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Anti-money laundering and counter-terrorist financing measures

France

Mutual Evaluation Report

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Executive Summary

1. This report summarises the Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT) measures in place in France as at the date of the on-site visit from 28 June to 28 July 2021. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of France's AML/CTF system, and provides recommendations on how the system could be strengthened.

Key Findings

a) France has a good and very good understanding, respectively, of the risks regarding money laundering (ML) and financing of terrorism (FT), although this is less developed for certain supervisory authorities of designated non-financial businesses and professions (DNFBPs). The AML/CFT advisory board (COLB) ensures effective coordination at the national level. In general, national policies adequately reflect the risks identified.

b) Competent authorities regularly use financial intelligence and other relevant information. TRACFIN plays a vital role in the AML/CFT system. It is highly operational, both nationally and internationally. Its contributions to ML/TF investigations are of high quality and considerable effort is made to share advice to regulated entities.

c) Competent authorities prioritise the prosecution of high-end ML cases. They investigate and prosecute different types of ML activity, to a large extent consistent with France's risk profile, and have obtained convictions in different types of ML cases. However, stand-alone ML convictions account for fewer ML convictions than expected in view of the authorities' legal opportunities (i.e. presumption of ML) to prosecute stand-alone ML more easily since the burden of proof was reversed since 2013. In addition, France identifies potential ML cases in the course of high-risk predicate offences investigations to a certain extent. Despite an increase in staff, the lack of specialised investigators is a limitation for the system and impacts investigation timeframes, especially in complex cases.

d) France has made confiscation an overarching priority and an objective of its criminal justice policy since 2010. It has obtained very good results, depriving criminals of considerable amounts representing criminal proceeds and instrumentalities or property of equivalent value. The results are broadly consistent with ML/TF risks and national AML/CFT policies and priorities. The assessment team notes the establishment of the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) as a strong point in the system.

e) France was particularly impacted by the 2015 terrorist attacks and is very active in combating TF. It has made the fight against terrorism and its financing one of its top priorities and has obtained very good results. Prosecution, investigative and intelligence authorities collaborate effectively and in a structured manner, including for the purpose of exchanging information. Terrorism investigations systematically include a TF component.

f) France plays an active role in proposing designations to the European Union (EU) and United Nations (UN) sanction lists. It has an adequate new legislative package to implement targeted financial sanctions (TFS) for TF and proliferation financing (PF) without delay. These reforms are recent, but there was one effective example of implementation of TF-related TFS without delay since their entry into force and before the end of the on-site visit. In addition, France deprives terrorists, terrorist organisations and terrorist financiers of assets and instrumentalities related to TF activities to a large extent.

g) Authorities have taken a too broad approach to identifying the scope of not-for-profit organisations (NPOs) that are vulnerable to TF. They have applied targeted measures for humanitarian NPOs receiving government grants, which represent a small part of the at-risk sector. Authorities have demonstrated their ability to detect some NPOs through other intelligence-based measures and apply control measures of a general nature to all NPOs. These measures, although not tailored to TF risk, offer the possibility of mitigating the risk of NPOs being abused for TF.

h) The understanding of ML/TF risks of financial institutions (FIs) and virtual assets services providers (VASPs) is generally good. For DNFBPs, understanding varies depending on the maturity of the sector. Client identification protocols are in place for FIs, but implementation remains a challenge for payment and e-money service providers (EPs and EMEs). DNFBPs' level of compliance with their obligations has improved, although the efforts of real estate agents and business service providers need to be strengthened and those of notaries and lawyers need to be maintained. For FIs and DNFBPs, relatively long delays in the implementation of obligations regarding Suspicious Transaction Reports (STRs) and TFS measures, as well as limitations in the identification of beneficial owners (BOs) were noted.

i) The supervisory strategy of the Prudential Control and Resolution Authority (ACPR) is based since 2018 on a robust methodology with few noticeable areas for improvement. For the Financial Markets Authority (AMF), the risk-based approach was formalised in 2020 without yet extending to all sectors. For most DNFBPs, risk-based AML/CFT supervision is still recent and remains insufficient for certain sectors, particularly real estate agents and notaries, that are involved in a real estate sector exposed to significant ML risks.

j) Efforts to improve transparency through the publication of detailed information on legal persons (except for associations) are notable, in particular the establishment of the publicly accessible register of beneficial owners (RBO) and registers on legal arrangements accessible by competent authorities. Measures to verify BO information by the registrars of the commercial courts (GTCs) are rigorous, but should be reinforced through the notification by the FIs/DNFBPs/authorities of any discrepancies encountered.

k) France has a conventional framework and a domestic infrastructure that allows it to provide mutual legal assistance (MLA) in criminal matters of good quality. The majority of MLA in criminal matters is provided directly from magistrates to magistrates, especially within the framework of the EU. While statistics on the time to execute such requests, the offences on which they are based and the results obtained are not available, France was able to demonstrate the overall effectiveness of mutual assistance by other means. In addition, competent authorities, in particular TRACFIN and law enforcement authorities, make extensive use of informal cooperation.

Risks and general situation

2. France faces a broad and substantial range of ML risks, mainly from abroad and less frequently domestically, from the proceeds of offences committed in France. To a lesser extent, it is exposed to ML risks in France from the proceeds of offences committed abroad, particularly with regard to violations of integrity offences (in particular *ill-gotten gains*). The assessment team also considered the risks specific to French Overseas Territories (OM), although the magnitude of these appears low compared to the overall risks in France.

3. In relation to ML, France is considered particularly exposed to threats related to tax fraud, social security fraud (e.g. fraud linked to social benefits or contributions) and customs fraud (e.g. fraud linked to customs duties and value-added tax (VAT)), in addition to scams and theft. Drug trafficking is another main ML threat and uses a large number of international ML channels. France is also exposed to two major ML threats involving smaller financial volumes but with a major societal impact: human trafficking, which essentially takes the form of sexual exploitation by organised networks and aid to illegal immigration; as well as violations of integrity offences including corruption, both active and passive, in particular the laundering of the proceeds of corruption by domestic and/or foreign politically exposed persons (PEPs).

4. Since the terrorist attacks of 2015, the "Islamic State" terrorist group (IS) has posed a high-level threat of attacks within the country. TF channels have remained relatively unchanged over recent years. The resources collected in France are mainly through micro financing. The flows from France to conflict zones are based on financing via networks of fundraisers, prepaid cards, virtual assets and to a lesser extent the use of the non-profit sector.

Overall level of effectiveness and technical compliance

5. France has put in place an AML/CFT system that is effective in many respects. It obtains very good results in the area of TF investigations and prosecutions, the confiscation of proceeds of crime, and cooperation at the international level. Particularly satisfactory results are obtained in the areas of assessment and understanding of ML/TF risks; ML investigations and prosecutions including the use of financial intelligence and other information; transparency of legal persons; and preventing terrorists and financers and those involved in proliferation from raising, moving and using funds, and from abusing the NPO sector. However, major improvements are needed in order to improve supervision and the implementation of preventive measures (especially for DNFBPs).

6. From a technical compliance standpoint, France benefits from a robust and sophisticated AML/CFT legal framework. Since its third-round evaluation, it has undertaken many reforms and improvements. Following major political and media cases, it has reinforced its arsenal of repressive measures to facilitate criminal prosecution and conviction for ML. Among other innovations, some of which stem from the transposition into domestic law of the last two European AML directives, the assessment team warmly welcomes, in particular, the following. *At the law enforcement level* – the establishment of the National Financial Prosecutor's Office (PNF) and the National Anti-Terrorism Prosecutor's Office (PNAT), the significant introduction of the legislative "basic presumption of criminal origin of assets or income" in 2013, and the reform of the confiscation mechanism and the establishment of the AGRASC. *At the preventive level* – the legislative reform concerning the implementation of TFS under the UN Security Council Resolution (UNSCRs), the extension of the scope of the sectors subject to AML/CFT requirements, the reinforcement of risk-based supervision by the ACPR and the AMF and the establishment of the RBO. Nevertheless, moderate shortcomings are still observed in certain areas: due diligence obligations relating to PEPs, enhanced measures for correspondent banking relationships and the regime applicable to NPOs at TF risk.

Assessment of risk, coordination and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)

7. France has a good and very good understanding of the risks regarding ML and TF respectively, as reflected in the 2019 national risk assessment (NRA), reports from TRACFIN and SIRASCO, and certain sectoral risks analyses (SRA). This level of understanding is generally shared by all competent authorities, but is less developed for some DNFBP supervisory authorities. In addition, the assessment of risks for certain sectors and activities (real estate, virtual assets and cash) and threats (corruption) must be deepened.

8. National policies are mainly implemented through the adoption of thematic action plans. France pays particular attention to CFT issues and has achieved compelling results. In general, law enforcement policies and activities adequately reflect the identified risks. However, the allocation of resources dedicated to ML in local and OM investigation services, as well as in judicial investigations, remains necessary to effectively conduct ML investigations. Although the consideration of ML/TF risks by financial sector supervisors is good, it is more recent with regard to DNFBP supervisory authorities and needs to be further developed.

9. The COLB ensures effective cooperation and coordination at the national level. The authorities also cooperate bilaterally. However, cooperation between authorities responsible for supervising the same DNFBP sector still needs to be further developed. With regard to PF, co-operation between competent authorities is ensured by the General Secretariat for Defence and National Security (SGDSN).

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.3, 4, 29–32)

Use of financial intelligence

10. France regularly uses financial intelligence and other relevant information to investigate ML cases, associated predicate offences and TF, and to trace the proceeds of crime. TRACFIN plays a key role in enriching financial intelligence courtesy of the various sources of information to which the financial intelligence unit (FIU) has access and its internal processing system, STARTRAC.

11. TRACFIN receives a substantial number of STRs and other relevant information. It has access to a large number of databases and makes extensive use of its right to obtain information from regulated entities and other competent national authorities, in particular through its liaison officers. However, not all of the available information is exploited in an optimal manner and there could be a further increase in the dissemination of information.

12. TRACFIN produces high-quality, in-depth operational analyses that meet the needs of competent authorities. In addition, it develops strategic analyses, mainly in the form of typologies, which help to improve the understanding of risks.

Investigation and prosecution of ML

13. While France identifies ML cases only to a certain extent, it is very active in investigating complex and highly complex ML cases, with an average of 1 100 investigations, 1 700 persons prosecuted and 1 300 convictions for ML per year. The authorities favour a "top-down" approach in prioritising the pursuit of high-end ML cases. The majority of ML investigations are handled by specialised investigation and prosecution authorities, with inter-regional or national jurisdiction depending on the complexity of the cases.

14. ML investigations and prosecutions are largely consistent with the identified risk profile (tax fraud, scams, drug trafficking) and national AML policies. However, the number of ML cases related to corruption and human trafficking is low. The authorities prosecute and obtain convictions for the different types of ML (stand-alone ML, self-laundering, third-party ML and ML based on a foreign predicate) to a large extent. However, stand-alone ML accounts for fewer ML convictions than expected (15%), in view of the legal possibility opened to authorities in 2013 to prosecute this type of ML more easily with the introduction of the presumption of ML.

15. The investigative and prosecution authorities have adequate financial and technical resources to identify and investigate ML cases. However, despite an increase in staff, the lack of specialized investigators, in particular in local and OM investigation services and in judicial investigations is a limitation for the system and impacts on investigation timeframes, especially in complex and highly complex cases.

16. The sanctions imposed are generally effective, proportionate and dissuasive. The courts use the full range of penalties and hand down severe sentences in the most complex cases.

Confiscation

17. France has made the seizure and confiscation of the proceeds and instrumentalities of crime and property of equivalent value one of its overarching priorities, and this has remained an objective of its criminal justice policy since 2010. Criminal policy aims to identify criminal assets as early as possible in the investigation to optimize their seizure. The establishment of AGRASC is a strong point in the system, providing significant support to the judiciary and investigative services in the execution of national and international seizures and confiscations. The judicial investigation authorities systematically conduct asset investigations. Proceeds investigations follow a "top-down" approach, according to which the investigations are more in-depth where the value of the proceeds or instrumentalities is high and the existence of seizable assets appears likely.

18. France has successfully deprived criminals of considerable amounts representing criminal proceeds and instrumentalities or property of equivalent value (EUR 4.7 billion per year) using various measures, including confiscation, deferred prosecution agreement (CJIP), tax penalties and repatriation of proceeds moved to other countries. These results are broadly consistent with national AML policies and priorities and the risks identified in the NRA. In addition, the authorities are active in identifying proceeds located in a foreign country and following up on foreign requests for the identification of assets in France. However, the number of cases and the relative amounts of proceeds repatriated and shared with other countries are not yet significant but are just starting to increase.

Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5–8, 30, 31 & 39.)

TF investigations and prosecutions

19. France has made combating terrorism –and its financing– one of its major priorities. The legal and operational CFT measures in place, as well as increased staff numbers, allows it to effectively address the risk of terrorism and TF in a co-ordinated manner. France's law enforcement activities are in line with its TF risk profile, especially through actions to counter the micro financing of terrorism by means of fund-raisers. Between 2016 and 2020, France investigated 172 cases of TF, resulting in the conviction of 95 persons for TF, including one legal person.

20. The PNAT, which has more than doubled its staff since 2014, effectively conducts TF investigations, coordinating with the intelligence services. Investigations into terrorism systematically include a TF component. Similarly, information from TF investigations is systematically integrated into counter-terrorism strategies and investigations.

21. France actively prosecutes TF cases against natural persons and, to a lesser extent, against legal persons. This appears consistent with the relatively low risk of a legal person being involved in TF in France. Sanctions imposed by the courts are effective, proportionate and dissuasive. Concomitant measures or alternatives to sanctions are also used (e.g. dissolution of NPOs, freezing of assets, measures to combat radicalisation).

Preventing terrorist from raising, moving and using funds

22. France plays an active role in proposing designations on the EU and UN TFS lists. France is depriving terrorists, terrorist organisations and their financiers of their assets to a large extent and by various means, especially asset freezing measures and confiscation decisions. These actions are largely consistent with France's overall TF risk profile as identified in the NRA. Between 2016 and May 2021, France froze around EUR 1.7 billion of assets belonging to persons and entities (including NPOs) designated in the national and EU TFS regimes.

23. The French legal system enables the implementation of TF-related TFS under the UNSCRs. Implementation is achieved through EU and national regimes which were sometimes subject to delays, up to 2020, due to the need to adopt a national order. To overcome these delays, a legislative reform entered into force in February 2021 allowing the implementation of TFS without delay. These reforms are recent, but there was one effective example of implementation of TF-related TFS without delay since their entry into force and before the end of the on-site visit.

24. Regarding the risk of using NPOs for TF purposes, the team notes some deficiencies, including the identification of an excessively broad range of NPOs as vulnerable to TF, an inability to list the exact number of associations in each category identified as at-risk, and a lack of awareness-raising in the sector. The authorities apply targeted CFT measures to a small part of the at-risk sector, and apply control measures of a general nature to all NPOs, which can help to mitigate the risk of NPOs being abused for TF. Moderate improvements are required in this area.

Financial sanctions related to the financing of proliferation

25. The French legal system, as well as the EU and international systems, allows for the implementation of TFS under UNSCRs to counter PF. Notably, France has played an active role in proposing listings at the EU level in response to the North Korean nuclear crisis. As in the case of TF-related TFS, some delays in implementation were observed until the end of 2020, an issue which has since been rectified by the introduction of a legislative reform enabling implementation without delay.

26. France has identified threats from different forms of proliferation (i.e., weapons of mass destruction, chemical and nuclear weapons) and has long been effective in undertaking actions aimed at thwarting attempts to circumvent PF-related TFS.

27. Regulated entities' understanding of and compliance with their freezing obligations is variable. In particular, it is not systematic in small FI/DNFBP entities and some DNFBPs do not even apply it. Monitoring by supervisors to ensure the compliance of these entities proved satisfactory, but some limitations were noted for certain FIs and for DNFBPs. Less awareness raising is carried out in the DNFBP sector. Therefore, moderate improvements are needed in this regard.

Preventive measures (Chapter 5; IO.4; R.9–23)

28. In general, FIs have a good understanding of their ML/TF risks, although the understanding by some smaller FIs seems to be limited to the conclusions of the NRA and SRAs. On the other hand, the understanding of risks is only average among DNFBPs: it is still inadequate among real estate agents and business service providers, needs to be developed for notaries, and is satisfactory for lawyers. A similar observation applies to the implementation of risk classification tools and adapted measures.

29. FIs generally have a good understanding of AML/CFT obligations. At the level of financial groups, the integration of due diligence procedures varies among foreign subsidiaries, but recent efforts to improve internal controls have been noted. For DNFBPs, implementation of these obligations is variable but is tending to improve. However, important gaps remain between the various sectors; legal and accounting professionals generally have a higher level of implementation than real estate agents and business service providers.

30. Most FIs and DNFPBs endeavour to identify the BO of their customers, but mainly focus on capital control and in some cases refer only to the RBO to verify the information. Large FIs and DNFBPs rely on commercial lists or automated tools to implement TFSs, and to identify PEPs. Smaller DNFBPs are insufficiently equipped to identify PEPs. For some FIs, implementation of the freezing measure may take effect more than 24 hours after the listing and few measures seem to be in place to avoid making funds or other assets available indirectly to TFS designated persons or entities.

31. In general, FIs properly fulfil their reporting obligations. Apart from notaries, casinos and online gaming operators, DNFBPs still submit too few STRs. The need to improve the quality of these reports has also been highlighted by TRACFIN. For FIs and DNFBPs alike, the average reporting time appears to be relatively long and, in some cases, the reports are subject to managerial approval.

32. VASPs seem to have a good understanding of the ML/TF risks to which they are specifically exposed and have taken steps to fulfil their obligations. Some problems were noted in the application of the 'travel rule' and the introduction of internal control structures. However, given they have only recently become regulated entities, it is still difficult to fully assess the effectiveness of their preventive measures.

Supervision (Chapter 6; IO.3; R.26–28, 34, 35)

33. In the financial sector, the understanding of ML/TF risks by the supervisory authorities began to be formalised and refined from 2016 onwards, and became more established with the adoption of the NRA and SRAs in 2019. The licensing requirements by the ACPR and the AMF involve verification of whether the effective managers of FIs are fit and proper. However, verification does not apply in the same way to all management functions across the financial sector.

34. The deployment of the SABRE tool in 2018 enables the ACPR to implement a more granular risk-based AML/CFT supervision that considers the inherent risks as well as the results of desk-based supervision. However, the consideration of the risks of subsidiaries of French FIs established abroad does not seem sufficiently informed. Risk-based supervision by the AMF, which is more recent, is also based on the results of the NRA. The intensity and frequency of onsite inspections for IFs is generally well informed on the basis of risks for the sectors of greater importance, with improvements needed to allow the coverage of more FIs at higher risk over a shorter period.

35. The authorities have a good understanding of the VASP sector. Registration requirements continue to be refined in consultation with the regulated entities. The risk-based approach is under development. Some inspections have already been carried out since December 2020, but it is still too soon to measure the effectiveness of the implementation of the AML/CFT system in this recently regulated sector.

36. DNFBPs supervisory authorities have been designated and regulatory measures are in place. The quality of DNFBPs supervision still needs to be improved, in particular in light of the higher risks identified for certain DNFBPs. The risk-based approach – when it is in place – was implemented recently (after 2019) and its effectiveness has yet to be demonstrated.

37. Supervisors have access to a wide range of disciplinary or financial sanctions. The ACPR uses these sanctions primarily to punish the most serious deficiencies, which may even result in the closure of an establishment and significant financial sanctions. Between 2015 and 2020, 39 sanctions were imposed by the ACPR sanctions commission, including financial sanctions exceeding a total of EUR 100 million. For the AMF, the sanction system, although technically satisfactory, suffers from cumbersome procedures which significantly reduces its effectiveness and has only led to one sanction since 2016, without any repressive aim. The operational implementation of sanctions by DNFBPs is even more limited.

Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)

38. France has a good understanding of the ML/TF risks associated with legal persons, although it would benefit from more depth in some respects. The GTC's work and their good cooperation with TRACFIN allow France to identify new typologies that could ultimately help improve the detection of cases of abuse.

39. Efforts to improve transparency through the publication of detailed information on legal persons (except associations) are notable, in particular the establishment of the publicly accessible RBO in 2017 and of registers on legal arrangements accessible by competent authorities. Measures to verify companies' BO information by GTCs are rigorous, but should be reinforced through the notification by FIs/DNFBPs/authorities of any discrepancies observed. For associations, foundations and endowment funds, the lack of verification of information in registers or collection of information on BOs, as well as the limited publication of information limits transparency efforts.

40. The use of multiple mechanisms for accessing information on legal persons allows authorities to overcome some of the weaknesses of the different registers, but slows down access to this information. In relation to legal arrangements, although the use of *fiducies* and trusts is not widespread in France, the competent authorities access basic and BO information of the latter through FIs/DNFBPs and the various registers although the accuracy of the trust register is difficult to insure. The sanctions regime, which favours *ex officio* deregistration, must be implemented in a more dissuasive manner to support the efforts for transparency of legal persons.

International co-operation (Chapter 8; IO.2; R.36–40)

41. International cooperation is an important issue in France in the AML/CFT context. France is mainly exposed to the risk of illicit proceeds generated on its own territory being laundered abroad, and to a lesser extent in some high-risk sectors (e.g. luxury real estate and luxury goods), and to ML risks in France from offences committed abroad (e.g. *ill-gotten gains* cases). France also faces a high TF threat, with logistical support from abroad. France's international co-operation also focuses to a large extent on the identification, seizure and confiscation of criminal assets abroad.

42. France has a conventional framework and domestic infrastructure that provides for effective responses to MLA requests. Most MLA occurs within the EU, directly from magistrate to magistrate. The quality of the mutual assistance provided by France is good. As the authorities keep no detailed statistics on intra-EU exchanges, it is difficult to precisely evaluate the execution time frames, the results obtained and their compatibility with the risk profile (predicate offences). While the lack of data poses challenges, France was able to demonstrate by other means the overall effectiveness of mutual assistance provided and requested. Delays were noted in the processing of some extradition requests. Incoming and outgoing international co-operation regarding the identification and exchange of information on legal persons and arrangements seems to be functioning effectively.

43. France makes extensive use of informal cooperation at all levels. Consequently, TRACFIN collaborates with its foreign counterparts on a regular basis, in line with the main threats identified. Although some delays have been noted, the quality of the co-operation provided is good. Police and customs make active use of their informal co-operation mechanisms, via joint investigation teams (JITs), police *attachés* and also through Interpol/Europol. Supervisory authorities co-operate and exchange information with their counterparts and also organise supervisory colleges (including on AML/CFT).

Priority Actions

France should :

a) Improve efforts to supervise DNFBPs, by making sure that:

- The CSN, the DGCCRF and the CSOEC conduct a more in-depth analysis of the specific risks within their sectors and by type of entity;
- All DNFBPs supervisors align the intensity and frequency of controls according to risks and DGCCRF formalises, and be afforded with the required resources to, implement a risk-based control strategy;

- DGCCRF implements broader awareness-raising measures to reach all entities within its sectors.
- The role of the CSN as a supervisory authority for the notarial profession is confirmed in order to centralise the various exchanges and data and to amplify the efficiency and granularity of the inspections of notaries.

b) Implement the necessary measures to increase all DNFBPs' awareness of their AML/CFT obligations, especially related to the understanding of the concept of BO, the identification of PEPs and the scope of their obligation to submit STRs. Actions should be undertaken more generally to improve the quality of STRs and reduce the reporting delays of STRs as well as the delays in the implementation of TFS.

c) Continue to implement strategies relating to the application of the presumption of ML across all prosecuting authorities.

d) Increase the number of specifically trained and dedicated staff to combat ML, especially in local investigation departments, in OM, and for judicial investigations.

e) Provide GTCs with tools to verify the authenticity of documents recorded in the RCS and RBO, while continuing to raise awareness among FIs/DNFBPs of their obligation to report any discrepancies between the collected information and the information recorded in the register.

f) Extend requirements relating to fit and proper checks to all senior management posts and BOs, in line with the FAFT Recommendations and lift any restrictive regulatory provisions in the implementation of enhanced due diligence for PEPs, especially when they have left their position for more than one year.

g) Ensure that basic and BO information on associations, foundations and endowment funds is accurate, up-to-date and made available to the competent authorities, in particular by continuing to modernize the national directory of associations, taking measures to verify the accuracy of information and considering the establishment of a register for foundations and endowment funds.

h) Carry out a more in-depth assessment of the risks of TF abuse in the NPO sector, taking account the threats and vulnerabilities linked to associations' activities, especially the different measures applicable to each type of NPO, the type and area of activity, and on this basis apply a RBA to monitoring NPOs identified at higher risk of TF abuse.

i) Refine its analyses of the risks associated with certain sectors (real estate), activities (cash and virtual assets) and threats (corruption), with a more detailed examination of the available data, including in OM, in its next NRA and develop SRAs that better take into account specific features relating to different sectors, in particular with regard to DNFBPs.

j) Ensure that all competent authorities, and especially the COLB, continue their efforts to improve the collection and/or maintenance of statistics, and continue to centralise these statistics in order to enable the assessment of the impact of the various AML/CFT policies and strategies, especially with regard to seizures, confiscation, and mutual legal assistance (notably inter-EU).

Effectiveness & Technical Compliance Ratings

Table 1. Effectiveness Ratings

IO.1 - Risk, policy and co-ordination	IO.2 International co-operation	IO.3 - Supervision	IO.4 - Preventive measures	IO.5 - Legal persons and arrangements	IO.6 - Financial intelligence
Substantial	High	Moderate	Moderate	Substantial	Substantial
IO.7 - ML investigation & prosecution	**IO.8 - Confiscation**	**IO.9 - TF investigation & prosecution**	**IO.10 - TF preventive measures & financial sanctions**	**IO.11 - PF financial sanctions**	
Substantial	High	High	Substantial	Substantial	

Note: Effectiveness ratings can be either High- HE, Substantial- SE, Moderate- ME, or Low – LE, level of effectiveness.

Table 2. Technical Compliance Ratings

R.1 - assessing risk & applying risk-based approach	**R.2** - national co-operation and co-ordination	**R.3** - money laundering offence	**R.4** - confiscation & provisional measures	**R.5** - terrorist financing offence	**R.6** - targeted financial sanctions – terrorism & terrorist financing
LC	C	C	C	C	LC
R.7- targeted financial sanctions - proliferation	**R.8** -non-profit organisations	**R.9** – financial institution secrecy laws	**R.10** – Customer due diligence	**R.11** – Record keeping	**R.12** – Politically exposed persons
C	PC	C	LC	C	PC
R.13 – Correspondent banking	**R.14** – Money or value transfer services	**R.15** –New technologies	**R.16** –Wire transfers	**R.17** – Reliance on third parties	**R.18** – Internal controls and foreign branches and subsidiaries
PC	C	LC	LC	C	LC
R.19 – Higher-risk countries	**R.20** – Reporting of suspicious transactions	**R.21** – Tipping-off and confidentiality	**R.22** - DNFBPs: Customer due diligence	**R.23** – DNFBPs: Other measures	**R.24** – Transparency & BO of legal persons
LC	LC	C	LC	LC	LC
R.25 - Transparency & BO of legal arrangements	**R.26** – Regulation and supervision of financial institutions	**R.27** – Powers of supervision	**R.28** – Regulation and supervision of DNFBPs	**R.29** – Financial intelligence units	**R.30** – Responsibilities of law enforcement and investigative authorities
LC	LC	C	LC	LC	C
R.31 – Powers of law enforcement and investigative authorities	**R.32** – Cash couriers	**R.33** – Statistics	**R.34** – Guidance and feedback	**R.35** – Sanctions	**R.36** – International instruments
C	LC	LC	C	C	C
R.37 – Mutual legal assistance	**R.38** – Mutual legal assistance: freezing and confiscation	**R.39** – Extradition	**R.40** – Other forms of international co-operation		
C	C	C	LC		

Note: Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC - partially compliant or NC – non compliant

MUTUAL EVALUATION REPORT OF FRANCE

Preface

This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system, and recommends how the system could be strengthened.

This evaluation was based on the 2012 FATF Recommendations, and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the assessment team during its on-site visit to the country from 28 June to 28 July 2021.

The evaluation was conducted by an assessment team consisting of:

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- Mr Elie Kallas, Col., Lebanese National Gendarmerie (representative of Middle East and North Africa Financial Action Task Force (MENAFATF));
- Ms Virpi Koivu, Senior Ministerial Advisor, Unit for EU law and data protection, Ministry for Justice, Finland;
- Mr Aubin M'bosso, Head of the Specialised Controls and Cross-Cutting Analyses Department, COBAC (representative of Central Africa Task Force against Money Laundering (GABAC));
- Mr Gérard Sautebin, Federal Prosecutor, Head of AML, Public Prosecutor's Office of the Confederation, Switzerland;
- Mr Tony Shiplee, Head of Unit, Supervision Department, Jersey Financial Services Commission;
- With the support of Ms Masha Rechova, Ms Rana Matar and Ms Sabrina Lando, Policy Analysts, FATF Secretariat.

The report was reviewed by Ms Marion Ando (United Kingdom), M. Carlos Sarmento (Portugal) and MONEYVAL Secretariat.

France underwent a FATF Mutual Evaluation in 2011, conducted according to the 2004 FATF Methodology. The 2011 evaluation is available at: www.fatf-gafi.org/publications/mutualevaluations/documents/mutualevaluationoffrance.html

That Mutual Evaluation concluded that the country was: compliant with nine Recommendations; largely compliant with 29; partially compliant with 10; and non-compliant with one. France was rated compliant or largely compliant with 14 of the 16 Core and Key Recommendations. For this reason, France was not placed under the follow-up process but did submit updates every two years starting in February 2013.

Chapter 1. ML/TF RISKS AND CONTEXT

44. With a total land area of 643,801 km^2 (including in OM), France is the largest country in Europe (excluding Russia). Metropolitan France has both maritime[1] and land[2] borders. The French maritime port system consists of 12 State seaports, including Le Havre and Marseille, which, as the third port in the Mediterranean, is a major player in international trade.

45. France is one of the six founding member countries of the EU. It also has a large maritime domain composed of territories, mainly islands, located outside Europe, which enables France to be present in the three largest oceans on the planet and share borders with Brazil, Suriname and Saint-Martin (Netherlands).[3]

46. On 1st January 2021, France had a population of over 67 million inhabitants, 97% of whom live in Metropolitan France. France therefore ranks 22nd worldwide and 2nd in the EU (behind Germany).

47. France is divided into different administrative levels: 101 departments, 13 regions in Metropolitan France and 4 in OM. See Box 1.1 on OM.

48. France's legal system is based on a civil law tradition. The Constitution in force in France is that of the Fifth Republic (1958). France is a parliamentary democracy, headed by the President of the Republic, elected by direct universal suffrage, with a government accountable to Parliament (made up of the National Assembly and the Senate).[4] It should be noted that the Constitutional Council has not only a consultative role but also monitors the constitutionality of legislation.

ML/TF risks and scoping of higher-risk issues

ML/TF risks

49. This part of the report summarises the assessment team's understanding of ML/TF risks in France. It is based on the documents provided by France,[5] documents which are publicly accessible, and discussions with the competent authorities and the private sector during the on-site visit.

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1 France is bordered by the North Sea to the north, the English Channel to the north-west, the Atlantic Ocean to the west and the Mediterranean Sea to the South-East.

2 France shares borders with 8 countries (Belgium, Luxembourg, Germany, Switzerland, Italy, Monaco, Spain and Andorra)

3 On the South-American continent and in the Atlantic Ocean: French Guiana, Guadeloupe, Martinique, Saint-Pierre and Miquelon, Saint-Martin and Saint-Barthélemy; in the Pacific Ocean: French Polynesia, New Caledonia, Wallis and Futuna; in the Indian Ocean: Reunion Island, Mayotte and the French Southern and Antarctic Lands;

4 For more details on the administrative and constitutional organisation of France, see paras. 84-87 of the 2011 MER.

5 The main documents consulted are described at the top of each Immediate Outcome.

50. France faces a broad and substantial range of ML risks, primarily from abroad and less frequently domestically, from the proceeds of offences committed in France. To a lesser extent, it is exposed to risks of laundering in France of proceeds of offences committed abroad, particularly with regard to integrity offences (e.g. the cases of "*ill-gotten gains*"[6]). France is considered to be particularly exposed to threats related to tax fraud, social fraud (e.g. benefits or social contributions fraud) and customs fraud (e.g. fraud associated with customs duties and VAT), in addition to scams and theft. These ML risks are present in both Metropolitan and OM, although there are considerable difference in terms of financial volumes (amounts laundered, seized, confiscated) (see Box 1.1). The authorities have also identified the laundering of illicit proceeds through virtual assets

51. Drug trafficking (in particular cannabis and cocaine) is another major ML threat, using a large number of laundering vehicles on an international scale. France is an area of consumption (with a market worth €3.5 billion in total) but it is also ideally located to act as a transit zone towards other countries. France's maritime access to the Atlantic and the Mediterranean, its port and airport infrastructure, the freedom of movement throughout the EU zone – especially into Spain, but also via the extra-EU borders and the overseas borders (e.g. the French West Indies and French Guyana for cocaine – see Box 1.1) are factors of major inherent vulnerability. In terms of typology, recent investigations have highlighted the laundering of the proceeds of drug trafficking through the purchase of virtual assets and the use of crowdfunding platforms.

52. France is also exposed to human trafficking and corruption, both active and passive[7]. In particular, TRACFIN has identified the laundering of the proceeds of corruption by PEPs and the bribery of foreign public officials involving French companies as major threats requiring increased vigilance. This exposure has also materialised over the last five years with the media coverage of important cases relating to acts of national violations of integrity in which the proceeds are subsequently laundered via international transactions, and acts of corruption committed abroad in which the proceeds are invested in France, especially via the acquisition of real estate (see Box 3.18 – Case O).

53. France is exposed to a high level of terrorism and the threat of TF, and has been the target of several terrorist acts since 2015. Notably, the IS terrorist group poses a high and constant level of threat to the national territory. The threat is also linked to individual members of jihadist terrorist groups returning to France from conflict zones. The TF vehicles are well known and have changed little in the last few years. The resources collected in France are mainly from micro financing (e.g. misappropriation of social benefits, resources derived from common crime). The financial flows received by jihadists in combat zones are based on financing via fund-raising networks and other innovative funding methods (pre-paid cards, virtual currencies) and to a lesser extent, the non-profit sector.

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6 So-called "ill-gotten" assets commonly refer to assets acquired illegally by foreign political figures or their relatives, following acts of corruption, embezzlement or other economic offenses initially committed in their countries of origin.

7 The NRA (2019) includes corruption from the perspective of violations of integrity. As well as corruption, it is used to refer to other similar offences such as trafficking in influence, corruption, illegal taking of interest, misappropriation of public funds, misuse of corporate funds and favouritism.

54. The technological transformation of the booming financial sector and the arrival of new fully digital products and virtual assets has also created new vulnerabilities in France. The cross-border nature of these new services and the complete digitalisation of business relationships also continues to pose constantly changing challenges, especially in a context in which the use of these new services is becoming increasingly apparent in ML and TF cases.

France's risk assessment and scoping of higher-risk issues

55. France completed its second national risk assessment process in September 2019 with the adoption of the NRA. Work on the NRA was overseen by the COLB. The NRA is based mainly on reports produced by TRACFIN, supervisory authorities, prosecutorial authorities and investigative services, and also on analyses by the French organised crime information, intelligence and strategic analysis unit (SIRASCO).

56. The NRA was developed within the COLB from 2016 to 2019, through the establishment of nine working groups covering sectoral and transversal threats and vulnerabilities. They used both quantitative sources (law enforcement statistics relating to suspicious transaction reports and information held by TRACFIN, inspections, questionnaires, etc.) and qualitative sources (typologies, ML or TF cases, supervisors' knowledge of their covered entities, public and internal reports by TRACFIN, SIRASCO and other non-state institutions). A risk rating was developed, taking account of the threat level and the estimated and residual vulnerabilities after mitigating measures. However, the assessors noted that consideration of residual vulnerability in the risk rating was not sufficiently detailed, which could affect interpretation of the data (see para 87 and 88).

57. The NRA – itself providing a rather global perspective – is broken down in more detailed form using SRAs or geographic risk assessments of OM (see RI.1 for a more detailed evaluation). The degree of detail is not the same for all SRAs; in some cases, the authorities were able to refine their assessment of ML/TF risks (especially FIs), while others did not go into sufficient detail (see CI.3.2).

58. The NRA and the majority of SRAs are public documents. With the exception of NPOs, the private sector was involved in producing these analyses. Publication was accompanied by training and an extensive awareness-raising campaign. However, some SRAs were not disseminated systematically, which partly impacts the understanding of risks in some DNFBPs.

59. In their preparatory work, the assessors identified several topics requiring additional attention. To do this, they analysed the ML and TF threat assessments presented by the French authorities in the NRA and took note of the information available on the legal and institutional environment and the context of ML/TF risk in France, including points of potential vulnerability.

60. Particular attention was paid to the following issues during the on-site visit, and this is reflected in the analysis in the report:

- *Understanding of the risks and implementation of a coordinated risk-based approach* in a context of multiple stakeholders and a vast territorial jurisdiction, in both Metropolitan and OM– in particular the quality of risk identification and analysis and the level of understanding of these risks, including in OM; alignment of the national AML/CFT strategy with the

identified risks; and consistency of the competent authorities' and self-regulatory bodies' sectoral policies and operational activities.

- Supervision of a highly interconnected financial system (banking and insurance) that is dominated by large financial groups with a strong presence abroad – especially the effectiveness of supervision – in the context of the European passport – of institutions in other EU Member States or those party to the European Economic Area (EEA)[8] agreement and FIs with international stature; and cooperation between supervisory authorities at national, EU/EEA and international levels.
- *Vulnerabilities and transparency of legal persons in relation to ML* – in particular the different stakeholders' understanding of the opportunities for abuse by legal persons; the regulation and supervision of business service providers (especially lawyers and domiciliary companies); access to information on BO; measures taken to ensure the transparency of companies and associations; and the use of financial intelligence to identify any abuse of companies engaged in an actual economic activity.
- *Repression on the laundering of the proceeds of cross-border crimes and asset recovery* – in particular the national and international cooperation efforts by law enforcement authorities and TRACFIN; the effectiveness of prosecution by legal authorities in light of the challenges resulting from the cross-border nature of the crimes; and the effectiveness of measures to recover assets, especially in response to foreign requests regarding seizure and confiscation.
- *Coordination of a wide range of authorities responsible for the investigation and prosecution of ML and TF* – in particular, effective sharing of necessary information within a reasonable time frame; the effectiveness of this coordination and cooperation in Metropolitan and OM; and the adequacy and allocation of resources and their alignment with the risks identified in the NRA.
- *Identification of new TF methods and enforcement action* – in particular, the means put in place to identify these financing methods; the specificity of TF investigations and prosecutions, including coordination, exchanges of confidential information and the speed of coordination of actions at national and international levels; measures to prevent threats linked to the NPO sector; and the legal framework governing measures to freeze funds linked to terrorist organisations and their implementation.
- *New digital financial products and digitisation of financial services* – especially regulatory and supervisory measures already implemented by the French authorities and investigative methods used to identify and punish ML crimes committed through this sector.

8 The European Economic Area is an economic union combining the member states of the European Union and the countries of the European Free Trade Association – Iceland, Liechtenstein, Norway and Switzerland. The provisions that organise the internal market within the EU are applicable to the EFTA countries.

Elements of specific importance (materiality)

61. France is one of the world's largest economies, with a projected gross domestic product (GDP) for 2021 of $3,000 billion, making it the seventh-largest economy in terms of GDP. The authorities also state that activity has withstood the COVID-19 sanitary crisis well: growth in 2021 will exceed 6% after the −8% decline in 2020 in the midst of the crisis. By the end of Q3 2021, activity was back to its pre-crisis level.

62. The French economy is largely influenced by the principles of free competition and free movement of goods and capital in force in the EU, as well as the use of a single currency: the euro, which is the second-largest reserve currency in the world. The economy is dominated by services (over 76%), with three main economic activities (in order of importance): market services, manufacturing and extractive industries, and construction. The country's main economic partners are EU Member States (Germany, Spain, Italy, Belgium) and the United States.

63. With a financial system that is dominated by large financial groups, and notably by four global systemically important banks, France is a major player in the world economy. This sector is characterised by strong international activity, with more than 40% of net banking income generated abroad. In the French economy, the combined assets of the six largest groups amount to EUR 7,011 billion (2019) – i.e. 81% of the total banking sector (EUR 8,671 billion) or 298% of French GDP (EUR 2,355 billion in 2019).

64. The French financial sector is also characterised by the principle of mutual recognition which enables institutions from another EU Member State, or those party to the EEA agreement, to establish or carry out their business in France. Foreign banks account for 4.2% of total assets in the total for the banking sector (5% with branches).

65. French large financial groups also provide a huge range of services, including insurance and asset management (with a major international asset manager). The insurance sector, which is the largest in the EU, and the financial market sector are growing strongly and they also hold substantial volumes of assets abroad.

66. As of the last day of the on-site visit, France had 27 registered VASPs, accounting for total transaction volume of EUR 204 million.

Structural elements

67. France possesses all the structural elements required to put in place an effective prevention and AML/CFT framework. The AML/CFT system is based on a legal framework defined both at national and European levels.

68. France is a politically stable country, with a strong executive and a stable government. France also has stable institutions, which are held to account, and a competent and independent legal system, although some limitations in its available resources have been noted recently[9] (lack of human and budgetary resources). It has a high level of commitment to dealing with AML/CFT issues, especially since the creation in 2010 of the COLB.

9 Rapport de la commission d'enquête parlementaire sur les obstacles à l'indépendance du pouvoir judiciaire (Sept. 2020) www.assemblee-nationale.fr/dyn/15/rapports/cejustice/l15b3296_rapport-enquete

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Box 1.1. Overseas France

General

The unity and indivisibility of France constitute the country's intangible and founding political and legal principles, established by Article 1 of the Constitution. As such, the OM is an integral part of the national territory – territorially, legally and politically – irrespective of the specificities of their administrative organisation. Any specific implementation features are strictly framed by the Constitution (Articles 73 and 74). These specific features exist in the same way as those of other metropolitan territories, e.g. Corsica, Lyon and Marseille (cities with special status) or Paris, which has been a local authority with a unique status since January 2019. As in any department or region in Metropolitan France, the Prefect or the High Commissioner of the Republic represents the State and the supervision of legal matters.

The Constitution defines the following territories of OM:

Table 1.1. Statutory organisation of overseas France and existing particularities

Status	Territories	Legislative regime	Particularities
DROM (Departments and regions of OM) *Art. 72 and 73 of the Constitution*	Guadeloupe (pop. 390k.) French Guiana (pop. 269k) Martinique (pop. 373k) Reunion Island (pop. 864k)	Legislative identity or assimilation	With the exception of Mayotte, these territories are both departments and regions of OM. They have the same status as departments and regions in Metropolitan France. The DROM are subject to French law, with the possibility of some flexibility, given their geographical position. They are subject to European Community law (direct application of European regulations and implementation of directives when the transposition is published in the Official Journal). DROMs + *Saint-Martin* are considered as ultra-peripheral regions and are therefore part of the EU, unlike the COMs.
	Mayotte (pop. 257k)		
Collectivities of OM (COM) *Art. 74 of the Constitution*	- Saint-Barthélemy (pop. 10k) - Saint-Martin (pop. 35k)	Legislative identity or assimilation with exceptions	These entities have their own regulatory power when exercising their administrative competencies, in particular with their own deliberative assembly. Their status is specifically defined by an Organic Law which sets out their competencies and the conditions of applicability of the laws and regulations of Metropolitan France. With the exception of Saint-Martin, which is an "ultra-peripheral region", these COMs are not subject to Community law. These territories are considered by the EU as *Overseas Countries and Territories* (OCT)[10]
	-Saint-Pierre-and Miquelon (pop. 6k)	Legislative identity with exceptions related to the principle of legislative speciality	
	-Wallis and Futuna (pop. 12k) - French Polynesia (pop. 276k)	Legislative speciality	COMs enjoy greater autonomy than DROMs. French Polynesia is the COM with most independence and has its own flag.
Collectivity with sui generi status	-French Southern and Antarctic Lands (uninhabited) - New Caledonia (pop. 271k)	Legislative speciality	New Caledonia has a degree of political autonomy and can pass its own laws. In December 2021, in a referendum on independence, New Caledonia voters opted for the third time to remain in France. These authorities are not subject to EU law.

10 OCTs are dependencies and overseas territories of EU Member States, which are not an integral part of the EU itself. Their status and their relations with the EU are governed on a case-by-case basis in the European Union Treaty. Their autonomy also depends on their relations with the country to which they are linked.

Overseas France and application of AML/CFT provisions

As in the previous FATF Mutual Evaluation Report in 2010-2011, the assessment team closely examined the compliance of OM with FATF standards. With the exception of a few very specific particularities, the AML/CFT mechanism is applied in exactly the same way in OM as in Metropolitan France. This is particularly the case for the law enforcement component, as the French Criminal Code applies everywhere, without exception. The specificities of OM with regard to AML/CFT – when there are any – are clearly described in the report. This applies, for example, to certain supervisory controls. As such, some DNFBPs (chartered accountants, notaries, etc.) in collectivities in the Pacific are regulated according to locally applicable provisions (see details in IO.3 and R.2). In Wallis and Futuna, real estate property and rights are governed by local custom[11] (customary law on foreclosures).

OM was one of the topics warranting particular attention during the on-site visit took place -especially regarding the understanding of ML/TF risks in relation to OM and the effectiveness of coordination and cooperation in terms of law enforcement in Metropolitan France and in OM. However, it is important to note that choices had to be made when deciding on interviews for the on-site visit, as the team was unable to travel physically overseas. The materiality of these territories and the wide range of competent authorities and entities covered by the AML/CFT obligations were also taken into account (see Institutional framework, on page 26 below.

OM and materiality

OM is characterised by great geographic and demographic diversity. However, its overall influence is fairly small, however, in terms of:

- *Demographics:* 4.07% of the total French population (almost 6,000 inhabitants in St Pierre and Miquelon, 850,000 in Reunion Island)
- *Economy*: 2.49% of French GDP. Per capita GDP is lower than in Metropolitan France in the following proportions: by approx. 30% for Martinique/Guadeloupe, approx. 70% for Mayotte/W&F.[12] The economy depends very largely on that of mainland France: 50% to 60% of foreign trade in the DROMs is with Metropolitan France. Agriculture, tourism and building construction are the three main sectors of their economies.
- *Finance*: 1% of financial assets and a marginal share of non-residents' assets. Overseas France also represents 0.55% (€53.4 billion) of the total balance sheet of French banking activity. The financial sector primarily serves local economic life.

Overseas France and ML/TF risks

The salient feature of the risk profile for Overseas France is its physical distance from the mainland along with some specific vulnerabilities such as: the increased use of cash as a result of the much lower rate of bank account usage, the existence

11 Law no. 61-814 of 29 July 1961 conferring the status of overseas territory on the Wallis and Futuna Islands

12 www.vie-publique.fr/eclairage/19624-outre-mer-inegalites-et-retards-de-developpement (data from March 2016)

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of derogatory tax regimes and the involvement of certain territories in cross-border flows. As a result, OM is truly diverse in terms of its exposure to ML risks and specific crime-generating phenomena. These ML risks also exist in mainland France, but there is a major difference in terms of the volumes of illicit proceeds that can potentially be laundered (see Table 1.2).

- Caribbean/West Indies zone (Saint Martin, Saint Barthélemy, Martinique, Guadeloupe and French Guiana): ML risks derive mainly from drug trafficking or economic and financial offences. The threat comes essentially from the proximity of these territories to South America, a global cocaine production area. This means that the French West Indies and French Guiana are important transit zones into France (see ML case study in R.17). These are areas of local consumption (crack, cocaine and cannabis). The proceeds from offences such as theft, fraud and misuse of corporate funds is difficult to evaluate, as very often funds are transferred to bank accounts in the sub-region, where formal international cooperation is difficult to establish.
- Pacific zone (New Caledonia and French Polynesia): Polynesia is on the route for certain types of trafficking serving Australia and South-East Asia, especially cocaine from South America or methamphetamine derivatives ('ice') from the United States. These areas are also exposed to fraud and economic and financial offences.
- Indian Ocean zone (Reunion Island, Mayotte): drug trafficking revolves around Madagascar, which seems to have established itself as a major drug-trafficking hub (cannabis, LSD, crack). In addition, the French authorities regularly seize large amounts of heroin – produced in Afghanistan and arriving by boat or plane – off the coast of Mozambique. Money laundering also stems from other offences committed locally, such as concealed work, tax fraud or violations of integrity.

Table 1.2. Examples of financial volumes in ML cases in overseas France and Metropolitan France

	DROM/COM	Metropolitan France
Laundering of drug trafficking	12 procedures in 2018 • 200 case / Amount laundered: EUR 210,000 • OM-E case / Amount laundered: EUR 10,000	224 procedures in 2018 • RETROVIRUS case – Amount laundered: EUR 230 million • KOURI case - Amount laundered: EUR 400 million
Laundering of tax fraud	25 procedures in 2018 • OM -P case / Amount laundered: EUR 40,000	413 procedures in 2018 • U case – Amount laundered: EUR 4.7 billion
ML of corruption	• Le Superbe (PNF) case / Amount laundered: EUR 1.5 million	• Case: Raymond father and son - Amount laundered: EUR 40 million
ML of integrity offences (misuse of corporate funds, favouritism, etc.)	• LT case / Amount laundered: EUR 1 million	• O case: Seizure and confiscation of EUR 150 million, • Gibraltar case: Confiscation of EUR 90 million • A case (corruption of foreign public agents) /Proceeds from the offence: EUR 1 billion

The geographic risk assessment carried out in 2021 notes that the risk of TF in OM is very limited, with no specific TF typology identified. The competent investigation services and law enforcement authorities specialising in anti-terrorism coordinate effectively, as they do in Metropolitan France.

Other contextual factors

69. France has a solid and sophisticated AML/CFT legal framework, which has undergone numerous reforms and improvements since 2011. This AML/CFT mechanism is based on a legal framework defined both at national and European levels. Following some major ML cases, France has equipped itself with a law enforcement arsenal designed to improve the prosecution and sentencing for ML offences, including the creation of the PNF. In addition, the specialisation in anti-terrorist justice led to the creation of the PNAT in 2019.

70. France has also made the fight against corruption a priority and has a solid legal framework thanks to the 2016 "Sapin II" Act on transparency, fighting corruption and economic modernisation. Aware of the risk of corruption to which the country is exposed, France has also carried out some significant reforms, resulting notably in the creation of the Central office for the fight against corruption and financial and tax offences (OCLCIFF), the PNF and the French anticorruption agency (AFA) (see section Institutional Framework'). In its new anti-corruption strategy, published in June 2021,[13] France has also made this issue a central component of its action at international level. The assessment of its implementation of the Organisation for Economic Cooperation and Development (OECD) Anti-Bribery Convention (phase 4) is also underway.

71. Financial exclusion is not a widespread problem in France. Bank account penetration is very high, with less than 1% of the population lacking access to banking services. However, this phenomenon is more widespread in OM, especially for people in situations of financial insecurity, where cash remains widely used on grounds of it being convenient and free to use. The French public authorities are well aware of this problem and in recent years, they have put in place tools aimed specifically at people who are in financially vulnerable situations, especially in OM.

72. France has important socio-economic ties with several areas outside the EU. It is linked by monetary co-operation agreements with three African monetary zones: the West African Monetary and Economic Union (WAEMU), the Central African Economic and Monetary Community (CEMAC) and the Union of the Comoros.[14] These fifteen countries belonging to the CFA Franc Zone benefit from guarantees by the French Treasury (e.g. fixed parity of their currencies with the euro and unlimited convertibility). The reform of monetary cooperation in the WAEMU zone in December 2019 retains these guarantees but removes the obligation to centralise foreign exchange reserves (which previously stood at 50%) on the operations account at the French Treasury. This obligation to centralise foreign exchange reserves still exists for the CEMAC zone and the Comoros.

13. Stratégie anticorruption de la France dans son action de coopération 2021-2030 http://www.justice.gouv.fr/art_pix/Strategie_anticorruption_France.pdf

14 The UEMOA includes eight Member States: Benin, Burkina Faso, Côte d'Ivoire, Guinea Bissau, Mali, Niger, Senegal and Togo; the CEMAC includes six countries: Cameroon, the Central African Republic, the Republic of the Congo, Gabon, Equatorial Guinea and Chad.

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73. With immigration amounting to 6.83 million people in 2020 (about 10% of the total population[15]), France is ranked fifth worldwide for the number of immigrants, and second in the EU (behind Germany). In addition, with the worsening conflict in Syria and increase in the migration flows from Africa,[16] France has also seen a rise in the number of asylum applications since 2015. In 2019, France recorded 20% of the total number of first asylum applications in the EU.[17] One consequence of the participation of these flows of migrants in the economic activity of the country is the transfer of significant (and increasing) amounts of funds to their countries of origin. Consequently, despite the decline in the number of migrants worldwide in 2021, the World Bank notes that transfers of funds to the Middle-East and North Africa increased by around 9.7% in 2021 (approx. USD 62 billion), mainly as a result of flows from France and Spain.[18]

AML/CFT strategy

74. France – one of the founding countries of the FATF in 1989 – has long made AML/CFT one of its priorities. In view of the threat of attacks since 2015, France has made the fight against terrorism – and against the financing of terrorism – one of its major priorities.

75. Before the adoption of an inter-ministerial AML/CFT/PF action plan in March 2021, AML/CFT policies tended to be reflected in sectoral action plans. These were mainly national action plans adopted in 2019-2020 and focusing on the main threats[19] (e.g. drugs, theft and fraud, trafficking in human beings and corruption), and containing measures specifically targeting ML. The March 2021 inter-ministerial plan developed within COLB, identifies the national priorities to be implemented. Specifically, these concern the reinforcement of supervisory action and financial transparency (especially for legal persons). The other priorities cover the improvement of detection and the prosecution of ML/TF, measures to hinder terrorists' access to the financial system, and the coordination of national policy.

15 www.insee.fr/fr/statistiques/3633212#tableau-Fcontinent_radio2

16 These flows come mainly from Syria, Iraq, Libya, Horn of Africa (Eritrea, Somalia), Morocco, Afghanistan, Sudan, Turkey and Kosovo. In 2020, heading the asylum seekers were: Afghanistan, Bangladesh, Pakistan and Guinea.

17 Data from the Office for the protection of refugees and stateless persons (Office français de protection des réfugiés et apatrides – OFPRA) and the National Court of Asylum (Cour nationale du droit d'asile - CNDA)

18. www.banquemondiale.org/fr/news/press-release/2021/11/17/remittance-flows-register-robust-7-3-percent-growth-in-2021

19. www.interieur.gouv.fr/Archives/Archives-des-dossiers/Plan-national-de-lutte-contre-les-stupefiants; www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2019/10/2e-Plan-action-traite-etres-humains.pdf; www.agence-francaise-anticorruption.gouv.fr/files/files/Plan%20national%20pluriannuel%202020-2022.pdf; www.jura.gouv.fr/Politiques-publiques/Securite/Securite-publique/Prevention-de-la-delinquance/Plan-national-de-lutte-contre-les-vols-et-les-trafics-lies-aux-vehicules

Institutional framework

76. France applies the principle of the hierarchy of norms. At the top of this structure is the constitutionality block (notably the Constitution of 1958, with its Preamble and Declaration of the Rights of Man and of the Citizen of 1789), followed by the conventionality block (i.e. France's international commitments – treaties and conventions), and then legality (i.e. laws, ordinances), general principles of law (i.e. unwritten rules generally applied) and regulations (i.e. decrees in the State Council, decrees, orders). At the base of this pyramid are administrative acts (i.e. circulars, directives). This legal order is binding on all natural and legal persons.

77. France has a large number of competent authorities specialising in ML/TF and PF (see diagram below).

- The ***Advisory Board for AML/CFT*** (COLB) coordinates France's entire AML/CFT system, bringing together all competent State services, supervisory authorities and those applying sanctions to regulated entities.
- The ***Directorate General of the Treasury*** (DGT) is responsible for i) national regulations applicable to AML/CFT in terms of prevention (in particular, it also deals with the administration of COLB); ii) contributing to negotiations on standards at European and international levels; iii) taking measures to freeze national assets; and iv) implementing restrictive measures decided by the United Nations, the EU or national designations of TFS.
- ***TRACFIN*** has been France's financial intelligence unit since 1990. It provides the link between the prevention and law enforcement aspects of the AML/CFT system. Its role is defined in the Monetary and Financial Code (CMF, in particular art. L.561-23).
- ***SIRASCO*** (Service for information, intelligence and strategic analysis of organised crime – Service d'information, de renseignement, et d'analyse stratégique sur la criminalité organisée), created in 2009, is the criminal intelligence service of the Central directorate of the Judicial Police (DCPJ), and its mission is to determine the state of the threat posed by groups of organised criminals, whether French or foreign, on French territory.
- ***General Secretariat for Defense and National Security*** (SGDSN) ensures, among other things, inter-ministerial coordination relating to the fight against the proliferation of weapons of mass destruction (WMD) and its financing (FP). It brings together all the services involved in identifying targets (intelligence services/Ministry for Europe and Foreign Affairs (MEAE)) and in the investigation and implementation of national and European measures to freeze assets (DGT/Department of Civil Liberties and Legal Affairs (DLPAJ)/MEAE).

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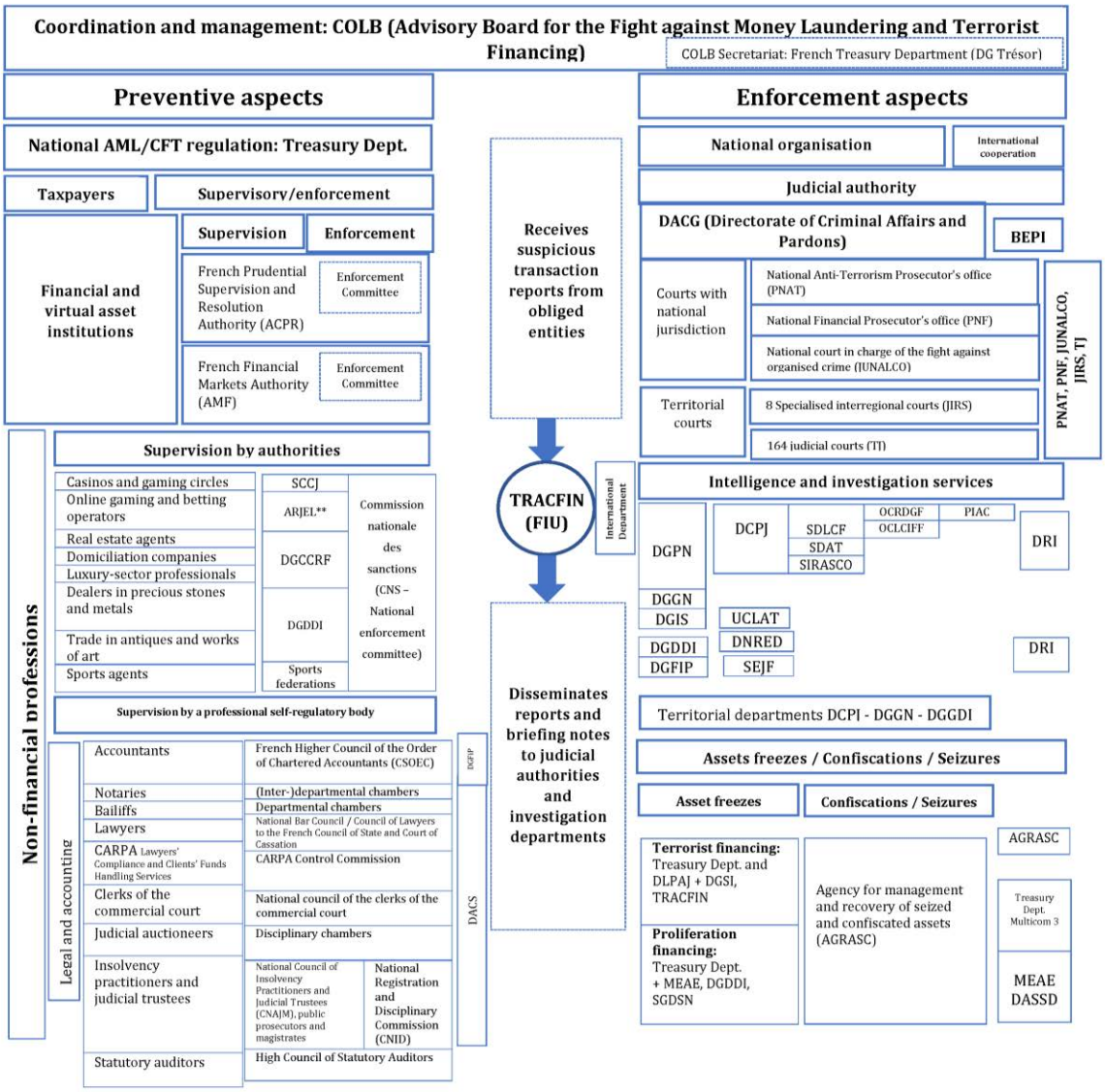
Figure 1.1. Organisational chart of the French AML/CFT system



Supervision

78. The financial sector is divided into two groups of institutions, those placed under the supervision of the ***French Prudential Supervision and Resolution Authority*** (ACPR), which includes most of the financial sector concerned by the obligations, and the ***French Securities and Markets Authority*** (AMF) (see Table 1.1).

79. Supervision of some non-financial sectors is carried out notably by:

- ***Directorate General for Competition, Consumer Affairs, and Fraud Control Authority*** (DGCCRF): supervisory authority for real estate agents, business service providers, professionals in luxury goods (including some dealers in precious metals and stones);

- ***Directorate General of Customs and Excise*** (DGDDI): supervisory authority since 2016 for "persons habitually engaged in the trade of antiques and works of art".[20]
- ***Racing and Gaming Central Department*** (SCCJ**)**, part of the DCPJ (Ministry of the Interior), supervises compliance with AML/CFT obligations by gaming operators (casinos and gaming clubs); meanwhile, the ***National Gaming Authority*** (ANJ), monitors compliance by online gaming operators.
- Regarding AML/CFT, statutory auditors are regulated by an independent authority: the High Council of Statutory Auditors (H3C), while receivers and legal agents are supervised by the National Council of Court-Appointed Receivers and Trustees (CNAJMJ). Legal and accounting professionals are regulated by the following ***self-regulatory bodies*** (see Table 1.2):
- Order of chartered accountants;
- Chamber of notaries;
- Regional chambers of bailiffs;
- Disciplinary chamber of judicial auctioneers;
- National bar council;
- French management fund for lawyers' fees (CARPA) supervisory commisson;

80. ***National Sanction Commission*** (CNS), established by law under the auspices of the Minister for the Economy, is an independent institution responsible for sanctioning breaches committed by certain professionals (real estate agents, business service providers and casinos, gambling clubs and online gaming operators) in cases of non-compliance with their AML/CFT obligations.

Investigations and prosecutions

81. The ***Directorate of criminal affairs and pardons*** (DACG), part of the Ministry of Justice, draws up the normative AML/CFT provisions on the law enforcement side and sets the guidelines for criminal policies to ensure the consistency of law enforcement actions. It relies on support from the Office for Combating Organised Crime, Terrorism and Money Laundering, the Office of Economic, Financial and Social Law, the Environment and Public Health, competent in matters regarding laundering in economic and financial offences and seizure and confiscation, and the Office for International Mutual Assistance in Criminal Matters (BEPI) in charge of international legal cooperation and extradition requests.

82. The ***Ministry of the Interior*** includes two Directorates-General that play a crucial role in ML investigation:

- ***Directorate General of the National Police*** (DGPN), in which the DCPJ plays a central role in the AML system, which revolves mainly around two central offices of the the Sub-Directorate for the Fight against Financial Crime, with national competence, namely:
- the Central Office for Combating Serious Financial Crimes (**OCRGDF**) ; is in charge in particular for combating transnational scams and fraud against the financial interests of the EU, AML/CFT and ML of corruption and of

20 The DGDDI will soon be the competent authority for the entire art sector.

embezzlement of foreign public funds "*ill-gotten gains*" It also includes the Platform for the Identification of Criminal Assets (PIAC) and the Brigade for Research and National Financial Intervention;

- the Central Office for the Fight against Corruption and Financial and Tax Crimes (**OCLCIFF**), created in 2013, composed of the National Brigade for Combating Tax Crimes (BNRDF) and the National Brigade for the Fight against Corruption and Financial Crime (BNLCCF). It is in charge of combating certain complex offences related to criminal business law, complex tax fraud and violations of integrity as well as rules on financing political life offences. It also deals with laundering of the proceeds of these offences.
- ***Directorate General of the National Gendarmerie*** *(*DGGN), which plays a major role in AML (and also CTF), especially as it includes eight Overseas Gendarmerie Commands trained to fight economic and financial crime.

83. ***Customs*** – attached to the Ministry of the Economy, Finance and Recovery – inspect incoming and outgoing illicit physical flows (of cash, deeds or securities) for any failure to comply with reporting obligations. The Department of Judicial Financial Inquiries (SEJF), attached to the DGDDI and the DGFiP, has replaced the former national judicial customs service since 2019. It is a combined customs and tax department in the judicial police with national competence, in particular in charge for combating some transnational VAT scams offences, some complex tax fraud and the laundering of these offences.

84. The DGDDI also has another department with national competence to carry out financial administrative investigations – the ***National Directorate for intelligence and customs investigations*** (DNRED). While specialising in intelligence and customs investigations, it also investigates customs fraud and predicate offences for laundering, particularly VAT fraud. Its specialist group in charge of the fight against clandestine financial circuits carries out operations to identify, hinder and dismantle groups specialising in financial criminality, especially networks of collectors.

85. The prosecution of ML is based on specialised magistrates in specialised departments, such as:

- ***Specialised inter-regional courts*** (JIRS), in charge of investigation, prosecution and sentencing in complex cases involving organised crime and economic and financial crime;
- Since 2019, the ***National court in charge of the fight against organised crime*** (JUNALCO) is the competent authority for investigations, prosecutions and sentencing in highly complex cases involving organised crime and financial crime.
- Since 2013, the ***National Financial Prosecutor's Office*** **(PNF)** has been the competent authority for the entire national territory for highly complex investigations into money laundering in large-scale economic and financial offences (corruption, tax fraud, VAT fraud).

86. Concerning TF, the suppression of terrorism is centralised nationally at the Paris Judicial Court (*Tribunal judiciaire*), and is entrusted to specialised prosecutors, investigative authorities and formations of the court. Since 2019, the ***National Anti-terrorist Prosecutor's Office*** (PNAT), headed by the anti-terrorist public prosecutor, has been responsible for prosecuting terrorist acts at national level, including money laundering offences when they are linked to a terrorist act and TF offences. TF investigations into can be carried out by several specialised departments, including:

- the court department of the Directorate-General of Internal Security (DGSI) under the Ministry of the Interior;
- the ***Anti-Terrorist Sub-Directorate*** (SDAT) of the *DCPJ,* which has competence for the prevention and suppression of terrorism including all financial aspects;
- the ***Anti-Terrorist Division*** of the national crime squad at the Préfecture de police de Paris*;*
- the dedicated unit at the OCRGDF (see above).

87. Since 2010, the ***Agency for the Management and Recovery of Seized and Confiscated Assets*** (**AGRASC)** has been responsible for the support and the framework for seizure and confiscation in criminal matters.

Financial sector DNFBPs and VASPs

88. Assessors classified the FI and DNFBP sectors according to their relative importance in France (see details in Table 1.1), taking account of their respective materiality and their exposure to ML/TF risk. They used this classification to inform their conclusions, by assigning a stronger weighting to positive and negative points in the implementation of the AML/CFT system for sectors of very great importance than for sectors of lesser importance. This approach has been used throughout the report, but it is more apparent in Chapter 6 on IO.3 and Chapter 5 on IO.4.

Table 1.3. Financial institutions and designated non-financial businesses and professions

	Number of entities in 2020	Balance sheet/outstanding/products issued 2020 (EUR)	Licensing/registration and supervisory authorities	Sanctioning authorities
Financial institutions				
Credit institutions (EC)	391 *of which 72 under freedom of establishment and 18 foreign branches of which* *11 are groups defined as significant and 4 globally systemically important*	9.910 billion *balance sheet*	Licensing by the European Central Bank (ECB) on advice of ACPR Supervision by ACPR	ACPR/ECB
Finance companies (SF)	156	196 billion *balance sheet*	ACPR	ACPR
Investment firms	149 *of which 56 under freedom of establishment*	374.7 billion *balance sheet*	ACPR (on advice of AMF for some licensing)	

	Number of entities in 2020	Balance sheet/outstanding/products issued 2020 (EUR)	Licensing/registration and supervisory authorities	Sanctioning authorities
Payment institutions (EP)	60 *of which 16 under freedom of establishment*	4 billion *balance sheet* (50 billion in transactions)	ACPR (on advice of Banque de France for licensing)	
Electronic money institutions (EME)	22 *of which 7 under freedom of establishment*	EUR 1.12 billion issued 17.9 M *transactions*	ACPR (on advice of Banque de France for licensing)	
Money changers	194	1.6 billion *Sale + purchase (2018)*	ACPR	
Life insurance and mixed	278 *of which 11 under freedom of establishment* (+7,000 brokers)	171.5 billion of which 5.5billion in premiums collected abroad	ACPR (registration with ORIAS for brokers)	
Intermediaries in banking transactions and payment services (IOBSP)	114	50 million	ORIAS – registration ACPR – supervision	
Financial investment advisors (CIF)	5,617	6.6 billion (flows) 42 billion monitored (stock)	ORIAS – registration AMF and professional associations– supervision	AMF
Asset management companies (SGP)	680	4,922 billion *outstanding*	AMF	AMF
Central depositories	2		AMF	AMF
Crowdfunding intermediaries (IFP)/ Crowdfunding investment advisers (CIP)	140 - IFP 58 – CIP	0.94 billion collected (CIP) 0.675 billion collected (IFP)	ORIAS – registration ACPR – supervision IFP AMF – supervision CIP	ACPR – IFP AMF – CIP
Virtual asset service providers (VASP)				
VASP	27	204 million	AMF – registration (on advice of ACPR) ACPR – supervision	ACPR
Designated non-financial businesses or professions				
Casinos	202 traditional casinos	1.84 billion gross proceeds	SCCJ	CNS
	8 gaming clubs		SCCJ	
	13 online operators	1.74 billion turnover	ANJ	
Real estate agents	42,040	1,024 M old dwellings sold	Commercial and industry chambres – real estate agents professional card	
Business service providers	3,000	62 216 customers		
Dealers in precious metals and stones (DPMS)	5,160 points of sale (in 2017), all ranges of products and all types of establishment combined, including independent costume jewellers and watchmaker-jewellers	Overall turnover 4.8 billion approx. in 2020	Préfecture – licensing company service providers No licensing - DPMS DGCCRF – supervises all sectors Customs – supervision (DPMS on entering the territory and when moving about)	

		Number of entities in 2020	Balance sheet/outstanding/products issued 2020 (EUR)	Licensing/registration and supervisory authorities	Sanctioning authorities
Legal and accounting professionals	Lawyers	70,073	2,176,718 financial operations processed by CARPA	National Bar Council / Council of State and Court of Cassation	
	Notaries	15,900	4.65 M deeds, of which 1.024 M sale of second-hand dwellings	(Inter)departmental Chambers / Council of notaries (CSN)	
	Chartered accountants	20,283	2 M company clients	Orders of Chartered Accountants	
	Statutory auditors	17,984	226,616 mandates	H3C	
	Other professions (Court-appointed receivers and trustees, auctioneers, bailiffs)	151 judicial administrators; 304 judicial representatives; 3,024 judicial officers or partners; 797 bailiff offices	28,171 collective procedures (of which 6,719 resulted in judicial recovery, 20,668 in direct judicial liquidation and 24,908 insolvent files). Total turnover of the profession: 400 million.	National council / Disciplinary chambers / Departmental chambers / National independent commission	

Very great importance:

89. **Credit institutions (EC) and their branches in third countries:** CIs represent the largest sector both in terms of the number of entities (391 including 72 under the right of establishment and 18 branches in countries outside the EU/EEA) and the total balance sheet (EUR 9,910 billion in 2020). These institutions provide banking services such as granting credit and attracting funds (45% from foreign counterparts) or repayable funds from the public, as well as payment methods. Around forty banks also offer correspondent banking services. In this sector, 7 major financial groups predominate with significant international influence.[21] In the context of this assessment, this sector is considered to be very important, given its scale, its transnational nature and its exposure to a number of services identified as being at a high or moderate level of risk in the NRA/SRA.

90. **Notaries:** Notaries are jurist vested with a mission of public authority who prepare notarised contracts on behalf of their clients. They perform their duties within the framework of private law. They are involved in all legal and tax matters (family, succession, business, real estate). They are heavily involved in real estate transactions, which necessarily require their services. They may also be involved in the transfer of shares in real estate non commercial companies (SCI), a type of legal entity identified as being at risk in the NRA. Given their involvement in the real estate sector, considered by the assessment team to be high-risk, notaries have been identified as a very important sector in the context of this report.

21 There are 4 French banking groups among the 30 on the List of Global Systemically Important Banks published by the Financial Stability Board. At the end of 2019, France had 11 groups defined as important by the ECB, with a total of €7,464 billion, i.e. 87% of the French banking sector and 33% of the total assets of significant institutions in the Single Supervisory Mechanism.

91. **Payment institutions (EP)**: services provided by EPs include money transfer, the issuance of payment instruments, and cash transactions in payment accounts. This category has grown in recent years, driven by the boom in financial technology ("FinTech"). The volume of currencies traded increased by 11% in 2019, reaching EUR 50 billion in transactions, around 40% of which was for businesses. The average transaction amount rose from EUR 76 to EUR 290 between 2015 and 2020. The SRA by the ACPR, and the assessors, identified this as a high-risk sector, mainly due to vulnerabilities linked to the accessibility of services, relationships conducted remotely, and the possible recourse to agents which can reduce the EP's direct visibility vis-à-vis customer knowledge.

Great importance:

92. **Real estate agents[22]:** the sector is predominantly composed of independent entrepreneurs and a large and increasing number of representatives acting on behalf of agents (11% of sales in 2018).[23] At the same time, networks of agencies continue to grow and compete with independent agencies. The share of transactions carried out by professionals from the real estate sector has remained relatively stable over time and represents a little over two thirds of the total. Real estate acquisition is a very dynamic sector, with a 14% increase in transactions between 2016 and 2018, and prices that have continued to rise since 2015 (+3.2%). In view of the typologies presented to the assessors and the conclusions in the NRA, this is a very attractive sector for ML: real estate can be a source of high-value and high-yield investment. The practice of under- or overvaluing properties may be a vehicle for incorporating illicit funds into the legal economy.

93. **Electronic money institutions (EME)**: EMIs can offer payment services in the same way as PIs, but they also issue electronic money, i.e. monetary value stored in electronic form. In 2019, EUR 1,126 million of electronic money was issued in 17.9 million transactions (average amount EUR 63). The use of electronic currencies remains low in France, but the risk is assessed as high in the NRA, mainly due to the threat of both ML and TF and to the significant vulnerability associated with anonymity and portability.

94. **Money changers**: in 2018, foreign currency purchases amounted to approximately EUR 661 million and foreign currency sales stood at EUR 934 million.[24] The four largest foreign currency companies accounted for almost 30% of the total amount of currency purchases and sales in 2018. The money changer with median activity in this sector employs three people and carried out EUR 3.3 million of currency purchases and sales in 2018. In the NRA, this is considered to be a high-risk sector, especially because of its high exposure to threats and vulnerabilities, such as the difficulty in establishing the source of funds due to the occasional nature of transactions and the risk of transactions being divided up in order to avoid identification.

22 To simplify the text, the reference to "real estate agents" throughout the report also refers to real estate representatives.

23 Representatives must obtain authorisation from the CCI, following an application process by a professional real estate agent card holder. They may then carry out a number of assignments on behalf of the card holder (prospection, negotiation, mediation, etc.) although they cannot draft private deeds.

24 The collection of figures for 2019 in 2020 was disrupted by the health crisis.

95. **Lawyers:** lawyers' services may include drafting deeds, acting as a legal secretary (corporate law), legal adviser, holder of a special power of attorney and lawyer-trustee. Lawyers are required to deposit the funds received from their clients or from a third party in a special bank account managed by the CARPAs, which carry out verifications on the entry and exit of the flows, in particular verifying the origin of the funds .Despite the fact that the NRA assigns a moderate level of risk, lawyers may be involved in high-risk activities, especially when dealing with the creation of complex legal structures, real estate transactions and the creation of SCI, the management of trusts and funds. As such, the assessors consider this professional as being of great importance.

96. **VASPs:** since June 2021, VASPs must be registered with the AMF. Recorded VASP operations amounted to around EUR 204 million in France in 2020. According to the NRA, ML/TF risks are moderate; those mentioned include the anonymity and opacity of some blockchains, the attractiveness of platforms enabling fiduciary crypto-currency conversions, and the cross-border nature of the sector, facilitating the rapid transfer of funds to other countries. Despite stringent regulation and the commitment of this sector, the typologies have shown that this sector is highly attractive for ML/TF purposes, notably via access to non-regulated services in France. However, registered and supervised VASPs correspond to a small sector with substantial mitigation measures.

Moderate importance:

97. **Business service providers companies:** Business service providers provide businesses with an address at which they can declare their activity. This enables the organisation to register as a business, obtain a legal personality and open a bank account. Some of these services are provided remotely. There are approximately 3,100 of these companies in all (an increase of around 40% since 2011) and there are around 62,000 enterprises domiciled in France. While these figures may be relatively low compared to the total number of companies registered (making up 1.13% of the 5.5 million registered companies), the use of these services is recognised as a significant risk factor contributing to the opacity of opaque legal persons.

98. **Investment firms:** Investment firms provide investment services that can also be carried out by ECs as an extension to their banking transactions. During 2019, 13 additional investment firms were approved in France, while at the same time 7 branches originating in the EEA were closed, due to changes in their legal status in anticipation of Brexit. More than half were under foreign control in 2019. The NRA considers the provision of financial services to be exposed to moderate risk, especially of ML, given the threats associated with insider trading and market manipulation.

99. **Life insurance, including insurance brokers**: in 2019, 39% of households held at least one life insurance policy, representing almost 45% of the flows and stock of household financial savings. In 2018, premiums stood at EUR 171.5 billion, of which EUR 5.5 billion was collected abroad. This sector also includes capital bonds – savings products similar to life insurance policies but with different tax benefits. Some capital bonds are bearer debt securities. The stock stood at EUR 6.5 billion in 2020 and continues to decline – insurance companies have not offered them since 2018. In the NRA, the risk was set at moderate – mainly because of the accessibility of these savings products and the fact that the stock of bearer capitalisation bonds was still high.

100. **Asset management companies (SGP):** with almost EUR 4,922 billion in stock at the end of 2020, the asset management sector occupies an important place in the French economy. This sector is characterised by its strong concentration (60% of assets under management are managed by the top 10 management companies). Two thirds of SGPs are entrepreneurial companies and one third are subsidiaries of financial groups managing 91% of managed assets. Managing financial instruments (quoted shares, listed bonds, money market instruments) is considered low-risk and represents 70% of collective management in France. Discretionary investment management mandates are considered to pose a moderate risk, mainly due to the customer profile (customers with large holdings and complex legal arrangements). Private equity and real estate fund management are on the increase (63% of new SGPs specialise in this field) and are associated with moderate risk according to the AMF.

101. **Chartered accountants and statutory auditors:** 71% of companies and 54% of associations use a chartered accountant, mainly for book-keeping, conducting accounting audits, and for financial auditing[25]. Statutory auditors guarantee the reliability of their customers' financial information and can provide other related services and certifications. In terms of risks, they may be used by criminals seeking to safeguard their assets, disguise the links between the proceeds of a crime and its perpetrator, and create complex companies or legal arrangements, or legitimise the source of their illicit assets by obtaining professional certification.

102. **Casinos, gaming clubs and online gaming operators:** France is the world number one in terms of its density of casinos established nationwide. Eighteen groups are responsible for managing national casinos, with 70.7% of the gross proceeds from gaming being generated by the four largest groups. In 2019, there were over 33.4 million visits to casinos and EUR 22 billion of bets placed, mainly in cash. Gaming clubs were trialled in Paris to replace the gaming circles that had closed mainly as a result of the criminality with which they had become associated. Their status has now been formalised, the experiment having proved conclusive. Online casinos are prohibited, but online gaming operators are authorised. Six of them now exist providing similar games to those in casinos, poker in particular. In 2018, there were 1 million active poker player accounts and the turnover of online poker operators stood at EUR 258 million (+11.2% since 2015). These accounts are mainly funded through bank accounts (which must be in the EU/EEA) although 20% are funded using prepaid cards or e-wallets.

25 According to data collected between 2018 and 2020 by the Superior Council of the Order of chartedred accountants. See: www.experts-comptables.fr/sites/default/files/assets/files/L%27expert-comptable%20au%20service%20de%20l%27%C3%A9conomie_1.pdf

103. **Financial investment advisers (CIF)**: these intermediaries primarily provide a regulated advisory service (e.g. financial investment for individual or corporate customers). At the end of 2020, 5,617 CIFs were registered with Organisation responsible for registering insurance, banking and finance intermediaries (ORIAS). The sector is highly concentrated, with the first 50 players accounting for 51% of total activity, and the next 500 accounting for 33%. CIFs are not a highly effective distribution channel for financial investments: the volume of investments placed through advisers remains very marginal, in relation to the financial savings of French people (0.76%). Their weighting compared to the scope of AMF supervision is around the same: less than 1% of assets managed by all portfolio management companies. They are subject to dual supervision by the AMF and professional associations (approved by the AMF). This activity is generally considered to be subject to moderate risk, due to the low level of reporting activity, which is not representative of the knowledge that these professionals possess concerning the transactions they handle and the customers they advise.

Low importance:

104. **Dealers in precious metals and stones (DPMS):** no certification is planned for DPMSs, although they are monitored for compliance with their AML/CFT obligations by the DGCCRF (and by the DGDDI since 2020). Cash purchases of gold are prohibited. Sales of other precious metals and precious stones are limited to EUR 1,000 in cash for resident purchasers and EUR 15,000 for non-residents, which means that this sector is below the threshold set by FATF and has no obligation to implement preventive measures. As such, a low level of importance was assigned to this sector.

105. **Finance company (SF):** this type of FI was created in 2014 to meet the need to harmonise the notion of credit institutions at EU level. They provide credit services (mortgage credit, consumer credit, leasing), but do not take deposits. The majority (106) are subsidiaries of the seven main banking groups. The NRA considers their risk exposure to be low, despite a high TF threat for certain consumer credit products (small amounts, not allocated to specific expenditure), and a moderate ML threat.

106. **Intermediaries in banking transactions and payment services (IOBSP):** these intermediaries present, propose or help to complete bank transactions or payment services, carrying out all necessary work and giving advice in preparation for their completion. The main activity of IOBSPs is generally credit intermediation (especially consumer credit or mortgage credit) and insurance intermediation activity. In certain circumstances, they may receive funds, but in 2019 this was the case for only about ten of them. IOBSPs cannot be third party introducers in the sense of FATF Recommendation 17 and their mission in terms of the definition of an FI is limited.

107. **Central securities depository:** There is one central securities depository which holds 291 accounts for 140 participants. All participants are subject to AML/CFT obligations and the majority have opened a cash account with Banque de France, which is also the subject of due diligence by Banque de France. Given the low risks, the team considers this sector of low importance.

108. **Banque de France:** Banque de France provides a limited number of financial services appearing in the FATF functional definition of FIs. In particular, it holds accounts for its employees (whose numbers have declined by 73% since 2017) and for some associations and foundations linked to the Banque de France or other public institutions. It also holds accounts for approved subsidiaries like SGPs and mutual funds whose customers are exclusively Banque de France employees. However, employee accounts have been closed since December 2021 and activity falling under the FI definition is considered marginal by the assessors. Therefore, the Banque de France will not be considered as an FI within the scope of this analysis.

109. **Crowdfunding investment advisors (CIP) and Crowdfunding intermediaries (IFP)**: CIPs manage crowdfunding platforms which bring together project developers and prospective investors by providing financing through securities. IFPs manage crowdfunding platforms that bring together project developers requiring financing and prospective investors by providing financing in the form of loans. The ACPR's NRA and SRA consider the risk to be high. However, these sectors conform to the FATF definition of an FI only marginally.

110. **Other professions designated by FATF:** Auctioneers, bailiffs, insolvency practitioners and Court-appointed receivers and trustees[26] are professionals responsible for missions that appear in the FATF definition of DNFBPs but in a limited context with little materiality. These sectors are regulated and subject to AML/CFT controls.

Preventive measures

111. Since the 3rd round of evaluations, the French AML/CFT regulations have been extensively modified with the transposition of the 4th Directive (2015/849) into French law in December 2016. This has substantially reinforced France's AML/CFT system, in line with the revised FATF standards (e.g. the obligation to carry out an ML/TF risk assessment). As a result of this transposition, it is now possible to extend the scope of the entities concerned, as well as supervisory mechanisms and sanctions (e.g. the art sector, included from 2016) and restrictions on payments and the circulation of cash (with enhanced monitoring of physical transfers of capital at borders for transfers through the freight channel).

26 The Court-appointed receiver is responsible, by court decision, for administering the property of others or for assisting or supervising in the management of these goods. The Court-appointed trustee is responsible, by court decision, for representing creditors, preserving the financial rights of employees and realising the assets of companies in liquidation for the benefit of creditors. The auctioneer deals with the inventory, appraisal and sale of works of art. He may be responsible for sales by court order or voluntary sales. The bailiff is a public and ministerial officer responsible for enforcing decisions of the court and serving court documents.

112. The 5th Directive (2018/843), transposed in February 2020 (Ordinance no. 2020-115), sets out a series of new measures to step up the fight against TF and ensure better transparency in financial transactions (in particular with the creation of a register of bank accounts in all Member States). The national central bank account record (FICOBA), which already existed in France, has now been extended to include safety-deposit boxes held by EC and the identification of account agents and BO. Implementing decrees have made the necessary changes to the AML/CFT corpus applicable in France, especially the Monetary and Financial Code (CMF), which provides a detailed description of the AML/CFT obligations for regulated entities.

113. France has opted impose extensive reporting obligations, sometimes beyond what is required by the FATF standards, e.g. GTC and lawyers' pecuniary payment funds are now included since the transposition of the 5th Directive. The PACTE Law of 22 May 2019 made France one of the first countries to extend the reporting obligation to VASP, even before the negotiation of the 5th Directive. France has also remedied the shortcomings noted in the previous evaluation report concerning the absence of regulations and supervision for DPMS.

114. The entire national AML/CFT legal arsenal (including the freezing of assets) is fully and automatically applicable throughout the entire national metropolitan territory and the DROM. In the COM, the framework is either directly applicable, or will be covered in the course of the planned systematic national implementation. For further information about the applicability of the AML/CFT provisions in OM, see IO.3 /4, R.28.

Legal persons and arrangements

115. There are several types of legal entities and legal arrangements in France (see Table below)[27]. SCIs represent about 38% of partnership companies, the most common form of company in France (about 83%). In practice, the limited liability company (SARL) is the most commonly used form of commercial company for small and medium-sized enterprises. With over 1.4 million SARLs in France, they represent 34% of French partnership companies, whereas the other types of commercial partnership account for less than 1.5%.

Table 1.4. Overview of the types of companies that can be created in France

Partnership companies	3,718,926	Each partner is in principle jointly and severally liable for the company's commitments, these companies represent less than 4% of all companies created in France in 2016. Transfers require a change in the articles of association. Similarly, the entry and exit of partners from the company capital requires the approval of the other partners. There are several types.
Non-commercial companies	2,101,009	
– Real estate non-commercial companies (SCI)	*1,513,391*	This type of structure allows several people (partners) to own a property and to manage it jointly. This form is often used to transfer real estate in advance (often with favourable tax conditions) or to modify the consequences of a matrimonial property regime. It does not allow for the purchase and resale of real estate.

27 This data includes companies registered in OM.

– *Non-trading private company (SCM)*	*43,206*	Legal structure reserved for professionals, whose purpose is to supply its members with resources (staff, equipment) to facilitate the exercise of their profession. Partners do not share profit. They have indefinite and joint responsibility.
– *Civil farming company (SCEA)*	*37,715*	The difference in relation to other non-commercial companies is that SCEAs have a much more limited activity: agricultural activity. The number of partners is fixed (2 to 10) and there is at least one manager (management or administration), a natural or legal person (company).
– *Civil construction-sale company (SCCV)*	*30,001*	The aim is the construction of real estate with a view to selling it to third parties in order to make a profit. An SCCV (minimum 2 partners – natural or legal person) allows developers, for example, to raise funds to complete a real estate programme. It may be administered by one or more managers. It has some tax advantages.
– *Professional SC (SCP)*	*12,102*	A form of SC adapted to members of the liberal professions who want to exercise their profession collectively (minimum of 2 people). This type of company cannot be created by anyone: only members of the liberal professions can create this form of company and prior licensing by the competent authority is required. Partners must be natural persons.
Other forms of non-commercial companies	464,594	
Commercial companies	1,617,917	
– *Limited liability companies (SARL)*	*1,553,347*	The partners' liability (minimum of 2, maximum of 100 natural or legal persons) is limited to the amount of their contributions. Share capital is compulsory but no minimum is fixed by law. Share capital is distributed as shares between the partners, in proportion to their contributions. To create a SARL, articles of association must be drawn up, managers must be appointed, and all the necessary registration procedures must be completed. A SARL must have (at least) one manager, who is the legal representative.
– *General partnerships (SNC)*	*63,224*	Partners are jointly and severally liable for the company's debts. A capital must be constituted, with no minimum amount. SNCs – where at least one of the partners is a natural person – are not obliged to file their corporate accounts.
– *Limited partnerships (SCS)*	*1,346*	Among the partners, a distinction is made between the limited partners (investors, limited risk) and the general partners (active partners in the company, unlimited risk). There must be at least one of each. No minimum share capital is required. The general partners must be traders and are liable for the company's debts, whereas the limited partner is liable for debts up to the amount of his initial contribution.

