	<p>Conduct of Business</p> <p>The supervisor sets requirements for the conduct of the business of insurance to ensure customers are treated fairly, both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.</p>	Observed
Assessment	<p>While ICP 18 sets requirements for the conduct of insurance intermediaries, ICP 19 focuses on the obligations of the industry to treat customers fairly.</p> <p>ACP has established a Business Practices Supervision department. Insurers and intermediaries must comply with general rules protecting consumers, and with specific rules that apply to insurance activities. These rules require that appropriate information and advice be given to customers, to avoid mis-selling. All insurance sales in France must be accompanied by advice. Special legal provisions include a “cooling off period” following the sale, which can be up to 14 days for nonlife insurance and 30 days for life insurance.</p> <p>ACP requires a specific annex to the Internal Control Report, including a questionnaire to be completed by the company, which outlines the company’s efforts to comply with consumer protection rules.</p> <p>ACP has recently issued several guidelines to the industry for purposes of consumer protection. Topics include:</p> <ul style="list-style-type: none"> • Marketing of unit-linked life insurance policies composed of complex financial instruments; • Advertising for unit-linked life insurance contracts; • Marketing of unit-linked life insurance contracts supported by debt securities, issued by a related entity; and • Marketing of life-insurance policies linked to funeral payment plans. 	

	<p>ACP has powers to require the modification or withdrawal of advertising which does not comply with legal and regulatory provisions. ACP and AMF cooperate in the review of advertising campaigns dealing with financial products. ACP has developed procedures to monitor advertising in diverse media, including the internet.</p> <p>ACP requires companies to provide information about complaints handling procedures in an annex to the Internal Control Report. At the present time ACP itself receives 4,000 complaints and inquiries per year, mostly related to insurance topics. ACP maintains a telephone enquiry service, which receives an estimated 50,000 calls per year.</p> <p>When a policyholder raises a complaint, ACP encourages the policyholder to attempt to resolve the problem with the insurance company as a first step. If there no resolution, the case may be referred to an ombudsperson, and the industry has identified several persons to provide this service for French insurance companies. In practice, once the ombudsperson has heard the case, he/she can render a decision which is binding on the insurance company. If the insured is dissatisfied with the outcome, the matter may be referred to a court.</p>
Comment	None
ICP 20	<p>Public Disclosure</p> <p>The supervisor requires insurers to disclose relevant, comprehensive and adequate information on a timely basis in order to give policyholders and market participants a clear view of their business activities, performance and financial position. This is expected to enhance market discipline and understanding of the risks to which an insurer is exposed and the manner in which those risks are managed.</p> <p style="text-align: right;">Partly Observed</p>
Assessment	<p>General public disclosure requirements appear in the CDC. The CDA provides considerable additional specifications regarding the details to be included in the public reports. Annually, each insurer must provide a Management Report and a Financial Report. In its Management Report, the insurer describes its business activity, strategies, capital management, and main risk exposures. Listed companies present a more detailed risk analysis. These reports are deposited with a national Registrar where they can be obtained by the general public. The CDA provides additional clarification regarding the details to be included in the public reports. Companies are expected to make copies of these reports available to members of the general public upon request.</p> <p>The CDA also requires that insurers should disclose an “<i>état détaillé des placements,</i>” which is their asset portfolio detailed line by line, with indication of purchase cost, book value, and market value of each asset (and redemption value for bonds).</p> <p>Insurers must deliver the above-mentioned documents to anyone who requests it. They could, in theory, ask in turn for a maximum fee of €0.46 (formerly 3 French Francs; Art.A.344-4 of CDA); in practice, the documents are delivered for free and is often available on the insurer’s website, This material is different from, and more comprehensive than, the financial and corporate information which must be lodged with the national office. This compulsory public information is in some aspects (e.g., investments) more comprehensive than what IAIS standards provide.</p> <p>There is no requirement that this information be disclosed on the Internet.</p> <p>Included in the Financial Report are financial disclosures, certified by auditors, which contain both qualitative and quantitative information. Specific paragraphs are reserved for the calculation and analysis of technical provisions.</p>