Stock companies (*Sociétés de capitaux)*	1,304,456	These companies are based on the partners'contributionss to the company's capital. The identity of partners is not as important as in partnership companies and the partners' liability is generally limited up to the amount of their contribution.
Simplified joint stock companies (SAS)	1,191,684	Characterised by the great degree of freedom given to share-holders who are only liable within the limit of their contributions, and they can transfer their shares freely.
Public companies (SA)	32,604	Shareholders are only liable within the limit of their contributions, and they can transfer their shares freely.
Limited Partnerships with share capital (SCA)	679	A distinction is made between two types of partner: limited partners (limited risk) and general partners (unlimited risk)
Liberal professional corporation (SEL)	54,459	SELs can take different forms: SELARL (SEL with limited liability); SELAFA (SEL in public limited company form); SELAS (SEL simplified joint stock company) and SELCA (SEL limited partnership with share capital). Their corporate purpose can only be the joint exercise of their profession by the partners / share-holders. Only certain members of the liberal professions (e.g. notaries, statutory auditors, lawyers, GTCs, chartered accountants) can form a SEL.
Professional holding company (SPFPL)	10,320	A form of company intended to enable members of the liberal professions to be stakeholders in SEs. Partners are not required to be members of the liberal professions themselves, in contrast to SELs. This company allows outside investors to become stakeholders. In this framework, it is essential to ensure that the majority of the company's voting rights are held by the professionals who were in practice when the company was formed and in the event of change of ownership.
Cooperative societies	14,710	A company with a civil or commercial purpose, created to eliminate capitalist profit. There is no distribution of profits.
European companies (SE)	196	An SE must be composed of at least two companies located in different EU Member States. This form of company enables business to be conducted simultaneously in several EU Member States.
Economic interest groupings (EIG) including European Economic Interest Groupings (EEIG)	12,481	A grouping of pre-existing enterprises (at least 2) – created for a fixed term – the aim being to facilitate the economic development of companies by pooling material or human resources. The incorporation formalities are fairly flexible. An EIG can therefore be established without capital.

116. All these companies, of whatever type, must be listed in the Trade and Companies Register (RCS). This is accessible to the public for companies and also for some associations and economic interest groupings (GIEs). The RCS is maintained by the GTCs who are public and ministerial officers. The GTC is a liberal professional, unlike the clerks of civil courts and courts of appeal who have civil servant status. Since 2020, they are subject to AML/CFT obligations.

117. In July 2021, France had 1,873,481 associations declared to the National Register of Associations (RNA), including approximately 1.6 million active associations which operate in the fields of sport, leisure, culture and the defense of causes, rights or interests. There are also 5,000 religious associations, 1,000 foundations and around 3,000 endowment funds.

118. Among legal arrangements, a distinction is made between *trusts*, which are not recognised in French law and with *de jure* trusts actually being prohibited, and *fiducies*, which are recognised in law. However, assets located in France can be placed in a foreign trust and people domiciled in France may have the status of settlor or beneficiary of a foreign trust. A *fiducie,* whose materiality is limited (26 lawyers offer those services in France), allows for the transfer of goods, rights and collateral, by law or by written contract, to one or more fiduciaries. It is used as a business management tool (*fiducie-gestion*) or to build up guarantees and collateral (*fiducie-sûreté*). However, it cannot be applied to the transmission of assets, under penalty of nullity. The transposition of the 4th Directive enabled the creation a registry of the BO of legal entities, trusts and *fiducies*.

Table 1.5. Number of legal arrangements with an impact in France

Legal arrangements	
Foreign trusts with an impact in France / listed in the register of trusts	2,900
Fiducies	358

Supervisory arrangements

119. France has a total of nine AML/CFT supervisors and seven self-regulatory bodies (see section 'Institutional Framework'), which monitor all the entities concerned to ensure compliance with the provisions of the French Monetary and Financial Code (CMF). Supervisors have the means to control and monitor these entities and to implement the necessary measures in the event of deficiencies. The supervisors' powers analysed in more detail in R.27 and R.28.

120. Since the introduction of the Single Supervisory Mechanism for banking[28] in 2014, the ECB has been the competent authority for the direct prudential supervision of major European banks ("*significant banks"*) and therefore has direct control over French financial groups. In particular, this involves verifying the requirements for good repute and competency, although AML/CFT monitoring missions are carried out by the national authorities.

International cooperation

121. International cooperation is an important issue in the context of AML/CFT in France, given its exposure, on one hand to the ML risk abroad of illicit proceeds generated in France (e.g. laundering aboard of fiscal fraud), and on the other hand, but to a lesser extent, the risk of ML in France of illicit proceeds from offences committed abroad subsequently repatriated to be laundered in France (in particular the cases of "*ill-gotten gains*").

28 www.bankingsupervision.europa.eu/about/thessm/html/index.fr.html

122. The French large financial groups, notably the four global systemically important banks, have a very powerful international presence, through investments, branches and subsidiaries. Similarly, French companies are also present internationally (especially in the fields of defence, energy, aeronautics and construction and public work, but also to a lesser extent in finance, real estate and IT), and they are particularly vulnerable to exposure to active corruption by foreign public officials (e.g. public decision-makers or officials with influence in the awarding of public contracts).

123. France also faces a high TF threat, with funding and logistics support originating from abroad. France relies heavily on international cooperation, both formal and informal, especially within the EU, but also with partner countries (like the United States), in order to collect information held abroad for use in ML and TF investigations and prosecutions, as well as for repatriating criminal assets.

124. This international cooperation occurs through BEPI for requests made by and received from non-EU countries and directly between magistrates for the EU.

Chapter 2. NATIONAL AML/CFT POLICIES AND COORDINATION

Key Findings and Recommended Actions

Key Findings

a) France has undertaken a considerable amount of work on identifying the ML/TF risks to which it is exposed. All the activities carried out (NRA, SRA, TRACFIN and SIRASCO reports) have given the authorities a good and relatively uniform understanding of ML risks and a very good understanding of TF risks, although rather recent for some DNFBP supervisors. However, there are some limitations in the risk assessment for some sectors and some activities (e.g. real estate, virtual assets and cash), and in the evaluation of threats (corruption), as well as methodological reservations (especially concerning the impact of the mitigation measures adopted).

b) The Interministerial AML/CFT/PF action plan adopted in March 2021 identifies national priorities through five well-targeted main pillars. More specific national policies are broken down into several thematic plans previously adopted to address the main threats. They have produced concrete results over the last few years, notably for investigations and prosecutions of fraud as well as terrorism and its financing through the establishment of dedicated structures.

c) France has put in place adequate and effective overarching mitigating measures, especially in response to anonymous payment methods (cash, transfers of funds, electronic money, virtual assets, etc.). France has also extended the AML/CFT obligations to certain financial and non-financial sectors beyond the scope of the FATF requirements in order to mitigate some major risks. However, in some cases, more resources are still required in order to produce results. France has also authorised some exemptions from the FATF standards that are not in line with its risk assessments (PEPs and correspondent banking).

d) The policies and activities put in place by investigative and prosecution authorities appear to be commensurate with the identified risks. Increased attention has been paid to countering terrorism and its financing, in accordance with France's TF risk profile. The resources of AML investigative and prosecution authorities have also been strengthened in recent years, but still fall short of what is needed in terms of the number of specialised investigators in OM, at the local level and for judicial investigations. Consideration of risk in the activities of supervisory authorities has been greatly refined for the financial sector. However, it is more recent, and in some respects insufficient for those responsible for DNFBPs.

e) The COLB is an effective national cooperation and coordination structure, including for exchanges of information between competent authorities. This national cooperation structure has enabled rapid reactions to the emergence

of new challenges, such as virtual assets and COVID-19. There are also different forms of bilateral cooperation, especially among investigative and prosecution authorities, intelligence authorities and financial sector supervisors. Cooperation between DNFBP supervisors still needs to be developed. Regarding PF, the SGDSN ensures effective interministerial coordination, supplemented by operational cooperation platforms between the relevant competent authorities.

f) The NRA has been published and the results shared with most of the private sector through awareness-raising campaigns. However, the risk analysis specific to the OM has not been published or integrated in the NRA and some SRA have not been systematically disseminated to the entities concerned which is having an impact on certain DNFBPs' understanding of their risks (see IO.4).

Recommended actions

France should:

a) Refine its analyses of the risks associated with certain sectors (real estate), activities (cash and virtual assets) and threats (corruption), with a more detailed examination of the available data, including in OM, in its next NRA and develop SRAs that better take into account specific features relating to different sectors, in particular with regard to DNFBPs.

b) Improve the analysis of the ML context linked to national corruption (violations of integrity) in order to better orient the priorities of investigation and prosecution authorities and consequently facilitate the identification of laundering of proceeds of corruption.

c) Consider more closely the exemption measures and enhanced measures of the FATF Recommendations in place and adapt them to the level of proven ML/TF risk, particularly in the area of correspondent banking and PEPs.

d) Improve the degree of cooperation between different competent authorities within the same field, especially in at-risk sectors such as real estate (DGCCRF, CSN) and the creation and management of legal persons (GTC, DGCCRF, National Bar Council (CNB)). This would improve risk understanding and coordination of supervision and awareness-raising activities.

e) In line with the conclusions of the NRA, allocate adequate resources to support efforts in other sectors identified as more exposed to ML/FT risks, such as the supervision of activities related to art and luxury goods, in order to reach targeted priorities.

f) Strengthen the resources of ML-specialised investigators at the local level, in OM and for judicial investigations in order to better address the most important risks, and bolster the knowledge of the conclusions of the risk analysis for OM of regulated entities.

125. The relevant Immediate Outcome considered and assessed in this chapter is IO.1. The Recommendations relevant to the assessment of effectiveness under this section are R.1, 2, 33 and 34 and elements of R.15.

Immediate Outcome 1 (Risk, Policy and Coordination)

France's understanding of its ML/TF risks

126. France has generally demonstrated a good and very good understanding, respectively, of the ML and TF risks to which it is exposed, although this knowledge is more limited for some of the high-risk DNFBP supervisory authorities (CSN, DGCCRF). All authorities have contributed to the work on the NRA, which has helped to refine and disseminate the understanding of risks since 2019. Some supervisory authorities have developed a more detailed analysis through their SRAs, thus demonstrating a high level of understanding (ACPR and AMF). The investigating and prosecuting authorities, and particularly the intelligence authorities, through their own analyses (TRACFIN and SIRASCO reports) have also demonstrated a solid understanding of ML/TF national risks. However, the thinking on certain risk-related topics needs to be refined (see para. 139).

127. Between the first NRA in 2012 and the 2019 edition, the understanding of risks was maintained through discussions within the COLB and analyses by TRACFIN and SIRASCO. TRACFIN's public reports and SIRASCO's confidential reports on organised crime, which are widely shared with competent authorities, have contributed greatly to developing and maintaining the authorities' assessments and understanding of risks. Nevertheless, the 7-year delay for the revision of the 2012 NRA impacted the consistent and up to date understanding of the risks, especially for the supervisory authorities in charge of DNFBPs, whose understanding of the risks is more recent.

128. The COLB, which brings together all AML/CFT competent authorities, led the work on the NRA. Thematic working groups, over a three-year period, carried out targeted analyses of the different threats and vulnerabilities, based on quantitative data (mainly STRs, investigations, prosecutions and seizures) and qualitative data (mostly analyses produced by the competent authorities and feedback from the regulated entities via questionnaires), and on the supranational risk assessment at European level. The COLB then consolidated and summarised these analyses to produce the NRA. In 2021, the COLB also carried out a geographic ML/TF risk analysis of OM, which still needs to be integrated into the NRA and SRAs in order to standardise and completely internalise the understanding of risks in OM.

129. The methodology used for the NRA was essentially based on combining threats and vulnerabilities relating to different products, services or operations, while taking account of the mitigation measures put in place, in order to determine the residual vulnerability and level of risk. However, the probability of threats materialising and the impact if this were to occur were not sufficiently taken into consideration. Although the authorities indicate that they have considered these factors when assessing threats based on quantitative and qualitative elements, the NRA seems to have presented these data without the performance of an effective and concrete assessment for the different sectors.

130. The manner in which residual vulnerability is considered in the risk rating seems to distort the interpretation of the data. The risk rating takes account of the mitigation measures put in place, such as regulatory measures in a sector, the publication of guidelines, and AML/CFT supervision, but without considering the concrete impact of these measures. In the real estate sector, for example, the requirement for real estate agents to implement AML/CFT measures is identified as one of the main mitigation measures justifying a low level of residual vulnerability in the sector, but this does not seem proportionate given the intrinsic risks, and the relatively limited awareness within this sector of its AML/CFT obligations. For legal persons and legal arrangements, the main mitigation measures considered are the existence of a legal framework for legal arrangements, centralised and accessible registers and the introduction of the RBO, but some of these measures are too recent to have an effective impact on the level of risk.

131. In addition, the 2019 NRA lacks detail and depth in some areas of analysis. This weakness appears to have been overcome to a certain extent in the SRAs produced by the supervisory authorities, although the SRA by the supervisory authorities for DNFBPs is also lacking in detail. Thus, some SRAs (FIs, lawyers, chartered accountants, statutory auditors, casinos, online gaming operators) contain more detailed analyses than the NRA and therefore allowed to refine the understanding of risks of supervisory authorities of these sectors. However, other SRAs covering high-risk areas (notaries and real estate agents) do not always produce sufficiently detailed analyses in light of the specificities of the sector, and some settle for simply reflecting the findings of the NRA or other documents (especially reports published by TRACFIN) (see Section '*Supervisors' understanding and identification of ML/TF risks'*)

Money laundering

132. The main ML threats as identified in the NRA are: fraud (social, tax and customs), drug trafficking, theft and bribery. Trafficking in human beings and corruption are also considered to be significant threats. While, in general, the understanding of ML risks seems to be justified and consistent, incoherences appear in certain sectors and/or areas, some of which are high-risk:

- *Real estate* – The NRA rates this sector as being subject to a moderate ML risks, with a high level of threat and a low residual vulnerability, mainly on the basis of the number of different regulated professionals who are involved in purchasing transactions, and the compulsory use of bank transfers for real estate purchases. However, the NRA does not consider the very large number of ML cases linked to real estate, or the real estate seizures and confiscations carried out in the framework of legal procedures (see IO. 8). In addition, the NRA is based exclusively on data relating to sales of second-hand housing stock, and does not consider sales of newly built buildings (despite a 2020 analysis by TRACFIN highlighting the attractiveness of this sector for ML purposes). The use of SCIs (which can be used to conceal the beneficial ownership of a property) and the presence of certain categories of professionals in the real estate market who are not subject to the AML/CTF requirements (property dealers and real estate developers) are considered only superficially in the NRA, despite the concerns raised by some authorities during on-site visits. Finally, there are also differences between the NRA and the SRA produced by the DGCCRF. This directorate does not identify OM as a

geographic sector at risk, although those risks are highlighted in the geographic analysis of ML/TF risks of OM and considered in the latest DGCCRF supervision plans.

- *Corruption* – The NRA recognises corruption and attacks on integrity as major threats, especially in terms of social impact. However, although the NRA mentions recently introduced measures ("Sapin 2" Law), its analysis and conclusions focus almost exclusively on the proceeds of corruption committed abroad, without considering corruption at national level. However, this finding, mainly due to the small amounts involved and the low number of investigations and prosecutions linked to the laundering of the proceeds of corruption at national level (see para 190), does not take account of the difficulties observed by the investigative authorities in establishing evidence linking financial flows to the act of corruption, in particular with regard to the payment of bribes and cases of retrocommission paid in France.
- *Use of cash* – Cash is highly vulnerable to ML risks in France, in particular in OM. The NRA does not seem to exploit the available data, especially the systematic communication of information (COSI) and the reporting (and failure to comply with reporting requirements (MOD)) of cross-border transportation of currency as well as analyses by TRACFIN and Customs. The lack of consideration of data on the circulation of cash does not allow to refine the analysis in such as way as to identify, in particular the countries of origin or destination of funds or areas of the country in which cash is more frequently used.
- *Virtual assets* – The risk assessment for this sector is based mainly on the small number of providers that have been established in France and does not seem to consider the possibility of foreign providers being used, which are not subject to the kind of supervision and preventive measures that apply in France. Moreover, the moderate level of risk cannot be explained solely by the recent extension of the AML/CFT regime to service providers in France.

Terrorism financing

133. The French authorities consider the risk of terrorist acts on French soil to be very high[29] and the same applies to TF. They believe that TF at national level is mainly self-financed, whereas TF for terrorism abroad is micro-financed. There are multiple sources of financing, from legal and illegal sources, but the main source is the misappropriation of consumer credit and social benefits, scams and drug trafficking. The most commonly used distribution channels are fund-raiser networks, prepaid cards, virtual assets, and, to a lesser extent, the non-profit sector.

134. All the competent authorities have a very good understanding of TF risks and effectively identify new typologies (e.g. those relating to crowdfunding and online money pots). They have therefore been able to quickly and effectively detect the role played by these fundraising networks, i.e. as “financial facilitators” providing various services that have ultimately enabled transfers of funds for financing terrorism abroad (see Box 2.1 – The K case).

[29] Since 2015, there has been 21 terrorist attacks in France and the authorities claim to have thwarted many others.

135. However, the understanding of the risks of exploitation in the non-profit sector remains incomplete. The authorities consider that the majority of associations pose a low TF risk, apart from one sub-set of NPOs identified in the NRA as high risk. However, the methodology and criteria use to develop this identification could not be explained in terms of the risks of the sector being exploited for TF purposes. In fact, the identification of NPOs at risk of TF is too large as it is not only based on the risk of TF abuse but also on other threats posed by the sector. In addition, the information sources used are mainly derived from an interministerial analysis of the vulnerability of associations and operational analyses by the investigative and intelligence services without any consultation of the NPOs themselves (see R.8).

National policies to address identified ML/TF risks

136. Since March 2021, France has implemented an interministerial AML/TF/PF action plan, which is divided into five main components identifying the national priorities to be implemented, in line with the risks identified in the NRA. These priorities focus in particular on improving supervisory measures and financial transparency (especially for legal persons). The other priorities aim to reinforce the detection and prosecution of ML/TF, the measures to prevent terrorists from accessing the financial system, and the coordination of national policy.

137. This plan is the continuity of sectoral actions previously in force. It reflects a desire for a more coordinated approach between the different components at national level. Prior to 2021, national AML/CFT policies and activities revolved around specific risks, mainly via sectoral action plans. France therefore adopted a certain number of national action plans dedicated specifically to the main threats. These plans all contained measures specifically targeting ML:

- *National Anti-Narcotics Plan* (2019),[30] providing for the creation of a central coordinating body to promote the coordination and sharing of information among the different investigative authorities.
- Second *National Plan to Combat Trafficking in Human Beings* 2019-2021[31] is a plan to combat illegal labour practices (which includes a section on the trafficking of human beings for labour exploitation purposes).
- Since 2016, France has stepped up its *fight against corruption.* The action plans adopted are at the origin of the adoption of many measures, including the creation of the AFA in 2016, the creation of an anti-corruption compliance programme for large companies, and the introduction of a general statute to protect whistleblowers. While these measures are an important step forward, they seem to concentrate on preventive issues rather than on the ML aspect. Nonetheless, some measures have had some positive repercussions on AML, in particular the creation of the National Financial Prosecutor's Office (Parquet National Financier – PNF), which has handled large-scale corruption cases.

30 www.interieur.gouv.fr/Archives/Archives-des-dossiers/Plan-national-de-lutte-contre-les-stupefiants (September 2019) – with notably provisions on strengthening the seizure of criminal assets and increasing AML/CFT.

31 www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2019/10/2e-Plan-action-traite-etres-humains.pdf; https://travail-emploi.gouv.fr/IMG/pdf/dossier_de_presse_-_cnlti_-_8_juillet_2019.pdf

- France has also adopted a number of measures to *combat social, tax and customs fraud* in recent years. In particular, these plans have led to the creation of the Interministerial Anti-Fraud Coordination Task Force whose responsibilities include the fight against public finance fraud, the creation of a financial judicial investigation service, and a cooperation task force (encompassing bodies such as TRACFIN, DNRED and the National Directorate for Fiscal investigations (DNEF)). These actions have improved exchanges of intelligence at the operational level and the sharing of experiences, which seems to be consistent with the increase in cases detected by the authorities (see paras. 60 and 61 – IO.6). The Law of 23 October 2018 on the fight against tax fraud also significantly reinforces the tools made available to the tax agencies and the judicial authorities for the detection, control and punishment of fraud.
- Several national action plans to *combat terrorism* have been adopted, targeting CFT-related priorities in line with the conclusions of the NRA. Additional resources have been allocated to help the different competent authorities to implement these priorities. The authorities have managed to capitalise on the efforts to combat radicalisation as set out in the Action Plan to Combat Radicalisation and Terrorism, adopted in May 2016. This plan provided for, amongst other, the creation of a specialised intelligence service, the use of specific investigative techniques, and increased resources to detect funding networks. In addition, particular attention has been paid to the risks associated with some innovative for;ms of financing (prepaid cards, virtual currencies), leading to the rapid introduction of legislative measures by the authorities (see Box 2.1 – The K. Case).

Box 2.1. THE K. CASE

Ability of the authorities to implement corrective legislative measures promptly on the basis of new typologies identified during TF investigations

In 2020, the PNAT opened a preliminary investigation into a TF case involving funds sent to members of terrorist organisations in Syria, using a sophisticated system of payment accounts opened online with online banks, prepaid vouchers, virtual assets and hawala money transfer system. The investigation revealed the existence of certain TF techniques that had not been widely used until now, such as virtual asset portfolio accounts provisioned by prepaid vouchers bought by friends and family members in different tobacconists nationwide. These prepaid vouchers (for amounts under EUR 200) were then used to provision portfolios of cryptocurrency stocks opened abroad by individuals who then converted these vouchers by buying shares on virtual trading platforms. The opacity of this system makes it very easy to use by families wanting to transfer funds to their family members fighting in Syria.

Since this case, France has issued a Decree (no. 2021-387 of 2 April 2021) prohibiting anonymity in virtual assets transactions, regardless of

the amount of the transaction. Administrative measures have also been put in place, such as the inclusion of one of the suspects on the EU asset-freezing list and the adoption of a national freezing order against his family.

138. In terms of legislation, France has introduced several measures to limit anonymity in sensitive sectors such as fund transfers and money exchange, notably by setting limits on the use of cash and transactions carried out using prepaid cards in order to mitigate some of the most important typologies identified. France has also implemented measures to broaden the scope of the preventive AML/CFT regime by extending it to certain professions and activities which, in some cases are identified as areas of risks in the NRA. Some of these measures bore fruits while others are too recent or are yet to be operationalised:

- *Supervision of the handling of funds channelled through self-regulated professions*, which are identified as being activities posing a higher risk within certain professions. Consequently, for many years now, judicial trustees and notaries are required to operate in conjunction with the Deposit and Consignment Office (CDC) and lawyers with the CARPA when handling funds. The inclusion CARPAs in the AML/CFT regime in 2020 allowed to strengthen measures to identify and mitigate the most important risks for the profession. However, the activities of fiduciaries, whose materiality is more limited (see Chapter 1), but which are identified as high-risk in the SRA published by the CNB, are excluded from the scope of the obligation to pass through CARPAs;
- *Inclusion of registrars responsible for managing the RCS,* in consistency with the vulnerabilities highlighted in the NRA. This inclusion to the AML/CFT regime since 2020 reinforces the measures designed to ensure the transparency of legal persons and the identification of unusual or at-risk structures, especially on the basis of the alert criteria developed with TRACFIN (see IO.5).
- *Inclusion of real estate rental activities*. However, this measure, in place since 2020, is not confirmed in relation to the NRA results, which identify the threat level as being low, in contrast to real estate purchases and sales, which are exposed to a high threat level.
- *Inclusion of certain public authorities, notably the Banque de France*. The Banque de France has strengthened its AML/CFT mechanism to cover a wide range of activities, in addition to those covered by FATF, following an investigation of "ill-gotten gains" concluded in 2017 after observing the transfer of illicit funds via the Banque de France. To comply with the AML/CFT requirements, it has therefore put in place similar measures to those applicable to FIs, including the transmission of STRs to TRACFIN.
- *Inclusion of professionals in the art and luxury goods sector*[32] – recognised in the NRA as posing a high level of risk. Some of these professions have been subjected to AML/CFT obligations since 2001 (merchant of art and antiquities) while others since 2020 (trader and intermediairies in the art sector). While substantial risks have been identified since 2019, supervisory

32 This applies in particular to public auction houses, judicial auctioneers and anyone involved in trading antiques and works of art.

actions of the DGDDI and the DGCCRF remain limited, and it has not been possible to demonstrate its effectiveness. The 2021 AML/CFT action plan notes the lack of resources allocated to this sector and has made it a priority.

Exemptions, enhanced and simplified measures

139. In certain cases, France authorises exemptions from the FATF standards which are not always justified, in light of the results in the NRA and/or SRAs. For example, the CMF stipulates that PEPs who left office for more than a year are no longer considered as PEPs, which is not consistent with the NRA, which does not consider PEPs (see R.12) who have left their post to pose a lower risk. In accordance with European legislation, France also allows intra-EU/EEA correspondent banking relationships and recourse to third parties established in the EU/EEA to be treated as if they were located in France (see R.13). This presumption of equivalence in the implementation of AML/CFT systems is not based on a risk assessment and is not supported by the conclusions in the Mutual Evaluation Reports of EU/EEA countries.

140. France has identified high-risk scenarios that should be subject to enhanced measures within the national legislative framework. While these enhanced measures are usually justified in view of the specific risks identified in the NRA, the manner in which they are applied to certain activities is not always consistent with the identified risks. The use of currency and electronic money, for example, has been identified as posing a high risk in the real estate sector (SRA) and gaming (NRA), which justifies the limitation imposed on the use of currency in real estate transactions and the requirement that casinos record exchange activities involving any amount exceeding the threshold of EUR 2,000. However, the limit for currency payments of EUR 1,000 does not seem to apply to casinos and the law has set a different threshold for using currency for residents (EUR 1,000) and non-residents (EUR 15,000), which does not appear to be justified.

Objectives and activities of competent authorities

141. *Supervision* – The FI supervisory authorities have paid particular attention to the AML/CFT objectives in recent years, but this prioritisation came later for the DNFBP supervisory authorities. Since 2018, the AMF and the ACPR have set AML/CFT objectives, with the AMF developing an AML/CFT questionnaire, and the ACPR introducing the SABRE tool for analysing questionnaires and establishing a dedicated team for AML/CFT supervision. The refining of these tools and the implementation of the risk-based approach continue to be a priority. The results obtained suggest that the ACPR has taken account of the risks to which FIs under its supervision are exposed and has prioritised its activities accordingly. However, these priorities are less apparent in the activities of some DNFBP supervisors for which AML/CFT supervision and the risk-based approach are recent measures and dedicated resources are limited (see IO.3).

142. *TRACFIN* – In 2018, TRACFIN was reorganised internally to take account of the risks identified in the NRA, including the creation of a "Cyber" unit specifically for analysing intelligence related to virtual assets. A further internal reorganisation in 2021 saw the creation of three departments, two of which specialise in public finance fraud and terrorism. These changes have had immediate results, as the "Cyber" unit has collaborated effectively on complex ML cases discussed during the on-site visit.

143. *Investigations and prosecutions* – The policies and activities put in place seem appropriate in relation to the ML/TF risks identified. Clear priorities have been established to orient the activities of the investigating and law enforcement authorities, especially for complex and highly complex ML cases as well as FT-related cases. Overall, there has been a significant increase in staffing in the investigation and prosecution services, in particular for counter-terrorism (including TF). However, it has not been confirmed that the resources allocated to these services are in all cases suitably adapted to ML risks, especially in local investigative agencies and for judicial investigations, particularly for complex and large-scale cases.

144. In addition to the above-mentioned increase in staffing, some specialised units have recently been established, such as the PNAT. The creation of this office is not only a reaction to the risks of TF, but is largely linked to terrorism in general. It succeeds the anti-terrorism section of the Paris public prosecutor's office and centralises the direction of judicial investigations in terrorism matters. The introduction of this office has already led to some effective results, especially in TF investigations (see IO.9).

145. The activities of the authorities in OM do not appear to be totally consistent with the ML risks. Some actions seem to have been adopted after consideration of the risks, such as the use of additional resources by the operational authorities in OM, and in the West Indies in particular, in light of the risks linked to drug trafficking. However, the need for greater commitment was noted during the on-site visit, especially in terms of the provision of the expertise required.

National coordination and cooperation

146. Since its creation in 2010, the COLB has provided an effective structure for cooperation and national coordination, including for the exchange of information between competent authorities. This committee ensures the consideration of emerging threats through its regular meetings. In 2020, the COLB made possible the detection and communication of the main threats of crime and ML linked to the COVID-19 crisis.

147. Apart from the COLB, forms of formal/informal bilateral cooperation exist between certain supervisory authorities and TRACFIN. National cooperation seems effective in the financial sector with cooperation and close and frequent exchanges between the AMF, the ACPR and TRACFIN. In the non-financial sectors, some DNFBP supervisory authorities have recently established effective cooperation mechanisms with TRACFIN, in order to communicate actively and regularly about risks. Supervisors derive great benefit from the ongoing support of TRACFIN through regular bilateral meetings and annual reports, and they also include TRACFIN in their awareness-raising activities with the businesses covered. This coordination seems to have had a positive impact, although the effects have yet to be demonstrated for some regulated entities. However, further bilateral cooperation still needs to be developed between stakeholders in the same sector of activity, especially between the DGCCRF and the CSN in the real estate sector, and between registrars, the DGCCRF and the CNB with regard to the transparency of legal persons.

148. The investigative, prosecution and intelligence authorities, along with TRACFIN cooperate effectively in the area of combating TF. They are rapidly adapting to the changes in related risks. In particular, coordination between the competent authorities was strengthened after the terrorist attacks in 2015 and new trends in TF (micro-financing) have been considered in the TRACFIN analyses, which are used more often to support investigations. This improved coordination has been particularly helpful in detecting networks of fundraisers (see IO.6 – The Collectors case). These conclusions are supported by examples of cases that have been analysed. Concerning ML, the competent authorities cooperate effectively in investigations and prosecution to a certain extent, relying mainly on informal exchanges between the investigation and prosecution authorities, apart from operational coordination in matters of fraud and ML of fraud (p.ex. the establishment of the inter-agency VAT Task Force – PNF, DNEF, DGFIP, BNRDF, SEJF and TRACFIN).

149. In terms of PF, cooperation between competent authorities is effectively coordinated by the SGDSN (see details in RI.11). The SGDSN ensures interministerial coordination relating to the fight against the proliferation of WMD and its financing. Besides the SGDSN, other administrations also contribute to the fight against the proliferation of WMD and PF. These are, in particular, the MEAE, the Ministry of the Armed Forces, DGT, TRACFIN, DGSI and its judicial service, the Dual Use Goods Service (SBDU) and DGDDI. The latter is competent in the detection of circumvention and attempted circumvention linked to proliferation. The Interministerial Commission for Dual-Use Goods issues opinions to the SBDU which is the authority for controlling the export of dual-use goods. It also supports national cooperation and coordination in this area. It allows continuous monitoring of certain people or entities suspected of being involved in proliferating flows.

The private sector's awareness of the national risk assessment findings

150. France published its full NRA in November 2019 and disseminated it via the main competent authorities' websites. Before publication, a draft of the report had been transmitted to the relevant entities in the financial sector and to some DNFBPs via their supervisory authorities and/or professional associations, and most of regulated entities endorsed the conclusions. The vast majority of FIs under ACPR and AMF supervision seem to have appreciated the collaborative approach used for the preparation of the NRA and the SRAs.

151. The Consultative Commission on AML/CFT (CCLBCFT) is the main public/private body specific to the financial sector for discussing ML/TF obligations, the risks and how they are changing. The private sector is represented by professional associations and the main players in their respective fields. The Commission was used for consultations with some private sector players during the process of preparing the NRA and it acted as a distribution platform following publication. It also continues to act as an effective forum for sharing information about risks.

152. With occasional support from the DGT and TRACFIN, the AMF and the ACPR also use various channels of communication with their regulated entities, in order to disseminate the results of the NRA/SRA and maintain effective communication with FIs on the subject of risks. Additional information about risk is transmitted regularly to the entities concerned via TRACFIN's analysis reports and newsletters. In particular, France reacted quickly to the COVID-19 sanitary crisis, drawing the attention of FIs and DNFBPs to the new cases of typologies linked to emerging risks within a very short timescale. In this respect, TRACFIN disseminated a typological analysis in May 2020 about the main risks related to the sanitary crisis, especially those involving fraud and corruption, and two webinars were organised to illustrate different examples of typologies.

153. The analysis of geographic ML/TF risks of OM has not been published, which reduces the understanding of the risks and specificities associated with the overseas territories among the regulated entities. The SRAs were sent to the majority of DNFBPs concerned. However, for real estate agents and business service providers, information about risks was mainly disseminated during the DGCCRF inspections and through professional associations, although their representation does not always cover the designated sector sufficiently. Another exception is the gaming sector (SCCJ) which chose to keep its SRA confidential, although some information about risk was nevertheless transmitted to the entities concerned through the SCCJ guidelines, and also at training sessions organised for this purpose[33]. However, within the casino sector, this information was not always sufficient to compensate for the non-dissemination of the analysis reports. Concerning self-regulatory bodies, the entities at central level were responsible for transmitting the NRA and SRAs to the regional professional boards and local bar councils as part of the regular exchanges between bodies at local and national level, or they were passed on directly to individuals in the profession.

154. All supervisory authorities and TRACFIN have carried out awareness-raising campaigns on ML/TF risks for DNFBP entities, although the content and frequency of these activities is not uniform.

33 The new SRA planned for 2022 should be disseminated in its entirety to all regulated entities.

Overall Conclusions on IO.1

The authorities have demonstrated a good and very good understanding of the risks respectively in terms of ML and TF. This level of understanding is generally shared by all competent authorities except for some DNFBP supervisory authorities. In general, repressive policies and activities adequately reflect the risks identified. However, the analysis of certain ML risks needs to be refined and the provision of expertise dedicated to the fight against ML in OM remains necessary. In terms of TF, the policies and coordination put in place have made it possible to achieve significant results. The COLB effectively ensures cooperation and coordination at the national level. However, cooperation between the DNFBP supervisory authorities responsible for the same sector of activity still needs to be developed. Moderate improvements need to be put in place, in particular in the analysis of certain ML risks as well as in the understanding of risks of certain supervisory authorities for DNFBPs considered higher risk.

France is rated as having a substantial level of effectiveness for IO.1.

Chapter 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 6

a) Competent authorities regularly use financial intelligence and other relevant information to which they have direct or indirect access to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF. In practice, TRACFIN is often asked to enrich financial investigations, especially in the most complex cases.

b) TRACFIN receives a large number of STRs, mostly from FIs, as well as other relevant information. It makes extensive use of its right to request information from regulated entities and other competent national authorities, especially through its liaison officers. However, not all available information is exploited before the investigation phase, which restricts the identification of priority cases and limits the dissemination of information to competent authorities.

c) TRACFIN produces in-depth and high-quality operational analyses that meet the needs of competent authorities, which often request TRACFIN's cooperation. It also develops strategic analyses, mainly in the form of typologies, which help to improve the understanding of risks, although the resources allocated for this purpose remain limited.

d) Predicate offences identified by TRACFIN and disseminated in their Judicial Transmissions (TJ) correspond to the major risks identified by France. In addition, this seems to be corroborated by the high number of cases for which an investigation has been initiated.

e) TRACFIN and the other competent authorities cooperate effectively, exchanging a substantial amount of information. Cooperation at the operational level and the sharing of experiences is facilitated by participation in joint working groups and the existence of numerous multidisciplinary units. The authorities have established mechanisms to ensure feedback between them, although to a lesser extent in relation to TF.

Immediate Outcome 7

a) France has a comprehensive legal and institutional system to identify and investigate ML cases. While investigative and prosecutorial authorities proactively identify ML cases through a wide variety of sources, the number of cases identified in the course of high-risk predicate offences investigations appears to be relatively low.

b) The competent authorities follow a "top-down" approach in complex and highly complex predicate offence investigations carried out by specialised courts and therefore prioritise the prosecution of high-end ML cases.

c) ML investigations and prosecutions are to a large extent consistent with the risk profile identified in France. While the majority of investigations into ML activities corresponds to main high-risk crimes (tax fraud, scams, drug trafficking), the number of ML cases linked to other at-risk crimes (corruption and human trafficking) was low compared to the level of risk.

d) The competent authorities prosecute and obtain convictions for the different types of ML (stand-alone ML, self-laundering, third-party ML and ML based on a foreign predicate) to a large extent. However, stand-alone ML convictions account for fewer ML convictions than expected, in view of the authorities' legal opportunities (i.e. presumption of ML) to prosecute stand-alone ML more easily since the burden of proof was reversed since 2013.

e) Specialised law enforcement and investigative authorities have adequate financial and technical resources to identify and investigate ML cases. However, despite an increase in staff with extensive and specialised training, the lack of human resources and expertise is a limitation for the system and also impacts investigation timeframes, especially in complex and highly complex cases. In addition, the lack of dedicated resources and specialised investigators for ML at the local level, in OM and at judicial investigations poses a challenge for conducting effective ML investigations.

f) The sanctions applied against persons convicted of ML offences are generally effective, proportionate and dissuasive. The courts use the full range of sentences and impose severe penalties in the most serious and complex cases. For natural persons, the sentencing rate is high. For legal persons, sanctions imposed for ML are moderately high.

g) The authorities apply alternative measures to disrupt ML when a conviction cannot be obtained. Where possible, they opt for prosecutions under common law (receiving stolen property or unexplained wealth), or otherwise use other measures (non-return of seized assets, or tax adjustments). In addition, the authorities have access to an alternative to prosecution, an effective deferred prosecution agreement (CJIP) which is reserved for legal persons in cases involving certain financial crimes. ***Immediate Outcome 8***

a) France has established the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value as an overarching priority, and this has remained an objective of its criminal justice policy since the adoption of the Warsmann Law (2010). It has a robust legal framework designed to foster a policy of systematic seizure and confiscation for proceeds-generating offences.

b) Criminal justice policy aims to identify criminal assets as early as possible in the course of an investigation in order to optimise their seizure. Proceeds investigations follow the "top-down" approach mentioned in IO.7, according to which investigations must be more in-depth where the value of proceeds or instrumentalities is high and the existence of seizable assets appears likely.

c) The establishment of the AGRASC is a strong point in the system, providing judges and investigative authorities with the necessary support to carry out national and international seizures and confiscations. AGRASC has shown its ability to manage seized assets effectively and to adapt to developments in this field, which has enabled, for example, the seizure of new types of proceeds such as virtual assets.

d) France actively implements measures to identify and seize criminal proceeds and has obtained very good results, seizing a wide variety of assets (life insurance, virtual assets) worth over EUR 550 million on average each year.

e) France has successfully deprived criminals of considerable amounts representing criminal proceeds and instrumentalities or property of equivalent value (EUR 4.7 billion per year) using several measures, including confiscation, CJIP, tax penalties and repatriation of proceeds which have been moved to other countries.

f) The authorities are active in identifying proceeds located in foreign countries and following-up on foreign requests for the identification of assets in France. The number of requests to identify assets abroad is much higher than the number received, which is consistent with France's risk profile, being exposed primarily to ML risks related to illicit proceeds generated in France.

g) While the number of cases and the relative amount of proceeds repatriated and shared with other countries are not yet significant, the authorities have presented several cases illustrating their ability to seize, confiscate, repatriate and/or share assets with other countries. The difficulties and delays in providing mutual assistance in this area may explain why asset sharing is just starting to increase.

h) France has a robust legal framework in support of the obligation to declare cross-border movements of cash. The authorities have a good understanding of the major risks associated with cross-border cash movements and recognise the importance of addressing these identified risks by applying sanctions, which are proportionate but do not appear to be very dissuasive at least where there is no evidence of other customs offences.

i) Confiscation results are generally consistent with national AML policies and priorities as well as the risks identified in the NRA. Statistics available since 2019 confirm that confiscations are also generally consistent with the risk profile. The numerous case studies presented to the assessment team confirmed that confiscations are ordered for main criminal threats.

Recommended Actions

3

Immediate Outcome 6

France should:

a) Optimise TRACFIN's use of the information available in numerous databases, especially criminal files, from the initial 'integration phase' onwards, in order to proactively identify urgent cases and prioritise the processing of STRs and other available information, and in order to improve the dissemination rate.

b) Ensure that TRACFIN reviews its organisational procedures in order to harmonise the information security requirements with the need to ensure full operational capacity in the event of a pandemic or lockdown.

c) Increase the staffing in TRACFIN's strategic analysis unit to ensure the dissemination of more typologies and strategic information on important topics.

d) Improve feedback from the DGSI to TRACFIN on TF matters by introducing mechanisms to enable the identification of targets or subjects on which TRACFIN should focus its analyses.

Immediate Outcome 7

France should:

a) Continue prioritising the prosecution of high end ML cases, while paying particular attention to predicate offences pursued at the local level with the aim of identifying ML.

b) Pursue the implementation of strategies relating to the application of the presumption of ML by all prosecuting authorities.

c) Continue implementing the project to modernise the "Digital Criminal Procedure" (PPN) IT tool in order to facilitate coordination between the relevant authorities and thereby shorten the duration of investigations for complex and large-scale cases.

d) Enhance ML investigations and prosecutions linked to corruption and human trafficking by strengthening the competent agencies through the recruitment of staff who are trained and specialised in financial investigations.

e) Continue to increase the number of staff specifically trained and specialised in combatting ML, especially in OM, at the local level and in judicial investigations.

Immediate Outcome 8

France should:

a) Ensure that authorities continue their efforts to systematise seizure and confiscation by all investigative and prosecutorial authorities.

b) Further develop the use of asset sharing or repatriation when international cooperation permits.

c) Amend legislation in order to strengthen the dissuasive nature of sanctions for a simple MOD.

d) Improve the collection of comprehensive statistics on seizure and confiscation of MOD and consider centralising all information, statistics and related tools with AGRASC, through the creation of a resource centre.

155. The relevant Immediate Outcomes considered and assessed in this chapter are IO.6-8. The Recommendations relevant to the assessment of effectiveness under this section are R.1, R.3, R.4 and R.29.

Immediate Outcome 6 (Financial intelligence)

Use of financial intelligence and other information

156. The investigative authorities regularly access and use financial intelligence and other relevant information to develop evidence and trace criminal proceeds related to ML, associated predicate offences and TF.

157. The assessment team based its conclusions on a variety of information, in particular: statistics on the different types of data held by TRACFIN, interviews with TRACFIN and several investigative and prosecution authorities (including DGPN, DGGN, SEJF, DNRED, DNEF, PNAT and PNF), interviews with administrations responsible for managing databases (DGFiP, DGDDI), interviews with representatives of the professions subject to the reporting requirements, examination of case studies, and visits to TRACFIN's premises.

158. The investigative authorities have a wide range of diverse sources which they use in their ML/TF investigations to develop evidence, and trace criminal proceeds related to ML/TF and predicate offences. Box 3.1 lists the main files and databases, most of them accessible to investigators in real time, used by the different investigative authorities.

Box 3.1. Examples of available records and databases [34]

- **National bank account record**(FICOBA): information on holders of bank accounts, safety boxes and beneficiaries;
- **National capital bonds and life insurance record** (FICOVIE): information about beneficiaries of life insurance policies;
- Wanted persons record ,
- Beneficial Ownership Register (RBO) (see IO.5)
- **National file of persons prohibited from holding management functions** (FNIG): information on bans pronounced by commercial, civil and criminal courts;
- **Vehicle registration record** : information on the identity of holders and co-holders of vehicle registration certificates;
- **File of pre-hiring declarations** : information on employees and employers involved in a pre-hiring declaration;
- **Trade and Companies Register (**RCS): information on registered companies and businesses.
- **National Register of Associations** (RNA): access to the file presented to declare an association (articles of association, list of people authorised to represent the association, deliberations to modify or dissolve the organisation).
- **National assets database** (BNDP**)**: information on assets provided in documents filed by taxpayers.
- **Real estate record** (***PATRIM***): assists with estimating real estate assets in the context of a property wealth tax declaration, an inheritance, a deed of gift, or an administrative procedure.
- **Common national social protection directory** : information held by managers of social aid benefits.
- **"ADONIS" DGFiP record** on the tax situation of natural persons.
- **Customs databases:** ROC module of the SILCF (which includes breaches of the obligation to declare for physical cross-border movements of cash or negotiable bearer instruments), and the DKS module (which includes the reporting of cross-border cash movements);
- **PABLO register**: information on tax refunds
- **The ASTRINET, CANOPEE, and TTC applications** relate to declarations concerning intra- and extra-European flows of goods**;**
- Europol Terrorist Finance Tracking Programme (TFTP)
- **ALPAGE database**: application for monitoring tax audits, from programming through to collection

34 . Access to these files and databases may be direct or indirect, depending on the service using them.

159. In addition to consulting the many registers and databases, the authorities also use other methods to collect financial information, such as searches, human intelligence, information transmitted in the framework of cooperation with foreign police forces, and judicial cooperation. In practice, TRACFIN is often asked to enrich financial investigations, especially in the most complex cases.

160. TRACFIN plays a key role in enriching and exploiting financial intelligence courtesy of the various information sources to which it has access and its internal processing system, STARTRAC. In addition to declarations by regulated entities (STRs and COSIs), TRACFIN has access –mainly directly – to numerous administrative and financial databases. This includes databases relating to bank account files and life insurance (FICOBA and FICOVIE), taxes and real-estate assets (ADONIS and BNDP), in addition to RCS; RNA and RBO. TRACFIN also has direct access to criminal records[35], and to lists of interest that enable it to focus its investigations on high-priority or sensitive areas. TRACFIN can also access information of private[36] and public databases.

161. TRACFIN regularly interacts with the police and the gendarmerie, mainly via three liaison officers who have direct access to several databases, to obtain information about ongoing investigations. TRACFIN also accesses information held by foreign FIUs (see IO.2).

162. TRACFIN has a growing use of the available information to conduct analyses of STRs received (see Table 3.1). The decline in the number of customs investigative actions in recent years is explained by granting TRACFIN agents a direct access to ROC/DKS (cross-border currency declarations and MOD), which also explains the increase in direct administrative database consultations.

Table 3.1. Statistics for different research and investigation by TRACFIN

Type of research / Year	2016	2017	2018	2019	2020
Consultation of police records	ND	2 701	11 252	10 514	9 445
Direct consultation of administrative databases	17 692	18 557	21 288	19 653	19 198
Direct consultation of TRACFIN databases	2 652	4 222	6 170	6 776	6 884
Open-source research	5 103	4 669	5 018	4 524	3 895
Investigative actions by Customs[37]	2 307	818	283	291	226
Requests to FIU counterparts	1 454	1 762	2 255	2 912	2 875

163. The dissemination rate for STRs is not particularly high: only 4% of STRs are disseminated to competent authorities within the same year they are received. However, the authorities point out that more than 40% of annual disseminations contain information from previous years STRs. The fact remains that, on the basis of on-site findings and the case studies submitted, TRACFIN's analyses make an important contribution, either by triggering new investigations into ML, predicate offences or TF, or by contributing additional information to ongoing investigations.)

35 The Wanted Persons Database (FPR) and the part of the file of criminal proceedings drawn up by the National Police or the National Gendarmerie covering crime, offences and some minor offences (TAJ) relating to suspects.

36. For example: World-Check and the Dow Jones Watchlist.

37. Excluding direct access by TRACFIN agents to ROC and DKS.

Table 3.2. Number of investigations carried out by competent services following a TRACFIN briefing note

Services /Year	2016	2017	2018	2019	2020
Ministry of Interior	197	225	243	153	178
SEJF	28	20	26	33	23
DGFiP	232	234	238	435	234

164. Intelligence agencies are the main recipients of TRACFIN briefing notes (see Table 3.3), followed by anti-fraud agencies and the judicial authorities. The case studies provided for the assessment team show that TRACFIN is one of the main sources of identification ML related to tax fraud. The statistics also show a steady rise in cases disseminated by TRACFIN.

Table 3.3. Dissemination of TRACFIN briefing notes (by type of recipient authority)

Services /Year	2016	2017	2018	2019	2020
Judicial Authorities	690	891	948	954	738
Intelligence services	488	614	1,105	1,482	1,321
Services combating tax, social and customs frauds	574	888	967	1,019	828
Foreign FIUs	121	202	231	246	126
Other authorities	16	21	31	37	20
Total	1,889	2,616	3,282	3,738	3,033

165. The investigative authorities regularly use financial intelligence transmitted by TRACFIN rising since 2016, in TF matters also. The following table shows the number of TF transmissions disseminated by TRACFIN to the judicial authorities.

Table 3.4. Number of TF disseminations by TRACFIN

		2016	2017	2018	2019	2020
Number of judicial transmissions		3	0	2	5	15
Number of spontaneous transmissions to the judicial authorities		23	222	137	166	79
Total		26	222	139	171	94

166. The use of financial intelligence has enabled TRACFIN to detect IS fundraisers (e.g. *Fundraisers case*). The identification of fundraisers and the creation of files represent good practice in using financial intelligence to combat TF.

Box 3.2. Fundraisers case

Example of a financial investigation coordinated by different authorities to support an antiterrorist investigation, originating from a TRACFIN briefing note

Description: PNAT, TRACFIN and the investigative authorities have adopted a protocol to centralise intelligence on "fundraisers". Many discussions between the different agencies and the private sector led to the identification of a large number of French senders and the associated flows of funds. In order to incorporate this financial information into ongoing procedures, TRACFIN created a file for each fundraiser, stating the identity of the senders, the amounts of money transferred and a network mapping. The conducted investigations enabled authorities to discover the existence of French jihadists in the country and identified logistical and financial support networks previously unknown to the investigative authorities.

Results: 40 cases were opened as a result of this financial intelligence, and several convictions were obtained on the basis of this information.

167. TRACFIN analysts and investigators also have access to cross-border declarations data kept by the Customs. This data relates to declarations of cross-border movements of currency, equities or securities and bearer negotiable instruments (BNI), for amounts equal to or exceeding EUR 10 000 threshold (DKS), and MOD. The Table 3.30 under IO.8 shows the number of declarations.

168. The following case studies demonstrate the ability of prosecuting authorities to use financial intelligence and to widely access other relevant information to conduct ML/ TF investigations.

Box 3.3. Bo case

Example of financial intelligence used in complex ML cases (tax fraud)

Subject: TRACFIN received several STRs relating to French companies whose bank accounts had been credited with payments exclusively by American bank cards.

Facts: Investigations by OCLCIFF, conducted jointly with the Regional Service of judicial police, revealed the existence of a network of companies operating in France, which used the same operating technique, under the pretext of developing websites which in fact had no traffic at all. Over EUR 220 million were credited to accounts in France, and 95% was then withdrawn and transferred to other foreign companies managed by the French suspect (including offshore entities and companies linked to gaming websites). The investigation revealed that undeclared commissions and retro-commissions were received by the suspect and his accomplices. These same ML mechanisms were used by French companies acting illicitly as Payment Service Providers; this activity was undeclared in France and is similar to the illegal exercise of banking activity.

Results: Investigations are still ongoing; during the investigation there have been many seizures of real estate and movable assets in France and abroad to a value of EUR 3.5 million.

3

Box 3.4. Family Assistance Association and exfiltration case

Example of TRACFIN's financial intelligence used in a TF case

Facts: TRACFIN conducted an extensive study of bank accounts held by natural and legal persons, targeting four French associations that aided families affected by the "jihad" phenomenon. From this analysis, it emerged that the president and treasurer of one of the associations had sent funds to their children, who had travelled to the Syrian-Iraqi conflict zone, and that these funds had apparently been embezzled from the association (they had been credited by transfer to their personal accounts). Following requisitions by the PNAT from various wire transfer bodies, the investigation confirmed this embezzlement (via third parties in Turkey and Lebanon). Searches were conducted and the mobile phone records of the people held in police custody showed that the parents were fully aware of their children's presence in a conflict zone and their active participation in IS activities.

Results: As a result of this case, individuals who had transferred and used association funds with no apparent justification (which is relevant to IO.9) were prosecuted for TF. The case also demonstrates the use of other cash couriers and contacts whose aim is to facilitate the exfiltration of terrorists from Syria.

169. Exchanges of financial intelligence are also facilitated by establishing thematic task forces (VAT, anti-fraud, tax intelligence, CTF), in which the participating authorities can asked to provide support, especially for asset-related aspects. According to the topics in question, this may involve participation by representatives from the police, the gendarmerie, local intelligence services, tax services, customs and the departmental labour and employment directorate. Exchanges of information between different authorities on a regular basis represent good practice for the use of available data, especially in the most complex investigations.

170. Financial intelligence is also used by the supervisory authorities (mainly by the ACPR and to a lesser extent by other supervisory bodies) as a means of orienting their oversight activities, especially on the basis of available information and feedback from TRACFIN. It is also used by administrative investigative agencies, especially the customs (DNRED) and tax authorities (see box 3.5).

Box 3.5. The M. case

Example of financial intelligence used by the tax authorities

Facts: A counterpart FIU informed TRACFIN that Mr. H has transferred EUR 597,558 into his bank account opened in Spain, from a Hong Kong bank account in the name of a company called M. Consulting Limited. This transfer was used to purchase real estate in Spain. TRACFIN informed the DNEF in September 2016. In February 2018, the National Investigation Brigade (for the DNEF) carried out a tax search at the home of Mr and Mrs H. From the items seized, it became apparent that M. Consulting Limited was a shell company in Hong Kong whose business was managed by hidden activities in France.

Result: The tax audit carried out on Mr and Mrs M resulted in the payment of EUR 2.6 million in charges and penalties by the company and EUR 2.6 million in charges and penalties by its director.

STRs received and requested by competent authorities

171. TRACFIN receives different types of information from regulated entities: STRs and COSIs. As shown in Table 3.5 below, the number of STRs received is on a constant rise over the last five years (see Tables under IO.4 for a detailed breakdown of STRs by type of regulated entity.)

Table 3.5. Number of STRs received by TRACFIN

	2016	2017	2018	2019	2020
-Financial professions	58 ,517	64 044	71 605	89 574	105 473
-Non-financial professions	3 742	4 617	4 711	6 158	6 198
Total	62 259	68 661	76 316	95 732	111 671

172. STRs are transmitted by Internet via a secure, paperless reporting mechanism (ERMES); regulated entities can use an IT application to complete their reports online. This application also ensures that STRs are incorporated directly into the STARTRAC system managed by TRACFIN. In practice, this simplifies the management of incoming STRs being automatically added to the system. A very small proportion of STRs from the non-financial sector (approx. 450 per year) are sent to TRACFIN by postal mail, and require additional processing by TRACFIN agents to incorporate them into STARTRAC, although their impact remains limited.

173. Although TRACFIN attests to the good quality and quantity of STRs received by the financial sector, and to the growing commitment of the non-financial professions, the latter's contribution still seems limited: more than 90% of STRs are sent by FIs (especially banks and EP). Contributions from professions working in sectors at-risk (such as real estate, art and luxury goods) are still limited, despite an increase recorded in recent years.

174. Delays have been noted in the transmission of STRs by the regulated entities: for example, 60 days for ML-related reports and 27 days for those related to TF for FIs subject to ACPR supervision. The authorities explain that delays are due to the need to receive verified and complete information from the regulated entities; however, the requirement to receive the information in a timely manner does not seem to be met, especially with regard to TF. These delays may explain TRACFIN's limited use of its right to object to the execution of reported transactions, which may be of benefit to the prosecution authorities in their implementation of seizure and confiscation measures (see IO.8).

Table 3.6. Average time between execution of transactions and reporting to TRACFIN

In days	2016	2017	2018	2019	2020
Delay STR - ML	97	68	59	60	NA
Delay STR - TF	nd	37	32	27	NA

175. TRACFIN also receives a very large number of automatic disclosures called COSIs. COSI are disclosures sent by regulated entities on the basis of objective criteria, even in the absence of any suspicion. It is about transmissions of funds (for amounts exceeding EUR 1 000 per transaction, or aggregate amounts of EUR 2 000 per customer per month), and currency deposits or withdrawals in which the monthly amount per customer exceeds EUR 10 000. The table below shows the large number of COSIs received by TRACFIN. The decline in 2020 is attributed to the pandemic and lockdown periods. Like the STRs, COSIs are directly accessible via the STARTRAC system, which ensures their immediate availability for analysis.

Table 3.7. Number of COSIs submitted to TRACFIN

	2016	2017	2018	2019	2020
COSI "transmission of funds"	2 600 000	3 313 808	3 310 341	3 960 608	3 859 311
COSI "cash deposits and withdrawals"	52 900 000	56 118 389	51 177 616	46 970 110	37 161 266
Total	55 500 000	59 432 197	54 487 957	50 930 718	41 020 577

176. TRACFIN's data resources also include information from the supervisory authorities – almost exclusively from the ACPR (e.g. 306 reports received from the ACPR in 2020, compared to 9 from the AMF and 15 from the ANJ) –when supervisory authorities discover unreported transactions by the supervised regulated entities on potential ML/TF or predicate offences. This information is also integrated into STARTRAC, which requires a manual intervention by analysts responsible processing this data.

177. TRACFIN also makes use of its right to request additional information in timely manner, even when the declaring entity has not sent an STR. Entities must respond to requests within the timeframe set by TRACFIN and using the same secure exchange channel (ERMES). Using ERMES shortens the time to receive the required information and supporting documents to a few hours. However, the average response time observed was 5 days.

178. TRACFIN uses more or less systematically its right to request information for ongoing investigations, especially information that can be used to recover and trace suspects' funds. In 2020, nearly 19 000 requests were made to the private sector, of which 17 000 to FIs (mainly banks and credit institutions) and 1,400 to DNFBPs. Table 3.8 below shows the large number of information requests made by TRACFIN.

Table 3.8. Requests for information sent by TRACFIN to the private sector

Type of interlocutor	2016	2017	2018	2019	2020
Financial professions	12 482	14 464	16 507	17 976	17 375
Banks / ECs	*9 ,998*	*11 ,116*	*12 077*	*13 016*	*12 207*
Non-financial professions	724	958	1 140	1 184	1,394
Non-reporting[38]	25	99	101	108	75
Total	13 231	15 521	17 748	19 268	18 844

179. TRACFIN also makes use of its right to request information from different administrative authorities. For example, during the health crisis, TRACFIN sent more than 400 requests for information to the Service and Payment Agency, a public operator responsible for paying out aid under the short-time working scheme. TRACFIN's investigations have also been enhanced by its active use of international cooperation (see IO.2). The table 3.9 indicates the number of investigation techniques used by TRACFIN agents in their analyses.

Table 3.9. Investigation techniques used by TRACFIN agents

				2016	2017	2018	2019	2020
Research procedures[39]				25 467	30 172	43 735	41 456	39 483
Requests to foreign FIUs				1 454	1 762	2 255	2 912	2 875
Requests for information				30 785	29 194	26 275	46 470	24 881
Total investigative actions				57 706	61 128	72 265	90 838[40]	67 239

180. Before the "investigation" phase, analysts from the Integration Division (5) carry out a preliminary analysis of the STRs to identify any urgent cases and to guide subsequent activities; this processing also enables analysts to check the quality of the data and their admissibility. In this phase (called the *integration* phase), analysts identify STRs with high priority, using the following four prioritisation criteria: TF, PEPs, events linked to the health crisis, and requests concerning the right to object. The process is automated using an IT application that detects key words in the STRs and checks for information already available in STARTRAC.

38 Travel agencies, managers of payment systems and transport companies

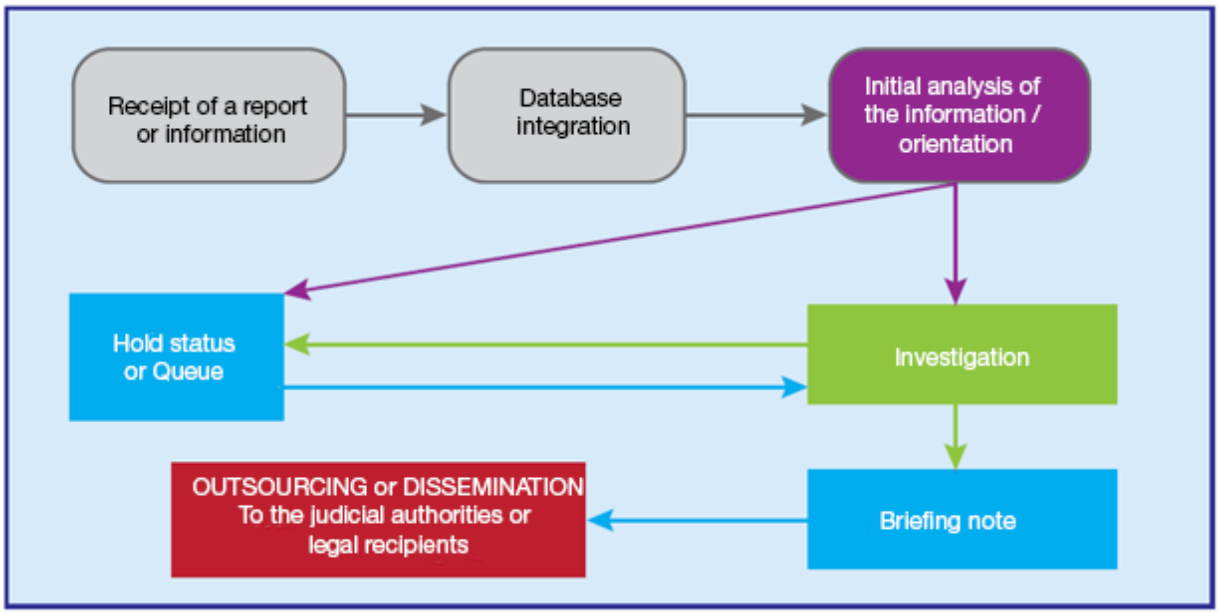
39. Investigative actions include: consulting police files, direct consultation of administrative databases, direct consultation of TRACFIN databases, open-source searches (for more details see Table 3.1)

40 The significant increase in the number of investigative actions in 2019 is mainly due to the issuing of more than 19,000 calls for vigilance by TRACFIN.

181. In the next phase (called the *orientation* phase), analysts from a different Division (10) check whether additional information would be available, e.g. in national lists of frozen assets or available lists of the AFA or the High authority for the transparency of public life (HATVP), or in other databases to which TRACFIN has access. These analysts also assess the relevance of the analysis of suspicion and forward the report to the appropriate Department. Following this second check, a decision is made concerning the processing of the STR, which may be assigned to an investigation Department or unit[41] for detailed analysis before potentially being disseminated to competent authorities. An STR may be put on hold after integration or orientation, and then subsequently retrieved during the processing of other information received by TRACFIN. The information-processing circuit at TRACFIN can be described in the following manner:

Infographic 3.1.
From the STR to finalising the enquiry

Channel for processing data at TRACFIN



182. The five analysts working on the integration phase process 120 STRs/day on average, while the 10 analysts working on the orientation phase may process as many as 160 per day (equivalent to 16 STRs per analyst). Given the large number of STRs received by TRACFIN, the result is that almost half are put on hold solely on the basis of automatic controls by an IT application. This poses the risk of urgent or important cases not being detected automatically and in a timely manner.

183. The system's effectiveness may also be undermined by the fact that only automatic checks on reported subjects in the STARTRAC databases are carried out during the integration phase, whereas other databases are consulted manually (and possibly) by the orientation analysts, but only for the 160 analysed STRs/day.

41 Departments and units: Department of Intelligence and Counter Terrorism (DRLT), Department for Combating Fraud (DLCF) and Department for Combating Economic and Financial Crime (DCEFI), and the International Operational Cooperation Division (DCIO). Also the "Cyber-crime" unit.

Operational needs supported by FIU analysis and dissemination

184. TRACFIN's operational analyses greatly enrich the information included in STRs. This is due to the exploitation of the variety of information accessible to TRACFIN, and the analysis carried out by its agents. Authorities receiving the briefing notes confirmed the high quality of dissemination by TRACFIN that meet their operational needs in the context of ML/TF and predicate offences investigations and prosecutions.

Operational analysis

185. Since the reorganisation of TRACFIN, effective from April 2021, STRs, not on hold after the integration and orientation phases, are transmitted to one of the three departments (or the Cyber Unit) in charge of investigations, to conduct more in-depth investigations into the cash flows. Each department specialises in handling cases linked to one of the three priority fields defined by TRACFIN, i.e. terrorism, fraud and financial and economic crime[42]. This categorisation is carried out according to the types of activity reported, and the alleged underlying offence. Although the assessment team was unable to assess the results of this reorganisation due to its recent nature, the approach adopted appears to meet the need to increase the specialisation and effectiveness of TRACFIN's analyses.

186. TRACFIN also has an adequate level of human resources (191 agents), 80% of whom carry out operational tasks. TRACFIN has sufficient financial resources (with an annual balance sheet of about EUR 18 million). These resources are determined by the Ministry for the Economy on an annual basis and TRACFIN states that their operational requirements have always been taken into consideration without any problem.

187. The investigations carried out are intended in particular to identify suspicious cash flows and determine the possible commission of an offence. In this case, a briefing note is prepared and disseminated to the competent authority.

188. TRACFIN issues two types of briefing notes:

    a) Judicial Transmissions (TJ) – when TRACFIN's investigation enables the identification of a suspicion of ML offence punishable by a custodial sentence of more than one year, TF offence or another predicate offence. In this case, the note is transmitted to the competent public prosecutor's office after obtaining the opinion (except in emergencies) of the legal adviser of TRACFIN. It should be noted that a TJ may be the result of one or more information received or obtained by TRACFIN;

    b) Spontaneous Transmissions (TS) – for which, despite the lack of sufficient elements qualifying for a crime, TRACFIN detects acts that are likely to be used in connection with investigations conducted by competent authorities. In recent years, TRACFIN has also diversified the forms of dissemination by

42 The intelligence and counter-terrorism department (DRTL) is in charge of defending and promoting State security, and has a division dedicated to combating the financing of terrorism. The anti-fraud department (DLCF) carries out missions to combat tax and social security fraud, and the anti-financial and economic crime department (DCEFI) is responsible for dealing with offences related to probity and crimes against people or property. The Cyber Unit is responsible for investigating financial transactions carried out using virtual assets, and for cash flows resulting from criminal transactions carried out on the deep or dark web.

creating different products according to the recipients' requirements, such as "fundraiser network" files for transfers of funds, and different types of "flash reports", in particular for tax and social security fraud. The number of spontaneous transmissions appears to have been increasing continuously since 2016, which reflects TRACFIN's commitment, while the lower number recorded in 2020 appears justified by the operational impact of the pandemic.

Table 3.10. Disseminations carried out by TRACFIN (by type of transmission)

Type of dissemination	2016	2017	2018	2019	2020
Judicial transmission	448	468	469	492	454
Spontaneous transmission	1 441	2 148	2 813	3 246	2 579
Total	1 889	2 616	3 ,282	3 ,738	3 033

189. Moreover, TRACFIN disseminations are also used to initiate criminal proceedings for predicate offences. The identification of predicate offences by TRACFIN in TJs corresponds to the major risks identified by France, and furthermore, also appears to be corroborated by the high number of cases for which an investigation has been initiated.

Figure 3.1.
Breakdown of predicate offences in TRACFIN's TJs in 2019

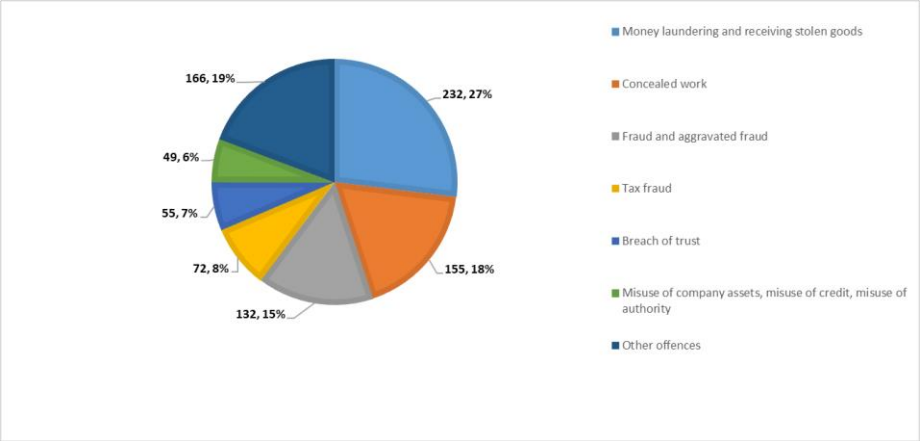


Table 3.11. Action taken due to judicial transmissions by TRACFIN

	2016	2017	2018	2019	2020
Judicial transmissions[43]	448	468	469	492	454
Legal proceedings	408	426	430	433	377
No action, without investigation	7	8	2	0	1
Opening of a preliminary investigation	401	418	428	433	376

43 Several judicial transmissions by TRACFIN may support the same legal proceedings, which explains the difference between the number of legal proceedings.

190. Table 3.12 indicates that even after initiating a preliminary inquiry, the number of inquiries without further action remains low and is continuously declining, which seems to confirm the quality and pertinence of the information transmitted by TRACFIN.

Table 3.12. Action taken after initiating preliminary inquires

	2015	2016	2017	2018	2019	2020
Initiation of preliminary inquiry	408	401	418	428	433	376
Investigations resulting in a court ruling	105	71	66	16	8	7
Preliminary inquiries still in progress	154	195	234	308	216	124
inquiries without further action	*55*	*52*	*49*	*24*	*7*	3
Investigations resulting in the opening of a pre-trial judicial investigation (still in progress)	57	57	47	44	13	13
Unknown Result of the inquires	37	26	22	36	189	229

191. Authorities receiving the briefing notes unanimously acknowledge the quality of TRACFIN's analyses, as well as its ability to detect useful phenomena and to transmit comprehensive data that meet operational needs. The decline of almost 20% in disseminations by TRACFIN in 2020 is attributed to the COVID-19 crisis, and in particular to the lockdown imposed in the first few months of 2020.

192. Despite adopting an operational plan to ensure business continuity, TRACFIN's capacities appear limited if the COVID-19 health crisis worsens. This is due to the high level of security imposed by TRACFIN and the impossibility of using remote work or accessing internal networks outside TRACFIN's premises, which may constitute an operational restriction in a context where the number of STRs is continually rising (+10% between 2019 and 2020).

193. TRACFIN effectively disseminates the operational analyses that it carries out to the various recipient authorities. Table 3.14 below indicates the number of TRACFIN dissemination in the last five years, by type of transmission. Whereas the number of judicial transmissions is more or less stable, it appears that spontaneous transmissions fell by 20% in 2020. Table 3.13 presents the transmissions by TRACFIN by type of recipient authority, showing that the biggest decrease in 2020 was, proportionately, spontaneous international transmissions. These exceptional circumstances were due to the health crisis and the impact of the lockdowns which temporarily prevented operational staff from accessing their workstations.

Table 3.13. Transmissions by TRACFIN (by type of recipient authority)

	2016	2017	2018	2019	2020
Judicial authorities	690	891	948	954	738
Intelligence agencies	488	614	1105	1482	1321
Agencies tackling tax, social security and customs fraud	574	888	967	1,019	828
Foreign FIUs (spontaneous disseminations only)	121	202	231	246	126
Other authorities	16	21	31	37	20
Total	1,889	2,616	3,282	3,738	3,033

194. TRACFIN also disseminates a large number of notes relating to TF. These analyses are handled by a specialised division, using procedures ensuring the need to a rapid handling of cases.

Table 3.14. Disseminations by TRACFIN concerning TF (by type of dissemination and recipient authority)

	2016	2017	2018	2019	2020
Total	396	700	1,038	1,193	974
By type of dissemination					
Judicial transmission	3	0	2	5	15
Spontaneous transmission (including judicial transmissions)	393	700	1036	1188	959
By type of recipient authority					
Judicial authorities and Criminal Investigation Departments	31	225	145	176	94
Intelligence agencies	357	459	880	996	878
Foreign FIUs (spotaneous transmissions)	4	15	7	4	1
Other services	4	1	6	17	1

195. TRACFIN cooperates with the various judicial authorities and intelligence agencies (e.g. DGSI) by providing them with a many information, either by sending a large number of spontaneous transmissions, or by participating in task forces and joint working groups that enable continuous exchanges of information. Over 80% of TF disseminations are intended for intelligence agencies, which is a good result. However, the level of feedback from the intelligence agencies to TRACFIN still remains limited. It should be noted that the rate for inquiries without further action remains rather low for TF, with only three inquiries initiated on the basis of a TRACFIN briefing note over the period 2015-2020.

Strategic analysis

196. TRACFIN develops strategic-type analyses, mainly carried out by the strategic analysis unit (CAS) since 2013. The purpose of the CAS is to identify the main emerging trends and threats in ML/TF. It compiles the available data in TRACFIN's internal archives. The main products of this unit are the annual "ML/TF trends and risk analysis" report, which is one of the sources most frequently used by the authorities and covered entities to update their understanding of ML/TF risks, alerts for authorities, and internal memos.

197. In recent years, the "ML/TF trends and risk analysis" reports have focused on the main threats of ML/TF identified in the NRA, such as bribery, scams and tax fraud, and vulnerabilities (such as cash, bank channels and exposed business sectors such as real estate, the building and public works sector and associations). Special attention is also given to new products and financial services (electronic money, virtual currency, crowdfunding etc.). The reports describe several types of ML and TF and also include anonymised cases handled by TRACFIN, as well as criteria for alerts that help the regulated entities to identify targets or transactions to be reported. The vast majority of the private sector appears to make extensive use of these reports and understands their content relatively well.

198. The CAS has four agents (one of whom works part-time), which limits the opportunities to make greater use of the substantial information available to TRACFIN. For example, the COSIs received by TRACFIN constitute a database with extensive intelligence on two fields that represent an increased risk in France (remittances and the use of cash). Although they are also used for several strategic analyses (e.g. analyses focusing on a specific geographic zone), they could be exploited more thoroughly to help devise individualised plans and trends (see IO.1).

Cooperation and exchanges of information/financial intelligence

199. The competent authorities demonstrated a high degree of cooperation, coordination and exchange of financial intelligence, which is particularly important in the French context, given the number of investigation and prosecution authorities.

200. The FIU and other competent authorities cooperate effectively, either by exchanging information at the operational level, or via periodic meetings of the working groups in which they participate. TRACFIN takes part in several multidisciplinary units which are also intended to facilitate cooperation at the operational level, such as the interministerial unit on terrorist assets, the VAT task force, the tax intelligence task force, and other operational units involved in the fight against fraud and illegal work.

201. All of TRACFIN's disseminations were carried out via computerised protected channels. TRAJET, available tool since March 2021, is used to transmit TJs and TSs to the judicial authorities, rather than traditional mail, and also to get feedback from judicial authorities to TRACFIN. The existence of a number of liaison officers (customs, police, gendarmerie, ACPR, ACOSS[44], DGFiP, as well as the legal adviser) also facilitates transmission and feedback, favouring exchanges between TRACFIN and the various authorities that receive its products. There are also numerous memoranda of understanding between national authorities, providing an additional legal framework that promotes smoother flows of information exchanges and feedback.

202. Furthermore, a form of institutional cooperation is established by the involvement of the main competent authorities in the work of the COLB, whose six working groups meet frequently (see IO.1).

203. While most of TRACFIN's disseminations are for the intelligence agencies, judicial authorities and other anti-fraud authorities/agencies (see Table 3.13), cooperation with the law enforcement is also becoming very significant. Exchanges with the police and the gendarmerie are facilitated by the presence of three liaison officers who channel all requests for information from territorial and central agencies, and who are in charge of detecting the possible presence of useful intelligence in TRACFIN databases (prior screening). Once the existence of information that can be used for investigations has been checked, and the requests have been formalised (court order), the police and gendarmerie generally receive sufficiently detailed responses. This mechanism, used also by customs and Courts, helps to reduce the number of requests and limit exchanges of intelligence solely to cases in which a contribution may be useful. As a result, the 328 requests for screening by the police,

44 Central Agency for Social Security Organizations.

concerning 1 762 people, enabled the finalisation of 62 court orders, out of the 128 handled in 2019.

Table 3.15. Number of requests by investigative authorities to TRACFIN

Nature of the request	2016	2017	2018	2019	2020
Screening	3 550	3 724	5 842	4 278	5 915
Judicial requisition	86	95	184	128	61

204. In addition to exchanges with the prosecution authorities, TRACFIN also cooperates with the supervisory authorities, and in particular with the ACPR: apart from the information received by the ACPR on non-declared suspicious transactions to TRACFIN, on an annual basis, TRACFIN sends report on FIs to ACPR. It organises preliminary meetings with the ACPR before an on-site inspection of the regulated entities, as well as at the end of the mission in order to provide a report on the quantity and quality of the declarations made by thein question. Similar initiatives with the other supervisors should also be put in place, although TRACFIN states that exchanges with these authorities (for which TRACFIN has no liaison officers) are facilitated by recruiting agents from these institutions.

205. Regarding the confidentiality and security of information, TRACFIN has introduced a very high level of security for all data entered into its databases, with very strict rules for accessing them. This high degree of security also applies to the premises on which TRACFIN carries out its institutional activities. All communications with national partners are carried out using means of communication that ensure a high level of confidentiality and use dedicated and secure platforms.

Overall conclusions on IO.6

Competent authorities receive and use financial intelligence and other information appropriately. TRACFIN plays a key role in the AML/CFT regime by providing high quality analyses that supports, to a large extent, LEA's needs. TRACFIN has adequate resources and expertise. However, the number of staff dedicated to the development of strategic analyses is limited. Feedback on TF from intelligence agencies to TRACFIN must be improved in view of the TF risks in France.

TRACFIN receives a substantial number of STRs and other relevant information. It makes extensive use of its right to request information from regulated entities and other competent national authorities. However, not all available information is exploited before the investigation phase, which limits the identification of priority cases and the dissemination of information to competent authorities. Moderate improvements are needed.

France is rated as having a substantial level of effectiveness for IO.6.

Immediate Outcome 7 (Investigation and prosecution of money laundering)

206. The assessment team based its conclusions on numerous case studies provided by the authorities, statistics on ML investigations, and discussions with representatives of judicial investigative authorities (in particular specialised offices: the OCRGDF and OCLCIFF, the SEJF, the territorial investigation departments of the police and gendarmerie, and the Gendarmerie Command in OM), the judicial authorities (JUNALCO, financial judicial investigation Pole, PNF and the JIRS), investigators and judges in OM, and TRACFIN agents. (see Chapter 1 for a description of the law enforcement framework).

ML identification and investigation

207. France has a comprehensive legal and institutional system for identifying and investigating ML cases. Suspicious ML activities are mainly identified through predicate offences investigations and information disseminated by TRACFIN. They are also identified on the basis of information from the tax authorities and during customs controls.

208. The French authorities follow a "top-down" approach and prioritise mainly complex ML investigations and those with a significant financial volume. Most investigations are handled by specialised investigation and prosecution authorities, with inter-regional jurisdiction for complex cases, and national jurisdiction for highly complex cases. These authorities enjoy extensive and adequate investigative powers, and their agents receive thorough and continuous training. Simple and small-scale ML cases are handled in a simplified manner by investigators with general training in assets investigation. However, the statistical discrepancy between predicate offences investigations with substantial illicit profits, and the much smaller number of ML investigations (see Table 3.18), may indicate difficulties in identifying regularly ML elements, in view of the lack of dedicated AML staff and financial investigation experts in non-specialized departments.

209. The available data[45] indicate that on average 1 100 ML offences are investigated annually. Overall, France prosecutes 1 700 persons for ML and around 1 300 convictions per year (see Table 3.17), including 28 legal persons convicted for ML offence. The conviction rate of 85% is high, with 97% of these convictions being pronounced in Metropolitan France.

Table 3.16. Number of ML investigations (by number of case)

	2016	2017	2018	2019	2020	Total
ML of proceeds of high risk predicate offences	733	770	797	891	912	4103
ML from other offences	86	78	75	116	107	462
ML (stand alone and for third parties)	129	134	193	262	276	994
Total	948	982	1,064	1,269	1,295	5558

45 It should be noted that the statistics available on ML were not complete, sometimes unequal and difficult to compare.

Table 3.17. Number of persons prosecuted and convicted for ML (in persons)

	2016	2017	2018	2019	2020	Total
Persons prosecuted	1 330	1 826	1 735	2 005	1 707	8 603
Persons convicted	1 037	1 418	1 330	1 546	1 232	6 563
of which natural persons	1019	1 379	1 304	1 506	1 215	6 324
of which legal persons	18	39	26	40	17	140

Identification of ML cases

210. The investigation and prosecution authorities proactively identify ML cases through a wide variety of sources, in particular in the course of predicate offences investigations and also on the basis of information disseminated by TRACFIN. They also identify ML based on information from the administrative authorities, in particular the tax authorities (DNEF), customs controls, discoveries of cash with unjustified origin, press articles, police or customs intelligence (DGSI), complaints and denunciations made (even by Non-governmental organisations (NGOs)) and information from international cooperation (see box 3.6).

Box 3.6. examples of ML with different sources of identification

ML identified in the course of predicate offence investigations

At the beginning of 2015, an investigation aiming to dismantle an international cocaine-trafficking operation was entrusted to the criminal investigation directorate (DJP) by JIRS of Paris. The interministerial research group (GIR) was in charge of assets investigation . It carried out an extensive financial investigation into everyone suspected of illicit trafficking in narcotic drugs and closely related offences: income, assets, transfers of funds into their bank accounts and transactions carried out via money transfer institutions. The investigation detected and proved laundering by one of the traffickers via purchases of real estate in Mali, with the funds being transferred by third parties. Another trafficker used money orders in his partner's name. These investigations enabled the court to convict two traffickers for ML on 21 June 2019 (12 and 18-year prison sentences, and fines of EUR 250 000 and EUR 100 000, as well as confiscation of the assets seized), as well as two of their close relations who took part in the transfer of funds (18-month prison sentence).

ML identified by a TRACFIN note

In July 2013 TRACFIN reported to the judicial authorities suspicious banking flows into the accounts of a breakdown company. The investigation revealed the existence of an international ML network run by an organised group. Five French companies were used to transfer funds to China, by means of fraudulent invoicing (via the accounts of shell companies in various countries located in Eastern Europe). The amounts transferred to China were paid for in cash in France. Twenty-seven natural persons were indicted in this case. On 9 January 2020 a CJIP was concluded between the public prosecutor at the Court of Paris and the C. bank

relating to the payment of a public-interest fine totalling EUR 3 000 000, and damages totalling EUR 900 000.

ML identified through violation of the declaration obligation (MOD)

In June 2015, when inspecting a vehicle suspected of coming from a drug-selling location, customs officers in Avignon discovered a total of EUR 298,000 hidden in a concealed compartment. This inspection led to the opening of an investigation by the customs investigation unit, subsequently also referred to the national gendarmerie, for laundering of drug-trafficking proceeds. This led to the dismantling of a vast international network involved in laundering the proceeds of drug trafficking and tax fraud. Eleven people were sentenced at court appearances with prior recognition of guilt on 29 May and 11 June 2019, leading to confiscations and fines totalling EUR 1,538,950. The main players in the network were tried in October 2019, and all 18 defendants were sentenced to pay fines of EUR 1 870 000, in addition to confiscations of over EUR 3.7 million.

ML identified based on a press article

In 2013 JIRS of Paris initiated an investigation upon its own initiative (assigned to the OCLCIFF) for laundering the proceeds of tax fraud, in response to a press article revealing that the Minister for the Budget held undeclared accounts abroad. The investigation, which was taken over by the PNF, led to the conviction of the Minister for the Budget in December 2016, confirmed by the Court of Appeal in May 2018 (four-year prison sentence, fine of EUR 300,000 and loss of civil rights for five years), as well as of his wife and facilitators (a lawyer, a foreign bank and its manager) for tax fraud and ML.

211. In quantitative terms, the number of cases identified based on TJ disseminated by TRACFIN is significant for certain ML typologies. TRACFIN initiated 30% of convictions for ML-related fraud, and 23% for ML related to theft and scams (see IO.6). Furthermore, the number of cases identified based on TRACFIN's dissemination is higher when cases identified are stand-alone ML. The number of ML cases identified in the course of high-risk predicate offences investigations appears to be relatively low. Table 3.18 below indicates that between 2016 and 2020, the authorities conducted 252,157 predicate offences investigations at ML risk. Although the number of ML investigations initiated each year on proceeds of high risk predicate offences generating illicit profits is continuously rising, they only amount to 4,103 investigations in this period. Therefore, less than 2% of the investigations conducted into predicate offences lead to initiate a parallel financial investigation. This is particularly significant given that these data mainly show the types of predicate offences that may justify opening an ML investigation (i.e. drug trafficking excluding possession, theft and scams committed by an organised group). These elements confirm the policy to prioritise the prosecution of high-end ML

Table 3.18. Number of investigations initiated (by predicate offence) and including ML

	2016	2017	2018	2019	2020	Total
Social security or customs tax fraud	19 527	17 543	17 185	16 517	13 243	84 015
of which ML	407	416	413	370	299	1 905
Drug trafficking excluding possession	26 762	29 098	30 089	31 349	25 967	14 365
of which ML	182	198	224	322	463	1 389
Theft or scams by an organised group[46]	926	1 048	1 100	1 201	911	5 186
of which ML	126	129	127	164	132	678
Human Trafficking	3 378	3 463	3 709	3 933	3 028	17 511
of which ML	13	19	28	29	12	101
Corruption, violations of integrity	512	433	420	426	389	2 180
of which ML	5	8	N/C	6	6	<30
Total number of investigations into predicate offences	51 105	51 585	52 503	53 426	43 538	252 157
Total number of investigations into ML[47]	733	770	792	891	912	4 103

Note: The data not communicated (N/C) were below the threshold for transmission (i.e. 5).

212. It should be noted that under the French legal system, the material acts of acquisition, possession and use of property of unlawful origin are criminalised under the legal qualification of receiving stolen property offence. (see c. 3.1), which means that a large number of investigations[48] conducted on this basis are not included in the above statistics. However, this does not fully explain the low rate of identified ML cases, especially as complex and/or large-scale ML cases (involving several perpetrators and/or transnational dimensions) are, in principle, based on acts of conversion or concealment.

ML Investigations

213. Investigations are conducted by the investigative authorities and supervised by the public prosecutor or the investigating judge. The choice of the investigative authority/authorities is the legal prerogative of the judges and based on an individualised approach to cases, within the general framework defined by the laws and agreements governing the competence of the different agencies. In borderline cases, this choice depends on the nature and complexity of the case, specific knowledge of the type of offence concerned and links to other investigations carried out by the agency, as well as the experience and technical expertise required to conduct the investigations. The referral of a case to an investigative authority must also take account of its ability to handle the proceedings, which is closely linked to its workload and resources. The final decision frequently involves dialogue with the head of the authority.

46 In this category, only theft and scams committed by an organised group are included in these statistics.

47 This number corresponds to the number of investigations opened into money laundering for at-risk predicate offences and does not include investigations opened into money laundering for other offences or autonomous money laundering.

48 The authorities were unable to provide the number of investigations conducted based on these acts.

214. Notification of investigations initiated by investigative authorities is sent to the competent prosecution authority, which generally delegates the investigation to the investigative authority that initiated the case. That authority often designs the financial investigation strategy. The ongoing investigations may be modified in one way or another while they are in progress, either by withdrawing the qualification of ML or adding one according to the evidence collected. According to the authorities, the proportion of investigations closed each year in which the qualification of ML is retained is over 93%. The coordination of priorities and information exchanges are organised by the judges leading investigations. Furthermore, if necessary, many spontaneous and informal exchanges can take place, which are sometimes facilitated by the close proximity of the different authorities' offices. Also, since 2015, dedicated investigation offices have been responsible for organising regular meetings with the investigative authorities and producing a summary of the proceedings. However, only proceedings with a certain degree of complexity and requiring lengthy investigations can benefit from these measures. The assessment team is unable to give its opinion on the implementation of these measures as no audit or report has been carried out in this regard.

215. The case studies presented indicate that authorities investigate all forms of ML, from the simplest to the most complex cases. Authorities follow a "top-down" approach to investigations of complex and highly complex cases conducted into predicate offences, which includes a very thorough and international parallel financial investigation, if the facts occur on a large-scale and represent substantial flows of funds. They have introduced measures to increase the effectiveness of these highly complex investigations by entrusting them to specialised national investigative authorities: the central offices of the Ministry of the Interior: the OCRGDF, the OCLCIFF and the SEJF of the customs service, with a national competence. Investigations into complex cases involving organised crime or serious financial crime are entrusted to inter-regional judicial investigation departments of the police and the national gendarmerie (research sections investigative departments (SR), Zonal Criminal Investigation Department and for the inner suburbs of Paris, the criminal investigation departments of the police headquarters) whose investigators are trained in financial investigations. Simple ML is entrusted to territorial agencies capable of conducting simple assets investigations (bank requisitions, etc.) but not complex financial investigations.

216. Despite the nature of the ML cases detected, they may be jointly referred to several investigative authorities, according to the decision of the competent judicial body (see Box 3.7). The coordination of priorities and exchanges of information are organised by the judges in charge of supervising the investigation according to the issues involved and the level of complexity of the case. In addition, there are other types of spontaneous and informal exchanges. However, no IT tool for supervising this coordination and monitoring its implementation. In practice, for jointly referred cases, these agencies have access to the database of official reports operations. However, this does not enable all agencies, working on complex cases, to consult and work on an up-to-date file or access all of the documents in the file in real-time (e.g. a digitised file). It should be noted that the Ministry of Justice and the Ministry of the Interior are currently implementing a large-scale plan to modernise the IT system, called the Digital Criminal Proceedings System (PPN). The PPN will lead to a comprehensive dematerialisation of criminal justice system, and relations between the prosecution, investigation and adjudication authorities and their

partners such as lawyers. The roll-out of the PPN programme began at national level in October 2020, and will be carried out in six successive waves over several years. This modernisation of the IT system may ultimately help to facilitate coordination between the authorities and reduce investigation time.

217. At the local level, the investigative authorities can rely on the expertise of GIRs to conduct more thorough asset investigations. GIRs are inter-ministerial groups (customs, DGFiP, URSSAF[49], police and gendarmerie), which only intervene if the case is referred jointly by the judges, in support of the investigative authority in charge of the predicate offence. GIRs have around 420 agents responsible for conducting asset investigations that seek to identify and seize criminal assets, rather than comprehensive financial investigations that enable tracing money, as in the complex or highly complex ML cases conducted by specialised agencies.

Box 3.7. Examples of joint ML investigations

Investigation conducted jointly by two investigative authorities

The judicial division of the SCCJ used financial intelligence on its own initiative to investigate people betting, who had received atypical cheques for substantial winnings. The investigation, originally launched by the SCCJ and then conducted jointly with the OCRGDF, revealed the existence of a major ML system organised by a bar whose owner collected winning tickets from different establishments located in France. Proceedings were initiated against 48 people, resulting in 27 convictions, including 14 prison sentences and 13 people put on probation, with the seizure of EUR 40,000 in cash and EUR 110,000 from bank accounts.

Investigation conducted jointly with a GIR

In 2015, based on a note from TRACFIN, the Bordeaux Inter-regional judicial police directorate (DIPJ) started investigating numerous suspicious real-estate transactions. The investigation, conducted jointly with the Bordeaux GIR, revealed the existence of extensive fraud committed by an organised group. The real estate acquisitions, carried out via bank loans obtained using fake documents, were followed by several purchases and resales between the same protagonists, aided by the complicity of several notaries, with each purchase enabling an additional loan to be taken out. The investigation revealed the involvement of some ten individuals in 130 purchase/sales transactions, concerning 21 properties and generating 60 bank loans obtained fraudulently for losses of EUR 9 million, as well as the complicity of three notarial offices. Some of the proceeds of these scams were laundered via the activities of several property agents, and some of the money was transferred to bank accounts in Luxembourg and Portugal. The investigation is still in progress.

49 Social security contribution collection agency

218. The judicial investigation authorities have large access to the necessary databases (see IO.6) and use various investigation techniques, including the special investigative techniques at their disposal, such as undercover investigations, interception of phone calls, investigations using fictitious names, sound and image detection (see R.31). The increased use of undecipherable encrypted messaging by criminals to avoid police surveillance poses a considerable challenge for the authorities. In July 2020, the efforts of the French authorities in this regard led to the dismantling of a major, encrypted messaging platform used by many European and international criminal networks (see IO.2).

Staffing and training of the investigative authorities

219. The specialised investigative and prosecution authorities have adequate financial and technical resources to identify and investigate ML cases. In terms of human resources, despite an increase in staff, the lack of personnel and specialisation is a limitation for the system and also impacts investigation timeframes. Regarding the investigative authorities, the national police force's criminal investigation department has 1 037 financial investigators, including 162 specialised agents, i.e. the investigators at the central offices (OCLCIFF 90 agents and OCRGDF 72 agents) and 480 investigators assigned to divisions for combating financial crime at the regional offices of the DCPJ, as well as 395 investigators at the regional criminal investigation department of the Paris police headquarters. The DGGN has both national resources (four central offices in Paris with over 30 specialised investigators) and regional resources (with almost 200 specialised investigators). In addition, the SEJF has 310 agents.

220. These numbers are not really sufficient in view of the number of organised and serious financial crime cases (see Table 3.18). In particular, the staff of the DCPJ central offices appears to be insufficient in view of the number and great complexity of the cases. Furthermore, the lack of specialised human resources and dedicated staff to AML at local level and in OM poses a challenge to conduct effective ML investigations.

221. Concerning training, the specialised investigative authorities (OCRGDF, OCLCIFF and SEJF) have agents with extensive and continuous training, and aware of the latest developments in the field (virtual asset investigations). The agents at the specialised central offices and divisions responsible for combating financial crime at the territorial agencies have obtained the financial investigator diploma (*brevet d'investigateur financier*). However, the extension and duration of specific training courses varies according to the agency. In the last five years, 269 agents have received specific economic and financial investigation training. 439 members of the gendarmerie were also trained during the same period. In addition, less specialised training courses are organised, on personal asset investigations, for example.

Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies

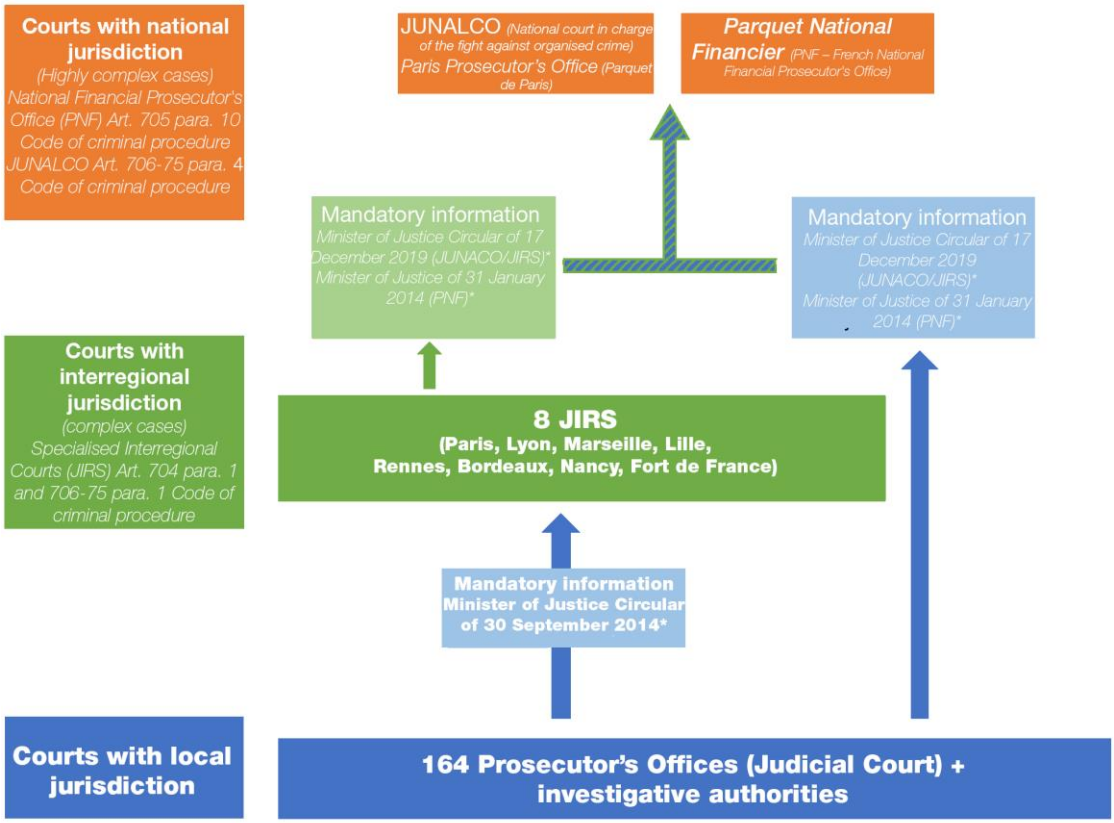
222. The ML-related financial investigations and prosecutions conducted by the competent authorities are consistent to the risk profile identified in the 2019 NRA and the national AML policies to a large extent (see. IO.1). However, despite an increase in the workforce, the lack of resources and specialisation poses a challenge for the effective conduct of investigations and prosecutions.

ML Prosecution

223. The "top-down" approach to ML investigations allocating the most specialised resources to the most complex cases also applies to prosecution. The judicial management of investigations into ML and associated predicate offences is entrusted to specialised authorities in conducting complex cases at the inter-regional and national level: specialised inter-regional courts (JIRS) with jurisdiction to conduct highly complex inter-regional cases, a court with national jurisdiction (JUNALCO, and the PNF, with jurisdiction to prosecute serious financial crime and the ML of the proceeds of several offences (violations of integrity, tax fraud and laundering of the proceeds of these offences). These authorities exercises concurrent jurisdiction throughout French territory for highly complex cases.

224. The competence of each specialised court is specified in circulars by the Minister of Justice, which provide specific criteria and formalise the methods of settling and arbitrating conflicts of jurisdiction in the event of differences of analysis by the judges concerned. In practice, the judges interviewed confirmed that there has never been a conflict of jurisdiction requiring arbitration.

225. The authorities use the jurisdiction criteria of the specialised courts to allocate the cases and ensure the transmission of information to them. Consequently, the public prosecutor's offices of the ordinary courts are required to transmit any information to a JIRS, la JUNALCO or the PNF with specialised jurisdiction. The DACG of the Ministry of Justice organises biannual meetings with the JIRS/JUNALCO/PNF as well as written exchanges and meetings with the JIRS public prosecutors in order to review the feedback to the JIRS and the cases referred to them. However, the assessment team did not get details to ensure effective compliance with this obligation to transmit information to the competent courts, in the absence of specific monitoring or audit. Moreover, the Ministry of Justice does not have a database that enables the cross-checking of data between files, and cross-checking are made using the investigative authorities' databases as well as by means of discussions between judges.



226. With regard to staffing of the specialised prosecution authorities, the JIRS have 266 judges, the JUNALCO has 18 judges and 6 specialised assistants and the PNF has 18 judges and 5 specialised assistants. The financial judicial investigation Pole of Paris has 20 investigating judges, each of whom is carrying out 35 to 45 cases. The same applies to the JIRS, where an average of 40 cases are carried out per judge at the judicial investigation. This number is higher in OM, reaching 48 cases per investigating judge on average in 2020. The lack of personnel at the investigating judge level, especially at the judicial investigation Pole and in OM constitute a limitation for the system and also impacts on the duration of investigation, especially in complex and highly complex cases.

Consistency with the risk

227. Authorities investigate and prosecute ML activities consistently with the risk profile identified in France, to a large extent. According to the NRA, the predicate offences that represent the main ML threats are fraud (social security, tax and customs), drug trafficking as well as theft and scams. The NRA also defined human trafficking and corruption as major risks which are prosecuted, to a lesser extent, consistently with the risk profile. Between 2016 and 2020 about 73% of ML investigations concerned acts linked to high risk predicate offences. Furthermore, 52% of the people tried for ML were tried for laundering linked to these high risk offences.

Table 3.19. Number of people tried according to the predicate offence and ML context

	2016	2017	2018	2019	2020	Total
Social security or customs tax fraud	9 530	9 217	8 479	8 284	5 641	41 151
Including ML	406	522	465	544	418	2 355
Drug trafficking excluding possession	2 433	2 685	2 712	2 886	2 714	13 430
Including ML	114	213	201	228	201	957
Theft or scams by an organised group[50]	672	750	507	559	334	2 822
Including ML	107	103	107	139	100	556
Trafficking in human beings	1 647	2 059	2 194	2 480	2 003	10 383
Including ML	58	65	79	92	70	364
Corruption, violations of integrity	322	306	266	266	249	1 409
Including ML	N/C	19	9	10	13	51
Total number of people tried for predicate offences	14 604	15 019	14 158	14 475	10 941	69 197
People tried for ML for highrisk offences	859	922	861	1 013	802	4 457
Total number of people tried for ML	1 330	1 826	1 735	2 005	1 707	8 603

228. The authorities have noted that the threats of ML/TF in OM are minor compared to those in Metropolitan France, but they constitute a local risk that is not on the scale of complex cases. The authorities have analysed the ML risks for each territory. Guadeloupe, Martinique, Saint Martin and Guiana are mainly exposed to risks of drug trafficking and fraud. Regarding the threat of drug-trafficking ML, the proximity of the world's main cocaine production area – South America – has always made the French West Indies a major transit zone for drugs. This generates substantial profits in Metropolitan France, which are sent directly to the people behind it, by transport, in cash or by transfer, resulting in discoveries of cash in the French West Indies. Furthermore, the ML cases handled represent 2% of ML cases at national level. The prosecution authorities confirmed the lack of personnel dedicated to AML and of specialised expertise in OM.

ML of tax Fraud

229. Tax fraud represents the main threat for ML. A large number of ML cases are identified in the course of tax fraud investigations. Between 2016 and 2020, 1 905 ML investigations were initiated for proceeds of fraud, representing 34% of initiated ML investigations. Large scale tax investigations are conducted by the OCLCIFF, and by the SEJF for the VAT carousels fraud, which confirmed during the on-site visit that a financial investigation is systematically conducted alongside investigations of tax offences.

50 In this category, only theft and scams committed by an organised group are included in these statistics.

230. France has implemented effective measures to identify, investigate and prosecute complex cases of fraud, by enabling operational coordination (called the VAT Taskforce) between the authorities (PNF, DNEF, DGFiP, BNRDF, SEJF and TRACFIN), and by developing joint working methods for cases involving large sums, and drawing up a triennial national plan (PNLF), adopted in 2016 and aiming to establish automatic exchanges of intelligence between the tax authorities and FIs. However, the work carried out focuses on tax fraud rather than on ML of the proceeds of tax fraud. Furthermore, tax fraud and scams as ML predicate offences pose a major local threat in OM, a well-known threat to the authorities. The fight against these offences impacted by the lack of specialised investigation services.

Box 3.8. Examples of investigations and prosecution for ML related to tax fraud

Investigation into ML of tax fraud in Metropolitan France

See Box 3.6

Example of ML of tax fraud in OM

In 2016, the West Indies-Guiana office of the Customs Investigation Division (conducted an inspection into the legality of imports of various equipment items needed to build a solar power station, by a company located in Lamentin. During the inspection, the investigators discovered that the power generation activity had not been declared to customs and that the dock dues[51] had not been paid. The customs investigations gathered evidence of breaches of ordinary law and of ML. Consequently, the assessment Customs investigators of the banking transactions carried out by the importing company and its parent company, as well as the financial analysis of the commercial transactions, revealed evidence of fraud relating to VAT and European aid, and of ML of tax fraud and scams. This case was referred to the public prosecutor and reported to the DNEF.

ML of drug trafficking

231. Another major component of ML cases is related to drug trafficking offences, which represent 25% of initiated ML investigations. Investigations into drug-related offences may be supported by financial investigations. The number of investigations related to ML of drug trafficking is steadily increasing. The prosecution authorities effectively cooperate in these cases with the OFAST[52], the OCRGDF, the SEJF and the regional offices in OM.

51 Specific taxation in certain overseas departments.

52 OFAST is the Anti-drug Office

232. To address the risks in OM, the 2019 National Plan to Combat Narcotic Drugs includes measures prioritising ML of drug trafficking fight in OM, reflecting the fact that their geographic location means that these territories can act as transit zones to other countries (Atlantic and Mediterranean coasts, five border countries) and offer opportunities due to the port and airport infrastructures in place. The authorities have identified an ML typology based on "mules" who smuggle cocaine by air. As a result, measures to combat these smugglers have been strengthened. Many of the case studies presented indicate that the French authorities are proactive in investigating and prosecuting ML of drug trafficking

Box 3.9. Examples of investigation and prosecution for ML drug trafficking related

Case of trafficking between Marseille and Martinique

Upon the arrival of a flight from Orly to Fort-de-France airport, customs officers discovered two individuals transporting a total of EUR 401 420. This money was seized. The travellers' profile and clear identification by the drug detection dog led the customs officers to suspect ML of drug trafficking, and led to the two persons concerned being placed in custody by customs officers. The public prosecutor's office in Fort-de-France was notified of these events and decided to ask the National Customs Judicial Service (SNDJ) and the local office of the OCRTIS[53] to conduct a flagrante delicto investigation. After the period of police custody, and based on the initial investigations carried out, the two individuals were formally charged and remanded in custody in Martinique. The additional investigations carried out during the course of the pre-trial judicial investigation revealed that the money transported belonged to a gang specialising in drug trafficking in Marseille. Arrests for questioning and searches were carried out in July 2019 regarding several members of this network. The investigations in Martinique revealed that this was a second trip with the probable intention of purchasing narcotic substances or paying for a purchase.

ML of corruption and human trafficking

233. The authorities also conduct ML investigations and prosecutions of proceeds of corruption and human trafficking, but in a manner that is not totally consistent with the risk profile, given that these offences are considered major threats in the NRA. It appears that staff with adequate expertise in financial investigation might not be sufficiently allocated for ML investigative authorities for these offences.

53 OCTRIS is the Central Office for the Repression of Illicit Drug Trafficking, replaced by OFAST.

234. Regarding corruption, despite the fact that NRA identifies violations of integrity in general as a concern for France, the number of ML cases involving corruption is low, with 1.5% of initiated ML investigations are related to the proceeds of corruption. According to the authorities, this is due to the fact that at national level, it mainly involves clientelism, and the proceeds of corruption often involve small amounts consumed on the spot. The authorities have stated that although they are less frequent, these cases especially concern the prosecution of people in a senior position and criminal proceeds of high value (see Box 8.7: Case B). Successful investigations and prosecutions of senior officials and PEPs have been conducted, in particular PEPs from foreign countries were successfully investigated. However, this indicates that the priorities are geared more towards to the risk of corruption committed abroad. During the on-site visit, the authorities stated that the major challenge for this type of case is the inherent difficulty in identifying the actual origin of the funds and linking them to acts of corruption.

235. Regarding human trafficking, 101 ML investigations related to human trafficking were opened between 2016 and 2020, representing only a small proportion (0.5%) of the human trafficking investigations conducted solely into ML related to human trafficking. In addition, these investigations resulted in 70 judgements, which confirms that high quality investigations are conducted in this regard, according to local risks and national priorities. Regarding the small number of ML investigations related to the proceeds generated by human trafficking, the authorities stated that the offences pursued under French law are broader than simple human trafficking, and include illegal residence. Furthermore, the main difficulty in this field is that the people running this type of trafficking are not located in France, and find ways of repatriating the cash abroad, without injecting it into the financial system. This means that MLA in criminal matters with other countries is required to collect evidence.

ML related to emerging risks

236. An emerging threat is linked to the use of digital assets and ML using such assets. The authorities are able to detect this type of ML; they are starting to specialise in this area and acquire the means to combat it. Cases were presented to illustrate the investigative authorities' expertise in dismantling transactions involving the use of bitcoins (see Box 3.10).

Box 3.10. CRYPTO CASH DISPENSER Case

Use of the presumption of ML in proceedings involving crypto-assets

Following the publication of a press article in January 2020, the Lille Regional Criminal Investigation Department opened an investigation into the installation of a bitcoin automatic cash dispenser (DAB) by a Polish company that enabled purchases and sales of cryptocurrencies in return for cash (euros). On 20 November 2020 the Lille public prosecutor's office declined jurisdiction and referred the case to JUNALCO, with the OCRGDF coordinating the investigations throughout France, since the company operates eight cash dispensers in France.

Initial investigations showed presumed acts of ML. Proceedings were therefore initiated by JUNALCO for presumed acts of ML, with the fact that the acts were committed habitually as an aggravating factor (CP, art. 342-1-1 and 324-2). Investigations emerged also that the company was not registered with the AMF, in breach of the CMF (art. L54-10-2).

Regarding ML offence, on 7 January 2020 the customs stopped a vehicle for questioning on the Franco-Belgian border, transporting three cash dispensers and EUR 43 140 without a customs declaration. A huge operation was conducted on 18 December 2020, which enabled the simultaneous seizure of the eight cash dispensers and the EUR 200 000 in cash they contained. The presumed acts of ML appear to take place. The investigations are still in progress.

Types of ML cases pursued

237. The competent authorities prosecute and obtain convictions to a large extent, for the different types of ML cases, including stand-alone ML, self-laundering, ML by a third party, laundering of the proceeds of predicate offences abroad. However, stand-alone ML convictions account for a small proportion of ML convictions (15%), especially given the opportunity to prosecute this type of ML more easily with the introduction of the presumption of ML in 2013.

238. The assessment team based its conclusions mainly on the many cases provided and the interviews with the different investigation and prosecution authorities. In quantitative terms, the table 3.20 indicates that only 6% of those prosecuted for ML were tried for stand-alone ML, 9% for third-party ML, and the remainder (85%) for self-laundering. To a lesser extent, the authorities prosecute money laundering alone (stand-alone and for third parties). However, the assessment team based also its conclusions on a qualitative dimension in which the authorities have shown their ability to prosecute and sentence people for complex and even highly complex ML cases in which organised networks and complex financial circuits were used (see box 3.11 for examples of different types of ML).

Table 3.20. Number of prosecuted persons by type of ML (2016-2020)

Type of ML	2016	2017	2018	2019	2020	Total
Self-laundering	1 130	1 546	1 458	1 692	1 497	7 323
ML for third parties	121	181	184	198	115	799
Stand-alone ML	79	99	93	115	95	481
Total	1 330	1 826	1 735	2 005	1 707	8 603

239. The authorities mainly prosecute self-laundering if the acts involve a transaction to convert, transfer or conceal significant amounts of money. If the physical facts merely involve possession or use of illicit proceeds, the perpetrator of the predicate offence cannot be prosecuted for (self-) laundering in accordance with the fundamental principle of "*ne bis in idem*".

240. As mentioned above, the number of convictions for stand-alone ML represents only a small proportion of ML convictions, also in view of the legal opportunity for the authorities to prosecute stand-alone ML more easily due to the introduction of the presumption of ML in 2013. Not all authorities have introduced a specific investigation strategy for the presumption of ML, except in cases of customs laundering (according to the review of the cases presented), linked to MOD. Prosecutions for stand-alone ML mainly concern two types: laundering related to cross-border cash transfers (customs-laundering offence), and laundering characterised by ML networks. .

241. The prosecution of transnational ML, particularly laundering via organised networks and the use of complex financial circuits, was illustrated by many cases presented to the assessment team. The policy followed by the authorities for prosecuting high-end ML cases enables to successfully pursue this type of ML. Many ML cases facilitated by criminal organisations with a transnational network have been detected. This proves the high level of resources and expertise put in place by the authorities, in line with their criminal justice policy. Several structured networks involved in fraud circuits and channels for ML of fraud, have been detected by the DGDDI. The team did not receive precise figures for this type of ML and has therefore based its conclusions on several cases presented, which illustrate this approach to combating ML. Apart from cases of ML by organised networks, the authorities also prosecute third parties ML, committed by intermediaries and facilitators, in particular regulated entities for AML/CFT regime. Most of these cases are related to ML of tax fraud.

242. In its legal system, France recognises that predicate offences extend to cover the acts committed abroad and require international cooperation for the purposes of the investigation or the extradition of suspects, as well as for seizures and confiscations. The authorities presented several cases of ML prosecution in which the competent authorities conducted research to identify and seize assets (see RI.2).

Box 3.11. Ability of the authorities to prosecute different types of ML cases

Stand-alone ML

In 2017 and 2018, the local units of the SNDJ in Bordeaux and Lyon were asked to investigate following two in flagrante delicto cases relating to MOD, firstly by Chinese nationals living in Poland, and secondly by a Latvian national living in Latvia. As links were revealed between the suspects, the Bordeaux JIRS combined the two investigations. The financial information collected was supplemented by information obtained from Europol and INTERPOL police agencies, the Police and Customs Cooperation Centres, and the international network of customs attachés. This information demonstrated the existence of an ML channel based on a collection system in France/Spain/Italy, followed by offsetting among members of the Chinese community present in Europe and China via the circulation of cash. In 2019 four people were sentenced to between one and two years in prison for ML and fines of between EUR 220 000 and EUR 510 000. The vehicle (instrument used

for the offence) and about EUR 2.2 million (concerned by the MOD) were seized and subsequently confiscated.

Self-laundering

In November 2018 a preliminary investigation into drug trafficking in the Albanian underworld was referred to the Lyon JIRS. The investigations revealed the existence of an organised criminal group carrying out drug trafficking in gambling clubs, bars and restaurants known to be attended by individuals involved in drug trafficking. The investigations revealed transfers of sums of money to Albania as well as trips to Belgium, Germany, Turkey and Albania. An operation carried out in June 2019 resulted in the arrest of the suspects for questioning. Eleven defendants were convicted, with sentences ranging from an 18-month suspended sentence to six years in prison, and fines ranging from EUR 1 000 to EUR 30 000.

High-end ML

In June 2015, when inspecting a vehicle suspected of coming from a drug-selling location, customs officers in Avignon discovered a total of EUR 298 000 hidden in a concealed compartment. This inspection led to the opening of an investigation by the customs investigation unit, subsequently also referred to the national gendarmerie, for laundering of drug-trafficking proceeds. This led to the dismantling of a vast international network involved in laundering the proceeds of drug trafficking and tax fraud. Eleven people were sentenced at court appearances with prior recognition of guilt on 29 May and 11 June 2019, leading to confiscations and fines totalling EUR 1 538 950. The main players in the network were tried in October 2019, and all 18 defendants were sentenced to pay fines of EUR 1 870 000, accompanied by confiscations of over EUR 3.7 million.

Third-party ML

In November 2013, the FIU received an STR from a bank informing it of two transfer orders from the bank account of a notarial office to the bank account of a private individual in a bank in Dubai for a total of EUR 966 272. The investigations conducted by TRACFIN included an analysis of the income tax position of the private individual and revealed that he owed the DGFiP over EUR 600 000 following a tax audit of one of the companies of which he was the manager and joint partner. Interceptions of phone calls by the investigative authority confirmed the active complicity of the notary who acted knowingly for his client (who represented 28% of his turnover). When questioned about his behaviour, the notary tried to deny his responsibility by stating that he was acting under the influence of his client. The client was charged of ML with two years' imprisonment, including one year suspended with probation, and a fine of EUR 200 000, and the notary was given a suspended prison sentence of one year and a permanent ban on practising as a notary, for laundering the proceeds of scams and tax fraud.

ML of the proceeds of predicate offences committed abroad

A complaint against several African heads of state and members of their families was lodged on grounds of receiving misappropriated public funds, accompanied by the filing of a civil action by an NGO. Following numerous investigations, particularly financial, in France and abroad, the investigators seized numerous assets, which were subsequently seized during the investigation by the investigating judge. In 2017, Paris Criminal Court sentenced the suspect to a three-

year suspended prison sentence, a fine of EUR 30 million, and the confiscation of all assets seized in connection with the investigation. In February 2020, Paris Court of Appeal sentenced T.O. in his absence to a three-year suspended prison sentence and a fine of EUR 30 million for ML. The Court also confirmed the confiscation of all the assets seized.

Effectiveness, proportionality and dissuasiveness of sanctions

243. The sanctions imposed for ML are generally effective, proportionate and dissuasive. The available data and the cases presented indicate that the courts use the full range of penalties and impose severe penalties in the most serious and complex cases. For natural persons, the rate of custodial sentences handed down is 55%. For legal persons, the sanctions imposed for ML against legal persons are moderately severe.

244. France provides for a wide range of sanctions against natural and legal persons for ML offences. For simple ML, the penalties incurred are five years in prison and a fine of EUR 375 000, or ten years in prison and a fine of EUR 750 000 if the acts are committed by an organised group or on a habitual basis, or in the event of ML of drug-trafficking. Additional penalties are imposed (dissolution, multiple bans, placing under supervision, permanent closure and confiscation). It should be noted that this amount is limited to the maximum penalty incurred for the predicate offence in cases of self-laundering, in accordance with the principle of non-consecutive sentences. For customs laundering, the penalties incurred are 10 years in prison and a fine of between one and five times the amount subject to laundering, as well as confiscation of the instrumentality and proceeds of ML. (see. R3).

Sanctions on natural persons

245. The statistics indicate that 55% of persons are given custodial sentences for an average duration of 30 months, with the rates for fines and confiscations standing at 51% and 39%, respectively. This appears to be dissuasive, especially in comparison with the penalties applied for offences of similar gravity. Furthermore, the penalties for ML by an organised group are noticeably higher than for simple ML. In a few complex cases, when low-level operatives of organised ML networks were given fully suspended sentences, the heads of the networks were given custodial sentences in the same proceedings, reflecting the custodial sentencing rate of 55% noted for ML. However, this 55% rate corresponds to an interpretation in which the amount is limited to the maximum penalty incurred for the predicate offence (see para. 202). For a more accurate idea of the real rate of imprisonment for ML, it is also necessary to consider the custodial sentencing rate imposed for laundering alone (stand-alone and third party). In this case, the rate of custodial sentences for laundering alone is 33%.

Table 3.21. Number of custodial/suspended prison sentences for ML

	2016	2017	2018	2019	2020	Total	%
Custodial penalties	537	729	764	832	724	3586	60%
Fully suspended prison sentences	412	564	450	588	420	2434	40%
Total	949	1 293	1214	1420	1 144	6 020	

246. Regarding the quantum of penalties imposed, almost half of the penalties pronounced were from one to less than three years. Cases with a penalty exceeding five years represent a considerable proportion (15%) of the penalties imposed for ML, confirming the dissuasive nature of the penalties imposed for ML by courts in France. These results are in line with the "top-down" approach (focusing on high-end cases) implemented by the authorities in order to prioritise complex and highly complex ML cases. The severest penalties are given to perpetrators of ML who belong to organised networks. Convictions for more minor offences led to less severe sanctions.

Table 3.22. Amount of custodial penalties for ML in Metropolitan France

	2016	2017	2018	2019	2020	Total	%
Less than 1 year	123	164	154	193	163	797	23.5%
From 1 to less than 3	234	344	350	374	330	1 632	48%
From 3 to less than 5	80	107	121	133	11	452	13.5%
5 or over	73	99	117	122	94	505	15%

Sanctions on legal persons

247. Regarding legal persons, on average, there are 28 convictions per year, which appears consistent with the nature of the threat. The sanctions imposed are dissuasive to a large extent. From 2016 to 2020, 88% of the legal persons received a fixed fine, amounting to EUR 24 million on average, but it should be noted that the median fine is EUR 112 250. The penalties imposed can be particularly high, in this specific case consisting of a fine of EUR 3.7 billion. Furthermore, for certain financial offences (corruption, tax fraud), the authorities choose to conclude a CJIP instead of prosecuting the legal persons (see para 209).

Table 3.23. Number of fixed fines imposed on legal persons convicted

	2016	2017	2018	2019	2020	Total
No. of legal persons convicted	18	39	26	40	17	140
No. of fixed fines	18	29	22	33	12	124

Use of alternative measures

248. The authorities use alternative measures to stop ML if it is not possible to obtain a conviction. They conduct prosecutions based on ordinary-law definitions when possible, or otherwise resort to measures without conviction.

249. The authorities apply alternative qualifications to the offences committed such as: receiving stolen property and unexplained wealth. The authorities initiate proceedings for receiving stolen property if the acts do not involve conversion, transfer or concealment. Regarding the unexplained wealth offence, this enables the punishment of third parties who have enjoy the proceeds of the offence. Prosecution for receiving stolen property is one of the most important alternative measures (see Table 3.24).

Table 3.24. Number of convictions for receiving stolen property and for unexplained wealth

	2016	2017	2018	2019	2020
Convictions for receiving stolen property	22 405	22 294	15 677	20 357	13 976
Convictions for unexplained wealth	235	270	288	320	261

Box 3.12. HIDDEN NETWORK case

Conviction for receiving stolen property

On 3 November 2017, several representatives of companies reported to the gendarmerie thefts of boilers and electrical distribution boards on unprotected construction sites. On 16 November 2017, the OLCDI[54] was asked to conduct the investigations, which revealed a sharp increase in thefts of boilers and electrical distribution boards throughout France. On 22 January 2018, the investigating judge of Nantes declined jurisdiction in favour of the Rennes JIRS. Cross-checking revealed a genuine criminal phenomenon and enabled 73 proceedings to be linked to the main proceedings, since the acts were clearly perpetrated by constantly changing teams of about fifteen individuals throughout France.

Regarding the acts of receiving stolen property, the investigations, including surveillance, interception of phone calls, image captures and the geolocation of vehicles, revealed that after being stolen, the equipment was transported and then stored in lock-up garages in the Paris region. Several organised networks involved in selling the goods were identified, in particular through the interception of phone calls. In this way, the equipment was either sold in France or transferred via a shuttle system to Eastern European countries (Moldavia, Romania, Poland) for sale on site.

In a judgement handed down on 1st October 2020, Rennes Criminal Court sentenced the 19 defendants to penalties ranging from an 18-month suspended prison sentence to five years in prison. The four defendants prosecuted for receiving stolen property from aggravated theft and criminal conspiracy were sentenced to penalties ranging from 18 months to four years in prison. A.S., the head of the network receiving the stolen goods, who is on the run, was sentenced to four years in prison and an arrest warrant was issued against him. The court also ordered the confiscation of the assets seized.

54 Central Office for Combating Mobile Organised Crime Groups.

250. In addition to these alternative measures, the authorities seize assets and may refuse its restitution in a certain number of cases in order to deprive criminals of the proceeds of their crimes. The decisions of non-restitution of property are pronounced when the asset "*is the instrumentality or the direct or indirect proceeds of the offence*", and enables the seizure of criminal assets in cases in which the perpetrator of ML cannot be identified or prosecuted (use of frontmen, identity theft, ML companies managed by figureheads), in order to ensure the loss of an asset identified during criminal proceedings. Refusal to return is not defined as confiscation and cannot be deemed equivalent to a penalty. It is not necessary for the owner or holder to be convicted. It is only necessary to establish a link between the offence and the assets seized. In 2020, the authorities pronounced 674 decisions of non-restitution or refusal to return, for a total amount of EUR 291 675.98. Furthermore, the authorities also impose fiscal penalties.

251. In addition, the French authorities have instituted an alternative to prosecution a highly effective mode (CJIP) – reserved for legal persons that have committed certain financial offences (corruption, tax fraud). This alternative method has led to the conclusion of five CJIPs for ML offences since 2016, with very substantial public-interest fines (see Table 3.28 under IO.8).

Overall conclusions on IO.7

France has an adequate legal framework to appropriately investigate, prosecute and obtain convictions for the different types of ML. The specialised investigative and prosecution authorities apply a "top-down" approach to investigations by prioritising the prosecution of high-end ML. They have adequate technical and financial resources. However, stand-alone ML represents a small proportion of ML convictions, in view of the authorities' legal opportunities to prosecute stand-alone ML more easily with the reversed burden of proof regarding the illicit origin of proceeds of predicate offences.

ML investigations and prosecutions are to a large extent consistent with the risk profile identified in France. However, the number of cases identified in the course of high-risk predicate offence investigations appears relatively low, especially for corruption and human trafficking. Moreover, despite an increase in staff, the lack of human resources in terms of specialised investigators is a limitation for the system and also impacts investigation timeframes, especially in complex and highly complex cases and in judicial investigations.

France is rated as having a substantial level of effectiveness for IO.7.

Immediate Outcome 8 (Confiscation)

252. The assessment team based its conclusions on a review of implemented directives and circulars regarding the identification, seizure and confiscation of criminal assets, as well as the discussions held with various authorities, in particular the PIAC and the AGRASC, and the judicial and investigative authorities, including the SEJF, the statistical data transmitted by France, and a review of many cases illustrating France's commitment to seizure and confiscation.

Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective

253. France has established the seizure and confiscation of criminal proceeds, instrumentalities and property of equivalent value as an overarching priority, and this remains an objective of its criminal policy since the adoption of law No. 2010-768.[55] This law gives investigators and judges a robust legal framework for developing a systematic policy of seizure and confiscation of assets, for all proceeds-generating offences, with priority given to the most substantial offences in terms of financial volume.

254. Successive legislative amendments[56] since 2010 designed to strengthen the legal framework for seizure and confiscation of criminal assets also illustrate the commitment of the French authorities in this field. The criminal policy aims to identify criminal assets as early as possible in the course of an investigation to optimise their seizure.

255. The many circulars issued in particular on tax fraud[57], ML[58], organised crime[59], drug trafficking[60], and human trafficking[61], and the measures implemented by all concerned authorities emphasise the priority given to the identification and seizure of criminal assets in order to confiscate them. The criminal policy instructions given by the Ministry of Justice to the state prosecutors reasserts the objective of systematic seizure and confiscation for all proceeds-generating offences.

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55 Warsmann Act of 9 July 2010 aimed at facilitating seizure and confiscation in criminal matters.

56 Law 2011-267 of 14 March 2011, providing in particular for the assignment free of charge to the investigation agencies of movable property placed in the hands of the judicial authority, belonging to the persons prosecuted; Programming Law 2012-409 of 27 March 2012 on the enforcement of penalties, which increased the possibilities for seizure and confiscation; Law No. 2013-1117 of 6 December 2013 on the fight against tax evasion and serious financial crime, which extended the possibilities for value-based seizures and confiscations to assets; Law 2016-731 of June 2016 strengthening the fight against organised crime, terrorism, and financing of them, and improving the effectiveness and guarantees of criminal proceedings, which completed the system regarding the return of seized assets; Law No. 2019-222 of 23 March 2019 on Programming for 2018-2022 and Justice Reform, which standardises and simplifies the seizure procedure for in flagrante delicto and preliminary investigations, does not require compulsory confiscations and confiscations of the proceeds or subject of the offence to be justified, and introduces a new obligation in connection with suspension with probation, that of justifying the surrender of an asset for which confiscation has been ordered.

57 Circular of 7 June 2011 on the implementation of the national plan for coordination of the fight against fraud.

58 Circular of 11 December 2020 on the fight against money laundering.

59 Circular of 30 September 2014 on the fight against complex crime and serious financial crime.

60 Circular of 1 October 2005 on drug trafficking.

61 Circular of 18 December 2011 on trafficking in human beings.

256. Some operational measures designed to develop an assets-based approach to criminal penalties, have been implemented to support the prosecution and investigation authorities. One of these measures is the establishment of a specialised agency the AGRASC which became operational in 2011, in order to facilitate seizure and confiscation in criminal matters, as well as the creation of focal points posts and specialised assistants in certain courts for seizure and confiscation.

257. The AGRASC constitutes an improvement due to its management, operational support and training methods. It is in charge of managing and valuing the seized and confiscated assets. It finances its own operations using the proceeds of the confiscations and interest on the amounts that it manages. It manages all sums seized in connection with criminal proceedings (cash and sums credited to bank accounts) in France and other assets, including intangible movable property (crypto-assets, financial instruments etc.). In addition, it has prerogatives such as advance sale (before the confiscation ruling) of movable property and real estate and assignment of movable property to the investigating and judicial agencies. It is in charge of publishing real estate seizures. This agency has 61 people and provides legal support by offering advice and operational support, by distributing data sheets or via its intranet site, which is accessible to investigators, judges and customs officers. It can also be contacted directly (email, phone).

258. In structural terms, the AGRASC complements other entities' action designed to develop the identification of criminal assets for the purpose of seizure: the PIAC (at the level of the OCRGDF/DGPJ), and the national units for criminal assets National criminal asset unit (CeNAC) which each run a network throughout France (offices of the PIAC and the Regional criminal asset unit (CeRAC)). The PIAC was created in 2005 and is the reference investigative authority for the identification and seizure of criminal assets. It is the sole entry point for all investigative authorities for international cooperation in identifying criminal assets abroad and for replying to the requests of foreign investigators (in particular the Camden Asset Recovery Inter-Agency Network (CARIN) network). It deals namely with the most complex investigations involving assets identification, particularly abroad, which is in line with France's policy in this regard.

259. The mobilisation of the French authorities with regard to criminal assets was materialised by the awareness-raising and training of investigators and judges for seizures and confiscations procedures. The PIAC and the AGRASC provide this training and the support to the investigative authorities and courts. They carry out their duty to train judges and investigators in the identification, seizure, confiscation and management of criminal assets by organising specific information days.

260. At the operational level, the roll-out of contact judges for seizures and confiscations as the designated points of contact with the AGRASC, and specialised assistants in certain courts, illustrates the authorities' determination, through their criminal justice policy, to promote this new criminal justice culture in all courts. The aim is to develop best practices for judges in order to promote the practice of seizing assets of illicit origin with a view to their confiscation.

261. The dissemination of best practices throughout the courts, such as the provision of criminal seizure templates, the drafting of an asset rating, and the production of written applications to justify penalties of confiscation, also bear witness to the authorities' commitment to this field. The drafting of a Guide to Seizure and Confiscation by the DACG for judges and investigators in 2015, revised in collaboration with the AGRASC in January 2021, is another example of best practice.

Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad

262. The competent authorities, including those involved in international cooperation, consistently and proactively confiscate the proceeds of predicate offences committed in France and abroad. A review of the cases presented indicates France's determination to pursue assets repatriation and their sharing.

263. The competent authorities have obtained very good results in this area. Criminals were deprived of EUR 23 658 898 123.57 during 2016-2020 (EUR 4.7 billion on average per year) using various measures, primarily confiscation under the Penal Code, but also CJIPs, tax penalties and repatriation of proceeds moved to other countries. The assessment team believes that the amounts related to tax recovery in case of wilful negligence can be taken into account in this context, where tax fraud is the main ML threat. The assessment team also based its conclusions on the review of many cases provided by the authorities.

Provisional measures

264. France actively implements measures to seize criminal proceeds and has achieved very good results. The number of seizures each year increased from 15 003 in 2016 to 19 549 in 2020, with an annual average value over EUR 550 million. This concerns a wide variety of assets (life insurance, virtual assets). The statistics provide an overview of the topologies of assets seized and enable the identification of seizures linked to drug trafficking. A detailed breakdown of seizures for other offences is not possible. The investigative authorities directly and systematically seize all types of tangible moveable property. These investigative authorities must obtain an order from the investigating judge, or from the judge responsible for matters relating to liberty and detention, at the request of the public prosecutor, in order to seize other types of assets, in particular real estate and intangible movable property.

Table 3.25. Total amount of assets seized

2016	2017	2018	2019	2020	Total
521 607 565	540 184 680	645 338 072	560 547 840	573 357 944	2 841 036 101

265. The judicial investigative authorities (police, gendarmerie and judicial customs service) conduct asset investigations in order to identify property and assets that can be seized. This approach is facilitated by the roll-out in the territorial agencies of branches and contact points used by the PIAC (and for the gendarmerie by the CeRAC/CeNAC system) to disseminate the asset identification culture and know-how. Asset investigations follow the "top-down" approach mentioned in IO.7, i.e. the investigations are more in-depth where the value of proceeds or instrumentalities is high and the existence of seizable assets appears likely. Investigations for the purpose of seizure are formalised by including an "asset rate" in the procedure, listing all (national and international) investigations relating to the assets identification and seizure.

266. The authorities identify assets at national level through the real-time consultation of many records (see box 3.1 under IO.6 for the list of available records), and direct or by court order access to different databases of other authorities, including TRACFIN . The identification at the international level is in principle entrusted to the PIAC regardless of the investigative authority (see IO.2).

267. The legal system also allows for the preventive freezing of transactions even before a criminal investigation begins via TRACFIN's right to object to the execution of financial transactions reported for a period of 10 days. In practice, TRACFIN rarely uses this right to object, since in most cases it receives STRs for transactions that have already taken place. Between 2016 and 2020, TRACFIN used its right to object 119 times, for a total amount of almost EUR 37 million.

Table 3.26. Right to object exercised by TRACFIN

	2016	2017	2018	2019	2020
Number of transactions	19	24	7	11	58
Value of the transactions (in EUR millions)	4.4	8.6	1.6	11.8	10.4

268. AGRASC has shown its ability to manage seized assets effectively and to adapt to developments in the field, which has enabled, for example, the pre-judgment sale of new types of proceeds products, such as virtual assets (see box 3.13). It sells certain assets before the judgement, in order to reduce management costs, increase the sales price, and in particular, to avoid depreciation. The sale of assets prior to judgement leads to the funds being deposited on AGRASC's account for the duration of the proceedings: in the event of confiscation, they can be used for example to compensate the plaintiffs claiming damages.

Box 3.13. Example of the seizure of virtual assets

Subject: An investigation, initiated in 2019 by the OCLCTIC[62], under the supervision of the Paris Cyber Prosecutor's Office, illustrates the use of cryptocurrencies to launder the proceeds of crimes, particularly when they have already been committed in a context of cybercrime, as well as the size of the sums at stake. The case is still in progress.

Results: In this case, the investigating judge assigned 609.7 BTC to the AGRASC for the purpose of disposal. The bitcoins were sold before the judgement in March 2021. This was the first sale of crypto-assets prior to judgement held in France. This sale raised a total of over EUR 23 million, which was deposited into the AGRASC's account.

Confiscation of the proceeds of predicate offences committed in France

269. The Criminal Code provides for two types of confiscation, in addition to confiscation of the proceeds, the instrumentalities and the subject of the offence: 1) for crimes or offences punished by a prison sentence of over five years, which produce a direct or indirect profit, the burden of proof is reversed. All of the perpetrator's assets are presumed to be of illicit origin if the perpetrator cannot prove the contrary; 2) certain categories of serious offences (e.g. all those specified in the NRA apart from fraud) are subject to the general confiscation regime, which extends beyond the proceeds or the instrumentality of the offence, in kind or in value, to some or all of the assets of the perpetrator of the offence. This can be applied without having to prove a link between the offence and the asset confiscated, as well as without having to establish the exact amount of proceeds of the offence.

270. Authorities use several administrative measures (for fraud) and criminal measures (confiscation, criminal fines and public interest fines) to deprive criminals of the proceeds and instrumentalities of offences. The statistical data[63] show that France achieves very good results by using these measures simultaneously.

Table 3.27. Amounts deprived to criminals by various measures

	2016	2017	2018	2019	2020	Total
Confiscation	54 671 840.44	131 056 963.76	56 776 050.97	277 275 320.75	74 783 213.65	594 563 389.57
Benefits from the offence (CJIP)		86 400 000	171 657 431	216 225 279	1 056 254 492	1 530 537 202
Fiscal penalties	6 237 965 184	4 703 678 411	4 812 169 207	3 580 473 796	2 199 510 934	21 533 797 532
Total	6 292 637 024.44	4 921 135 374,76	5 040 602 688,97	4 073 974 395,75	3 330 548 639,65	23 658 898 123,57

62 Central Office for Combating Information and Communication Technology Crime.

63 The data regarding criminal fines are not considered in IO.8, as they are not a form of confiscation as such.

271. According to the statistics provided, the total value of criminal confiscations from 2016 to 2020 is EUR 594 563 389, i.e. about EUR 119 million per year on average, which represents relatively good result. The various cases analysed by the assessment team indicate that the judicial authorities confiscate all types of assets: bank accounts, cash, life insurance policies, financial instruments, real estate, and business assets.

272. The authorities also use other methods (other than criminal confiscation) to recover large volumes of proceeds of crime, such as tax penalties in cases of wilful negligence. For the period from 2016 to 2020, this amount is more than EUR 21 billion (EUR 4.3 billion per year on average). This amount exceeds EUR 40 billion if we take into account the total of administrative sanctions imposed by the tax administration.

273. In recent years, very important results were achieved with the CJIP. Since 2016, EUR 3 billion has been obtained as a public interest fine, half of which represents the amount of benefits derived from the offence. (see box 3.14).

Table 3.28. Amounts obtained with CJIP

	2016	2017	2018	2019	2020	Total
CJIP	0	158 000 000	254 080 755	532 600 000	2 087 537 455	3 032 218 210

Box 3.14. Case A

In January 2020, the President of the Court of Paris approved the CJIP concluded on 29 January 2020 by the National Financial Prosecutor and the company A.

Under the terms of this CJIP, A. undertook to pay the Public Treasury, within ten days, a public-interest fine of EUR 2 083 137 455. A. also agreed to the assessment of the effectiveness of its compliance programme by the AFA for a three-year period. Subject to the fulfilment of these obligations, the approval of the CJIP marks the end of the proceedings instigated against the company on grounds of the corruption of a foreign public official and private corruption committed between 2004 and 2016 in connection with contracts to sell civil aircraft and satellites concluded by A. group entities.

These proceedings were conducted by a JIT composed of the PNF and the UK Serious Fraud Office, concurrently with an investigation opened by the US Department of Justice and the federal prosecutor of the District of Columbia (Washington DC). This new advance in combating international corruption is the fruit of activities carried out by the PNF with the trust and full cooperation with their foreign counterparts. It also benefits from contributions by investigators at the OCLCIFF, and financial and operational support provided by Eurojust and Europol.

Confiscation of the proceeds of predicate offences committed abroad and proceeds moved to other countries

274. The authorities are active in identifying, seizing and confiscating assets located in a foreign country. The investigative authorities issue a large number of requests to identify assets abroad. This number is well above the number of requests received by France from foreign countries, which is consistent with France's risk profile as being mainly exposed to the risk of ML conducted abroad of proceeds generated in France. Between 2016 and 2020, authorities issued 2 463 MLA requests to identify assets, versus 869 requests received.

275. France is very active in identifying assets located abroad. The investigative authorities (police, gendarmerie, SEJF) regularly ask the PIAC to identify assets related to offences they are prosecuting. The PIAC sends an asset search request to its counterparts abroad via the Asset recovery office (ARO) and/or CARIN networks, or the ARIN-CARIB for cases relating to the French West Indies. From 2016 to 2020, the PIAC sent 2 463 requests to foreign authorities to identify assets and identified 4 823 assets, with an estimated value of over EUR 164.1 million. Table 3.29 indicates that the requests made by France are steadily increasing and concern assets with a higher value. Assets are also identified via requests for MLA, but lack of statistical follow-up of this aspect.

Table 3.29. France's requests regarding assets identification

	2016	2017	2018	2019	2020	Total
Nb of requests	366	468	503	489	637	2463
Nb of identified assets	543	1129	962	906	1 283	4 823
Estimated value (in euros)	19 M	36 M	75 M	22 M	12.1 M	164.1 M

Box 3.15. Examples of assets identification and seizure abroad at France's request

Gramond case

Summary: An investigation was initiated following several TRACFIN reports concerning French companies whose bank accounts were credited, as of their creation, by payments from solely American (US) bank cards, under cover of the operation of websites that in reality had no traffic. The investigation launched by the DCPJ/OCLCIFF/BNRDF, confirmed the information transmitted by TRACFIN and revealed the existence of four companies in France. As a result, almost EUR 220 million was credited to accounts in France (between 2012 and January 2017), and paid out (approximately 95%) to foreign companies. These sums were used to finance the lifestyles of the persons concerned, and the acquisition in France and abroad of movable property (luxury vehicles in particular) and real estate (in France and abroad), and were the direct proceeds of aggravated tax fraud and its ML.

Result: Assets, other movable property and real estate were seized, both in France and abroad (Estonia, Latvia, Lithuania, Germany, Belgium) with a cumulative value of almost EUR 3.5 million.

Brexit case

Summary: On 22 January 2019, four armed individuals burst into a bank branch on the Champs-Elysées in Paris and locked up the employees present. The criminals left the premises several hours later, after breaking into 70 safety deposit boxes and stealing jewellery and securities worth almost EUR 20 million. An investigation entrusted to the Paris police headquarters incriminated a team of experienced criminals with the suspected involvement of the bank manager, who was present on the day of the events.

Result: A villa in Spain belonging to one of the criminals was identified in 2021 and seized by the Spanish authorities at France's request, under a value-based seizure.

Diamonds case

Summary: In August 2017, the Angers criminal investigation department was investigating scams related to fake transfer orders targeting several professional clubs, and the investigation was continued under the authority of the public prosecutor's office of the Nancy JIRS. The investigations revealed the involvement of an organised network, run from Israel and specialising in various types of fraud, in particular linked to investment. As a result, 24 fraudulent websites were revealed, promising exceptional returns after buying diamonds. Links were established with another case of investment fraud involving diamonds launched by the OCRGDF. In January 2019 the case was included in the pre-trial judicial investigation initiated by the Nancy JIRS, and referred jointly to the OCRGDF. At this stage, the investigations focused on the ML network used by the scammers. European investigation requests were sent to 15 countries in order to monitor banking flows. After numerous transfers into accounts opened by banking mules or by identity theft, the funds were transferred to mainland China or Hong Kong.

ILR were issued to Israel, leading to the hearing of 11 suspects and the conduct searches. Numerous diamonds were discovered during one of the searches. These diamonds were seized following a request for mutual assistance in criminal matters sent by the French judge to the Israeli authorities.

On 13 July 2021, an OCRGDF investigator returned to Israel to recover more than 800 diamonds weighing 27 kg with an estimated total value of between EUR 500 000 and EUR 1 million. Authorities agreed the return of assets to France. The investigation also endeavoured to identify the 1 250 victims whose total losses exceeded EUR 30.7 million. Seizures of movable property and real estate were carried out in France and abroad for a total exceeding EUR 2.4 million.

276. Authorities actively respond to foreign requests as well to locate assets (through the PIAC), seize and ultimately return or share them (AGRASC). From 2016 to 2020, France received 869 requests in relation to assets identification.

277. Regarding sharing assets, the AGRASC concluded only 19 partitions for a total of about EUR 16 million, including EUR 7 million returned to foreign authorities. Three returns took place for a total of EUR 1.4 million, and 7 repatriations occurred, totalling EUR 11 million. The number of cases and the amounts involved are not yet very significant. Sharing is only starting to develop, this might be explained by the difficulties and delays in receiving MLA, as well as the time required for the entire process (see Box 3.16 – example showing the duration of the procedure).

Box 3.16. Example of assets sharing

In a ruling dated 30 June 2009 relating to a scam case, the Paris Court of Appeal ordered the confiscation of funds seized during the pre-trial judicial investigation, on two accounts in Luxembourg, as well as the return of some of the seized funds to the victims. The funds were returned directly to the victims by the Luxembourg authorities, in accordance with the enforcement order pronounced by the Luxembourg district court on 9 October 2014 and confirmed by the Court of Appeal of Luxembourg on 12 January 2016. This order also acknowledged the penalty of confiscation. In an agreement signed in April 2019, Luxembourg and France agreed to share the sum of EUR 418 345.27 equally between them.

278. Authorities presented many cases illustrating their ability to seize and confiscate assets abroad, in connection with predicate offences committed in France, whose proceeds were transferred abroad. (see Box 8.8 in IO.2 for more examples)

279. A recent success should be noted, following the campaign initiated by French NGOs around ten years ago, concerning cases of "ill-gotten gains" located in France. (see Box 3.18)

Box 3.17. Case O - "Ill-gotten gains".

On 28 July 2021, the Court of Cassation confirmed the sentencing of O. to a three-year suspended prison sentence, a fine of EUR 30 million and confiscation of all the assets seized, estimated at EUR 110 million (including a building with an estimated value of EUR 110 million) for acts of "laundering the proceeds of misuse of company assets, misappropriation of public funds and breach of trust".

The criminal proceedings were instituted on the complaint of two NGOs who were granted the capacity of plaintiffs claiming damages. They were

conducted by the PNF and the financial judicial investigation Pole, with the help of TRACFIN and the OCRGDF.

3

Confiscation of falsely or undeclared cross-border transaction of currency/BNI

280. France has a robust legal system regarding the obligation to declare cross-border movements of sums of money, securities, assets and BNIs for amounts equal to or exceeding EUR 10 000. This declaration obligation applies to both extra-Community and intra-Community transnational transfers of funds. Breach of the obligation to declare (MOD) constitutes a customs offence and the DGDDI is responsible for monitoring declarations (see R.32).

281. The authorities have good knowledge of the major risks related to cross-border cash movements, especially in connection with drug trafficking. France clearly recognises the importance of addressing the identified risks and applies proportionate sanctions for cross-border movements of cash and BNIs that are the subject of false declaration/non-declaration, but these sanctions do not appear very dissuasive for a simple MOD, in view of the large proportion of compromise settlements. They are dissuasive in cases with indications of another customs offence. The assessment team based its conclusions on the statistics provided for the amounts of money consigned, seized and confiscated (see Table 3.31), case studies of the specific operations and mechanisms used by France to target illicit cross-border cash movements, and discussions with the customs authorities, and in particular officers of the judicial customs service (SEJF) and DNRED agents.

282. The French customs service plays a decisive role in AML. Its positioning on extra-Community borders, its ability to control flows throughout France, and the specific powers assigned to it enable the seizure of illicit physical flows of money, securities and assets. Between 2016 and 2020, customs officers consigned over EUR 197 million for MOD, prior to investigations leading to the seizure of around EUR 44 million, i.e. 22.67% of the total amount consigned. In the same period, a total of EUR 18.4 million was confiscated by the courts for MOD (possibly pronounced concurrently with a customs laundering offence), i.e. 41.05% of the total amount seized. Only 9.34% of the amounts consigned were eventually confiscated. This confiscation rate is low and not very dissuasive.

283. For overseas France, the authorities consider that the risk related to cross-border movements is broadly the same as in Metropolitan France. However, the risk is higher in the West Indies/Guiana zone with a high threat of drug trafficking. Given the sensitive nature of this zone for drug trafficking, authorities have increased the presence of customs officers by assigning 48 specialized agents from the DNRED in order to support the 341 officers of the customs surveillance brigades, assigned to the West Indies/Guiana zone, not including the Coast Guard. Despite the lack of a specific strategy to reduce the risks identified in this zone, the number and severity of the controls as well as the number of staff have been increased.

Obligation to declare capital

284. Over 8 000 officers are responsible for customs surveillance. These officers have the power to conduct inspections relating to the obligation to declare capital in connection with their general inspection activities. They are highly trained.

285. Travellers appear to be sufficiently informed of the declaration obligation by notices posted in French and English at all border crossing points (ports/airports/international stations). A Quik Response code is displayed to make it easier for travellers to access the DALIA online customs service. The customs service carries out information campaigns using booklets and videos to raise the public's awareness of the declaration obligation. This dissemination of this information abroad is also carried out by customs attachés.

286. On average, 20 000 cross-border movement declarations are entered in DALIA each year, for an average annual volume equivalent to EUR 1.2 billion. This includes import, export and transit declarations. The drop in declarations in 2020 was due to the impact of the health crisis, which led to a general decrease in transport traffic and a corresponding decline in the activities of cash-in-transit companies. Furthermore, the decrease in the number of declarations observed over the last five years may be due to the decline in the use of cash for transactions, which is particularly notable in France, in favour of other methods of payment, in particular electronic methods. (see. Table 3.30).

Table 3.30. Number and value of the cash declarations received by the DGDDI

	2016	2017	2018	2019	2020
Total No. of declarations	2 6270	24 309	22 451	21 293	10 305
Imports	9 609	8 577	7 831	7 214	3 283
Exports	15 191	14 373	13 311	12 783	6 763
Transit	1 470	1 359	1 309	1 296	259
Total value of the declarations (million EUR)	1,224	1,165	1,144	1,392	1,156
Imports	349	336	314	471	646
Exports	826	778	770	811	489
Transit	49	51	60	110	21

Customs control

287. Customs officers are highly capable of detecting MODs. They were able to detect 9 992 MOD during the 2016-2020 period. Proactive control by customs officers of the obligation to declare capital is carried out on the basis of prior information or suspicion (targeted control). The targeting units base their actions on customs intelligence (especially for air, maritime and rail flows) in order to identify high-risk passengers, as well as on information from TRACFIN and police intelligence. Furthermore, the Customs Intelligence Directorate produces a study of cross-border cash movements on a six-monthly basis. These studies analyse the types of flows, values, origin, destination, nationalities of declarants and perpetrators, and the types of vehicles (land, air, maritime etc.) used by the perpetrators. They are used by the targeting units to provide guidance for customs controls. Furthermore, the customs use specialised tools to preselect people and cars for controls. It uses as well the profiling to detect people, as well as random controls. During the on-site visit, the assessment team reviewed studies of targeted persons based on screened intelligence.

288. Customs officers have access to a certain number of databases which they use to determine the risk profile of passengers. The SILCF records all information pertaining in particular to the holder of the sums, securities or assets (surname, first names, nationality, date of birth etc.) the amount of capital, and the method of transport. Furthermore, the customs officers use the SILCF and any other information collected to identify people who cross the border quite regularly with sums slightly below EUR 10 000. The reporting of this information via the SILCF to the DNRED and the SEJF may lead to the opening of investigations for smurfing.

289. Customs officers systematically consign the sums, securities, assets and BNIs if the holder of the funds cannot immediately justify their origin. The purpose of consignment is to conduct a customs investigation (or at least to question the person) or a judicial investigation. The 272 SEJF officers have the authority to institute legal proceedings for breaches of the regulations regarding the obligation to declare capital. For the period between 2016 and 2020 the officers consigned over EUR 197 million on grounds of MOD.

Sanctions

290. MOD is punishable by a fine equal to no more than 50% of the sum concerned by the offence or attempted offence. In addition, under certain conditions (Customs Code (CD), art. 350), the customs administration is authorised to arrange terms with persons prosecuted for customs offences. Consequently, the amount of the settlement may be less than the 50% fine. Settlements are reached in about 88% of cases of MOD, which does not seem very dissuasive in terms of sanctioning MODs. However, severe sanctions are imposed for MOD if there is any doubt about the origin of the funds, especially in the event of a concurrent customs offence. Between 2016 and 2020, about EUR 18.4 million was confiscated by the criminal courts, and all of these cases originated from the recording of a breach of the obligation to declare by customs, sometimes combined with a customs-laundering offence.

Box 3.18. Example of MOD leading to confiscation

During a customs inspection of traffic in France, customs officers asked a driver if he was transporting sums of money, securities or assets. The person replied that he was not. The customs officers conducted a thorough inspection and found over EUR 89,000 in the door liners. The sniffer dog specialising in detecting narcotics identified the vehicle. The investigation revealed the existence of a convoy and links with drug trafficking. The sum was confiscated by the court and the person was convicted.

291. Between 2016 and 2020, the DGDDI reported 9 992 MOD. These cases led to around 8 700 settlements and 929 referrals to court, corresponding to a rate of 9.36 %, and 60 cases were closed. Of the 9, 92 offences reported, 41.62% resulted in the consignment of sums of money (for six months, renewable once) in order to check on the lawful origin of the funds. 22.67% of the sums consigned were seized and 41.05% of the sums seized were confiscated. In terms of value, 11.24% of the undeclared sums were seized for an "aggravated" breach of the obligation to declare, i.e. for customs laundering, and 4.62% of the sums in question were confiscated. (see Table 3.31). However, only 3.52% of MOD appear to have led to the confiscation of the sums. This percentage should be put into context, because assets are often eventually confiscated for another offence, and the offence of breach of the obligation to declare is forgotten. More accurate statistics should be produced.

Table 3.31. Statistics related to MOD (possibly with a concurrent customs laundering offence)

	2016	2017	2018	2019	2020	Total
Control phase						
No. of MOD	1 829	2 149	2 156	1 973	1 815	9 922
Total amount concerned by a MOD (M EUR)	68.42	74.07	92.83	75.23	88.05	398.6
No. of consignments	911	962	830	692	735	4130
Amounts consigned (M EUR)	42.57	40.67	48.06	29.63	36.79	197.71
No. of seizures	120	118	122	93	77	530
Amounts seized (M EUR)	10.13	11.42	8.73	7.55	6.99	44.82
Prosecution and sanctions phase						
No. of compromise settlements	1 671	1 908	1 873	1 741	1 527	8 720
Value of the penalties imposed	8.82	7.92	6.30	6.27	3.55	33
No. of cases referred to the courts	181	189	209	169	181	929
Amount of fines imposed by the courts	N/A	4.33	5.65	4.37	5.15	19.50
Total amount confiscated by the courts	6.33	3.15	2.6	2.51	3.81	18.40

Consistency of confiscation results with national AML/CFT policies and priorities

292. Confiscation results in France are broadly consistent with the national AML policies and priorities, and with the risks identified in the NRA. The assessment team based its conclusions on many cases provided, indicating the constant pursuit of confiscation for high-risk offences, in particular tax fraud, drug trafficking, corruption (violations of integrity) and theft and scams by an organised group, but also on discussions with the law enforcement authorities during the on-site visit. Statistics provided on confiscation broken down by predicate offence from 2019 confirmed these findings.

293. The system put in place for ML is characterised by frequent use of confiscation (61% of ML cases), and frequent pronouncement of fines, regardless of the predicate offence, and for very significant amounts in connection with CJIPs. As regards combating ill-gotten gains, the O. case should be noted, which led to the confiscation of a building with an estimated value of over EUR 150 million.

294. Seizures are also often ordered in customs and judicial proceedings. According to data provided by the PIAC, out of a total of EUR 671 million seized in 2018, EUR 245 million were for ML cases. The value of the assets seized is steadily increasing. As regards legal persons, the PNF used CJIPs to impose significant pecuniary penalties in connection with these settlements for over EUR 2 billion. Confiscation is relatively rare in cases linked to TF, but this is consistent with France's risk profile for cases of TF with micro-financing.

Overall conclusions on IO.8

France has revised its legislation on seizure and confiscation on several occasions and now has robust and effective tools for confiscating the proceeds of ML/TF offences. Confiscation results and the types of offences on which confiscations are based are generally in line with the threats described in the NRA. Comprehensive controls exist on the obligation to declare cross-border movements of cash and BNIs. Detailed statistics should be maintained to monitor confiscations based on MOD. The sanctions applied for MOD are not very dissuasive where they are not related to a customs offence. Minor improvements are needed and some have already been initiated.

France is rated as having a high level of effectiveness for IO.8.

Chapter 4. FINANCING OF TERRORISM AND FINANCING OF PROLIFERATION

Key Findings and Recommended Actions

Key Findings

Immediate Outcome 9

a) France has access to a very good legislative toolbox for fighting TF, supplemented by a dedicated, centralised and particularly strong judicial framework for CFT.

b) In light of the threat of attacks since 2015, France has made the fight against terrorism – and its financing – one of its top priorities. All of the competent authorities have a very good understanding of TF risks. The nature, number and scale of TF cases prosecuted is consistent with the identified risks.

c) The legal and operational system enables a broad and coordinated fight against TF. The substantial increase in staffing since 2014 has allowed France to take an appropriate response to terrorism and TF risks.

d) All types of TF activities are investigated and prosecuted, consistent with France's risk profile. The authorities mainly focus their actions on the micro-financing of terrorism via fundraisers.

e) France identifies and investigates successfully TF cases using financial intelligence from TRACFIN, intelligence from the DGSI as well as information from investigations into terrorist acts.

f) All of the investigative and intelligence authorities work together closely and in an organised manner with the PNAT and information is exchanged and disseminated in a timely manner. Terrorism investigations systematically include a TF component. Similarly, information resulting from TF investigations is systematically integrated into counter-terrorism strategies and investigations.

g) France actively prosecutes TF cases against natural persons, and to a far lesser extent against legal persons. Nonetheless, this appears consistent with the relatively low risk of a legal person being involved in TF in France. The vast majority of prosecutions (93%) result in convictions for TF.

h) The number of convictions appears to be in line with the identified risks and consistent with the identification of TF cases and investigation strategies. The information provided confirms the proportionate, effective and dissuasive nature of the sanctions.

i) Concomitant or alternative measures to sanctions are also implemented (e.g., the dissolution of NPOs, the freezing of assets, measures to combat radicalisation).

j) The investigation and prosecution authorities as well as TRACFIN have appropriate human, financial and technical resources for the identification and investigation of TF cases. Their staff are well-trained and aware of the latest developments in the field.

Immediate Outcome 10

a) France plays an active role in the international sanctions policy and in proposing designations for the EU and UN lists. In addition, France often makes use of the designations relating to UNSCR 1373 on its own initiative, by designating persons or entities on the national list. However, France has not submitted any listing requests to other countries, and no national listings have been made by France in response to a request by another country.

b) The legal framework enables the implementation of TF-related TFS under UNSCRs. They are implemented via EU and national regimes; implementation delays occasionally occurred up until 2020, given the need to adopt a national order. To overcome these delays, a new legislative reform came into effect in February 2021, under which all new listings by the United Nations Security Council (UNSC) come into force in France upon publication of the details identifying the designated person in the national register of asset-freezing measures.

c) France effectively communicates information on designated listed persons to regulated entities via the national asset-freezing register. The DGT updates the national register within 24 hours from the date of publication by the UN. However, the limited understanding of the scope of TFS obligations may hamper effective implementation without delay in these sectors.

d) France deprives terrorists, terrorist organisations and terrorist financiers of their resources and means of financing to a large extent. The measures adopted in this respect are largely consistent with France's overall TF risk profile as identified in the NRA.

e) The authorities have taken a too broad approach to identifying the scope of NPOs that are vulnerable to TF, including the risks linked to violent radicalism. In addition, authorities have not identified the number of humanitarian NPOs at risk of TF due to their activities in conflict zones among the 10 000 associations conducting charitable activities abroad.

f) The authorities apply targeted measures to humanitarian NPOs receiving government grants, which are identified as at risk of TF abuse. For the other categories identified as at-risk, surveillance and intelligence measures have enabled the identification of some NPOs misused by radicalised persons, in order to disrupt their activities. In addition, the authorities apply control measures of a general nature to all NPOs, which can also help mitigate the risk of NPOs being abused for TF.

g) Not all categories of at-risk NPOs have been targeted for outreach, on an ongoing basis, to raise awareness about potential vulnerabilities of NPOs to TF abuse.

Immediate Outcome 11

a) France has adequate measures to implement PF- related TFS on national, European and international levels. It has an active role in proposing listings at EU level in response to the North Korean nuclear crisis, and as a permanent member of the UNSC has contributed directly to the adoption of listings accepted by the UNSC between 2016 and 2018. With regard to Iran, the lack of new listings is due to the adoption of the Joint Comprehensive Plan of Action (JCPOA) in 2015 endorsed by Resolution 2231.

b) France satisfactorily implements UNSCR 1718 (2006) and the subsequent related resolutions, and UNSCR 2231 (2015). Until 2016, France froze assets based on the sanctions against Iran. Since then, France has not applied new freezing measures in the last five years under these resolutions, since assets of individuals and entities frozen under the resolutions relating to North Korea have not been identified in France.

c) While France has introduced a national system to overcome the delay resulting from implementation of the UNSCRs by the EU, until 2020 delays were occasionally noted in the implementation of PF-related TFS. A new legislative reform, which was introduced to overcome the delays has been in force since February 2021.

d) France provides a high level of coordination between the various competent authorities in order to identify funds or other assets of designated persons and entities or of natural or legal persons likely to act on their behalf or at their direction.

e) Competent authorities for countering proliferation have a good understanding of the risks of proliferation in France. Furthermore, the customs authorities' monitoring measures include all types of proliferation-sensitive goods and assets.

f) FIs comply with and properly understand their freezing obligations, however large FIs have a more sophisticated understanding of their obligations. However, PF-related TFS are not systematically implemented by DNFBPs, and some sectors do not apply them at all.

g) Controls by the ACPR of FIs' compliance with their PF-related TFS obligations are satisfactory. However, they are more limited for FIs supervised by the AMF, and for DNFBPs. Awareness-raising mechanisms have been put in place to inform the financial sector, and to a lesser extent the DNFBP sector.

h) France has introduced effective control measures to identify possible cases of circumventing PF-related TFS and the regime for exporting dual-use goods that are attractive to proliferation-related networks.

4

Recommendations

Immediate Outcome 9

France should:

a) Maintain and develop strong and close cooperation between the authorities involved in CFT (intelligence/financial/police/prosecution).

b) Maintain the high level of commitment and expertise in CFT, including with regard to the technical evolution of financing methods.

c) Continue sensitising authorities to changing threats, and to exchange information between all partners on all entities exposed to TF risks, in France or abroad.

Immediate Outcome 10

France should:

a) Monitor the proper application of the new system, in force since February 2021, in order to ensure the implementation of TFS under the UNSCRs without delay by publishing the identity details in the national asset-freezing register without delay, by checking that the EU regulations are adopted within the 10-day period, and, if not, by adopting a national order.

b) Maintain its commitment at EU and UN levels and consider strengthening its proactive cooperation with non-EU states pursuant to UNSCR 1373.

c) Maintain its efforts to deprive terrorists, terrorist organisations and terrorist financiers of their resources and means of financing.

d) Strengthen measures to raise DNFBPs' awareness of TFS requirements in order to ensure their understanding of and compliance with all aspects of TFS.

e) Carry out a more targeted assessment of the risks of TF abuse in the NPO sector, taking into account the threats and vulnerabilities related to associations' activities, in particular the different measures applicable to each type of NPO and the type/area of activity. The NPO sector should be consulted in this process, in order to improve its understanding of risks.

f) Identify the number of humanitarian NPOs active in conflict zones, apply risk-based monitoring to all NPOs at risk of TF abuse, and put in place adequate control measures.

g) Extend outreach programmes to capture all NPOs identified as at risk of TF abuse and increase awareness of NPOs' potential vulnerabilities to TF abuse.

Immediate Outcome 11

France should

a) Monitor the proper application of the new system, in force since February 2021, in order to ensure the implementation of PF-related TFS under the UNSCR without delay: by publishing the identity details in the national asset-freezing register without delay, by checking that the EU regulations are adopted during the 10-day period, and thereafter by adopting a national order.

b) Ensure that reporting mechanisms are used by the entire financial sector, and by DNFBPs with regard to PF-related TFS, in order to make sure that at least all of the relevant players fully understand their obligations.

c) Reinforce its awareness-raising measures, especially for DNFBPs, to ensure their understanding of and compliance with all aspects of PF.

d) Make sure that supervisors of DNFBPs include asset freezing as a check point in their supervision methodologies, and implement effective controls of compliance with obligations relating to PF-related TFS for DNFBPs.

e) Implement the necessary measures to search for funds and assets of listed persons and entities, not only by screening the lists, but also by providing the means to prevent the indirect provision of assets to designated persons and entities.

295. The relevant Immediate Outcomes for this chapter are IO.9-11. The relevant Recommendations for the assessment of effectiveness under this section are R.1, 4, 5-8, 30, 31 and 39.

Immediate Outcome 9 (Terrorist financing investigation and prosecution)

296. The assessment team based its conclusions on the review of many cases indicating the different types of TF, the provided statistics, the NRA, and the discussions with members of the DGSI, the SDAT, the Anti-Terrorist Section of the Criminal Investigation Brigade of the Paris Police Prefecture, the OCRGDF, TRACFIN, the Counter-Terrorism Judiciary Pole and the PNAT.

Prosecution /conviction of types of TF activity consistent with the country's risk profile

297. France has access to a very good legislative toolbox for fighting TF, supplemented by a dedicated, centralised and particularly strong judicial framework for CFT. France deals with the risks of terrorism and TF which are very well understood by all competent authorities. The nature, number and scale of TF cases prosecuted is consistent with the risk profile.

298. The fight against terrorism is one of France top priorities to fight the serious, ongoing threat of attacks carried out in particular by isolated players present in France and encouraged by jihadist propaganda. The threat is also linked to the return of individual members of jihadist terrorist groups to France from conflict zones that were a training ground for the preparation of attacks. Of all European countries, France had the highest number of nationals who joined the ranks of IS, with around 2 000 French nationals travelling to fight in the conflict zones. The funds have notably been used to finance their departure and stays in conflict zone, the return of French fighters and the preparation of attacks in France. The identified TF risks concern, inter alia, the micro-financing of IS, its members and affiliates, the resources of fundraising networks, cash transfers, and to a lesser extent use of the non-profit sector, with a tendency to use innovative financing methods likely to guarantee the required degree of opaqueness (prepaid cards, virtual assets). The use of France as a logistical and financial support base for organisations such as the Kurdistan Workers' Party or Hezbollah, appears to be secondary. (see IO.1).

299. The review of many cases indicates that French authorities are proactive in investigating, prosecuting and imposing sentences for TF activities for the identified risks.

Box 4.1. Types of TF cases prosecuted resulting in convictions

RR case

Facts: In September 2012 a grenade attack was carried out in Sarcelles in which one person was injured. The investigations revealed that the attack was carried out by a jihadist unit. The members of the unit were also involved in cases of armed robbery for the purpose of financing future terrorist plans. A bomb was found during a search at the home of one of the accomplices remanded in custody. In summer 2013, more members of this unit were taken in for questioning, as they were preparing an attack on a barracks. In addition, it was discovered that three other individuals had travelled to Syria to join an Islamist terrorist organisation. Investigations into the financing of these individuals revealed that one of the accomplices (R.R.) had received financing in Syria sent by three members of his family: his wife (who had committed credit fraud totalling EUR 20 000), his brother and his sister (who had organised fundraising events and sent several thousand euros to one of the members of the terrorist unit in Syria).

Results: Conviction of 20 members of the unit by the Court of Assizes for terrorist criminal conspiracy. Sentencing of the wife to six years in prison (for terrorist criminal conspiracy), and of the brother and sister (for TF) to three and two years in prison, respectively.

FAUX case

Facts: Investigation conducted by the DGSI into a man called S.G. who had travelled to Syria and was believed to be close to one of the leaders of IS. The financing section revealed fraud committed by a close relation, Y.E., probably to finance his departure for Syria. A second individual, N.B., who had committed fraud and then sent the funds via fundraisers to IS, also provided logistical support for S.G.

Results: The Paris Court of Criminal Appeals sentenced Y.E. and N.B. to 15 years and 12 years in prison, with a minimum period of 2/3 of the sentence to be served, for terrorist criminal conspiracy and TF.

GENEREUX BROTHERS case

Facts: An investigation was initiated into the departure of two couples who had joined terrorist organisations in Syria. It emerged that one of the terrorists, T. received substantial donations (EUR 25 000 in total) from his brothers. These sums came mostly from the profits of commercial companies that they managed, in particular for the purpose of transferring money to their brother (EUR 15 000). One of the brothers had also taken out a consumer loan (EUR 25 000) and withdrawn EUR 10 000 in cash, which he personally took to the Syria-Turkey border to give to his brother.

Results: The two brothers were convicted of TF: one to five years in prison including a three-year suspended sentence, a fine of EUR 10 000 and the confiscation of EUR 4 064 from his bank account; the other to four years in prison, including a one-year suspended sentence, a fine of EUR 10 000 and the confiscation of EUR 26 268 from his bank account

300. Different types of TF activities are investigated, and the offenders are successfully prosecuted and convicted, consistent with France's TF risk profile and reflecting the methods and channels of TF activities described above. The TF activities commonly prosecuted resulting in conviction are those that use the services of an intermediary such as a fundraiser, as is indicated in below Table 4.1.

Table 4.1. Cases[64] of TF convictions by type

	2016	2017	2018	2019	2020	Total
Delivery of money directly to a terrorist	0	2	1	3	0	6
Use of an intermediary such as a fundraiser	1	5	3	10	4	23
Use of a legal person	0	1	0	0	0	1
Innovative financing (virtual assets)	0	0	0	0	2	2
Total number of TF cases (with conviction)	1	8	4	13	6	32

301. Competent prosecution authorities are developing a coherent strategy targeting as a priority the most serious accusations applicable to acts of terrorism. Financing, or the provision of assets in order to commit a clearly determined terrorist crime will therefore be interpreted more harshly in certain cases than TF offence, punishable by 10 years of imprisonment, such as aiding and abetting a terrorist crime or terrorist criminal conspiracy. Consequently, convictions for support activities or TF are likely to be pronounced on grounds of aiding and abetting a terrorist crime,[65]

64 Each case may include several convicted persons.

65 Aiding and abetting a terrorist crime (French Criminal Code, Article 421-1, 421-2) for which the maximum penalty incurred is a life sentence.

terrorist criminal conspiracy[66] and/or terrorist financing.[67] The maximum penalty that can be pronounced for the simultaneous prosecution of TF and criminal conspiracy (without aggravating circumstances) is 10 years of imprisonment. Consequently, the statistics for convictions classified as TF alone do not reflect all convictions for TF acts, in particular those relating to terrorist acts or involvement in a terrorist criminal conspiracy.

302. Since 2016, 65% of persons convicted of TF were simultaneously declared guilty of terrorist criminal conspiracy, which is consistent with the types of TF noted which frequently use fundraiser networks (see case below). The conviction rate for TF was high between 2016 and 2020: out of 685 persons tried and 653 persons convicted of terrorism, about 12% were convicted of TF (102 and 95 persons respectively, including 29 persons convicted of TF as a single offence) (see Table 4.2). Also during the same period, one legal person was convicted of TF and two of terrorist acts. The number of convictions of legal persons is low, but this appears to be in line in view of the relatively low risk of a legal person being involved in TF.

303. The number of convictions appears to be in line with the identified risks and consistent with the identification of TF cases and the investigation strategy. This is also consistent with the fact that terrorist offences are frequently self-financed. Furthermore, the percentage of convictions is high at over 93%.

Table 4.2. Number of sentences and convictions related to T/TF acts

	2016	2017	2018	2019	2020	Total
Persons tried for terrorism	100	215	153	146	71	685
Persons tried for TF	7	49	5	34	7	102
Natural Persons convicted for terrorism	95	207	142	142	67	653
Legal persons convicted for terrorism	0	1	1	0	0	2
Persons convicted of TF	5	45	4	34	7	95
Persons convicted for a single offence of TF	0	13	2	9	5	29
Legal persons convicted of TF	0	1	0	0	0	1

TF identification and investigation

304. France successfully identifies and investigates TF cases using financial intelligence (TRACFIN), intelligence (DGSI) and information from investigations of terrorist acts. The specific role played by the terrorist financier is clearly identified during the investigations.

305. Terrorism investigations systematically include financial investigations into possible TF. Furthermore, TF is also prosecuted as a separate offence, independently of proceedings instigated for terrorist offences. The authorities mentioned the opening of TF investigations without the opening of an investigation

66 Terrorist criminal conspiracy (French Criminal Code Article 421-2-1) for which the maximum penalty incurred is 30 years in prison for criminal conspiracy and 10 years in prison for tortious conspiracy.

67 Terrorist financing (French Criminal Code Article 421-5) for which the maximum penalty incurred is 10 years in prison and a fine of EUR 225 000.

into terrorism, and the subsequent use of intelligence resulting from TF investigations to inform investigations into terrorism.

Box 4.2. Case of L.

Example of a case of autonomous TF involving a legal person

Facts: This case concerns the activities of the Syrian subsidiary of the L. group, which was suspected of having signed financial agreements amounting to at least USD 13 million with armed groups, including IS, in order to maintain its economic activity on site between 2013 and 2014. The group was also suspected of having sold, with full knowledge of the facts, equipment to local distributors, which was partly sold on to IS. An investigation on grounds of TF, conducted by the SNDJ/SEJF, was opened in 2016 following suspected payments of sums by a company to terrorist groups in Syria. Searches were conducted of the homes of the managers and at the head office. A preliminary investigation was launched in June 2017. At the end of 2017, some of the managers and the CEO of the L. group were placed in police custody. In particular, the authorities participated in a JIT with the Belgian authorities and exchanged international letter rogatory (ILR) with the US authorities regarding the identification of the holders of messaging accounts and the transmission of the messages exchanged.

Results: In June 2018 the L. group, as a legal person, was indicted for TF (independently of the definition of terrorism) and "aiding and abetting crimes against humanity". In November 2019 the Court of Appeal of Paris quashed the indictment of the L. group for aiding and abetting crimes against humanity, but maintained the proceedings for TF. Several appeals were lodged, in particular by associations.

306. The effectiveness of TF investigations is favoured by good coordination and specialisation by the competent authorities which possess the necessary expertise. The DGSI has acted as designated lead agency in the fight against terrorism since 2016. It oversees investigations when TF acts are directly linked to one of its terrorism investigations. The DGSI differs by being both an intelligence agency and a judicial investigative authority. Cases are referred to it jointly with the SDAT of the criminal investigation department when specific TF investigations are required. Cases are referred to it jointly with the OCRGDF, which provides its expertise (concerning international ML networks, in particular), in investigations including a structured TF component (e.g. fundraising networks). The Anti-Terrorist Section of the Paris Police Prefecture may also be required to act, as a coordinating department acting jointly with the DGSI, within its area of jurisdiction in Paris. The support of specialised territorial agencies (DIPJ) may also be requested by the coordinating service. This structure ensures that TF investigations are systematically included in terrorism investigations.

307. The investigative authorities conduct detailed financial investigations in all proceedings relating to terrorism, whether it is self-financed or financed by third parties. They have extensive access to the necessary databases and use all special investigation techniques (physical and online undercover investigations, interception of phone calls, bugging, geolocation etc.). They actively mobilise international, police and judicial cooperation. This enables the identification and prosecution of the perpetrators of TF in a significant proportion of terrorism investigations.

Table 4.3. Number of initiated investigations for T and TF

	2015	2016	2017	2018	2019	2020	2021*	Total
Investigations initiated for terrorism	212	331	250	167	137	82	31	1210
Investigations initiated for TF	13	39	31	24	31	27	7	172

* 2021 statistics reflect numbers as at 30 June 2021.

308. TRACFIN's analyses represent an added value for the investigation and prosecution authorities as regards TF, especially for micro-financing (i.e. when there are few signs enabling detection). TRACFIN is able to provide the entities involved with relevant information that can be used directly at the operational level. As an intelligence agency, it has a CFT division with 14 agents. It accesses the necessary databases directly or through liaison officers, in particular bank accounts via FICOBA (see IO.6). It handles and analyses the declarations made by regulated entities, whom it informs about TF issues and types. Its right to request enables it to obtain information from the regulated entities, including money transfer organisations. TRACFIN is therefore able to carry out the screening of targets in order to detect TF acts, and to provide financial intelligence in terrorism investigations. It uses an emergency system coordinated with the regulated entities, enabling the provision of any information required for investigations in a short time, including within the time limit for police custody (96 hours). TRACFIN cooperates with FIUs in neighbouring countries and can therefore provide information from its counterparts for ongoing investigations (see IO.2). The total number of transmissions from TRACFIN to the judicial body (PNAT) has increased markedly since 2016 (see Table 3.14 in IO. 6).

309. The specific role played by the terrorist financier is clearly identified during the investigations. The review of case studies indicate that the role of perpetrators was established in the context of their family, through fundraisers, as well as via NPOs.

310. PNAT had 29 judges on the date of the on-site visit, including 17 at the Counter-Terrorism Pole (compared to 7 in 2014). The PNAT employs a specialised terrorism assistant. The resource appears adequate in view of the number of cases handled. On the date of the on-site visit, 55 preliminary investigations into at least one TF offence were under way.

311. In 2016, the appointment of a public prosecutor – focal point for TF represents a good practice which has enabled the centralisation of the financial intelligence collected in terrorism investigations, and facilitated its structured and systematic exploitation. The public prosecutor is in regular direct contact with TRACFIN, to which it transmits any necessary information for analysis and screening. Similarly, it centralises all transmissions by TRACFIN which may be used in ongoing judicial investigations or lead to the opening of new investigations. This approach has proved particularly effective for detecting fundraiser networks.

312. A pre-trial judicial investigation is conducted for most of the investigations opened by the public prosecutor's office, by specialised investigating judges at the Paris Court's Counter-Terrorism Judiciary Pole with a staff of 12 judges on the date of the on-site visit. Three specialised assistants are attached to Counter-Terrorism Judiciary Pole. This staffing seems adequate in view of the number of cases handled. On the date of the on-site visit, 71 pre-trial judicial investigations involving at least one TF offence were under way.

313. In general, the number of investigations specifically concerning TF has increased since 2015 (13 investigations opened). However, this trend now appears to be reversed, possibly due to the defeat of IS.

314. In response to this threat, the number of staff of the investigative authorities specifically dedicated to the fight against terrorism and TF have almost doubled since 2016. This is also the case for the increase in resources for investigation, surveillance and phone call interception, as well as for digital investigation, made available to the specialised agencies. The available resources are also sufficient, as confirmed during the interviews.

315. Counter-terrorism judges receive, before joining their post and on ongoing basis, specific training in the fight against terrorism at the French National School for the Judiciary. Members of other authorities can also take this training course; e.g. TRACFIN sends three people from its CFT division to the school each year. Investigators at the specialised agencies (DGSI, SDAT, OCRGDF) also receive CFT training and help to disseminate good practices via the training programme and cooperation with other countries.

TF investigations integrated with – and supportive of – national strategies

316. France's national and international counter-terrorism strategy is determined at the highest level. Its definition is entrusted to agencies reporting directly to the Prime Minister (the SGDSN), and for intelligence, to the President of the Republic (CNRLT[68]). The CNRLT run by the national coordinator was created in June 2017, along with the National Counter-Terrorism Centre. The national intelligence and counter-terrorism coordinator carries out an overall analysis of the terrorist threat, and on that basis proposes operational policies to the President of the Republic, which are then passed on to the competent agencies.

317. TF investigations are integrated into France's counter-terrorism strategies and investigations. This assessment by the evaluators is based on a review of the counter-terrorism action plans and strategies and on discussions with the operational authorities involved.

68 The National Intelligence and Counter-Terrorism Coordination.

318. France adopted an action plan to combat the TF on 18 March 2015, an action plan to combat radicalisation and terrorism on 9 May 2016, and an action plan to combat terrorism (PACT) on 13 July 2018[69]. All of these action plans include CFT measures. These measures are based on the experience and lessons learned from TF investigations. Based on these elements and on continuous analysis during investigations of the threat, France has constantly adapted its regulatory framework to reduce the vulnerability of the types of financing observed, in particular in connection with the use of cash (e.g. lowering of the upper limit on cash payments from EUR 3 000 to EUR 1 000), the control of manual money-changing transactions (compulsory proof of identity for all physical foreign exchange transactions exceeding EUR 1 000), prepaid cards (lowering of the threshold for providing proof of identity) and cryptocurrencies.

319. The inclusion of TF investigations in counter-terrorism investigations is facilitated by the coherent organisation of the entities involved, favouring effective cooperation and coordination in particular between the intelligence agencies, TRACFIN and the PNAT. The comprehensive and systematic financial investigation conducted in all cases of terrorism provides added value, e.g. by providing evidence concerning the preparation of attacks or the detection of networks, their extent and their operation. Cooperation also exists between the intelligence agencies and social security bodies, enabling the suspension of benefit payments to individuals who have left France for a conflict zone in order to join terrorist groups, or providing notification about the return of these individuals.

Effectiveness, proportionality and dissuasiveness of sanctions

320. The sanctions imposed by the French courts for TF offences are effective, proportionate and dissuasive. The assessment team based its conclusions in particular on the statistical data provided by France and the review of cases.

321. Between 2016 and 2020, 102 persons were tried for TF, 95 of whom were convicted. Over the same period, 685 persons were tried for terrorist acts, 653 of whom were convicted, representing a conviction rate of over 82%. Also during the same period, one legal person was convicted of TF and two of terrorist acts. The number of convictions of legal persons is low, but this appears in line with risk given the relatively low risk of the involvement of a legal person in TF, as senior managers are primarily involved.