	<p>Each insurance company must disclose valuation methods used, assumptions made, and the actuarial policies, practices, and procedures applied. Amounts of technical reserves are shown separately for life and nonlife business. The report must also include information about financial instruments classified by type and showing valuation at cost, impairments, and market values.</p> <p>Pursuant to the CDC, reporting requirements are specified by the national authority, ensuring consistency and comparability among company returns.</p> <p>In addition to the above, listed companies must include information in their Management Report concerning ERM. For listed companies, the Management Report also includes the remuneration policies and the main characteristics of supplementary benefits for senior managers.</p> <p>Other insurance companies discuss asset management liability issues in their Solvency Report filed with the supervisor).</p>	
Comment	<p>The public does not have access to the internal control report and the solvency report. Information disclosed to the public does not include the entire package of disclosure contemplated by ICP 20 (though it is more comprehensive on some aspects). Disclosure requirements pursuant to Solvency II will be more extensive. It is recommended that ACP take a more active approach to obliging insurance companies to disclose relevant, comprehensive, and adequate information on a timely basis.</p>	
ICP 21	<p>Countering Fraud in Insurance</p> <p>The supervisor requires that insurers and intermediaries take effective measures to deter, prevent, detect, report, and remedy fraud in insurance.</p>	Observed
Assessment	<p>Fraud in insurance is covered by the generic provisions of the <i>Code penal</i>, which deal with all types of fraud including those arising from insurance. Persons found guilty of fraud may receive a jail sentence of up to five years and/or a fine of up to €375,000. These provisions are effectively applied by criminal courts in cases of insurance fraud. Other criminal offenses may also involve fraud in insurance, e.g.: forgery and use of forged documents; false testimony; destroying, defacing, or damaging property belonging to other persons.</p> <p>The CDA includes specific provisions under contract law that deal with fraudulent or bad faith behavior, and which provide for voidance of the contract in the event of reluctance to divulge pertinent information, or intentional false statements by the insured (see also articles on fraudulent over-insurance). Similarly, (fraudulent) misrepresentation by the insured when reporting a loss to the insurer entitles the insurer to invoke forfeiture (<i>“déchéance du droit à indemnité”</i>).</p> <p>Each year, insurers must submit an internal control report to ACP. This report, approved by the Board of directors or the Supervisory Board, must contain information about the main objectives, methodology, position, and organization of internal control. It must also describe ways that the main risks of the company are effectively managed. Information provided in the reports, together with information gathered at both on-site and off-site inspections, is relevant for the assessment of the risk of fraud in the insurance sector on a regular basis.</p> <p>Insurance companies have jointly created a private agency of inquiries (<i>“Agence pour la Lutte contre la Fraude à l’Assurance”</i> (ALFA – agency for the fight against fraud in</p>	

	<p>insurance) whose tasks are:</p> <ul style="list-style-type: none"> • coordinating the exchange of information between companies • conducting investigations with qualified teams of private investigators, when a insurance company needs to investigate in depth on a case; and • developing typologies of fraud. <p>The ACP carries out exchanges with ALFA on these particular matters, especially on typologies of fraud. These exchanges remain confidential, and ALFA does not publish information on the cases it investigates.</p> <p>According to Article L. 612-28 of the <i>Code monétaire et financier</i> (CMF), when an on-site investigation report mentions facts that might justify criminal prosecution, the ACP's President (after analysis by the legal department), informs the public prosecutor of the competent jurisdiction.</p> <p>To fulfill its supervisory tasks, the ACP has extensive powers and sanctions with respect to the entities and persons subject to its supervision:</p> <ul style="list-style-type: none"> • Power to initiate administrative investigations; • Power to invoke administrative measures (caveat, formal notice, remedial action program, protective measures, appointing provisional administrators), as well as disciplinary sanctions (warning, reprimand, temporary suspension, a compulsory resignation of executive managers, etc.), and/or financial penalties (up to €100 million), as appropriate. • Power to bring to the public's attention any information that it deems appropriate, without being bound by professional secrecy rules. 	
Comment	Solvency II changes will introduce the need for companies to report on "Operational Risk," which is generally presumed to include risk of fraud.	
ICP 22	<p>Anti-Money Laundering (AML) and Combating the Financing of Terrorism (CFT)</p> <p>The supervisor requires insurers and intermediaries to take effective measures to combat money laundering and the financing of terrorism. In addition, and the supervisor takes effective measures to combat money laundering financing of terrorism.</p> <p>The supervisor has a thorough and comprehensive understanding of the money-laundering/terrorism-financing risks to which insurers and intermediaries are exposed and uses available information to assess the money-laundering/terrorism-financing risks to the insurance sector in its jurisdiction on a regular basis.</p>	Observed
Assessment	<p>ACP has been designated as a competent authority for AML/CFT purposes.</p> <p>The ACP is competent to ensure that entities subject to its control comply with the rules stemming from the MFC, which include obligations relating to the Prevention of Money Laundering and the Financing of Terrorism set up by ordinance dated January 30, 2009.</p> <p>The MFC sets out the main AML/CFT obligations and the scope of application of such obligations in Article L561-2. The obligations apply to:</p>	

- insurance companies listed in the Insurance Code, as well as insurance intermediaries except those that operate under the full responsibility of the insurance company;
- institutions or unions governed by the Social Security Code; and
- mutual benefit societies and unions carrying out activities as defined in the Mutuality Code.