Table 4.4. Penalties imposed for TF

	2016	2017	2018	2019	2020	Total
Persons convicted of TF	5	45	4	34	7	95
Legal persons convicted of TF	0	1	0	0	0	1
Persons convicted for a single offence of TF	0	13	2	9	5	29
Rate of custodial sentences	0%	68%	50%	79%	57%	51%
Average duration of custodial sentences (months)		22	84	38	53	39,4
Rate of imposition of fines	0%	2%	25%	35%	57%	24%

69 An updated version of the PACT was approved by the Prime Minister's cabinet on 3 September 2021.

	2016	2017	2018	2019	2020	Total
Average amount of fixed fines		30,000	2,000	3,500	3,875	36,275
Rate of imposition of confiscation	100%	98%	75%	91%	86%	90%

322. In the event of conviction for terrorist acts in accordance with art. 421-1 and 421-2 of the CP, the harshest penalty incurred is a life sentence. A 30-year prison sentence is imposed in the event of conviction for the offence of criminal conspiracy, and 10 years for tortious conspiracy. In the event of conviction for the specific offence of TF, the maximum penalty is 10 years imprisonment and a fine of EUR 225 000. It should be noted that the prosecution authorities give priority to prosecutions with the most serious criminal status. Furthermore, the offence of aiding and abetting terrorism, for which a harsher penalty is imposed, applies if the financing is intended for a specified terrorist act. Concerning TF, the proceeds, subject and instrumentality of the offence, in kind and in value, are confiscated (CP, art. 131-21). In addition, the perpetrator of TF is subject to the particularly dissuasive penalty of the general confiscation of a some or all of their assets, even those of lawful origin that are not linked to the offence (CP, art. 422-6).

323. During the period from 2016 to 2020, a custodial sentence was imposed in almost 51% of cases and the average prison term was slightly over three years (39.4 months). These figures seem consistent in light of the different types of TF cases, which sometimes involve small amounts, and the principle of individualising sentences (micro-financing, particularly by families). The same applies to the average amount of the fines, which is relatively small, and to confiscation, although the rate of pronouncement of confiscation is high. (see Table 4.4).

Table 4.5. Quantum of imprisonment sentences imposed for TF

	2016	2017	2018	2019	2020	Total
No. of imprisonment with a custodial term	0	31	2	27	4	64
custodial term of less than 1 year	0	8	0	7	1	16
1 year to less than 3 years	0	22	0	12	1	34
3 years to less than 5 years	0	0	2	6	2	10
No. of fully suspended prison sentences	5	13	2	7	3	30

324. The sanctions applied by the courts in TF cases are effective, proportionate and dissuasive, in view of the policy governing penalties and the principle of individualisation and proportionality of penalties. In France, the aim of the criminal justice system is to punish, but also to encourage the rehabilitation of convicts (CP, art. 130-1). The courts must tailor the penalties to suit "the circumstances in which the offence was committed, the personality of the perpetrator, and their material, family and social situation", and prison sentences, which lead to social alienation and increase the risk of repeat offences, must only be imposed as a last resort (CP, art. 132-19). In accordance with these principles, French judges use the whole range of sanctions at their disposal and issue suspended prison sentences to perpetrators of family-based micro-financing offences committed on grounds of their desire to

help relatives. Prison sentences close to the maximum legal limit are given to individuals who transmit funds in order to support a terrorist organisation. According to the figures provided, the rate of repeat offences for TF is 0%, which confirms that the penalties are dissuasive.

Box 4.3. Examples of proportionate and individualised sanctions

Mother case

Paris Criminal, 28 September 2017. In this instance, an individual had travelled to Syria at the end of June 2016, while subject to a ban on leaving France. It emerged from the proceedings that he first travelled to Algeria and then to Malaysia, before reaching the Iraq-Syria zone, where he immediately joined the ranks of IS. His mother and brother were accused of TF and appeared before Paris Criminal Court where they were charged with sending him several money orders (his mother had sent him a total of EUR 2 800 when he was in Malaysia to pay for aeroplane tickets, and his brother had sent him a total of EUR 500 via third parties in Turkey). Throughout the proceedings and during the hearing, the two defendants contested the fact that they had intended to finance a terrorist project, and claimed that they had only wanted to help cover their son's/brother's living expenses abroad. They were found guilty of TF, the mother was sentenced to two years in prison and the brother received a one year's suspended prison sentence, the court having determined the intentional nature of the offence from the factual circumstances established by the investigations.

PARENTS case

Court for Summary Jurisdiction of Paris Court of Justice, 22 November 2019. Conviction, accompanied by two-year suspended prison sentences and a fine of EUR 2 500 on grounds of TF, of two parents who had sent a total of EUR 7 620 by money orders between 20 November 2017 and 5 September 2018 to their son, who had joined a terrorist group and asked them to send money for "*work on his house in Syria, and for food and clothing*". The investigation established that the parents knew about their son's terrorist activities, but did not share his radical ideology, and disapproved of the acts he had committed.

Alternative measures used where TF conviction is not possible

325. The authorities use alternative measures to stop TF if it is not possible to obtain a conviction. The alternative measures involve prosecution for offences under ordinary law, where possible (scams, breach of trust, apology for terrorism) and non-criminal measures, i.e. freezing of national assets, dissolution of associations, measures relating to the right of residence in France or to nationality (expulsion, loss of citizenship), house arrest and suspension of social benefits.

326. Preventive and alternative measures are also used to combat radicalisation in order to prevent the spread of extremism that may lead to support for and the financing of fighters in conflict zones or the perpetration of terrorist acts. If an association is involved in TF acts or activities that contribute to radicalisation, it may be dissolved.

Box 4.4. Case of dissolution of the S. association

This association, whose declared aim was to collect donations and redistribute them to islamist prisoners, and to finance charitable activities in France and occasionally abroad, was identified by the Paris police headquarters. It emerged from the information collected that the association was facilitating meetings between individuals heavily involved in pro-jihadist circles and/or with vague jihadist sympathies, and that its activities contributed to radicalisation and expressed sympathy towards certain individuals linked to the most radical terrorist circles.

The S. association was dissolved by order of the President of the Republic on 24 November 2016.

327. The freezing of national assets is one of the most important alternative measures. From 2015 to 31 May 2021, 249 new freezing measures were imposed, and 438 freezing measures were renewed during the same period. In total, 13 association were affected by these measures.

Table 4.6. Number of national asset-freezing measures linked to TF

Freezing of national assets (CMF, art. L562-2)	2016	2017	2018	2019	2020	2021 (31/05)	Total
Initial measures	4	26	128	34	31	20	243
including associations affected by an initial measure	1	2	4	2	1	0	10
Measures renewed	8	21	42	143	171	48	433
TOTAL	12	47	170	177	202	68	676

Overall conclusions on IO.9

TF activities are detected well and are subject to effective investigation. Offenders are prosecuted and sentenced to proportionate and dissuasive sanctions for TF as a distinct criminal activity, as appropriate. The investigative and prosecution authorities collaborate and coordinate their activities effectively. The system as a whole is highly coherent, which makes it possible to achieve this result. The prospect of detection and conviction deters TF activities.

France is rated as having a high level of effectiveness for IO.9.

Immediate Outcome 10 (preventive measures and financial sanctions for terrorist financing)

Implementation of targeted financial sanctions for TF without delay

328. France has an appropriate legal framework for implementing TF-related TFS in terms of designations of United Nations pursuant to UNSCRs 1267/1989 and 1988, and national and European designations (see R.6). While deficiencies in the TFS implementation without delay were occasionally observed, the assessment team has considered the new legislatives reforms since November 2020, effective from February 2021, in order to address these deficiencies.

329. The assessment team based its conclusions on the statistics provided regarding designations and frozen assets, discussions with numerous competent authorities, including the SGDSN, the DGSI, the Counter-Terrorism Coordination Unit (UCLAT), TRACFIN, the MEAE, the DLPAJ and the DGT, and discussions with the financial supervisors and a wide range of private sector entities.

330. UCLAT is the authority responsible for the administrative coordination of counter-terrorism and exchanges of information, and provides cross-functional monitoring of the progress of asset freezing measures. It receives all asset-freezing proposals from the various intelligence agencies and other agencies involved in identifying targets, and forwards them to the agencies involved in applying the measures. It also consolidates the statistics.

331. The creation of an Interministerial Counter-Terrorism Task Force on Asset Freezing (GABAT) at the domestic level in 2017 illustrates the importance of this issue to France. This task force is chaired jointly by the DGSI and TRACFIN, and acts under the aegis of the SGDSN. It ensures the national coordination of the different authorities responsible for counter-terrorism activities and for the preparation and implementation of asset-freezing measures. A classified internal doctrine, examined by the assessment team during the on-site visit, establishes the task force's aims and method of functioning.

332. The DGT is the authority responsible for keeping a national public register of asset-freezing measures, which provides a single list of all measures to freeze the assets of persons and entities designated in UN, European and national provisions. The DGT is the competent national authority to implement asset-freezing measures, and therefore receives asset-freezing declarations, which give it an overview of listed persons' assets and economic resources.

Implementation of TF-related TFS without delay

333. Pursuant to UNSCR 1267 and the subsequent related resolutions, designations must be transposed into national law before they come into force in French territory. Until the end of 2020, France applied a national mechanism to compensate for the delay caused by the transposition of UNSCRs by the EU, by adopting a national asset-freeze order for the designated persons, applicable from its publication in the Official Gazette of the French Republic (JORF) throughout France (including in OM directly or by specific application). However, in practice, delays of one to five days (see Table 4.7) have been observed in the transposition of UN designations.

334. Since 2020, the assessment team has noted an improvement in the times required to transpose designations by the 1267 Committee (four out of six were carried out within 24 hours) following the introduction of a procedure for coordination between the MEAE and the DGT, which involves informing the DGT of all designations in progress and of the preparation of the required order beforehand in order to publish it in the JORF. In spite of this improvement, delays have still been occasionally observed. To overcome this, a legislative reform was adopted in November 2020 and entered into effect in February 2021 regarding the implementation of designations of 1267/1989 and 1988 committees. Under this new reform, all new designations by the UNSC come into effect upon publication of the details identifying the designated person in the national register of asset-freezing measures. Publishing these details instead of adopting a national order makes it possible to freeze assets more quickly than before. It remains in force for 10 days or until the publication of the corresponding EU implementing regulation. If the EU regulation is not adopted within 10 days, a national order must be immediately adopted (see R.6). These reforms are recent, but there was one effective example of implementation of TF-related TFS without delay since their entry into force and before the end of the on-site visit.[70]

Table 4.7. Implementation of new UNSC designations (2019-2020)

Date of publication by the UN	Date of publication of the French legal act	Number of days
28/02/2019	02/03/2019	2
22/03/2019	26/03/2019	4
01/05/2019	15/03/2019	Has been subject to a national freezing measure
14/05/2019	16/05/2019	2
14/08/2019	20/08/2019	5
04/02/2020	05/02/2020	1
23/02/2020	26/02/2020	3
04/03/2020	05/03/2020	1
21/05/2020	23/05/2020	2
16/07/2020	17/07/2020	1
08/10/2020	09/10/2020	1

Proposed UN designations

335. France plays an active role in the international sanctions policy and designations on UN lists. In the framework of GABAT and in connection with the specialised agencies, the MEAE draws up proposed designations to the 1267 and 1988 committees of the UNSC. GABAT is informed of these proposals as well as of proposals by third countries.

70 On 17/06/2021 the 1267/1989 committee made a further listing which was made applicable within 24 hours of its designation.

336. Targets are identified by the intelligence agencies who send their proposed listings to the UCLAT in order to establish a coordination procedure to check there are no objections to the proposal by an intelligence agency or judicial body. TRACFIN makes an important contribution to the enhancement of the data at this stage by including all financial elements pertaining to the targeted person. This action facilitates the subsequent application of freezing measures, by identifying the possible existence of assets in France in advance. International listings may be made at the same time as a national listing (see Box 4.5).

Box 4.5. Listing of Mohamed Masood Azhar Alvi on 1st May 2019

After a suicide attack carried out by the terrorist organisation Jaish-e-Mohammed, which is affiliated to Al-Qaeda, that killed 45 officers of the Central Reserve Police Force in Pulwama in India on 14 February 2019, France adopted a national freezing measure on 15 March against Mohamed Masood Azhar Alvi, the founder and leader of that organisation. France subsequently proposed a draft European listing, while supporting a United Nations 1267 listing, which was obtained on 1st May 2019.

337. On the date of the on-site visit, France had made 61 requests for designations pursuant to UNSCR 1267 and subsequent related resolutions since the creation of this regime, 19 of which have been proposed since 2016. The authorities specified that 13 were proposed with the co-sponsorship of other countries, in particular Germany and the United Kingdom, and sometimes of the United States. No UNSCR 1988 designations were made on France's initiative during the evaluation period.

National and regional designations

338. France implements designations pursuant to UNSCR 1373 at national level (CMF, art. L562-2) and at regional level (Council Regulation (EC) No 2580/2001 and Council Regulation (EU) 2016/1686). France actively uses the regime for the national designation of persons or entities, but only on its own initiative. France has not submitted any national designation requests to another country, and no national designations have been made in response to a request by another country. However, these shortcomings in implementing UNSCR 1373 in response to requests by third countries are only minor, and are due to the fact that the requests failed to meet the required criteria to justify the adoption of a national asset freezing measure.

339. National freezing orders (*arrêtés de gel*) are imposed for a period of six months (CMF, art. L562-2) and can be renewed provided that the conditions are met. Between 2016 and July 2021, France therefore initiated the designation of eight persons at EU regional level (out of a total of nine within this framework) and 246 persons (including 11 legal persons) at national level on the basis of UNSCR 1373. The number of national designations increased considerably between 2017 and 2018, from 26 to 128, following the creation of GABAT. (see Table 4.8).

Table 4.8. Number of national asset-freezing orders for CFT adopted between 2015 and May 2021

National freezing orders	2016	2017	2018	2019	2020	2021	Total
Initial orders	4	26	128	34	31	23	246

340. The main factors for national designation are specified in art. L562.2 of the CMF and concern "funds and economic resources that belong to or are owned, held or controlled by natural or legal persons, or any other entities, that commit, attempt to commit, facilitate, finance or take part in terrorist acts". In fact, these measures were aimed at targeting all components of the terrorist threat: (i) foreign and French terrorist fighters who have travelled to conflict zones, and the financial support provided to them; (ii) associations used to finance or facilitate terrorist acts by members of radical Sunni Islamist circles; (iii) individuals monitored for potentially violent radicalisation; prisoners belonging to radical Sunni Islamist circles; (iv) individuals participating in fund-raising activities organised on national territory by Turkish organisations designated as terrorist entities by the EU; (v) members of radical Shiite Islamist circles; (vi) individuals and entities involved in an attempted terrorist act on national territory.

341. France considers factors relating to operational capability (the effectiveness of the measure), speed (urgency to disrupt), compliance with designation criteria (which differ between the national, European and UN regimes), and diplomacy when deciding whether to apply the national, European or UN asset-freeze mechanism (e.g. France may consider proposing a designation under the EU system if the person has a link with an EU country). In most cases, France gives priority to requests for designation at national level for greater operational capability and speed.

342. Designation requests received from third countries are transmitted to GABAT for assessment. France received seven requests for asset freezing from two countries, relating to 128 persons (including three requests for 124 persons from the same country). France only acted on one of these requests, but the national procedure was interrupted following the UN designation of the individual by the 1267 Committee. Regarding the other requests, France considered that the national listing criteria had not been met, and was therefore unable to accept them. In view of these reasons, the assessment team considers the fact that France only applies Resolution 1373 upon its own initiative to be no more than a minor shortcoming.

Communication mechanisms and waiting periods

343. France provides effectively information on designated persons to regulated entities, via the national asset-freezing register. The DGT updates the national register within 24 hours of the date of publication by the UN. On two occasions, this period exceeded 24 hours, when the designations were made on a Friday or a public holiday. However, this is a minor shortcoming. As a permanent member of the UNSC, France is informed of imminent designations before the listing occurs and uses a system to give prior notice of these designations to regulated entities, by publishing the details identifying the designated person, along with a due diligence notice, in the national register mentioned above.

344. In 2020, France also created the "*Flash Info Gel*" , a notification mechanism for new designations which had some 3 620 subscribers by the time of the on-site visit. Furthermore, the financial sector makes extensive use of the various automatic screening tools for customer bases provided by certain private companies to facilitate screening of existing and potential customers for designated persons. The "*Flash Info Gel*" notification mechanism appears to be widely known by regulated entities, including FIs supervised by the AMF and the ACPR, as well as by DNFBPs which do not possess automatic screening tools. Asset-freezing guidelines adopted jointly by the DGT and the ACPR specify the obligations in this regard. However, these guidelines only apply to the regulated entities supervised by the ACPR, although they were sent to all sector-based supervisors through the COLB (see. IO.4). Furthermore, limited understanding of the scope of obligations relating to TFS may hamper the effective implementation without delay in these sectors.

Targeted approach, outreach and oversight of at-risk non-profit organisations

345. The French non-profit sector is large and diversified, with about 1.8 million non-profit charitable associations registered, including 1.6 million active associations in the fields of sport, leisure activities, culture and the defence of causes, rights or interests. In addition, there are 5 000 associations of worship, 1 000 foundations and around 3,000 endowment funds. Very large associations (about 12%) account for 90% of the financial resources in the non-profit sector, particularly in social, health, medical, educational, humanitarian and charitable fields. The declared mission of more than 10 000 of these associations is to carry out charitable activities abroad, including about 450 humanitarian NPOs operating nationwide and 140 NPOs that receive public funding for activities in conflict zones. On the other hand, the authorities have not identified the number of humanitarian NPOs with links to conflict zones which do not receive public funding.

Understanding of risks and mitigation measures

346. The understanding of the risks of the NPO sector for TF abuse is very broad. According to the NRA, most NPOs have a low TF risk, but a subset of organisations pose a high risk. This subset includes three types of associations: (i) associations with a cultural, religious or socio-educational purpose (mixed associations) located on the outskirts of large cities, which may be exposed to a threat in the form of the financing of radicalisation, (ii) associations with a humanitarian purpose, whose operations or financial flows are focused on high-risk areas in which terrorist groups operate, which may be misappropriated or used for the purpose of financing terrorist actions abroad, and (iii) associations operating in conflict zones or in connection with other associations present in such zones. Consequently, the authorities have taken a too broad approach to identifying the scope of NPOs at risk of TF abuse, by including the risks linked to violent radicalism. The authorities do not apply targeted and proportionate control measures against these NPOs to mitigate risks that they will be used by terrorists.

347. In the 2019 NRA, France concludes that most associations and foundations pose a low risk of TF "due to their purpose, which is sometimes very specific and has no links to a criminal activity, or their highly local nature"[71]. However, in this analysis the authorities did identify three categories of associations exposed to a high risk (see c. 8.1). It emerges from this identification that the authorities have adopted a

71 2019 National Risk Analysis, page 93.

broad approach, by including not only the risk of use for the purpose of TF, but also the risk of financing potentially violent radical organisations. The risk mapping determined by the authorities is not clear. In particular, it was not possible to establish the specific characteristics of associations or other NPOs that make them vulnerable to TF. The mapping appears to be based more on the threats that the NPO sector poses than on the risk of the sector being used for TF purposes. In particular, the NPO sector poses threats linked to TF and the misappropriation of public funds, as well as radicalisation.[72] Furthermore, it is not possible to determine precisely whether the measures adopted by the authorities are based on the risk mapping of the non-profit sector.

348. The statistics presented do not dispel the uncertainties concerning the process that led to identification of these three categories of NPOs. The authorities have not the exact number of associations in each category identified as being at risk. The authorities mention that it is impossible to provide an accurate assessment of the 1.8 million associations (of which about 1.6 million are active) registered in the RNA. They are mainly active in the fields of sport, leisure activities, culture and the defence of causes, rights or interests. The declared aim of more than 10 000 of these associations is to carry out charitable activities abroad, including some 450 humanitarian NPOs of national stature, and 140 NPOs that receive public funding for activities in conflict zones. However, the operational authorities have targeted a few associations for monitoring, whose leaders have aroused suspicion on the basis of intelligence, including financial intelligence.

349. A declared association is established once it has been registered by the Registar of associations (GDA) (of which there are 297 in France) at the Prefecture, without any requirement to obtain prior administrative authorisation. As a result, the GDAs check are limited to verifying the completeness of the application. The accuracy of the information declared, and the ability of the president and/or treasurer to manage the association are not verified.

350. France applies TF risk-mitigation measures to humanitarian NPOs that receive government grants. For the two other categories of NPOs at risk of TF, French authorities implement oversight and intelligence measures, including financial intelligence. These measures produce good results in terms of law enforcement (see IO.9), and enable the limited identification of NPOs in which radicalised people operate, with a view to hindering their actions. In addition, the authorities also apply control measures of a general nature to all NPOs, which can help mitigate the risk of NPOs being used for TF. Certain stricter control measures apply to associations that receive government grants.

351. The declaration system and the methods of control available to the prefects and other supervisory authorities are limited. France has introduced measures to increase the transparency of associations (tax and accounting audits) and the traceability of the use of donations. For certain organisations that wish to carry out public fundraising, the threshold for a prior mandatory declaration to a representative of the state is set at EUR 153 000. Although this obligation is not in itself linked to TF risks, it covers some of the associations at risk. However, the threshold of EUR 153,000 for the prior declarations, which constitutes the criterion for conducting an audit, appears to be too high. This may reduce the effectiveness

72 TRACFIN, Report on "ML and TF Trends and Risk Analysis" – 2017-2018.

of this transparency measure, in view of the risks to which the non-profit sector is exposed.

352. The authorities have introduced enhanced transparency measures to combat fraud and misappropriation of the funds of humanitarian NPOs receiving government grants. There are no similar measures for other NPOs that operate in conflict zones and zones in which terrorist groups are active, or which transfer assets to such zones, in spite of the fact that substantial sums are sent by humanitarian NPOs to these crisis zones. Furthermore, the French authorities have reinforced the controls conducted by the Crisis and Support Centre (CDCS) of the MEAE and the French Development Agency (AFD) for their implementing partners, the main donors of French public humanitarian aid. The CDCS and the AFD ensure that their partners comply with the law and the conditions for government grants. In 2018, an audit/assessment unit was set up in the CDCS to accompany the increase in the budgets allocated by French public donors to humanitarian actions. The TF risks are taken into account in the contractual terms agreed with the partners. For the AFD, specific awareness-raising measures have been implemented. However, some of the specific measures are recent, and it will be possible to assess their effectiveness in future.

353. The measures implemented by France with regard to humanitarian NPOs are justified, particularly if the NPOs concerned are exposed to TF risks. The implemented measures are applied uniformly to all associations with public aid. These measures are also aimed at all known international associations, which are subject to the most stringent controls both upstream and downstream. Although humanitarian associations acknowledge the risks to which the sector may be exposed, the control measures are sometimes perceived to be excessive. The banking sector's refusal to carry out requests to transfer funds, and indeed the freezing of such funds, may even deter the associations concerned from carrying out their legitimate charitable activities. The state, the humanitarian sector and the financial sector have been striving since 2019 to find solutions to this complex issue, including by engaging in a tripartite dialogue between the state/FIs/NPOs, but at the time of the on-site visit no solution had yet been found.

354. The competent authorities have access to various repressive and remedial measures; sanctions have also been imposed on certain associations. However, the investigations show that associations have not really been acting as direct vehicles for financing, but rather that they may have facilitated TF due to meetings they have held or initiatives they have launched. The monitoring measures implemented by the investigation and intelligence authorities have produced good results in detecting TF cases. The investigation and intelligence measures are considered under IO.9.

Raising-awareness of the NPO sector for TF risks

355. The NPO sector has not been made sufficiently aware of TF phenomena and risks. Although France has put in place activities to raise NPOs' awareness of TF risks, they only concern some of the NPOs at risk, i.e. those receiving government grants, and they are recent (since 2019 for the AFD and 2020 for the CDCS).

356. Furthermore, associations were not involved in the preparation of the NRA and were not informed by its results (although as it is a public document, associations can access its conclusions). A guide to good conduct[73] dating from 2016 is distributed to associations during the declaration process. The 2016 Guide is also available online on the website of the DGT. However, some associations interviewed during the on-site visit indicated they had not received it.

357. The measures to prevent radicalisation have supported the measures to raise awareness of TF risks, with regard to individuals who are active in associations that may act as forums in support of terrorist activities, but they are not specifically aimed to counter TF. The NPO sector has therefore not been made sufficiently aware of TF phenomena and risks.

Deprivation of TF assets and instrumentalities

358. France deprives terrorists, terrorist organisations and terrorist financiers of their resources and means of financing to a large extent, through an active policy of implementing all measures to freeze the assets of designated persons and entities pursuant to TFS, and also by applying provisional and repressive measures. The assessment team based its conclusions on the statistics provided by France, discussions and interviews with the competent authorities, in particular the DGT and the DGSI, and the review of case studies.

359. French legislation allows for the freezing of property and assets belonging to natural and legal persons under different regimes (see IO.6). France has indeed frozen the assets and funds of persons and entities, in particular under the national, EU and UN TFS regimes. Since 2015, there have been no asset freezes against persons or entities designated by the UNSC since the funds targeted by UN sanctions have not been located in France.

360. Between 2016 and May 2021, authorities have adopted 243 initial national asset-freeze measures. Of these 243 measures, 229 concerned natural persons and 11 concerned legal persons (including 10 associations and one company). The following example demonstrates the authorities' ability to proactively prevent the sending of money to a fighter in a conflict zone by applying national TFS.

Box 4.6. A disrupting measure against a fighter in a conflict zone via national TFS

In 2015, the police was notified of pressure exerted by Mr Z., who had joined Da'esh, upon his wife to sell her home in order to raise funds before joining him in Syria. Mrs K hastily tried to sign a preliminary sales agreement for EUR 225 000. The information obtained enabled the competent authorities to collaborate effectively and enforce a national freezing measure against Mrs K. within 12 days of her agreement, enabling the suspension of the sale.

73 Risk of terrorist financing: Guide to good conduct for associations.

361. In accordance with the freezing measures described above, between 2016 and May 2021 France froze around EUR 1.7 million in assets of persons and entities (including assets of NPOs) designated under national and European TFS regimes. 99% of the amounts frozen were due to national freezing measures and 1% were due to European measures. Most of the designated persons at national level had strong links with France (French nationals or foreign nationals residing in France).

362. No asset freezes have been imposed on UNSC-designated persons or entities since 2015, as the designated persons had no assets or economic resources located in France. The assessment team did not consider this to be evidence of ineffectiveness since the designated persons by UN targeted sanctions held no assets located in France. It should be noted that before 2016, the authorities froze about EUR 53,000 in accordance with UNSCR 1267. This shows the ability of the French authorities to freeze the assets of UNSC-designated persons.

Table 4.9. Cumulative amounts of frozen assets– TF-related TFS

Regime/Year	2016	2017	2018	2019	2020	2021	Total
National asset-freezing order	3 570	472 016	163 292	235 346	618 976	192 322	1 685 522
Council Regulation (EC) No 2580/2001	0	0	0	0	0	0	0
Council Regulation (EU) 2016/1686	0	0	0	9 085	0	0	9 085
UNSC 1267 Committee	0	0	0	0	0	0	0
Total	3 570	472 016	163 292	244 431	618 976	192 322	1 694 607

363. In the same period, the cumulative amount of frozen assets belonging to designated NPOs pursuant to national freezing measures regime exceeded EUR 0.5 million. Most of these associations were also dissolved on legal grounds or closed down on administrative grounds. In addition, asset-freezing orders were imposed on individual members or leaders of these associations. The amount of frozen assets belonging to NPOs is in line with France's TF risk profile for NPOs. However, the vulnerabilities and risks related to the use of associations for the TF abuse still exist, due to the lack of targeted preventive measures to protect NPOs at TF risk (see core issue 10.2).

364. France has also put in place a legislative framework that enable prosecution authorities to seize property that is the proceeds of, or used or intended to be used for TF, in order to confiscate them (see, R.4). The assessment team reviewed a number of cases indicating that these measures are applied in practice. The case-studies demonstrated the ability of the operational authorities to coordinate their activities in order to implement the seizure and confiscation measures.

Box 4.7. TF seizure and confiscation

In December 2015, following intelligence concerning the planned departure of a couple for Syria, an investigation was initiated for terrorist conspiracy. A search of the home of the persons concerned revealed that the young woman (F.) had bought a fake stomach to simulate pregnancy and collected information with a view to committing a possible attack. All of the instrumentalities used (telephones and IT hardware) were seized. A financial investigation was conducted alongside the investigations into the possible planned attack. The investigation revealed that the woman, C.R., attempted to finance the departure of individuals for Syria using sums received as part of a family inheritance. The financial investigations indicated that the couple had bought aeroplane tickets to Syria. The entire inheritance was confiscated, amounting to EUR 428 173.

In April 2019 C.R. was sentenced to seven years in prison and the confiscation of EUR 428 173 for terrorist conspiracy and for FT. Her husband was sentenced to five years imprisonment including a one-year suspended sentence for terrorist conspiracy.

365. The competent authorities use these various measures to deprive terrorists and/or terrorist organisations of the resources or means that enable them to finance their activities. The amounts are higher when freezing measures are imposed under TFS regimes than when judicial measures are imposed. However, this is in line with the TF risk in France, as it involves micro-financing, in particular.

366. The total value of seizures of the proceeds of offences has increased in general over recent years, especially for the most lucrative crimes (see IO.8). However, there are no statistics on the assets specifically linked to TF cases.

367. Confiscation may be decided, in addition to prison sentences and fines. Although general confiscation is almost systematically decided, the amounts confiscated remain low. On the basis of the cases presented, the small amounts are in line with the risks of TF.

368. In addition, TRACFIN has the right to object and to secure the amounts to be seized (CMF art. L561-24), but rarely exercises this right, except in urgent cases of massive fiscal fraud and those relating to TF (on average it exercises its right to object once or twice a year for a TF investigation). Before exercising its right to object, TRACFIN coordinates its activities with the judicial authorities to enable judicial seizures to be made; otherwise, there would be no point in postponing the transaction for 10 days, which could warn the suspect, thereby jeopardising future investigations.

Table 4.10. Number of times TRACFIN has exercised its right to object

	2016	2017	2018	2019	2020
No. of times the right to object was exercised	19	24	7	11	58
including number linked to TF	2	0	2	1	1

Consistency of measures with overall TF risk profile

369. The measures implemented by France to deprive terrorists, terrorist organisations and terrorist financiers of their resources and means of financing are largely consistent with France's overall TF risk profile as identified in its NRA (see IO.1).

370. The measures implemented by France under the applicable national and European TFS regimes enabled the freezing of some EUR 1.7 million between 2016 and May 2021, in assets belonging to persons and entities (including NPOs). Although the amounts frozen are not very substantial, they are consistent to France's TF risk profile to a large extent. No asset freezes have been imposed on UNSC-designated persons or entities since 2015, as no designated persons have been detected who hold assets or economic resources located in France. However, the authorities have demonstrated their ability to enforce the UNSCR designations prior to 2016 and checks are systematically carried out to determine whether these persons have assets within French territory.

371. Furthermore, the measures implemented by the investigation and judicial authorities are consistent with France's TF risk profile, in particular with the micro-financing. The amounts confiscated are small. However, this is in line with the TF risk in France, which is mainly based on self-financing by terrorists and facilitators with limited funds.

372. The measures implemented by France with regard to NPOs are not consistent with the TF risks. The identification of NPOs vulnerable to TF risks in the NRA appears to be, in part, too broad, especially with regard to mixed associations. Consequently, from an overall perspective, the control measures implemented by the authorities in relation to NPOs are not targeted or proportionate. In particular, strict control measures apply to humanitarian NPOs that receive government grants, but these controls do not always target TF risks. On the other hand, although these control measures may mitigate TF risks for some NPOs (those receiving government grants), there are no targeted control measures for the remaining humanitarian NPOs that work in conflict zones or transfer assets to these zones. For mixed associations, the implemented measures are based on intelligence information rather than on TF risks. Furthermore, the NPOs at risk have not all been made aware of TF risks.

Overall conclusions on IO.10

France has an appropriate legal framework in place for implementing TF-related TFS at the international, European and national levels. However, delays were occasionally observed in the transposition of designations up until 2020, which had an impact on the effectiveness of the system. A new system has been put in place to avoid any delays. These reforms are recent, but there was one effective example of implementation of TF-related TFS without delay since their entry into force and before the end of the on-site visit.

Regarding NPOs, the assessment team has identified some shortcomings in this regard, particularly the identification of a broad sub-sector of at-risk NPOs, as well as limited awareness-raising actions. Nonetheless, measures exist to mitigate the risk of TF abuse of NPOs, such as surveillance and intelligence, general control measures, and targeted measures that apply to a small category of at-risk NPOs.

Consequently, moderate improvements are needed in this area.

France is rated as having a substantial level of effectiveness for IO.10.

Immediate Outcome 11 (PF financial sanctions)

Implementation of targeted financial sanctions related to proliferation financing without delay

373. France is a permanent member of the UNSC and plays an active role in implementing measures to combat PF at the national, European and international levels. France has a substantial military industry and has introduced mechanisms to implement TFS against proliferation, as well as effective control measures to identify possible cases of the circumvention of sanctions or of the inspection regime for exports of dual-use goods that proliferation networks may seek to purchase.

374. France satisfactorily implements UNSCR 1718 (2006), the subsequent related resolutions, and resolution 2231 (2015)[74]. The legal framework for implementing UNSCR TFS, including the applicable EU and national PF regimes, is the same as for TF. A national order lists the EU regulations that become immediately applicable in OM. Since the introduction of the reform, freezing orders should be applied without delay from the time of designation by the relevant UN committees, and made enforceable (against third parties) by publication of the details identifying the designated persons and entities in the asset-freezing register, pursuant to the same system introduced for TF and PF.

375. The SGDSN provides interministerial coordination to combat the proliferation of WMD and PF, in addition to other platforms ensuring more operational coordination (see IO.1).

74 UNSCR 2231(2015), which approved the Joint Comprehensive Plan of Action (JCPOA), ended all UNSCR provisions relating to Iran and proliferation financing, in particular UNSCRs 1737 (2006), 1747 (2006), 1803 (2008) and 1929 (2010), but introduced specific restrictions including targeted financial sanctions. It therefore lifted the sanctions as part of a progressive approach including reciprocal commitments approved by the Security Council. The JCPOA came into force on 16 January 2016.

Proposed designations

376. France plays an active role in proposing designations at EU level in response to the North Korean nuclear crisis. It proposed 40 of the 69 designations carried out by the EU. France was also active in proposing individuals and entities for designations by the UNSC between 2016 and 2018. No new designations have been accepted since 2018 in the UNSC despite efforts to this end by several permanent members of the Council, including France. As regards Iran, the lack of new designations is due to the adoption of the JCPOA in 2015 endorsed by resolution 2231.

Implementation of PF-related TFS without delay

377. As in the case of TF, UNSC designations must be transposed into national law to be effective in France. The mechanism for implementing PF-related TFS at national level is the same as for TF-TFS.

378. The assessment team has noted that France has introduced a national system, in force since February 2021, to ensure the implementation of freezing assets without delay decided by the UNSC. Between 2016 and 2019, two of the five UNSC designations identified were transcribed into French law within 24 hours. However, between two and five days were required to transcribe the three other designations. The authorities explained that this delay is sometimes due to the time difference between New York and Paris. However, the designations were not always received on a Friday. This represented a shortcoming in implementing PF-related TFS without delay. The effectiveness of the recent amendments (see R.7) on combating PF was confirmed by way of one effective example of implementation of TF-related TFS without delay (using the same system) since the entry into force of the reforms and prior to the end of the on-site visit (see IO.10).

Communication mechanisms and periods

379. The mechanisms described in connection with IO.10 are also used to inform the private sector of TFS for PF in real time: the creation of a consolidated register of freezing asset, notification of new listings, and changes to or withdrawal of sanctions via the "*Flash-info*" asset-freeze newsletter. These are available to all regulated entities, including DNFBPs. The joint asset-freezing guidelines by the DGT/ACPR, drawn up in 2016, were updated in 2019 in consultation with the FIs. However, these guidelines only apply to the regulated entities supervised by the ACPR (see IO.4), and no guidelines have been sent to DNFBPs, although they were sent to all sector-based supervisors through the COLB.

Identification of assets and funds held by designated persons/entities and prohibitions

380. France ensures a high level of coordination between the various competent agencies in order to identify assets and funds of designated persons and entities or of natural or legal persons likely to act on their behalf or at their direction. This coordination is based on exchanges between the DGT, the ACPR, TRACFIN and the DNRED, whose actions also rely on the DGFiP as the agency responsible for FICOBA. The coordination is supplemented by a reporting obligation for the regulated entities. All regulated entities (both FIs and DNFBPs), and even all persons concerned, are obliged to declare to the DGT the identified assets and freezing carried out under PF-TFS related, as well as any credit transactions involving frozen accounts, and the implementation of authorised unfreezing measures. The FIs have taken this requirement into account. Furthermore, most FIs adopt a process for making declarations to DGT, which enables the reporting of information on the same day. This process for making declarations to the DGT was not implemented during the evaluation period, as no assets or funds belonging to individuals or entities frozen under the resolutions were identified in France. This cooperation mechanism enables exchanges of information provided by the private sector, other authorities and international entities concerned by the fight against PF (i.e. European Commission, experts on UN panels etc.).

381. A mechanism to promote cooperation between the DGT and the DGDDI, formalised, in 2017 reflects France's interest in this issue. This cooperation mechanism, consisting of exchanging information about all elements collected by the DGT from the private sector, is used to open investigations on the basis of different sources of information (economic, financial and personal asset information) and to characterise and punish possible circumvention offences. In connection with this coordination, the DGT issued 28 reports on possible circumvention of TFS between 2017 and 2021. Some led to the opening of a customs administrative investigation. For instance, 13 customs investigations were initiated by the DNRED. In connection with cooperation with the ACPR, eight reports of failings in asset freezing were issued and processed between 2016 and 2020.

382. No further freezing measures have been adopted since April 2018 under UNSCR 1718 (2006). Regarding North Korea, no assets belonging to a North Korean designated person or entity under UN sanctions are recorded in France. In addition to the publication of lists and due diligence by regulated entities, the authorities have checked the tax information against the lists of North Korean diplomats posted to EU Member States in order to make sure that no accounts had been opened in France in their name. France searches for assets systematically via bank account databases (FICOBA) and economic resources (BNDP). However, the regulated entities limit themselves to screening lists. They were unable to demonstrate practices that prevent assets from being made available indirectly to designated persons and entities.

383. In light of the freezing measures in force in other countries, it is unlikely that there will be many accounts or other property and assets belonging to North Korean nationals in France. In addition, examples of asset freezing under the European and national systems have been studied. For example, in April 2018, the measures implemented by the authorities resulted in the screening of bank accounts and economic resources (e.g. real estate) liable to belong to four North Korean persons designated by the EU. The assessment team also reviewed other measures linked to suspected proliferation that have been implemented by the authorities, including freezing measures. Although these cases are not linked to UNSCRs and therefore do not directly impact the evaluation of the effectiveness, they illustrate France's ability to freeze assets at national level.

384. This conclusion is also supported by the freezing measures implemented and the amount of assets frozen before 2016. Following changes made by the UNSC regarding the TFS imposed on Iran, these TFS no longer apply, but the freezing measures implemented in these cases show how the French mechanism operates. In particular, within the EU and until 2016, France effectively froze assets on the basis of the sanctions against Iran.

FIs, DNFBPs and VASPs understanding of and compliance with obligations

385. FIs use IT tools which are generally systematically updated, in order to identify designated persons. The ACPR sanctioned 14 shortcomings in the organisation of the system for TFS implementation, including four failures to detect persons or entities subject to TFS between 2016 and 2020. None of these cases concerned PF-TFS. FIs comply with and properly understand their freezing obligations. Nevertheless, large FIs have a more detailed understanding of the obligations and only a few FIs ensure that they do not make funds or economic resources available to designated persons. Furthermore, freezing measures sometimes came into effect more than 24 hours after the listing.

386. PF-related TFS are not systematically implemented by DNFBPs, and some sectors do not apply them. DNFBPs do not have the same level of understanding or implementation of PF-related TFS obligations. In particular, only two categories of DNFBPs have developed IT tools to screen customers: lawyers and notaries. Asset freezing by lawyers therefore leads to a systematic screening of the CARPA accounts based on lists of frozen assets, and lawyers also use a screening tool provided by the CSN that enables the screening of their customers. These two categories of DNFBPs are seen by the authorities as being subject to the highest PF risk (real estate, establishment of companies), without providing more details on the assessment criteria that led to these two sectors being identified as posing the highest PF risk. PF risks are not covered by the NRA at present. In spite of the low risk of PF in the gambling sector, asset-freeze measures are also applied, but they tend to be in the form of TFS against TF. One casino stated that it used a system enabling the systematic screening of customers.

387. Although the monitoring of transactions is satisfactory, it is not certain that the regulated entities freeze all non-financial property and assets, in addition to financial assets. This leads to shortcomings and potential vulnerabilities in identifying proliferation-related assets. In general, DNFBPs do not understand the risks they are exposed to or the extent of their PF obligations. Consequently, due diligence relating to asset-freeze obligations is often limited to the transactional aspect of the customer relationship and neglects due diligence relating to the prohibition of making assets available.

Competent authorities ensuring and monitoring compliance

388. The ACPR's controls of compliance by FIs with their PF-related TFS obligations are satisfactory, as far as can be judged from the controls of asset-freeze obligations as a whole, although there is no information about the frequency and nature of the inspections relating specifically to PF. A total of 164 on-site AML/CFT inspections (all of which included an asset freeze component), which do not distinguish between TF and PF asset freezes, including the banking and insurance sectors (and henceforth the VASP sector), were conducted between 2016 and 2020. The inspection methodology covers several key aspects: internal procedures, the existence of an automated screening system for databases and flows, the effectiveness of the screening process, management of lists used for screening, handling of alerts generated by the screening system, implementation of freezing measures, and internal control. However, uncertainties remain regarding the effectiveness of the inspections.

389. The controls for FIs supervised by the AMF and for DNFBPs are, however, more limited. The AML/CFT controls implemented by the AMF cover the asset-freezing component to a certain extent by considering the specific nature of the regulated entities' activities, which are mainly based on advice concerning financial instruments and asset management. Indeed, for most SGPs and CIFs, the nature of these activities makes them less exposed to PF risks than the banking and life insurance sectors. However, the AMF lacks the tools required to cover an entire customer base during its on-site inspections, and the control methodology used for asset freezing is that used for SGPs and CIFs.

390. The following aspects in particular are covered when conducting these inspections: a high level of detail in the implementation procedure for freezing and unfreezing measures, existence of a procedure for revising this system, quality of training of the staff subject to the obligations relating to application of TFS, and inclusion of the system in the compliance manager's inspection plan. Between 2016 and 2020, only 14 inspections (solely of SGPs) identified shortcomings in the asset-freezing procedure that were not sanctioned by the AMF. In view of the above, it is not possible to determine satisfactorily the proportionality of these inspections, which in turn limits the effectiveness of inspections by the AMF in relation to TFS. As for the ACPR, there is no information on the frequency and nature of AMF inspections that specifically cover the PF component.

391. For supervisors of DNFBPs, inspection practices have been introduced for asset freezing, but sometimes very recently. Very few supervisors of DNFBPs specifically mention asset freezing as a check point in their supervision methodologies.

392. The supervisory authorities have the power to impose administrative sanctions, including financial penalties, in the event of failure to comply with these obligations. However, administrative sanctions are rarely used. Furthermore, regarding the financial penalties imposed by the ACPR's Sanction Commission and other administrative sanctions imposed between 2016 and June 2021, 19 of the complaints for which the ACPR's Sanction Commission imposed sanctions were linked to the asset-freezing system. None of these cases concerned the circumvention of obligations linked to PF-related TFS. The AMF has issued only one complaint notification leading to sanction proceedings with an asset-freezing component, and that was very recently – in May 2021 – against an SGP.

393. Awareness-raising mechanisms have been put in place to inform the financial sector, in particular in connection with the CCLCBFT, as well as more widely via the DGT and the ACPR, and via specific ad hoc forums. In addition to FIs, public-private exchanges primarily target professionals in sectors considered to pose the highest risk, including economic operators not subject to regulation, and humanitarian NPOs. These exchanges cover the insurance sector, maritime transport (shipowners, carriers, ship certification), the car industry and aeronautics. Although few awareness-raising campaigns are conducted, they are considered satisfactory, in particular with regard to the financial sector.

394. For DNFBPs, certain awareness-raising measures regarding asset freezing and PF risks have been introduced, most of them very recently. For example, the CNB organised a specific training course for lawyers, and the CNB organised a specific training course for professionals in the real estate sector. The DGCCRF also mentions due diligence relating to freezing measures in its guidelines for the real estate and business service providers sector, without including specific information about PF risks and their impact on real estate professionals. Awareness-raising measures need to be reinforced for all DNFBPs, in order to ensure their understanding and compliance with all aspects relating to PF.

395. Concerning exports of dual-use goods, the SBDU, in line with the decisions of the Interministerial Commission on Dual-Use Goods, is in charge of handling applications for export licences. An annual forum of dual-use goods exporters is organised under the aegis of the SBDU, which raises exporters' awareness. Training courses are also organised in industry. The SBDU handles over 4 000 export licence applications each year. No applications for export licences to North Korea were submitted to the SBDU between 2016 and 2020. Furthermore, as the national authority empowered to implement sanctions, the DGT analyses requests for financial transactions to countries subject to sanctions for which prior authorisation is required. Between 2016 and 2020, 30 authorisations were granted to NGOs active in North Korea.

396. The control measures implemented by supervisors, the SBDU and the DGT are supplemented by the inspections conducted by the DGDDI and by customs investigations in the event of circumvention. Concerning counter proliferation, 30 customs investigations were conducted between 2016 and 2020, 17 of which resulted in notification of an offence and 13 were still ongoing in February 2020. In certain cases, customs sanctions were imposed (CD, art. 350), and in other cases sentences were given. In addition, other mechanisms have been introduced to prevent the circumvention of sanctions, in particular specific feedback between the competent authorities and FIs, and the criminalisation of PF.

397. The competent counter-proliferation authorities have a good understanding of the risks of proliferation in France, including the customs authorities. The controls by the customs authorities cover all types of proliferation-related goods and assets. Furthermore, effective coordination mechanisms are in place with other investigation and intelligence authorities due to mobilisation of all of the authorities concerned via the SGDSN. This conclusion is supported by the review of case studies.

398. In particular, an interministerial coordination unit was created in 2018 with responsibility for detecting, preventing and impeding acquisitions of sensitive assets by networks working for countries involved in proliferation. The coordination unit is composed of representatives of several ministries: the Ministry for the Armed Forces, the Ministry for the Economy and Finance and the Ministry for the Interior, with broad investigative powers. The scope of its investigations covers the acquisition of tangible and intangible property for weapons of mass destruction programmes developed by countries involved in proliferation, in particular those sanctioned by the UNSC, the EU or France.

Overall conclusions on IO.11

The French asset-freezing mechanism enables a satisfactory implementation of the UNSCRs in relation to counter PF measures. Delays were observed in the implementation of designations until 2020, which had an impact on the effectiveness of the mechanism. The new system put in place to overcome these delays has been used once to effectively implement TF-related TFS without delay since its entry into force and prior to the end of the on-site visit.

While FIs have a good understanding of their PF-related TFS obligations, DNFBPs' application of the measures needs to be improved. Regulated entities have not developed practices to prevent assets from being made available indirectly to designated persons and entities. Although no property or assets belonging to North Korean nationals have been frozen in France pursuant to UNSCRs, the authorities have demonstrated a good understanding of PF risks and have adopted other measures to ensure the detection of any circumvention of TFS. The authorities have also developed effective coordination mechanisms. However, the controls are not yet sufficiently developed, in particular for the supervisory authorities of certain DNFBPs, and moderate improvements are required in this regard.

France is rated as having a substantial level of effectiveness for IO.11.

Chapter 5. PREVENTIVE MEASURES

Key findings and recommended actions

Key findings

a) The larger FIs generally have a good level of understanding of the ML/TF risks to which they are exposed. This understanding is not always transposed into effective mapping, and this has an impact on the determination of customer risk profiles. Some smaller FIs depend mostly on the conclusions of the NRA and SRA for their risk assessments. Moreover, some FIs tend to avoid risks instead of mitigating them (e.g. VASP and NPO clients).

b) On the whole, risk understanding and the implementation of a risk-based approach is a recent development for DNFBPs. In particular, this is still limited among real estate agents and business service providers, and needs to be further developed for notaries.

c) While FIs have set up client identification protocols, implementing them remains a challenge, in particular for EP, money changers and EME. Although there are some difficulties with remote identification, innovative tools have recently been developed. The quality and relevance of the measures implemented varies from one DNFBP to another, but overall is improving, although further efforts still need to be made by real estate agents and business service providers.

d) With respect to the identification of BO, most FIs and DNFBPs were unable to demonstrate the detection of forms of control other than direct or indirect shareholding. Most FIs and DNFBPs use the RBO as a verification tool without carrying out additional due diligence. Only some FIs and notaries, lawyers, accountants and statutory auditors use other independent sources in some cases to check information.

e) Most FIs as well as the larger DNFBPs rely on commercial lists to identify PEPs and confirm their client declarations. They however report that they find it difficult to identify family members and, in the case of DNFBPs, the PEPs themselves. Regulatory shortcomings (exhaustive list of functions and loss of PEP status) limit the effectiveness of the measures implemented. However, some FIs use a risk-based approach and continue to apply enhanced due diligence (not equivalent to FATF requirements) after the loss of PEP status.

f) With respect to TFS, the larger FIs and DNFBPs use tools, usually updated automatically, to identify targeted persons. Nevertheless, for some FIs, asset-freezing measures may take effect more than 24 hours after the designated persons have been listed. Furthermore, only a few FIs ensure that they are not

involved in the indirect provision of funds or economic resources to targeted individuals or persons or entities acting on their behalf.

g) Generally, FIs fulfil their reporting obligations correctly, but they must improve the detection of suspicions related to legal persons and legal arrangements. The quality of STRs is improving steadily, although the average transmission time appears to be relatively long and in some cases, reporting is subject to management approval.

h) The level of reporting by DNFBPs is uneven. Notaries, casinos and online gaming operators, and Court-appointed receivers and trustees submit a significant number of STRs. The other DNFBPs still submit only a small number of STRs. TRACFIN has repeatedly noted the need to improve the quality of STRs sent by some DNFBPs.

i) Compliance with internal control requirements has improved significantly over the last two years. Following the thematic review of the ACPR, corrections to regular reviews of procedures and internal audit controls appear to have been put in place by large financial groups. However, given that these remediation measures are recent, the level of effectiveness remains to be confirmed.

j) VASPs appear to have a good understanding of the specific ML/TF risks to which they are exposed and have taken steps to implement their obligations. Some difficulties in the application of the travel rule. However, because they have only recently become regulated entities, it is too early to fully assess the effectiveness of their preventive measures.

Recommendations

France should:

a) Ensure that regulated entities have a better understanding of the concept of BO in order to identify the person who exercises ultimate control, over and above the control of capital or voting rights, and revise the definition of BO for associations, foundations and endowment funds (see Rec. 10 and 24) in line with FATF requirements.

b) Clarify with FIs/DNFBPs that the RBO cannot be used as the sole source for verifying the identity of BO and that they must cross-check this information with other reliable and independent sources in order to identify the actual ultimate BO and contribute to the accuracy of the data in the RBO.

c) Revise the definition of PEPs and due diligence requirements to comply with R.12 and issue guidance to improve DNFBPs' ability to identify PEPs, their family members and close associates.

d) Take action to reduce the time taken to transmit STRs, to improve their quality and to assist regulated entities in identifying the more complex typologies, notably relating to legal persons. In particular, supervisory authorities should

ensure that DNFBPs have properly understood the scope of their obligation to submit STRs and compliance expectations.

e) Ensure that regulated entities understand the extent of their obligations with regard to TFS, including not making assets and economic resources indirectly available to targeted persons or persons or entities acting on their behalf.

f) Ensure that DNFBP supervisors exercise particular oversight over risk understanding and the implementation of risk classification among regulated entities in order to enhance the risk-based approach. This can be done, for example, by conducting thematic controls to verify that they understand the specific risks of each sector.

g) Continue the certification procedure for remote identity verification tools, which guarantees a substantial level of reliability, in view of the increasing digitization of financial services and in order to ensure that FIs adopt reliable tools for remote identity verification. Communication on these certifications and their development should be continued.

h) Continue communication efforts on ML / TF risks while encouraging FIs / DNFBPs to adapt the conclusions of the NRA/SRAs to their operations and clarify certain risks (e.g. VASP and NPO) in a more granular manner in order to encourage FIs / DNFBPs to mitigate risks with proportionate measures instead of avoiding them.

i) Ensure that the ACPR and the AMF continue to work closely with VASPs to ensure the effective transposition and implementation of preventive measures to this rapidly changing environment, including the travel rule on wire transfers.

399. The relevant Immediate Outcome for this chapter is IO.4. The relevant recommendations for the assessment of effectiveness under this section are R.9-23 and some elements of R.1, 6, 15 and 29.

Immediate Outcome 4 (preventive measures)

400. The assessment team weighted the implementation of preventive measures as being more important for ECs, EPs and notaries, relatively important for real estate agents, money changers, EMEs, VASPs and lawyers, moderately important for casinos, business service providers, the insurance sector, investment firms, SGPs, chartered accountants, statutory auditors and CIFs, and less important for SF, IOBSP, IFP, CIP and other DNFBPs. For DPMS, the cash transaction restrictions bring this sector under the threshold of R.22 and 23. Consequently, only the effectiveness in the implementation of TFS obligations has been considered in this analysis. The details of the weighting of each sector are found in paragraphs 46 to 67 of Chapter 1.

401. The findings on IO4 are based on interviews with a range of private-sector representatives, including in OM, and professional associations, but also on discussions and data provided by the supervisory authorities in each sector, except for certain DNFBP supervisory authorities in New Caledonia and French Polynesia. The lack of jurisdiction of the DGCCRF, the High Council of the Order of chartered accountants (CSOEC) and the CSN in French Polynesia, New Caledonia and Wallis and Futuna prevented the collection of data from these geographical areas.

Understanding of ML/TF risks and AML/CFT obligations

5

Financial institutions

402. While some of the smaller FIs rely primarily on the findings of the NRAs/SRAs, the vast majority of FIs appear to have understood the specific risks to which they are exposed by their activities. The participation of FIs in preparing the NRA and SRA and the dissemination of the findings seem to have contributed to improving and refining the understanding of ML/TF risks in recent years. EC focus particularly on risks related to the increasing recourse to FinTechs, virtual assets and neo-banks. In the field of payment services, the risks associated with the use of cash and anonymity are clearly recognised. For online service providers, the risks of digital onboarding and identity theft are well understood. All FIs demonstrated a good understanding of their obligations.

403. The vast majority of FIs have a risk mapping that is documented and regularly reviewed, but significant shortcomings, that have been monitored by the ACPR, have been identified in key areas in recent years. Analysis of the AMF and ACPR's AML/CFT questionnaire (QLB) shows that, since 2015, the risk analysis and classification methodologies of most FIs (but to a lesser extent, SGPs, CIPs and CIFs) have complied with national requirements. Moreover, the ACPR's on-site inspections identified shortcomings related to the incomplete or inadequate nature of their mapping, rather than a complete absence thereof. However, a study of money transfer institutions (EC and/or EP) shows that of the 13 inspections (out of a population of 20 institutions) conducted between 2016 and 2019, the risk classifications of several institutions were deemed to be "not very effective" due to the irrelevance of the criteria used.[75] With regard to financial groups, a 2019 report by the ACPR emphasised that although they had all drawn up risk mappings at the group level, most of them did not include all the criteria specified in the regulations or had not assessed them properly, including the risk linked to the various foreign establishments.[76] The ACPR has requested corrective measures for all the deficiencies and is monitoring them.

75 This study was based on the findings of thirteen on-site inspections of money transfer institutions. The report is published on the website of the ACPR: https://acpr.banque-france.fr/sites/default/files/medias/documents/190926_note_bilan_transmission_fonds_vf.pdf

76 This study was based on the findings of five on-site inspections of banking groups and one on-site inspection and three in-depth analyses of insurance groups conducted between 2016 and 2018. The report is published on the website of the ACPR: https://acpr.banque-france.fr/sites/default/files/medias/documents/190924_bilan_controles_acpr_pilotage_lcb-ft_groupes_vf.pdf

VASPs

404. VASPs demonstrated a well-developed understanding of the ML/TF risks specific to their sector, including the challenges related to anonymity and traceability of transactions. They also demonstrated a prudent approach to the identification of emerging product risks so as not to jeopardise the integrity of their business. VASPs work closely with the trade association representing virtual asset operators in France (ADAN), and the ACPR and AMF Fintech Forum to keep abreast of emerging risks in their sector and to better understand their ML/TF obligations.

DNFBPs

405. Generally speaking, DNFBPs' understanding of risks is recent, with different levels of maturity. Some DNFBPs have only an overview of the risks within their sector, relying mainly on the NRA and SRAs. The lack of precision in some SRAs therefore has a negative impact on the level of understanding of risk by the covered entity. While most supervisors note an increased awareness and understanding of the risks and obligations among DNFBPs, they have also observed during the audits that this level of understanding often fell short of the legal requirements. However, some DNFBPs are particularly sensitive to new risk trends (e.g. virtual assets) and try to maintain an ongoing understanding of the risks within their sector.

406. More precisely, the level of risk understanding is still limited for *real estate agents* and *business service providers*. Supervisors noted a wide disparity between real estate groups and independent agents in terms of the level of understanding of risks and obligations. For example, non-compliance is most often observed in small and medium-sized entities. In 2019, only 30% of the business service providers audited had a risk assessment and management protocol. Between 2015 and 2020, the French accounting body, CNS, issued 30 sanctions against business service providers for failing to implement a risk assessment and management system.

407. The understanding of the risks of the legal and accounting professionals seems to be improving. The *notaries* interviewed draw up a risk classification, but with no centralised data on the results of inspections, it is not possible to confirm that this is a widespread practice. *Lawyers* have a reasonable knowledge of ML/TF risks and obligations, and the assessors observed improvements during the inspections. With regard to the handling of funds by lawyers, which is carried out via the CARPA, they noted that since lawyers became subject to these reporting obligations in 2020, CARPAs have developed a reasonable understanding of ML/TF risks by implementing a risk classification at their level. *Accountants* have a correct understanding of ML/TF risks and obligations based mainly on the risks identified by the SRA. In the survey conducted by the CSOEC in March 2020 (70% response rate), 87% of professionals had established risk identification procedures. *Statutory auditors, insolvency practitioners, judicial trustees and court enforcement officers* have a reasonable level of risk understanding.

408. Since the tightening of controls in 2017, the SCCJ has noted a visible improvement in the understanding of risks and obligations for all *casinos* although recent inspections on the adequacy of risk assessments confirm that some casinos still have difficulties in identifying their vulnerabilities. For *online gaming operators*, the level of risk understanding appears to be generally high, and all operators have established a ML/TF risk classification, based on a multi-criteria approach.

Application of risk mitigating measures

Financial institutions

409. Most FIs draw up a risk profile of their clients in order to determine the level of due diligence measures to be applied. However, the updating of profiles and their broader use for monitoring operations is a recurring challenge according to ACPR inspections, particularly for money changers. QLB data and interviews with the private sector indicate that most FIs (except CIFs) have created a risk profile of the business relationships while compliance improved for FIs that had a lower rating in 2017, i.e. SF and EME. For insurance organisations, there was also an improvement (79.5% to 81.2%) although this rating remains well below the average. This could be partly explained by the fact that the question does not apply to some respondents. For SGPs, the 2020 data from the recently rolled out QLB show that client risk profiles are in place.

410. Based on their risk mapping and rating tools, the majority of FIs interviewed confirmed that they assign a risk rating to each client and apply proportionate measures. These measures are documented and are more or less detailed according to the size of the FI. However, the results of the on-site inspections show that deficiencies in the development of the risk profile remain a challenge for several FIs. Between 2018 and 2020, 59% of FIs audited were supposed to implement corrective measures relating to the implementation of a risk-based approach This corresponded to 86% of the money changers inspected, 64% of EC, and 60% of investment firms and EP. For SGPs, on-site discussion suggest that risk-based mitigation measures are not always satisfactorily implemented.

411. Some FIs, especially large financial groups, adopt policies to avoid rather than mitigate the risks associated with VASPs and virtual assets transactions. In its 2021 report, the Fintech Forum organised by the ACPR and the AMF reports on the difficulty experienced by some VASPs in accessing banking services despite being assigned a moderate risk rating by the NRA.[77] FIs report persistent AML/CFT concerns in light of recent regulation and supervision of the VASP sector in 2020. This situation hampers the development of the sector and creates additional vulnerabilities by forcing some to open bank accounts abroad, which makes it more difficult for the French authorities to access their data.

412. Some FIs also adopt practices that do not appear to be based on the risks in their business relationship with NPOs. Since 2018, NPOs have reported difficulties in accessing certain financial services in France, which force them into the informal sector and expose them to greater risks. In February 2020, a tripartite work programme between the State (Treasury Directorate-general and CDCS), NPOs and FIs was set up to implement practical solutions to facilitate the use of formal financial services by NPOs.

77. https://acpr.banque-france.fr/sites/default/files/medias/documents/20210324_gtacces_cptes_crypto_crtravaux.pdf

VASPs

413. The ACPR and AMF work with VASPs to put in place policies and measures that are proportionate to the risks during the registration process. The VASPs interviewed during the on-site inspection confirmed that they had implemented measures commensurate with their size to mitigate the risks specific to their establishment.

DNFBPs

414. DNFBP supervisory authorities generally observe an increase in awareness of AML/CFT issues, as well as an upward trend in the compliance rate among DNFBPs, although a lot of efforts still needs to be make by real estate agents and business service providers. Generally, DNFBPs put in place mitigating measures when they identify certain risk factors. However, because there is recent and still limited understanding of the risks specific to each profession, it is not possible to fully assess whether the mitigation measures put in place are proportionate. This observation mainly, but not exclusively, concerns non-group or smaller organisations that most often apply mitigating measures on a case-by-case basis, without formalised procedures that adequately take into account risks.

415. The implementation of risk-based mitigation measures by *real estate agents* and *business service providers* is quite limited. None of the estate agents supervised by the DGCCRF were able to demonstrate the implementation of mitigation measures adapted to the risks and vulnerabilities specific to the sector. Professional organisations also agree with this observation. Medium and large companies, however, seem to be better able to put in place mitigating measures in certain risk situations. For business service providers companies, the DGCCRF reports that, in 2019, only 31% of operators had a risk assessment and management protocol. In 2020, the anomaly rate increased to 59.7%.

416. Most legal and accounting professionals *(lawyers, accountants, notaries and statutory auditors)* have protocols in place for the implementation of due diligence measures which are generally in line with the risks identified for their activity, such as risks related to international clients and real estate transactions. However, there is little information on *Court-appointed receivers and trustees and court enforcement officers*, and although the inspections conducted indicated the implementation of vigilance measures proportionate to the risks, this information could not be fully verified.

417. More specifically, *notaries* have indicated that they apply additional due digilance and verification measures by checking, for example, the consistency of operations carried out in real estate transactions, which are assessed as higher risk. Additional due diligence measures are also applied in the case of complex corporate structures and, in some cases, certified attestations may be requested from foreign clients in order to identify the BO. For *lawyers*, since the major risks identified relate mainly to the handling of funds on behalf of clients, the implementation of proportionate measures to mitigate the risks relies mainly on the compulsory intervention of the CARPA as a supervisory body for almost all funds handled by lawyers on behalf of their clients.[78] Nevertheless, the scope of intervention of the CARPAs does not include the handling of funds under a fiduciary activity, identified as a high-risk activity despite the limited scale (only 26 firms concerned). Likewise, given that CARPAs have been subject to reporting obligations only since January 2020, it is not yet possible to fully demonstrate the effectiveness of this system. The implementation of proportionate measures regarding the activities of lawyers covered by the FATF standards, other than the handling of funds, is limited and should be developed and strengthened.

418. *Casinos* appear to apply mitigating measures that are commensurate with the risks identified. The analysis of the annual reports submitted to the SCCJ in 2019 shows that 78.7% of operators report at least three internal measures put in place to address the most significant risks identified in the NRA.[79] According to its 2020 survey, the ANJ reports that *online gaming operators* implement alerts to detect risks related to the integration of cash via prepaid cards, account-to-account transfers or bets taken with little or no risk.

Application of CDD and record-keeping requirements

Financial institutions

419. The analysis of the results of document-based inspections by FI supervisory authorities, on one hand, and interviews conducted during the on-site inspection, on the other hand, showed that FIs have adequate customer due diligence measures in place at the time of entering into the business relationship and on an ongoing basis during the relationship. In most cases, they rely on automated tools to verify information by cross-referencing it with numerous government and commercial databases.

78 CARPAs are therefore in charge of carrying out transactional supervision, which includes, among other things, a control of the origin and destination of the funds, the identity of the client and the beneficial owner, the link between the legal case and the financial payment, as well as the filtering of individuals under sanctions, asset freezes, and countries at risk

79 These measures include controls at the entrances to casinos, the limitation of the amount of payment in slot machines, reinforced measures on the foreign exchange register, the introduction of tracking cards, etc.

420. However, in practice, *identifying and verifying the identity* of the client remains a challenge for some FIs, especially for EP and EME. The inspections undertaken by the ACPR between 2015 and 2018 revealed deficiencies relating to the identification and verification of the client's identity, which led to requests for corrective measures for 41% of the FIs inspected – more specifically, 70% of EP and money changers and 60% of EME. This rate was 36% for EC, with shortcomings identified mostly for recent EC ou those offering new distribution channels (online or through a network of non-financial distributors). The number of corrective measures in the know-your-customer field (activity, income, assets) reflects more or less the same proportions. The ACPR observed very few deficiencies relating to the updating of files and the retention of documents, only about 15 between 2018 and 2020. Based on the results of the AMF's inspections of SGPs since 2015, the anomaly rate for customer due diligence measures was 5%. No information was provided for financial investment advisers, but those met, mostly individuals, demonstrated that they had adequate identification measures in place.

421. With regard to *digital onboarding*, the FIs interviewed were aware of the specific challenges and requirements on the subject. They have put in place specialised tools to enable facial recognition and confirm the authenticity of scanned IDs and other identification documents. When automatic tools cannot confirm the identity of the person, verification is carried out manually. As yet, there are no electronic identification tools offering a sufficiently high level of guarantee as defined by EU "eIDAS" Regulation 910/2014. However, France authorises the use of tools certified by the specialised authorities and has established a public-private partnership for the development of reliable and innovative tool. The development of specialized tools to address the challenges of remote onboarding is an important concern given that the FIs most likely to use remote onboarding (EP and EME) are also those with the greatest difficulty in implementing customer identification measures.

422. Regarding the *identification and verification of the identify of BO*, a large number of the FIs interviewed focused primarily on the identification of the direct or indirect holder of 25% (or less for some FIs or in certain risk situations) of share capital or voting rights without always considering other forms of ultimate effective control. The majority of FIs consider the company's organisational charts to trace the chain of custody and request additional documentation when necessary or the BO is foreign. Few entities confirmed that they went further than the control of capital and voting rights in the identification of natural persons who might exercise other forms of control over the legal person. Moreover, nearly all the FIs interviewed used the RBO as a source of information for identifying the BO. Many of them used it to supplement their searches on Internet search engines. However, some FIs consider the RBO to be the ultimate and sole source of verification, which weakens the effectiveness of the RBO (see IO.5, paragraph 538) and the identity verification measures on BOs.

VASPs

423. The VASPs interviewed exhibited good knowledge of their obligations with regard to customer due diligence and were able to describe the satisfactory implementation of this due diligence at the time of entering into a business relationship with customers and during this relationship. As all relationships are established remotely, the challenges raised at paragraphe 280 also applies to VASP which have specialised tools to facilitate the identifiation and verification of customers. Like FIs, VASP apply capital and voting rights ownership thresholds for the identification of BO that may fall below the regulatory requirement of 25%.

DNFBPs

424. All the DNFBPs are aware of their due diligence obligations, although it was noted that there were significant shortcomings in implementation for real estate agents and business service providers. The extent and degree of this due diligence, as well as the nature of the documents collected to implement this due diligence, vary from one DNFBP to another. At the minimum, they collect information to document the client's identity, consult the National Register to identify the beneficial owners and carry out additional control measures if they encounter difficulties in doing so. Some DNFBPs (lawyers, auditors) also indicated that they not only look for beneficial owners with at least 25% of voting rights in a company, but also carry out additional searches to determine who has effective control. They generally carry out these due diligence measures, not only when the client enters into a relationship with the professional, but also each time the client carries out a transaction above a certain threshold or an instrument with the professional. The level of due diligence applied in these cases is usually the same. In general, DNFBPs do not enter into a client relationship when due diligence measures have not been fully implemented.

425. Legal and accounting professionals generally implement the client and beneficial owner identification requirements and to some extent keep and update this information. The notaries, lawyers and statutory auditors interviewed during the on-site inspection implement customer due diligence measures, which include collecting information about the customer and beneficial owners. For *chartered accountants,* the results of the audits carried out by the regional councils indicate that in 2019, around 18% of the professionals audited did not comply with customer due diligence requirements or document conservation requirements. For *lawyers*, CARPAs are currently developing a database to facilitate the identification of private individuals and beneficial owners. Regarding constant customer due diligence, the CNB points out that although these procedures are part of the ethical obligations of lawyers, they are not always formalised or documented. Moreover, no information was provided about the measures for maintaining information; however, they seem to be largely in place for transactions that go through the CARPAs. For *Court-appointed receivers and trustees* who always act on the basis of a judicial mandate, there is no need to speak of a client relationship as such. However, they implement due diligence measures and file a suspicious transaction report with TRACFIN in the event of suspicion.

426. DGCCRF inspections of *real estate agents* and *business service providers* show that the majority of professionals still do not sufficiently implement due diligence measures despite their recent efforts. Although the large real estate agents interviewed demonstrated that they had implemented due diligence measures, the results of the DGCCRF inspections point towards an insufficient level of compliance throughout the profession. In particular, some agencies have not yet formalised their obligations and others do not report any specific due diligence. Furthermore, the real estate agents interviewed reported that they lacked the resources required to carry out more thorough due diligence, for example, when beneficial owners were domiciled in a tax haven. For business service providers, the failure to implement due diligence measures is one of the most frequently identified anomalies during DGCCRF inspections (53 breaches out of 49 inspections in 2019). It is also noted that business service providers report difficulties in obtaining proof from their customers.

427. The SCCJ reports that inspections carried out at *casinos* show insufficient due diligence vis-à-vis their regular customers, and with regard to the registration of exchanges of more than EUR 2,000, which do not always include all forms of financial transactions. However, after conducting awareness-raising actions, the SCCJ has recently observed an improvement. With regard to *online gaming operators,* the ANJ reports that they implement due diligence measures for all online "player accounts" opened and when funds are withdrawn. Consequently, the identification and verification of the player's identity within two months of the opening of an account are a condition for the opening of all "definitive" accounts. In 2019, out of 2,809,030 online registrations, 33.8% did not lead to the creation of a definitive account. However, it has not been specified how often the customer identification information is updated.

Application of EDD measures

Politically exposed persons

Financial institutions and VASPs

428. The results of the QLB analyses and the FIs interviewed indicate that measures are in place to identify PEPs and to implement specific measures in most sectors. Between 2018 and 2020, five payment institutions and three investment firms were asked to implement corrective measures on these points. Data on the compliance rate of SGPs and CIFs is unavailable, but information on the number of PEP clients shows a low number, despite the fact that the services of some SGPs and CIFs expose them to a type of client that could be politically exposed.[80]

429. Clients are first identified through a declaratory form that they fill out when they open an account and then by querying commercial databases. A few FIs use other forms of research via public sources to determine whether their client is politically exposed and very few reported that they used the asset disclosures published by the High Authority for Transparency in Public life (HATVP). Many FIs and VSAPs also use commercial databases to identify family members, and several of them noted the difficulties in implementing this obligation.

[80] For example, private equity, property management and individual asset management

430. In some cases, the time limitation on PEP status (see R.12) affects the effectiveness of specific measures. A significant number of FIs, in particular FIs belonging to large foreign groups and VASPs, have indicated that they continue to consider the customer as a PEP one year after the customer has left office, or at least assign a higher risk rating involving other types of enhanced measures, but not equivalent to the specific measures provided by the FATF. A limited number of FIs comply with the regulations, which do not provide for specific measures for PEPs beyond the one-year period after the end of their mandate.

DNFBPs

431. With the exception of business service providers, although DNFBPs are well aware of the legal requirements for the application of enhanced measures for PEPs and their associates/family members, their due diligence is sometimes not sufficiently thorough. Several respondents reported difficulties in identifying family members and partners and lacked tools and guidance from the regulator to comply with legal requirements. Professional real estate associations report that small and medium-sized enterprises face real difficulties in identifying PEPs.

432. The detection of PEPs is often not subject to specific investigations and professionals limit themselves to the simple declaration of the customer, or their own knowledge (lawyers), unless specific suspicions lead to enhanced due diligence (casinos). Larger organisations often use private databases in combination with national lists or other search tools to implement specific measures when they detect a PEP because there is insufficient understanding of the risks specific to each profession, it is not possible to fully assess whether the mitigation measures put in place are proportionate (e.g. real estate agents, accountants), while smaller organisations rely mainly on customer reporting. In addition to their own due diligence measures, lawyers rely mainly on the due diligence performed by the CARPAs, which is limited to the handling of funds. Only notaries reported that they conducted enhanced due diligence on a case-by-case basis one year after the PEP customer had left office. Business service providers companies do not appear to have specific measures for identifying PEPs.

Correspondent Banking

Financial institutions (EC, EP, EME, investment firms)

433. Large financial groups conduct most of the correspondent banking (CB) business in France, about 10% of which is with FIs located in countries classified as high-risk by the ACPR. Some 30 other FIs also carry out this activity and the vast majority are subsidiairies of foreign banks carrying out correspondent activities with their home region, including a significant number with entities of the same group.

434. Diligence measures on CB appear to be well established. In 2019, the ACPR targeted the issue of CB as a priority and thus conducted close supervision interviews with the seven major groups and sent a questionnaire to some 20 other banks that offer correspondent banking services. The review showed that, in general, all FIs had procedures for knowing their correspondents and used the Wolfsberg questionnaire for both intra- and non-EU/EEA correspondents. Some large groups and smaller FIs had not established written agreements governing the CB relationship. While all the large groups prohibit "payable-through accounts", a few smaller FIs allow them. No information was provided on the steps taken by FIs to ensure compliance of the AML/CFT controls implemented by the correspondent. All

FIs interviewed for the thematic review indicated that they monitor the correspondent bank's AML/CFT system and maintain knowledge of the originators of transactions for each flow. Some have specific alert criteria or scenarios for flows from correspondent banks' clients.

435. French legislation does not require FIs to apply specific measures to intra-EU/EEA correspondent banking relationships. However, many of the FIs interviewed, which represent about 80% of the CBs with EEE countries, reported that they apply the same risk-based measures for all their CBs.

New technologies

Financial institutions and VASP

436. With regard to the introduction of new innovative products or services, the entities interviewed stated that there were committees authorised to analyse the related ML/TF risks before their launch. With the COVID-19 sanitary crisis, France has seen a fairly rapid rise in the use of online services, and consequently the risks associated with entering into remote relationships. FIs recognise the high risks, including identity theft, and have indicated that they have implemented specific due diligence measures in this regard. VASPs have demonstrated a strong commitment to analyzing the risks associated with new products and technologies, particularly in order to maintain the integrity and professionalism of their operations and the perception of risk attached to the sectors.

DNFBPs

437. Few DNFBPs apply enhanced or specific measures for new technologies. However, during the on-site inspection, it was noted that there is a certain vigilance with regard to virtual assets. Indeed, the casino group we interviewed has banned the use of virtual assets inside its establishment, and the Order of Chartered Accountants interviewed has set up a specific working group to study VASPs as a new corporate structure and the specific ML/TF risks when concluding accounting contracts with these new forms of companies. For casinos, the SCCJ issues an authorisation before the roll-out of a new technology, taking account of the ML/TF risk.

Wire transfers

Financial institutions

438. All FIs interviewed that offer wire transfers confirmed that they have tools in place to ensure that all required originator and beneficiary details are complete and accompany the transfer. In cases where information is missing, FIs will search for the information before processing the transfer.

439. The FIs we interviewed stated that they have systems in place to detect atypical transactions, taking into account the customers' risk profile, the beneficiaries and their location. The ACPR has sanctioned several organisations for breaches regarding wire transfers.

VASPs

440. The VASPs interviewed were aware of their obligations regarding virtual assets transfer rules and indicated that they had put in place the necessary measures to implement them. They noted that the accompanying information on the originator and beneficiary with the transfer (the "Travel Rule"), poses a technological challenge and that they were waiting for further clarification from domestic and European authorities.

Targeted financial sanctions

Financial institutions and VASPs

441. The vast majority of FIs interviewed indicated that they use commercial screening tools that are usually updated daily to detect customers subject to asset-freezing measures. This update is mostly done by the end of the day and the screening of the customer database is started the same night. All FIs also reported that they cross-check the name of the occasional customer with a commercial asset freeze list. Some of them have their database directly interconnected with the national asset freeze register.

442. Most FIs reported that they were generally able to freeze accounts within 24 hours, some within 48 hours, due in part to the time lag between the update of their commercial list and the launch of screening. For VASPs, the timeframe seems shorter with the launch of the screening within two hours following the notification by the DGT. Most FIs and VASPs stated that they freeze an account immediately to allow the processing of the alert. FIs and VASPs are aware of the need to notify the DGT as soon as they have identified one of their customers with a targeted financial sanction and can also consult the Treasury Department to confirm homonyms. Most of the FIs interviewed also had a systematic reporting process to the French Treasury, allowing for same-day reporting or, for VASPs within a few hours.

443. Furthermore, for most of FIs, the prohibition of making funds and assets available to persons targeted by sanctions seemed to be a measure that was inextricably linked to the implementation of the freezing mechanism. FIs did not demonstrate the adoption of policies, procedures or tools to monitor any transactions that may be indirectly linked to target person or a person acting on his behalf. Therefore, they essentially limit themselves to the screening of lists.

DNFBPs

444. Most DNFBPs seem to know their obligations pertaining to TFSs and related issues. Some DNFBPs implement systematic filtering using specialised software. In particular, some self-regulatory professions (notaries, lawyers) have made filtering tools available to all professionals in order to systematically comply with due diligence obligations. CARPAs provide additional screening by conducting due diligence on the handling of funds by lawyers. The casino interviewed also reported that it screened all customers entering the casino against asset freeze lists. Real estate agents seem to manually check their customer's presence on national asset freeze lists. For business service providers companies, the many challenges of implementing customer identification measures affect their ability to comply with the TFS measures.

445. However, other DNFBPs do not seem to put in place specific systematic measures to screen their customers on freeze lists, although they know that there are tools available to do this. For example, accountants and statutory auditors reported that they only check the potential presence of their customers on the lists when in doubt. This is also the case for DPMS, a large majority of which are in the retail sector, which generally do not implement specific measures to ensure that their TFS obligations are satisfactorily fulfilled. As with FIs, the notion of not making indirectly available funds and assets to a targeted persons or entity does not appear to be understood by the majority of DNFBPs.

Higher risk countries identified by the FATF

Financial institutions and VASPs

446. All FIs and VASPs interviewed were aware of the list of higher-risk countries published by the FATF, as well as other sources of information on the risks of certain countries. Most FIs and VASPs use commercial lists, which they complete on the basis of their assessment of the risk level. In most cases, the IFs part of a financial group, duplicate the lists used by the parent company and in some cases prohibit any transaction involving certain countries. Most FIs apply enhanced due diligence measures that are proportionate to the risks posed by the type of customers and/or products in relation to the countries concerned.

DNFBPs

447. Nearly all the DNFBPs interviewed during the on-site inspection mentioned the FATF's lists of high-risk countries and indicated that they were particularly vigilant when they detected a link with one of the countries mentioned on the list at the time of the establishment of a customer relationship or during the customer relationship.

Reporting obligations and tipping-off

Financial institutions

448. All the FIs interviewed possess continuous vigilance tools/systems, of varying degrees of sophistication depending on their size, in order to identify transactions or funds that might be suspected of ML/TF. At the same time, many also rely on the vigilance of their staff and their knowledge of customers to identify suspicious transactions as well as attempts to carry out suspicious transactions. The alerts generated, whether systematic or manual, are subject to enhanced investigations in order to confirm or dismiss the suspicion and to complete the file sent to TRACFIN.

449. Generally, the person reporting to TRACFIN is responsible for determining whether the alert identified should be reported to TRACFIN. However, some FIs interviewed indicated that the final decision lies with senior management, rather than the TRACFIN reporting party. This procedure runs counter to the requirement to ensure that the STR is sent based exclusively on the assessment of suspicion, rather than on other considerations (e.g. commercial nature, importance of the customer to the covered entity) and increases the risk of STR disclosure.

Table 5.1. Number of suspicious transaction reports (STR) sent to TRACFIN per year[81]

	2016	2017	2018	2019	2020	Trend 2019-2020	Trend 2016-2020
Financial professions	58 517	64 044	71 605	89 574	105 473	18%	80%
Non-financial professions	3 742	4 617	4 711	6 157	6 198	1%	66%
Total	*62 259*	*68 661*	*76 316*	*95 731*	*111 671*	16%	80%

450. Reporting activity in all sectors has increased (80% between 2016 and 2020), with the financial sector dominating (94% of STRs since 2016 – see Table 5.1). Generally speaking, the *EC* sector has the most robust reporting practice compared with the other FIs. The online banking sub-sector also grew above the credit institution average with an increase of 45% (compared with 10% for the credit institution sector) and enabled the early detection of new typologies. The number of STRs filed by *EP* has also risen sharply and accounted for 20% of rights of disclosure by TRACFIN which is proof of the interest for the information held by this sector. The exponential growth in the reporting practice of *EME* appears to be due to the recent creation of this sector. Reporting in the *insurance* sector is also on the rise (43%) despite a slight decline in 2020 due to the COVID crisis. Between 2016 and 2019, the *money changing* sector saw a significant decrease STR by 35% which could be explained by the general decrease in activity for this sector, compounded by the sanitary crisis linked to COVID-19. The activity of *SGPs* and *CIFs* has increased by 122% and 166% respectively over the last five years. However, only a limited number of SGPs (9.4%) submitted reports in 2019. The details by sector can be found in table 5.2.

451. Reporting activity in OM has also increased, from 2,505 to 5,843 DOS (+133.25%) between 2016 and 2020. Some sectors have grown faster than the French average, notably EC and EP, while for other sectors the declarative practice is more recent. Nevertheless, the reporting activity has been more dynamic over the last two years, which seems to correspond to the maturity of the sectors and awareness raising efforts of authorities. Moreover, the proportion of DOS from OM out of the total DOS received (5.5% in 2020) seems to be consistent with the economic (2.49% of French GDP) and demographic (4.07% of the French population) indicators[82].

81 This table includes data on STRs received for regulated entities in OM.

82 See description of materiality of OM in Chapter 1, Box 1.1.

Table 5.2. Number of suspicious transaction reports sent to TRACFIN by type of FI per year[83]

	2016	2017	2018	2019	2020	Trend 2016-2020
EC	46 901	46 882	50 756	56 203	61 557	+31%
EP	5 110	8 603	12 073	21 912	31 271	+512%
Insurance companies	3 200	4 939	5 409	4 794	4 564	+43%
Money changers	2 255	1 810	1 379	1 468	799	-65%
EME	36	178	507	2 020	3 683	+10 131%
Mutual insurance companies and provident institutions	213	241	346	394	424	+99%
IOBSP	0	209	120	150	29	NA
Insurance brokers	107	103	108	144	105	-2%
SGP	60	63	91	93	133	+122%
Investment firms	120	62	90	151	132	+10%
IFP	6	23	72	1 751	2 106	+ 35 000%
CIF	32	57	56	37	85	+ 166%
VASP	0	13	20	37	87	NA
CIP	0	0	1	3	12	NA

452. In general, the number of STRs involving TF across the financial sector has increased over the last five years. For electronic money institutions and crowdfunding intermediaries, TF STRs account for a quarter and half of their reporting respectively, reflecting the particular risk faced by these sectors. Although EP have submitted an increasing number of STRs involving TF over the last five years, the proportion of the total amount of reports submitted remains low (5% in 2020).

453. According to TRACFIN, while the quality of STRs is generally satisfactory, it still continues to receive too many STRs with little or no information, which makes them unusable. TRACFIN also noted the need for covered entities to pay particular attention to legal arrangements and legal persons that can be used to conceal the illegal origin of financial flows.

454. The average time between the identification of a suspicious transaction and the submission of an STR to TRACFIN dropped from 97 days in 2016 to 60 days in 2019 (27 days for TF in 2019) for FIs under the ACPR's jurisdiction (see IO. 6). The large banks interviewed mentioned long processing times, which points towards unnecessarily complex processes for the investigation and consideration of suspicious transactions. Although it has noted a reduction in these times in recent years, TRACFIN notes that they could continue to improve by making an effort to streamline the internal procedures of covered entities.

455. The FIs interviewed confirmed that their AML/CFT training involves, to some extent, the obligations concerning the non-disclosure of a STR (tipping-off). All FIs interviewed demonstrated a reasonable understanding of the operational implementation of non-disclosure. In this respect, they have indicated that they pay particular attention to the form and channels of communication in case of suspicion of the client on a possible monitoring of these transactions. No entity or supervisory authority mentioned an instance of unauthorised disclosure.

83 This table includes data on STRs received for regulated entities in OM.

VASPs

456. The VASP sector is still in its infancy with few licensed players. Notwithstanding, VASPs, the supervisory authorities and TRACFIN have made great efforts to raise awareness about reporting obligations, and this has resulted in the increase in reporting activity in recent years. Nevertheless, the efforts of VASPs and the outreach activities of the supervisory authorities and TRACFIN have allowed to establish a sizeable reporting practice for the sector. Even before they became obliged to do so, VASPs were sending reports to TRACFIN. Although the total number of declarations submitted is relatively small, the increase in reporting activity is demonstrated as follows:

Table 5.3. Number of STRs filed by VASPs

Year	2017	2018	2019	2020	Total
STR – ML	13	20	36	85	154
STR – FT	0	0	1	2	3
Total	13	20	37	87	157

DNFBPs

457. There are many disparities in the reporting activity of DNFBPs, although, in general, an upward trend in reporting activity has been observed. In 2020, there was a decline in reporting activity for some professions, partly due to a drop in activity as a result of the COVID-19 crisis, but in general, this activity subsequently picked up.

458. With regard to *legal and accounting professionals*, there are great disparities in the dynamics of reporting activity, although an upward trend can be observed in almost all professions. *Notaries* (1,546 STRs in 2020) and *insolvency practitioners and judicial trustees* (1,098 STRs in 2020) are the professions that submit the most reports. *Lawyers* are the only self-regulatory profession that hardly submits any reports, with only 16 STRs in 2020, most of which were made by the CARPA, because they only recently became subject to the reporting obligation. In 2018, only one STR was made. The reporting activity of *statutory auditors* fell by 14% overall, while that of *chartered accountants* remains low in relation to the size of the sector.

459. It was also noted that the time taken by the *legal and accounting professionals* to transmit STRs to TRACFIN is abnormally long, ranging from two to six months, which seems to be partly explained by the length of the investigation carried out upstream to "confirm" the suspicion. Some professionals declared that they funded their own investigations to confirm the validity of an STR.

460. *Real estate agents* and *business service providers* have abnormally low reporting activity. Although the reporting activity of *real estate agents* has been increasing since 2016, it remains relatively low given the size of the sector. This has been repeatedly noted by TRACFIN and it contributes to maintaining a high risk of the real estate sector being used as a vector for money laundering. Although the number of STRs transmitted by *business service providers* is increasing, it remains extremely low (nine in 2016 compared with 25 in 2020). What is more, most of the STRs submitted come from the same operator. Although the low number of STRs can be explained by the absence of transactional activity by business service providers, this is not sufficient in TRACFIN's view to justify the low number of STRs transmitted each year by business service providers. Furthermore, TRACFIN has repeatedly commented in its annual reports on the need to improve the quality of the STRs submitted by these sectors.

461. *Casinos* and *online gaming operators* are on the rise, with a slight decrease in 2020 for casinos due to the COVID-19 sanitary crisis. The ANJ reports that it has itself carried out checks on player accounts, and has therefore exceptionally submitted STRs when the operator has failed to meet its obligations.

462. In OM, reporting practice (+38% between 2016 and 2020) has also increased but in much more modest proportions than in metropolitan France, particularly for some professions where the number of STRs has stagnated (notaries between 41 and 58 STRs per year since 2016; real estate agents between 2 and 5 STRs per year since 2016) or is marginal (lawyers with one STR in 2020). Notwithstanding, the proportion of STRs from EPNFDs located in OM was 3% of total STRs for the EPNFD sector in 2020. This proportion appears to be consistent with the materiality of the sector to the same extent as the reporting practice of FIs in OM (see paragraph 410).

Table 5.4. Number of suspicious transaction reports sent to TRACFIN by type of DNFBP per year[84]

	2016	2017	2018	2019	2020	Trend 2016-2020
Notaries	1 044	1 401	1 474	1 816	1 546	+48%
Real estate agents	84	178	274	377	271	+223%
Lawyers	4	0	1	12	16	+300%
Business service providers	9	31	22	23	25	+178%
Accountants	442	513	466	507	516	+17%
Statutory auditors	132	152	124	96	113	-14%
Casinos	601	929	949	1 270	1 017	+69%
Online gaming operators	20	38	99	223	374	+1,526%
Circles, gambling, sports or racing bets	272	259	263	346	346	+27%
Dealers in precious goods, art and goods of great value[85]	15	8	16	10	22	+47%
Insolvency practitioners and judicial trustees	995	932	862	1 272	1 098	+10%
Auctioneers, auction companies	51	67	40	72	69	+35%
Bailiffs	73	109	121	134	65	-11%
Total non-financial professions	*3 742*	*4 617*	*4 711*	*6 158*	*5 478*	*+66%*

84 This table includes data on STRs received for regulated entities in OM.
85 This category includes DPMS

Internal controls and legal/regulatory requirements impending implementation

Financial institutions

463. In general, the FIs interviewed by the assessors have implemented internal control mechanisms. Procedures are reviewed regularly, including after regulatory changes or the publication of a sanction by the ACPR. All changes to AML/CFT procedures are shared with staff, usually by email or via the intranet. The larger FIs have put in place three lines of defence with a high level of engagement that is implemented by independent audit functions. The analysis of the QLBs of FIs supervised by the ACPR shows sustained compliance with most internal control aspects, and the remedial of most of the deficiencies identified in relation to staff training. For some smaller FIs, such as the SGP, the procedures are less formalised and detailed. Nevertheless, third-party or outsourcing provider controls were largely inadequate in 2017, although the compliance rate has improved significantly in recent years.

464. For financial groups, the thematic review (based on inspections carried out between 2016-2018) of the centralised management of the AML/CFT system of banking and insurance groups highlighted several areas of weaknesses concerning internal control. These deficiencies included weaknesses in the implementation of group standards for due diligence measures in certain foreign branches and insufficient coordination of internal control systems with the central management of the AML/CFT system. Deficiencies were also marked by a tendency to rely only on periodic audits to assess the quality of local entities' AML/CFT systems, as well as the heterogeneity and uneven quality of the controls carried out in local entities and failures to verify the implementation of recommendations issued by periodic audits. The ACPR followed up on the remediation of these shortcomings and imposed a sanction.

VASP

465. VASPs put in place internal control systems that continue to evolve according to the development of the providers' activities and independent control - in some cases by an external consulting firm. . Despite the often small size of the VASPs, the ones met had a permanent control team of a large size compared to the size of the company.

DNFBPs

466. With the exception of real estate agents, business service providers and online gaming operators, most mid-to-large DNFBPs have developed written AML/CFT procedures that are updated regularly, as well as internal control procedures. Large *casino* groups and *accounting firms* generally have group-wide procedures in place, as well as internal audit procedures with a degree of organisational independence. Where breaches are observed, some provide additional thematic training for the employees concerned. However, the DGCCRF indicates that the majority of *real estate agents and business service providers* audited do not carry out internal audits and rarely have formalised written procedures. The DGCCRF also reports a real reluctance among some real estate professionals to set up internal AML/CFT procedures. The ANJ also notes that some *online gaming operators* had "barely implemented" internal controls until recently, often due to the small size of the company, or its internal organisation.

Overall conclusions on IO.4

Most FIs have implemented adequate measures to comply effectively with their AML/CFT obligations, and more recently concerning internal controls for large financial groups. However, EPs, EMEs and money changers continue to face challenges in the identification and verification of the identity of clients, including in the remote establishment of business relationships for EPs and EMEs. Notaries and lawyers put in place some measures according to the risks to which they are exposed, but these are still recent and do not allow for a full assessment of their effectiveness. The lack of action by real estate agents is of particular concern given the risks to which this sector is exposed. Furthermore, the regulatory and implementation shortcomings relating to BO and PEPs create significant vulnerabilities that affect all sectors (FI and DNFBP). Lastly, although the reporting activity of the majority of sectors (except real estate agents and business service providers) has increased significantly in recent years, further efforts are needed to reduce transmission time.

France is rated as having a moderate level of effectiveness for IO4.

Chapter 6. SUPERVISION

Key findings and recommended actions

Key findings

Financial institutions

a) The strength of the fit and proper checks performed by the ACPR and the AMF during the licensing process and subsequent changes is limited by the fact that they do not cover all management positions and BO that could exercise control other than by holding capital and voting rights. The lack of prior authorisation for changes to certain positions and the limited verification of modification requests creates a vulnerability which is partially mitigated by *a posteriori* controls. However, the power of revocation which could result from it has never been used.

b) Supervisory authorities' knowledge of ML/FT risk began to formalise in 2016 with the work leading to the NRA and SRA, and materialised with their adoption in 2019 and 2020. This knowledge is updated through regular exchanges with the other competent authorities.

c) The ACPR's risk-based approach was mainly based on prudential considerations until 2018. Since the introduction of a methodology and tools for profiling FIs based on inherent risks and the results of desk-based and onsite inspections, the supervision strategy and programmes are well informed on the basis of ML/TF risks. However, the consideration of the risks of French FIs established abroad does not seem sufficiently informed.

d) The intensity and frequency of the ACPR's desk-based reviews is based on a well-informed risk-based approach. However, the frequency of onsite inspections is informed by a risk-based approach but has not enabled the coverage of all at-risk FIs over a five-year period. The intensity of the inspections does not appear to be sufficiently risk-based, which appears to create challenges in terms of the availability of the resources required to complete more inspections.

e) For the AMF, the formalisation of the ML/TF risk-based approach is more recent (October 2020). Its actual implementation began with the roll-out of the first AML/CFT questionnaires to SGPs in 2019, but for the moment, the frequency remains insufficient. For CIF, the AMF's risk-based approach is too recent to draw conclusions, and has not been adopted by the professional associations to which supervision has been partially delegated.

f) The authorities have a wide range of sanctions at their disposal. The ACPR uses requests for corrective measures, under the threat of disciplinary sanctions, in order to rapidly improve the FIs' mechanisms and applies sanctions for more structural breaches. For the AMF, supportive measures, without repressive aim, are preferred over disciplinary sanctions. The publication of sanctions,

with the names of the sanctioned entities, reinforces the dissuasive nature of the sanctions.

g) The impact of the ACPR's and the AMF's supervisory actions on the level of compliance is illustrated by substantial improvements in the areas on which they have focused their attention, such as AML/CFT procedures, the internal AML/CFT controls of international groups, and the increase in the number and quality of STRs.

h) The ACPR and the AMF are successfully promoting FIs' understanding of their AML/CFT obligations through various publication channels, including seminars and annual meetings.

Virtual asset service providers (VASPs)

i) The authorities have a clear understanding of the sector. They continue to fine-tune the registration protocol in conjunction with regulated entities. They are currently developing the risk-based approach, notably on the basis of the information received at registration. Although there have already been some inspections since December 2020, the sector is too new to fully assess the effectiveness of AML/CFT supervision.

Designated non-financial businesses and professions (DNFBPs)

j) All DNFBPs (except for DPMS) are subject to licensing procedures. In all cases, these procedures include fit and proper controls of the professionals, as well as on the BO of some DNFBPs. Probity reviews after the initial fit and proper check are not performed systematically for all DNFBPs and are sometimes limited to reports of particular events.

k) The supervisory authorities have improved their risk understanding since working on the NRA between 2016 and 2019, which resulted in the development of SRAs by all supervisory authorities. However, this level of risk understanding remains uneven and needs to be further developed. Likewise, the SRAs produced are of variable quality and some lack granularity (notaries, real estate agents, business service providers and chartered accountants).

l) The implementation of risk-based AML/CFT controls is still recent for most supervisors. For the self-regulated sectors, although the inspections are frequent, their intensity is not always in line with the risks. The number of inspections and the resources dedicated to the supervision of real estate agents remains insufficient given the importance of the sector.

m) Self-regulated legal and accounting professionals apply few sanctions and favour an educational approach. There are no financial penalties, but rather disciplinary sanctions, which are most often applied for the most serious breaches.

n) The CNS has a wide range of sanctions at its disposal. Nevertheless, it rarely chooses to lift anonymity when publishing sanctions, and the financial and disciplinary sanctions applied are not dissuasive. The calculation of the amount of the financial penalties considers more the financial impact on the professional rather than the seriousness of the breach. The time taken by supervisory authorities to forward cases to the CNS is often very long, which affects the effective implementation of sanctions.

o) The lack of consolidated statistics and the recent nature of risk-based supervision activities make it impossible to fully measure the impact of the measures in place on the compliance rate. Nevertheless, the numerous outreach activities organised by the supervisory authorities have contributed to raising awareness about AML/CFT obligations. In spite of this, the scope of these activities for certain professions needs to be extended to cover the entire sector (real estate agents and business service providers).

Recommendations

France should:

Financial institutions

a) Enhance the ACPR and AMF licensing procedures and fit and proper checks to ensure that the requirements implemented cover all management positions and that the notion of BO is clarified. The ACPR and the AMF should revise their approaches to ensure that all changes to managerial positions are verified before commencement of duty.

b) Provide for a better risk-based modulation of the intensity of the ACPR's onsite controls in order to free up the necessary resources to inspect all higher risk FIs over a shorter period of time.

c) Ensure that the ACPR requests more systematically the assessments of the foreign establishments of French FIs carried out by local authorities in order to take them into account in the assessment of the group's risk profile on a consolidated basis and take the appropriate measures depending on the risks identified.

d) Continue to formalise the AMF's risk-based approach, in particular by planning for its extension to all CIFs and ensuring that the frequency of inspections of SGPs and CIFs is commensurate with the risks. In parallel, it should enhance the risk profile rating tool to ensure efficient processing of all sources of information, including from desk-based and onsite inspections.

e) Ensure that the AMF's supervisory priorities are applied to an equal extent by the professional associations for CIFs. To this end, the AMF should, inter alia, review the plan for onsite inspections of these associations, ensure that the risk-based approach is adopted and draw up a programme for carrying out the inspection of these very associations.

f) Implement measures to reduce the time it takes between the conclusion of an onsite inspection and the decision to impose a sanction in order to make the disciplinary mechanism of the ACPR and the AMF more effective. The AMF should also review its sanctions strategy to make better use of the disciplinary tools at its disposal.

Virtual asset service providers

g) Continue efforts to develop the licensing and supervisory framework for the sector by the ACPR and the AMF and remain abreast of emerging risks.

Designated non-financial businesses and professions

h) Ensure that pre-licensing checks of non-financial professions extends to all BOs of legal persons and regularly review the fitness and probity of professionals and businesses.

i) Ensure that the DGCCRF, the CSN and the CSOEC conduct a more in-depth analysis of the specific risks within their sectors and by type of entity, and exchange information on joint areas of activity. The SCCJ should share non-confidential information on risk with the sector.

j) Formalise the risk-based supervision strategies of the DGCCRF, SCCJ and ANJ by developing a clear and precise methodology. All DNFBP supervisory authorities should ensure that the intensity and frequency of supervision is in line with the risks.

k) Allocate extra resources to the DGCCRF to carry out sufficient controls commensurate with the size and risks of the real estate and business service providers sector.

l) Ensure that lawyers implement specific measures to guarantee the independence of inspectors.

m) Simplify the procedure for referral to the CNS by the competent authorities in order to reduce the time required for the implementation of sanctions.

n) Ensure that the CNS makes more frequent use of its power of non-anonymous publication of sanctions in order to make them more dissuasive. It should also review its proportionality criteria to better take into account the seriousness of the breaches in determining the amount of the fine.

o) Ensure that self-regulatory professions make use of the full range of sanctions made available by the CMF when AML/CFT breaches are identified.

p) Ensure that DNFBP supervisory authorities have established stringent data collection mechanisms in order to obtain statistics that allow them to assess the change in the compliance rate of regulated entities, to measure the impact of the inspections carried out and to adjust their activities accordingly.

q) Ensure that the DGCCRF implements wider communication and outreach measures to reach the entire real estate and business service providers sectors.

r) Ensure AML/CFT supervision coverage for real estate agents and business service providers as well as chartered accountants in the territories where the DGCCRF and the CSOEC are not competent and confirm the role of the CSN as the supervisory authority for the notarial profession in order to centralise the various exchanges and data as well as to increase the efficiency of the supervision of notaries.

The relevant Immediate Outcome for this chapter is IO.3. The relevant recommendations for the assessment of effectiveness under this section are R.14 15.26- 28, 34- 35 and some elements of R.1 and 40.

Immediate Outcome 3 (Supervision)

467. The assessment team weighted the implementation of preventive measures more heavily for ECs, EPs and notaries, relatively heavily for real estate agents, money changers, EMEs, lawyers and VASPs, moderately for business service providers, casinos, the insurance sector, investment firms, CIFs, SGPs, chartered accountants and statutory auditors, and less important for DPMS, IFP, CIP, SF, IOBPS, and other DNFBPs. The details of the weighting of each sector can be found in Chapter 1.

Licensing, registration and controls preventing criminals and associates from entering the market

Financial institutions

468. All FIs, in Metropolitan France as well as those in OM, must receive authorisation from the ACPR (or ECB), the AMF or the ORIAS before they start their operations. The ACPR and the AMF apply generally rigorous and efficient processes to requests for authorisation and have several tools to verify the information submitted. However, the authorisation framework does not cover all management positions and BOs, and the ACPR doesn't verify all changes in management or shareholding with the same thoroughness.

Autorité de Contrôle Prudentiel et de Résolution (ACPR)

469. The ACPR's Authorisation Department (65 people) is responsible for processing authorisation applications. For EC, the ACPR submits its opinion to the ECB, which then issues the licence. FIs entitled to the European passport who wish to establish a presence in France or provide services must apply to their own supervisory authority, which in turn informs the ACPR. As provided for by the principles of freedom of establishment or freedom to provide services in the EU/EEA, the ACPR relies on the fitness and propriety verification of foreign authorities. It exchanges information with these authorities, but has never objected to the establishment of an FI from the EU/EEA.

470. The fitness and propriety procedures do not cover all management positions or BOs that could exercise control over the FI (see C.26.3). For example, fit and proper checks for EP and EME are limited to "designated effective managers", a term which is not clearly defined by law, and varies according to the type of legal structure. This term does not seem to cover all the senior management positions and excludes members of the Board of Directors and top-ranking managers. For BO, the definition refers to direct or indirect shareholding above a certain threshold which varies between 10% and 25% of capital or voting rights and to "notable influence" linked to a capital holding transaction, but does not include control by means other than direct or indirect shareholding or voting rights. Although in practice, the ACPR has indicated that it goes beyond the legislative requirements, the variable scope of controls remains imprecise.

471. Ongoing monitoring of the fitness and propriety of directors and shareholders is based on the obligation for FIs to report any changes. The ACPR does not conduct an ongoing independent review of the fitness and propriety of directors or shareholders. Moreover, prior authorisation from the ACPR is not always required, and this may affect the effectiveness of the mechanisms in place. For example, as regards EC, SF, and investment firms, in the event of a change of persons with key functions including managers, members of the board of directors or supervisory board, covered entities are required to notify the ACPR within 15 working days following the appointment. After that, the ACPR has two months (one month for investment firms) to object.

472. Given the large number of requests it receives, the ACPR is not able to verify all changes in management or shareholding with the same thoroughness. It has recently set up an informal risk-based approach to further analyse higher-risk cases. Passed the legally prescribed period of investigation, which varies according to the nature of the request, the application is deemed as approved by the ACPR. Nevertheless, the ACPR has the necessary powers to withdraw the authorisation or require the removal of certain categories of managers when they no longer meet the conditions of fitness and propriety. However, it has never used these powers.[86]

473. The fitness and propriety verification procedure appears to be robust but has led to few rejections. The ACPR not only checks the criminal record directly with the Ministry of Justice and/or foreign authorities, but also consults other public or private[87] databases and verifies the origin of funds. The ACPR processes around 5,000 fitness and propriety files each year. Between 2017 and 2020, there were 83 withdrawals of applications. In several cases, the application was withdrawn after an interview with the applicant who was informed that the ACPR was likely to reject the application. Given the average number of cases handled by the ACPR each year, the number of refusals or withdrawals of applications between 2017 and 2020 (86 in total) appears low.

86 It however initiated a case in July 2021.

87. For example, the ACPR checks information relating to the revocation of authorisation, on-site inspection reports, lists of PEPs, commercial databases, the FNIG and the EBA's central database on administrative sanctions.

Table 6.1. Number of applications for authorisation and changes in management and ownership received, processed and rejected by the ACPR between 2017 and 2020

	Types of application	Applications received	Applications processed	Applications rejected	Applications withdrawn[88]
Banking sector (EC, SF, investment firms)	Authorisation	87	84	0	3
	Change	165	165	0	5
EP and agents of EP	Authorisation	8 738	8 403	2	55
	Change	59	44	0	2
EME	Authorisation	41	16	1	10
	Change	16	16	0	0
Money changers	Authorisation	58	47	0	7
	Change	40	35	0	1
Insurers[89]	Authorisation	86	86	0	0
	Change	63	63	0	0
Total		9 353	8 959	3	83

Autorité des Marchés Financiers (AMF)

474. For SGPs, the AMF has a procedure for checking the status of qualified shareholders[90] and the fitness and propriety of the two persons considered to be the "effective managers". It performs due diligence at the time of authorisation and prior to any changes. However, the concept of "effective manager" does not cover all senior management positions (see R.26), which limits the measures taken to prevent criminals and their associates from occupying these positions. However, for senior management positions, the AMF requires prompt notification of appointments to key functions in the asset management sector, the head of compliance,[91] the head of management or all financial managers when there are fewer than five, and the risk controller.[92] Furthermore, the fit and proper test does not apply to BO as defined by the FATF standards, and therefore does not consider means of control other than those relating to shareholding and voting rights. Furthermore, aside from the reporting obligation of FIs, the AMF does not have any measures in place to monitor the fitness and propriety of managers on an ongoing basis.

88 Applications withdrawn before a decision was taken by the ACPR.
89 Except insurance brokers
90 "Qualified" interests are those that correspond to a minimum threshold of 10%.
91 www.amf-france.org/sites/default/files/private/2020-11/20180626-examen-pour-l-attribution-des-cartes-professionnelles-de-responsable-de-la-conformite-et-du-controle-interne-rcci-et-de-responsable-de-la-conformite-pour-les-services-d-in.pdf
92 Instruction AMF DOC 2008-03 p. 8.

475. When examining an executive's fitness and propriety, in addition to consulting the criminal record, the AMF may analyse any kind of information that could call into question the person's good repute, in particular by consulting information held internally on controls and sanctions and by contacting the competent foreign authorities. The examination of an authorisation application, carried out by a team of 18 agents, can take up to 190 days, particularly because applications may be incomplete. This time frame appears relatively long. Between 2015 and 2019, the AMF rejected 22% of authorisation requests for SGPs (i.e. an annual average of 11 out of 44 applications received) some of which related to doubts about the fitness of the applicants.

ORIAS and professional organisations

476. ORIAS is responsible for checking the fitness and propriety of persons and for registering CIF, CIP, IFP, IOBSP and insurance intermediaries. In the case of legal persons, these tests only apply to managers and no due diligence is required for members of decision-making bodies and BO. Tests are mainly conducted by making background checks of the criminal records or the equivalent in their country of origin at the time of registration. In 2018, as part of its controls, ORIAS took 26 decisions not to register and 19 decisions to withdraw applications because they failed to meet the fitness and propriety requirement.[93] In comparison, in 2017, ORIAS took 41 decisions not to register and 29 decisions to remove a category because they failed the fitness and propriety requirements.

Virtual asset service providers (VASPs)

477. In May 2019, France made some VASPs subject to licencing and registration requirements while providing them with a transition period of 18 months. In December 2020, this measure was extended to make all categories of VASPs that are established or offer services in France subject to mandatory authorisation. The transition period expired in June 2021. In 2020, seven VASPs were registered and in 2021, there were 12 more, with 32 applications pending. One registration file was voluntarily withdrawn after the AMF discovered that its manager had served a prison sentence.

478. The AMF, with the support of the ACPR, is responsible for checking the fitness and propriety of the "effective managers" and shareholders of VASPs at the time of authorisation or following a change of status. The same limitations on the definition of "effective managers" outlined for FIs apply to VASPs. In the case of BO, no provisions have been made for measures aimed at persons exercising control other than through their share of capital and voting rights. The verification measures are the same as those for FIs.

93 These data are aimed at CIF, CIP, IFP and IOBSP. France was unable to provide more recent data or data by category of professionals.

DNFBPs

479. All DNFBPs are subject to entry procedures in the form of licensing, authorisation to operate, or certification, with the exception of DPMS whose entry requirements are limited to declaration to the customs authorities. With the exception of DPMS, these procedures include a fit and proper test of professionals. This includes at least a criminal record check for all DNFBP professions. Regulated professions in the legal and accounting fields often include a more extensive check, adding to the criminal record check a character check which sometimes requires a character interview/investigation (accountants and notaries) or sometimes letters of recommendation from peers (lawyers). With regard to real estate agents and business service providers, chambers of commerce and the prefectures are responsible for granting a professional card or a certificate of authorisation at local level for real estate representatives. They are also in charge of checking the documentation provided, but do not have consolidated lists that can be used to monitor the number of applications received, processed and rejected. Therefore, the assessment team was not provided with any data on authorisations granted or refused, which makes it impossible to ascertain the extent to which applications are processed or whether the fit and proper tests detect irregularities leading to the rejection or revocation of authorisations for estate agents and company service providers. Casinos are also subject to a higher level of control, where managers are subject to a character investigation by the SCCJ.

480. The occurrence and intensity of controls on BOs for legal persons varies from one DNFBP to the other. A majority of the legal and accounting professionals require that the managers, legal representatives and partners holding the majority of the company's shares or voting rights be qualified members of the profession (accountants, statutory auditors, lawyers). In such cases, the fit and proper tests do not extend to the unqualified BOs of these legal persons. For chartered accountants, a legislative reform in 2020 requires that public accounting firms cannot be registered on the roll of the Order if one of its directors or BOs has been sentenced to a criminal or correctional penalty.

481. Aside from real estate agents, fitness and propriety checks are carried out after the initial check only in the event of specific events and information brought to the attention of the supervisory authority. The criminal record of real estate agents is reviewed every three years. For casinos, the renewal of the operating licence is renewed every five years after a technical audit. However, it does not include a fitness and propriety audit of BOs and managers, unless there is evidence to support the review of this information.

Illegal practice of regulated professions

Financial institutions and VASPs

482. Illegal practice of regulated professions is monitored jointly by some 10 AMF and ACPR agents in their respective areas of competence and covers both illegal practice without fraudulent intent and practice with fraudulent intent. The AMF and the ACPR use a number of tools, some based on artificial intelligence, to detect illegal activities proactively.[94] In 2019 and 2020, they processed 82 and 124 reports based on these tools. Reports are also received by investors, who are often the victims of fraud. The AMF received nearly 6,000 reports in 2020 (41% more than in 2019). The ACPR placed 1,081 sites or URLs on its "blacklist" in 2020, based on the 6,500 reports received. TRACFIN, Banque de France and the investigative authorities, as part of their specific missions, also contributed to the identification of illegal activities.

Table 6.2. Source of reports processed by the AMF and ACPR

	2019	2020
Investors	328	585
Reported internally by the AMF/ACPR	12	149
Professionals from the sector	7	75
Detection tools	24	632
Other (publicity monitoring, regulators, professional associations)	82	124

483. The AMF and the ACPR forward websites or entities added to the public blacklists to the public prosecutor's office[95] in order to have them blocked by the courts. Since 2014, the AMF has succeeded in blocking 145 sites (of which approximately 40% in 2019-2020) and in closing 274 internet addresses. Information forwarded by the ACPR is also substantial and on the rise (200 in 2019, 745 in 2020). The two supervisory authorities coordinate their actions with the law enforcement authorities, in particular through a national anti-scam task force, set up in 2020 and grouping together 11 government departments, and an AMF-ACPR working group on scam prevention. The exact impact of these still relatively recent initiatives has yet to be measured.

484. Between 2014 and 2018 there were 346 criminal convictions for illegal practice of a regulated profession, of which 40% were sentenced to prison terms and 55% were fined an average of EUR 154,000. 86% of the cases related to the illegal practice of banking, while 5% of cases involved the provision of investment services.

94 FISH (detection of suspicious sites) implemented in December 2019 and generating about ten alerts per year; SPADE (relevance analysis of spams reported to the AMF) implemented in 2019 and generating about ten alerts per year; WETREND (trend detection) in 2020 is still under development

95 As at 31 December 2020, these lists contained over 2,400 entries, and there was an additional 580 entries by mid-2021.

DNFBPs

485. Not all DNFBP supervisory authorities have put in place concrete measures to detect cases of illegal activity. Some authorities have set up procedures for fighting against illegal offers, for example the ANJ (between 2015 and 2020: 347 blocking orders and 1068 URLs targeted)[96] and the SCCJ (between 2015 and 2020: 38 procedures against gaming houses and slot machines). The DGCCRF has not taken any specific action to combat the illegal practice of real estate agents and business service providers. It merely verifies the validity of the authorisations granted during inspections or on the basis of complaints or during checks on other regulated professions related to the real estate sector, which, in light of France's risk profile, is insufficient.

486. Some legal and accounting professionals have put in place controls to detect the illegal practice of the profession, which go further than awareness campaigns. Each regional council of accountants has a committee responsible for detecting the illegal practice of the profession and a dedicated website to which reports can be sent. For lawyers, some bar associations have put in place local initiatives to combat illegal practices, but the absence of centralised data prevents a comprehensive overview of illegal practice. A specific committee has been created within the CNB to facilitate these efforts. There do not seem to be any specific initiatives for Court-appointed receivers and trustees. With regard to notaries, Court-appointed receivers and trustees, given the specific nature of their profession, the risk of illegal exercise of the activity is almost non-existent.

Supervisors' understanding and identification of ML/TF risks

Autorité de Contrôle Prudentiel et de Résolution (ACPR)

487. The ACPR, which handles the bulk of FI supervision, has in-depth knowledge of the risks to which the financial sector is exposed. This knowledge was put to good use during the drafting of the NRA. After publishing the NRA, the ACPR published an SRA in December 2019 that provided more granularity regarding the risks to which the financial sector is more specifically exposed. The SRA ensures consistency with the NRA and demonstrates the level of the ACPR's risk awareness. The ACPR keeps its knowledge of risks up to date in several ways, in particular through its TRACFIN liaison officer, annual reports as well as TRACFIN's memos on the individual reporting behaviour of FIs. The various initiatives to promote dialogue with the private sector also contribute to this knowledge of risks. During the COVID sanitary crisis, the ACPR's proactivity was seen in the rapid notification of emerging risks, such as social fraud, to covered entities and the general public.

96 These efforts are targeted at online poker games as well as other types of games and bets that go beyond the FATF definition of a casino.

488. To fine-tune its knowledge of the risks to which FIs are individually exposed, in 2000, the ACPR introduced the ML/TF questionnaire (QLB) which underwent a complete overhaul in 2017 and is completed annually by most FIs. Up until 2018, the ACPR used the ORAP methodology to develop individual risk profiles for each FI. AML/CFT was one of the 13 criteria considered in the rating which was primarily prudential. This rating was based on the analysis of the responses to the QLB and other information available such as control reports; however, it was not based on a formalised analysis grid. The fact that ORAP did not consider inherent risks and did not have an SRA to inform the QLB analysis did not enable the creation of sufficiently developed ML/TF risk profiles. The introduction of SABRE addressed these deficiencies by introducing a much finer-grained inherent risk analysis grid to process the information contained in an enhanced version of the QLB coupled with other available information such as internal control reports.[97] The ACPR regularly calibrates this tool to take account of changes in its risk assessment as well as information from TRACFIN and COLB.

Autorité des Marchés Financiers (AMF)

489. The AMF seems to have a good level of understanding of the sectoral ML/TF risks as shown with the publication of an initial SRA in 2019. It participates regularly in various projects at national and European level to analyse the risks of activities under its supervision. The AMF also has regular informal discussions on risk trends and individual cases with its TRACFIN correspondent. It strives to maintain this understanding up to date.

490. It has only recently structured its efforts to identify the individual risks of each FI under its supervision. Prior to 2019, the information collected during the examination of authorisation applications and the analysis of annual reports was not consolidated in a structured manner. In July 2019, the AMF developed its first ML/TF questionnaire (QLB) to collect information that could be used to determine the individual risk profile of FIs. While the 2019 campaign only covered SGPs,[98] the 2020 campaign was extended to 40 CIF (40% of the sector's turnover) out of a total of 5,150.[99] With the results of these two campaigns, the AMF was able to refine its understanding of risks and structure its approach to determining individual risk profiles. However, it does not have a dedicated IT solution that integrates all the functionalities inherent to continuous risk profile rating. It is, however currently working to further develop the existing tools. It should also be noted that in October 2020, the AMF formalised its supervisory policy based on the level of ML/TF risk, thus making up for the lack of a formal framework.

97 The risk factors considered include transactions, services, products, nature of the customer base, distribution channels and geographical exposure. Rating floors are also established according to the type of FI to ensure that important inherent risks are not diluted in the overall rating.

98 505 SGPs rated out of the 648 that received the QLB, i.e. a 77.9% response rate

99 620 SGPs rated out of the 675 that received the QLB, i.e. a 99.6 % response rate

491. The risk understanding of the professional associations of CIFs to which AML/CFT supervision has been partially delegated is rudimentary and not at a level at least equivalent to that of the AMF. This inadequacy is marked by the restrictive nature of the information collected by associations from their members, and which consists only of a list of general information about the characteristics of the CIF's activity and its set-up. Furthermore, professional associations do not have a risk mapping of the entities under their control that could be used to enhance the understanding of risks.

DNFBP supervisory authorities

492. DNFBP supervisors have only recently understood ML/TF risks and few supervisors had done any analytical work to identify ML/TF risks before the publication of the NRA in 2019. All the supervisory authorities took part in the preparation of NRA and later drew up an SRA. However, the level of understanding of risks is not uniform: this is reflected in particular in the inconsistent quality of SRAs.

493. Generally, aside from lawyers, most SRAs lack granularity and the content of analyses needs to be further developed. These SRAs are based on information from the NRA, as well as other information obtained from TRACFIN reports and in some cases from supervisory data and feedback from professionals. The SRAs of the CSN and the DGCCRF (real estate and business service providers) are not sufficiently developed to represent a concrete analysis of risk factors that would demonstrate a sufficient understanding of the risks by the supervisory authorities. The SRA for the real estate agents is inconsistent with the national analyses and the SRA for the CSN in some respects. In particular, the SRA does not identify the specific risks of OM, although some overseas regions are considered to represent high risks. Furthermore, there are no bilateral exchanges between the real estate sector and the notary profession on the many risks common to both professions. In contrast, the SRAs developed by the CNB, CSOEC, SCCJ and ANJ give sufficient detail of the specific risk factors although some of them could be further developed.

494. Some authorities have set up mechanisms to maintain an ongoing understanding of risks, not only with their participation in COLB discussions, but through regular exchanges with TRACFIN, the professional sector or by setting up thematic working groups on certain emerging risks (e.g. the use of virtual assets within the accounting profession). Updates of the SRAs seem to correspond with the NRA update, but have not yet been formalised.

495. The DGCCRF, CSOEC and CSN have no jurisdiction in some overseas territories (in particular in French Polynesia and New Caledonia), and it is the local authorities, orders and chambers that are responsible for regulating these professions. With specific regard to chartered accountants, the local Order in charge of regulating the profession in French Polynesia was created after the publication of a decree on 10 June 2020. Partnership agreements were concluded between the CSN and the local chambers in 2000 (Polynesia) and 2018 (New Caledonia) in order to facilitate the exchange of information, which to a certain extent allows for the sharing of risk information. However, since there is to date no similar agreement between the DGCCRF, the CSOEC and local/local authorities/orders, these regions cannot be included in the SRAs and therefore no conclusion can be drawn on the risk understanding of these authorities in these regions.

Risk-based supervision of compliance with AML/CFT requirements

ACPR

496. The ACPR's supervisory strategy is based on a risk-based approach (RBA), which has recently been allocated dedicated resources. Prior to 2018, the AML/CFT supervision strategy was not based on formalised knowledge of the sectoral and individual risks of FIs. The RBA has been significantly improved, in particular with the introduction of the SABRE tool. The RBA is based on annual control priorities, validated by the ACPR Board, which take into account the risk profile of each institution, results of thematic reviews and the risks presented by the various sectors in relation to the threats to which France is exposed. The creation of a new directorate at the ACPR dedicated to AML/CFT supervision at the beginning of 2021 reflects the prioritisation of AML/CFT in the ACPR's strategy. This team is also backed by AML/CFT staff in other directorates, notably the on-site inspection and legal affairs directorates.[100]

497. Since 2018, supervisory programmes have been determined on the basis of a specific AML/CFT methodology. Prior to 2018, they were based on a prudential risk assessment, comprising 13 criteria, one of which considered AML/CFT on the basis of the ORAP profile and considered the annual supervisory priorities as well as information provided by TRACFIN. With SABRE, the risk rating assigned to each IF is fine-tuned and associated with an inspection frequency specific to AML/CFT that improves the information used in annual supervisory programmes shaped by a specific AML/CFT risk-based approach.

498. The SABRE methodology and tool constitute an efficient mecanism for both defining inherent risks to each IF and providing a framework for desk-based controls. Once the inherent risk profile has been determined, the QLB is automatically used to assign an AML/CFT assessment score based on several criteria. Except for FIs under “light” supervision, the answers to the QLB are reviewed and adjusted each year by an inspector who can confer with the FI if necessary. Subsequently, this rating is calibrated on the basis of the inspector's assessment of the information stemming from "permanent control" and "periodic control", i.e. the FI's internal compliance reports, close supervision interview reports, information from TRACFIN, on-site inspection reports and the ensuing follow-up.

499. The ratings generated by SABRE determine the overall risk level and appear to be in line with the findings of the NRA/SRA. The inherent risk ratings and the AML/CFT system rating are correlated to give a rating from 1 to 4 representing the overall risk level.[101] For ECs, SFs and insurance companies, this rating is standardised in relation to the size of the balance sheet to ensure that special attention is paid to large FIs. The distribution of the ratings is consistent with the results of the NRAs/SRAs. For example, money changers, EPs and EMEs have the highest proportion of entities at the "reinforced" and "intensive" levels. The percentage of money changers rated "reinforced" or "intensive" rose from 40% to 61% between 2018 and 2019, which seems to represent an increase in line with the risk level.

100 The AML/CGT inspection has the equivalent of 47.6 full time agents out of more than 90 dedicated to AML/CFT across the ACPR.

101 The ratings are translated as follows: 1- Reduced; 2- Standard; 3- Reinforced; 4- Intensive.

500. The overall risk level for each FI enables to adapt the frequency and intensity of desk-based controls in accordance with the risks. As a result, a “light” rating involves an automatic review of the QLB by SABRE every year and an update based on all available documents every two years. For the other levels, the risk profile is updated every year with one additional supervision action for the “reinforced” level and two actions for the “intensive” level. These supplementary supervision actions involve additional desk-based inspection measures (e.g. a close supervision interview[102], an on-site visits[103]), or an on-site inspection. According to Table 6.3, the use of close supervision interviews seems to cover a broad spectrum of FIs. By way of comparison, the ACPR conducted 336 close supervision interviews in 2019, while it had identified 257 FIs with a "reinforced" or "intensive" rating.

Table 6.3. Overview of additional desk-based supervisory actions for the banking and insurance sector between 2016 and 2020

	2016	2017	2018	2019	2020	Total
Close supervision interviews	280	272	291	336	222	1 401
On-site visits	6	2	4	5	6	23

501. The on-site inspection programme is developped according to the overall risk rating and control priorities. However, it is not all FIs rated at the "reinforced" or "intensive" level, that have to undergo an on-site inspection. When establishing the annual programme, each institution is considered and the rationale for including it in or excluding it from the programme is documented. Inclusion or exclusion also takes account of information from TRACFIN, the possibility to conduct an on-site visit to check a specific area of risk and other available information. Between 2016 and 2020, the ACPR conducted 164 on-site inspections covering 522 entities in the banking and insurance sector, i.e. between 29 and 39 inspections per year. The table below shows that the conduct of on-site inspections is clearly correlated with the supervision intensity rating associated with SABRE. However, although a majority of FIs at the "reinforced" and "intensive" levels have undergone an on-site inspection in the last five years (EC: 54%, EP: 60%, EME: 62%), a significant number of high-risk FIs have not been inspected over this period. This is particularly the case for money changers, for which the coverage rate for high-risk entities is 20%. This partial coverage of at-risk FIs can only be considered to be partially offset by the on-site visits or close supervision interviews.

102 Close supervision interviews are in-depth interviews with supervised institution, either on topics specific to the financial institution met with or on topics related to supervision priorities (e.g. in the context of thematic reviews).

103 On-site visits are on-site interventions that are much shorter than on-site inspections, lasting from a few days to a week. They cover a targeted perimeter and the observations made are followed up

Table 6.4. Breakdown of on-site inspections between 2015 and 2020 based on the overall ratings assigned in 2018

Overall rating	% of entities inspected
Light	2%
Standard	10%
Reinforced	31%
Intensive	85%

502. On-site inspections are very thorough. Most of them are dedicated exclusively to AML/CFT. They cover the entire AML/CFT system with a particular focus on activities that are riskier or of concern. An inspection mobilises an average of 350 staff-days, i.e. four people for more than four months, with an average of more staff-days dedicated to high-risk entities such as EME and EP. The inspectors organise a meeting with TRACFIN prior to the inspections to discuss the FI's reporting practices. Using expert IT tools, they select a sample of high-risk cases and test the due diligence tools. The team can be joined by IT experts. However, despite general references in the control manual to intensity modulation, it appears that this approach is not formalised, and the staff days do not appear to be maximised in such a way as to enable the deployment of more on-site inspections to cover all the high-risk FIs within a more reasonable period.

Financial groups

503. For financial groups, the SABRE rating of a parent company covers in principle all the entities of the group, with certain reservations. The SABRE rating is not algorithmically differentiated for the parent company and for the subsidiaries/branches. This is a consolidated rating, established qualitatively on the basis of expert opinion by ACPR supervisors, based on the materiality of the parent company and its subsidiaries, and their activities. Consequently, for foreign branches and subsidiaries not under the direct jurisdiction of the ACPR, this assessment is based mainly on information consolidated by the parent company (in particular the annual internal control report) and, in some cases, on information collected from the competent local authorities. For group parent companies that are not individually subject to AML/CFT regulation, the ACPR draws up a summary sheet using the same methodology, but it is not subject to an individualised SABRE rating.

504. There are about 1,500 foreign establishments of French FIs in 84 countries. These branches or subsidiaries[104] of French entities, 64% of which are in EEA countries, were subject to 35 extensions of supervision between 2015 and 2020 in 18 countries, one third of which were in countries outside the Europe. These inspections take account of the total balance sheet of subsidiaries (at least 65%) and the ease of communication with foreign supervisors. It is also based on the supervisory priorities defined at the beginning of each year. For example, since 2016, following the "Panama Papers" cases, the ACPR has made the supervision of banking and asset management activities one of its priorities. Over the last five years, 38% of all extensions of supervision in EC have concerned FIs located in Switzerland and Luxembourg. The match between on-site inspections abroad and the risks does not seem to be fully aligned and risk areas outside the EU/EEA are not fully covered by externalisations. The creation of AML/CFT colleges at the end of 2019 could nevertheless be a useful source of information to better inform the ML/TF ratings of groups and the ACPR's supervisory measures.

Overseas France

505. The ACPR's RBA for OM is based on the same methodology as for FIs in metropolitan France (QLB, annual internal control report, annual information form and SABRE rating). There are few entities in OM, and each category of FI represents between 2 and 10% of the total in France. The ACPR considers that OM does not present any specific risks. Most entities are in "reduced" or "standard" supervision levels except for 93% of money changers and 24% of EC. Between 2016 and 2020, the ACPR conducted 34 on-site inspections of FIs located in OM, the majority of which involved intermediaries (50%) and money changers (36%). These are the FIs with the largest presence in OM, with banks (11%) and insurers (3%) accounting for the rest. Small FIs are inspected by a seconded staff member while the larger FIs are inspected by the on-site inspection delegation.

FIs and VASPs not included in the SABRE methodology

506. Insurance brokers, VASPs and intermediaries are currently not rated in the SABRE tool. However, the ACPR applies an RBA to these covered entities. For example, given the high residual risk rating of IFPs in the SRA, in 2019 the ACPR sent them all questionnaires, and consequently conducted several on-site inspections in the sector. The ACPR has also worked in close collaboration with the AMF, as well as stakeholders in the virtual asset sector, and conducted two on-site inspections, whose findings were satisfactory. However, the absence of a risk rating monitoring tool for these populations raises concerns. The upcoming review of the SRA seems to be an ideal opportunity to re-examine the current strategy in this respect.

Thematic review

507. In addition to assessing the risks presented by individual FIs, the ACPR also performs thematic reviews to assess the specific risks related to a particular sector of activity. These thematic reviews, which are determined on the basis of the annual supervisory priorities set by the ACPR's Board, enable the ACPR to make a more comprehensive assessment of risks. For example, between 2016 and 2019, the ACPR conducted 13 on-site inspections of money transfer services providers and

104. The subsidiaries have a total balance sheet of about EUR 2,700 billion.

published a report identifying the compliance challenges facing the industry in 2019. The ACPR has conducted other important thematic reviews over the past five years on correspondent banking, the consolidated management of the AML/CFT system of banking and insurance groups, and the freezing of assets, which has helped to shape its strategy.

AMF

508. The roll-out of risk-based supervision, established as a priority since 2018, has been formalised in October 2020. This has led to the development of an initial QLB to determine the risk profile of SGP. Inspection plans can be adjusted notably in the event of an alert. For example, in June 2021, the AMF launched an inspection following an alert (which reached the AMF through various channels) about a fraud involving several tens of millions of Euro on a fund.

509. The intensity of on-site inspections of SGPs appears to be proportionate to the moderate level of risk that these FIs present. However, their frequency does not ensure optimal coverage of all AML/CFT issues. Since 2016, the AMF has carried out 44 inspections with an AML/CFT component (SPOT and traditional), representing an average of 38% of its total inspections, i.e. an average of seven inspections per year for an average coverage of 1.1% of the total number of SGPs over this period. These inspections are supplemented by the analysis of the annual disclosure sheets and Annual internal control reports. The AMF conducted on-site inspections on seven of the 12 SGPs with a high risk profile at the end of the 2020 campaign. With respect to the duration of inspections, they appear to be relatively long, averaging four and six months respectively for the targeted inspections known as "SPOT" and “traditional” inspections involving a team of two people on average. The AMF did not provide evidence of inspections of subsidiaries and branches abroad. Nevertheless, the scope of those that fall within the AMF's exclusive jurisdiction is very limited. Conversely, the AMF took part in eight AML/CFT supervisor colleges for a total of 65 SGPs.

510. In the case of CIFs, there is no RBA in place and there are insufficient controls by the AMF and by the professional associations to which supervisory powers over CIFs have been delegated. The AMF has not developed a QLB for this sector. If each year, some 800 CIFs are inspected, the number of inspections carried out directly by the AMF remains relatively low (37 between 2017 and 2019) given the moderate level of risk of this category. When CIF inspections are made indirectly by professional associations, they are triggered based on when the previous inspection was conducted. The professional associations do not have to receive a formal prior approval for their CIF supervision programme from the AMF. The professional association do not have risk profile assessment tool and rely on the AMF's methodological grid. The last AMF inspections of CIF professional associations were conducted in 2013 and the most recent ones, which began in March 2021, are ongoing.

DNFBPs

511. The implementation of risk-based AML/CFT controls is still at a recent stage for most DNFBPs. Generally, the weaknesses observed with respect to risk understanding, as well as the lack of granularity in some SRAs, have an impact on the level of sophistication of the RBA when implementing controls.

512. More specifically, the DGCCRF supervision plan for real estate agents and business service providers is not sufficiently informed by AML/CFT risks and the intensity and frequency of controls remain largely insufficient. Until 2019, the RBA was not formalised. However, the DGCCRF has taken into account information obtained from TRACFIN and previous inspections for the targeting of professionals. The duration of on-site inspections depends on the size of the company but generally lasts for one day, without prior review or a desk-based inspection of files.

513. In 2020, the DGCCRF established a new RBA whose effectiveness has yet to be proven. On the basis of a questionnaire sent to a sample of professionals, it carries out a screening according to risk criteria, in order to determine the most at-risk professionals that should be inspected as a priority. Based on the responses obtained, it selects at least one third of the firms with the highest risk for on-site inspections.

514. In practice, the number of inspections conducted seems far too small to be considered an effective RBA. For real estate agents, the inspections were carried out every other year until 2019. However, the new risk-based inspection plan introduced in 2020 will allow for an annual inspection of regulated entities. The DGCCRF does not have sufficient resources to ensure adequate supervisory coverage. In addition, the intensity of controls does not seem to be commensurate with the high risks posed by the real estate and business service providers sectors.

Table 6.5. Number of real estate agents and business service providers that have been subject to on-site inspections (2016-2020)

	2016	2017	2018	2019	2020	Total population	Total number of inspections[105]
Real estate agents	162	0	203	0	275	42 040	654
Business service providers	31	41	43	49	75	3 000	239

105 A professional may have been inspected more than once.

515. The targeting and frequency of inspections of legal and accounting professionals is generally not risk-based and the content of the inspections may lack intensity. Aside from accountants[106] and lawyers, not all of these professions have specific AML/CFT inspections. The inspections sometimes included in the regular general inspections already performed within the profession may appear superficial in their intensity.[107] The targeting strategy for inspections is not always harmonised at the national level and is not risk-based. In this way, notaries are audited every year by pair-notary inspectors from another department and by accounting inspectors. These inspections cover all financial transactions carried out in the notary's practice and all include an AML/CFT component. Out of a sample of 2,928 inspection reports issued in 2020, there were 980 reports, or 33%, that contained at least one AML/CFT observation. For lawyers, the extention of the AML/CFT regime to CARPAs introduced in February 2020, has enabled the implementation of AML/CFT inspections at least every five years by the CARPA supervision committee.

516. The procedures for implementing controls on legal and accounting professionales are harmonised at national level through standard-setting or at the level of the central coordinating authorities in order to cover all aspects of AML/CFT regulation. With regard to the conduct of inspections, the professions seem to follow the same supervision plan for all inspections without taking into account the individual risks to which the professional is exposed. However, some professions report that they consider the risks of the SRA when deciding which customer files to monitor. The content of these supervision plans does not always make it possible to control all aspects of the AML/CFT regulations.

517. The supervisors in charge of carrying out these inspections are professionals from the profession. They are usually required to have AML/CFT training in order to carry out their inspection. However, this training is not always specific to AML/CFT inspection. Some professions have implemented specific measures to ensure the independence of supervisors. Conversely, supervisors of lawyers are peers from the same bar association, which could affect the impartiality of the process and does not represent good practice.

518. For casinos, the risks are considered when drawing up supervision plans and the AML/CFT inspection schedule is prepared by targeting based on various sources of information,[108] including the AML/CFT annual report that all casinos are required to submit since 2019. However, this targeting is not formalised in writing but takes place during a dedicated meeting within the department. "Full" AML/CFT inspections are carried out on site and last for three days. The intensity of these inspections does not vary with the risk profile. Since 2015, the SCCJ has carried out 26 "full" inspections (including seven in OM) which is insufficient for the size of the sector. The SCCJ also conducts specific inspections on certain points of the AML/CFT regulations and on the monitoring of the exchange rate register and the use of slot machines (82 in 2019 and 68 in 2020).[109]

106 Under their new AML/CFT inspection introduced at the end of 2020, chartered accountants, are now developing a three-year inspection programme which includes risk-based targeting within the sector (except for the first cycle which is 4 years)

107 The CSOEC confirmed the principle of a specific AML/CFT control in the Order of 25 November 2020. Its implementation is still ongoing.

108 For example, feedback from regional correspondents, previous inspections, the size and activity of establishments and other factors such as geographical exposure and ownership structure.

109 This drop in the number of inspections is mainly due to the COVID crisis.

519. The ANJ has a supervision plan in place to define supervisory priorities, although it does not seem to be formalised. In 2020, online poker operators were prioritised due to their high vulnerability, as identified in the SRA. Targeted thematic checks were carried out in 2016 and 2017, focusing on the location of player accounts and the effectiveness of the identification and verification system. The ANJ conducts between 2 and 4 inspections per year, which seems adequate for the total number of online gaming operators (15 in total). Additionally, the ANJ has a tool for analysing players' behaviour that enables it to identify any act committed by a player that could be related to ML/TF and to assess the implementation of tools for detecting atypical cases by operators as well as compliance with their obligation (reporting to the FIU and to the Minister in charge of the economy).

520. For DPMS, the sector is outside the scope of the FATF methodology since they cannot carry out cash transactions aboved the set threshold. However, the DGDDI (since 2020) and the DGCCRF exercise control over this sector, including to ensure that the thresholds on cash transactions are respected.

521. The DGCCRF, CSOEC and CSN have no jurisdiction in some TOM (in particular French Polynesia and New Caledonia). However, two partnership agreements were signed on 6 June 2000 (French Polynesia) and 28 May 2018 (New Caledonia) between the CSN and the chambers of notaries of these territories under which the CSN will provide human (inspectors) and material resources for inspections. In French Polynesia, five notary offices were inspected in 2017, and seven in 2019. In New Caledonia, five offices were inspected in 2019. The inspection reports by the inspectors provided by the CSN show insufficient compliance with AML/CFT regulations in these territories.

522. No agreement has been concluded with the DGCCRF concerning real estate agents and business service providers, and to date no AML/CFT controls have been carried out in these two territories. In the specific case of chartered accountants, the local Order in charge of regulating the profession in French Polynesia was created after the publication of a decree on 10 June 2020 and has not yet conducted AML/CFT controls. The New Caledonia Order of Chartered Accountants has never conducted AML/CFT controls.

Remedial actions and effective, proportionate and dissuasive sanctions

ACPR

523. Regardless of the outcome of an inspection, the ACPR ensures that the covered entity implements corrective measures and monitors the implementation of remediation plans. Letters of formal notice create obligations for those to whom they are sent and make it possible to put an end to a situation of non-compliance within a short timeframe. Each request for corrective action is entered into a software and is only closed after the documents supporting the corrective action are received. Follow-ups of inspections involving serious breaches of AML/CFT obligations may result in a request by the ACPR for an independent report from the FI's internal audit department certifying that the corrective actions requested have been implemented. In some cases, the ACPR may verify the effectiveness of the corrections made during a subsequent on-site inspection or visit. Any failure to implement corrective measures may be subject to enforcement action by the ACPR or even used in subsequent disciplinary proceedings as an aggravating factor (repeat offence). Between 2016 and 2020, the ACPR issued 109 follow-up letters and 36 formal notices.

524. Upon referral by the ACPR, the Sanction Commission may impose a wide range of disciplinary and financial penalties depending on the extent and duration of the breach, the position and degree of involvement of the person concerned, the significance of the benefits obtained or costs avoided, the losses suffered by third parties, the degree of cooperation with the ACPR or previous breaches committed. The ACPR considers that breaches justify the opening of disciplinary proceedings when it is established that deficiencies in the FI's AML/CFT organisation have had an impact on its ability to detect risk situations and suspicious transactions. When the breaches relate to the organisation of the AML/CFT system without there being any deterioration in the financial institution's ability to detect suspicious transactions, a formal notice to take corrective measures is preferred. Procedures for disciplinary sanctions, which comply with the adversarial principle, appear to be somewhat drawn out. However, remedial plans are usually implemented concurrently with the disciplinary procedure and sometimes completed even before a sanction is imposed.

525. A total of 31 AML/CFT sanctions were imposed between 2016 and 2020. Depending on the circumstances, the amounts of the financial penalties may be considerable. In 2018, the Sanction Commission imposed a EUR 50 million financial penalty for serious deficiencies in the system for detecting transactions carried out by or for persons or entities whose assets had been frozen. These deficiencies dating back to 2008 had been identified in 2013, but no corrective action had been implemented at the time of the on-site inspection conducted by the ACPR over the period from March to July 2017. In addition, the entity had provided the ACPR with erroneous information in this regard. In this case, the sanctions imposed took into account the nature, duration, exceptional seriousness and potentially far-reaching consequences of the deficiencies found. However, no evidence was provided to support the effectiveness of the sanction mechanism, in particular to justify the reasons that led the ACPR not to act earlier, given the seriousness, on the one hand, and the long-standing nature, on the other, of the breaches identified in this case.

526. The ACPR may also impose a financial penalty of EUR 5 million on effective managers and persons responsible for implementing the AML/CFT system where their direct and personal liability is established. The ACPR sanctioned executive officers where circumstances warranted this, including, in the area of AML/CFT and asset-freezing, a three-month suspension for a bank executive and a ten-year ban from directly or indirectly exercising the business of money changer. Finally, in one case it took precautionary measures during disciplinary proceedings (limitation of activity). The ACPR sanctions fewer executive officers than FIs, given the difficulty of attributing failures directly and personally to them.

527. The systematic and name-specific publication of the sanction decision on the ACPR's websites, except in exceptional cases, has a dissuasive effect and therefore serves as a trigger for the other FIs to conduct a self-assessment of their AML/CFT system.

AMF

528. Between 2016 and 2020, the AMF sent out 39 AML/CFT reminders (32 to SGPs and 7 to CIFs) The AMF has also signed four administrative settlement agreements providing for financial penalties and remediation obligations over the period 2016-2020, three of which concern CIFs. Over this same period, the AMF did not apply any financial and disciplinary sanctions involving a ML/TF complaint.[110] It was only between April and July 2021 that the AMF imposed one AML/CFT-related financial penalty and one disciplinary penalty on an SGP and its manager[111]. On this basis, it should be noted that the penalty system, although technically satisfactory, is somewhat cumbersome, and this could significantly reduce its effectiveness. In concrete terms, the AMF's approach, considering the single sanction applied for ML/TF breaches between June 2016 and July 2021, would seem to lack a punitive aim (reminders, formal notices). Furthermore, over the last five years, the virtual absence of both disciplinary and financial penalties, despite the failings found during desk-based and on-site inspections, suggests that the AMF's sanction mechanism is limited and relatively ineffective. Conversely, the AMF seems to favour compensation agreements over financial or disciplinary sanctions that are likely to reinforce the dissuasive, proportional and effective nature of its enforcement system.

529. Like the ACPR, the AMF systematically names the offenders when it publishes sanction decisions, except in exceptional cases. Furthermore, since 2019, with each decision, the AMF has published a press release in French and English to ensure that the sanctions imposed serve an educational purpose.

110 Nevertheless, four settlement agreements including one fine were pronounced: 1 in 2016 and 3 in 2016 and 1 in 2020.

111 Between April and July 2021, 3 financial penalties and 1 disciplinary penalty were applied by the AMF (SGP and its manager - SAN 2021-05, one financial penalty and one disciplinary penalty against the individual and the legal entity), (SGP - SAN 2021-08, one financial penalty) and (SGP - SAN 2021-12, one financial penalty)

DNFBPs

The National Sanction Commission

530. The procedure for referral to the CNS creates delays that impact the effectiveness of the sanctions system. Apart from the ANJ, it is the ministries to which the supervisory authorities are attached that refer cases to the CNS. This significantly increases the time taken to implement the referral procedure, which varies from 14 months to 2 years. Although initiatives seeking to reduce these delays were undertaken in 2020, processing times continue to be very long.

531. Although the CNS has a wide range of financial penalties and disciplinary sanctions at its disposal, the sanctions imposed do not always appear to be dissuasive and commensurate with the extent of the AML/CFT breaches found. The calculation of the proportionality of the sanction takes into account the respondent's financial situation rather than the seriousness and duration of the infringements, for fear of an appeal for annulment.

532. Since 2015, the CNS has imposed 22 financial penalties (7.4% of the penalties issued) of an amount equal to or greater than EUR 10,000. The financial penalties imposed remain far below the maximum legal amount (EUR 5 million), since the average amount of financial penalties applied is EUR 5,000. For example, the highest financial penalty was EUR 215,000 in 2016 for a company that controlled several real estate companies in the luxury sector.

533. The CNS may impose a temporary ban on the exercise of the activity for up to five years, usually together with financial penalties. However, in practice, it imposes all these temporary bans with a suspended sentence that has no direct effect on the regulated entity. The heaviest disciplinary penalties applied were three years' suspended activity for real estate professionals and four years' suspended activity for business service providers. Since 2015, there have been 178 suspensions of activity for a probationary period against real estate professionals and 57 suspensions of activity with a probationary period against business service providers, representing 76% and 65% respectively of disciplinary sanctions.

534. The CNS has the power to publish names in the sanctions but does so only very rarely (one in 2019), and this affects the dissuasive nature of the sanctions imposed. In practice, it publishes its decisions anonymously except in cases of disproportionate harm caused to the sanctioned entity.

Measures applied by supervisory and self-regulatory authorities

535. In practice, the self-regulatory professions do not apply any financial sanctions, but seem to prefer disciplinary sanctions[112] for the most serious breaches, as well as a "didactic" approach in monitoring the implementation of corrective measures. For notaries, the Public Prosecutor receives inspection reports once a year, except in cases of serious misconduct. On the basis of these reports, between 2015 and 2020, there were 19 disqualifications of between six months and eight years. For accountants, between 2017 and 2020, 285 injunctions were issued, of which 30 were referred to disciplinary proceedings for serious and repeated breaches. To date, 11 sanctions have been imposed, including six temporary bans and two permanent disqualifications. The follow-up on the remediation measures taken is usually planned one year later for notaries and two to three months for lawyers. As the CSN has no jurisdiction in French Polynesia and New Caledonia, the inspectors send the results of the inspections directly to the magistrate of the public prosecutor's office in these territories, and the CSN is therefore not informed of any disciplinary proceedings that may be initiated. For lawyers, since 2015, only one disciplinary sanction consisting of a one-month ban from practising has been imposed for AML/CFT breaches. For accountants in Metropolitan France and OM, follow-up was not automatic until supervision was centralised in 2020. Since the local authorities in French Polynesia and New Caledonia did not carry out any checks on accountants, no sanctions were imposed.

536. The DGCCRF made only limited use of its injunction power given that only the Director General could enforce this power. In February 2020, this power was transferred to inspectors, and they issued five injunctions against real estate agents and business service providers out of a total of 323 inspections, and forwarded 56 reports to the CNS. The DGCCRF usually follows up on compliance within 5 years after the CNS has imposed a sanction. After an injunction, the DGCCRF usually organises a new inspection, after two months, if the injunction is not followed up. Since the local authorities in French Polynesia and New Caledonia did not carry out any checks on real estate agents and business service providers, no sanctions were imposed.

537. The SCCJ prefers to refer cases to the CNS and used its injunction power for the first time only in 2019. However, the follow-up to these inspections is not systematic, which affects the effectiveness of the corrective measures imposed. The ANJ has never referred a case to the CNS and prefers to implement corrective measures. It uses its own surveillance tools to detect suspicious gambling behaviour in order to monitor operators' compliance with their due diligence and reporting obligations.

112 That is, a warning or a temporary ban.

Impact of supervisory actions on compliance

ACPR

538. The impact of the ACPR's actions on the level of compliance of FIs can be seen at different levels. The analysis of the questionnaires over the last three to five years provides an indication of how the compliance rate has improved, in particular with regard to internal control, third party measures and control at group level, where the rates of progress are the most significant. In terms of corrective action, requests resulting from the 2018-2020 on-site inspections, we note that the percentage of corrective actions relating to non-compliance with obligations is marginal. Breaches pertaining to "incomplete" implementation are more numerous in certain respects, but most corrective measures relate to deficiencies or elements that can be improved. The educational scope of awareness-raising measures (see Section '*Promoting a clear understanding of AML/CFT obligations and ML/TF risks*') and the publication of sanctions have noticeable positive impacts on the compliance rate, in particular on the number and quality of STRs submitted to TRACFIN. However, the impact still needs to be further developed in some areas, notably on the timeliness of STR transmission, the RBA and internal controls at group level (see IO.4).

AMF

539. The AMF does not have a comprehensive and quantitative approach that makes it possible to demonstrate the impact of its supervisory actions on the entities under its jurisdiction. Based on the results of the AML/CFT 2020 questionnaire given to SGPs, the number of SGPs with a moderate level of risk increased by 49% and those with a high level of risk increased by 71%. Although this increase should be qualified by the 23% increase in the number of investment management companies over the same period, the assessment team considers that the measures adopted by the AMF have had no discernible impact on the level of compliance by SGPs. The data on CIFs, which will only be available from 2020, are not exhaustive, since they represent 40% of the sector's turnover, that is 40 entities, and do not enable the effectiveness of the AMF's system to be measured.

DNFBPs

540. The recent inclusion of risk in the development of supervisory strategies does not allow for a full assessment of the impact of the supervisory authorities' activity on the compliance of DNFBPs. However, the supervisory authorities observe a growing awareness of the AML/CFT regulations among DNFBPs, although the pace of change varies according to the category of DNFBP. This awareness is generally reflected in a steady increase in the number of suspicious reports and a decrease in some cases in the number of breaches observed during inspections. For notaries and lawyers however, the lack of statistical feedback at central level makes it impossible to observe the full impact of supervisory activities.

Promoting a clear understanding of AML/CFT obligations and ML/TF risks

ACPR

541. The ACPR makes effective use of the means at its disposal to raise awareness among its covered entities. The ACPR publishes on its website "soft law instruments" such as guidelines, sectoral application principles and positions in order to clarify AML/CFT obligations for covered entities. It also publishes "Calls for vigilance" to warn covered entities of emerging risks. These calls may be made directly to covered entities or through professional associations. Its website also contains its supervisory priorities, the conclusions of the thematic reports, the decisions of the Sanction Commission, which are published in full and, with rare exceptions, in a normative manner.

542. The ACPR also communicates with covered entities through the CCLBCFT, which is made up of representatives of the ACPR, the AMF, the Treasury and TRACFIN, as well as FIs and several professional associations. The CCLBCTF has met 14 times since 2016. This forum contributes effectively to the collection and dissemination of information on risks in the financial sector, as well as on good practices.

543. The ACPR also organises conferences on AML/CFT issues, for example the annual supervisory conference attended by 400-500 people, which is also streamed to several thousands of viewers. The ACPR uses these conferences to address specific or cross-cutting issues arising from the assessments of supervisory missions, as well as emerging risks.

AMF

544. The AMF promotes the understanding of FIs of their AML/CFT obligations through various publications on its website (new policies, annual reports, supervisory priorities, NRAs, SRAs), outreach and industry training. The AMF, either jointly with another competent authority or on its own, has issued seven guidelines that regulate certain AML/CFT due diligence procedures, which it has disseminated widely on social media. The AMF maintains close and regular ties with authorised professional associations, including through the CCLBCFT. However, these ties have not yet been consolidated to ensure the effective implementation of the risk-based approach in this delegation of AML/CFT supervision for CIFs. The AMF ensures that associations are involved in the various ML/TF projects and discussions. It also provides a six-day training course with an AML/CFT component for compliance and internal control officers as part of the procedure for obtaining the professional card.

DNFBPs

545. All the supervisory authorities have initiated awareness-raising actions, and most of them have shared the RSAs with their sectors, with the exception of the SCCJ, which has chosen to keep the analysis confidential and has published guidelines for their respective sectors. In addition, they have organised outreach activities in the form of meetings, seminars or regular electronic exchanges in order to maintain a constant dialogue with covered entities. The DGCCRF's outreach efforts, particularly for the business service providers sector, are limited in scope, as it relies mainly on the representative professional organisations to communicate with reporting entities and the guidelines are only communicated to business service providers after an inspection. Self-regulatory professions organise a number of training courses for professionals to continuously promote a better understanding of AML/CFT regulations and provide online tools to facilitate the implementation of AML/CFT obligations. Most of the professionals seem to be satisfied with the outreach actions organised by the supervisory authorities.

546. The establishment of a partnership agreement between the CSN and the competent local chambers in Polynesia and New Caledonia allows for the exchange of outreach tools set up centrally with the local authorities. With regard to chartered accountants, the local chambers and the CSOEC joined forces in 2020 (New Caledonia) and 2021 (French Polynesia) to benefit from outreach assistance and training in these territories from the AML/CFT Committee. However, since there is no partnership agreement between the DGCCRF and these territories, it is not possible to determine the scope of outreach activities in these overseas territories

Overall conclusions on IO.3

Financial sector supervisors' good understanding of risks has recently resulted in good quality SRAs. This effort led the ACPR in 2018 to develop a supervisory strategy based on a robust methodology with some noticeable areas of improvement in the intensity of onsite inspections, and the consideration of risks from FIs with operations abroad. The risk-based approach of the AMF was formalised in October 2020, but it has not yet been extended to all of its regulated entities equally. The understanding of risk factors for most DNFBP supervisory and self-regulatory authorities is still developing, but shortcomings of particular concern for real estate agents, notaries and business service providers are apparent. Moreover, the supervision of these sectors is largely insufficient considering the risks identified. There is still a need to deploy significant resources to properly assess and mitigate risks and develop risk-based supervision strategies and methodology.

France is rated as having a moderate level of effectiveness for IO.3.

Chapter 7. LEGAL PERSONS AND LEGAL ARRANGEMENTS

Key findings and recommended actions

Key findings

a) Information concerning the procedure for the creation of different types of legal persons is publicly available in France, while information concerning legal arrangements, the use of which is limited, is less accessible.

b) The French authorities show a good level of understanding of the risks associated with companies and to a lesser extent with associations. However, the NRA does not demonstrate the depth of the analysis undertaken by the French authorities in this regard. The NRA is supplemented by the SRAs of certain key professions involved in the activities of legal persons, but these analyses are not sufficiently detailed to ensure common knowledge on the part of all the competent authorities of all the risks of abuse.

c) The extension of AML/CFT obligations to the GTCs in February 2020 strengthened collaboration with TRACFIN. Their unique role in managing the registration of companies and the verification of information affords them an important detection role and constitutes an effective first line of defense in the identification of abuse of legal persons and new typologies.

d) The obligation introduced in 2017 to register information about company BO with the GTCs is an important measure. GTCs perform a document check on the identity of the BO. To reinforce these checks, all FIs, DNFBPs and authorities have to report all discrepancies noted between the information in the RBO and the information in their possession. However, shortcomings in the understanding of the concept of BO and of the obligation to report discrepancies appears to diminish the value of the data in the RBO.

e) The RCS provides competent authorities and the public with quick access to basic information, including legal ownership information about companies and those associations that have an obligation to register. The GTCs check the information at the time of registration and keep it up to date mainly on the basis of mandatory notifications from company representatives, but also on the basis of information from the competent authorities (including TRACFIN) or at the initiative of the GTCs at any time (based on a variety of indicators). Information about companies registered in OM was not effectively available until recently.

f) Transparency measures for associations are limited, as well as for foundations and endowment funds, however these represent a smaller sector. The accuracy of the information submitted at the time of the creation

of these structures is not verified and personal information is not publicly available. The absence of information about BO and the recording of data in a manner that does not allow the authorities to make queries by name limits access to timely and up-to-date data.

g) The competent authorities use several mechanisms to access basic information (including legal ownership information) and BO information on legal persons (investigation techniques, requisitions to FI / DNFBP and prefectures, RCS, RNA and since 2017 the RBO). All of these mechanisms allow the authorities to overcome some of the weaknesses of the different registers, but slow down access to this information. Regarding legal arrangements, although the use of *fiducies* and trusts is not widespread in France, the competent authorities access basic and BO information through FIs / DNFBPs and the various registers however the accuracy of the trust register is difficult to guarantee.

h) France has administrative, civil and criminal sanctions for the failure to comply with the reporting obligations to which legal persons are subject. *Ex officio* deregistration by GTCs is widely preferred to sanctions. The nature of the low number of sanctions imposed for failure to report to the RCS has not been disclosed.

Recommendations

France should:

a) Refine and consolidate its assessments of the risks of the misuse of companies and associations, in particular on the basis of work undertaken by the GTC and TRACFIN, disseminate this knowledge to all stakeholders to increase their understanding of risks and consider whether additional measures should be taken concerning capital movements for partnerships and the transfer of shares for stock companies.

b) Given the electronic registration process for the RCS, ensure that the DOCVERIF tool is used by all GTCs, and develop other tools for verifying the authenticity of documents in order to ensure the accuracy of data and detect document fraud.

c) Ensure that GDA verify the information received and monitor the data maintained in the RNA on an ongoing basis. Data should be stored in a usable format so as not to slow down searches by the competent authorities and the basic nominative information should be published.

d) Intensify its awareness-raising measures with FIs/DNFBPs to clarify the obligation to report discrepancies between the information they collect and the information in the RBO in order to ensure the accuracy of BO data.

e) Verify and consider centralising basic and BO information of foundations and endowment funds in order to enhance the transparency of these

structures and ensure timely access by the competent authorities to accurate and up-to-date information.

f) Revise the definition of BO of associations, foundations and endowment funds in line with FATF requirements and ensure that accurate and up-to-date information can be made available to the competent authorities promptly to ensure the transparency of these structures.

g) To complement the RBO, intensify the use of sanctions in priority against companies with higher ML/FT risks that have not provided information on their BO.

h) Consider measures that will enable deployment of the alert detection tool at the level of the RNCS alongside local RCS to allow information to be cross-checked across registries.

i) Make better use of its sanctions mechanisms to strengthen the compliance of legal persons with their transparency obligation.

547. The relevant Immediate Outcome for this chapter is IO.5. The relevant recommendations for the assessment of effectiveness under this section are R.24-25 and some elements of R.1, 10, 37 and 40.[113]

Immediate Outcome 5 (Legal persons and legal arrangements)

Public availability of information on the creation and types of legal persons and arrangements

548. Information concerning the different types of legal persons that can be created in France, as well as the procedures for creating and modification, are described in the various legislative texts that are available to the public via the Légifrance website (see R.24). These texts are explained on various government websites, in particularwww.service-public.fr and www.economie.gouv.fr.

549. France has not ratified the Hague Convention on the law applicable to trust and therefore does not allow the creation of trusts in France. With no legal capacity to prohibit the effects of foreign trust activities, administrators of foreign trusts may offer their services in France and foreign trusts may have implications in France, such as property or rights. Only *fiducies* are accepted under French law and are established in writing. The conditions of creation are specified in the French Civil Code accessible via the Légifrance website.

[113] The availability of accurate and up-to-date basic and beneficial ownership information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum's respective methodologies, objectives and scope of the standards.

Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities

550. Although the competent authorities have a generally good level of understanding of the risks of misuse of companies for ML/TF purposes, there is a lack of a more granular and consolidated risk analysis that reflects the diversity and complexity of the sector in France. The fragmentation of analyses and the lack of depth pose a challenge to the quality of efforts to identify and assess the risk of misuse of companies and the development of a shared and comprehensive understanding by all the competent authorities. The analysis for associations, foundations and endowment funds is rather limited, which is more worrying in the case of associations given that they are more widespread.

Companies

551. French companies are considered as representing a moderate level of ML/TF risk in the NRA which identifies as primary concerns the vulnerabilities associated with the anonymity of partners in the case of partnerships, especially SCIs, and of shareholders in the case of stock companies, especially when there is a transfer of shares. It also notes the difficulties of identifying BO in the case of corporate holding chains, particularly for international companies. Apart from these general statements, the NRA does not provide a differentiated analysis for each type of legal person or an indication of materiality.

552. Some SRAs and TRACFIN reports clarify the risks of misuse of companies, but SRAs lack details (see RI.3), and the lack of consolidation seems to diminish the quality of the analysis. TRACFIN's typology reports identify several interesting cases of abuse of legal persons that highlight the risks. The ACPR's SRA describes some of the more specific risks involving the banking sector, namely the use of complex arrangements and shell companies, while the AMF's SRA does not cover the topic. The DGCCRF has identified to a certain extent specific risks for legal persons in its SRAs, for example the involvement of companies in the purchase/sale of real estate and the laundering of large sums of money and the exploitation of business service providers to legalise companies used to conceal beneficiaries or launder funds. The SRAs of legal and accounting professionals also identify certain risk areas.

553. However, these fragmented risk analyses are not specific, and do not explore all the vulnerabilities, particularly those created by bearer securities or the use of intermediaries by the actual holder of the securities. Moreover, the absence of an analysis of the materiality of risk affects the justification of the risk rating. The large number of ML cases presented to the assessment team that point to the misuse of legal persons seems to suggest that the risk remains very high. While the "low" TF risk level might be reasonable, it is not clearly justified either.

Associations, foundations and endowment funds

554. The analysis of the risks of misuse of associations, foundations and endowment funds is limited. France considers the residual ML/TF risk for associations, foundations and endowment funds to be low, but high for certain associations that operate in sensitive sectors and regions. With regard to ML risk, France demonstrates a general awareness of the risks. For a number of years now, TRACFIN has referred to risks and cases involving associations in its annual reports and analyses. However, the NRA offers little detail on the risks associated with foundations and endowment funds. Regarding the risks of misuse for TF purposes, France concludes that most associations and foundations present a low risk, but has identified three categories of associations with a high risk. This identification seems too broad and not fully justified (see IO.1 and R.8)

Mitigating measures to prevent the misuse of legal persons and arrangements

555. France has put in place measures to enhance the transparency of legal persons and legal arrangements in order to prevent their use for ML/TF purposes. Although these measures have improved the French system, there are still deficiencies that affect their level of effectiveness.

556. The first line of defence to prevent the exploitation of legal persons for criminal purposes is the obligation, when creating a legal person, to be registered by the GTCs or the GDA, or be published in the Official Gazette for associations and business foundations (JOAFE). Companies, associations and foundations that do not comply with these requirements cannot have a legal personality and thus cannot open a bank account or receive subsidies.

557. Additionally, all legal persons, including some associations,[114] must have a unique company identifier (SIREN number), created by the National Institute of Statistics and Economic Studies (INSEE) for each legal person, which is used to prove the legal existence of such an entity. The SIREN number, and therefore the legitimacy of the legal entity, can be checked on the sirene.fr website. The SIREN number is generated prior to the creation of the legal person as soon as a business creation request is filed with a GTC. GTCs must promptly notify the INSEE of any delisting to ensure that the SIREN number is cancelled.

114 An association must apply for registration with the INSEE if it wishes to apply for public subsidies from the State or local authorities, plans to employ staff or if it carries out commercial activities that lead to the payment of VAT or tax.

Companies

558. The registration of companies by the GTCs (134 commercial Court registers in metropolitan France and seven in OM) represents an effective transparency measure. The information filed in an electronic manner in the register maintained by each Court register (i.e. RCS) are centralised in the RNCS. All the information filed is verified (see Core issue 5.4, section '*Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons')*. However, the GTCs were only deployed in OM in December 2019. Prior to this, registrations were made by representatives of the Ministry of Justice on site, but problems of delays and quality of information led France to revise its approach. Since the transfer of competence to the GTCs, an effort has been made to deal with the backlog of cases and the digitalisation of information is underway.

559. The publication of a wide range of company data, accessible from France and abroad, is an important measure to mitigate potential misuse of companies with some potential improvements. The data in the RNCS are published on the InfoGreffe website and on the website of the National Institute of Intellectual Property (INPI.fr), which provides the public with a quick access to basic information on incorporated companies and associations, including information on executive officers, directors and BO. All information (except for date and place of birth - for persons other than competent authorities and authorised AML/CFT covered entities) can be accessed for a fee (InfoGreffe) or following a registration (INPI.fr). The publication of BO data is an effective transparency measure that goes beyond the FATF requirements. However, limitations regarding the verification and availability of data on BO somewhat reduce the effectiveness of reporting efforts (see Core issue 5.4). Furthermore, the fact that the data concerning BO is not linked to the Infogreffe and INPI query tool or offered in a usable format reduces its effectiveness.

560. In recent years, GTC have been heavily involved in AML/CFT and have recently produced concrete results. In 2015, the National Council of GTC and TRACFIN concluded a partnership agreement in order to formalise their interactions and facilitate TRACFIN's access to legal registers. It also carried out AML/CFT outreach activities with court registrars. As of 2018, they can use the ERMES platform to submit STRs and they have been subject to AML/CFT obligations since February 2020. They have developed alert criteria with the support of TRACFIN to facilitate the identification of higher-risk situations. The impact of this work is illustrated by the significant increase in STRs (18 in 2018; 464 in 2019; 720 in 2020) which has led to the detection of large-scale fraud rings. There is, however, a large number of alerts per day, which are prioritised according to the registrar's knowledge. Furthermore, the screening on the basis of the alert criteria is carried out at the level of each RCS and does not allow for cross-checking of data at the RNCS level.

561. The FNIG, created in 2012, makes it easy to implement management prohibition measures ordered by the courts. It is kept by the GTC and lists all the measures of prohibition from managing assets and personal bankruptcy, pronounced by the correctional (since 2017), civil (since 2017) or commercial (since 2008) courts, excluding disciplinary sanctions. It contained 26,000 measures as at 1 January 2021. GTCs systematically consult this list as part of their verification of the information in the RCS and screen their database once a month. Most investigating and prosecuting authorities reported that they consult it frequently in the course of their investigations. This file cannot be accessed by the public.

562. France identifies business service providers as a vulnerability, although they are subject to the AML/CFT regime as DNFBPs. This sector, which counts more than 3,000 providers, is however relatively little used with around 63,000 companies registered at their address (1.13% of the 5.5 million companies registered in the RNCS or 29% of companies registered at the RCS of Paris). However, business service providers are not very aware of AML/CFT obligations and the DGCCRF's supervision of the sector is inadequate. TRACFIN also expressed concerns about the low volume of reports from business service providers (25 reports in 2020, 50% from a single reporting entity) (see IO4).

563. There are no measures in place to address some of the anonymity concerns identified in the NRA, notably with regard to capital movements for partnerships and share transfers for stock companies which can be done without the obligation to report to the RCS.

Associations, foundations and endowment funds

564. The measures in place to ensure the transparency of associations, foundations and endowment funds do not seem adequate. The creation of an association, foundation or endowment fund is published in the JOAFE available online.[115] In the case of associations, this information is also recorded in the RNA by the 297 GDA. This information is promptly updated in the RNA but only published on the first of each month. Nonetheless, information is checked only for completeness (see Core issue 5.4) and basic nominative details are not published (only the name of the association or foundation, its address and purpose).

565. There are measures in place to ensure that associations, foundations and some endowment funds that receive public subsidies do not misappropriate part of these funds.[116] Endowment funds must have their annual accounts certified by an auditor when the total amount of their resources exceeds EUR 10,000 at the end of the financial year. Associations are also subject to tax audits, whether or not they receive subsidies. Out of a total of 1.6 million associations, 2000 (equivalent to only 0.1% of the total) have undergone a desk-based or on-site tax audit since 2017, resulting in the recovery of nearly EUR 262 million over the same period. TF measures are described in IO.10. Thus, the supervisory measures that come with public subsidies make it possible to counter the possibilities of misappropriation and to qualify the risk of money laundering by associations, foundations, endowment funds, etc. as low.

115 Information about associations and foundations in New Caledonia and French Polynesia is published in their respective official gazettes.

116 These measures include reporting, accounting and tax obligations accompanied by controls by regional chambers, the Court of Auditors, and the French administration for subsidies over EUR 1 500; an activity report that sets out the use of funds for subsidies over EUR 23 000; and auditing of accounts by an auditor for grants over EUR 153 000.

Legal arrangements (Fiducies and trusts)

566. France imposes measures on fiduciaries and trust administrators which help to some extent to prevent the misuse of these structures (see R.25). Fiduciaries must be FIs or DNFBPs. The implementation of the measures specifically incumbent on them as fiduciaries is thus normally monitored by their respective supervisory authorities. For trust administrators, the implementation of these measures is not specifically controlled as they are governed by foreign law.

567. France has introduced additional transparency measures by setting up registers which appear to be effective for fiduciaries, but less robust for trusts. Fiduciary agreements are rendered null and void if it is not listed in the national register of *fiducie* (RDF). The RDF, managed by the DGFiP which also conducts tax audits on legal arrangements, contains relevant details. The register is updated each quarter. Administrators of foreign trusts with implications in France (settlor, beneficiary, property or right) or administrators of foreign trust with tax residence in France must declare the trust. This information is then listed in the register of foreign trusts. Since these trusts are created in third countries, this information cannot verified. The information in the registers is not accessible to the public since the Constitutional Council has ruled that such a measure would be counter to the principles of the right to privacy. They can, however, be accessed by the FIs/DNFBPs, competent authorities and, in some specific cases, by third parties.

Applicable to all legal persons and legal arrangements

568. FIs and DNFBPs represent another line of defence to prevent the misuse of legal persons and legal arrangements that needs to be reinforced. As part of their customer due diligence, they are required to identify their customers, which are legal persons and legal arrangements, as well as the BO. However, the statistics provided by France show that there are varying levels of compliance with customer due diligence across the financial and non-financial sectors and TRACFIN stresses the need for reporting entities to pay greater attention to suspicions related to legal persons and legal arrangements (see IO4). Regular discussions are organised and more recently there were awareness-raising meetings on the mechanism for reporting discrepancies between the information collected by the FIs/DNFBPs and the information in the RBO.

Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons

569. Competent authorities can obtain information on the beneficial ownership of legal persons through a combination of mechanisms. The information is mainly accessible through registers that centralise the information, including on BO since 2017. Competent authorities may also access information obtained by FIs/DNFBPs in implementing due diligence measures or held by the legal persons themselves. Although each of these measures has some shortcomings, when they are combined, they provide satisfactory access to relevant information for companies, but to a lesser extent for associations, foundations and endowment funds.

Basic information – legal persons registered in the RCS

570. The competent authorities[117] have direct access to basic company information through "Infogreffe", which centralises information from the RCSs. The information recorded is verified by the GTCs. In the course of this verification, GTCs ensure that the request complies with the statutory and regulatory provisions and that the supporting documents substantiate the request. They also systematically conduct a judicial background check on executive officers[118] and also check if they are listed in the FNIG. Nevertheless, the introduction of electronic formalities poses a major challenge during verification in order to detect document fraud. Although the impending deployment of the Ministry of the Interior's DOCVERIF tool will help GTCs to validate the authenticity of identity documents, it will not be sufficient. The authorities are working to identify other tools.

571. Verification of the information must be made within 24 hours from the time the request is submitted to the GTCs. The latter can extend their verification up to five days for complex cases. On the average, 5 million documents are processed each year by the 141 commercial Courts with 230 GTCs and 2,000 employees. In 2020, 30% of the files submitted to the GTCs were rejected or required clarification due to lack of information which demonstrate the thoroughness of the verifications carried out by GTCs. GTCs may also need to occasionally consult their foreign counterparts to confirm specific information. The National Council of GTCs exchanges 2-3 times a year with its Italian and Spanish counterparts the list of subsidiaries belonging to companies in their countries to ensure that the registers match.

Table 7.1. Files handled by GTCs (2018-2020)

	2018	2019	2020
Total number of files submitted to the GTCs	1 532 380	1 469 120	1 710 682
(of which) total number of files for which a request for regularisation was made	452 504	404 520	486 724
(of which) total number of files refused	49 778	48 173	93 618

572. However, to ensure that the information remains accurate and up-to-date after the company has been registered, the GTCs rely mainly on the compliance of legal persons with their reporting obligations. Legal persons have one month to report any changes to their basic information. The public prosecutor's office and any interested party may also contact the GTC to indicate that a company is not up to date with its information. This results in a request for regularisation from the registrar to the person registered in the RCS.

117 Public Prosecutor's office, Ministry, Police and Gendarmerie, Paris Préfecture, TRACFIN, AFA and AGRASC

118 This includes partners liable for the company's debts, executives (managers, chairpersons, general managers, members of the management board, chair of the board of directors, chair of the supervisory board, members of the supervisory board

573. As an exception to the principle of declarations by companies, GTCs may make changes directly in the RCS (i.e. *ex officio* entries). For example, GTCs are obliged to automatically record in the RCS the changes that occur as a result of decisions relating to insolvency proceedings and the ensuing professional and material sanctions. They can also make entries concerning a change in management, transfer of registered office and a change in share capital. The data in Table 7.2 shows that the number of ex officio entries relative to the number of change requests is fairly substantial. Although a significant effort is in place to provide access to up-to-date data, it is still based on the reporting obligation.

Table 7.2. Number of changes and ex officio entries in the Trade and Companies Register and Beneficial Ownership Register (2016 – 2020)

Year	Changes	Ex officio entries
2016	696 357	190 481
2017	732 430	186 398
2018	985 867	184 328
2019	946 014	269 310
2020	891 969	224 049

Basic information – Associations, foundations, endowment funds

574. For associations, the competent authorities can directly access the nominative information and all the documents of the file (articles of association, list of persons authorised to represent the association, etc.) electronically via their direct access to the RNA. Given the scanned format of the documents, these platforms do not allow queries based on nominative information, which limits the scope of access to this information. For foundations and endowment funds, the competent authorities do not have direct access to the databases of the prefectures and must apply directly to the prefecture of the department where the registered office is located to obtain nominative data. Investigation officers may consult nominative information about endowment funds by court order through their general requisition power.

575. However, there is no verification mechanism to ensure that the information is accurate and up-to-date. The GDA only check that the file is complete and that the information in the various documents provided is consistent. They do not carry out any substantive verification. Associations, foundations and endowment funds must report any changes made to the information provided within three months or face a fine, but there is no mechanism in place to ensure that they comply with their obligation.

Information on beneficial owners

576. The RCS includes detailed information about 5.5 million entities. All commercial and civil companies are required to declare their shareholders at registration. Consequently, 100% of commercial and civil companies have declared all their shareholders (legal ownership) to the RCS. The RBO is a subset of the RCS which aims at facilitating the identification of beneficial owners in the context of their AML/CFT obligations. The RCS and the RBO are both controlled by the clerks of the commercial court. The RBO is annexed to the RCS and is directly accessible to competent authorities on Infogreffe and on the INPI portal - without restriction and in a searchable format. Since the launch of the RBO in August 2017, 100% of newly registered legal persons have declared their BO. The companies that were already

registered had until 1 April 2018 to formally confirm that their legal owners are their BO or to submit new information to identify their BO. When France implemented the RBO in 2017, GTC sent information and reminder letters (more than 2.2 million in 2018 and 2019) to entities already registered with the RCS to ask them to officially declare their beneficial owners. As full legal ownership information is already available on the RCSs, in many cases declaring the BO involves a transfer and reverification of this information to the RBO. At the time of the on-site inspection, 74.2% of previously registered companies concerned had completed their new obligations. Despite the penalties (fines and imprisonment) for failing to provide the required information to the register, four years after the introduction of the RBO, a quarter of previously registered companies (excluding natural persons - 1,286,357) have not yet transferred or provided their BO information under the new registration framework. The authorities explain that the majority of the companies that have not yet complied are ancient family SCIs or commercial companies owned by individuals for which the BO is the legal owner or shareholder already registered in the RCS and verified once.

577. The GTCs check the information before registering it in both the RCS and the RBO and upon initiative at any time (based on a variety of indicators and notifications from competent authorities). GTCs carry out extensive verification of the information submitted, including by cross-checking information with the many databases to which they have access, and using official tools to verify the authenticity of documents. In particular, they verify the elements justifying the declared % of capital or voting rights and analyse the organisational charts where necessary to clarify the holding chains. For holding chains involving persons or entities abroad, GTCs may query their foreign counterparts and relevant competent authorities, including TRACFIN. Where they have doubts, they make further checks and invite the applicant to clarify, or they reject the request (meaning the company cannot be created or proceeds to deregistration). When they have a suspicion of ML/TF, they submit a STR to TRACFIN on the basis of jointly established alert criteria. However, control by any means other than ownership of capital or voting rights requires further investigation which is difficult to do for GTCs, but can be undertaken by relevant law enforcement authorities in the course of an investigation.

578. To keep the RBO up to date, GTCs rely on the declarations of the companies and on due diligence conducted by FIs and DNFBPs which, since 2020, have been obliged to report discrepencies to the GTC. Companies registered with the RCS must report any changes to the information on BO within one month. FIs and DNFBPs should inform the GTCs of any discrepancies between the information they have collected on BO and the information in the RBO. This obligation is recent (February 2020) and has only recently become operational with the launch of a reporting portal in May 2020. This measure should undoubtedly improve the quality of the information in the RBO, as the nature of the business relationship between FIs/DNFBPs and legal persons places them in a better position than the GTCs to identify the persons who have ultimate control. Nevertheless, its impact must be put into perspective. Despite the various outreach activities, a significant number of FIs and DNFBPs report that they rely solely on the information in the RBO to verify the identity of BO, without doing their own research, while others were still waiting for information about the procedure for reporting discrepancies.

579. No information on BO is collected for associations, foundations and endowments. The definition of BO is not in line with the FATF definition and is limited to legal representatives (see R.10 and 24).

580. Besides the RBO and before its introduction, the competent authorities identified BO using other means. In particular, they use their right to obtain information from FIs/DNFBPs and the FICOBA makes it easy to trace the FI concerned. The authorities often use investigative techniques such as surveillance and wiretapping to prove a suspect's ultimate effective control over property or assets. The combination of mechanisms available to the competent authorities for the identification of BO of companies allows them to access information on BO in a timely manner. With respect to associations, foundations, and endowment funds, the competent authorities have to rely solely on requisitions and investigative techniques, which lead to delays.

7

Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements

581. Although trusts are prohibited in France, France has taken measures to facilitate access by the competent authorities to relevant information on legal arrangements created, or involving persons with their fiscal residence in France.

582. Information on fiduciary agreements is centralised in the RDF and managed by the DGFiP. The *fiducie* agreement must be concluded in writing and submitted to the tax authorities, which validate all the information concerning the *fiducie* before registering it to the RDF. Thus, the competent authorities may directly access information in respect of natural persons who are fiduciaries, settlors, third party protectors, direct or indirect beneficiaries or as BO through the RDF. Information about the any third parties or any other person who has control over the trust is however not available The information in the RDF is updated every quarter, and this could call into question the accurate and up-to-date nature of the information held. However, *fiducie* are not widely used in France and the additions and amendments to the register would not involve large volumes.

583. Since 2011, trusts set up abroad by persons having their tax residence in France or having implications in France must be declared to the DGFiP which lists these trusts in the register of foreign trusts (RTE) to which the competent authorities have direct access. This register contains personal data of settlors, trustees and beneficiaries of trusts (approximately 2,900 trusts are registered). The assets placed in the trust are also mentioned with their market value.

584. The DGFiP verifies the accuracy of the information by consulting legal documents of the trust, including bank documentation. That being said, the DGFiP can only verify and record the data it receives. A major challenge regarding the adequacy, accuracy and timeliness of the information held in the RTE is the fact that the DGFiP relies on trust administrators that can be located abroad to comply with their reporting obligations. There are heavy financial or even criminal sanctions for the parties to the trust in case they don't comply with their declaration obligation, but France has not stated that it has applied them.

Effectiveness, proportionality and dissuasiveness sanctions

585. France has administrative, civil and criminal sanctions that appear on the whole to be proportionate and dissuasive for failures to comply with reporting obligations concerning legal persons (except foundations and endowment funds) and legal arrangements, with the exception of failures to keep documents or failures to comply with the obligations of foundations and endowment funds. However, the imposition of sanctions, apart from the *ex officio* deregistration, is very limited.