The scope of application of AML/CFT obligations extends beyond the institutions foreseen by the Financial Action Task Force (FATF) as it includes institutions providing nonlife insurance.

Consistent with the MFC, insurers and intermediaries must set up systems for assessing and managing risks of money laundering and terrorism financing. They must define the procedures for risk control; the implementation of due diligence on clients; the detection of unusual or suspicious transactions; compliance with the reporting obligation to the French Financial Intelligence Unit (FIU, "TRACFIN"); and implement control procedures, i.e., periodic and permanent measures to minimize the risk of money laundering and terrorist financing.

An inter-ministerial AML/CFT Advisory Board (*Conseil d'orientation de la lutte contre le blanchiment de capitaux et le financement du terrorisme*) was set up on January 18, 2010, (ACP is a full member). The advisory Board aims to:

- ensure better co-ordination between and enhance the effectiveness of government agencies and regulatory bodies in this area;
- provide professionals with better information;
- propose improvements to the national AML/CFT system; and
- co-ordinate the development and updating of a document summarizing the money laundering and terrorist financing threat.
 - As described below, each year, all financial institutions are subject to off-site and on-site controls regarding all aspects, including AML-CFT. The information collected during these controls is used by the ACP to assess the money-laundering/terrorism-financing risks to the insurance sector in its jurisdiction on a regular basis.

At the financial sector level, ACP established a Consultative Committee on AML-CFT in May 2010 in order to specify its expectations regarding the application of AML-CFT obligations. Its mission is to examine all the documents related to AML-CFT presented to the College of the ACP (consultation on regulatory texts adopted by the ACP, a special questionnaire on AML-CFT sent to insurers in 2010, general and sector-based guidelines, as well as other documents).

The questionnaire on AML-CFT, representing an essential tool of off-site controls by the ACP, was circulated to insurers in 2010 and an analysis of the responses was communicated to the ACP College in September 2011. An article regarding this analysis also has been published in the "Revue ACP," which is sent the insurance sector. The main conclusions of this analysis are employed by ACP to assess the AML/CFT risks to the insurance sector and to better understand those risks.

Moreover, the ACP organizes in collaboration with the FIU meetings with representatives from the private sector (associations and individual entities) and from national administrations (French FIU "TRACFIN") at least one a year named "*Rendez-vous LAB.*"

	<p>The most recent meeting, for insurance sector, was held in September 2011.</p> <p>ACP has established a set of nonbinding guidelines following consultation between the Consultative Committee and industry representatives. These guidelines assist insurers and intermediaries to implement and comply with their respective AML/CFT requirements and provide insurers and intermediaries with adequate and appropriate feedback to promote AML/CFT compliance. TRACFIN, the French FIU, also participates in the consultative committee.</p> <p>Insurers and intermediaries are subject to on-going and off-site monitoring. Controls are based on documents these entities are required to transmit to the ACP on a periodical basis, such as the annual internal control report (which includes a section dedicated to AML-CFT) and the periodic questionnaire on AML-CFT; interviews with the persons responsible for compliance controls systems as well as money-laundering reporting officers and other senior managements; on-site inspection reports; and other legal and public information.</p> <p>Correspondence available from files maintained by ACP confirms that inspectors raise AML/CFT issues in post-inspection reports, particularly stressing the importance of making sure that employees understand their responsibilities with respect to AML. ACP also reminds companies of their obligation to report cases to TRACFIN.</p> <p>Each year, ACP meets with TRACFIN to gather data from reports the latter has received. This facilitates the setting of schedules for on-site inspection. When ACP staff identify a problem that should have been reported to TRACFIN—but was not—ACP staff will notify TRACFIN.</p> <p>MFC requires domestic authorities supervising the financial sector to cooperate and exchange all information they may have that could be useful to the accomplishment of their respective duties, subject to confidentiality rules. ACP has signed a protocol with TRACFIN to facilitate their collaboration.</p> <p>In a similar manner, ACP is allowed to cooperate with foreign authorities who represent a state member of the EU or a party to the Agreement on the EEA. They may exchange information in order to fulfill their respective duties including, where applicable, information related to suspected or actual criminal activities, provided this information is for supervisory purposes.</p> <p>ACP is also empowered to execute cooperation agreements with other foreign entities. Information may be exchanged as required including, where applicable, information related to suspected or actual criminal activities, provided this information is for supervisory purposes. In all cases, information that is shared must be treated as confidential, applying the same considerations as would be required in France.</p>
Comment	It should be noted that a recent FATF assessment concluded that France is largely compliant with FATF recommendations.

ICP 23	Group-wide Supervision The supervisor supervises insurers on a legal entity and group-wide basis.	Observed
Assessment	<p>The CDA's Article 334 defines an insurance group broadly and subjects all firms within an insurance group to additional supervision. France has instituted the provisions of the EU Directive on insurance groups as well as the EU Directive on financial conglomerates.</p> <p>Because of the above provisions, the ACP has the authority to supervise insurance firms, parent companies, and intermediate holding companies that are part of an insurance group or financial conglomerate. So the ACP has information gathering powers, inspections powers, and other supervisory powers over these companies in such groups. This enables the ACP to obtain information and inspect nonregulated entities in such groups as well as regulated entities.</p> <p>Group-wide supervision powers enable the ACP to require intermediate holding companies to be established to hold insurance subsidiaries to enable easier supervision of insurance operations at both the solo, intermediate, and full group level.</p> <p>Group-wide supervision is supplementary to solo supervision of each French-regulated insurance entity. Group level supervisory requirements include:</p> <ul style="list-style-type: none"> • consolidated financial statements at the group level; • adjusted solvency margin requirements at the group level; and • identification of intra-group transactions. <p>ACP has developed group reporting templates for insurance groups, so group data is collected. Internal control reports and solvency reports are also required for insurance groups.</p> <p>ACP supervisors conduct group-wide analysis and prepare a summary assessment—including internal ACP ratings—for each insurance group, in addition to the solo insurance company assessments.</p> <p>Where insurance groups operate across borders, ACP participates in or chairs supervisory colleges for such groups.</p>	
Comment	Adequate and effective supervision exists for legal entities and on a group-wide basis.	
ICP 24	Macroprudential Surveillance and Insurance Supervision The supervisor identifies, monitors, and analyses market and financial developments and other environmental factors that may impact insurers and insurance markets, and uses this information in the supervision of individual insurers. Such tasks should, where appropriate, utilize information from and insights gained by other national authorities.	Largely Observed

Assessment	<p>The ACP has the power under the CMF to determine reporting templates, details, and frequency of collections and it uses these to collect regular quarterly and annual data from individual insurers and insurance groups. It also uses these where needed to collect data on an ad hoc basis across the insurance industry and for a limited range of insurers (e.g. the large market participants).</p> <p>Each half-year, a market analysis of the insurance industry is presented to the ACP College, and the main risks for the insurance sector are reported to the College on a quarterly basis. The trends and issues analyzed regularly include growth trends, profitability trends, reinsurance usage, asset mixes, and life policy interest rates declared each year. These analyses are performed to enable the College to consider what, if any, industry issues warrant specific attention through more monitoring, more detailed data collection and analysis, or even closer examination by on-site inspections of particular insurers likely to be more impacted. This fits with the ACP's mission related to financial stability, as well as prudential supervision.</p> <p>Each year the ACP also publishes a market-wide economic report covering banking and insurance issues, which discusses issues emanating from the ACP's market analyses.</p> <p>Ad hoc surveys, or horizontal reviews, of insurers have been undertaken more recently on asset counterparty risk (particularly sovereign bond exposures), cash flows of life insurers, and intra-group liquidity transactions of life insurers within banking groups. Weekly data on the cash flows of life insurers continues to be collected, as these have been unusually high for some months but are still manageable. So continuous monitoring by the ACP will remain until the situation settles down, or it is decided a further supervisory response is needed.</p> <p>The regular returns from insurers include quarterly sensitivity data, which provide the ACP insight into the individual insurer's and sector's ability to withstand certain levels of financial market shocks. This provides a powerful insight that is updated each quarter.</p> <p>During 2011, EIOPA conducted a stress test exercise and a considerable number of French insurers participated, enabling the ACP to gain further insight into the resilience of those insurers and how that compared with results across the whole of Europe.</p> <p>The ACP actively contributes to, and benefits from, EIOPA work on financial stability, especially EIOPA Financial Stability Reviews.</p> <p>Neither the ACP nor the IAIS has yet defined what is a "systemic" insurer; however, large French insurers with significant European and global operations which have the potential to have a significant impact on insurance and financial markets, are monitored and supervised closely by the ACP through both solo supervision and group supervision, including through supervisory colleges involving European and—where relevant—non-European insurance supervisors.</p>
Comment	<p>Although macroprudential surveillance is a relatively new area, the ACP has made good progress in establishing such surveillance. It is recommended that ACP continue to develop macroprudential surveillance approaches from a multi-disciplinary and cross-sectoral perspective.</p>