586. GTCs favor the use administrative sanctions such as deregistration and disabling of SIREN numbers due to their effectiveness and rapidity. Table 7.3 reflects the number of deregistrations carried out between 2016 and 2020 as a result of deficiencies identified in the RCS. However, these deregistrations are made rather for reporting breaches of persons who have already discontinued their activities, instead of material breaches to obligations required during the companies' existence.

Table 7.3. Measures taken against companies for failure to comply with the RCS reporting obligations

	2016	2017	2018	2019	2020
Deregistration	245 677	253 326	268 856	202 155	181 361
Criminal sanctions	8	24	25	17	22

587. Between 2016 and 2020, there were 96 criminal sanctions, including one for non-compliance with the BO reporting obligation. The number of sanctions seems low compared with the number of injunctions and *ex officio* deregistrations over the same period (225 139 and 446 237 respectively). Furthermore, the nature of these sanctions has not been disclosed and it is therefore not possible to determine whether they are proportionate and dissuasive. Natural persons may also be prohibited from managing and may be added to the FNIG. However, France was not able to specify whether this sanction had been used or the proportion of persons listed in the FNIG because of non-compliance with reporting requirements.

Associations, foundations and endowment funds

588. The French authorities were not able to demonstrate that sanctions had been imposed on associations. The use of reminders to provide required information seems widespread. No provision is made for sanctions for foundations and endowment trusts.

Fiduciaries and Trusts

589. All *fiducies* have reporting obligations including recording the *fiducies* agreement which is otherwise null. Failure to comply with fiscal reporting obligations is sanctioned. For trusts, the trust administrator is obliged to declare certain details of the trust annually to the DGFiP, including its constitution (settlor, beneficiaries, etc.) or face a fine. There is no information on the types of sanctions imposed. Between 2015 and 2020, the DGFiP, following external tax audits and desk-based checks on *fiducies* and trusts, imposed financial sanctions, but did not provide information on the sanctions for failure to comply with the reporting obligations to registers.

Overall conclusions on IO.5

The level of understanding of the competent authorities is relatively good but should be deepened by a more detailed analysis of the vulnerabilities. The work of the GTCs and their good cooperation with TRACFIN enables France to identify new typologies which could ultimately help to improve the detection of cases of abuse. However, additional measures must be taken to mitigate the risks associated with the movement of capital from partnerships and the transfer of shares for stock companies as well as the transparency of associations. Transparency efforts through the publication of detailed information on companies are notable, in particular the establishment of the RBO in 2017, accessible to the public and competent authorities, and registers on legal arrangements accessible to the competent authorities. The measures for verifying information on BOs by the GTCs are rigorous but must be reinforced with the notification by the FIs / DNFBPs / authorities of the discrepancies noted. The sanctions regime, which favors deregistration, must be implemented in a more dissuasive manner to support the transparency efforts of legal persons.

France is rated as having a substantial level of effectiveness for IO 5.

Chapter 8. INTERNATIONAL COOPERATION

Key findings and recommended actions

Key findings

a) France has a conventional framework and a domestic infrastructure allowing of making and responding effectively to requests for MLA. Requests passing through the central authority (BEPI) are systematically registered in a computer application (AGATHE) and examined by a desk officer for timely prioritisation.

b) The quality of the mutual assistance provided by France is good. A network of liaison magistrates provides effective support for outgoing mutual assistance requests.

c) Most MLA in criminal matters are made directly through ILR from magistrate to magistrate, especially within the EU context (European Investigation Order). Currently, these requests partially fall outside BEPI monitoring, which does not allow for obtaining comprehensive statistics on incoming and outgoing ILRs.

d) Information on the time to execute intra-EU requests, the offences on which they are based, and the results obtained is not available. However, the overall effectiveness of the mutual assistance provided and requested was demonstrated by other means.

e) France participates in many JITs. It makes use of spontaneous transmission of information.

f) The extradition procedure with EU countries (approximately 90% of requests) follows the rules and deadlines set by the European arrest warrant, which enables rapid enforcement. With non-EU countries, the exercise of the right to appeal to national courts - above all to the “Conseil d’État” - sometimes slows down the extradition procedure considerably.

g) The results of seizures, confiscations and repatriation of confiscated assets have progressed since 2016 with the support of the AGRASC and PIAC (for identification).

h) TRACFIN makes active use of international cooperation. Its cooperation is of high quality, although some delays were marginally noted. This cooperation does not require the prior existence of international agreements.

i) The ACPR and the AMF work effectively with their foreign counterparts. They send and respond to requests for assistance. The ACPR also organises

supervisory colleges (including on AML/CFT). Conversely, there seems to be limited cooperation among DBFBP supervisors (except casinos).

j) The police, gendarmerie and customs authorities regularly make use ofinternational cooperation in their investigations - notably through Europol, liaison officers and on the basis of bilateral conventions or agreements.

Recommendations

France should:

a) Collect statistics on the processing time and outcome of incoming and outgoing requests, as well as on the offences that form the basis of these requests.

b) Continue to extend the use of simplified extradition procedures with to non-EU countries that share the same basic principles, in order to reduce the processing times of certain extradition requests. France should also consider simplifying its entire extradition procedure and reducing processing times while respecting the fundamental rights of wanted persons.

c) Continue its use of international cooperation between FIUs by making greater use of the tools provided at European level by the Fiu.net network.

d) Continue to improve the timeliness of responses to foreign FIU requests and increase the number of spontaneous referrals, in particular by allocating the appropriate number of human resources within the international cooperation division.

590. The relevant Immediate Outcome for this chapter is IO.2. The relevant recommendations for the assessment of effectiveness under this section are R.36-40 and some elements of R.9, 15, 24, 25 and 32.

Immediate Outcome 2 (International cooperation)

591. France's international cooperation on criminal matters is satisfactory. It has extensive facilities for cooperation on criminal matters. It has developed active cooperation in the field of MLA and extradition on many occasions. This observation is based on an analysis of the processes in place, discussions with competent authorities, statistics on assistance provided, a review of case examples and feedback from the FATF global network[119].

[119] In all, 32 jurisdictions provided information on their experience of formal and informal international cooperation with France in recent years.

Providing constructive and timely MLA and extradition

592. Like the other members of the EU, France has two judicial cooperation regimes, the one developed within the EU on the principle of mutual recognition of judicial decisions (European investigations orders, freezing and confiscation certificates, judicial controls, European arrest warrants and custodial sentences) and the one applied in relations with States outside the EU, based on bilateral or multilateral conventions concluded in particular within the framework of the UN, the Council of Europe or the OECD, or on the basis of reciprocity if there is no applicable agreement.

Mutual legal assistance (for investigation purposes)

593. The quality of the MLA provided by France was judged to be good by the other FATF member countries, apart from a few delays in the execution of MLA requests reported occasionally. The MLA provided is extensive and constructive. France receives, from foreign magistrates, requests for MLA in criminal matters, called international letters rogatory (ILR) and European investigation orders (EIO) in the EU context..

Table 8.1. Requests for MLA on criminal matters (for investigation purposes) received

	2016	2017	2018	2019	2020
EU	/	/	5 338	7 411	8 766
- of which ML	/	/	NR	NR	NR
- of which TF	/	/	6	6	3
Excluding EU *(via BEPI)*	1 235	1 015	882	806	1 211
- of which ML	60	47	57	59	72
- of which TF	4	4	6	0	4

Source: French Ministry of Justice, BEPI

Direct transmissions from a judicial authority to another judiciary authority

594. France receives a significant number of MLA requests (see Table 8.1). EIOs are transmitted directly, without going through the central authority (BEPI). It is therefore difficult to determine the exact number. The data in the table above are not exhaustive, but are consolidated estimates, based on the annual reporting by the public prosecutor's offices of the requests received from the EU. There is no centralised inventory system. These data have only been available since 2018 (i.e. since the entry into force of the EIO in May 2017).

595. Despite the lack of comprehensive data, these estimates indicate significant growth in the inflow of direct requests between 2018 and 2020. Statistics are not available on the offences underlying the requests (in particular ML), the timeframe within which they are executed (unless the timeframe set out in the EU Directives is supposed to be met), or the number of and reasons for refusals, but France was able to demonstrate effectiveness through other means. Information technology developments are currently underway and should in the future provide the information that is currently lacking.

596. Unsurprisingly, the majority of requests for mutual assistance to France (approximately 85%) are submitted by EU Member States (primarily Belgium, Germany, Portugal, Spain and Luxembourg). Under EU rules, these requests are subject to time limits. For example, the EIO must be executed within four months after it is received.

Transmissions via the central authority – BEPI

597. At the structural level, France has a central authority at the Ministry of Justice, the BEPI. This team is composed of some 30 persons and is divided into a unit in charge of surrendering the defendants and another unit that handles MLA requests for investigative purposes. This office receives part of the requests (see Table 8.1) and forwards them for execution to the competent French authorities, in principle a prosecutor or an investigating judge, and for complex ML/TF cases to the specialised prosecutors (JIRS/JUNALCO, PNF and PNAT). Urgent cases are processed and followed up by a duty office. The transmission of claims by electronic means is accepted and is becoming more widespread (sometimes as an advanced copy, in addition to sending original hard copies, if required by the applicable convention). Requests for mutual assistance in terrorism matters, including FT, because of the threat that they pose, are by nature considered to be sensitive and therefore urgent. They are processed in a particularly expeditious manner.

598. Statistical data on judicial cooperation is currently mainly based on manual counting. With regard to terrorism and TF, the statistics are more accurate because the requests are exclusively processed by the PNAT.

599. In early 2020, BEPI launched a major effort to modernise its operational activity. This project has two objectives: firstly, to modernise the BEPI's IT applications ("Agathe" for mutual assistance for the purposes of investigations and "Extrad" for extraditions) in order to improve their performance and statistical efficiency, and secondly, to completely digitise the transmission of incoming and outgoing MLA requests. This project has been rolled out and has received approval for the recruitment of two dedicated staff. The Agathe application has been updated separately from this project. Since August 2019, the terrorism occurrence under which all incoming and outgoing terrorism requests were recorded has been supplemented by an "FT" occurrence which makes it possible to differentiate these requests.

600. With the AGRASC, the BEPI also provides information on international judicial cooperation (i.e. publications, organisations of seminars and technical advice to jurisdictions). The AGRASC plays a central role and steps in when seizures and confiscations of cash or real estate become the subject of foreign requests for mutual assistance. As with domestic proceedings (see IO.8), AGRASC is responsible for organising the seizure, management and sale of these assets and offers assistance to the magistrates who order them. The two organisations provide a number of training days for magistrates on this issue.

601. AGRASC is also in charge of mutual assistance requests for the restitution abroad or the repatriation to France of property as well as the execution of foreign confiscation orders and the presentation of such requests abroad. The agency is also responsible - together with the DAGG - for the international sharing of confiscated property and for compensating victims or civil parties with confiscated property. The latter activities are on the rise.

Box 8.1. The M. Case

Example of cooperation in international mutual assistance and confiscation

Subject: Processing by France, between 2011 and 2019, of seven requests for international mutual assistance in criminal matters and one request for extradition to Russia - relating to ML, scams, breach of trust, embezzlement of public funds, forgery and use of forgery.

Agencies concerned: BEPI, PNF, OCRGDF, TRACFIN and PIAC

The facts: In 2012, France executed in 11 months a first request for mutual assistance (handing over of information) received in 2011 concerning a former Russian politician wanted by the Russian authorities for embezzlement of public funds. It executed a second request for the seizure of two hotels - received in July 2013 - in August, which was cancelled it in 2015 following a flaw in the notification of the decision. These seizures were finally executed in 2017 after a third request in 2016.

IO.2 relevance: The French investigation (by the OCRGDF) provided the Russian authorities with information about the existence of two new properties through a request for mutual assistance. The BEPI will also forward copies of documents relating to bank accounts, banks and companies involved in the acquisition of real estate. The work of the PIAC will also allow the transmission of the inventory of goods necessary for the commercial activity of the seized hotels.

Outcome: France's response will allow the seizure of all identified real estate and movable objects (e.g. works of art). The confiscation of these assets is underway.

Box 8.2. Tartarin case

Example of the execution of a freezing certificate and subsequent confiscation and sharing of seized property

Subject: Danish criminal proceedings concerning fraud against creditors' rights

Agencies concerned: BEPI, AGRASC, Judicial court

The facts: In 2014, France received a request from Denmark to seize a property belonging to a SCI. The asset was seized in 2014. In 2015, Denmark sentenced the manager of this SCI to imprisonment and confiscated the seized property.

IO 2 **relevance**: The Danish confiscation order was recognised in 2016 and the court authorised AGRASC to proceed with its execution.

Outcome: In 2019 AGRASC sold the confiscated property for EUR 801 887. Under the sharing agreement with the Danish authorities, half of this amount was returned to Denmark in 2019.

602. The execution of requests may be kept entirely confidential if the nature of the foreign proceedings so requires. For mutual assistance purposes, France recognises civil confiscation orders (in the absence of a criminal conviction), although this mechanisms is not provided for in its own legal system.

603. In addition to requests for mutual assistance, France also makes extensive use of other means of international cooperation, such as cross-border observations or JITs, which allow for the direct exchange of information between investigators from several countries and the joint conduct of investigations in cases with a transnational dimension (see Table 8.5). France has taken part in 213 JITs since 2004, including 32 in 2019. For example, on 16 November 2015, in the wake of the 2015 Paris attacks, the French and Belgian judicial authorities decided to set up a JIT. The EU agency for law enforcement cooperation Europol was also included, and the Netherlands joined later.

604. France has established enhanced judicial cooperation with certain countries to combat ML. With the United States, for example, the aim of this enhanced cooperation is to crack down more effectively on drug (cocaine) trafficking. A working group, formed in 2015 and bringing together all the competent French judicial and investigative authorities and the Drug Enforcement Agency, has notably enabled the extradition of Lebanese money launderers to the United States (CEDAR case).

605. MLA in terrorism and TF matters is centralised in the specialised terrorism courts, namely the PNAT and the Counter-Terrorism Judiciary Pole of the Paris Court of Justice. This specialised prosecutor's office is responsible for the execution of all mutual assistance requests relating to terrorisme and TF. Furthermore, only the investigating judges of the Paris Court of Justice draft terrorism- and TF- requests sent abroad. This concentration of jurisdiction is a guarantee of efficiency and makes it possible to obtain accurate statistics on the volume of MLA in terrorisme and FT matters.

606. Between 2016 and 2020, France received 24 TF-related requests from EU countries. These requests are generally on the rise, and the decline noted in 2020 was linked to the health crisis. They came mainly from Belgium, Germany and Italy. For requests for mutual assistance for investigative purposes, the SDAT receives the request (sometimes jointly with one of the Central Offices, such as the OCRGDF).

607. For non-EU countries, of the 178 applications received for terrorism matters between 2016 and 2020, only 18 included a TF dimension, which is relatively low. Six were executed (with processing times ranging from 1 month to 23 months) and one request was refused. The delays observed are sometimes the result of the specific constraints of the case, such as the existence of legal proceedings in progress in France.

Table 8.2. Mutual assistance requests in TF matters –received and sent

	2016	2017	2018	2019	2020
Mutual assistance requests in TF matters – received					
- from the EU	3	6	6	6	3
- outside the EU	4	4	6	0	4
Mutual assistance requests in TF matters – sent					
- to the EU	NR	NR	NR	NR	NR
- outside the EU	7	8	15	5	11

Source: PNAT, BEPI

MLA for surrender and extradition

608. France receives an increasing number of requests to hand over persons (European arrest warrants and extradition requests). As shown in Table 8.3 below, 89% of requests are for *European Arrest Warrants* (EAWs) from EU members. Requests are executed rapidly due to a simplified procedure. Thus, the average time between arrest and surrender is 16 days, if the person concerned has consented to his or her surrender, and 44 days in the case of non-consent.

609. Aside from the drop in 2020 (probably due to the health crisis), extradition requests have risen steadily since 2016. (In the last five years, France has received 12 ML-related requests).

610. For non-EU states, the average time varies from 6 to 18 months from the time of arrest, which may seem a little long. It should be noted that in one very particular case (the "M" case, see box 8.1), the extradition procedure lasted 6 years. Nevertheless, the number of extradition requests received remains high - including for persons in transit - which reflects the trust shown by foreign partners. FATF network countries have not identified these delays in handing over persons as a general problem. The delays stem from the extradition procedure itself. Since the exercise of the right to appeal is inseparable from the protection of fundamental rights guaranteed by the French legal system, certain delays are the consequence of the possibility offered to persons subject to an extradition request to exercise their right to appeal each phase of the procedure: the judicial phase (before the Court of Cassation) and administrative phase (before the Conseil against the extradition decree), as well as before the European Court of Human Rights (when the extradition decree becomes final).

Table 8.3. Requests for mutual assistance (surrender) and extradition received and level of execution

	2016	2017	2018	2019	2020
Total - surrender	1 847	1 780	1 948	2 084	1 611
AEW/EU	1 688	1 600	1 736	1 850	1 461
Executed	*513*	598	*599*	556	*450*
Ongoing	*1 086*	941	1 038	1 241	932
Rejected	89	61	99	53	79
Extradition	159	180	212	234	150
- of which simplified	30	30	25		
Executed	*66*	*68*	*66*	85	*52*

Source: French Ministry of Justice, BEPI

611. With regard to TF, requests for the surrender of persons are also centralised (for active requests) by the PNAT and the Counter-Terrorism Judiciary Pole in Paris. Passive requests go through the Paris Public Prosecutor and the Investigation Chamber of the Paris Court of Appeal, whether these requests are made from judicial authority to judicial authority (EAW) or through the BEPI. The French authorities are regularly approached, particularly by non-EU countries. The BEPI has received 81 terrorism-related extradition requests, four of which were related to TF. The authorities are unable to give any indication of the implementation times.

Box 8.3. Case of ASSOCIATION B.

Example of the actions of the PNAT regarding international cooperation (non-EU) on TF matters

Authorities concerned: PNAT, SDAT/SAT, DGSI/TRACFIN

The facts: Initiated investigation concerns the suspected suspicious actions of a humanitarian association (with operations in the Middle East), whose president and several of its members were known to be close to the radical Islamist circles. The analysis of the association's bank records had shown the existence of significant financial flows to subsidiaries in Africa and the Middle East.

Relevance for IO2: The necessary requests for mutual assistance for the investigation were made - including the sending of ILORs by the PNAT to four countries where B's subsidiaries were domiciled.

Outcome: Two of these countries replied to the requests. However, the destination of the funds (and allocation for TF purposes) could not be determined due to the poor traceability of financial flows in the countries concerned.

Box 8.4. PASSIVE EAW case

Example of a swift surrender based on an EAW

***The facts**:* the judiciary authorities received an EAW from Belgium on 3 July 2018. On 5 July, the person concerned, who was in France in connection with another criminal case, was notified of this. He was placed in detention pending extradition and appeared before the Court of Appeal on 11 July and agreed to be surrendered to the Belgian authorities. He was handed over to the Belgian authorities on 20 July 2018, 17 days after the EAW was sent.

***Relevance for IO2**:* this case illustrates the efficiency of the EAW procedure, with the surrender of the person (with his consent) in less than three weeks.

Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational element

612. Based on the available data, France appears to be actively using international MLA and extradition to support its domestic procedures.

MLA (for investigation purposes)

613. France generally receives more requests for MLA than it submits. As for incoming requests, outgoing requests to the EU are for the most part transmitted directly from magistrate to magistrate (DEE), and do not go through the BEPI. In matters of terrorism (including TF), PNAT and the investigating judges' Pole of the Paris Court of Justice seem to make very regular use of MLA. In the absence of a statistical monitoring tool (for inter-EU requests), there is no precise data to assess the volume of these requests or the offences underlying these requests. Nonetheless, France was able to demonstrate the overall effectiveness of its co-operation through other means.

614. There are, however, many cases attesting to the effectiveness of international MLA in criminal matters, notably through the JIRS (see box 8.6) and the PNF:

Box 8.5. Ransomware case

Example of outgoing international MLA in criminal matters

Subject: International cooperation for extortion and attempted extortion by an organised group, attacks on an automated data processing system, money laundering by an organised group

Authorities concerned: JUNALCO, Centre for Combating Digital Crime (C3N), ICT fraud investigation unit

The facts: In May 2016, more than 180 French companies, local authorities, institutions and individuals across the country fell victim to a ransomware attack with ransom demands in bitcoin. The investigation was conducted by the cybercrime section of the Paris public prosecutor's office (J3). Investigations into the analysis of the blockchain traced the flow of bitcoins to a virtual currency exchange platform, where one of the administrators, a Russian national, was later identified as the central point for laundering the ransom money paid by the victims.

IO.2 relevance: Mutual assistance requests sent to Switzerland, Germany, Austria, the Czech Republic, Spain, the United States and Russia were required to identify the recipient of the ransoms, who was arrested in Greece and handed over to France in execution of an EAW. This case demonstrates the use of international MLA (ILR) in the prosecution of large-scale offences committed in several jurisdictions using new technologies.

Outcome: The administrator of the virtual currency exchange platform was sentenced in December 2020 to five years in prison (decision confirmed by the Paris Court of Appeal in June 2021).

Box 8.6. Case B.

Example of outgoing international mutual assistance on tax fraud and ML of its proceeds- with confiscations outside France

Agencies concerned: Paris JIRS, OCLCIFF, TRACFIN

The facts: The OCLCIFF investigation concerns a case of tax fraud committed (to the tune of some EUR 13 million) by a French PEP (local elected official) with hidden assets abroad. Mutual assistance requests were initially sent to Morocco for investigation (searches and hearings), which confirmed that the suspect and his wife were the beneficial owners of a property in Morocco. Other requests were also sent to the Egyptian authorities concerning bank movements from accounts held in Egyptian banks.

***IO.2* relevance**: This case required the deployment of extensive international judicial cooperation, both formal and informal (including numerous FIUs), with EU and non-EU states. Requests for mutual assistance to Morocco and Egypt provided, in particular, evidence of bank movements and the actual holding of assets. This cooperation also led to the confiscation of a property in Morocco.

Outcome: The local elected official involved was sentenced by the Paris correctional court in October 2019 to five years' imprisonment, ten years' ineligibility and a management ban; his wife, son, a lawyer and a facilitator were also sentenced for tax fraud laundering. In June 2021, the Court of Cassation confirmed the guilt of Mr and Mrs B., but annulled the sentences handed down, including the prison sentence and the confiscation of one of the properties located in France.

615. Cooperation with non-EU states – via the BEPI – accounts for about 40% of outgoing requests (based on 2018 figures), of which on average of 25% riskier are for money laundering.

Table 8.4. MLA requests (for investigation purposes) issued (EU and non-EU)

	2016	2017	2018	2019	2020
Total number	/	/	*2 031*	*2 587*	*2 702*
EU	/	/	1 254	1 718	1 682
- of which ML	/	/	NA	NA	NA
- of which TF	/	/	NA	NA	NA
Non-EU	839	825	777	869	1 020
- of which ML	210	205	199	177	183
- of which TF	7	8	15	5	11

616. The authorities presented many cases illustrating their ability to seize and confiscate assets abroad in connection with predicate offences committed in France (corruption, fraud, drug trafficking), notably due to the use of formal international cooperation. See for example Boxes 8.7 and 8.8.

Box 8.7. Cases illustrating confiscations abroad in execution of French mutual assistance requests.

GIBRALTAR case

Subject: Laundering in France of acts of *corruption* committed abroad

Outcome: seizure of a defendant's assets in France, Spain (EUR 691 million) and Great Britain (EUR 29 million, including a property seized under the French procedure).

VIRUS case

Subject: International *drug trafficking* laundering network

Outcome: Confiscation of assets seized abroad (including EUR 958 276.06 in bank accounts in France, Switzerland and the Bahamas).

CREPUSCULE case

Subject: International *VAT fraud* network

Outcome: Confiscation of a property in Israel and a Swiss bank.

617. The PIAC systematically identifies, seizes and confiscates assets abroad through MLA in cases involving transnational crime that has generated significant profits. AGRASC plays a significant role in this context, providing technical support both at the time of seizure and at the time of execution of the confiscation (repatriation and sharing assets). See Box 8.9.

Box 8.8. Example of a pre-judgment sale by AGRASC of a seized property in Estonia

***The facts**:* The PNF sent a request for mutual assistance to Estonia for the purpose of seizing several assets, including four luxury vehicles. The Estonian authorities did not wish to incur long-term costs for the storage of these vehicles. AGRASC therefore obtained the agreement of the Estonian authorities to recognise and execute a decision to hand over these vehicles to AGRASC for a pre-judgement sale.

Outcome: The AGRASC carries out the pre-judgement sale of initially seized movable property located abroad. Should the criminal court pronounce an additional confiscation sentence, the funds, deposited in the AGRASC account, will be shared with the Estonian authorities in accordance with the mutual assistance rules in force,

***Relevance for IO2**:* This case is a good example of the dynamism of the French authorities in outgoing international cooperation, ranging from seizure to sharing the proceeds of criminal acts.

618. AGRASC also has jurisdiction over the repatriation of property in France (cash and personal property) from abroad, in particular to return such property to the French victims of the offences in question. This activity has developed over the years.

619. At the institutional level, the BEPI plays an important role in providing technical expertise to French magistrates and organising bilateral or multilateral meetings with foreign counterparts or magistrates (working groups) to deal with shared problems.

620. Prosecution and investigation services unanimously identify significant challenges in international cooperation, including delays in responding to requests made, or simply the lack of a response when requests are made from outside the EU.

621. At the operational level, in order to promote the development and quality of the mutual assistance requested by France, the specialised prosecution services (JIRS/PNF), which are responsible for the prosecution of complex offences of a transnational nature, such as organised crime and economic and financial offences, are made up of members who are well versed in the finer points of MLA. In this regard, French magistrates use international mutual assistance networks (European Judicial Network, Eurojust) often to coordinate their actions with their foreign colleagues against offences that span several countries.

622. This collaboration often takes the form of JITs. This mechanism, which France regularly uses, allows for the direct exchange of evidence between investigators from several countries[120] and the joint conduct of investigations in cases with a transnational dimension. France has thus participated in 99 JITs since 2016, with a significant increase in 2019, as shown in Table 8.5 below. France mobilises JITs for all types of offences, including ML and TF.

120 France deploys JITs with 23 countries: Austria, Belgium, Bosnia, Bulgaria, Czech Republic, Denmark, Estonia, Germany, Italy, Lithuania, Finland, Luxembourg, Netherlands, Portugal, Romania, Hungary, Spain, Sweden, Switzerland, Ukraine, United Kingdom, United States

Table 8.5. Number of JITs authorised between 2016 and 2020

	2016	2017	2018	2019	2020	Total
Number of JITs	18	21	13	32	15	99
- of which ML[121]	1	1	1	6	1	10
- of which TF	0	1	0	0	0	1

Source: BEPI

623. Furthermore, France's extensive network of liaison magistrates (18 French liaison magistrates covering 41 countries) has the task of supporting French magistrates who issue requests for mutual assistance in criminal matters to facilitate their execution.

MLA for surrender and extradition

624. The annual number of French requests for surrender has increased to some extent since the EAW came into force, while the number of extradition requests remained stable. In 2020, approximately 65% of the EAW requests issued were in the high-risk ML categories (i.e. drug trafficking, human trafficking, fraud, corruption and terrorism). This confirms the objective of the authorities to align cooperation efforts with the identified ML/TF risks.

625. Requests made by France outside the EU are based on applicable international conventions. These may be bilateral conventions, or multilateral conventions dealing solely with extradition. If there is no pre-existing agreement, the extradition will be granted or requested on the basis of the offer of reciprocity or on the basis of the principle of international comity.

Table 8.6. Requests for surrender of persons (EAW and extradition) issued - and their execution status

	2016	2017	2018	2019	2020
Surrender of persons	1 471	1 514	1 650	1 829	1 465
EAW/EU	*1 353*	*1 396*	*1 549*	*1 699*	*1 357*
Executed	*367*	*376*	*396*	*492*	*348*
Extradition	*118*	*118*	*101*	*130*	*108*
Executed	*49*	*68*	*59*	*55*	*55*

Source: French Ministry of Justice

Seeking and proving other forms of international cooperation for AML/CFT purposes

626. The French authorities are well engaged in international cooperation with their foreign counterparts on AML/CFT matters and make effective use of other forms of international cooperation to respond to incoming requests and solicit financial and other relevant information. The assessment team bases this finding in particular on the review of the cases presented and the joint investigation and monitoring activities in various areas.

121 Most of these JITs concern tax fraud, labour fraud (undeclared work), customs fraud and VAT fraud.

Inter-FUI cooperation

627. TRACFIN makes extensive use of international cooperation with its foreign counterparts to exchange relevant information when necessary. The statistics gathered by TRACFIN are reflected in Table 8.7. This shows that France is actively and increasingly soliciting its foreign counterparts (on average 2,250 requests per year). These are mainly sent to neighbouring countries (Germany, Belgium, Luxembourg, Spain, Switzerland) and the European Union. In 2020, TRACFIN requested information from several non-EU FIUs (including Hong Kong, Turkey and the UK). These requests for further analysis relate to suspicions in line with the main risks identified (e.g. tax offences - *Mercure* case). Following the 2015 terrorist attacks, there has been an increasing number of TF requests with the objective of tracing financial flows linked to terrorist activities (e.g. *Strasbourg* case).

Table 8.7. Requests sent by TRACFIN and received from foreign FIUs (2016-2020)

	2016	2017	2018	2019	2020
Sent -					
Number of persons targeted	1 454	1 760	2 254	2 912	2 875
Number of investigations	752	860	1 102	1 395	1 315
Received	815	719	788	796	785

Source: TRACFIN 2020 annual report, page 144

628. The number of requests sent seems to be in line with TRACFIN's needs. However, it still makes limited use of additional tools - such as the Ma3tch offered by the FIU.net network. These additional tools could further promote the FIU's international cooperation to better address outbound cooperation.

629. TRACFIN is a little less solicited by its counterparts (on average 780 requests per year), mainly from Luxembourg, Germany and Belgium. The information provided is the information that TRACFIN can obtain from the databases at its disposal or by virtue of its right to request information. The high quality of this cooperation is confirmed, in particular by the feedback sent to the FATF by delegations. Despite the health crisis, TRACFIN requested information 1 591 times in 2020 (compared with 1 817 in 2019) and queried its databases 8 423 times to provide comprehensive responses to its counterparts (compared with 10,177 in 2019). In contrast, the year 2020 saw a drop of nearly 50% in the number of spontaneous reports to foreign counterparts, from 246 to 126. The authorities attribute this decrease, not only to the demands of the health crisis at the beginning of 2020 (lockdown), which necessitated a greater prioritisation of responses to requests received, but also to the vacancy of certain posts within the Division dedicated to international operational cooperation (DCIO).

630. These exchanges take place in compliance with the principles of confidentiality (i.e. without the FIU mentioning the source of the information), mainly through the Egmont Secure Web and FIU.net platforms (for European FIUs). Exchanges with non-Egmont Group FIUs are made via secure networks and after verification of compliance with confidentiality conditions. Although the law does not require TRACFIN to sign international agreements to cooperate with other FIUs, there are 60 memoranda of understanding, mainly with countries whose legislation requires them.

631. Applications are processed in the DCIO, made up of 11 members of staff. The DCIO may also handle internal analyses arising from information received from abroad: in this respect prioritisation criteria are applied (e.g. TF cases are treated with urgency, also when the right to object might be requested).

632. TRACFIN has never refused to respond to a request received. Responses are generally given within 30 days, as recommended in the Egmont Group's Principles of Information Exchange. In the event of an explicitly mentioned and proven emergency, TRACFIN responds, in the most cases, within 48 hours.

633. Most of the feedback received indicates that TRACFIN provides quality and timely responses, highlighting its ability to prioritise and respond to emergencies. There is however some feedback that points to times well in excess of 30 days, which shows that there is room for improvement, especially given the small number of dedicated resources, the multiplicity of tasks assigned and the number of incoming requests.

Cooperation with the police and the gendarmerie

634. France has a large number of international agreements on police cooperation (notably in the framework of the UN, the Council of Europe and the EU); but also bilateral agreements and *ad hoc* agreements (see R.40). This institutional cooperation operates through the Directorate for International Cooperation of the Ministry of the Interior (including via its 24-hour operational monitoring unit), and in conjunction with the operational directorates (e.g. the DCPJ). France relies greatly on the 73 internal security attachés in 158 countries to act as relays for the implementation of police cooperation abroad or to support the execution of letters of request. These attachés are particularly useful in countries outside the jurisdiction of a liaison magistrate.

635. For operational cooperation, the French police forces use several cooperation channels, available 24/7. The most important one is that of the SCCOPOL[122] of the DCPJ. As the point of reference for organisations such as SIRENE, Europol and Interpol, the SCCOPOL centralises requests sent and received. 15% of the 420,000 messages received by the 8-9 employees of the SCCOPOL in 2018, related to AML/CFT. This cooperation system is completed by the network police-customs cooperation centers (CCPD).

122 Central Section for Operational Police Cooperation.

636. At the international level, part of the information exchange process is carried out by Interpol and Europol, especially in cases where there are several countries involved. France has strengthened its cooperation with Europol. It is also a major contributor to Europol's SUSTRANS[123] project - on average 15.5%. For TF matters, the French police can access data collected by the United States through the Terrorist Finance Tracking Programme (TFTP). Since 2017, the OCRGDF contributes regularly to the work of the EFIPPP[124], of which it is a member, to promote the exchange of AML/CFT good practices. With Interpol, France collaborates notably through initiatives such as the Fusion Group (whose main focus is the collection of information on the various methods by which terrorists transfer money).

637. Police cooperation is also oriented at the international level towards the search for criminal assets, through the PIAC (see also IO.8) or SCCOPOL. In ML matters, the OCRGDF follows up on incoming requests to locate and/or seize assets (324 in 2018).

638. Police cooperation is also used to identify assets abroad. The PIAC plays a key role in the identification of criminal assets. Together with AGRASC, it represents France in the European network of ARO and the CARIN network. In 2020, the PIAC received 183 requests, mainly from EU members and through AROs and Interpol channels. The PIAC is also responsible for tracing assets following requests from domestic or foreign judicial authorities (34 requests in 2020). In 2020, its activity made it possible to detect 397 assets for a total amount of approximately EUR 85.6 million.

639. International cooperation in TF matters is the responsibility of the judicial services of the Ministry of the Interior (SDAT or SAT), which may transmit information spontaneously through SCCOPOL, or follow up on requests from foreign counterparts (information collected in a non-coercive manner). The SDAT has answered 4537 requests for information since 2015. The DGSI, which is both an intelligence service and a judicial police authority, regularly exchanges information on TF with its international partners.

Customs cooperation

640. International cooperation between customs authorities is very active. International customs cooperation is managed by the BCRE[125], which uses both the administrative (DNRED) and judicial (SEJF) channels for this purpose. (See c.40.8 for the legal basis). This cooperation is implemented through several networks, including 16 customs attachés and 5 technical experts across the world. The Customs also have access to police cooperation networks (Interpol, ASI network, PIAC) and joint structures such as the CCPD.

641. They receive more requests than they make (see Table 8.8). It transmits information either spontaneously or following a request from abroad in the context of international administrative assistance. It processes requests received in many forms, such as controlled deliveries, infiltrations, etc. It transmits information to Europol (via SIENA) and to the European Anti-Fraud Office (via the AFIS messaging system, which allows for the rapid and secure exchange of data, particularly in the fight against fraud).

123 SUSTRAN centralises all data relating to cross-border investigations into money laundering activities.
124 European Financial Intelligence Public Private Partnership.
125 Bureau for Coordination and External Relations.

Table 8.8. Files processed by BCRE/DNRED between 2016 and 2020

	ML		MOD		Terrorism (including TF)	
	Incoming request	Outgoing request	Incoming request	Outgoing request	Incoming request	Outgoing request
2016	24	35	85	156	0	0
2017	10	28	9	63	5	11
2018	9	48	43	131	0	4
2019	17	27	55	83	0	5
2020	10	20	16	41	1	0
Total	70	158	208	474	6	20

Source: DGDDI/BCRE

Tax cooperation

642. The DGFiP's treaty network allows it to exchange information with 165 jurisdictions. It solicits its foreign counterparts by submitting a request for information or through automatic exchanges. The automatic exchanges concern mainly income and financial accounts (bank and life insurance). Under the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters, France received information on more than 3.5 million accounts held by French taxpayers in 67 jurisdictions in 2017 and 2018.

643. Requests for information are addressed primarily to border countries, states with which there is significant economic trade and financial and offshore centres. In 2020, the tax authorities sent out 4 736 requests for direct taxes (approximately 60%) and VAT (approximately 40%), and received 2 061 requests. It should be noted that the vast majority of requests are received and sent from Switzerland (notably 80% in 2019 of the requests received for direct taxes), Luxembourg, and other EU countries.

Supervisory cooperation

644. Supervisors collaborate relatively actively with their foreign counterparts. The ACPR's cooperation is based on 19 memoranda of understanding in the field of banking and insurance (the most recent of which were signed with Japan and Morocco in 2017). These agreements are mainly with the main countries of origin of foreign establishments in France and of the foreign operations of French groups. Between 2016 and 2020, the ACPR issued 73 requests and carried out 33 controls abroad; it received 208 requests, the majority of which concerned the verification of the fitness and propriety of natural persons (it refused only three requests). It provided information spontaneously on 25 occasions. Furthermore, the ACPR allowed foreign authorities to carry out or participate in controls in France (5 times) and to carry out other forms of control (e.g. audits) (7 times). The ACPR also exchanges information at international colleges of supervisors.

645. The AMF makes fewer requests to its foreign counterparts. In 2020, it issued 10 requests for assistance to 8 foreign regulators, and received 2 requests in 2019. However, it informally provides information to other regulators about its supervisory practice, and also sends out questionnaires and during regulators' seminars. It also task forces in European supervisor colleges organised for French or foreign groups comprising a French management company.

Table 8.9. Requests sent and received by the ACPR and AMF

	2016	2017	2018	2019	2020
ACPR					
Sent	3	10	6	12	42
Received	10	41	55	50	52
AMF					
Sent	2	3	1	0	10
Received	0	0	0	0	2

Source: ACPR, AMF

646. Some *non-financial supervisory authorities* exchange less information with their foreign counterparts. However, most do not seem to put the issue of AML/CFT at the heart of their concerns.

- Casinos: the SCCJ regularly collaborates with its foreign counterparts, mainly in cross-border areas that have been identified as particularly at risk (Switzerland, Spain, Belgium). It is a collaboration during specific investigations, but also on other occasions, for example if necessary, during the authorisation process.
- Online gaming sector: the ANJ reports seven requests for information from regulatory authorities in EEA countries and two requests from a Ministry of Justice. The work done by the Gaming Regulators' European Forum on a RBA to national gambling sectors has stalled due to lack of interest from the majority of members. ANJ also contacted the Maltese Gaming Regulatory Authority in 2019 to carry out an on-site inspection of online gaming operators licensed in France but established in Malta.
- Accountants: the Order of Chartered Accountants, through the Délégation internationale pour l'audit et la comptabilité (joint CSOEC/CNCC[126] organisation), takes part in the work of Accountancy Europe on AML/CFT (Anti Money Laundering Working Party) to exchange with its counterparts.
- Lawyers: This responsibility lies on the one hand with the local Bars and the CNB, and on the other hand with the CARPAs, which apparently do not have foreign correspondents. However, according to the CNB, when foreign lawyers apply to join the French Bar Association, the President of the French Bar Association sometimes questions their foreign counterparts directly about the lawyer's compliance with the conditions of good character.

Providing other forms of international cooperation for AML/CFT purposes

647. France requires the assistance of foreign authorities to identify the BOs of legal persons using the necessary assistance procedures depending on the recipient country (police, customs or judiciary). (See Box 8.7 (case B.))

126 National company of statutory auditors

648. On the other hand, it should be noted that in France, foreign authorities have direct access to a lot of information on legal persons. For example, the RCS and RNA are available online and already provide a lot of information on legal persons and associations. There is no direct access to the RBOs of legal persons yet, but this should be possible in the near future.

649. Investigation services can communicate, at least to their EU counterparts, the same information to which they have access at national level. With regard to ML, information is provided by the OCRGDF, or by the PIAC when there is a foreign request to search for criminal assets. In all cases, information on BOs can be obtained through the MLA procedure (EU and non-EU). (See Box 8.1)

650. TRACFIN provides its counterparts with information on legal persons and legal arrangements, either by using available databases (RCS and RBO) or by using its right to request information from regulated entities, from which it is able to request information and documents relating to the identification of BOs carried out as part of customer due diligence.

Overall conclusions on IO.2

France cooperates frequently with other countries, both formally and informally, and in line with the country's ML/TF profile. Most incoming and outgoing requests (excluding TF) are exchanged through the direct inter-EU channel, without passing by the BEPI. This cooperation also covers the identification and confiscation of criminal assets located abroad.

The lack of data on the turnaround time for such requests, the offences on which they are based and the results obtained poses challenges in assessing the overall level of effectiveness of the mutual assistance. Nonetheless, France was able to demonstrate effectiveness by other means (including numerous case studies, positive feedback and global estimates). In addition, competent authorities, in particular TRACFIN and law enforcement authorities, make extensive use of informal cooperation:

France is rated as having a high level of effectiveness for IO.2.

TECHNICAL COMPLIANCE

This annex provides a detailed analysis of France's level of compliance with the FATF 40 Recommendations. It does not describe the country's situation or risks, but focuses on analysing the technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where the FATF obligations and national laws or regulations have remained unchanged, this report refers to the analysis conducted in the previous Mutual Evaluation in 2011. This report can be found at the following link: www.fatf-gafi.org/publications/mutualevaluations/documents/mutualevaluationoffrance.html

Recommendation 1 - Assessing risks and applying a risk-based approach

These obligations were added during the revision of the FATF Recommendations in 2012 and were therefore not assessed as part of the mutual evaluation of France in 2011.

Criterion 1.1 – France is required to conduct an NRA designed to identify, explain, and assess the ML/TF risks to which France is exposed (CMF, art. D561-51 para. 4°), which also takes account of the supranational assessment conducted by the European Commission. In September 2019, Frasnce published its NRA on ML/TF risks. The risk assessment process was conducted from 2016 to 2019 by the COLB), which also coordinated the elaboration of the NRA. The report identifies the threats and vulnerabilities facing the French economic system, as well as the sectors at risk. This NRA is supplemented by other reports, including the "trends and risk assessments" reports produced by TRACFIN since 2014 and the SIRASCO. France has also developed SRAs, some of which clarify certain aspects of the ML/TF risks identified in the 2019 NRA.

Criterion 1.2 – The COLB is the competent authority for drafting and updating the NRA. The COLB brings together all the government departments and supervisory and enforcement authorities for professionals subject to, and involved in, AML/CFT requirements.[127] Its purpose includes ensuring better coordination of the government departments and supervisory authorities concerned, and promoting consultation with certain professions (CMF, art. D561-51 para. 1° and 3°).

Criterion 1.3 – Art. D561-51 of the CMF specifically requires the NRA to be updated regularly. Although the 2012 NRA update was only completed in 2019, the TRACFIN and SIRASCO reports have enabled France to keep the risk analysis up to date.

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127 The COLB has 24 members (CMF, Art. 561-53), including nine representatives of government departments involved in AML/CFT matters and 15 representatives of the supervisory and enforcement authorities for covered professions and entities (i.e. those subject to AML/CFT requirements).

Criterion 1.4 – The NRA is a public document that can be accessed on the Internet.[128] France also has mechanisms in place to provide information about the results of its risk assessment to the competent authorities and the private sector. The results of the NRA have been shared with the relevant authorities via their representatives on the COLB. Through the same mechanism, representatives of covered persons may be involved in the COLB's activities (art. D561-53-II).

Criterion 1.5 – The supervisory authorities ensure that they have a sound understanding of ML/TF risks and determine the frequency and intensity of their supervisory activity in light of these risks and the inherent risks of their covered entities (CMF, article 561-36 IV). The adoption of several action plans to counter the main threats identified in the SRAs helps inform authorities as to the effective allocation of their resources. The adoption of risk-mitigation measures (CMF, art. D561-51-4°) is mandatory for the authorities concerned. These mitigation measures led to the drafting of an interministerial action plan in March 2021, signed by the Prime Minister, to which all COLB members are bound.

Criterion 1.6 – The law provides for exemptions from AML/CFT obligations for natural or legal persons who carry out insurance intermediation on an ancillary basis when the turnover generated by the activity and the amount of the premium do not exceed certain thresholds, and the activity merely supplements the main activity provided to customers, to the extent that the ML/TF risk is low (CMF, art. L561-4; R561-4). The exemption from implementing the specific measures for PEPs who have been out of office for more than one year is not supported by a risk assessment demonstrating that these situations pose a low ML/TF risk.

Criterion 1.7 – (b) FIs and DNFBPs are required to consider the European Commission's recommendations derived from the supranational risk analysis and the NRA, including the high risks identified therein, when conducting their own risk assessment and defining measures to address these risks (CMF, art. L561-4-1).

Criterion 1.8 – FIs and DNFBPs are authorised to implement due diligence requirements in the form of simplified measures when the persons, services or products present a low risk of ML/TF and there is no suspicion of ML/TF (CMF, art. L561-9, 2°). These cases, of what is known as "simplified legal due diligence", are exhaustively listed in Articles R561-15 (presumed low-risk customers) and R561-16 (presumed low-risk products) of the CMF. These low-risk situations are cases identified among the examples of low risks given by the FATF, and/or were reviewed during the drafting of the NRA, broken down per sector in the SRAs. Simplified measures are also possible for EU/EEA-based correspondent banks, which is consistent with the NRA and SRA, and differentiates between the level of ML/TF risk for inter-EU/EEA correspondent relationships (low) and that for correspondent relationships with third countries (moderate).

Criterion 1.9 – The supervisory authorities[129] are obliged to verify that FIs and DNFBPs conform to the requirements of R.1 (CMF, art. L561-36 and art. L561-4-1).

Criterion 1.10 – FIs and DNFBPs are required by law to take measures to identify and assess their risks (CMF, art. 561-4-1).

128 Notably on the French Treasury's website [www.tresor.economie.gouv.fr/Articles/0cb649a1-21f3-4ef9-94ca-eacad18810b3/files/0cd4ec30-71e2-4f7d-a41a-a40afce1abb8]

129 Cf. R.26 and R.28.

a) FIs must document their risk assessment (Order of 6 January 2021, Art. 2; AMF Regulation, art. 320-19). There is no obligation to document assessments for DNFBPs, even those presenting a higher risk.

b) FIs and DNFBPs are obliged to take account of risk factors inherent to their customers, products, services, transactions and distribution channels, as well as geographical factors specified by order of the Minister for the Economy, and the recommendations of the European Commission originating from the supranational risk assessment and the NRA (CMF, art. L561-4-1), when identifying and assessing the ML/TF risks to which they are exposed.

c) FIs must keep their risk assessments up to date (Order of 6 January 2021, art. 2; AMF Regulation, art. 320-19). No similar obligation exists for DNFBPs, even those at presenting a higher risk.

d) FIs, except for money changers and SGPs, must inform their supervisor of the main ML/TF risk factors that they identify each year in the context of their internal audit report (Order of 21 December 2018, Annex I). There is no similar obligation for DNFBPs; however, they must be able to provide information about their risks during the course of an inspection.

Criterion 1.11 –

a) FIs and DNFBPs are obliged to put in place policies adapted to their ML/TF risks (CMF, art. L561-4-1), an organisational structure and internal procedures to combat these risks, as well as internal audit measures (CMF, art. L561-32). They must designate a person in a senior position to implement this framework, but there is no explicit requirement for the framework to be approved by senior management (CMF, art. L561-32).

b) FIs and DNFBPs are specifically required to take corrective measures required to remedy any AML/CFT-related incidents and deficiencies identified by their internal control framework (CMF, art. R561-38-4, last paragraph; Art. R561-38-8, last paragraph). For some FIs, the results of audits and corrective measures are also monitored via a dedicated annual report (CMF, art. R561-38-6; Art. R561-38-7).

c) FIs and DNFBPs are required to implement enhanced due diligence measures when the risk appears to be higher (CMF, art. L561-10-1).

Criterion 1.12 – Simplified due diligence measures are permitted when FIs and DNFBPs perceive that there is a low ML/TF risk (CMF, art. L561-9). They must then gather information to justify that the customer or the product poses a low risk. They put in place a monitoring and analysis framework to enable them to detect any unusual or suspicious transactions (CMF, article R561-14). As soon as there is a suspicion of ML/TF, FIs and DNFBPs must implement or reinforce due diligence measures according to the risks, and consequently, simplified due diligence measures cannot be applied (CMF, art. R561-14).

Weighting and conclusion

France has put in place the majority of the measures required to enable - a risk-based approach. The exemptions from specific due diligence measures for certain PEPs are not based on proven low risks. France does not require DNFBPs to document and

update their risk assessments and does not require the AML/CFT framework to be approved by a member of senior management, for either FIs or DNFBPs**.**

France is largely compliant with R.1.

Recommendation 2 – National cooperation and coordination

France was rated as largely compliant with these requirements in the 3rd round evaluation. The main shortcomings were insufficient intra-agency cooperation in view of the multitude of prosecuting authorities, and also between TRACFIN and these authorities.

Criterion 2.1 – With regard to ML, France has put in place a number of sectoral reports and action plans (for more details, cf. RI.1) which address the main risks identified. Concerning TF, France has adopted clear and formalised policies since 2015, such as the CFT action plan of March 2015, which included eight measures revolving around three objectives: identifying, monitoring and acting; an action plan to combat radicalisation and terrorism, published in May 2016; and an action plan on combating terrorism (PACT) launched in July 2018[130], which includes a section on TF. In March 2021, France adopted an inter-Ministerial Action Plan on AML/CFT/CPF, which identifies the priority actions to be implemented at the national level.

Criterion 2.2 – Since 2010, the national coordination of AML/CFT measures has been carried out by the COLB. Its composition is determined by law (CMF, art. D561-53). It brings together all the government departments (competent administrations and authorities, and supervisory authorities covering professionals involved in AML/CFT requirements). Its purpose is to ensure better coordination of the actions implemented by the competent authorities in AML/CFT matters (CMF, art. D561-51-1° and D561-54). The COLB has powers to submit proposals, draft the NRA, set the agenda and convene its meetings. The French Treasury Department coordinates the COLB's activities through its secretariat.

Criterion 2.3 – The COLB ensures cooperation, coordination and information exchange at the policy-making level (CMF, art. L-561-51-1). At the operational level, the law provides for different mechanisms to facilitate formal (e.g. exchange mechanisms between TRACFIN and the different competent authorities (CMF, art. L561-27 et L561-33)) and informal exchanges between all the competent authorities (e.g. cooperation between the Ministries of Justice and the Interior when assigning investigations to the competent departments).

Criterion 2.4 – France has established an interministerial coordination mechanism – the SGDSN – to combat FP of weapons of mass destruction. All the authorities concerned by FP are involved at the SGDSN level (by interministerial instruction of 24 March 2009).

Criterion 2.5 – The French Data Protection Act no 78-17 contains provisions to ensure the compatibility of the AML/CFT requirements with data protection and privacy measures. Art. 8.4 provides for the consultation of the French Data Protection Committee (CNIL) on government bills. Articles 31 and 32 require the CNIL's opinion to be sought on processing operations carried out on the government's accounts. The CNIL may also be involved in the activities of the CCLBCFT, which is responsible, inter alia, for issuing an opinion, prior to their adoption, on the instructions adopted by the

130 An updated version of the PACT was approved by the Cabinet of the Prime Minister on September 3, 2021.

ACPR concerning persons subject to its supervision in the AML/CFT field (Decision 2011-C-13).

Weighting and conclusion

All criteria are met.

France is compliant with R.2.

Recommendation 3 – Money laundering offence

France was rated largely compliant with the Recommendations concerning the criminalisation of ML during the 3rd round evaluation. The main shortcoming concerned the material element of the offence, included in the UN conventions, covered in French law by the offence of receiving stolen property (which is considered more restrictive than ML).

Criterion 3.1 – In France, several legal provisions criminalise ML according to the nature of the predicate offence. Simple ML is the general offence applied to proceeds of any felony or misdemeanour (CP, art. 324-1). Special ML is the offence related to the proceeds of drug trafficking (CP, art. 222-38). The material elements of these offences are criminalised on the basis of Vienna and Palermo Conventions with respect to (1) the conversion or transfer of property and (2) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of property or rights. The acquisition, possession and use of property of unlawful origin are criminalised by the offence of receiving stolen property (recel). This applies to the same predicate offences as ML, to any type of property, regardless of their nature, tangible or intangible, and to direct or indirect[131] proceeds of the offence (CP, art. 321-1). The material acts of acquisition, possession, or use of property are also criminalised by the ML offence when they constitute the material element of providing assistance for the investment, conversion or concealment of the proceeds of crime[132]. In other cases, these elements are covered by the offence of receiving stolen property.

Criterion 3.2 – All felonies and misdemeanours under French law constitute predicate offences. This broad approach covers each of the "designated categories of offences" set out in the FATF Glossary.

Criterion 3.3 – (not applicable) France does not apply a threshold approach.

Criterion 3.4 – The ML offence applies to all types of property, regardless of value, representing the direct and indirect proceeds from a felony or misdemeanour (CP, art. 324-1). The concept of property under French law is broad and includes all property of any kind, including virtual assets.

Criterion 3.5 – To prove that property is the proceeds of crime, it is not necessary that a person be convicted of a predicate offence, nor is it necessary for that person to be prosecuted or identified[133].

131 Cass. Crim. 20 April 2017, n. 15-82.512, confirming that receiving stolen property may apply to indirect proceeds of an offence.
132 Cass. Crim. 30 October 2002, n. 01-83.852; Cass. Crim 18 March 2020, n. 18-85.542.
133 Cass. Crim. 20 February 2008, n. 07-82.977; Cass. Crim. 9 December 2015, n. 15-8.3204.

Criterion 3.6 – Predicate offences for ML extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence if occurred on French territory[134].

Criterion 3.7 - The perpetrator of the predicate offence, when holding or using the proceeds of crime, may be prosecuted for ML (i.e. self-laundering), for converting or transferring property and concealing or disguising the true nature, source, location, disposition, movement or ownership of property or rights, and for the material acts of acquiring, possessing or using property when it constitutes the material element of participation in an operation to invest, convert or conceal the proceeds of crime. The perpetrator of the predicate offence cannot be prosecuted for the acquisition, possession and simple use (i.e. without conversion, transfer, concealment) of the property, which is criminalised in France as the receiving stolen property offence (recel) pursuant to the fundamental principle in French law of the non-cumulative classification of the offences. There is a settled case law from the Court of Cassation on this matter[135]. The ML offence is therefore applicable to the persons who commit the predicate offence, except in cases where this is contrary to the "ne bis in idem" principle of domestic law.

Criterion 3.8 – The intent and knowledge required to prove the ML offence can be inferred from objective factual circumstances (CPP, art. 591 and 593). A settled case law from the Court of Cassation exists on this matter[136].

Criterion 3.9 – Simple ML is punishable by five years' imprisonment and a fine of EUR 375 000 (CP, art. 324-1). Drug trafficking ML and ML linked to a terrorist undertaking are more severely punished (i.e. 10 years in prison and a fine of EUR 750 000 (CP, art. 222-38 and 421-3). The same applies in the event of aggravating circumstances (e.g. ML committed by an organised gang or on a habitual basis (CP, art. 324-2, 324-4 and 324-7). Receiving stolen property, particularly aggravated receiving, is as severely punished as ML. Compared with the sanctions for other similar offences (fraud – 5 years, drug trafficking – 10 years), proportionate and dissuasive criminal sanctions are applied to natural persons convicted of ML.

Criterion 3.10 – French law provides for the criminal liability of all legal persons in a general manner (CP, art. 121-2), and this may be applicable to ML. The criminal liability of legal persons is without prejudice to the criminal liability of natural persons who are perpetrators or accomplices to the same acts (CP, art. 121-2). Legal persons convicted of simple ML are liable for a fine of EUR 1 875 000 (CP, art. 324-1). Additional penalties (such as winding-up, multiple bans, supervision and permanent closure) are also possible (CP, art. 131-9). These sanctions are considered proportionate and dissuasive.

Criterion 3.11 – France has defined appropriate ancillary offences associated with ML offence, including: attempted ML (punishable by the same sanctions as ML – CP, art. 324-6), aiding and abetting (CP, art. 121-6), and aiding and abetting by gifts, promises, threats, orders, or abuses of authority or power (CP, art. 121-7). Criminal conspiracy (i.e. criminal association) organised with a view to committing the criminal offence of ML, is punishable by 5 years' imprisonment (CP, art. 450-1).

134 Cass. Crim. 24 February 2010, n. 09-82857; Cass. Crim. 9 December 2015, n. 15-8.3204

135 Cass. Crim. 30 October 2013, n. 12-84.189; Cass. Crim. 26 October 2016, n. 15-84.552; Cass. Crim. 8 March 2017, n. 15-86.114.

136 Cass.Crim.17 February 2016, n. 15-80.050; Cass.Crim. 17 March 2015, n. 14-80805; Cass.Crim. 25 October 2017, n. 16-80.238.

Weighting and conclusion

All criteria are met.

France is compliant with R.3.

Recommendation 4 - Confiscation and Provisional Measures

France was rated as partially compliant with the requirements of this Recommendation during the 3rd round evaluation. The main shortcomings concerned the limited scope of the assets that could be seized, incomplete asset confiscation provided for legal persons, and the restriction of seizure measures applying to organised crime to the person under investigation, in addition to shortcomings related to effectiveness. In the meantime, the French legislative system in this area has been overhauled by the Warsmann Law of 9 July 2010.

Criterion 4.1 – France has measures, including legislative measures, that enable the confiscation of the following property, whether held by the criminal defendant or by third parties, legal or natural persons (CP, art. 131-39):

a) *Laundered property*: In France, the penalty of confiscation is automatically incurred for all felony and misdemeanour punishable by a sentence of more than one year (CP, art. 131-21), which includes ML. The scope of the confiscation of laundered property covers all movable or immovable property, regardless of its nature, whether jointly or separately owned (CP, art. 131-21 para.2). Indeed, the concept of "property" is very broad in French law and covers tangible or intangible property, including virtual assets. In addition, the total or partial confiscation of the convicted person's property of any kind whatsoever, of which he or she has free disposal, may also be ordered as an additional penalty for the ML offence (CP, art. 324-1 12°).

b) *Proceeds (including income) or instruments used or intended to be used for ML or predicate offences:* Confiscation covers all property constituting the subject or the direct or indirect proceeds of the offence (CP, art. 131-21, para. 3), the instruments used or intended to be used (property used to commit the offence or intended to be used to commit the offence), of which the convicted person is the owner, or of which he has free disposal (CP, art. 131-21, para. 2)

c) *Property constituting the proceeds of, or used for, or intended to be used for, TF, terrorist acts or terrorist organisations:* The penalty of confiscation is automatically incurred for all felonies and misdemeanours punishable by a sentence of more than one year (CP, art. 131-21), which includes TF. In addition, natural or legal persons convicted of acts of terrorism also incur the additional penalty of confiscation of some or all of the property belonging to them, or of which they have free disposal, of any nature whatsoever, whether movable or immovable, jointly or separately owned (CP, art. 422-6).

d) *Property of corresponding value:* Confiscation also covers goods of corresponding value (CP, art. 131-21 para. 9).

Criterion 4.2 – France has measures, including legislative measures, which enable its competent authorities to:

a) *Identify, trace and estimate*: In order to identify, trace and estimate the existence of property, the investigative authorities have access to numerous records including the FICOBA, the BNDP, the RCS, the national register of trusts and the public register of *fiducies*. For complex asset investigations, several specialised departments may be appointed to carry out asset detection and identification operations. At the regional level, Interministerial Research Groups (GIR) have been created. In 2014, the National Gendarmerie rolled out a specialised network providing technical support for investigators in the field of criminal assets (a "national criminal asset unit" (CeNACs) and "regional criminal assets units" (CeRACs), in addition to a network of focal points for criminal assets. A criminal asset identification platform (PIAC) was also created in 2005 within the OCRGDF at the Central Directorate of the French Police Criminal Investigation Department, which is dedicated to the identification of criminal assets, and centralises all information related to the detection of criminal assets throughout France and abroad.

b) *Carry out provisional measures:* Any property liable to confiscation may be subject to seizure. Seizure may concern some or all of a person's property, real estate, intangible property or rights, including virtual assets[137], or receivables, as well as seizures that do not lead to dispossession of the property. Magistrates and investigators may seize or freeze any item of property by way of confiscation: seizure of real estate, property or intangible rights (including seizures of sums in bank accounts, receivables concerning a sum of money, receivables under a life insurance policy, securities or even business capital), seizure without dispossession for which the judge designates the person to whom custody of the property is entrusted, and who must ensure its maintenance and preservation, at the expense, where necessary, of the owner or holder of the property (CPP, art. 76-141 et seq.) Seizures of tangible property, such as vehicles, are governed by the provisions relating to Police searches (CPP, art. 56, 76, 94 and 97) and can also be used to secure confiscations.

c) *Take steps to prevent or void actions:* French law ensures the pre-eminence of criminal seizure over civil enforcement procedures (CPP, art. 706-145 para. 2). The act of interfering with (misappropriating or refusing to hand over) property that is subject to a confiscation order is punishable by law (CP, art. 434-41).

d) Implement any appropriate investigative measures (see R.30 and R.31).

Criterion 4.3 – The rights of *bona fide* third parties are protected by the law (CP, art. 131-21 para. 2), and this has been confirmed by case law[138].

Criterion 4.4 – France has a framework for managing seized and confiscated assets through the AGRASC. This administrative public agency was established in February 2011 to facilitate seizure and confiscation in criminal matters. It has been given important powers for the management of property seized by the French authorities.

137 Examples include the case of French Deepweb Market, one of the platforms on the French-speaking darkweb, which advertises many illicit products and services, on which various virtual currencies (Bitcoin, Bitcoin Cash, Litecoin, Ether, Zcash, Ripple, Monero) have been seized.

138 Cass. Crim, 7 Nov. 2018, n. 17-87.424

It is responsible for the management of all property, regardless of its nature, whether seized, confiscated or subject to protective measures entrusted to it during the course of criminal proceedings, and which requires administrative acts for its preservation or valuation (CPP, art. 706-160-1), as well as the centralised management of all sums seized during criminal proceedings (CPP, art. 706-160-2).

Weighting and conclusion

All criteria are met.

France is compliant with R.4.

Recommendation 5 – Terrorist financing offence

France was rated as compliant with the requirements of this Recommendation during the 3rd round evaluation.

Criterion 5.1 – TF under French law is criminalised in line with art. 2 of the Terrorist Financing Convention (1999) (CP, art. 421-2-2). The material elements cover the provision, collection or management of funds, securities or property, or the act of giving advice for this purpose when it is intended to use such funds, securities or property, or in the knowledge that they are intended to be used, in whole or in part, to carry out terrorist acts, as provided for in Chapter 1 of Book IV of the CP. France adequately covers all acts of terrorism for which financing is an offence. It is also not necessary for the act itself to occur.

Criterion 5.2 – The TF offence as defined in art. 421-2-2 of the CP applies to the financing of a terrorist undertaking by providing, collecting or managing funds and other property, or giving advice with the intention, or in the knowledge, that these funds and other property will be used or are intended to be used, in whole or in part, to commit a terrorist act, irrespective of whether this act actually occurs. The TF offence covers the financing of terrorist acts (CP, art. 421-1 and 421-2) as well as the financing of terrorist organisations and individual terrorists[139]. There is no requirement for the funds to have actually been used to commit or attempt to commit one or more terrorist act(s), or to be specifically linked to such acts. Intent comprises the intention to use, or mere knowledge that the financing will be used, for terrorist activity or by any individual in a terrorist organisation. TF therefore occurs even in the absence of terrorist intent or purpose on the part of the perpetrator. A TF offence also takes place if the financing is intended to cover non-terrorist expenditure. Numerous judgements have been delivered[140] in this regard.

Criterion 5.2 bis – The TF offence as defined in art. 421-2-2 is applicable to terrorist criminal association (*association de malfaiteurs terroriste*) and individual terrorist undertaking (*entreprise individuelle terroriste*) offences which include people travel

139 A "terrorist undertaking" is defined as an individual or collective undertaking that sets out to seriously disturb public order through intimidation or terror (CP, art. 421-1).

140 Criminal Division (Chambre correctionnelle) of Paris Judicial Court, 22 November 2019: Conviction of parents on a TF charge for helping their son – a member of a jihadist terrorist group – to cover his day-to-day expenses. (See case of Parents in IO.9).

for terrorist purposes (whether to join a terrorist organisation or to individually prepare a terrorist act). This is illustrated by numerous sentencing decisions[141].

Criterion 5.3 – The TF offence extends to all funds, securities or property of any kind, whether lawful or unlawful in origin. The concept of "property" is very broad in French law and covers property of all kinds, whether tangible or intangible, movable or immovable, including virtual assets.

Criterion 5.4 – The TF offence does not require funds and other property (a) to have actually been used to commit or attempt to commit one or more terrorist acts; nor (b) to have been linked to one or more specific terrorist acts. The offence is deemed to occur independently of the actual commission of the terrorist act.

Criterion 5.5 – The element of intent is assessed by supreme judges, who have the authority to assess the evidence (CPP, art. 591 and 593). The case law confirms this observation[142].

Criterion 5.6 – TF is a criminal offence punishable by a maximum penalty of ten years' imprisonment and a fine of EUR 225 000 (CP, art. 421-5)[143]. The applicable penalties are therefore considered proportionate and dissuasive.

Criterion 5.7 – The criminal liability of legal persons pursuant to art. 121-2 of the CP applies to the TF offence. Consequently, legal persons incur a fine of up to EUR 1 125 000 (i.e. five times the fine provided for natural persons) (CP, art. 131-38). Additional penalties, such as dissolution, supervision and permanent closure, are also possible (CP, art. 422- 5 and 131-9). This criminal liability of legal persons does not exclude that of natural persons (CP, art. 121-2). These penalties amount to proportionate and dissuasive penalties.

Criterion 5.8 – A number of activities related to the TF offence also constitute offences, including (a) attempted TF (punishable by the same penalties - CP, art. 421-5); (b) assistance by aiding or abetting (CP, art. 121-6), including attempted TF (CP, art. 421-5); (c) commission of the offence by means of a gift, promise, threat, an order, or an abuse of authority or power (CP, art. 121-7); and (d) the commission of a TF offence or an attempted TF offence by a group of persons (via the offence of terrorist conspiracy, provided for in CP, art. 421-2-1).

Criterion 5.9 – The TF offence is a predicate offence for ML (CP, art. 324-1). (see Criterion 3.2).

Criterion 5.10 – French law applies in the event of the commission of an offence or one of its constituent acts on French territory (CP, art. 113-2). TF can therefore be punished in France regardless of the country in which the terrorist individuals or organisations for whom the funds, assets or property are intended is located, and regardless of the country in which the terrorist acts occurred or will occur. The Paris Criminal Court judgement of 28 September 2017 confirms this finding.

141 Paris Criminal Court (Tribunal correctionnel), 28 September 2017 (conviction for TF for purchasing airline tickets and sending sums to third parties in conflict zones). Counter-terrorism unit of Paris Judicial Court, 2015 (conviction for terrorist conspiracy and TF for an attempt to finance the departure of individuals to Syria. (See case Mother in IO,9).

142 Cour de cassation, Criminal Division, 7 February 2017 – No 16-87.08, and Paris Criminal Court (Tribunal correctionnel), 28 September 2017

143 Additional penalties are also incurred: loss of civic, civil and family rights, disqualification from holding a public function or practising the professional or social activity in or during the performance of which the offence was committed, and refusal of a residence permit (CP, art. 422-3).

Weighting and conclusion

All criteria are met.

France is compliant with R.5.

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing.

France was rated as largely compliant with the requirements of this recommendation during the 3rd round evaluation. The main shortcomings were related to the absence of provisions in European or domestic legislation covering the freezing of funds of persons acting on behalf of designated persons or entities, and the lengthy delays in adopting the European regulations transposing the 1267 List. Concerning Resolution 1373, the national administrative freezing framework was not used against terrorists classified as "internal to the EU" and there were no effective procedures for considering requests from third countries. In addition, instructions for entities subject to AML/CFT requirements on the implementation of freezing measures were very general, and supervision of its compliance were very limited. Since then, France has significantly reformed its framework regarding terrorism- and TF-related TFS.

Criterion 6.1 - In relation to designations pursuant to UNSC resolutions 1267/1989 and 1988:

a) The French Ministry of Europe and Foreign Affairs (MEAE), charged with common foreign and security policy matters (Decree No 2012-1511 of 28 December 2012), is the authority responsible for proposing designations to the 1267/1989 and 1988 Committees. The MEAE's responsibility for proposing designation is not explicitly mentioned in the decree, but the implementation of France's action, on behalf of international and intergovernmental organisations, is implicitly part of its role (art. 4 of the decree).

b) France has a mechanism for identifying targets for designation. This mechanism is derived from a classified policy reviewed by the evaluation team during the on-site visit. This policy was put in place with the creation of an interministerial working group in 2017 (GABAT), under the aegis of the General Secretariat for Defence and National Security (SGDSN). It stipulates that the MEAE, in conjunction with the intelligence services, shall target persons or entities likely to be subject for designation on the UN lists. However, no legal provision or any other binding means require the identification of targets to be based on designation criteria set out in the UNSCRs.

c) France applies standards of proof based on "reasonable grounds" when deciding whether or not to make a proposal for designation. In fact, the MEAE ensures that statements of grounds for a proposal to place a person under United Nations sanctions contain factual and up-to-date information that establishes a reasonable link between the individuals or entities concerned and the organisations covered by the 1267/1988 and 1267/1989 Committees. In practice, proposals for designation are not conditional upon the existence of criminal proceedings. The administrative nature of the measures is confirmed by the French Constitutional Council's decision No 2015-524 of 2 March 2016.

d) The MEAE submits listing recommendations according to the procedures and templates provided by the UNSCs.

e) The MEAE ensures that the statement of reasons includes, to the extent possible, the personal identity details and information required for the issuance of a special notice by Interpol, and that it also includes information concerning (i) up-to-date facts enabling the establishment of a reasonable link between the individuals or entities concerned, and (ii) the individuals and organisations targeted by the 1267/1988 and 1989 Committees. France does not generally publish its status as a State proposing a designation. It may, however, inform the other Member States of its proposals as part of the preparations for each designation.

Criterion 6.2 – The designations pursuant to UNSCR 1373 are implemented by both European and national measures:

a) At the European level, the Council of the European Union is responsible for proposing persons or entities for designation (Common Position 2001/931/CFSP and Decision 2016/1693/CFSP). The MEAE, charged with common foreign and security policy matters (Decree No 2012-1511 of 28 December 2012) is responsible for proposing designation to the Council. (see criterion 6.1(a)). At the national level, the Minister for the Interior and the Minister for the Economy jointly decide on the adoption of freezing measures (CMF, art. L562-2). The GABAT is responsible for centralising and coordinating the mechanisms for identifying targets under the European and domestic freezing mechanisms, and for examining freezing requests submitted by another country.

b) Targets are identified at the level of the intelligence services, which transmit their proposals for designation to the Counter-Terrorism Coordination Unit (UCLAT) in order to establish a procedure for coordination and to ensure the absence of conflicting views from an intelligence or judicial service regarding such proposals. The mechanism is described in the GABAT related policy, consulted on site.

c) At the European level, the verification of reasonable grounds for requests is carried out by the COMET Group, which examines and evaluates the information in order to determine whether it meets the criteria for designation in UNSCR 1373. The MEAE is the competent French authority involved in this activity. At the national level, and in the event of request from a third country, this analysis takes place within GABAT as part of the national freezing framework.

d) At the European level, the COMET Group analyses freezing requests and makes its decisions on the basis of serious and credible evidence (i.e. on "reasonable grounds"). The freezing measure is not linked to the existence of an investigation or conviction. At the national level, the provisions of the CMF are not explicit concerning the level of proof required and the definition of "reasonable grounds". However, the authorities indicate that they verify the existence of such grounds by identifying serious and credible evidence which confirms that the actions of the individuals or entities concerned do indeed meet the criteria set out in art. L562-2 of the CMF. Compliance with these criteria is monitored by the Administrative Court. The grounds for a decision by the Constitutional Council confirm the administrative nature of the freezing

measure, and the fact that it is not conditional upon the existence of criminal proceedings to be initiated for the facts used as grounds for the Ministry's decision to be considered.

e) The European regimes relating to the application of UNSCR 1373 enable actions under the asset freezing framework to be initiated at France's request. However, there is no clear procedure requiring France to provide information and supporting evidence to foreign competent authorities when requesting another country to give effect to domestic freezing actions. However, the authorities indicate that the necessary exchanges of information take place through diplomatic channels and, where appropriate, through the specific cooperation channels described in R.40.

Criterion 6.3 –

a) At the European level, all EU Member States are obliged to share all relevant information they hold pursuant to the EU asset-freeze regulations (Regulations 881/2002, art. 8; 753/11, art. 9; 2580/2001, art. 8; and Common Position 2001/931/CFSP, Art. 4). At the national level, the intelligence and investigation agencies may use their powers to collect relevant information, and TRACFIN may use its powers to collect financial intelligence (CMF, art. L561-31 4°). In the context of requests from third countries, the MEAE may request information from the intelligence agencies, and the MEAE and DGT may ask the requesting country for additional information to enable processing of the request.

b) At the European level, designations must take place on an *ex parte* basis against the identified person or entity[144]. At the national level, it is possible to take action on an *ex parte* basis against a person or entity targeted by a freezing measure (CRPA, art. L121-2).

Criterion 6.4 – France implements TFS "without delay" pursuant to UNSCR 1267/1989 and 1988 (Ordinance of 4 November 2020 and Order of 1st February 2021) in order to overcome delays in transposing UNSC designations into EU regulations. This mechanism is based on the definition by the Minister of Economy and the Minister of Foreign Affairs of the list of UN sanctions regimes, which includes the UNSC 1267/1989 and 1988 Committees. Consequently, each new designation (and each modification) made by these committees enters into force without delay, including in OCT. Designations are enforceable (i.e. enforceable against third parties) as soon as details of identification are published in the national register of asset-freezing measures. The measure is in force for a period of 10 days or, if it occurs earlier, until the publication of the corresponding EU implementing regulation. In the event of a delay in the publication of the EU regulation which risks surpassing the 10 day period, the listing can remain in place by way of the adoption of an asset-freeze national order pursuant to art. L562-3 of the CMF. Any designation made under the CFSP 2001/931 and CFSP 2016/1693 schemes is subject to the publication of a decision and an implementing regulation. These regulations are directly applicable in the EU Member States and enter into force on the date of publication in the Official Journal of the European Union (OJEU). These regulations are therefore directly and

144 (Regulation 881/2002, amended by Regulation 1286/2009, art.7a (1) and (2); Council Decision CFSP 2016/1693 art. 5 (1) and (2); Council Implementing Regulation (EU) 2019/1337 of 8 August 2019, recitals 2 and 3).

immediately applicable throughout France, excluding the OCTs. For the OCTs, the Ordinance of 4 November 2020 put in place a new mechanism for the automatic application of EU listings in OCTs. An order of 1 February 2021 makes them automatically applicable in the OCTs. For UNSCR 1373, TFS are implemented without delay once a designation has been made at national or supranational level.

Criterion 6.5 –

a) Under UNSCR 1267/1989 and 1988, all natural and legal persons are required to freeze funds and other assets of designated persons and entities without prior notification in application of European regulations. In addition, France has put in place a national mechanism to overcome delays existing at EU level in the implementation of SFCs (see criterion 6.4). Under UNSCR 1373, EU regulations are directly applicable in all member states, without prior notice to the persons or entities concerned (Regulation 2580/2001). However, EU nationals are not subject to the freezing measures set out in Regulation 2580/2001; they are only subject to police and judicial cooperation measures in criminal matters. This deficiency is covered by the national framework: asset freezing measures can target funds and economic resources owned, held or controlled by all natural or legal persons (CMF, art. L562-2) and are applicable by any natural person, French or otherwise, as well as any legal person constituted or established under national law or carrying out an operation within French territory, within the framework of its activity (CMF, art. L562-4).

b) At the European level, in the context of the implementation of Resolutions 1267/1989 and 1988, freezing measures cover all funds and economic resources either belonging to, or directly or indirectly owned, held or controlled by a designated natural or legal person, entity or body. They cover interest generated by frozen assets, whose payment is authorised, and which is also frozen; owned or controlled, directly or indirectly by a third party acting on their behalf or on their instructions (EU Regulations 753/2011, 881/2002, 2580/2001 and 2016/1686). At the national level, the provisions of the CMF (art. L562-2 - 562-4) cover the entire scope of application of the freezing measures provided for in R.6.

c) At the European level and in accordance with the UNSCRs, the regulations prohibit EU nationals or any person or entity within the EU from making funds and other economic resources available to designated persons or entities. (art. 3.2 of EU Regulation 753/2011 and 2 and 3 of EU Regulation 881/2002, amended by EU Regulation 1286/2009, and 2016/1686). At the national level, covered entities as well as any other natural or legal person who is a French national/governed by French law, present on French territory, or any foreign natural or legal person operating on French territory for its activities, are prohibited from making funds or economic resources directly or indirectly available to designated persons and entities (CMF, art. L62-4; 562-5).

d) Mechanisms for communicating designations to FIs and DNFBPs are available, at both European level (publication in the OJEU and registration in the European Commission's database) and at national level (listings published in the JORF, as well as in the national register of persons and entities subject to a freezing measure (CMF, art. R562-2). The DGT also uses an early-warning system for parties subject to requirements. Guidelines and best practice guides are also available at European and national levels.

e) Natural and legal persons covered by the EU Regulations must immediately provide any information about frozen assets to the competent authorities (art. 5.1 of EU Regulation 881/2002, art. 4 of EU Regulation 2580/2001, art. 8 of EU Regulation 753/2011). At the national level, covered entities are required to immediately inform the Minister for the Economy of the adoption of freezing measures, of the holding or receipt of funds or economic resources, and of any transactions intended to circumvent the freezing measure or ban (CMF, art. L562-4; R562-3).

f) The rights of *bona fide* third parties are protected at the European level (EU Regulations 753/2011 Art. 7, 881/2002 art. 6 amended by EU Regulation 1286/2009, and 2016/1686 art. 12 and 13), but also at the national level (CMF, art. L562-13).

Criterion 6.6 –

a) At the European level, the regulations provide for procedures enabling delisting and the release of funds – EU Regulation 753/2011, art. 11(4) in the case of UNSCR 1988, and Regulation 881/2002, art. 7a and 7b(1). The MEAE, which is charged with issues related to foreign policy and common security, coordinates the delisting requests submitted by individuals or entities residing in France or possessing French nationality which are listed under UNSCRs 1267/ 1989. Although the procedures that enable France to submit delisting requests to the relevant UN committees are not referred to under the law, France has successfully requested the delisting of one person from the UN 1267 list.

b) At the European level, the Council of the EU revises the list under the CFSP 2001/931 and CFSP 2016/1693 regimes at regular or ad hoc intervals. The amendments to the list under Regulation 2580/2001 are directly applicable. At the national level, listed persons or entities have an automatic right of appeal to request the cancellation of the administrative freezing measure (CRPA, art. 411-2.) In addition, when examining the six-monthly renewal of the freezing measure, a review is conducted to verify the continued existence of conditions justifying the initial measure, in the framework of an adversarial procedure involving the person concerned (CRPA, art. L121-1).

c) Under UNSCR 1373, decisions to designate can be reviewed by a court or an independent competent authority (Treaty on the Functioning of the European Union, art. 263 a. 4 and 275). At the national level, an appeal can also be submitted to an administrative court under art. R312-8 of the French Code of Administrative Justice.

d) and (e) For designations under UNSCR 1988 and 1989, designated persons and entities are informed of their designation and of the measures taken against them. The legality of the EU Regulations may be challenged by the persons concerned before a national court or before the Court of Justice of the European Union. In addition, requests for reviews may be submitted to the United Nations Ombudsman for reviews of delisting requests pursuant to UNSCR 1988, 1989 and 2083, or where applicable, to the Focal Point established by UNSCR 1730 with respect to UNSCR 1988. (Regulation 753/2011, art. 11; Regulation 881/2002, art. 7a and 7e).

f) At the European level, the procedures described in sub-criteria (a) to (e) apply to the unfreezing of funds or other assets belonging to persons or entities with the same or similar names as the listed persons or entities, who/which are inadvertently affected by a freezing mechanism. (Regulation 881/2002, art. 2a(3) and 7a(3)-(5), 7c(3) and (4); Regulation 753/2011, art. 11(3) and (4); Regulation 2580/2001, art. 6(1)). The European procedures (Regulation 2580/2001) are supplemented by the procedures provided for in art. L562-11 of CMF, as well as by joint guidelines issued by the DGT and ACPR on the implementation of freezing measures.

g) Delisting and unfreezing decisions made by virtue of the EU Regulations are published in the OJEU, and the updated list of designated persons is published in the database maintained by the European Commission. Delisting is announced by removing the information from the national register of persons and entities covered by a freezing measure (CMF, art. R562-2 and joint guidelines of DGT and ACPR on the implementation of freezing measures).

Criterion 6.7 – At both European and national levels, procedures are in place to allow access to frozen funds or other assets in the cases provided for under UNSCR 1452 and any subsequent resolution (EU Regulation 881/2002 art. 2bis, EU Regulation 753/2011, EU Regulation 2580/2001 art. 5 and 6; CMF, art. L562-11).

Weighting and conclusion

By the latest legislative changes (*ordinance of 4 November 2020 and Order of 1st February 2021*)**,** France has succeeded in overcoming overcome delays in transposing EU regulations. There are only minor shortcomings in TFS framework related to the required level of proof and the definition of "reasonable grounds".

France is largely compliant with R.6.

Recommendation 7 –Targeted financial sanctions related to proliferation

The obligations relating to R.7 were introduced when the FATF Recommendations were revised in 2012 and were therefore not included in France's evaluation in 2011.

Criterion 7.1 – France uses both European regulations (EU Regulations 2017/1509 and 267/2012 as amended) and national legislation (Ordinance of 4 November 2020 and Order of 1st February 2021 and CMF, art. L562-3) to implement proliferation-related targeted financial sanctions without delay pursuant to UNSCR related to Preventing proliferation [145] (see criterion 6.4 for more details).

Criterion 7.2 – The Minister for the Economy is the authority responsible for implementing freezing measures (CMF, art. L562-3). The other authorities concerned with the financing of proliferation are involved at the level of the General Secretariat for Defence and National Security (SGDSN) (Interministerial Instruction No 74/SGDSN/AIST of 24 March 2009).

a) The European regulations are applicable to any EU national and to all legal persons, entities or bodies established or incorporated under the law of a Member State or connected with a commercial transaction carried out in the EU (art. 49 Regulation 267/2012, and art. 1 Regulation 2017/1509). At the

145 Resolution 1718 (2006) et seq. on the Democratic Republic of Korea, and 2231(2015) on Iran

national level, freezing orders must be applied by any natural or legal person (CMF, art. L561-4).

b) At the European and national levels, the freezing obligation extends to all funds or other property covered by this sub-criterion (art. 23, Regulation 267/2012 as amended and art. 34 Regulation 2017/1509; CMF, art. L562-2 and 562-4).

c) EU regulations prohibit the provision of economic funds or resources (art. 23(3) Regulation 267/2012; art. 34(3) Regulation 2017/1509). At the national level, CMF provisions prohibit any natural or legal person from making funds or economic resources available directly or indirectly to designated persons and entities (L562-4; 562-5). Specific derogation frameworks are provided for at European and national levels (see criterion 7.4 c).

d) Mechanisms for communicating designations to the financial sector and DNFBPs are available, at both European (publication in the OJEU and registration in the European Commission's database) and national levels (listings published in the JORF, as well as in the national register of persons and entities subject to a freezing measure – art. R562-2 of the CMF). DGT also uses an early-warning system and news flashes for regulated entities. Guidelines and best practice guides are also available at European and national levels.

e) Natural or legal persons, entities and bodies must transmit any information about frozen accounts and amounts to the competent authority or the Commission (art. 40 Regulation 267/2012, art. 50 Regulation 2017/1509). At the national level, covered entities are required to immediately inform the Minister for the Economy of the adoption of asset-freezing measures, of the holding or receipt of funds or economic resources, and of any transactions intended to circumvent the freezing measure or ban (CMF, art. L562-4; R562-3).

f) The rights of *bona fide* third parties are protected at the European (Regulation 267/2012 art. 42 and Regulation 2017/1509 Art. 54) and domestic levels (CMF, art. L 562-13).

Criterion 7.3 – The European regulations require Member States to determine effective, proportionate and dissuasive sanctions for violations of the provisions of the regulations (art. 47 Regulation 267/2012 and art. 55 of Regulation 2017/1509). Covered entities and persons who fail to comply with the provisions on asset-freezing are subject to controls and sanctions (CMF, art. L561-36 and 561-36-1). The available sanctions are of administrative, civil or criminal nature. On a criminal level, the DGDDI is competent to monitor compliance with measures restricting economic and financial relations, and to punish any violations of United Nations resolutions, European regulations on sanctions, or national freezing measures (CMF, art. L574-3 and CD, art. 453 to 459).

Criterion 7.4 –

a) At the European level, the Council of the European Union's note on updating the European Union's best practices on the effective implementation of restrictive measures specifies that the Focal Point is responsible for receiving

de-listing requests (EU Best Practices, page 11, para. 23). With regard to the EU's autonomous measures, the EU Council transmits the grounds for listing to listed persons and gives them the opportunity to comment (art. 47 Regulation 2017/1509 and art. 46 of the amended Regulation 267/2012; EU Guidelines, Annex, para. 11). At the national level, the guide to best practices for the implementation of economic and financial sanctions, available on the DGT website, indicates the address of the UN Focal Point for de-listing requests (Point 10.3).

b) At both European and national levels, procedures for unfreezing the funds or other assets of persons or entities in the event of "false-positive" identifications are made available and brought to the attention of the public (paras. 8 to 17 of EU Best Practices; paragraph 36 of the guide to best practice on the implementation of economic and financial sanctions, points 103 to 111 of the joint DGT and ACPR guidelines on the implementation of asset-freezing measures, information on the DGT web pages).

c) Provisions exist at the European and national levels to enable access to frozen funds or other assets in accordance with the derogation procedures and terms established by Resolutions 1718 and 2231 (EU Regulation 2017/1509 art. 35, 36 and 37; EU Regulation 267/2012, as amended by Regulation 2015/1861 art. 24-26, 28 and 29; CMF, art. L562-11). At the national level, for certain recurrent expenditure, FIs may make transfers without seeking consent from the government (Point 29.1 of DGT best practices' guide).

d) At the European level, delisting and unfreezing decisions are published in the Official Journal of the European Union (Regulation 2017/1509 art. 47 and Regulation 267/2012 art. 46, amended by Regulation 2015/1861). The national register of persons subject to an asset-freezing measure, maintained by the Minister for the Economy, is updated when a delisting decision is adopted at the United Nations or EU level (CMF, art. R562-2).

Criterion 7.5 –

a) EU regulations allow for the addition of interest to frozen accounts, or of other amounts due on such accounts or payments due under contracts, agreements or obligations entered into prior to the date on which the accounts were frozen, provided that such amounts are also subject to freezing measures (EU Regulation 267/2012 art. 29 and EU Regulation 2017/1509 art. 34.12).

b) With regard to freezing measures adopted on the basis of Resolutions 1737 and 2231, specific provisions allow for the payment of sums due by virtue of contracts concluded prior to listing, provided that the payment is not related to an activity prohibited by the resolutions, and that the UN Sanctions Committee is notified in advance (EU Regulation 2015/1861 amending Regulation 267/2012, art 25).

Weighting and conclusion

All criteria are met.

France is compliant with R.7.

Recommendation 8 – Non-profit organisations

France was rated as largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The identified shortcomings concerned the lack of specific periodic reviews of the situation of NPOs with regard to TF risks and the lack of awareness raising among associations of the risk of misuse for TF purposes. The requirements of this recommendation have changed considerably since the third round.

General information

In France, two categories fall under the FATF definition of NPOs: associations and foundations. Associations are governed by the Law of 1901 providing for the principle of freedom of association, which was established as a principle of constitutional value by a decision of the Constitutional Council of 16 July 1971. The Law of 1901 distinguishes between several types of associations according to their status: associations recognised as being of public interest, approved associations, declared associations and non-declared associations. This legislative framework is supplemented by the Law of 9 December 1905, which gave rise to a particular type of association: religious associations. Foundations are governed by the Law of 23 July 1987 on the development of sponsorship Laws of 23 July 1987and the Law of 4 July 1990. This legislative framework distinguishes between several types of foundations, including public interest foundations and corporate foundations. In addition, the law of 4 August 2008 on the modernisation of the economy created endowment funds, a new and more flexible form of foundation that can be established by a single individual or legal entity without the need for prior administrative authorisation. All these structures enable the collection and redistribution of funds for charitable, religious, cultural, educational, social or benevolent purposes. All of the above arrangements automatically apply in OM.

Associations and foundations share the objective of performing a not-for-profit activity in the general interest, but they differ in that an association is a grouping of people whose knowledge or efforts are permanently focused on the pursuit of a common objective, whereas a foundation is concerned with making available goods, rights or resources in order to accomplish an undertaking in the general interest. As regards the creation of these two legal structures, an association can be created without prior administrative authorisation, whereas the creation of a foundation is dependent upon the allocation of financial resources. At the time of the VSP, France had 1 873 481 associations registered on the National Register of Associations (RNA), approximately 1.6 million of which were active in the fields of sport, leisure, culture and the defence of causes, rights or interests. There are also 5 000 religious associations, 1 000 foundations and around 3 000 endowment funds.

Criterion 8.1 –

a) The 2019 NRA concluded that the majority of associations and foundations pose a minimal risk of TF. However, in the context of this NRA, the authorities have identified a subset of organisations that fall within the FATF definition of NPOs and that pose a higher risk. This subset includes three types of associations: (i) associations with a cultural, religious or socio-educational purpose (mixed associations) located on the outskirts of large cities, which may be exposed to a threat in the form of the financing of radicalisation, (ii) associations with a humanitarian purpose, whose operations or financial

flows are focused towards high-risk areas where terrorist groups operate, which may be misappropriated or used for the purpose of financing terrorist actions abroad, and (iii) associations operating in conflict zones or in connection with other associations present in such areas. This classification shows that the authorities have adopted a broad approach based not only on risk of TF abuse but also on risk of financing radical organisations with violent potential. The NPO sector study conducted by the authorities is based more on the threats posed by the NPO sector than on the risks of TF abuse. Furthermore, the authorities did not use a specific methodology or particular criteria in order to identify the subset of NPOs at risk. The sources of information used came mainly from an interministerial analysis of the vulnerabilities of associations and from operational analyses carried out by the investigation and intelligence services (e.g. TRACFIN typologies, feedback from investigations into attempted or actual acts of terrorism, and analyses of prosecutions). The authorities indicated that the NPOs themselves were not consulted.

b) The French authorities have identified two types of threat to which NPOs are exposed: the collection of funds liable to finance radical movements with violent potential, and the misappropriation of donations to humanitarian associations operating in conflict zones. The typologies identified are diversified, ranging from the use of associative structures to raise funds (individual donations, online money pots) and transfers of funds to natural or legal persons present in areas in which terrorist groups operate or humanitarian convoys are hijacked, to the levying of access "taxes", and thefts.

c) France has reviewed the relevance of measures concerning active humanitarian NPOs in zones identified at risk and receiving government grants. The French Development Agency (AFD) and the Crisis and Support Centre (CDCS), as French public donors, have consequently reviewed their respective provisions in order to adapt them to the level of risk identified. However, the adequacy of measures has not been reviewed in relation to other NPOs identified as being at risk for TF abuse, in order to be able to take proportionate and effective action to address the identified risks.

d) The first risk analysis specific to the NPO sector was carried out as part of the NRA published in 2019. Prior to this, TRACFIN included an assessment of the threats and vulnerabilities related to the non-profit sector in its annual reports, but this does not constitute a sectoral risk analysis. The next sectoral risk assessment relating to NPOs will be carried out as part of the regular updating of the NRA (CMF, art. D561-51).

Criterion 8.2 –

a) France has put in place several measures to promote accountability, integrity and public confidence in the administration and management of high-risk NPOs, including (i) entry in registers[146] available online and at prefectural registries, (ii) increased transparency and traceability under certain

146 Registre national des associations (Order of 14 October 2009 creating the RNA – National Register of Associations).

conditions[147] (see criterion 24.3), (iii) supervision of accounting obligations[148] and tax obligations,[149] and (iv) public access to basic information[150].

b) Only humanitarian associations receiving government grants subsidies and their administrators have been targeted by campaigns to raise awareness of the risk of misappropriation of funds in general, and for TF purposes. However, there are no initiatives to raise awareness of TF risks among other at-risk NPOs. Some associations based in large urban areas have been made aware of the issues of financing radicalisation but not about TF. No awareness-raising campaigns have been conducted targeting general public donors and other associations, apart from the dissemination to all registries of associations in 2016 of DGT best practices' guide, intended for distribution to each association at the time of its declaration. Not all associations met during the on-site visit were aware of the existence of this guide.

c) The French authorities do not work with NPOs to develop and promote best practices to prevent TF risk. The authorities' work vis-à-vis NPOs tend to be conducted on a solo basis without any engagement with NPOs, except for some initiatives with well-known humanitarian actors. One example is the working group[151] established with representatives of the humanitarian sector and financial institutions, whose missions include identifying best practices for the analysis and control of terrorist financing risks by NPOs. All other actions carried out by the authorities with the aim of involving associations were carried out with the goal of preventing radicalisation and developing the habit to report radicalised people to the authorities, rather than protecting NPOs from TF risks.

d) Public humanitarian donors have implemented specific obligations for NPOs receiving grants to use formal financial channels and retain supporting documents. In addition, humanitarian NPOs face difficulties in accessing the formal financial channels required to implement their actions in crisis zones. The French authorities, in conjunction with humanitarian actors and the financial sector, have launched activities aiming to re-establish access to these financial channels (tripartite dialogue between the state, banks and NGOs), but no solution had yet been found at the time of the evaluation. In addition, no steps have been taken to encourage all NPOs to conduct transactions through formal channels.

147 For example, organisations which intend to make public appeals for donations in order to support a scientific, social, family, humanitarian, philanthropic, educational, sporting, cultural or environmental cause, are required to make a prior declaration to the representative of the State in the département when the amount of donations collected by this means during one of the two previous fiscal years or the current fiscal year exceeds a threshold set by decree.

148 Accounting regulations applicable to NPOs from 1st January 2020 require the creation of accounts by funds dedicated to actions financed by donors' contributions.

149 The government has implemented a procedure for on-site visits to any NPOs that have issued receipts entitling it to tax benefits (LPF), Art. L.14-1), accompanied by the transmission of documents and records to the administration (LPF, L.102 E).

150 The accounts of associations must be published above the threshold of €153,000 (C.comm., art. L612-4). This requirement also applies to all categories of foundations. The RNA is available online, as is the SIRENE file.

151 An informal working group was established by the MEAE cabinet on 7 May 2019, initially involving representatives of the State (CDCS, Treasury Department and occasionally TRACFIN, the ACPR and the Ministries of the Interior and the Armed Forces), and the main humanitarian operators.

Criterion 8.3 - The authorities have put in place specific targeted control measures only for humanitarian NPOs with government grants. Public donors (AFD and CDCS) have therefore reinforced their control over humanitarian and development activities carried out by their NPO partners operating in crisis hotspots, but these NPOs represent a small part of high-risk NPOs. The other non-aided humanitarian associations identified as being at risk are only subject to a posteriori financial and tax audits which are applied in a nearly uniform manner according to the legal status, without taking account of the TF risk. For other NPOs categories at risk, the French authorities use an intelligence-led surveillance-based approach covering the following aspects: (i) human; (ii) territorial, coordinated by the prefects; (iii) financial, through the specific processing by TRACFIN of suspicions relating to NPOs. In addition, the intelligence services are putting in place screening measures with regard to certain associations, however these measures are not based on any identified TF risks, but tend to be implemented on the basis of the monitoring of individual persons. No measures have been implemented for the targeted preventive control of these associations. The measures adopted by the authorities in relation to mixed associations identified at risk are designed to counter radicalisation rather than TF.

Criterion 8.4 –

a) Only aided humanitarian NPOs are subject to targeted supervision. AFD and CDCS carry out this supervision, each covering the aspects that concern them, and verify that their NPO partners operating in crisis hot spots comply with the specific requirements for the granting of subsidies in general, including the requirements for the prevention of TF. This verification can be carried out either directly by the donors or by using specialised service providers. In contrast, no targeted supervision have been put in place to prevent TF for other high- risk NPOs.

b) Non-compliance with the obligations of the general framework of accountability, integrity and transparency of NPOs is subject to sanctions: fines, suspension of activity or tax benefits, withdrawal of licence, imprisonment. To prevent the risk of TF, coercive administrative measures are implemented: freezing of assets (national, European and international level (art. L. 562-2, 562-3 of the CMF); winding up (Art. L. 212-1, L.227-1 of CSI; Law No 2017-1510 reinforcing internal security and the fight against terrorism). Dissuasive judicial measures can also be taken against NPOs found guilty of financing terrorism, including winding up by order of the court (CP, art. 324-9) and fines of up to EUR 1 000 000 (CP, art. 131-38).

Criterion 8.5 –

a) France has established mechanisms to ensure cooperation, coordination and information exchanges between competent authorities possessing relevant information on NPOs. Various specialised mechanisms at the coordination level (Advisory Board for the Fight Against Money Laundering and Terrorist Financing – COLB), which brings together all the State agencies involved in the issue of TF, in particular chartered accountants, whose guidelines mention the risks associated with NPOs. The interministerial group in charge of freezing terrorist assets, ensures interministerial cooperation on asset freezing on the basis of a national listing that may be applicable to NPOs, in conjunction with the Directorate of Civil Liberties and Legal Affairs (DLPAJ) at the Ministry of the Interior. France has also established an integrated coordination system

revolving around UCLAT, which is itself attached to the DGSI, which coordinates the fight against terrorism. UCLAT ensures the national coordination of territorial intelligence actions with regard to the monitoring of associations.

b) France implements investigative measures governed by ordinary law, which cover NPOs, either through qualification, jurisdiction, on-site transfer, seizure, testimony at the level of the different jurisdictions (Public Prosecutor's Office, Examining Magistrate, Court) and testimony by investigating police officers and customs officers. Similarly, France has created specialised units to counter TF (DGSI, SDAT attached to the DCPJ, and SAT attached to DRPJ Paris), which have judicial jurisdiction over suspected NPOs. The DGGN contributes to the authorities' intelligence- and information-gathering missions throughout France, and participates in inter-agency coordination on terrorism and also on radicalisation.

c) There are no specific restrictions provided for by the legislation on access to documents held by any government department in charge of registering associations (prefectures, INSEE for the SIRENE database), tax departments, banks and financial professions. These documents can be obtained in the same manner as for any commercial enterprise. Similarly, judicial requisitions enable access to any information relating to the statutes of NPOs, and any financial, statutory and/or individual information concerning them (CPP, art. 60-1, 60-2 and 77-1-1). Registers which are immediately accessible, such as the online information published on official websites, provide investigators with fast access to a substantial amount of information about the senior managers and financial records of NPOs.

d) Mechanisms are in place to provide warnings, initiate procedures and inform the relevant authorities promptly when it is suspected, or when there is reasonable grounds to suspect, that an NPO is being exploited or used for TF purposes. TRACFIN receives all the information required to carry out its missions (CMF, art. L561-27) and is authorised to pass on the information it holds to the judicial authorities and the police criminal investigation department provided that it is relevant to their missions, and to specialised intelligence agencies, the tax authorities and various other government bodies (CMF, art. L561-31).

Criterion 8.6 – France uses the normal international cooperation mechanisms (DGSI and DCPJ) to respond to requests for information concerning NPOs suspected of financing terrorism. As part of its cooperation with foreign FIUs, TRACFIN may respond to requests for information from its counterparts about any NPO suspected of TF (CMF, art. L561-29-1). As part of its monitoring mission and duty to protect national security, the DGSI ensures international cooperation (Decree No 2014-445[152] Art. 2b) and has liaison officers based abroad. In addition, the DCPJ has resources dedicated to responding to enquiries relating to NPOs suspected of TF, via the Platform for the Identification of Criminal Assets (PIAC).

Weighting and conclusion

Although France has conducted a sectoral study identifying some NPOs as presenting at high risk of TF, the measures taken to promote targeted oversight of NPOs at-risk only concerns humanitarian NPOs receiving government grants, which represent a small part of the sector at-risk. The remaining humanitarian NPOs representing the majority of NPOs at-risk are not subject to any targeted measures, and undergo no awareness-raising or training activities. These shortcomings are considered moderate given the materiality of the sector at risk.

France is partially compliant with R.8.

Recommendation 9 – Financial institution secrecy laws

France was rated as compliant with the requirements of this Recommendation during the 3rd round evaluation. The FATF requirements have not changed since the last round of assessments.

Criterion 9.1 – The duty of professional secrecy imposed upon certain categories of FIs subject to the AML/CFT regime and their directors and officers is waived when the law requires or permits the disclosure of the confidential information (CP, art. 226-14).

Access to information by competent authorities – In addition to the general provision for lifting the professional secrecy obligation (CP, art. 226-14), professional secrecy cannot be invoked as grounds for withholding information from the ACPR, AMF or the judicial authorities in matters relating to criminal proceedings (CMF, art. L.511-33, L.522-19, L.526-35, L.531.12 and L.621-9-3). FIs, their managers and employees cannot be prosecuted for disclosing information protected by professional secrecy when fulfilling their obligations to report suspicions and transmit information to TRACFIN (CMF, art. L.561-22).

Exchanges of information between competent authorities at the national level - TRACFIN may exchange information with all supervisory authorities responsible for AML/CFT (CMF, art. L561-28), receive information from any public authority (CMF, art. L561-27) and transmit it to the relevant authorities for AML/CFT (CMF, art. L561-31). The ACPR and the AMF may exchange information with each other (CMF, art. L631-1), as well as with the judicial authorities (CMF, art. L612-16 and L612-17 and CPP, art. 40) and tax authorities (CMF, art. L612-1 and LPF, art. L135 F, L84 E and 84 D).

Exchange of information between competent authorities at the international level - The ACPR, the AMF and TRACFIN may exchange information covered by professional secrecy obligations (CMF, art. L632-1, L632-7 I, L632-15, L632-16, L561-29 and L561-29-1). In addition, the professional secrecy of FIs is not an obstacle to international judicial cooperation (CMF, art. 511-33 I. paragraph 2).

Exchanges of information between FIs – The categories of FIs subject to the professional secrecy obligation may divulge information covered by this obligation to third parties with whom they negotiate service contracts for the provision of material operational services, including correspondent banking relationships (CMF, art. L511-33, L522-19, L526-35 and L531-12). In the context of third-party introductions (CMF, art. L561-7 and art. R561-13) and fund transfers (EU Regulation 2015/847), the legislation allows for the disclosure of information and therefore the lifting of professional secrecy via the exemption provided for in CP (art. 226-14). In addition,

companies established in France that belong to a financial group are required to provide the companies in the same group with the information required to satisfy AML/CFT measures (CMF, art. L511-34).

Weighting and conclusion

All criteria are met.

France is compliant with R.9.

Recommendation 10 – Customer due diligence

France was rated as largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The evaluation noted that corrective measures should be implemented in order to establish an obligation to re-identify regular customers in the event of suspicion, or when the information initially collected appears to be erroneous or inaccurate, and to clarify the conditions for implementing simplified measures.

Criterion 10.1 – FIs are prohibited from maintaining anonymous accounts (CMF, art. L561-14). There is no explicit provision to prohibit the holding of accounts in obviously fictitious names. However, the obligation to identify and verify identity details before or during the establishment of business relationships (CMF, art. L561-5) and the prohibition on entering into a business relationship if the customer's identity cannot be verified (CMF, art. L561-8) effectively prevents accounts from being held in obviously fictitious names. For capitalisation bonds in bearer form, the FI must identify and verify the identity of the subscriber and – at the time of redemption – the holder, in addition, where applicable, to the identity of the beneficial owner. Where the holder is different from the subscriber, or where the subscriber is unknown, the FI must obtain information from the holder on how the contract came into their possession and, where applicable, evidence to corroborate this information (CMF, art. R561-19).

Criterion 10.2 – FIs are required to conduct customer due diligence when:

a) they establish business relationships (CMF, art. L561-5 and L561-5-1);

b) they conduct one or more occasional transactions that appear to be linked, in excess of EUR 15,000. In the case of transactions settled in cash or e-money, the threshold is reduced to EUR 10,000 and in the case of manual exchange transactions, it is reduced to EUR 1,000. For manual foreign exchange transactions during which customers or their legal representatives are not physically present, due diligence measures are applied irrespective of the amount of the transaction (CMF, art. R561-10);

c) they carry out an occasional electronic transfer transaction (CMF, art. R561-10, II, 2°);

d) there is a suspicion of ML/TF in the context of a transaction for an occasional customer (Art. L561-5, I and R561-10, II, 1°) or a business relationship (CMF, art. R561-14), regardless of any exemption or threshold.

e) they have doubts about the veracity or relevance of previously obtained customer identification information (CMF, art. R561-11).

Criterion 10.3 – FIs must identify permanent customers (CMF, art. L561-5) and occasional customers (CMF, art. L561-5 and R561-10) according to specific procedures depending on the type of customer (natural person, legal entity, trust or other comparable legal arrangement under foreign law, collective investment) (CMF, art. R561-5). They must also verify the identity details by means of any substantiating documentary evidence (CMF, art. L561-5). The procedures for verifying identity are specified (CMF, art. R561-5-1). In general, official documents are required. Electronic means of identification, recognised under Regulation (EU) No 910/2014 on electronic identification or under the French Postal and Electronic Communications Code (CMF, art. L102) are also permitted.

Criterion 10.4 – FIs must verify that any person claiming to act on the customer's behalf is authorised to do so, and must identify and verify the identity of that person in the same manner as described in Criterion 10.3 (CMF, art. R.561-5-4).

Criterion 10.5 – The BO is defined as the natural person(s) (i) who ultimately control(s) the customer either directly or indirectly, or (ii) for whom a transaction is executed or an activity is carried out (CMF, art. L561-2-2). This definition is specified by regulation for legal persons (see C.10.10). However, for associations, foundations, endowment funds and economic interest groups (EIGs), the definition of BO refers exclusively to legal representatives or presidents/administrators without considering other forms of control. On the basis of these definitions, FIs must, where applicable, identify the BO and verify the identification details by way of substantiating documentary evidence (CMF, art. L561-5). The identification details are verified applying measures commensurate with the ML/TF risk (CMF, art R561-7).

Criterion 10.6 – Before entering into a business relationship, FIs must obtain information about the purpose and intended nature of the business relationship and any other relevant information (CMF, art. L561-5-1). They must keep this information up to date throughout the duration of the business relationship and analyse the information gathered in order to maintain an appropriate understanding of the business relationship (CMF, art. R561-12).

Criterion 10.7 – Throughout the business relationship, FIs must undertake constant monitoring and:

a) carefully examine the transactions carried out, ensuring that they are consistent with their up-to-date knowledge of their business relationship (CMF, art. L561-6). These measures must ensure that the transactions are consistent with the customer's professional activities, the risk profile of the business relationship and, if necessary, depending on the level of risk, the origin and destination of the funds involved in the transactions (CMF, art. R561-12-1).

b) keep up to date and analyse the information relating to the client in order to maintain an appropriate understanding of their business relationship. The frequency with which this information is updated, and the extent of the analyses carried out are adapted to the risk posed by the business relationship and to changes in the relevant elements of the business relationship or the customer's situation. (CMF, art. R561-12).

Criterion 10.8 – For each business relationship, FIs must keep up-to-date information about the business relationship, including the customer's activities and state of affairs, and keep information about their customer's ownership and control

structure in order to determine the beneficial owners (CMF, R561-12 and Order of 6 January 2021, Art. 6, 3o; AMF General Regulation, Art. 320-20 2° (b) and 321-147 2° (b).

Criterion 10.9 – For customers that are legal persons or legal arrangements, FIs must identify and verify the customer's identity by means of the following information:

a) name, legal form and proof of existence (legal persons: CMF, R561-5, 2° and R561-5-1 4°; legal arrangements: CMF, R561-5, 3° and R561-5-1, 5°);

b) for legal entities – the names of the persons occupying management functions (CMF, R561-5-1, 4°), however, information concerning the powers that regulate and bind the legal entity is not required; for legal arrangements – the names of the settlor/s, trustees, the beneficiaries, third parties and the management company, as well as the trust agreement that establishes the trustee's powers of administration and disposal (CMF, R561-5-1, 5°);

c) the addresses of the registered office and of the place of effective management, if this differs from the address of the registered office in the case of legal entities or a legal arrangement (CMF, R561-5, 2° and 3°), and the address of the management company in the case of collective investments (CMF, R561-5, 4°). However, there is no obligation to obtain the address of a customer acting on behalf of a legal arrangement if the customer is a natural person. This shortcoming is partially remedied by the obligation for the FI to collect, but not to verify, the information found in the registers of trusts and fiduciaries, which includes the address (CMF, Art R561-7).

Criterion 10.10 - For clients that are legal entities, except for associations, foundations, endowment funds and GIEs, FIs must identify:

a) any natural person(s) who directly or indirectly hold(s) more than 25% of the capital or voting rights, or shares or future rights to capital (CMF, art. L561-5, L561-2-2, R561-1, R561-2 and R561-3); or

b) any natural person(s) who exercise(s) control by other means over the legal person, trust estate or other comparable legal arrangement under foreign law (CMF, art. L561-5, L561-2-2, art. R561-1, R561-2, R561-3 and L233-3);

c) where no natural person is identified in the context of (a) or (b) above and the FI does not suspect the customer of any involvement in ML/TF, the BO is the natural person(s) holding the position of senior managing official or, if that position is held by a legal entity, the natural person(s) who legally represent(s) that legal entity (CMF, art. R561-1; R561-2; R561-3).

FIs verify the identity details relating to BOs by way of substantiating documentary evidence, applying a risk-based approach, including by consulting the RBO (CMF, art. L561-5 ; R561-7).

Criterion 10.11 – For customers that are *fiducie*s, FIs must identify the settlors, trustees, beneficiaries, and protectors or their equivalents for any other comparable legal arrangement under foreign law (CMF, R561-5, 3°). They must also identify the categories of beneficiaries not yet designated and any other natural person who exercises ultimate effective control over the legal arrangement, including through a chain of control or ownership (CMF, art. L561-5, L561-2-2 and R561-3-0, 2°, 4° and 5°). Where beneficiaries are designated by specific characteristics or classes, FIs must

collect information that enables their identification at the time of the payment of benefits or when they exercise their vested rights (CMF, art. R561-5, 3°).

Criterion 10.12 – In addition to the due diligence measures required with respect to the customer and the beneficial ownership, FIs that distribute insurance products must identify and verify the identity of the beneficiaries of life insurance policies or capital bonds and, where applicable, their beneficial ownership before entering into a relationship with a customer or carrying out a transaction (CMF, art. L561-5), i.e.

a) Record the surnames and first names or company name when the beneficiaries are natural or legal persons, or legal arrangements (CMF, art. R561-10-3, 1°);

b) Obtain information to establish the identity of beneficiaries when they are designated by characteristics, class or by other means (CMF, art. R561-10-3, 2°);

c) Verify the identity of beneficiaries and their BO when benefits are paid out upon presentation of any substantiating documentary evidence (CMF, art. R561-10-3, 3°).

An exemption from the identification requirements is provided for life insurance policies or capital bonds whose annual premium does not exceed EUR 1,000 or, in the case of a single premium, EUR 2,500 (CMF, Art. R561-10-3) except in the event of suspected ML/TF (CMF, art. R561-9). FIs must then ensure that the risk of ML/TF remains low throughout the business relationship (CMF, art. R561-14) (*cf.* 10.18).

Criterion 10.13 – For the purposes of AML/CFT obligations, the business relationship includes the beneficiary of a life insurance policy and, where applicable, the BO of the beneficiary of this policy (CMF, art. L561-2-1). When there appears to be a higher risk of ML/TF in a business relationship, FIs must implement enhanced due diligence measures, which include identifying and verifying the BO of life insurance beneficiaries (CMF, art. L561-10-1 and L561-5). The BO's identity must be determined and verified, at the latest when benefits are paid out, for all policies whose annual premium exceeds EUR 1,000 or whose single premium exceeds EUR 2,500 and in the event of higher risk or suspicion of ML/TF for policies below these thresholds (CMF, art. L561-9 and R561-14). Where it is not possible to identify the beneficiary of a policy or its BO it is prohibited for the transaction to take place. (CMF, art. L561-8 and L561-5).

Criterion 10.14 – FIs must verify the identity of the customer and BO before the establishment of a business relationship or the performance of transactions in the case of occasional customers (CMF, art. L561-5). By way of derogation, this verification may be carried out during the course of establishing the business relationship when the risk of ML/TF appears low, and when this is necessary in order to avoid disrupting the normal conduct of business.

Criterion 10.15 – (Not applicable)

Criterion 10.16 – When new legislation comes into force, its provisions, in principle, apply on the day after its publication (or, exceptionally, on the specified date). In addition, the law does not, in principle, have retroactive effect (CC, art. 2). Therefore, in the absence of special provisions, FIs are required to apply the new due diligence measures to their existing customers as soon as a transaction is conducted after the new legislation has come into force or, in the absence of such a transaction, when the customer's documentation is updated as part of ongoing due diligence measures, the

frequency of which is determined using a risk-based approach and taking into account the relevance of the information previously obtained (CMF, art. R561-11 and R561-12; *cf*. criteria 10.2 and 10.7).

Criterion 10.17 – FIs must implement enhanced due diligence measures:

- in certain specific higher-risk cases provided for by the law and regulations, including transactions with customers who are not physically present or with foreign PEPs, operations involving products and transactions which favour anonymity, transactions in connection with high-risk countries, and correspondent relationships with entities located outside of the UE/EEA (CMF, art. L561-10; R561-18 et seq.).
- if they consider the ML/TF risks posed by a business relationship, product or transaction to be high (CMF, art. ***L561-10-1***).

They must also conduct an enhanced review of any transaction that is particularly complex or of an unusually large amount, or which does not appear to have an economic justification or lawful purpose. In such cases, the FIs must ask the customer about the origin of the funds and the destination of these sums, as well as the purpose of the transaction and the identity of the person benefiting from it (CMF, article L. 561-10-2).

Criterion 10.18 – FIs may apply simplified due diligence measures when: a) they consider the risk of ML/TF to be low and when they have collected information to prove it, or b) (*cf*. criterion 1.8) the persons, services or products are on a list of persons, services or products presenting a low risk of ML/TF and there is no suspicion of ML/TF (CMF, art. L561-9, R561-15 and R561-16). Simplified measures are provided for in the regulations (CMF, art. R561-14-1 for case a) and art. R561-14-2 for case b)).

FIs must collect information justifying that the customer or the product poses a low risk of ML/TF, and make sure that this risk remains low throughout the business relationship (CMF, art. R561-14). They must put in place a general monitoring and analysis system to enable them to detect any unusual or suspicious transactions (CMF, art. R561-14 CMF). Simplified measures are provided for in the regulations (CMF, art. R561-14-1). Due diligence measures are fully applied or reinforced in the event of suspicious or unusual transactions (CMF, art. R561-14).

Criterion 10.19 – Where the FI is unable to comply with due diligence requirements, it is prohibited from executing the transaction and establishing or continuing the business relationship. If this relationship has already been established, the FI must terminate it. In addition, the FI must make a declaration to the financial intelligence unit (CMF, art. L561-8).

Criterion 10.20 – There is no general provision in French law authorising FIs to not satisfy their customer due diligence obligations when they suspect that a transaction is connected with ML/TF and they have reason to believe that in meeting their due diligence obligation they would alert the customer. This prerogative is only provided for in the specific case of simplified due diligence measures being authorised by law (CMF, art. L561-9), but in which the FI identifies an unusual or suspicious transaction that should lead to the application of due diligence measures. In this case, if the FI reasonably believes that implementing these measures will tip off the customer, it

may choose not to pursue this procedure and instead send a suspicious transaction report to TRACFIN (CMF, art. R561-14).

Weighting and conclusion

France has developed a sound legislative framework for customer due diligence. However, shortcomings remain in relation to the absence of exemption from due diligence where FIs have reason to believe that, in discharging their due diligence obligations, they would alert the customer, the absence of obligations to collect information concerning the powers that regulate and bind the legal entity, and the shortcomings of the definition of BO for associations, foundations, endowment funds and EIGs. However, in view of the general measures implemented to regulate the due diligence of FIs, these shortcomings had only a minor weighting in the overall assessment of this recommendation.

France is rated as largely compliant with R.10.

Recommendation 11 - Record keeping

France was rated as largely compliant with the requirements of this recommendation during the 3rd round evaluation, due to a shortcoming in the obligations concerning the type of information to be kept in order to enable the reconstruction of transactions.

Criterion 11.1 – FIs must maintain documents and information relating to domestic or international transactions for 5 years from the date the transaction takes place (CMF, Art. L561-12).

Criterion 11.2 – FIs must retain the documentation and information obtained as a result of their due diligence measures relating to their customers, commercial correspondence and the results of any analyses carried out for a period of five years after the closure of the account or the termination of the relationship (CMF, Art. L561-12 and Art. R561-22; Order of 6 January 2021, Art. 6; AMF RG, Art. 320-20, 7, 321-147 7° and 560-10 4°). In addition, FIs must retain accounting documents and supporting information for at least 10 years (C. comm, Art. L123-22).

Criterion 11.3 – FIs must retain all information and documents relating to transactions carried out, especially for atypical or higher risk transactions, which ultimately enable the reconstruction of all transactions undertaken by a natural or legal person linked to a transaction, and can serve as evidence in criminal proceedings (CMF, art L561-12; Order of 6 January 2021, Art. 6).

Criterion 11.4 – There is no explicit requirement for FIs to maintain information in a manner which ensures that it is available swiftly to competent authorities. However, the information and documents must be retained by FIs in such a way so that they are able to respond to TRACFIN's requests within the specified time frames (Order of 6 January 2021, Art. 6; CMF, Art. L561-25). FIs are required to respond to requests for information as soon as possible, under penalty of fines in the case of judicial authorities (CPP, Art. 60-1, 60-2, 77-1-1 et 99-3), within a fixed time frame in the case of TRACFIN and the ACPR, but with no fixed time frame for the AMF (CMF, Art. L612-24, L612-25, L621-10, L621-8-4 and R612-26), under penalty of an injunction and ultimately of sanctions. This sanction framework, combined with the obligations relating to the retention of data/documents, enables the rapid transmission of data to the competent authorities, within a time frame that is adapted to the nature of each authority.

Weighting and conclusion

All criteria are met.

France is rated as compliant with R.11.

Recommendation 12 – Politically exposed persons (PEPs)

France was rated as partially compliant with the requirements of this recommendation during the 3rd round evaluation . The identified shortcomings included the lack of enhanced due diligence requirements for family members or persons closely associated with a PEP, for the beneficial ownership of customers identified as PEPs and for foreign PEPs. Since then, French legislation and FATF requirements have been revised.

Criterion 12.1 – PEPs are persons "exposed to particular risks by virtue of the political, judicial or administrative functions they perform or have performed on behalf of a State" (CMF, Art. L561-10, 1°). This definition is specified by regulation in an exhaustive list of functions held by national or foreign persons considered to be PEPs (CMF, Art. R561-18, I). This list is consistent with the list of examples of important public functions in the FATF Methodology Glossary. However, the exhaustive nature of this list does not require the FI to ensure that their customer's functions in a third country correspond to politically exposed functions as provided for by the FATF definition of PEPs, which does not provide for a limitation on the basis of functions but rather on the basis of political risk. In addition, the definition sets a one-year limit beyond which a foreign PEP whose functions have ceased should no longer be considered a PEP. After this period, FIs may implement enhanced due diligence measures if the business relationship presents high risks of ML/TF, but these measures are not equivalent to that provided for at criterion 12.1.

a) With regard to foreign PEPs, FIs must define and implement procedures adapted to the ML/TF risks to which they are exposed, and which make it possible to determine whether their customer or the associated BO is a PEP or becomes one during the course of the business relationship (CMF, Art. R561-20-2).

b), c), d) When the customer or associated beneficial ownership is a PEP or becomes one during the course of the business relationship, FIs must, in addition to customer due diligence measures, apply supplementary due diligence measures (CMF, Art. L561-10 and Art. R561-20-2), i.e. obtain the authorisation of a member of the executive body to enter into or maintain a business relationship with the customer, investigate the origin of the assets and funds involved in the business relationship or transaction, and reinforce the due diligence measures relating to the business relationship.

However, FIs may decide not to apply the supplementary due diligence measures specific to PEPs when there is no suspicion of ML/TF and the business relationship is established either with a person posing a low ML/TF risk, or for one or more products posing a low ML/TF risk (CMF, Art. L561-10; R561-15; R561-16). These procedures do not satisfactorily meet the requirements of the recommendation, which require additional vigilance beyond the implementation of a risk-based approach, particularly for foreign PEPs.

Criterion 12.2 – The definition of PEPs described in the preceding sub-criterion includes domestic PEPs and persons holding a significant position in an international

organisation (CMF, Art. L561-10, 1° and Art. R561-18, I). Consequently, the same shortcomings apply with regard to the exhaustive nature of the definition of PEPs and the one-year limit beyond which a PEP whose functions have ended should no longer be considered a PEP.

FIs must implement the same measures as those described in the previous sub-criterion for domestic PEPs and persons performing a significant function within or on behalf of an international organisation (CMF, Art. L561-10 and Art. R561-20-2). After this period, FIs may implement enhanced due diligence measures if the business relationship presents high risks of ML/TF, but they are not equivalent to the measures provided for in criterion 12.2.

Criterion 12.3 – The notion of PEPs (cf. criterion 12.1) includes direct family members or known close associates (CMF, Art. L561-10, 1). These concepts are set out in an exhaustive list (CMF, Art. R561-18II and III), which imposes a limited approach that does not cover all individual situations presenting specific risks due to their links with a PEP, e.g. brothers, sisters, cousins, uncles, aunts or persons closely associated with them other than through legal or business ties. In addition, limitations on the period of time during which a person is considered as a PEP restrict the scope of the designation of a person as a family member of a PEP or as a close associate thereof (cf. criteria 12.1 and 12.2). These limitations therefore restrict the scope of the additional measures described in sub-criterion 12.1 that FIs must apply to the family members of a PEP and to persons closely associated therewith.

Criterion 12.4 – The FIs concerned must take steps to determine whether the beneficiaries of life insurance policies and, where applicable, their beneficial ownership, are PEPs (CMF, Art. ***R561-20-3)***. These measures must be commensurate with the ML/TF risks to which they are exposed and implemented no later than at the time of the payment of benefits, or at the time of the partial or total surrender of the life insurance policy or capital bonds. Where the beneficiary of the life insurance or capital bond policy, or its beneficial owner, is a PEP, a member of the FI's executive body must be informed prior to the payment of benefits or the total or partial surrender of the policy, and enhanced due diligence measures must be applied, which may lead to a suspicious transaction report. However, limitations on the time period during which PEPs are considered as such limit the scope of these provisions (*cf.* criteria 12.1 and 12.2).

Weighting and conclusion

Considering the importance of the threat of ML of the proceeds of corruption, both domestically and internationally (see Chapter 1), to which France is exposed, the shortcomings relating to the exhaustive nature of the definition of PEPs and their family members, in addition to the lifting of the status of the PEP one year after leaving office, are considered to have a major impact on the rating. Moreover, the possibility of an exemption from specific measures in certain cases for foreign PEPs compounds these shortcomings.

France is rated partially compliant with R.12.

Recommendation 13 – Correspondent banking

France was rated partially compliant with the requirements of this Recommendation during the 3rd round evaluation. Shortcomings included the absence of an obligation regarding correspondent banking relationships with FIs located in EU Member States

or parties to the European Economic Area (EEA) agreement, and the absence of an express obligation to collect information from the client institution regarding any investigations or disciplinary decisions concerning it.

Criterion 13.1 – The establishment of correspondent banking relationships by FIs with financial institutions in third countries is subject to enhanced due diligence measures (CMF, Art. L561-10-3 and R561-21) equivalent to those provided for in Criterion 13.1. However, these enhanced measures do not apply to correspondent banking relationships with FIs established in an EU/EEA Member State (CMF, Art. L561-10-3) even though the ACPR has, in a non-binding legal interpretation, invited FIs to consider the potentially higher risk of these relationships and thus take appropriate due diligence measures (but not equivalent to those provided for under criterion 13.1).

Criterion 13.2 – With regard to "payable-through accounts", FIs that maintain correspondent relationships must ensure that the correspondent (CMF, Art. R561-21):

a) applies due diligence measures with regard to customers that have direct access to correspondent accounts (e.g. verification of the customer's identity by the co-contractor/correspondent), and

b) is able to provide relevant information upon request.

However, these measures do not apply to correspondent banking relationships with FIs established in an EU/EEA Member State, in spite of the non-binding legal interpretation of the ACPR mentioned under criterion 13.1 (CMF, Art. L561-10-3).

Criterion 13.3 – Financial organisations that have correspondent relationships are prohibited from entering into or continuing a relationship with a shell bank. These institutions are also required to ensure that client institutions do not allow a shell bank to use their accounts (CMF, Art. ***L561-10-3***).

Weighting and conclusion

The measures specific to correspondent banking relationships do not apply to correspondents located in the EU/EEA on the basis of a presumption of the equivalence of AML/CFT regimes in the EU/EEA with France. However, this presumption is not justified. Intra-EU/EEA correspondent banking relationships represent the majority of relationships held by FIs in France.

France is rated partially compliant with R.13.

Recommendation 14 – Money or value transfer services (MVTS)

France was rated largely compliant with the requirements of this recommendation during the 3rd round evaluation due to the impact of the shortcomings identified in relation to R.26 and R.35 and the effectiveness of the measures in place. Since then, the FATF requirements have been reinforced and effectiveness issues are assessed separately.

Criterion 14.1 – Providers that are authorised to offer money transfer services,[153] in their capacity as payment service providers, are ECs, EPs and EMEs (CMF, Art L521-1, I). All of these must be licensed (cf. criterion 26.2). The CDC is also authorised to transfer funds and is subject to the same AML/CFT obligations as credit institutions and is also subject to the supervision of the ACPR (CMF, Art. L521-1, II, L561-2 1° and L561-36-1 I and VII). Although the Banque de France, the currency-issuing central bank for French Pacific territories (IEOM) and the issuing body for French Overseas Departments (IEDOM) are authorised to offer payment services, they do not carry out fund transfers within the FATF definition.

Payment service providers licensed by another EU / EEA Member State are also authorised to offer payment services in France, pursuant to the mutual recognition principle. The ACPR is informed in advance by the competent authority of the home Member State when these institutions intend to conduct business on French territory (CMF, Art. L511-22, L522-13, II, 1°, paragraph 1, and CMF, Art. L526-24) and may refuse authorisation (CMF, Art. L522-13).

Criterion 14.2 – France takes steps to identify persons who illegally provide certain money or value transfer services. Detection is based on the ACPR's general monitoring activities (CMF, Art. L612-1), its cooperation with the AMF within a joint unit (CMF, Article L612-47), and the activities of TRACFIN. Furthermore, the branches of the Banque de France are responsible for detecting, in the course of their activities, situations that may relate to the illegal exercise of the professions under the supervision of the ACPR, and for informing the latter of such situations. In addition to the ACPR's administrative sanction of winding up (CMF, L613-24), the unlicensed provision of money or value transfer services is punishable in a proportionate and dissuasive manner by three years' imprisonment and a fine of EUR 375,000. In addition, natural and legal persons are liable to additional penalties (CMF, Art. L572-5).

Criterion 14.3 – Providers of money or value transfer services that are authorised by the ACPR or the ECB, as well as European institutions that offer such services within France through a branch or agents, are subject to the French AML/CFT regime (CMF, Art. L561-2, 1° to 1°c) and to supervision by the ACPR (CMF, Art. L612-1, II, 6°, L561-36 and L561-36-1).

European payment service providers that offer payment services in France, including money or value transfer services under the freedom to provide services provisions, are subject to supervision by their home country regulator.

Criterion 14.4 – Only payment service providers authorised in France or in the EU/EEA may use agents in France (CMF, Art. L523-4, II, 1o). They are required to register their agent with:

- the ACPR for French payment service providers (CMF, Art. L523-1, II);
- the competent authority of the home Member State for European payment service providers (Directive EU 2015/2366 of 25 November 2015 on payment services in the internal market, Art. 19 and 28). Pursuant to Article 15 of the

153 Payment services are listed in Article L. 314-1, II of the CMF and in particular include the transmission of funds (6°), defined in Article D. 314-2, 5° of the CMF as "a service for which funds are received from a payer, without creating payment accounts in the name of the payer or payee, for the sole purpose of transferring a corresponding amount to a payee or another payment service provider acting on behalf of the payee, and/or for which such funds are received on behalf of the payee and made available to the payee".

directive (EU) 2015/2366, the European Banking Authority centralises information contained in the national registers in a register that is accessible online.

Criterion 14.5 – The payment service provider is fully liable for the actions of any agent that it has appointed (CMF, Art. L523-3). It is required to ensure that its agents comply at all times with the legal and regulatory provisions applicable to them, and to subject them to its internal control system, including its AML/CFT framework (CMF Art. L523-3).

Weighting and conclusion

All criteria are met.

France is rated compliant with R.14.

Recommendation 15 – New technologies

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation, with certain shortcomings concerning due diligence measures in the case of relationships conducted remotely. Since then, this recommendation has been significantly amended, in particular to include measures relating to virtual asset service providers (VASPs).

Criterion 15.1 – There is a general obligation for the COLB to keep the NRA updated, with particular attention to any financial activity that is likely, by its nature, to be used for ML/TF purposes, which in practice includes new products and new business practices (CMF, Art. D561-51). As such, the 2019 NRA, the ACPR and AMF SRAs, and the TRACFIN reports assessed the risks related to certain new products and services such as e-currencies, crowdfunding, virtual assets and commercial practices such as the digitalisation of business relationships and remote client on-boarding. However, the lack of any explicit obligation for both France and FIs to identify and assess the ML/TF risks related to new technologies is a technical shortcoming.

FIs must identify and assess the ML/TF risks related to new technologies, new products and new commercial practices (Order of 6 January 2021, Art. 2; AMF RG, Art. 320-19; 321-146; 325-22; 325-62).

Criterion 15.2 –

a) and b) FIs must assess ML/TF risks prior to the introduction or use of new products, practices and technologies, and take appropriate steps to manage and mitigate these risks (Order of 6 January 2021, Art. 2; AMF RG, Art. 320-19; 321-146; 325-22; 325-62).

Criterion 15.3 –

a) As part of its work on the NRA and, prior to the NRA, through the TRACFIN reports, France has looked at the ML/TF risks arising from activities linked to virtual assets, as well as from certain activities carried out by VASPs. This led to the inclusion of a dedicated section in the NRA published in 2019 (*cf.* chapter 7), which summarises the threats and vulnerabilities and assesses the level of risk as moderate. The sectoral analyses carried out by the ACPR and the AMF provide some further clarification to the NRA.

b) Measures have been implemented to mitigate the ML/TF risks posed by VAs and VASPs by taking account of risk assessments and investigations involving VAs, including by extending the scope of mandatory registration to exchanges between VAs in order to counter ML techniques involving the stacking of transactions through different blockchains, and lowering the activation threshold for due diligence measures for occasional transactions to EUR 0 in order to tackle TF typologies identified.

c) VASPs should take appropriate steps to identify, manage and mitigate their risks pursuant to criteria 1.10 and 1.11, but there is no explicit requirement for them to have appropriate mechanisms in place to report information about their risk assessment to the competent authorities.

Criterion 15.4 –

a) VASPs are required to register with the AMF, subject to receiving the ACPR's approval, in order to operate or offer services in France, regardless of the person's physical or legal status (CMF, Art. L54-10-3 and L54-10-4 ; Ordinance no. 2020-1544 of 9 December 2020). The registration requirement covers all types of VASP services mentioned in the FATF Glossary.

b) The AMF and the ACPR ensure that the persons in charge of the executive management of VASPs are sufficiently reputable and competent. However, the notion of "effective managers" is not clearly defined, and in any case does not cover all management positions. The AMF and the ACPR also conduct fit and proper checks on natural persons who directly or indirectly hold more than 25% of the service provider's capital or voting rights or who exercise, by any other means, a power of control through these voting or shareholding rights (CMF, Art. L54-10-3 and L54-10-5, D54-10-2 and D54-10-6 II). As the control requirements are limited to checks on capital ownership and voting rights, they do not cover other types of control as provided for by the FATF definition of "beneficial ownership". As part of these checks, the AMF requires these persons to provide an extract from their criminal record (or its equivalent for persons not resident in France), a declaration of non-conviction by the persons concerned, and their curriculum vitae.

Criterion 15.5 – The AMF and the ACPR have taken steps to identify natural persons or legal entities that conduct VASP activities without being registered. They use various Internet monitoring and artificial intelligence tools to identify illegal services and advertising of offerings in relation to VAs. When an unregistered VASP is identified, the AMF can give it formal notice to register (CMF, Article L621-13-5, I) and take legal action to block access to these actors' illegal websites in France if they fail to comply with the injunction (III of the same article). The AMF can also put unregistered actors on its public blacklist. Penalties (two years' imprisonment and a EUR 30 000 fine) are available for the provision of services without registration (CMF, L572-23).

Criterion 15.6 –

a) The legislation requires VASPs to be subject to supervision of their AML/CFT compliance by the ACPR according to a risk-based approach (CMF, Art. L561 and L561). However, the ACPR is currently developing its approach and supervisory tools on the basis of those risks specific to the VASP sector.

b) The ACPR has the necessary powers to supervise and sanction VASPs, as described in R.27. (CMF, Art. L561-36).

Criterion 15.7 – The ACPR's guidelines for FIs equally apply to VASPs. The AMF has published FAQs on the VASP regime aimed at applicants in order to clarify the obligations and provide guidance during registration to ensure a proper understanding of the AML/CFT requirements. Numerous conferences and working group meetings have been organised to provide clarification, raise awareness and promote discussion on AML/CFT obligations.

Criterion 15.8 –

a) The ACPR's Enforcement Committee may impose disciplinary sanctions for any breach of the AML/CFT obligations, such as warnings, reprimands or removal from the list of registered service providers, as well as additional or alternative financial penalties of up to EUR 5 million (CMF, Art. L561-36-1 I and V).

   Sanction decisions made by the ACPR and the AMF are published and, in principle include the name of the persons subject to the sanction (CMF, L612-40-40 for the ACPR and CMF, Art. L621-15-15 for the AMF).

b) The ACPR's Enforcement Committee may prohibit the senior management of VASPs from practising as a service provider for a period of up to ten years and hold them jointly and severally liable for payment of the financial penalty referred to in a) (CMF, Art. L561-36-1 V)

Criterion 15.9 – With a few exceptions (cf. below), VASPs are required to apply all the regulations pertaining to preventive AML/CFT measures (CMF, Art. L561-2, 7°bis) under the following conditions:

a) with regard to R.10, VASPs must apply due diligence measures to all transactions, regardless of the amount (CMF, Art. R561-10, 5°).

b) concerning R.16, for VA wire transfers:

   i. Apart from the general know-your-customer obligations (CMF, Art. L561-5; R561-10), the legislation contains no obligations concerning the collection and retention of information on the originator and beneficiary as required under R.16, the immediate provision of this information to the beneficiary's VASP or FI, or the transmission of this information to the appropriate authorities upon request.

   ii. There is no requirement for the beneficiary's VASP to obtain and retain information about the originator. With regard to information about the beneficiary, the beneficiary's VASP is subject to a general obligation to identify the customer (CMF, Art. L561) and to maintain and transmit information to the supervisory authorities and TRACFIN (CMF, Art. L561-12, L561-15 and L561-36).

   iii. VASPS are not subject to the requirements of criteria 16.2, 16.3, 16.4, 16.8, and 16.9 to 16.17. However, as required by criterion 16.18, registered VASPs are required to ensure the prompt implementation of asset-freezing measures and the prohibition on the provision or use of funds to or from a person subject to a freezing measure, pursuant to R.6 and R.7.

iv. Financial institutions are subject to the same obligations as VASPs for any transaction carried out on behalf of a customer, including a virtual asset transfer transaction. The weaknesses identified above under (i) to (iii) should therefore be considered as having the same impact.

However, VASPs are not required to put in place specific due diligence measures for their activities which are similar in nature to cross-border correspondent banking relationships (R.13). Moreover, the shortcomings identified in R.10, R.12, R.19 and R.20 apply equally to VASPs.

Criterion 15.10 – For criteria 6.5(d), 6.6(g), 7.2(d) and 7.4(d), the mechanisms for announcing listings, de-listings and unfreezing are publicly available and therefore available for consultation by VASPs.

With regard to Criteria 6.5 (e) and 7.2 (e), all VASPs must provide the French Ministry for the Economy, Finance and Industry and the European Commission with any information about accounts and amounts frozen pursuant to listings adopted by the UNSC (Art. 40 Regulation 267/2012, Art. 50 Regulation 2017/1509, Art. 5.1 of Regulation EU 881/2002, Art. 4 of Regulation EU 2580/2001, Art. 8 of Regulation EU 753/2011). With regard to national listings, VASPs are required to immediately inform the Minister for the Economy of the adoption of asset-freezing measures, of the holding or receipt of funds or economic resources, and of any transactions intended to circumvent the freezing measure or ban (CMF, Art. L562-4 and R562-3).

With regard to Criterion 7.3, VASPs are subject to supervision and sanctions by the ACPR or the AMF as described in Criterion 15.5, with regard to compliance with the obligations associated with R.7.

Criterion 15.11 – The international cooperation measures described in R.37 to R.40 apply to activities related to VAs or concerning VASPs. All of the articles cited for these criteria apply to the ACPR, the AML/CFT supervisor for all entities subject to its supervision, including VASPs (CMF, Articles L632-1, L632-2, L632-7, L632-15, L612-23, L612-24).

Weighting and conclusion

France is not explicitly obliged to assess ML/TF risks related to new technologies, but this is considered to be a minor shortcoming in relation to the risk identification efforts in place. France regulates and supervises the VASP sector. However, the ACPR is still in the process of developing its risk-based supervision approach and tools. Fit and Proper checks do not cover all senior management posts and BOs as defined by the FATF. There remain shortcomings in relation to the requirements of R.1.10d, 13 and 16 specific to VASPs, and the shortcomings identified under R.10, 12, 19 and 20 also apply to VASPs.

France is largely compliant with R.15

Recommendation 16 – Wire transfers

France was rated compliant with the requirements of this recommendation during the 3rd round evaluation. Since then, the requirements have been extended and a new EU regulation has been adopted. For the purposes of analysing this recommendation, a "cross-border wire transfer" is considered to mean any wire transfer whose payment chain involves a wire transfer provider that is not established in the EEA.

Wire transfers between France and the outermost regions, overseas countries and territories are considered to be "domestic wire transfers".

Criterion 16.1 – FIs must ensure that all cross-border wire transfers of EUR 1,000 or more are always accompanied by the required, accurate originator information, and the required beneficiary information (Regulation (EU) 2015/847, Art. 4).

Criterion 16.2 – Where several cross-border wire transfers from the same originator are transmitted in a batch file to beneficiaries, the batch file must contain the information required per criterion 16.1, and each individual wire transfer must contain the account number or unique reference number (Regulation (EU) 2015/847, Art. 6(1)).

Criterion 16.3 – Cross-border wire transfers of less than EUR 1,000 must be accompanied by the names and account numbers of the originator and beneficiary or the unique transaction reference number (Regulation (EU) 2015/847, Art. 6(2)).

Criterion 16.4 – For cross-border wire transfers not exceeding EUR 1,000, the originator's financial institution is not required to verify the accuracy of the information about the originator unless it suspects ML/TF or the funds are transferred in the form of cash or anonymous electronic money (Regulation (EU) 2015/847, Art. 6(2)).

Criterion 16.5 and 16.6 – For domestic wire transfers, FIs must ensure that the account numbers of the originator and beneficiary or their unique transaction identifiers accompany the transfer (Regulation (EU) 2015/847, Art. 5(1)). In addition, they are required, upon request, to make all information on the originator or beneficiary available to the beneficiary's financial institution within three working days (Regulation (EU) 2015/847, Art. 5(2)). They are also required to respond fully and without delay to requests issued by the authorities responsible for AML/CFT (Regulation (EU) 2015/847, Art. 14).

Criterion 16.7 – The originator's financial institution is required to maintain all information collected on the originator and beneficiaries for a period of five years (Regulation (EU) 2015/847, Art. 16).

Criterion 16.8 – The originator's financial institution is not allowed to execute wire transfers if they do not comply with the requirements under Criteria 16.1 to 16.7 (Regulation (EU) 2015/847, Art. 4(6)).

Criterion 16.9 – FIs acting as intermediaries should ensure that all originator and beneficiary information accompanying cross-border wire transfers is retained with them (Regulation (EU) 2015/847,Art. 10).

Criterion 16.10 – (not applicable) No exemption from the requirements described under criterion 16.9 is permitted.

Criterion 16.11 – Intermediary FIs must implement effective procedures to identify cross-border wire transfers that lack the required originator or beneficiary information (Regulation (EU) 2015/847, Art. 11).

Criterion 16.12 – Intermediary FIs must have risk-based procedures in place to determine whether to carry out, reject or suspend a wire transfer that does not include the required originator or beneficiary information, and to take appropriate follow-up action (Regulation (UE) 2015/847, Art. 12).

Criterion 16.13 – FIs must implement effective procedures, which may include post-event or real-time monitoring, to identify cross-border wire transfers that lack required originator or beneficiary information (Regulation (EU) 2015/847, Art. 7(1) and (2)).

Criterion 16.14 – For wire transfers of EUR 1,000 or more, the beneficiary's financial institution must verify the identity of the beneficiary (Regulation (EU) 2015/847, Art. 7(1) and (2)) and must retain this information for a period of five years (Regulation (EU) 2015/847, Art. 16).

Criterion 16.15 – Beneficiary financial institutions must have risk-based procedures in place to determine whether to carry out, reject or suspend a wire transfer that does not include the required originator or beneficiary information, and to take appropriate follow-up action (Regulation (EU) 2015/847, Art. 8).

Criterion 16.16 – Regulation EU 2015/847 applies to payment service providers established in the EU or EEA that execute fund transfers, whether they operate directly or through their agents (Regulation (EU) 2015/847, Art. 2(1)). A payment service provider that uses the services of one or more agents must ensure that its agents comply at all times with the legal and regulatory provisions applicable to them (CMF, Art. L.523-3).

Criterion 16.17 – Payee and intermediary payment service providers must take into account all information on the originator or beneficiary in order to assess whether a suspicious transaction report should be filed (Regulation (EU) 2015/847, Art. 9 and 13).

There is no explicit obligation requiring payment service providers to file a suspicious transaction report in all countries concerned by a suspicious wire transfer. However, this shortcoming is partially overcome by certain obligations, in particular for service providers belonging to the same financial group to inform the members of the group of the existence and content of a suspicious transaction report relating to a common client (CMF, L561-20) and for the group to ensure that its foreign subsidiaries comply with local rules (Order of 3 November 2014, Art. 41 replaced by Articles 13 5° and 24 3° of the Order of 6 January 2021).

Criterion 16.18 – FIs must implement freezing measures and comply with prohibitions from conducting certain transactions in accordance with UNSCR relating to AML/CFT (cf. R. 6 and 7).

Weighting and conclusion

A minor shortcoming remains regarding the transmission of a STR to the FIU of the State involved in the transfer when the payment service provider monitoring both the placing of the order and the receipt of the wire transfer identifies a suspicion.

France is largely compliant with R.16.

Recommendation 17 – Reliance on Third Parties

France was rated partially compliant with the requirements of this recommendation during the 3rd round evaluation, due to shortcomings concerning the measures for verifying the quality of third-party introducers and the absence of such measures for third parties established in the EU, EEA or an equivalent third country. The rating also considered the effectiveness of the measures, which under the current Methodology will be considered separately.

Criterion 17.1 – Some FIs[154] are permitted to rely on third parties to perform certain customer due diligence measures (customer identification, identification of the BO and understanding the nature of the business relationship) (CMF, Art. L561-7). They remain responsible for ensuring the implementation of customer due diligence measures (CMF, Art. L561-7, I, last paragraph).

a) There is no obligation for the FI to obtain the information collected by the third party, but third parties established in France are required provide this information without delay. With regard to foreign third parties, the FI must ensure that they are able to provide the information obtained in the context of the implementation of vigilance measures without delay and upon the first request to do so, and the procedures for the provision of this information must be specified in a written contract (CMF, Art. L561-7 and R561-13; Order of 6 January, Art. 8).

b) FIs must establish control procedures to ensure that the third party is able to provide the information and documents (CMF, Art. R561-13; Order of 6 January 2021, Art. 8; AMF General Regulation, Art. 320-20 2o (f)) upon request and without delay.

c) FIs must ensure that the third party is subject to regulation and supervision equivalent to that applicable in France, and establish procedures for monitoring the third party's compliance with customer due diligence obligations and record-keeping requirements (CMF, Art. R561-13 and Order of 6 January 2021, Art. 8 AMF General Regulation, Art. 320-20 2o (f) and 321-147 2°(f)).

Criterion 17.2 – When FIs chose third party introducers, they must take into account available information relating to the level of risk associated with the countries in which the third parties are established (Art. 8 of the Order of 6 January 2021).

Criterion 17.3 - Where FIs use third parties that belong to the same group, the obligations described above in Criteria 17. 1 and 17.2 also apply (CMF, Art. L561-7, I, 2°; Art. R561-13, Order of 6 January 2021, Art. 8).

Weighting and conclusion

All criteria are met.

France is compliant with R.17.

Recommendation 18 – Internal controls and foreign branches and subsidiaries

France was rated largely compliant with the requirements of this recommendation during the 3rd round evaluation. The shortcomings identified included, inter alia, the absence of any obligation for money changers to give the AML/CFT Compliance

154 These are the financial organisations referred to in the first to sixth paragraphs of Article L. 561-2 of the CMF: credit institutions, payment institutions, electronic money institutions, insurance companies, intermediaries in banking transactions and payment services (IOBSPs), insurance intermediaries, crowdfunding intermediaries (IFPs), the Banque de France, the issuing body for French Overseas Departments (IEDOM), the currency-issuing central bank for French Pacific territories (IEOM), investment firms, portfolio management companies, crowdfunding investment advisers, financial investment advisers, the central depository and the settlement/delivery system operator.

Officer and other members of staff timely access to customer identification data and other information relating to due diligence measures.

Criterion 18.1 – FIs must have an internal AML/CFT framework and procedures that are appropriate to the size, the nature of the business, and the risks identified (CMF, Art. L.561-32; R.561-38; R561-38-3; R562-1). FIs must:

a) Designate a compliance officer at management level with sufficient knowledge of ML/TF risks (CMF, Art. L.561-32). FIs must also have a framework for continuously monitoring compliance with its AML/CFT obligations (CMF, Art. R561-38-4 and R561-38-8).

b) Take into account, in their recruitment policy, the AML/CFT risks posed by individuals (CMF, Art. L561-32). They must ensure that the checks carried out as part of the recruitment process are proportionate to the risks presented by each type of role, and ensure that the persons involved in implementing measures to meet AML/CFT obligations have the appropriate qualifications (CMF, Art. R561-38-1).

c) Provide their employees with training appropriate to their functions or activities, their level of seniority and the risks identified (CMF, Art. R561-38-1).

d) Implement periodic independent internal audits carried out by dedicated persons, independently of the staff, entities and departments they audit (CMF, Art. R561-2-2L.54-38-4). For money changers, insurance intermediaries and CIFs, this internal audit requirement only applies where appropriate taking into account the size and nature of the activities carried out (CMF, Art. R.561-38-8).

Criterion 18.2 – Parent companies whose registered office is located in France must, at group level (without distinguishing between entities located in France or abroad, within the EU or EEA or outside) establish an AML/CFT programme that takes into account the requirements of criterion 18.1 with the exception of sub-criteria b) and c) (CMF, Art. L561-32 I, L561-33, L561-4-, L561-32, II, R561-2-2, L.54-38-4, R561-2-2; L.54-38-7; Order of 6 January 2021, Art. 21, 22 and 24). This programme must also include:

a) Procedures providing for the sharing of intra-group information required for AML/CFT due diligence and AML/CFT arrangements within the group (CMF, Art. L561-33 I, L511-34 and R561-29).

b) The provision of information, notably concerning personal data on customers and business relationships, documents recording the characteristics of transactions that are subject to enhanced scrutiny and, where applicable, information about the existence and content of a suspicious transaction report (CMF, L511-34 and R561-29).

c) Safeguards providing for the protection of personal data (CMF, Art. L561-33 I, 2nd paragraph) and the disclosure of SD (CMF, Art. L561-20, II).

Criterion 18.3 –

Parent companies of groups must, including for branches and subsidiaries abroad, implement an internal audit system to ensure that the group's entities comply with all the AML/CFT obligations provided for by the CMF (CMF, Art. L561-32 2nd

paragraph; R. 561-38-7 1st paragraph; R561-38-4 1° and the Order of 6 January 2021, Art. 24 1°).

In addition, parent companies must apply measures in their branches and subsidiaries located in non-EU and non-EEA countries that are equivalent to those provided for by the French regulations on customer due diligence, information sharing and retention, and data protection (CMF, Art. L561-33, II, 1°). Where the locally applicable law does not allow them to implement the equivalent measures in their branches and subsidiaries located in third countries (i.e. excluding the EU/EEA), FIs and parent companies must: (i) ensure that the branches and subsidiaries concerned apply "specific" due diligence measures to manage the risks (CMF, Art. L561-33, II 1 and Delegated Regulation (EU) 2019/758, Art. 8) and (ii) inform TRACFIN and their French supervisory authority, which may impose additional supervisory measures (CMF, Art L561-33 II, 2°).

However, these provisions do not apply to FIs with branches in an EU/EEA Member State. In these cases, they must ensure that these branches comply with the provisions applicable in that State (CMF, Art. 561-33, II, 3o). No mention is made of the obligation to apply at least equivalent due diligence measures, as is already the case in point 2 of the same article concerning branches in third countries.

Weighting and conclusion

There is no explicit provision for group-wide recruitment procedures to ensure that employees are recruited according to stringent standards and that an ongoing training programme is put in place. No obligation to apply AML/CFT measures at least equivalent to those in France is provided for branches located in the EU/EEA.

France is largely compliant with R.18.

Recommendation 19 – Higher-risk countries

France was rated largely compliant with the requirements of this recommendation during the 3rd round evaluation. The identified shortcomings included the lack of a requirement for insurance companies to include activities with higher-risk states or territories in their ML/TF business risk classification.

Criterion 19.1 –

FIs must apply enhanced due diligence measures that are proportionate to the risks when they conduct transactions with natural or legal persons from countries for which this is called for by the FATF (CMF, Art. ***L561-10***, 3°). Specific due diligence measures are provided for in these cases (CMF, Art. ***R561-20-4*** II, 1°). In addition, they are required to apply at least one countermeasure based on a risk-based approach. One such countermeasure that can be applied is "limiting business relationships or transactions with individuals or any other entity". The possibility of

implementing this measure goes beyond what the FATF calls for in the cases specifically provided for by criterion 19.1, which does not represent a measure proportionate to risk and could lead to the over-restriction of operations in certain geographical areas (CMF, Art. ***R561-20-4*** II, 2°).

Exemptions to the implementation of these measures are provided for certain FIs when the transactions originate from or are destined for their subsidiaries or branches established abroad (CMF, Art. ***R561-20-4***, last paragraph). In such cases, the FIs concerned must be able to justify to the ACPR that their subsidiaries or branches apply measures that are at least equivalent to those provided for under French law with regard to customer due diligence and record keeping (CMF, Art. ***L561-36***).

Criterion 19.2 –

a) When the FATF calls for countermeasures, FIs are required to implement, in addition to enhanced due diligence measures, at least one countermeasure according to a risk-based approach (CMF, Art. L561-103° and R561-20-4). If necessary, additional countermeasures may be imposed by ministerial order. This concerns the prohibition of the establishment of a presence in France by persons established in the State or territory concerned, the prohibition of the establishment of a presence by FIs subject to the requirement in the State or territory concerned, and the imposition upon FIs of enhanced external supervision or audit obligations for subsidiaries and branches established in a State or territory concerned (CMF, L561-11 R561-20-5).

b) French legislation allows for the application of countermeasures targeting countries mentioned on one of the FATF lists. France may also apply countermeasures independently of any FATF call to do so, but not on its own initiative. Consequently, mechanisms targeting high-risk third countries listed by the European Union are provided for by law (CMF, L561-11). With regard to countries or geographical areas not included on the FATF list but posing a high risk of ML/TF, the French authorities also have access to mechanisms/measures provided for by law, which enable them to ask covered entities to exercise particular vigilance vis-à-vis the cases concerned (TRACFIN listing, call for increased vigilance by the Minister for the Economy). However, these measures do not correspond to the application of countermeasures as defined by the FATF (INR19).

Criterion 19.3 – France has put in place measures to ensure that FIs are informed of concerns about the deficiencies of other countries' AML/CFT systems, such as via on-line publication, and the dissemination to professional bodies of communiqués from the FATF and FRSBs, as well as notices and calls for enhanced due diligence measures by DGT, TRACFIN and the ACPR. Furthermore, TRACFIN may on a confidential basis, for a six month period, which can be extended, advise covered entities, in the context of their satisfying their AML/CFT obligations, of transactions that present a significant ML/TF risk, particularly with regard to the specific geographical areas from which, to which or in relation with which they are conducted (CMF, L561-26, 1°).

Weighting and conclusion

Minor shortcomings remain due to the fact that French legislation does not enable France itself to designate countries against which countermeasures should be applied by FIs if these countries do not appear on a FATF or European Commission list. Furthermore, one of the enhanced due diligence measures that can be applied by

financial institutions is the limitation of business relationships or transactions with natural persons or any other entity, which could eventually lead to the over-restriction of transactions in certain geographical areas.

France is largely compliant with R.19.

Recommendation 20 – Reporting of suspicious transactions

France was rated largely compliant with the Recommendations concerning suspicious transaction reporting during the 3rd round evaluation. The shortcomings were related to effectiveness issues.

Criterion 20.1 – Regulated entities are required to report to TRACFIN any sums recorded in their books or transactions involving sums that they "know, suspect, or have reasonable grounds to suspect are derived from an offence punishable by a prison sentence of more than one year, or are related to TF" (CMF, art. L.561-15). In the event of suspected tax fraud, regulated entities must report to TRACFIN any sums or transactions that they know, suspect or have good reason to suspect are derived from tax fraud where at least one criterion, as defined by decree, is met. However, the law refers exclusively to "sums" (in French: sommes), a term that has no statutory definition and which appears to be narrower than the definition of "funds" provided in the FATF Glossary. No provision in the law requires prompt reporting. However, the law stipulates that the report must be transmitted prior to the transaction taking place but that, if compliance with this principle is not possible, the reporting must be carried out "without delay" (CMF, art. L.561-16), which achieves an equivalent effect.

Criterion 20.2 – Attempted transactions must be reported (CMF, art. L.561-15 V). The Law does not set out any minimum amount for reporting a transaction or an attempted transaction

Weighting and conclusion

The reporting obligation refers exclusively to "sums" rather than "funds" which constitutes a minor shortcoming.

France is largely compliant with R.20.

Recommendation 21 - Tipping-off and confidentiality

France was rated compliant with the Recommendations concerning tipping off and confidentiality during the 3rd round evaluation.

Criterion 21.1 – Regulated entities, including FIs, or their managers and employees, cannot be subject to criminal, civil or professional proceedings (CMF, Art. L.561-22) when they have, in good faith, reported their suspicions or transmitted information to TRACFIN in response to its rights to request information. These provisions apply even if the information provided by the covered entities does not prove criminality, or if proceedings have been abandoned (CMF, Article L561-22-III).

Criterion 21.2 – FIs, their managers and employees are prohibited by law from disclosing the existence and content of a report submitted to TRACFIN, and from providing information about actions taken in response to that report (CMF, Art. L 561-18). These provisions do not apply to information reported within the same group,

when the reporting entities are providing services to a common customer (CMF, Art L561-20 and L561-21).

Weighting and conclusion

All criteria are met.

France is compliant with R.21.

Recommendation 22 – DNFBPs: Customer due diligence

France was rated partially compliant with the requirements of this recommendation during the 3rd round evaluation. The identified shortcomings related to the exemption of lawyers from customer identification, and the cascading effect of the shortcomings identified for the recommendations concerning the relevant preventive measures.

Criterion 22.1 – DNFBPs must comply with customer due diligence requirements (CMF, art. L561-5. L561-5-1 and L561-6) described under the analysis of Recommendation 10 in the following situations:

a) ***Casinos*** – Casinos, gaming clubs and online gaming operators (CMF, art. L561-2, 9° and 9° bis) in the context of all of their activities (L561-5. L561-5-1 and L561-6). In addition, casinos and gaming clubs are required to verify and record the names and addresses of gamblers when they exchange any form of payment, chips, tokens or tickets that exceed the threshold of EUR 2 000 in a single transaction or on aggregate during a single gaming session (CSI, art. L323-2 and CMF, art. L561-13).

b) ***Real estate agents*** – when they are involved in transactions concerning the purchase or sale of real estate and other real estate activities that go beyond the FATF recommendations, such as leasing, subleasing, exchanges and activities carried out by persons assisting in these activities, even on an incidental basis (CMF, art. L561-2, 8°, Law No 70-9 of 2 January 1970, art. 1).

c) ***DPMS*** – Cash purchases of gold are prohibited and are limited for other precious metals and gemstones to EUR 1 000 for residents and EUR 15 000 for non-residents (CMF, art. L112-6 I and D112-3 I), which puts this sector below the FATF thresholds and excludes it from the obligation to implement preventive measures.

d) ***Lawyers, notaries, other independent legal professionals and accountants*** **–** For chartered accountants and statutory auditors, the obligation applies to all their activities (CMF, art. L561-2, 12° and 12°bis). For lawyers, notaries, bailiffs, Court-appointed receivers and trustees and judicial auctioneers, when they participate in the name and on behalf of their customers in any financial or real estate transaction or act as trustees or prepare or carry out transactions for their customers as provided for under criterion 22.1 (CMF, art. L561-213° and L561-3).

e) ***Trust and company service providers*** **-** For business service providers, in the context of all their activities (CMF, art. L561-2, 15°).

The deficiencies identified under R.10 apply to DNFBPs to the same extent.

Criterion 22.2 – In the situations described in Criterion 22.1, DNFBPS must conform to the same record-keeping obligations as FIs as per R.11.

Criterion 22.3 – In the situations described in Criterion 22.1, DNFBPS must conform to the same obligations concerning PEPS as FIs. The shortcomings identified in the analysis of R.12 apply to DNFBPs to the same extent.

Criterion 22.4 – DNFBPs must produce a ML/FT risk classification based on the nature of the products or services offered, the transaction conditions proposed, the distribution channels used, and the customers' characteristics (CMF, art. L. 561-4-1). However, unlike the requirements for FIs, there is no explicit obligation to assess the risks associated with the use of new technologies in relation to new or pre-existing products or to take measures to manage or mitigate these risks. However, as far as casinos and gaming clubs are concerned, the list of authorised games is established by decree, enabling the assessment of the ML/TF risks that may result from the development of new products, new commercial practices and new technologies prior to the launch or use of these new products or technologies (CSI, art. L321-7, R321-21 and L321-5).

Criterion 22.5 – DNFBPs are not authorised to rely on third parties (CMF, art. L561-7 a contrario).

Weighting and conclusion

The shortcomings raised under R.10 and R.12 also apply to this Recommendation. Furthermore, there is no requirement for DNFBPs to assess the risks associated with the use of new technologies and to take appropriate measures to manage them.

France is largely compliant with R.22

Recommendation 23 – DNFBPs: Other measures

France was rated partially compliant with the requirements of this recommendation during the 3rd round evaluation. The identified shortcomings concerned the lack of requirements on internal control rules for casinos, real estate agents and business service providers, and the cascading effect of the shortcomings identified for the recommendation on higher risk countries. Since 2011, French legislation has been amended several times.

Criterion 23.1 –

DNFBPs must comply with the same suspicious transaction reporting obligations as FIs (cf. R.20) in the situations described in Criterion 22.1. The absence of an explicit obligation to report immediately may however have a greater impact on the delays in transmission of STRs by DNFBPs because of the greater difficulty in defining the moment when a transaction is executed. The obligation for lawyers to report suspicious transactions to the President of the Bar, who then has a maximum of eight days to transmit them to TRACFIN, is not equivalent to an obligation to transmit suspicions promptly to TRACFIN. In addition, the shortcoming identified under R.20 regarding the definition of "sums" (sommes) also applies to this criterion.

Criterion 23.2 – DNFBPs must comply with the same obligations relating to the internal controls mentioned in R.18 in the situations described in Criterion 22.1. DNFBPs are required to implement a framework of procedures and internal controls (CMF, Article L561-32) that is simultaneously permanent, periodic, and independent, and that is commensurate with the size and nature of the activities carried out (CMF,

Art. R561-38-3 and R561-38-8). The shortcomings identified in the analysis of R.18 apply to DNFBPs to the same extent.

Criterion 23.3 – DNFBPs must apply enhanced due diligence measures that are proportionate to the risks when conducting transactions with natural or legal persons from countries where this is called for by the FATF (CMF, Art. L561-10, 4°), as mentioned in R.19. However, the shortcomings identified in R.19 apply to DNFBPs to the same extent, including the over-restriction of transactions in certain geographical areas and the lack of any means of implementing countermeasures independently of any call to do so by the FATF.

Criterion 23.4 – DNFBPs must conform to the same disclosure and confidentiality obligations as FIs (cf. R. 21).

Weighting and conclusion

In the absence of an explicit obligation to promptly report suspicions to TRACFIN, the 8-day deadline granted to the President of the Bar is too long to be considered an obligation to promptly report suspicions.. Furthermore, the minor shortcomings raised under R.18, R.19 and R.20 also apply to this Recommendation.

France is largely compliant with R.23.

Recommendation 24 – Transparency and beneficial ownership of legal persons

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. In particular, the evaluators noted shortcomings in the competent authorities ability to obtain adequate, relevant and up-to-date information on beneficial ownership (BO) in a timely manner. Since then, the requirements of this recommendation have been extended and France has adopted new measures.

Criterion 24.1 –

a) French legislation identifies and describes the different types, forms and basic features of legal persons in the country and the processes for their creation (Commercial Code (Code de commerce) for companies and economic interest groups (EIGs), the Law of 1st July 1901 for associations, and Law No 90-559 of 4 July 1990 for foundations). This information is available to the public via the Légifrance website.

b) Processes for their creation of legal persons and mechanisms for obtaining and maintaining basic and BO information on legal entities are established in the same texts, in the CMF, in the Law on sponsorship (for foundations recognised as being of public utility and company foundations) of 23 July 1987, and the Law on the modernisation of the economy for endowment funds of 4 August 2008.

Criterion 24.2 – The NRA includes a threat analysis of legal entities (companies, associations, foundations), describing certain scenarios of use for ML/TF purposes and identifying the inherent and residual vulnerabilities. TRACFIN, when performing its periodic analyses of ML/TF risks, also considers the risks to which the different legal entities established in the country are exposed.

Criterion 24.3 - All companies and GIEs must be registered on the RCS managed by the GTC (C.comm., art. L123-1 and R123-36), which records the company's name, legal form, address of its headquarters, a list of the members of its board of directors and the articles of association containing detailed information on its operations (C. comm., Art R123-53, Art. R123-54, R123-60). This information is available to the public, some of it free of charge, on the website Infogreffe.fr or on the INPI website (www.data.inpi.fr) (C. comm, Art. R123-80).

Associations seeking to acquire a legal personality and legal capacity must submit a declaration to the registry of associations at the Prefecture (Law of 1st July 1901, Art. 5), which will then register it in the National Register of Associations (RNA) (Order of 14 October 2009). The information recorded in the RNA includes, inter alia, the company name, legal form, the address of the registered office and the articles of association, which contain detailed information about the association's functioning and a list of persons authorised to represent the association (Order of 14 October 2009, Art. 2 and Decree of 16 August 1901, Art. 10 and 11). Non-nominative information is freely accessible online and nominative information and the statutes are available on request, from the prefecture for the association's registered office (Order of 14 October 2009, Art. 3). Associations that carry out certain activities[155] are required to register with the RCS and to record information equivalent to that recorded for companies and EIGs (C. comm., Art R123-62).

Foundations recognised as being of public benefit (FRUP) must be registered at the DLPAJ, and company foundations and endowment funds must be registered at the prefecture. Non-nominative information concerning compliance with C.24.3 is publicly available via the Official Journal of the French Republic (JORF) or the Official Journal of Associations and Company Foundations (JOAFE) and, for the FRUP, in the Register of foundations recognised as being of public benefit. Nominative information is available to the public at the prefecture.

Criterion 24.4 – Commercial companies and stock companies keep an original copy of their articles of association, and GIEs keep an original copy of their contract containing the information mentioned in Criterion 24.3 (C. comm., R221-1, R223-1 and R224-2) at their registered offices. This information is also filed with the GTC and held in the RCS. Similar obligations apply to associations, foundations and endowment funds.

Regarding shareholder or member information:

- *For commercial companies*, any transfer of shares gives rise to a written instrument filed at the company's registered office, and to the publication of the amended articles of association in the Trade and Companies Register (C.comm., Art. L221-14 for general partnerships and, with reference to L222-2, for limited partnerships; L223-17 for limited liability companies).
- *For joint stock companies with registered securities*, the company must keep a register of the registered securities issued, and keep an up-to-date list in this register of the persons holding securities, the number of securities held, and the category of shares (C.comm., Art. R228-7 to R228-9). Where the equity

155 "Simply declared" associations must register on the Trade and Company Register if they i) issue bonds or negotiable debt securities (CMF, Art. L213-10, 1°), habitually engage in manual foreign exchange transactions (CMF, Art. L524-3), or act as the "manager-agent" of a business (CCRCS notice No 2018-010 of 18 July 2018 pursuant to Art. L146-1 of the French Commercial Code).

securities are listed on a regulated market and the owner is not domiciled in France, any intermediary may be registered on behalf of that owner (*cf.* criterion 24.11). These details are kept in the register of registered securities (C.comm., Art. R228-7 to R228-9).

- *For joint stock companies with bearer securities,* the securities must be registered in an account in the name of their owner or in the name of an intermediary (C. comm., Art. L228-1). The articles of association of such companies may provide for the right to request from the central depository that maintains the account or from authorised intermediaries, at any time, information concerning the holders of its shares and securities conferring a right to vote at its shareholders' meetings. This information is limited to that recorded in the securities account (C.Comm., Art. L288-2). Although this shareholder identification mechanism may, in practice, be considered equivalent to the requirement to maintain a shareholder register, its adoption is not mandatory, other than for listed companies (C.comm., Art. L228-2)
- *For economic interest groupings (EIGs)*, information about the members must be kept and registered in the Trade and Companies Register (C.comm., Art L251-8).
- *For associations,* there is no obligation to keep a list of members*. Foundations* and *endowment funds* have no members or shareholders.

Criterion 24.5 – *Companies, GIEs and associations registered* in the RCS are required to submit an application request to update their registration within one month of any event or act requiring the information provided for in Criterion 24.3 to be corrected or supplemented (C.comm, Art. R123-66). The registrars verify the accuracy of the information at the time of registration on the RCS and may at any time verify that the information held is compliant and up to date (C.comm. Art. R.123-100).

The list of persons holding securities is kept up to date by the companies, with the acquisition of securities only taking effect once they are registered in the purchaser's account (C.Comm, Art. L228-1). In the case of intermediaries registered on behalf of the owner, there are obligations to keep the information up to date, with sanctions available for the failure to do so (C.comm, Art. L228-3-3).

With regard to *associations registered in the* RNA, they are required to register changes in their administration arrangements and amendments of their articles of association within three months (Law of 1st July 1901 on the contract of association, Art. 5). The registrars of associations check that the file is formally complete and consistent but do not verify the accuracy any of the information provided at the time of registration or during the existence of the association.

With regard to *foundations and endowment funds,* a declaration following any amendment of the articles of association of a foundation must be submitted to the prefecture of the department in which the foundation is headquartered. The changes must be reported to the prefecture within 3 months. After approval of the amendment application, the amended articles of association are published in the JOAFE. However, the accuracy of the information provided either at the moment of the initial registration or following the declaration of any changes, is not verified.

Criterion 24.6 – France uses a range of measures to ensure that information about a company's BO is obtained by that company, is available at a designated location in the country, and can be identified by a competent authority in a timely manner:

- Companies, except for those whose securities are admitted to trading on a regulated market (as this information is public) registered in the RCS, must obtain and keep accurate and up-to-date information on their beneficial ownerships. This information is then appended to the RCS when the company applies for registration, or within 30 days of any change (CMF, Art. L561-46 and R561-55).
- The GTCs keep a RBO containing the information mentioned in point (a) above. The clerk of the commercial court verifies that the information is complete and complies with the legal and regulatory provisions (CMF, Art. L561-47). Certain information about the BO (name, date of birth, country of residence, nationality, and nature and extent of interests held) is publicly accessible, while all information is available to the judicial authorities, TRACFIN, customs officials, public officials responsible for tax inspection and collection, supervisory authorities, FIs and DNFBPs in the context of the implementation of their AML/CFT obligations, and to any person who can demonstrate a legitimate interest (CMF, Art. L561-46).
- FIs and DNFBPs must hold documentation and information relating to the identification and verification of the identity of their customers' BOs, and be able to justify to the supervisory authorities that the steps taken to determine the BO comply with the obligations laid down, under penalty of sanction (CMF, R561-7).

For companies whose securities are traded on a regulated market, they are subject to specific financial publication obligations (CMF, art. L451-1-1 and seq. for periodic regulated information and L233-7 et seq. for permanent information related to the crossing of thresholds and declarations of intent). The information relating to the ownership of capital is made public by the companies themselves on their website and by the AMF on its database of decisions and financial information (BDIF).

For associations, foundations and endowment funds, there is no obligation to identify the BO in accordance with the FATF definition of BO. The obligation is limited to the legal representatives of associations and the president for endowment funds, and to the president, chief executive or member of the executive board for foundations.

Criterion 24.7 – Companies, associations and EIGs registered on the Trade and Companies Register are required, under penalty of sanctions, to obtain and retain accurate and up-to-date information on BOs, and to transmit this information to the commercial court registry, which verifies it (CMF, Art. L561-46 and L561-47). In addition, FIs and supervisory authorities report to the GTC any failure to register, or any discrepancy between the information in the Beneficial Ownership Register and the information on BOs at their disposal (CMF, Art. L561-47-1). Following such a report, the clerk will invite the registered entity to remedy the problems concerning its records within one month (CMF, Art. L561-47-1). In the absence of rectification, the clerk will refer the matter to the President of the Court.

For associations, foundations and endowment funds, there is no obligation to identify the BO in accordance with the FATF's definition of BO.

Criterion 24.8 - For companies and associations registered in the RCS, failure to declare the BO may be sanctioned, including by the winding up of the legal entity (CMF, ***L574-5***). The president of the court, ex officio or at the request of the public prosecutor or any person who can prove an interest, may order, under penalty if

necessary, any company to declare or arrange to declare information relating to the beneficial owner, or to rectify such information when it is inaccurate or incomplete (CMF, L561-48 CMF). No measures are in place for associations, foundations and endowment funds.

Criterion 24.9 – The retention period for the majority of the documents mentioned in Criteria 24.3 and 24.4 for companies varies according to their nature and legal requirements, but implies a retention period of at least 5 years in all cases. The information contained in the RBE is held for at least five years after the date on which the company ceased to exist. The information contained in the RNA is only kept for three years after the dissolution of the association (Order of 14 October 2009, Art. 4), but associations must themselves keep their documents for at least 5 years (CC. art. 2224). For foundations and endowment funds, the five-year limitation period on personal actions requires records to be kept for the same period. FIs and DNFBPs keep documents and information relating to the identity of their regular or occasional customers, as well as their BO, for 5 years from the execution of the transaction for occasional customers or from the termination/cessation of the business relationship (CMF, Art. L561-12).

Criterion 24.10 – The judicial and supervisory authorities, TRACFIN, customs officials, tax inspectors and tax collection officers, and the supervisory authorities are able to access the RBE registered in the RCS (CMF, Art. L.561-46). Access to basic information regarding associations, foundations and endowment funds is also possible upon request at the prefecture. All administrations can also access the information held in the RNA via the inter-ministerial intranet. Law enforcement agencies may also use production orders to request information from legal persons, FIs and DNFBPs.

Criterion 24.11 – Financial securities must be book-entry securities (CMF, Art. L211-3) and be transferred electronically from one account to another (CMF, Art. L211-15).

- "Bearer shares" are registered with an authorised and approved professional intermediary (CMF, L542-1), in their owner's name. Only the account-holding intermediary knows the owner of the shares, not the company. These intermediaries are subject to AML/CFT obligations (credit institutions and investment firms).
- Owners of listed shares must inform the issuing company and the AMF when certain capital-holding or voting rights thresholds have been exceeded (C.comm., art L233-7). In addition, the market operator and the central depository are subject to AML/CFT obligations. Regardless of how bearer securities are transferred, the service providers involved in the transfer of ownership are subject to AML/CFT obligations.
- The articles of association of issuing companies may include a provision for a company to ask either the central depository responsible for keeping the share issuance account, or the authorised mentioned intermediaries, at any time, to provide information about the owners of its shares and securities conferring immediate or long-term voting rights at its own shareholders' meetings. For companies whose shares are admitted to trading on a regulated market, this option is a legal right, with any clause to the contrary in the articles of association being deemed inoperative (C.comm., Art. L228-2).

Criterion 24.12 – French companies whose securities are admitted to trading on a regulated market, or a multilateral trading facility may issue registered, or bearer

shares registered in the name of registered intermediaries when the shareholder is non-resident. In such a case, the intermediary must declare its status as an intermediary holding securities on behalf of others when it opens an account with either the issuing company or the authorised custodian-account keeper (C. comm., Art. L228-1). Any intermediary holding registered securities as a nominee is required to provide information about the identity of the owner of the securities at the request of the issuing company (C. comm., Art. L228-3). Any intermediary holding bearer securities on behalf of another person is required to disclose this information if provided for by the company's articles of association, but there is no statutory obligation to do so (C. comm., Art. L228-2, I and II).

Criterion 24.13 – The provision of false or incomplete information when registering on the RCS is punishable by a fine of EUR 4 500 and six months' imprisonment (C.comm., L123-5). The failure to report, or the reporting of inaccurate or incomplete information about BOs to FIs/DNFBPs or to the RCS is punishable by 6 months' imprisonment and a fine of EUR 7 500 (CMF, Art. L574-5). In addition, penalties of disqualification from management and partial deprivation of civil and civic rights are provided for natural persons and the winding up, closure and/or prohibition from making a public offer for legal entities (CMF, Art. L574-5 and CP, Art. 131-26, 131-27, 131-38 and 131-39). BOs that provide inaccurate or incomplete information to companies are also liable to 6 months' imprisonment and a fine of EUR 7 500. There are no penalties for failing to comply with the obligation to keep company documents or to update information in the Trade and Companies Register, and the administrative penalties for failing to declare intermediary status (loss of voting rights or powers and loss of dividend rights) are neither proportionate nor dissuasive.

For associations wishing to acquire legal capacity, any violation of the declaration process and failure to notify changes in administration arrangements or to the articles of association is punishable by a fine of EUR 1 500, which may rise to EUR 3 000 for a repeat offence (Law of 1st July 1901 on the memorandum of association, Art.8). No sanctions are applicable to foundations and endowment funds.

Criterion 24.14 –

a) The RCS is public and therefore accessible to competent foreign authorities.

b) The cooperation mechanisms described under R.40 are applicable to exchanges of shareholder information.

c) The judicial authorities, TRACFIN, customs officials, authorised public finance department officials and all supervisory authorities have the right to access the RBO and may share, upon request or on their own initiative, BO identification details with the competent authorities of EU Member States, who require these details for the performance of their duties (CMF, L561-46).

For other foreign competent authorities, the mutual legal assistance mechanisms described in R.40 are applicable to exchanges of information on BO. In this context, the judicial and investigative authorities may use all legal powers at their disposal, including access to the data contained in the Beneficial Ownership Register, and to all documents filed for the registration of companies and the declaration of associations.

Criterion 24.15 - TRACFIN is the main applicant in France for basic information and information about BO. TRACFIN assesses the quality of foreign authorities' responses to requests for information or assistance concerning BOs by systematically using an

evaluation framework to analyse information provided by foreign FIUs. There are also mechanisms in place to enable the qualitative monitoring of MLA by the Ministry for Justice in cooperation with all parties to such mutual assistance, as well as the monitoring of international police cooperation by SCCOPOL.

GTCs also have access to mutual assistance mechanisms with their counterparts abroad covering this aspect; however, the manner in which these registries monitor the quality of the assistance they receive is unknown.

Weighting and conclusion

In general, the legislative framework regarding the transparency of legal persons and the identification of BOs is sound, although there are shortcomings concerning the use of registered intermediaries for companies whose securities are not traded on regulated markets, and sanctions for record keeping. In addition, the measures concerning the transparency of associations, foundations and endowment funds have significant shortcomings. Given the limited use of these types of legal persons, the gaps for this sector are not weighted heavily.

France is largely compliant with R.24

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The legal system put in place for controlling the risks of trusts being used for ML/TF purposes was evaluated as satisfactory, although its implementation was deemed as being too recent to assess its effectiveness. Since then, the FATF requirements have been reinforced and the assessment of effectiveness is considered separately from technical compliance.

Trusts are not recognised by French national law, and France has not ratified the Hague Convention. However, foreign trusts can be administered by a French resident (trustee), French assets or rights can be placed in a foreign trust and a person domiciled in France can be the settlor or beneficiary of a trust governed by foreign law.

In addition, the legislation provides for the establishment of "fiducies" – a concept covered by the definition of "legal arrangement" in the FATF Glossary. A fiducie allows for the transfer of property, rights and security to one or more "fiduciaries" which act for a specific purpose for the benefit of one or more beneficiaries. The role of fiduciairy is restricted to entities and professions subject to AML/CFT obligations, i.e. certain FIs and lawyers (CC, Art. 2015).

Criterion 25.1 –

a) The fiduciaries must, in the *fiducie* agreement, identify the settlors, fiduciaries and beneficiaries or, failing that, the rules for their designation, (CC, Art. 2018); they must register this agreement with the tax authorities within one month and inform the latter of any changes (CC, Art. 2019). The designation of the third-party protector and the identification of the BO of the *fiducie* shall be recorded in a written document drawn up by the fiduciary and registered with

the tax authorities (CC, Art. 2019). Fiduciaries must ensure that this information remains accurate and up-to-date(CMF, L.561-45-1; CC, Art. 2019 and Law No 2008-776, Art.2018).

b) French law does not provide for any particular obligation for the fiduciary to maintain information about agents or advisors providing services to the *fiducie*, but this shortcoming is partially compensated by the obligation for the fiduciary to keep documents relating to invoices of service providers for six years, according to the Book of Tax Procedures.

c) Since fiduciaries are entities subject to preventive AML/CFT measures, they must maintain the above-mentioned information for five years (CMF, Art. R561-3-0 and L561-12) as described in R.11 and criterion 22.2.

Administrators of trusts governed by foreign law with implications in France (the settlor or one of the beneficiaries is domiciled in France or a property or right forming part of the trust is located in France) are required to declare the constitution, the names of the settlors and beneficiaries, and the content of the trust terms. Administrators of foreign trusts which are domiciled in France for tax purposes are required, even if the trust has no implications in France, to declare only the constitution and the content of the terms of the trust (CGI), art. 1649 AB). This information is kept in a register administered by the Ministers for the Economy and the Budget (CGI, Art. 1649 AB) and by the trust administrator for up to six years after the termination of the trust (LPF, Art. L102B).