ICP 25	Supervisory Cooperation and Coordination. The supervisor cooperates and coordinates with other relevant supervisors and authorities subject to confidentiality requirements.	Observed
Assessment	<p>According to the Protocol on the application of Directive 98/78/EC (also known as Helsinki Protocol), the relevant competent authorities of EU Member States should form a committee of national supervisors who share the responsibility for supervision of companies and conglomerates that operate across national boundaries. The committee is referred to as the “college of supervisors” (formerly known as coordination committees). Cooperation between the authorities responsible for the supervision of insurance companies is expected as well as cooperation between those authorities and the authorities responsible for the supervision of other financial sectors.</p> <p>In regard to coordination with non-EEA supervisors, ACP is part of the IAIS MMOU, which allows for unrestricted exchange of information between members. ACP has also the authority to enter into bilateral agreements with other foreign competent authorities on the exchange of relevant information (provided that the foreign supervisor is subject to professional secrecy constraints). Given these agreements, ACP is authorized to participate in colleges of supervisors from non-European countries (the United States, for example).</p> <p>Meetings of Colleges of supervisors are held on a regular basis (usually once a year) with EEA supervisors (EEA colleges) and non-EEA supervisors (world colleges). Supervisory authorities from other financial sectors are regularly invited to the colleges of supervisors. Within these colleges, MMoUs and coordination agreements are negotiated.</p> <p>According to the Helsinki Protocol, the supervisors involved will appoint the supervisor of the Member state where the dominant insurance company is established as lead supervisor. France is lead supervisor in 16 colleges in which it participates and is a member of 11 others. As required by EIOPA in its 2012 college action plan, colleges of supervisors are expected to negotiate coordination arrangements addressing both regular concerns and any emergency situations.</p> <p>In accordance with the Helsinki Protocol, the first task of the lead supervisor is to produce an overview of the group in terms of its formal and operational structure, to carry out a risk analysis of the group environment, and to share it with the other involved supervisors. This begins with a bottom-up collection of information on elements of risk. Recent activities have focused on themes such as the assessment of group risk within conglomerates and the development of adjusted solvency margins that effectively eliminate double-gearing.</p> <p>Since the legal structure of the group may be altered as a consequence of a change in business strategy, the Helsinki Protocol requires the supervisors involved to strive for sufficient flexibility in their cooperation agreements and, if necessary adjust the supplementary supervision. This may imply a reconsideration of the composition of the colleges of supervisors, the reorganization of responsibility for the supplementary supervision, and the assignment—by agreement—of various tasks.</p> <p>In addition to the regular meetings of the colleges of supervisors, steering committees are created to address specific issues such as internal model pre-approval. Senior executives of the financial institutions that are the target of college activities will attend the respective college meeting. This presents a rare opportunity for the supervisor from a smaller jurisdiction to meet personally with the CEO of a large conglomerate.</p>	

	<p>College meetings are very formal and can involve as many as 20 or 30 delegates. With the advent of Solvency II, there will be an interest on the part of all participating supervisors in the examination of internal models.</p> <p>EIOPA has developed guidelines on the work of supervisory colleges.</p>
Comment	None
ICP 26	<p>Cross-border Cooperation and Coordination on Crisis Management</p> <p>The supervisor cooperates and coordinates with other relevant supervisors and authorities such that a cross-border crisis involving a specific insurer can be managed effectively.</p> <p>Observed</p>
Assessment	<p>General</p> <p>At the EU/EEA level, European directives—transposed in French law—set general requirements for the full cooperation among EEA supervisors. The directives cover information sharing and extend to cross-sector authorities in the case of supervision of insurance groups of financial conglomerates.</p> <p>Relating to insurance groups, Directive 98/78/EC (which sets the specific solvency requirements for insurance groups) does not include details on the organization of supervisory cooperation. As a consequence, cooperation is presently organized under the form of supervisory colleges (formerly known as coordination committees), as mandated by the Helsinki Protocol, a multilateral coordination concluded under the aegis of the former CEIOPS, supplemented by a series of detailed guidelines. The Protocol and guidelines are now implemented by EIOPA.</p> <p>In this framework, supervisory colleges meet regularly to assess the solvency of insurance groups and perform the specific solvency calculations set by the Directives. EIOPA is group supervisor for the French groups and participates in the colleges of EU/EEA groups that have subsidiaries in France.</p> <p>Crisis Management</p> <p>The general guidelines on the functioning of colleges issued in 2005 include provisions on emergency situations, in particular the setting up of an emergency plan within colleges. They were followed in 2009 by specific <i>Guidelines on Preparation for and Management of a Financial Crisis</i> that also address such issues. In particular, these guidelines take into account the MOU on Cooperation between the Financial Supervisory Authorities, Central Banks, and Finance Ministries of the European Union on Cross-Border Financial Stability of June 1, 2008.</p> <p>As required by EIOPA, in 2011, all colleges of supervisors inside EEA established an emergency plan that has been approved by each of the authorities that are members of the colleges. These plans have been extended to non-EEA supervisors in the world colleges.</p> <p>The emergency plans were independently tested by EIOPA in September 2011. Precise contact lists have been put in place and validated by all supervisors. During the test, all members of EEA supervisory colleges were contacted by EIOPA.</p> <p>According to EIOPA expectations, supervisors responsible for supervision of members of financial groups must share information with other relevant supervisors including, as a minimum, details on:</p>

- group structure (including legal, financial, and operational intra-group dependencies);
- inter-linkages between the insurer and the financial system in each jurisdiction where it operates; and
- potential impediments to a coordinated solution.

All these topics are developed during meetings of the colleges of supervisors and are updated on a regular basis. For France, this is done through the collaborative website provided by ACP when it is the group supervisor. Other means are employed when ACP is host supervisor. Pursuant to the CMF, insurers operating in France are required to provide—in a timely manner—all information needed by the ACP for the exercise of its mission. This includes any information needed for crisis management.

Regarding entities that are part of a financial conglomerate, Article 9-2 (d) of Directive 2002/87/EC on the supervision of financial conglomerates, modified by Directive 2010/78/EC (the so-called Omnibus 1 Directive) requires such entities to have *“arrangements in place to contribute to and develop, if required, adequate recovery and resolution arrangements and plans. Such arrangements shall be updated regularly.”* These provisions were required to be transposed into the laws of Member States law by 31 December 2011.

Chapter 3 of the *EIOPA Guidelines on Preparation for and Management of a Financial Crisis* address the issue of communication in the event of an evolving crisis. The responsible supervisor must inform the group-wide supervisor as soon as it becomes aware of the crisis. The group supervisor is then responsible for coordination efforts, particularly the transmission of the information inter alia to the college members, the contacts of the EIOPA crisis contact list, and—after consideration by the supervisory college—other relevant authorities (Paras. 15-18 of the guidelines).

In this framework, Chapter 4 of the *Guidelines on Preparation for and Management of a Financial Crisis* requires the group supervisor to analyze and assess the nature and impact of the crisis, and requires the college members to cooperate in helping to reach a common understanding of the crisis.

Supervisory cooperation

The EU/EEA multilateral MOU on Cooperation between the Financial Supervisory Authorities, Central Banks and Finance Ministries of the European Union on Cross-Border Financial Stability sets a general framework of requirements for coordinated action by the involved authorities and stakeholders.

In this framework, Chapter 5, sections 5.1 and 5.2 of the *Guidelines on Preparation for and Management of a Financial Crisis*, set requirements for the supervisors to cooperate in order to assess and coordinate action to manage the situation.

- In Section 5.1, Para 28 states that *“all supervisors should cooperate actively and closely in order to identify possible solutions to manage and resolve the crisis, either private or public, or a mix of them, and they should assess appropriateness of various options to the extent possible.”*
- In Section 5.2, Para.29 states that, *“in a crisis situation in an insurance group, the Lead Supervisor (group supervisor) will plan and coordinate the supervisory activities and will, in close cooperation with other authorities, coordinate the management of the situation.”* Paras. 30 to 32 state that the college should analyze the need, scope, content and conditions of the actions to be taken, and assess their application.

	Chapter 6 of the EIOPA Guidelines on preparation and management of financial crisis state that, as a general rule, the Lead Supervisor is in charge of coordinating the public communication at each stage of a crisis and details the process to be followed in this matter.
Comment	None