Criterion 25.2 - France has taken steps to ensure that all information held in accordance with this Recommendation is accurate, as up-to-date as possible, and is updated in a timely manner:

- The fiduciaries and administrators of any foreign trust are explicitly required to obtain and maintain accurate and up-to-date information about the beneficial owners (CMF, art. L561-45-1), which includes information identifying all parties to the *fiducie* or trust identified as per C.25.1.
- *Fiducie* agreements must be registered with the tax authorities within one month or the *fiducie* will be rendered null and void. Any transfer of rights, subsequent designation of a beneficiary or of a protector must be carried out in writing and registered with the same department, failing which the contract will be rendered null and void (CC, Art. 2019).
- FIs, DNFBPs and supervisory authorities are required to report any discrepancies between the information held in the registers of *fiducies* and foreign trusts (*cf*. criterion 25.1) and information about BO at their disposal. Trust administrators or fiduciaries are required to justify any discrepancies or to rectify information (LPF, L.102 AH).

Criterion 25.3 – When the fiduciary acts on behalf of the fiducie, this must be specifically disclosed (CC, Art. 2021). Although such an obligation is not explicitly established for trusts governed by foreign law, FIs and DNFBPs must identify the administrators of trusts or other legal arrangements.

Criterion 25.4 – As set out above, there is no impediment to providing information about fiducies (CC, Art. 2020) or about foreign trusts (CGI, art. 1649 AB) in view of the obligation to submit information to the relevant registers (to which the competent

authorities have access), and the obligation of FIs and DNFBPs to identify the customers and to be aware of the nature of the business relationship.

Criterion 25.5 – The competent authorities have access to the registers of fiducies and trusts (LPF, Art. L167), which contain information about beneficial owners and the residence of the fiduciary or trust administrator. The general standards on access by competent authorities to information held by regulated entities apply to information about assets held or managed by FIs and DNFBPs, (cf. criterion 29.3, 27.3 and 28.4).

Criterion 25.6 – France has taken steps to enable international cooperation concerning information about fiducies and other legal arrangements, including beneficial ownership, pursuant to R.37 and R.40:

a) Competent authorities may share the information contained in the registers of fiducies and the register of foreign trusts to the competent authorities of EU Member States and other foreign authorities (LPF, Art. L167, Art L114 and L114A; CMF, L561-29-1, L561-29, L561-27 and CPP Art. 694-3).

b) Access by all competent authorities to registers of fiducies and trusts ensures the exchange of information available at the national level (LPF, Art. L167);

c) Competent authorities may use their investigative powers to exchange information about trusts.

Criterion 25.7 – For fiduciaries and trust administrators, the following proportionate and dissuasive sanctions are provided in the event of non-compliance with their obligations:

- failing to provide the information specified in criterion 25.1, or providing inaccurate or incomplete information to FIs and DNFBPs, is punishable by six months' imprisonment and a fine of EUR 7 500 (for legal persons, the amount may be increased fivefold), and additional penalties such as deprivation of the rights of the natural person and dissolution or placing under supervision of the legal person (CMF, Art. L561-45-1 and L574-5);
- failing to register an agreement or to transmit new information will render the *fiducie* agreement null and void (CC, Art. 2019), and lead to a fine of EUR 20 000 for trusts (CGI, L1736 IV bis); a penalty of 80% may also be imposed in the event of a failure to declare the trust assets (CGI, L1729 0 A I c);
- the absence of or failure to respond to a request for the rectification of information in the registers of *fiducies* or trusts is recorded in the register and may be punished by a fine of EUR 20 000 (LPF, Art. L102AH and CGI, Art. 1736 IV bis);
- When a fiduciary does not expressly mention the fact that he is acting on behalf of a trust, he is liable by committing a fault in the performance of his mission. The fiduciary is thus responsible for his faults on his own patrimony. (CC, 2026). The beneficiary or the third party appointed under Article 2017 may apply to the court for the appointment of a provisional trustee or for the replacement of the trustee (CC, Art. 2027).

Criterion 25.8 – The competent authorities have full and timely access to information on trusts and fiduciaries as provided for in criterion 25.1 through the registers of trusts and fiduciaries maintained by the DGFiP, which registers declarations.

Fiduciaries and administrators of trusts are required to keep this information up to date or face penalties set out in criterion 25.7.

Weighting and conclusion

There is no obligation for the administrators of foreign legal arrangements to declare their status to the FIs/DNFBPs or an explicit obligation for the trustee to hold basic information on other service providers to the *fiducie*.

France is largely compliant with R.25.

Recommendation 26 – Regulation and supervision of financial institutions

France was rated largely compliant with the requirements of this Recommendation in the third evaluation cycle. The identified shortcomings concerned the effectiveness of the sanctions imposed, which will not be assessed in this section of the report, as required by the current evaluation Methodology.

Criterion 26.1 – France has designated authorities responsible for the regulation and supervision of compliance with AML/CFT requirements for all FIs:

- ACPR: EC, EP, EME, SF, life insurance organisations, insurance brokers, investment firms, money changers (CMF, Art. L612-1, L561-36, I, 1o and Art. L561-36-1).
- AMF: CIF, CIP, SGP, central depositories (CMF, Art. L561-36, I, 2°).

  In addition to the general regulatory power exercised by decree and by order of the French Minister for the Economy, the ACPR and the AMF possess their own regulatory powers, which are exercised via "Instructions" for the ACPR (CMF, Art. L612-24), and the "General Regulation" (RG) for the AMF (CMF, Art. L621-6).

Criterion 26.2 – All FIs subject to the Core Principles require a licence, granted either by the ECB (for EC, upon a proposal from the ACPR), by the ACPR, or by the AMF, including organisations authorised to provide money or value transfer services. Money changers must receive an authorisation from the ACPR before conducting business (CMF, Art. L524-3). The other FIs are either licensed by or registered with the responsible supervisory authority and/or registered with the ORIAS (organisation responsible for registering insurance, banking and finance intermediaries). In addition, French law prohibits the establishment, or continued operation, of shell banks.

Criterion 26.3 – France has implemented certain legislative measures to prevent criminals or their accomplices from holding a significant or controlling stake in an FI, or from holding a senior management position therein.

General prohibitions on persons holding a management position

For FIs, other than central depositories, the existence of convictions for a wide range of crimes, including equivalent foreign convictions, is incompatible with the direct or indirect exercise of management or administrative functions, membership of a collegiate supervisory body of a financial organisation, and the exercise of financial professions or activities, on one's own behalf or on behalf of others (CMF, Art. L500-1; French Insurance Code (Code des assurances), Art. L322-2; CSI, Art. L931-7-2 and

L942-3 and the French Mutual Society Code (Code de la mutualité), Art. L114-21). However, the absence of convictions has no bearing on the assessment of a candidate's fitness and propriety by the ACPR or the AMF (CMF, Art. L500-1, VII).

FIs supervised by the ACPR

Persons holding a management position – In addition to verifying the existence of any convictions as described above, the ACPR assesses the fitness and propriety of the persons holding a management position (Supervisory Board and Executive Board; Board of Directors; Chief Executive; Deputy Chief Executives; other persons exercising equivalent functions and other persons who effectively ensure senior management functions, such as the senior managers of branches of foreign institutions) of EC (including those covered by the single supervisory mechanism), EI, SF, and companies in the insurance sector (CMF, art. L511-51; R511-16-3; L533-25; R533-17-1). These FIs must notify the ACPR of any changes to these management positions within 15 days of any appointment or reappointment. The ACPR may object to the continuation of the mandate if the person does not meet the fit and proper requirements anymore (CMF, Art. L612-23-1, V), or suspend them if justified by an urgent need (CMF, Art. L612-33, III). For money changers, EP and EME, the persons that must undergo a fit and proper check depends on the legal form of the FI but does not cover all senior management positions and is limited to "designated effective managers". For SAS legal structure in particular, the fit and proper assessment is limited to its President, and for all other legal forms, it does not cover those responsible for performing key management functions or members of the Board of Directors or Supervisory Board (CMF, Art. L522-6, L526-8, L526-12, L524-3, L523-4). Changes in the management of money changers, EP and EME must be reported to the ACPR within five days of the appointment (Order of 10 September 2009***, Art. 3; Order of 29 October 2009, Art. 9; Order of 2 May 2013, Art. 9***).

Controlling interest and BO – The ACPR checks the fitness and propriety of natural persons who directly or indirectly hold capital or voting rights within certain limits, ranging from 10% to 25% according to the FI at the point of licensing EC, EI, insurance undertakings, EP, EME, SF and money changers, and in the event of any change that must be declared (Order of 4 December 2014, Art. 7; Order of 4 December 2017, Art. 6; French Insurance Code, Art. R322-11-1; Order of 29 October 2009, Art. 7, Order of 2 May 2013, Art. 7; CMF, Art. D524-2). These checks are also carried out prior to any changes. However, these checks only cover those persons who exercise control or have a "notable influence" through their shareholding or voting rights and do not cover other forms of control, apart from capital or voting rights, that may be exercised over the FI within the meaning of BO as defined by the FATF.

FIs supervised by the AMF

Persons holding a management position – The AMF checks the fitness and propriety of the "effective managers" of SGP before granting a licence (CMF, Art. L532-9, II, 4°) and following the appointment of any new "effective manager". However, "effective manager" is exhaustively defined as those who are designated as such, i.e. at least two persons according to certain criteria[156]. For CIFs and CIPs, the advisers and senior

156 The appointed effective managers must be at least two people, one of whom must be the corporate officer authorized to represent the company in its relations with third parties and the other can be the Chairman of the Board of Directors or any person specially authorized by the collegial social bodies or the articles of association to direct and determine the direction of the company.

management in the case of legal entities authorised to act as advisers must meet the fit and proper requirements (CMF, Art. L541-2 and L547-3). For central depositories, the AMF checks the fitness and propriety of senior management (CMF, Art. L441-1; Regulation EU No 909/2014, Arts 16, 17 and 27***; AMF RG, Art. 560-3***).

Controlling interests and BO – At the time of licensing and following changes to shareholdings in SGPs, the AMF assesses the soundness of the shareholders' profiles, but there are no fit and proper checks undertaken (CMF, Art. L532-9 and L532-9-1). Central depositories must provide information to the AMF about the shareholders' ability to exercise control over their operations at the time of licensing and at the time of any change (CMF, Art. L441-1; Regulation EU No 909/2014, Art. 27). For CIF and CIP, direct and indirect shareholders with qualifying holdings must be identified, but there is no fit and proper assessment of senior management or BOs. For all these FIs, there are no measures in place to check the fitness and propriety of BOs that could exercise a form of control other than through capital ownership.

FIs registered with ORIAS

ORIAS can undertake fitness and propriety checks for insurance intermediaries, but the timing of these checks is not provided for by the legislation (French Insurance Code, Art. R514-1 and I to III and V of Art. L322-2).

Criterion 26.4 –

a) FIs subject to the *Core Principles* are supervised in a manner that is consistent or broadly consistent with the majority of the *Core Principles*, including group-level supervision for AML/CFT purposes.[157] The small number of shortcomings that warranted a lower rating in 2012 concerned the ACPR's powers to (i) assess governance and, in particular, the fitness, propriety and qualifications of the senior management s of banking and insurance institutions, and (ii) assess the acquisitions of majority shareholdings by credit institutions. Both of these points have been corrected as noted in subsequent IMF publications.[158]

b) With regard to financial groups, the ACPR and the AMF are required to ensure that the reporting entities under their respective supervision, which are part of a group, implement an AML/CFT framework across all of the group's entities (including foreign operations and French subsidiaries) (CMF, Art. L561-32, L561-33 and L561-4-1).

157 In the assessments conducted by the IMF in 2012, France was rated compliant or largely compliant with all of the Basel Committee's Principles on Banking Supervision (BCBS) and the Principles of the International Association of Insurance Supervisors (IAIS), except for two aspects that were rated "materially non-compliant" with the BCBS Principles, and two aspects rated "partially compliant" with the IAIS Principles (see the IMF Reports published on July 1, 2013: "Detailed Assessment of Observance of Basel Core Principles for Effective Banking Supervision", "Detailed Assessment of Observance of Insurance Core Principles" and "Detailed Assessment of Observance of IOSCO Objectives and Principles of Securities Regulation".

158 Cf. IMF, "Staff Report for the Article IV Consultation" (June 2014), Country Report No 14/182; IMF, "France – Financial System Stability Assessment" (July 2019), Country report No 19/241; IMF, "France – Technical Note – Select Topics in Financial Supervision and Oversight "(October 2019), Country report No 19/325.

All other FIs, including money or value transfer service providers and money changers, are subject to the supervision of their AML/CFT compliance by the ACPR or the AMF.

Criterion 26.5 – A legal provision formalises the obligation of financial sector supervisors to adopt a risk-based approach to the performance of their AML/CFT supervisory duties (CMF, Art. L561-36).

For FIs in the banking and life insurance sector, the intensity of the ACPR's AML/CFT desk-based and on-site inspections, including to some extent their frequency and scope, is determined on the basis of the following factors:

a) an assessment of inherent risks (the nature of the products and/or services offered, the characteristics of customers, the distribution channels and the countries and geographical areas), and the ML/TF risk management framework of the FI concerned, by various supervisory tools (annual questionnaire, annual report on internal control of the AML/CFT framework, etc.), leading to the calculation of an overall risk score;

b) ML/TF risks present in the country, as identified in the NRA, which are taken into account in the SRA and supplemented by information received from TRACFIN, which help to determine the AML/CFT supervisory priorities for each year.

c) Characteristics of the FI, including their affiliation to a group and, for some, the size or balance sheet of the FI.

Insurance brokers are not subject to an individual ML/CFT risk rating, but are nevertheless divided into two risk levels, determined in the ACPR's SRA, and on which the supervision activities are based. The ACPR may decide to conduct an inspection in the event that particularly significant matters are brought to the its attention, including alerts from TRACFIN or other authorities, although neither this approach nor the impact of the above-mentioned elements on the frequency and scope of inspections are formally documented.

For SGPs and CIFs, a supervision policy, which specifies the nature of the supervisory actions to be carried out and their timing, following a risk-based approach, is formally documented.

Criterion 26.6 – A legal provision formalises the obligation of the competent supervisory authorities for FIs to review their risk profile periodically or in the event of material changes in their senior management or activities (CMF, Art. L561-36, IV).

For FIs in the banking and life insurance sector (except for insurance intermediaries), the ACPR's supervision methodology provides for the updating of the risk profile of the FI according to a scale setting out the intensity of supervision that an entity is subject to, i.e. once every two years for FIs under a lighter touch level of supervision and every year for all others. The methodology also provides for the risk profile to be updated as soon as particularly significant events are brought to the ACPR's attention (TRACFIN report, findings of an on-site inspection, significant change in the FI's activities, etc.).

For insurance intermediaries, the classification into one of two risk categories is undertaken at least once a year when, as part of the process of renewing their registration with ORIAS (CMF, Art. L546-1, I) intermediaries must provide updates on their activities. An inspection by the ACPR may be triggered when particularly

significant events are brought to the ACPR's attention, including alerts from TRACFIN or by other authorities during the performance of on-site inspections relating to commercial practices.

For FIs under AMF supervision, the formalised supervision policy does provide for an annual risk rating and the updating of the risk profile of the FI if the AMF is informed of significant events that could affect the risk profile. These include reports from TRACFIN, the findings of an on-site inspection, the launch of new activities and the results of the desk-based controls.

Weighting and conclusion

The fit and proper checks do not cover all relevant persons holding management position and the checks do not extend to BOs other than those exercising control through their ownership of capital or voting rights.

France is largely compliant with R.26.

Recommendation 27 – Powers of supervisors

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The identified shortcomings related to effectiveness, which will not be examined in this section of the report, as required by the current Evaluation Methodology.

Criterion 27.1 – The ACPR and the AMF have the responsibility for monitoring and ensuring compliance by FIs with their AML/CFT and asset-freezing obligations (ACPR: Articles L561-36 I, 1° and L561-36-1; AMF: Article L561-36, I, 2°). The CMF also sets out specific AML/CFT powers, such as the ACPR's power to impose specific administrative sanctions, according to the category of FI concerned (Article L561-36-1, IV, V and VI).

Criterion 27.2 – The ACPR and the AMF have the power to conduct inspections of FIs (CMF, Article L561-36-1). This is based on their general supervisory powers to carry out inspections of covered entities (ACPR: reference to Section 5 of Chap. II of Title I of Book VI of the CMF; AMF: reference to ***Ch. 1 of Title II of Book VI of the CMF*** (notably Article L621-9, I)

Criterion 27.3 – The ACPR and the AMF are authorised to require the production of any information or documents that may be relevant to the exercise of their supervisory powers in AML/CFT matters (CMF, Article L612-24 for the ACPR and L621-8-4 or L621-10 for the AMF).

Criterion 27.4 – The ACPR and the AMF have the power to impose sanctions as described in the analysis of R.35 in the event of non-compliance with AML/CFT obligations. This includes a wide range of sanctions, both disciplinary (warning, reprimand, compulsory resignation) and financial. For example, the ACPR can limit or suspend an entity's activities, or withdraw an authorisation, either completely or partially. (cf. R.35 for more details).

Weighting and conclusion

All criteria are met.

France is compliant with R.27.

Recommendation 28 – Regulation and supervision of DNFBPs

France was rated non-compliant with the requirements of this Recommendation during the 3rd round evaluation. The report highlighted the lack of regulation and control for DPMS, shortcomings in the scope of certain measures in OM, and the recent implementation of the AML/CFT framework for a number of DNFBP sectors, which made it impossible to evaluate its effectiveness. Since then, new FATF requirements have reinforced the risk-based approach to regulation and supervision, and France has amended its legislation several times.

Criterion 28.1 – Gambling and games of chance are prohibited in France (CSI, Art. L324-1 and L324-2). However, there are exemptions for casinos, ship-based casinos (CSI, Art. L321-1 and L321-3), online gaming (Law No 2010-476, Art. 11, 12 and) and, for an experimental period (2018-2022), gaming clubs (Law 2017-257, Art. 34).

a) The French Ministry of the Interior grants operating licences to casinos and gaming clubs following an investigation carried out by the Central Racing and Gaming Department (SCCJ), which is presented to the Advisory Commission for Gaming Circles and Casinos (CCJCC) (casinos: CSI, Art. L.321-2; casinos on ships: L.321-3; gaming clubs: Decree No 2017-913, Art. 9). Online gaming operators (e.g. poker) are licensed by the ANJ (Law No 2010-476). In New Caledonia and French Polynesia, local authorities are in charge of granting operating licenses (CSI, Art. L344-3, L344-4, L345-3, L345-4). For these two overseas territories, online gaming operators are not authorized.

b) The authorities have implemented the necessary legislative measures to prevent criminals or their accomplices from owning or becoming beneficial owners of a significant or controlling interest in a casino, from holding a management position therein, or from being its operator (CSI, Art. L323-3 and R323-3 and Order of 14 May 2007 as amended, Art. 12, 14 and 15). In addition, any change in the distribution of share capital or control must be submitted for prior authorisation by the Minister for the Interior, who may conduct investigations, verify information with the FIU and seek international cooperation (CSI, Art. L323-3). By reasoned decision, the Ministry for the Interior may refuse to issue an investment authorisation (CSI, R323-3). In French Polynesia, the conditions requirement to receive authorisation are the same as for those in mainland France (CSI, Art. L344-1). In New Caledonia, the licensing conditions are defined by deliberation of the congress and do not explicitly involve fit and proper checks.

   For online gaming operators, the ANJ may refuse approval if the applicant, or in the case of a legal entity, the directors or corporate officers, have been subject to certain categories of criminal convictions (Law No 2010-476, Art. 21). These measures cover persons that control, directly or indirectly, more than 5% of the capital or voting rights without however considering other forms of ultimate control (law nº 2010-476 of May 2010, art. 15).

c) The SCCJ is responsible for monitoring compliance by casinos and gaming clubs with AML/CFT obligations (CMF, Art. R561-39), including in New

Caledonia. There are no casinos in French Polynesia. The ANJ is responsible for monitoring compliance by online gaming operators (CMF, Art. R561-39).

Criterion 28.2 – The following designated authorities and/or self-regulatory organizations are responsible for monitoring and ensuring compliance with AML/CFT obligations by DNFBPs:

- Real estate agents and business service providers are subject to control and supervision by the DGCCRF (CMF, Art. L.561-36 and CMF, Art. R.561-40);
- DPMS are subject to control and supervision by the DGCCRF or the DGDDI depending on the type of activities carried out;
- Statutory auditors are subject to control and supervision by the H3C;
- Court-appointed administrators and trustees are subject to control and supervision of the CNAJMJ;
- Chartered accountants, notaries, lawyers, bailiffs and judicial auctioneers are subject to control and supervision by their respective professional self-regulatory organisations or an independent authority (CMF, Art. L.561-36 and other sectoral designation ordinances) (see Table 1.3 - Chapter 1)

In French Polynesia and New Caledonia, the General Directorates of Economic Affairs of local governments are in charge of the supervision of real estate agents, business service providers and DPMSs. In New Caledonia, liquidators are placed under the supervision of the Public Prosecutor's Office and in French Polynesia, administrators and court appointed trustees are supervised by the CNAJMJ. The General Prosecutor's Office ensures the supervision of bailiffs and other court appointed officers. Notaries, accountants and lawyers are subject to independent self-regulatory authorities.

Criterion 28.3 – (not applicable) All categories of DNFBPs are subject to AML/CFT monitoring mechanisms (cf. criterion 28.2).

Criterion 28.4 –

a) The designated supervisory authorities and self-regulatory bodies have the necessary powers to carry out their functions, including monitoring of AML/CFT compliance (general provision: CMF, Art. L. 561-36). Specific provisions: DGCCRF (CMF, Art. L561-36-2 and C. Comm., Book IV, Title V); the Order of Chartered Accountants (Ord. 45-2138, Art. 1 and Decree 2012-432, Art. 171); the Chamber of Notaries (Ord. 45-2590, Art. 4 and Decree 74-737, Art. 11); the Councils of the Bar Association/Lawyers' Association (Law 71-1130, Art. 17 and Decree 2010-9, Art. 155); the Chambers of Bailiffs (Decree No 56-222, Art. 94-2 and 91-11); the National Council of Insolvency Practitioners and Judicial Trustees (C.Comm., Art. R.811.40, R.811-42 and R.814.42); the Disciplinary Chamber of judicial auctioneers (Ord. Art. 8); High Council of Statutory Auditors (C.Comm., Art. L.821-12).

b) *Access to certified professional status* – All DNFBPs, except for DPMS, are subject to certain conditions in order to carry out the profession or be appointed or licensed, which require them to have not been convicted of a criminal offence and to have not committed any acts contrary to fit and proper requirements.

   Persons holding a management position, persons holding a significant or controlling interest, beneficial owners – For business service providers, a

certificate of good standing for senior management, shareholders and partners holding at least 25% of the shares must accompany the application for authorisation. For insolvency practitioners and judicial trustees firms, a partial copy of the criminal record (bulletin No 2) of members of the senior management, executive, administrative or supervisory bodies, who are not themselves insolvency practitioners or judicial trustees, must be provided with the application for registration. For accounting firms and management and accounting associations, in addition to the obligation for legal representatives to hold the title of chartered accountant, accounting firms cannot be entered on the roll of the professional order if one of their senior management or beneficial owners has been sentenced to a criminal or correctional penalty (Ordinance No 2020-115, Art. 16). With regard to statutory auditors, senior management and BOs holding the majority of the voting rights are required to be qualified members of the profession. However, no checks are undertaken for BOs holding a minority of the voting rights. With regard to lawyers, the new forms of law firms (SEL, SELAS, SARL), in which the sole requirement is for a majority share to be held by qualified persons, are not required to monitor the good repute of non-qualified BOs. With regard to real estate professionals, natural or legal persons must obtain a professional identity card, which can only be issued to persons who are not prohibited from practising the profession and who have not been banned from operating or sentenced to a penalty which is incompatible with the conducting of the profession (Act No 70-9 of 2 January 1970, Articles 9 and 10). However, no checks are undertaken in respect of the beneficial ownership of legal entities. For business service providers and real estate agents in New Caledonia and French Polynesia, fit and proper checks are undertaken by the local chambers of commerce and industry for legal representative and persons holding at least 25% of the capital of the companies. No fit and proper checks are provided for control by other means.

c) The competent authorities and designated self-regulatory organisations have the power to impose sanctions in the event of non-compliance with AML/CFT obligations by the entities or professionals under their control (CMF, Art. L.561-36). See R.35 for more details. Real estate agents and business service providers in French Polynesia and New Caledonia are not subject to AML/CFT supervision by local authorities.

Criterion 28.5 –

a) Art. L561-36 of the CMF formalizes the general application of the risk-based approach by all supervisory authorities. Supervisors should have a good understanding of ML/FT risks and apply this understanding to determine the frequency and intensity of off-site and on-site checks. The SRAs undertaken for all sectors and the questionnaires sent to certain professionals to determine their risk profile help to a certain extent to inform a risk-based approach to the frequency and intensity of supervisory activity, however, this recently introduced obligation to adopt a risk-based approach has not yet been fully implemented in the supervision methodologies of all competent authorities.

In particular, the risk-based approach has not been fully formalised for notaries, bailiffs and judicial auctioneers who are all subject to an annual inspection which is not based on the risks identified, except in certain cases

concerning the choice of customer files to be checked. Statutory auditors are supervised on the basis of a risk assessment (C.comm., Art. R821-71). However, it is not clear to what extent this risk assessment takes into account the frequency and extent of supervisory activities and the understanding of the risks by regulated entities. The oversight of Court-appointed receivers and trustees is not risk-based. Each regulated entity is subject to an exhaustive inspection, which covers compliance with all of its AML/CFT obligations. However, inspections can be carried out with regard to specific risks in the event of a proven or suspected failure.

Real estate agents and business service providers in French Polynesia and New Caledonia are not subject to AML / CFT supervision by local authorities.

b) Supervisory authorities must consider the risk profile of the professionals under their jurisdiction and the ML/TF risks posed (CMF, Art. L561-36). The supervisory authorities must also consider the risk assessment provided for in Article L. 561-4-1 (*cf.* criterion 1.9 and 26.4), and the adequacy and implementation, according to a risk-based approach, of the policies, internal procedures and internal control measures by the professionals under their authority. However, this obligation has not been integrated into the supervision methodologies of all authorities (*cf.* C.28.5 a)).

Weighting and conclusion

France has developed a sound legal framework for the supervision of DNFBPs. However, there remain shortcomings in the formalisation of a risk-based approach by some supervisory authorities, and the fitness and probity assessments of BOs for some DNFBPs during the authorisation or licensing process.

France is largely compliant with R.28.

Recommendation 29 - Financial Intelligence Units (FIU)

France was rated largely compliant with the Recommendation during the 3rd round evaluation. The main identified shortcoming was related to effectiveness.

Criterion 29.1 – TRACFIN (*Traitement du renseignement et action contre les circuits financiers clandestins*) is the national competent authority responsible for collecting, analysing, enhancing and exploiting STRs transmitted by regulated entities and other information, within the context of AML/CFT matters(CMF, art. L561-23). TRACFIN disseminates the results of its analyses to various competent authorities (judicial, customs, tax administration, supervisory authorities, etc.) (CMF, art. L561-28, L561-30-1, L561-30-2 and L561-31).

Criterion 29.2 – TRACFIN serves as the central agency for the receipt of information filed by reporting entities. The FIU receives:

a) STRs from regulated entities (CMF**,** art. L561-15);

b) systematic disclosures of cash transaction (COSI), for any single transaction exceeding EUR 1 000 or set of transactions exceeding EUR 2 000 over one month (CMF, art. L.561-15-1), concerning transactions involving the transmission of funds from a cash or e-money payment, as well as cash deposits/withdrawals from a deposit or payment account exceeding

EUR 10 000 or the equivalent in foreign currency (CMF, art. R561-31-1 and R561-31-2 and R561-31-3).

Criterion 29.3 –

a) TRACFIN may obtain and use additional information from regulated entities. This power concerns all documents, information or data that are kept, which must be communicated within the time limits set by TRACFIN, in order to reconstruct all matters related to a transaction that has been the subject of a STR, systematic disclosures of information, and information received from the competent authorities or foreign FIUs (CMF, art. L561-25; L561-15-1).

b) TRACFIN may receive and obtain, at its request, from any person entrusted with a public service mission (government departments, local authorities, public establishments, etc.), any information required to enable it to properly discharge its function (CMF, art. L561-27). TRACFIN has the right to access financial information (direct access to databases used by the agencies responsible for establishing the tax assessment rate, tax inspection and collection), administrative information and information from criminal prosecution authorities (direct access to police and gendarmerie records).

Criterion 29.4 –

a) TRACFIN conducts operational analysis of information received and collected in order to enhance it and use it to establish the origin or destination of funds or the nature of the transactions that were the subject of a report or information received (CMF, art. 561-23). While the law does not contain any explicit reference to the goal of establishing links with the proceeds of crime, ML, TF, or predicate offences, this is in line with the missions and powers devolved to the FIU.

b) No reference to strategic analysis is set out within the Law. However, a Strategic Analysis Unit (CAS) was established in 2013 with the main mission of identifying existing and emerging ML/TF trends and patterns. Since 2014, the CAS has produced numerous analyses including an annual report entitled "Risk Trends and Analysis" in which TRACFIN sets out the results of its strategic analysis and presents typological cases characteristic of the risks identified.

Criterion 29.5 – TRACFIN is able to spontaneously disseminate any information it possesses with the judicial authority and the French police criminal investigation department which is likely to be relevant to the performance of their missions. TRACFIN may also pass on information that it has in its possession and that is likely to be useful for the performance of the duties of other national administrations competent in AML/CFT matters (CMF, art. L561-31). TRACFIN also responds to requests from the judicial authorities and the French police criminal investigation department which transmit judicial requisitions to it (CPP, art. 60-1, 77-1-1 and 99-3). However, there are no provisions in the Law for the use of dedicated, secure and protected channels for the dissemination of information.

Criterion 29.6 –

a) The disclosure of any information held by TRACFIN is generally prohibited (CMF, art. L561-30, para. 2). Information collected by TRACFIN is recorded on a secure database, which is compartmentalised and accessed via a proprietary secure IT tool "STARTRAC". Only TRACFIN agents have access to this tool via

a dedicated individual workstation, which is not connected to any external network. Operational information processed by TRACFIN does not leave this database. All TRACFIN agents also have access to a secure internal messaging system from this workstation. Exchanges with bodies outside of the agency take place via a second individual workstation and a different messaging system.

b) Agents assigned to TRACFIN must be cleared in accordance with the regulations in force on the protection of secrecy relating to national defence (CMF, art. D561-35). In addition, upon taking up their duties, agents must familiarise themselves with the internal security rules and certify that they have done so in writing. The rules of security and confidentiality of information are set out in an internal document of the FIU.

c) The FIU premises are located in a building housing other government departments, with secure access controlled by security agents and dependent upon the possession of a personal magnetic card. In addition, the floors occupied by TRACFIN benefit from legal protection due to their status as "protected areas", and are protected by a second secure access system.

Criterion 29.7 –

a) TRACFIN operates independently in its decision-making. The decision to disseminate the results of TRACFIN's analyses to other administrations and competent national authorities is left solely to the discretion of TRACFIN, which "may transmit" or "is authorised to transmit" information to other authorities (CMF, art. L.561-31). TRACFIN is headed by a director and a deputy director, who are assisted by a legal adviser and a magistrate of the judiciary on secondment. The Director has the rank of Director of Central Administration (CMF, art. D561-34). However, the mechanism for the appointment of the Director and for the termination of their functions do not guarantee the operational autonomy due to their status as "Director of Central Administration" – being appointed by decree of the President of the Republic on the basis of a governmental decision (therefore by a political authority) – and the lack of rules governing the term of their appointment and their replacement (appointment under art. 25 para. 3 of Law 84-16 "*is mainly revocable*").

b) TRACFIN is able to exchange information freely with its foreign counterparts and is not required to have a prior international cooperation agreement with them to do so. However, it is free to enter into such agreements to enable collaboration with counterpart FIUs that require such an agreement, subject to the provision of guarantees to protect the confidentiality of information provided. Decisions on whether or not to disseminate information to a foreign FIU are also left to the discretion of TRACFIN. In addition, the FIU collaborates, and has entered into a number of agreements, with other national authorities in a completely independent manner.

c) TRACFIN reports to the Minister for the Economy and the Minister for the Budget (CMF, art. D561-33), but its powers and responsibilities are separate from those of the Ministry.

d) TRACFIN is able to obtain and deploy the human and budgetary resources needed to carry out its functions. Budgetary resources are allocated to it each

year by the General Secretariat for the Ministries of the Economy and Finance. TRACFIN agents, including the heads of department, who are members of its management committee, are recruited directly by the Director and Deputy Director of the FIU.

Criterion 29.8 – France is a founding member of the Egmont Group.

Weighting and conclusion

The use of dedicated, secure and protected channels for domestic dissemination, and the requirement to conduct strategic analysis, are not set out in law. In addition, the mechanism for appointing the Director of TRACFIN does not guarantee its operational independence.

France is largely compliant with R.29.

Recommendation 30 – Responsibilities of law enforcement and investigative authorities

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The main shortcomings were related to effectiveness issues.

Criterion 30.1 – France has a wide range of authorities responsible for investigating ML, TF and predicate offences. The Ministry of the Interior, as the authority in charge of the police and gendarmerie, is responsible for investigating ML and predicate offences – in addition to the agencies of the Ministry for Public Action and Accounts (e.g. the Customs and Tax Service (SEJF)) (CPP, art. 28-1, 28-2). Investigations into organised crime and large-scale crime (with an international dimension) are entrusted to agencies with specialised powers (see table below). . Specialised offices are responsible for investigating predicate offences[159]. These agencies may work jointly on cases with other expert authorities specialised in ML (in particular OCRGDF and SEJF).

Specialised central offices	Area of responsibility
Central Office for Combating Serious Fraud (OCRGDF)	Transnational fraud and community fraud, ML/TF and "ill-gotten gains".
Central Office for Combating Corruption and Financial and Tax Offences (OCLCIFF)	Criminal business offences, complex tax fraud, violations of integrity and political financing rules, and laundering of the proceeds of all such offences.

The National Financial Prosecutor's Office (PNF) has national jurisdiction (CPP, art. 705-16) to investigate and prosecute the laundering of certain offences[160]. This is

159 These include in particular: the Anti-Drug Office (OFAST), the Central Office for the Suppression of Trafficking in Human Beings (OCRTEH), the Central Office for the Fight Against Trafficking in Cultural Goods (OCBC), the Central Office for the Fight Against Organised Crime (OCLCO), the Central Office for the Suppression of Violence against Persons (OCRVP), the Central Office for Combating Itinerant Organised Crime (OCLDI), and the Central Office for the Fight Against Illegal Employment (OCLTI).

160 The PNF can therefore prosecute crimes related to the laundering of the proceeds of the following offences:
- violations of integrity (bribery, corruption and influence peddling committed by persons holding public office, graft and corruption, "revolving-door" employment abuses (*pantouflage*), favouritism,

concurrent with the jurisdiction of the Specialised Interregional Courts (JIRS), the economic and financial divisions and the public prosecutors' offices under ordinary law (CPP, art. 706-75).

In relation to CFT, the National Anti-Terrorism Prosecutor's Office (PNAT)[161] and the anti-terrorism investigating judges of the Paris Judicial Court are responsible for prosecuting TF cases (CPP, art. 706-17). More complex TF cases may pursued in conjunction with judges at the Economic and Financial Division of Paris Regional Court (CPP, art. 704). The National Police has three specialised investigative agencies: the Anti-Terrorist Sub-Directorate (SDAT), the Directorate General of Internal Security (DGSI), and the Anti-Terrorist Section of the Criminal Investigation Brigade of the Paris Police Prefecture (SAT-PP). In addition, the OCRGDF has a dedicated CFT unit. The SEJF also has jurisdiction for ML in connection with a terrorist entity (CPP, art. 421-1 6°) and the financing of a terrorist entity (CPP, art. 421-2).

Criterion 30.2 – Investigators conducting investigations into the predicate offence are permitted to conduct a parallel financial investigation. They are authorised to continue the ML investigation and may also refer the case or be instructed to pursue it in conjunction with another entity that will follow up on these investigations. In TF matters, the investigators in charge of countering terrorism are authorised to pursue TF investigation. They may also investigate cases jointly with expert agencies in relation to TF, the OCRGDF and SEJF (CPP, art. 28.1).

Criterion 30.3 – The prosecution authorities have the power to identify, trace and initiate proceedings for the seizure of property likely to be the proceeds of crime in their capacity as French Criminal Police Investigation officers (CPC, art. 18). Investigators from the police, gendarmerie and customs can access identification records, including the national bank account database (FICOBA), the national asset database (BNDP), the Trade and Company Register (RCS), the national register of fiducies and the public register of trusts. For more complex cases and/or cases with an international dimension, the investigators can call upon support from specialised criminal-asset-identification services (also with international authority), e.g. the Criminal Asset Identification Platform (PIAC) (CP, art. 131-21 para. 6) (see Criterion 4.2).

Criterion 30.4 – In addition to the authorities empowered to conduct financial investigations into the predicate offences described in Criterion 30.1 a number of authorities are also empowered to conduct financial investigations. In particular:

- Agents from the public finance department (DGFiP) may (in response to a transmission from TRACFIN, if applicable) conduct an administrative investigation of facts likely to be related to the laundering of the proceeds of tax fraud, when this is discovered during the course of a tax audit (LPF, art. L10 et seq.), and report them to the public prosecutor (CPP, Art. 40).

misappropriation of public funds), corruption and influence peddling committed by private individuals, corruption constituting an obstacle to the exercise of justice, private corruption, and corruption in the field of sports betting, when these procedures appear to be highly complex;
- unlawful acquisitions of votes in electoral matters where the procedures appear to be highly complex; value-added tax fraud when it appears to be highly complex;
- acts of corruption and influence peddling by foreign public officials;
- complex tax fraud and tax fraud committed by an organised group

161 The PNAT – created by Law No 2019-222 – is headed by the anti-terrorism prosecutor and replaces the anti-terrorism section of the Paris Prosecutor's Office.

- Officers from the National Directorate of Customs Intelligence and Investigation are empowered to investigate three categories of customs offences during the course of administrative investigations: failure to comply with the obligation to declare physical transportation of currency (CD, art. 465), customs-related ML offences (CD, art. 415), and failure to comply with the regulations on financial relationships with foreign countries (CD, art. 459).

Criterion 30.5 – The National Brigade for Combating Corruption and Financial Crime (BNLCCF)[162] is the competent authority for violations of Company Law, political financing, stock exchange offences and violations of integrity (national and international corruption, national and international influence peddling, favouritism, misappropriation of public funds), and also investigates the laundering of the proceeds of these offences. It is composed of French Criminal Police Investigation officers (OPJ) and judicial police agents (APJ) who are empowered to identify, trace and seize property, and have access to numerous records and registers (see Criterion 30.3).

Weighting and conclusion

All criteria are met.

France is compliant with R.30.

Recommendation 31 – Responsibilities of law enforcement and investigative authorities

France was rated compliant with the requirements of this Recommendation during the 3rd round evaluation. The requirements in R.31 were significantly updated since the last evaluation.

Criterion 31.1 – Competent authorities have adequate powers to access any documents and information required for criminal prosecution (for investigations into ML, TF and associated predicate offences). In particular, they have the formal powers to implement the following enforcement measures:

a) the production of documents held by FIs, DNFBPs and other natural or legal persons (general power of requisition of investigators and magistrates: CPP, art. 60-1, 60-2 and77-1-1, 81, 99-3, 151 and 152); customs officers (CD, art. 64 A, 64 B and 65);

b) the searching of persons and premises (CCP, art. 54, para. 2 and 3, 63-7, 75 and 92, 76 et seq. and 94 et seq. and CD, art. 60 to 63 bis, 63 ter, 64, 66, 67);

c) the taking of witness statements (CPP, art. 28-1, 61, 78, 101, 109, 326 and 439);

d) the seizure and obtaining of evidence: (CPP, art. 97 et seq.) consignment and seizure of goods (CD, art. 322 bis, 323 paras. 2, and 414) and the consignment of sums discovered in the event of a breach of the obligation to make a declaration (CMF, art. L152-4, II).

Criterion 31.2 – Upon authorisation by the relevant judicial authority, the competent authorities (including the police, gendarmerie and customs) can employ special

162 The BNLCCF is one of the brigades of the Central Office for Combating Corruption and Financial and Tax Offences (OCLCIFF) created by Decree No 2013-960 of 25 October 2013.

investigative techniques which are adapted to the investigation of ML, associated predicate offences and TF, including:

a) undercover operations (CPP, art. 706-81 et seq. and CD, art. 67 bis);

b) interception of communications (CPP, art. 100 to 100-7 in the context of the investigation; art 706-95 for a preliminary or in flagrante delicto investigation);

c) access to computer systems through (i) the collection of computer data applicable to certain offences (CPP, art. 706-102 et seq.); (ii) the collection of technical connection data, and the interception of correspondence sent by electronic communications (CPP, art. 706-95-20); and (iii) computer searches (CPP, art. 57-1);

d) controlled delivery and surveillance (CPP, art. 706-80 et seq. and CD, art. 67 bis, I 67 bis-3, 67 bis-4).

Criterion 31.3 – France has mechanisms in place to identify, in a timely manner, whether natural or legal persons hold or control accounts. The judicial and supervisory authorities, investigative authorities, police and customs officers, and judicial tax officers, in addition to a number of public entities, have direct access to bank data through FICOBA. This centralised database is administered by the DGFiP and, in particular, contains information about the civil status of individuals, number/nature and type of account, legal form/SIRET number for legal entities. Investigators can use FICOBA (subject to a court order) to identify the assets held in France by a natural or legal person, and by a French or foreign FI established in France. The competent authorities use an asset identification process that operates without prior notification of the owner. Investigators and judges can access the many records and registers (see Criterion 30.3) either directly (remote consultation using secure identifiers) or by court order, from any person holding information. This power does not require prior notification. These court orders are covered by the secrecy of criminal investigation (CPP, art. 11) and cover not only the addressees of the court order for the purpose of identifying property but also any person bound by professional secrecy who, in the exercise of his or her duties, has knowledge of such a court order (CP, art. 226-13).

Criterion 31.4 – Competent authorities investigating ML/TF cases and related predicate offences may obtain all relevant information held by TRACFIN – subject to a court order (CMF, art. 561-31, see Criterion 31.1.a). TRACFIN can transmit information to magistrates and investigators spontaneously (see R.29). TRACFIN may also exchange any information with the supervisory authorities that is relevant to the performance of their duties (CMF, art. L561-28), e.g., in response to a request from the ACPR concerning the quality of the reporting activity of a regulated entity.

Weighting and conclusion

All criteria are met.

France is compliant with R.31.

Recommendation 32 – Cash couriers

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The main shortcomings identified were effectiveness issues, in addition to cross-cutting issues that applied to this recommendation.

Criterion 32.1 – EU Regulation 2018/1672[163] obliges natural persons entering or leaving the EU to declare cash, including bearer negotiable instruments (BNIs) of EUR 10 000 or more. France has supplemented this system and applies a control regime to the movement of cash into or out of an EU Member State (CMF, art. L152-1 and CD, art. 464). The declaration obligation applies irrespective of the mode of transport, i.e., to travellers, transfers by post and by forwarding agent (freight) (CMF art. R152-6).

Criterion 32.2 – The French system provides for a written declaration for all travellers carrying sums of money, securities or valuables amounting to EUR 10 000 or more (European Regulation No 1889/1672, art 3). This obligation applies to travellers, whether they are acting on their own behalf or on behalf of others, for intra and extra-EU flows (CMF, art. R152-6). The declaration is made in writing and, since February 2020, it has also been possible to make a declaration online by electronic means. This is carried out exclusively through the online customs service DALIA (via the douane.gouv.fr portal). The declaration obligation is not deemed to have been fulfilled if the information provided is incorrect or incomplete (CMF, art. L152-1).

Criterion 32.3 – (not applicable) France applies a declaration system.

Criterion 32.4 – In France, false, incomplete or incorrect declarations, as well as the absence of a declaration, constitute a violation of the obligation to declare (MOD). In the event of such violation, Customs officers may obtain additional information about the origin and intended use of the cash or BNI from the bearer, by way of an open hearing (CD, art. 67-F). Officers may also obtain any documents relating to the transfer of funds (CD, art. 65).

Criterion 32.5 – Any false, incomplete or incorrect declaration, as well as the absence of a declaration (laid down in art. L152-1 of the CMF and in Regulation (EU) 2018/1672) is punishable by a fine equal to 50% of the amount involved in the offence or attempted offence (CD, art. 465, reference to the CMF, art. L152-4 I). In addition, under certain conditions provided for in art. 350 of CD, the customs administration is authorised to enter into a settlement agreement with persons prosecuted for customs offences. As a result, the amount of the transaction may be less than the 50% fine provided for by art. L152-4 of the CMF. These sanctions may be considered proportionate, although they are not deemed to be overly dissuasive.

Criterion 32.6 – TRACFIN has access to the Customs Anti-Fraud Information System (SILCF) maintained by the DGDDI. This access is governed by a protocol signed by the DGDDI and TRACFIN on 13 May 2019, which gives TRACFIN's authorised agents access to any customs database relevant to the detection of fraud, including capital declarations and failures to declare. In addition, TRACFIN receives all the information required for the performance of its mission from any government agencies and any other person entrusted with a public service mission, or obtains such information from them at its request (CMF, art. L561-27).

Criterion 32.7 – The DGDDI has exclusive regulatory authority over the implementation of measures under R.32. The DGDDI also cooperates and coordinates with other relevant authorities: TRACFIN (see criterion 32.6), the Border Police

163 Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls of cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005.

(especially in cases of suspected financial, tax or customs-related offences), the National Tax Investigation Directorate, and the regional intervention groups (GIR). Customs also participates in ten customs and police cooperation centres (CCPD) established to organise inter-ministerial cooperation on combating cross-border crime, including illicit trafficking.

Criterion 32.8 –

a) Customs officers may seize the funds (pending additional investigations, e.g., home visits), and place persons in customs detention in the event of a suspected customs-related ML offence. This customs detention lasts for 24 hours, and can be extended with the authorisation of the Public Prosecutor. The search for evidence of general ML and predicate offences is carried out in cooperation with the Department of Judicial Financial Inquiries (SEJF).

b) In the absence of evidence of customs-related or criminal ML offences, the withholding of money is possible on grounds of a MOD if required for the purposes of the investigation. In this case, the money is withheld with the authorisation of the public prosecutor for a maximum of twelve months from the first day that the money was temporarily withheld. (CMF, art. L152-4 II). If, during this period, it is established that the perpetrator of the breach of the duty to declare was also the perpetrator of other offences provided for and punishable under the CD, the sum detained is seized and its confiscation may be ordered by the competent court (CMF, art. L152-4 III).

Criterion 32.9 – Exchanges of information with other EU authorities are governed by the Naples II Convention, which calls for the establishment of a rapid and efficient system of information sharing between customs authorities. In practice, DNRED is responsible for exchanging information, gathered from declarations, with foreign authorities. These records are retained in the three cases provided for under this criterion, particularly in the event of false declarations and suspected ML/TF. The data retention period varies:

a) Five years for declarations relating to physical transfers of sums, securities or assets worth EUR 10 000 or more, from the date of their entry into the information system.

b) Ten years in case of false or incomplete declarations. This period may be extended until the payment in full of all amounts due.

c) Suspicions of ML/TF are entered into the SILCF in support of reporting forms, from which personal data are automatically purged after three years from the date of their entry into the system. This period can be renewed once.

Criterion 32.10 – The legislation requires certain precautions to be taken concerning the proper use of the information collected via systems for recording declarations. In particular, the declarant has the right to access and rectify data (Law of 6 January 1978). The information contained in the SILCF can only be used for a period of 3 or 5 years depending on its nature. As for the other EU countries, Regulation 1889/2005, point 1 of the preamble reiterates that the European Community sets out to create a zone without internal borders in which the free movement of goods, people, services and capital is ensured. The freedom of movement of capital is also guaranteed within the EU by the Treaty on the Functioning of the European Union (2016/C 202/01, art. 63 to 66).

Criterion 32.11 – Any person engaged in the cross-border physical transportation of cash or BNIs in connection with ML/TF is subject to:

a) sanctions for customs-related ML offences, i.e., 10 years' imprisonment and a fine of between 1 and 5 times the amount of the offence or attempted offence. Laundering is generally punishable by 5 years' imprisonment and a fine of EUR 375 000. Controlling the international movements of cash and BNIs is also a way of curbing the commission of predicate crimes (such as drug trafficking and corruption). The penalty is 10 years' imprisonment and a fine of EUR 1 million. These sanctions are considered proportionate and dissuasive.

b) confiscation in the context of the use of cash and BNIs as an instrument or the proceeds of the associated offence (CP, art. 131-21). (See criterion 4.1).

Weighting and conclusion

France meets most of the criteria for R.32; however, the available sanctions are not particularly dissuasive.

France is largely compliant with R.32.

Recommendation 33 – Statistics

France was rated partially compliant with the requirements of this Recommendation during the 3rd round evaluation. The main deficiencies identified concerned the lack of statistics on seizure and confiscation and on mutual assistance and extradition.

Criterion 33.1 –

a) France maintains comprehensive statistics on incoming and outgoing STRs, including detailed statistics broken down by regulated sector.

b) France maintains comprehensive TF-related statistics on investigations, prosecutions and convictions, and to a lesser extent in relation to ML.

c) With regard to frozen assets, since July 2019, a working group has been centralising statistics on the number of listing proposals and the number of asset-freezing measures adopted. With regard to seized or confiscated property, France keeps statistics on criminal seizures and confiscations but without categorising them according to predicate offences. However, confiscations have been categorised according to predicate offences since 2019.

d) The French Ministry of Justice keeps statistics on mutual legal assistance and extradition. However, these statistics only cover requests that are transmitted or channelled through the BEPI, and do not include those involving direct contact between judicial authorities[164]. However, except for terrorism/TF, no statistics are available on the rate of implementation and refusal, or on the duration of mutual assistance procedures. With regard to mutual police assistance, the Central Operational Police Cooperation Section (SCCOPOL) compiles statistics on exchanges of information with foreign counterparts. The

164 Within the framework of the European Union (EAD or Schengen Implementation Convention, or urgent international letters of request sent via Interpol, for example), or requests for mutual assistance issued by non-EU States and sent through direct channels in application of conventions, e.g. Council of Europe or bilateral agreements).

PIAC is responsible for exchanges of information concerning seizures for all investigative authorities. In customs-related matters, statistics on international cooperation are compiled by the Office for the Coordination of External Relations (BRCE) and the National Directorate of Customs Investigations.

Weighting and conclusion

The statistics on seized property are not categorised according to predicate offences. The statistics on MLA do not include intra-EU MLA and do not include the processing and refusal rate, or processing time. This is a minor shortcoming in the statistical record-keeping system.

France is largely compliant with R.33.

Recommendation 34 – Guidance and feedback

France was rated partially compliant with the requirements of this Recommendation during the 3rd round evaluation. The report noted the lack of guidelines issued by the authorities to FIs and DNFBPs, and feedback from TRACFIN on STRs. Since then, the ACPR, AMF and TRACFIN have made significant efforts to provide better guidance to reporting entities.

Criterion 34.1 –

Guidelines – TRACFIN has issued joint sectoral guidelines with supervisory authorities and self-regulatory bodies in several sectors, several of which are recent and cover reporting and disclosure requirements. It has also published information and guides on its website to assist declarants. The French Treasury Department issued guidelines on economic and financial sanctions and asset freezes in 2014 and 2016 (updated in 2016 and 2019 respectively).

- FIs - Guidelines (including on the risk-based approach, due diligence and PEPs) issued by the ACPR and AMF and supplemented by SRAs and guides, add to those published jointly with TRACFIN.
- DNFBPs – The designated supervisory authorities and TRACFIN have jointly published guidelines aimed at online gambling and betting operators (2019), the real estate sector (2018), company service providers (2019), chartered accountants (2012), insolvency practitioners and judicial trustees (2018) and bailiffs (2018). The guidelines include detailed information about risk assessment, due diligence obligations, reporting and information obligations to TRACFIN, and other obligations, accompanied by examples of typologies. In 2017, the CNB published a detailed practical guide for lawyers, which was updated in 2020, and the CSN published a practical guide for notaries. For statutory auditors, the NEP-96052010 standard (updated in 2019 and 2020) and the guidelines developed jointly by the H3C and TRACFIN have been published. TRACFIN and the CNAJMJ have published guidelines for insolvency practitioners and judicial trustees (2018), which have added to the other documents developed and updated by the CNAJMJ (notably those identifying typologies).

In contrast, no recent guidelines have been published for casinos; the SCCJ guidelines were withdrawn following an administrative decision on the legality of the regime

governing the sector. However, a February 2019 ministerial order establishes the equivalent of an AML/CFT reference framework for the sector. Policy briefs and joint meetings also serve as reminder of the obligations. All of these efforts compensate for the absence of guidance.

Dissemination and feedback – Guidelines for several sectors are available on the TRACFIN website and/or on the websites of individual authorities. The authorities have held regular awareness-raising meetings with representatives of some FIs. As far as DNFBPs are concerned, the authorities have placed the emphasis on training activities and provided feedback to all sectors.

Weighting and conclusion

All criteria are met.

France is compliant with R.34.

Recommendation 35 – Sanctions

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The identified shortcomings related to the effectiveness of the sanctions imposed, which will not be examined in this section of the report, as required by the current Evaluation Methodology.

Criterion 35.1 – The competent authorities can employ a range of proportionate and dissuasive sanctions applicable to FIs and DNFBPs that do not comply with the AML/CFT obligations set out in R.6 and R.8 to R.23.

For FIs – The ACPR and AMF Enforcement Committees can employ a range of proportionate and dissuasive disciplinary and financial penalties. Disciplinary penalties include warnings, reprimands, disqualification from practice, suspension of senior management, removal from professional registers and withdrawal of authorisation (CMF, Art. L561-36-1 for the ACPR and CMF, Art. L621-15 for the AMF). Financial penalties may be applied instead of or in addition to disciplinary sanctions and vary according to the type of institution, from a maximum of EUR 5 million for money changers to EUR 100 million or 10% of revenue for EC , EP, EME, insurance companies and investment firms. Sanction decisions are published via a number of means, in principle contain the name of the person or entity involved (CMF, L612-40 for the ACPR and CMF, Art. L621-15 for the AMF).

For DNFBPs under the supervision of a supervisory authority - Upon referral by these supervisory authorities, the CNS, which is attached to the Minister for the Economy, may decide to impose a range of proportionate and dissuasive disciplinary and financial penalties on real estate agents, business service providers, casinos (online gaming operators) and DPMS (CMF, Art. L561-38). Disciplinary sanctions include warnings, reprimands, temporary bans on activity and withdrawal of authorisations. Financial penalties may be imposed instead of or in addition to disciplinary penalties and may not exceed €5 million or, where the benefit derived from the violation can be determined, twice the amount of the amount benefitted (CMF, Art. L561-40). Where appropriate, the CNS may bear some or all of the inspection costs. Sanctions are always published (CMF, Art. L561-40). For DNFBPs regulated by a supervisory authority (court-appointed administrators and agents, statutory auditors), sanctions are provided for by the CMF (L561-36-3). For statutory auditors, disciplinary sanctions range from warnings to the withdrawal of honorary status and financial penalties which cannot exceed EUR 250,000 for a natural person and EUR 1 million

(or an amount calculated on the basis of invoiced fees) for a legal person (C.comm., Art. L824-1 and L824- 2). Different terms and conditions allow for the publication of sanctions imposed on these DNFBPs.

For DNFBPs supervised by a self-regulatory body – The enforcement authorities are those identified under R.28. The disciplinary and financial penalties applicable to chartered accountants, lawyers, notaries, bailiffs, insolvency practitioners and court appointed trustees, and auctioneers for breaches of AML/CFT obligations are provided for in the various sectoral laws, supplemented by specific common penalties (CMF, L561-36-3). These include an injunction ordering one of these persons to put an end to the conduct in question, and prohibiting any repeat thereof, a temporary ban on holding managerial responsibilities within one of these entities, and a financial penalty, whose amount may not exceed EUR 1 million or, where the benefit derived from the violation can be determined, twice that amount (CMF, L. 561-3). Different terms and conditions allow for the publication of sanctions imposed on these DNFBPs.

Criterion 35.2 – Where sanctions apply to FIs and DNFBPs, they are also applicable to their senior management and to other natural persons who are employees, agents or parties acting on their behalf, due to the responsibilities they hold in these entities (CMF, Art. L561-36 II). More specifically:

For FIs – The AMF Enforcement Committee can impose disciplinary sanctions on members of the administrative and senior management bodies of portfolio management companies, central securities depositories and managers of settlement and delivery systems for financial instruments and CIFs. These sanctions include warnings, reprimands, disqualification from practising and/or financial penalties not exceeding EUR 15 million or ten times the amount of the benefit derived (CMF, Art. L621-15 III, b). As for the ACPR's Enforcement Committee, it may temporarily suspend or dismiss (for a maximum of ten years), and/or impose a fine of up to EUR 5 million on members of the administrative and senior management bodies of FIs under its supervision (CMF, Art. L612-40).

For DNFBPs supervised by the DGCCRF, the SCCJ and the ANJ – The sanctions mentioned in Criterion 35.2 also apply to the senior management of sanctioned entities (CMF, Art. L561-40 I, last paragraph).

For DNFBPs in the legal and accounting professions, and those supervised by a self-regulatory body – the sanctions identified in Criterion 35.1 also apply to senior management (CMF, Art. L561-36-3, I, last paragraph). For statutory auditors, members of the management bodies of these companies may be sanctioned by a temporary disqualification from holding administrative or management functions and the payment of a sum not exceeding twice the benefit derived from the offence or, where this cannot be determined, the sum of one million euros (C.comm., Art. L824-1, I and II, 5° and L824-3).

Weighting and conclusion

All criteria are met.

France is compliant with R.35.

Recommendation 36 – International instruments

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. Some issues were highlighted in the implementation of Vienna and Palermo Conventions.

Criterion 36.1 – France is party to all the conventions required in R.36:

	Signature	Ratification /Approval
Vienna Convention	13 February 1989	31 December 1990
TF Convention	29 November 2001	29 November 2001
Palermo Convention	29 October 2002	29 October 2002
Merida Convention	09 December 2003	11 July 2005

Criterion 36.2 – France's legislative framework fully complies with the relevant articles of the conventions.

Weighting and conclusion

All criteria are met.

France is compliant with R.36.

Recommendation 37 – Mutual legal assistance

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The shortcomings were related to effectiveness issues.

Criterion 37.1 – France is able to provide a wide range of MLA measures for AML/CFT-related investigations, prosecutions and associated proceedings. France party to a large number of multilateral[165] and bilateral[166] agreements on MLA. All of these agreements apply to ML, TF, and predicate offences. Even in the absence of an agreement, mutual assistance remains possible on the basis of the principle of reciprocity. In the absence of contractual provisions to the contrary, the framework for mutual assistance is set out in art. 694 et seq. of CPP. There are also specific additional provisions for mutual assistance between France and other European Union Member States (CPP, art. 694-15 et seq.). With regard to channels and delays, although not stipulated by law, requests for mutual assistance issued by foreign judicial authorities to the French judicial authorities are transmitted through the use of diplomatic channels (CPP, art. 694, para. 2). In urgent cases, requests may be sent directly to the authorities of the State in question (CPP, art. 694-1). Assistance between Ministries of Justice, or even directly between judicial authorities, is provided for in certain agreements. Mutual assistance between EU Member States is based on the principle of direct transmission between judicial authorities. European Investigation Orders are executed as soon as possible and within 90 days at the latest (CPP, art. 694-37).

Criterion 37.2 – The Office for International Mutual Assistance in Criminal Matters (BEPI) of the Ministry for Justice acts as the central authority for MLA and extradition. As such, BEPI has issued orders, a guide to mutual assistance in criminal matters and manages active and passive mutual assistance requests that pass through it, using a data management system that prioritises sensitive or urgent cases. The transmission of requests and above all the coordination of large-scale actions can be organised with

165 The French legal system is characterised by the primacy of the convention over the law (art. 55 of the French Constitution).

166 As of 4 November 2019, France had signed bilateral mutual assistance conventions with 52 countries.

support from the European Judicial Network and Eurojust. In addition, within the European Union and in urgent cases, requests can be sent directly to the French judicial authorities (Public Prosecutor or Investigating Judge). The transmission of requests and above all the coordination of large-scale actions can be organised with support from the European Judicial Network and Eurojust.

Criterion 37.3 – MLA is not subject to unreasonable or unduly restrictive conditions. The main grounds for refusing mutual assistance under French law is "harm to public order or the essential interests of the Nation", which does not constitute an unreasonable condition. Additional conditions must be observed if a seizure or search (coercive measures) is required (e.g. compliance with the ne bis in idem principle). These conditions are present in many national laws on mutual assistance and as such are neither unreasonable nor unduly restrictive.

Criterion 37.4 –

a) There are no restrictions under French legislation related to the tax-related offences for which mutual assistance is requested. In addition, the protocol to the Convention of 29 May 2000 on Criminal Assistance in Legal Matters between European Union Member States, of 16 October 2001, ratified by France, which aims to improve mutual legal assistance in ML matters, stipulates that the States that are parties to the Protocol can no longer refuse to execute a request for mutual assistance in criminal matters solely on the grounds that they consider the offence to be tax-related. (art. 8.1).

b) Under French law, neither banking secrecy nor commercial secrecy can be invoked by FIs or DNFBPs as grounds for refusing a request for mutual assistance. Certain confidential information related to DNFBPs (lawyers, notaries and bailiffs) is protected only in the limited cases in which professional secrecy is enforceable against the French criminal justice authorities.

Criterion 37.5 – Bilateral agreements with France generally require the requested State and the requesting State to maintain the confidentiality of the information, or to use the information only under pre-defined conditions. The same applies to multilateral agreements that provide for the principle of confidentiality of the request. The confidentiality of requests for mutual assistance (carried out under the supervision of the Public Prosecutor or the investigating judge) is ensured even in the absence of an agreement (CPP, art. 11 – the proceedings during the investigation and inquiry are secret). However, there are three (legal) exceptions to the principle of confidentiality and secrecy of the investigation: if the purpose of an international letter of request is the notification of charges (CPP, art. 114), a hearing as a defendant (CPP, art. 61-1), or seizure of assets (CPP, art. 706-141 et seq.). In these cases, an order to produce banking documents can be enforced under an international letter of request and the relevant documents provided to the requesting State without the bank account holder being informed.

Criterion 37.6 – The dual criminality requirement does not apply to MLA requests in cases of non-coercive measures.

Criterion 37.7 – France and the requesting country are not required to classify an offence using the same categorisation or terminology to designate it. The criminalisation, under French law, of the act on which the offence is based is sufficient,

irrespective of the grounds; only the existence of criminalisation under French law of the material facts covered by the application is checked.

Criterion 37.8 –

a) All investigative powers and techniques provided for by CPP (see R.31) may be used in the execution of a request for mutual assistance (CPP, art. 694-3 (outside the EU) and art. 694-17 (for European Investigation Orders)).

b) French law also authorises undercover operations (CPP, art. 706-81 to 706-87) and, in this context, the presence on French territory of agents sent by the requesting State. Section C of Annex A to Directive 2014/41/EU of the European Parliament and Council contains an indicative list of measures[167] which may be requested in the context of a European Investigation Order. This list is not exhaustive, and EU member states may request any other measure provided for by the CPP (e.g. geolocation).

Weighting and conclusion

All criteria are met.

France is compliant with R.37.

Recommendation 38 – Mutual legal assistance: freezing and confiscation

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The shortcomings observed were related to the authorities' limited ability to meet requests for mutual assistance with seizure and freezing measures due to deficiencies in legislation.

Criterion 38.1 – France has the power to act expeditiously in response to requests from foreign countries to identify the assets listed in sub-criteria a) to e). These requests can be made formally: (1) via a European Investigation Order sent directly to the competent judicial authority (in practice, the Public Prosecutor) for a request from an EU Member State; (2) in a request for mutual assistance in criminal matters sent to the central authority for non-EU States. Requests for identification can also be made informally through the CARIN networks (internationally) or Asset Recovery Offices (AROs) (at the European level). European AROs may exchange information that they hold or can obtain for the purposes of tracing and identifying assets which are liable to be frozen, seized or confiscated (CPP, art. 695-9-50 et seq.)

Criterion 38.2 – Under French law, confiscation is a (supplementary) penalty, and as such is always dependent upon a prior conviction. However, Law No 2016-731 of 3 June 2016 introduced the concept of non-restitution without prior conviction in relation to seized assets that constitute the instrument or the direct or indirect proceeds of the offence. Case law also permits the enforcement, on the national level, of a judgement of a "civil" nature pronounced by a foreign court[168]. Furthermore, the

167 E.g. hearings (including by video-conference); transmission of information contained in files held by police and judicial authorities; investigations relating to accounts or banking and financial transactions; identification of the owner of a telephone number or IP address; interception of telecommunications; real-time investigative measures, such as controlled delivery; and covert investigations (infiltration).

168 Crisafulli" judgement, Court of Cass., 13 November 2003. Through this precedent, France has agreed to enforce requests for confiscation without prior conviction issued by foreign authorities, provided that they relate to assets (instrumentalities, property, direct or indirect proceeds, in value terms) liable to confiscation under the CP.

death of convicted persons or the winding up of the legal entities does not prevent the enforcement of confiscation sentences imposed on them (CPP, art. 133-1).

Criterion 38.3 –

a) France uses EUROJUST and the European Judicial Network or JIT to coordinate seizure and confiscation actions with other countries.

b) The management of property seized and confiscated by the French judicial authorities is entrusted to AGRASC. This public administrative agency of was established in February 2011 to facilitate seizure and confiscation in criminal matters. It has important powers for the management of property seized by the French authorities, but also for the implementation of foreign requests for mutual assistance. These management powers include the possibility of the sale of assets prior to judgement. They apply in exactly the same way to property seized or confiscated at the request of foreign authorities.

Criterion 38.4 – French law generally provides for the possibility for sharing agreements in relation to confiscated property in the context of the enforcement of a foreign confiscation order (in agreement with the requesting State). The enforcement of confiscation entails the transfer of ownership of the confiscated property to the French State unless otherwise agreed with the requesting State (CPP, art. 713-40). In the event of the sale of confiscated property, the legislation provides for a default rule of transfer to the French State for amounts below EUR 10 000, and of equal shares above that amount (unless a multilateral, bilateral or ad hoc agreement provides otherwise). Special sharing/restitution arrangements are also provided for by certain international agreements (e.g. Merida Convention, Council of Europe Convention 141). This legal framework enables France to conclude ad hoc agreements defining specific sharing arrangements.

Weighting and conclusion

All criteria are met.

France is compliant with R.38.

Recommendation 39 – Extradition

France was rated largely compliant with the requirements of this Recommendation during the 3rd round legislation. Apart from certain shortcomings related to effectiveness issues, the main shortcoming was that France may refuse the extradition of its nationals, without committing itself to prosecuting the act that gave rise to the request.

Criterion 39.1 – .

a) ML and TF offences may give rise to extradition (CPP, art. 696-3), in the simplified form of the European Arrest Warrant (EAW) when the request is issued by an EU Member State.

b) The BEPI has a case and procedure management system that allows for the timely execution of extradition requests issued by non-EU countries. The procedural time frames for European Arrest Warrants (EAWs) are strictly regulated by the law (CPP, art. 695-27 para. 1, 695-28 para. 1, 695-29, 695-31,

et seq.) Consequently, the time between the arrest and the handover to the requesting authority cannot exceed 24 days (if the person consents) and 42 days (in the absence of consent).

c) The conditions laid down by French law are those commonly used in extradition cases. As such, they are not unreasonable or unduly restrictive.

Criterion 39.2 –

a) France may extradite its nationals except in the event that the concerned party objects on the grounds that the custodial sentence should be served in French territory..

b) If extradition is refused, exclusively for reasons related to nationality, BEPI systematically invites the country to formalize a request aimed at submitting to France the facts that are the subject of criminal proceedings in the requesting state. The case is then submitted to the Public Prosecutor, who conducts the procedure according to CPP principles and decides accordingly whether it is appropriate to initiate proceedings against the person (CPP, art. 40-1).

Criterion 39.3 – Extradition is subject to dual criminality (CCP, art. 696-3). However, it is not necessary for France and the requesting country to classify an offence using the same categorisation or terminology to designate it.

Criterion 39.4 – France uses simplified extradition mechanisms for the implementation of the EAW (CPP, art. 695-11 et seq.). Outside the EAW scheme, a simplified extradition procedure is applicable but is subject to the consent of the accused person (CPP, art. 696-25).

Weighting and conclusion

All criteria are met.

France is compliant with R.39.

Recommendation 40 – Other forms of international cooperation

France was rated largely compliant with the requirements of this Recommendation during the 3rd round evaluation. The shortcoming concerned effectiveness issues related to TRACFIN's exchanges with its counterparts.

Criterion 40.1 – The competent authorities can promptly provide the broadest possible international cooperation in relation to ML, the associated predicate offences and TF. In effect, the competent authorities for international cooperation in criminal matters are the BEPI and the DCPJ. The Anti-Terrorist Sub-Directorate at the Central Directorate of the French Police Criminal Investigation Department (DCPJ/SDAT) is more specialised in terrorism and TF issues. The central offices of the national police and gendarmerie specialising in AML/CFT (OCRGDF, OCLCIFF, OCLTI, SDAT, DGSI, SAT) routinely use the SCCOPOL at the Delegation for International Relations (DRI) to gain access to the institutional channels for police cooperation (Interpol, Europol, Schengen Information System (SIS), etc.). In addition, the customs authorities have certain powers to engage in criminal justice cooperation via the DGDDI. TRACFIN is authorised to cooperate with its counterparts (CMF, art. L561-29 and L561-29-1). All of these competent authorities may exchange information upon request and on a voluntary basis.

Criterion 40.2 –

a) The competent authorities provide cooperation on a lawful basis. In principle, France relies on the legal provisions of international conventions and certain bilateral agreements. More specifically, police cooperation is based on the Europol Regulation and art. 695-9-31 of the CPP; Council Directive 2011/16/EU applies to cooperation between tax authorities in EU Member States; the provisions of the CPP (art. 695-9-31 to 695-9-49) apply to exchanges of information on criminal offences; the provisions of the CPP apply to exchanges of information for the recovery of assets upon request (art. 695-9-50). In addition, France has a vast network of agreements enabling exchanges of information for tax purposes (with 165 States in total).

b) The competent authorities may cooperate directly with their counterparts, and there are no legal impediments to using the most effective means to cooperate.

c) Competent authorities have access to clear and secure channels and mechanisms to facilitate and enable the transmission and implementation of requests. TRACFIN uses Egmont Secure Web and FIU.net. For communications with FIUs that lack access to either of these two networks, encrypted messaging systems are established on a bilateral basis. Police cooperation takes place through SCCOPOL, which uses Interpol and Europol communication channels. The judicial authorities are represented in this body to ensure judicial cooperation through judicial cooperation channels in certain cases (EAWs, entry in the Wanted Persons Database of individuals subject to Interpol Red Notices, cross-border observations). A network of police-customs cooperation centres (CCPD) also operates at the French borders.

d) SCCOPOL prioritises the processing of foreign requests according to the urgency of the request, the seriousness of the facts under consideration and the nature of the elements requested. The authorities explain that all requests are processed within reasonable time frames, in accordance with the rules of priority drawn up by INTERPOL, although the time frame is only defined by law for requests from EU Member States under the 2006 Framework Decision and States associated with the implementation of the Schengen agreement (8 hours /7 days/14 days)[169]. TRACFIN implements measures to ensure the processing of foreign requests without delay. Both secure systems are checked several times a day with priority given to reported emergencies. In this case, the first investigative acts must be performed on the same day. The procedures in place at the International Department require a response within one month at the latest, taking account of the circumstances. For customs cooperation, a single entry and exit point has been designated within the

[169] Where the request for information is issued by a competent agency of a European Union Member State or of one of the States associated with the implementation of the Schengen acquis, the departments and units of the national police, the national gendarmerie, the Directorate-General for Customs and Excise and the Directorate-General for Public Finance respond within a maximum of eight hours in urgent cases, and within seven days in non-urgent cases. In other cases, the response is sent to the competent agency of the requesting State within a maximum of 14 days.

DGDDI: the Office for Coordination and External Relations (BCRE) at the (DNRED). In addition, international cooperation is facilitated by the network of customs attachés.

e) The competent authorities have in place procedures to protect the information received. An obligation of professional secrecy applies to all agents of the competent authorities subject to professional discretion (art. 26 of Law No 83-634 of 13 July 1983 for civil servants; art. 1-1 of Decree No 86-83 of 17 January 1986 for non-permanent State employees; art. L.103 of LPF for employees of the tax authority; art. R434-8 of CSI for agents and officers of the national police). In addition, TRACFIN agents are subject to strict internal security and confidentiality rules. Furthermore, the European instruments concerning data protection and exchanges of information in the context of police cooperation provide for the security and confidentiality of information.

Criterion 40.3 – TRACFIN does not need a bilateral agreement to cooperate with its foreign counterparts (CMF, art. L561-29 and 561-29-1). However, TRACFIN is able to conclude bilateral agreements or MoUs if required by the law in a third country for cooperation purposes. For the other competent authorities, French law authorises international cooperation by the competent French authorities on an ad hoc basis, i.e. without the need for an international agreement. However, with regard to non-EU Member States, mutual legal assistance is necessary where there is no agreement containing provisions similar to those applicable between EU Member States (CPP, art. 694 et seq.; art. 695-10). As far as the powers to conclude (bilateral) intergovernmental agreements are concerned, certain agreements can be negotiated and signed by the MEAE, while others require the procedure laid down in art. 19 of the Constitution[170] to be followed. A number of agreements relevant to AML/CFT have been concluded. These agreements have different names, most of them covering crime in more general terms, and not in all cases of AML/CFT.

Criterion 40.4 – For EU Member States and States associated with the Schengen agreement, the police authorities provide feedback to the requested competent authorities in a timely manner upon request, in compliance with the ongoing investigation (CPP, art. 695-9-36, 695-9-48). For non-EU States, mutual assistance needs to be used in certain cases (see Criterion 40.3).

Criterion 40.5 – France does not prohibit, and there are no unreasonable or unduly restrictive conditions placed on exchanges of information or mutual assistance.

a) A request for cooperation cannot be refused on the grounds that it relates to tax matters.

b) Professional secrecy or confidentiality would not be grounds for refusing police cooperation between EU Member States (CPP, art. 695-9-41). The same applies to FIUs, requiring foreign authorities to conform to confidentiality obligations that are at least equivalent to those applicable to TRACFIN.

c) The fact that an investigation is in progress is not sufficient grounds for refusing cooperation in the context of police or customs cooperation or cooperation between FIUs, except in cases where the provision of information could be detrimental to the conduct of criminal investigations or could jeopardise personal safety.

170 I.e. requiring the signature of the Prime Minister and the Minister responsible for the implementation of the agreement.

d) The nature of the counterpart authority is not sufficient grounds for refusing international cooperation between the requesting authority and its foreign counterpart.

Criterion 40.6 – Concerning the protection of information in the context of police cooperation, provisions are in place to address any restrictions on use. (Europol Regulation/Information Processing Codes; Framework Decision, 2006/960/JHA, Article 8(3)) The Framework Decision is applied in France to customs authorities. In addition, with regard to administrative customs cooperation, the procedures for monitoring the use of data exchanged by States are specified in art. 25 of the Naples II Convention. As regards TRACFIN, information provided by a FIU can only be transmitted by TRACFIN to another authority with the prior authorisation of the intelligence unit that provided this information (CMF, art. 561-29). The principle of specialty is provided for by the information exchange agreements concerning tax cooperation. In addition, controls and safeguards for the protection of exchanged personal data are ensured by European personal data protection provisions, including conditions governing the use of information for other purposes. Equivalent provisions are included in Council of Europe Convention 108 for the protection of individuals with regard to automatic processing of personal data of 28 January 1981 (as amended by the CETS 223 Protocol, which is not yet in force). The provisions on professional secrecy are added to this, but are different from the condition of using information for other purposes (see Criterion 40.7)

Criterion 40.7 – The competent authorities must ensure an appropriate level of confidentiality for any request for cooperation and for information exchanged, in accordance with the privacy and data protection obligations of both parties. They must protect any information exchanged in the same manner as they would protect similar information received from domestic sources. (CMF, art. L561-29-1 and L561-31-1; LPF, art. L103; CP, art. 226-13 and 226-14; Law No 83-634 of 13 July 1983, art. 26; Art. 1-1 of Decree No 86-83 of 17 January 1986; art. 8 and 9 of Framework Decision 2006/960/JHA; art. 27 of the Naples II Convention). The CPP also provides for the principle of secrecy of investigation (art. 11), which applies to all information. Secure channels are used by most authorities for exchanges of information. They are mandatory for police and customs cooperation, and for information exchanged between FIUs concerning exchanges of information between Member States and the EU. No similar obligations apply to non-EU Member States, although in practice secure channels are used with these countries.

Criterion 40.8 – With regard to police cooperation between EU Member States, the principle of availability of information under Framework Decision 2006/960/JHA is binding on police, gendarmerie and customs services or units. (CPP, art. 695- 9-31 et seq.). The Naples II Convention, which applies to Customs Cooperation, provides for an equivalent principle (art. 8, para. 1). A similar, albeit more restrictive, arrangement exists with non-EU Member States, taking account of the requirements of the principle of reciprocity. (For the supervisory authorities of FI, see Criterion 40.15, and for TRACFIN, see Criterion 40.11).

Criterion 40.9 – TRACFIN has a legal basis for cooperation with foreign FIUs, regardless of the nature of its foreign counterpart in cases of ML, related predicate offences and TF (CMF, art. L561-29, L561-29-1). In addition, TRACFIN may exchange information upon request or on its own initiative.

Criterion 40.10 – Although not explicitly mentioned in the law, there are no provisions preventing TRACFIN from providing feedback. In practice, TRACFIN provides feedback to its foreign counterparts, at their request and spontaneously during bilateral visits, both on the use of the information provided and on the results of the analysis conducted on the basis of these information.

Criterion 40.11 –

a) TRACFIN is able to exchange all types of information that it holds (CMF, art. L561-29-1) or to which it has access (CMF, art. L561-25) with its counterparts.

b) TRACFIN is able to exchange all types of information with its counterparts that has the powers to use or obtain directly or indirectly (CMF, art. L561-29-1 and 561-27 and 28).

Criterion 40.12 – The supervisory authorities for the financial sector (ACPR and AMF) may cooperate with their counterparts in other EU and EEA Member States. (CMF, art. L632-1 1°, L632-2), and also with the authorities of third countries (CMF, art. L632-7(I)), L632-15, L632-16). Such cooperation is general and covers the exchanges of information required for the performance of their respective missions, including exchanges of information relating to or relevant to AML/CFT supervision.

Criterion 40.13 – The supervisory authorities for the financial sector – the ACPR and AMF – are able to exchange the information to which they have access at the national level with their foreign European counterparts (see criterion 40.12), including information held by FIs. In some cases, this exchange takes place in the context of a request for (judicial) assistance (CMF, art. L632-5). Under the provisions of the CMF, supervisory authorities may also be exempted from their professional secrecy obligation and disclose confidential information to their foreign counterparts in non-EU or EEA countries on the basis of a cooperation agreement (CMF, art. L632-7 I). Such cooperation is also possible outside any cooperation agreement, provided certain cumulative conditions are met: the foreign authority must have similar powers, be bound by professional secrecy under the same conditions as the ACPR/AMF, and reciprocity in the transmission of information must be guaranteed (CMF, art. L632-15 and L632-16).

Criterion 40.14 –

a) The AMF and the ACPR are able to exchange regulatory information, such as information about national regulations and general information about the financial sectors (see criterion 40.12).

b) The AMF and the ACPR are able to exchange prudential information, provided that the foreign authority exercises similar powers (CMF, art. L632-16, AMF) or relating to the same entities (CMF, art. L632-15, ACPR); or provided that the foreign authority performs similar functions, and the information is required for the performance of its duties (CMF, art. L632-1 and L632-7).

c) The ACPR has a legislative framework that enables exchanges of information, including AML/CFT-related information, between supervisory authorities which share responsibility for FIs that are part of the same international group (CMF, art. L561-36-1, L632-1, L632-7 I and L632-15). This enables the organisation of initiatives such as supervisor colleges (*collèges de superviseurs*).

Criterion 40.15 – The AMF is able to seek information on behalf of its foreign counterparts to which it has access at the national level. To this end, it may carry out surveillance, monitoring and investigation activities at their request (CMF, art. L632-16). Reciprocity is required for non-EU/EEA countries. For the ACPR, the Secretary General may appoint external auditors, statutory auditors, experts, competent persons or authorities to carry out on-site inspections (CMF, art. L612-23). The authorities have access, for investigation or inspection purposes, to all documents via any medium whatsoever (CMF, art. L621-10). The ACPR may request from the persons under its supervision, any information or documents, on any medium whatsoever, and obtain a copy of them, as well as any clarification or justification required for the performance of its duties (CMF, art. L612-24). The information can be obtained and provided upon request by the authorities as described in criteria 40.12 and 40.13. Lastly, the competent authorities of an EU or EEA member state have the right to search for information in France themselves, unless the ACPR or the AMF is conducting the search on behalf of the foreign counterpart, in which case the foreign authority may be involved in the verification if it so wishes (CMF, art. L.632-2, para. 2 and 3).

With regard to group supervision in particular, para. 4 of art. L612-23 of the CMF, as added in the context of the transposition of the 5th AMLD, provides that "The inspections carried out pursuant to art. L632-12 and L632-13 by representatives of a competent foreign supervisory authority may also cover compliance by persons subject to the supervision of the (ACPR) with foreign provisions similar to art. L561-33 relating to AML/CFT arrangements within groups whose parent entity is located abroad and to which the persons to be supervised belong. Similarly, the inspections carried out abroad pursuant to art. L632-12 and L632-13 by the (ACPR) may cover compliance with the provisions of art. L561-33 in the foreign subsidiaries and branches of parent undertakings subject to the supervision of the (ACPR).

Criterion 40.16 – The AMF and the ACPR must have prior authorisation from the foreign authority that provided the information for any onward dissemination of the said information or any use thereof for supervisory or other purposes (CMF, art. L 632-1(A), 632-7 (II bis), L632-15-1 and L632-16). These provisions are invoked by the AMF when it is required by the judicial authorities to disclose or transmit information obtained from a foreign authority. Consequently, the AMF will not disclose this information without the express consent of the foreign authority, even when the AMF is requested to do so by virtue of a legal obligation. With regard to the use of personal data, the GDPR applies to supervisory authorities in the financial sector and provides additional safeguards.

Criterion 40.17 – Prosecuting authorities use a variety of regional and international mechanisms including a Criminal Asset Identification Platform (PIAC), and access to a central operational cooperation unit to enable various means of cooperation through different institutions such as: INTERPOL, EUROPOL, EUROJUST, CARIN and numerous bilateral and international agreements (CPP, art. 695-9-31 et seq., art. 695-9-50 to 695-9-53, Law No 2013-1117 of 6 December 2013 relating to the fight against tax fraud and serious financial crime, art. 28). With regard to police cooperation with non-EU Member States, the authorities explain that France relies on the legal framework established by international conventions and/or bilateral agreements, taking into account the requirements of the principle of reciprocity.

Bilateral conventions and agreements on police cooperation provide a legal basis for exchanges of information.

Criterion 40.18 – Criminal prosecution authorities are able to use their powers, including special investigative techniques, to conduct investigations and obtain information on behalf of their foreign counterparts (Law No 2015-912 of 24 July 2015 on intelligence, CSI, art. R811-2).

Criterion 40.19 – The different law enforcement authorities, including the police, gendarmerie and customs, are able to form joint investigation teams to conduct joint investigations and, where necessary, establish bilateral or multilateral arrangements to enable such joint investigations. (Law No 2004 204 of 9 March 2004 adapting the justice system to developments in crime; Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams; CPP, art. 695 2 and 695 3, 695 10). Joint investigation teams may be established with States outside the European Union provided that the latter are parties to a convention containing provisions similar to those of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union. (CPP, art. 695-10).

Criterion 40.20 – There are no legal provisions restricting exchanges of information indirectly between non-counterpart authorities. This general framework creates an environment that allows competent authorities to exchange information indirectly with non-counterpart authorities, applying the relevant above-mentioned principles.

Weighting and conclusion

Competent authorities can provide the broadest possible international cooperation in relation to ML, the associated predicate offences and TF. There are still minor shortcomings in the legislation, in particular regarding the exchange of information outside the EU, although the relevant international conventions provide an applicable legal basis. A time limit for responses is not explicitly provided for in all cases by the law, but in principle, no impediment in the law to a timely response.

France is largely compliant with R.40.

Summary of Technical Compliance – Key Deficiencies

Compliance with FATF Recommendations

Recommendations	Notation	Factor(s) underlying the rating
1. Assessing risks and applying a risk-based approach	LC	• Exemptions from specific due diligence measures for certain PEPs not justified by a low risk assessment. • No requirement for DNFBPs to document and update their risk assessments, and to possess mechanisms for informing the competent authorities about these assessments • No requirement for risk mitigation policies, controls and procedures to be approved by senior management
2. National co-operation and co-ordination	C	• All criteria are met.
3. Money laundering offence	C	• All criteria are met.
4. Confiscation and provisional measures	C	• All criteria are met.
5. Terrorist financing offence	C	• All criteria are met.
6. Targeted financial sanctions related to terrorism & TF	LC	• Minor shortcomings in TFS framework related to the required level of proof and the definition of "reasonable grounds".
7. Targeted financial sanctions related to proliferation	C	• All criteria are met.
8. Non-profit organisations	PC	• Broad identification of risks of exploitation of NPOs for FT purposes in the NRA (inclusion of risks related to violent radicalism); • Only humanitarian NPOs receiving public funding are subject to targeted preventive controls; • Limited and irregular nature of awareness-raising activities
9. Financial institution secrecy laws	C	• All criteria are met.
10. Customer due diligence	LC	• The obligation to identify the BOs of GIEs, associations, foundations and endowment funds does not apply to BOs in the FATF sense. • No obligation to collect information on the powers that govern and bind legal persons • No obligation to collect a fiduciary's address when the fiduciary is a natural person • No provision authorising FIs to not satisfy their customer due diligence obligations authorising FIs when they suspect that a transaction is connected with ML/TF and they have reason to believe that in meeting their due diligence obligation they would alert the customer.
11. Record keeping	C	• All criteria are met.
12. Politically exposed persons	PC	• Exhaustive nature of the list of posts that are considered to be politically exposed, and of persons who are considered to be family members or closely associated. • One-year limit after which a PEP whose functions have ended is no longer considered a PEP. • Possibility of not applying the additional vigilance measures for foreign PEPs when the risk is considered low.
13. Correspondent banking	PC	• The specific measures for correspondent banking relationships do not apply to relationships with correspondents located in the EU/EEA.
14. Money or value transfer services	C	• All criteria are met.
15. New technologies	LC	• No explicit obligation for France to identify and assess ML/TF risks related to new technologies. • No requirement for VASPs to possess appropriate mechanisms for reporting on their risk assessment to competent authorities • Fitness and propriety checks do not cover all management positions and BOs exercising control other than through their shareholding and voting rights. • Risk-based control of VASPs is not yet in place • Not all obligations under R.13 and 16 apply to VASPs • The shortcomings raised under R.10, 12, 17 and 19 are also relevant to R.15.

16. Wire transfers	LC	• No obligation requiring the submission of an STR in all countries concerned by a suspicious wire transfer.
17. Reliance on third parties	C	• All criteria are met.
18. Internal controls and foreign branches and subsidiaries	LC	• No requirement for group-wide selection procedures to ensure that employees are recruited according to high standards and that an ongoing training programme is put in place. • No obligation to apply AML/CFT measures at least equivalent to those in France is provided for branches located in the EU/EEA.
19. Higher risk countries	LC	• France cannot designate countries against which countermeasures should be applied by FIs if these countries are not already on the FATF or European Commission lists. • FIs could, instead of imposing enhanced due diligence measures as the FATF calls for, limit their business relationships or transactions with these countries.
20. Reporting of suspicious transactions	LC	• The obligation to report refers exclusively to "sums", a term that appears to be more restricted than the definition of funds provided in the FATF Glossary.
21. Tipping-off and confidentiality	C	• All criteria are met.
22. DNFBPs: Customer due diligence	LC	• The shortcomings raised under R.10 and 12 are also relevant to R.22. • DNFBPs are not required to assess the risks associated with the use of new technologies or to implement appropriate measures to manage them.
23. DNFBPs: Other measures	LC	• The lack of an explicit immediate reporting obligation has an impact on DNFBPs, as it is difficult to determine when the transaction is executed for some activities, in particular for lawyers. • The shortcomings identified under R.18, 19, 20 are also relevant to R.23
24. Transparency and beneficial ownership of legal persons	LC	• The mechanisms for maintaining shareholder information for companies with bearer securities do not ensure the availability of all information. • Associations are not required to keep a list of their members. • There are no measures in place to ensure that basic information about associations, foundations and endowment funds is accurate and up to date. • No measures are in place to ensure the availability of accurate and up-to-date information on the BO of associations, foundations and endowment funds. • The registered intermediary for bearer securities is not always obliged to transmit information about the owner of the securities. • No sanctions for failure to keep company documents or to update information in the RCS • The administrative sanctions for breach of the obligation to declare intermediary status (loss of voting rights or powers and loss of dividend rights) are neither proportionate nor dissuasive. • No sanctions are applicable to foundations and endowment funds. • GTCs do not have any mechanisms in place for monitoring the quality of the assistance they receive.
25. Transparency and beneficial ownership of legal arrangements	LC	• No obligation for administrators of foreign legal arrangements to declare their status to FIs/DNFBPs • No explicit obligation for fiduciaries to hold basic information on other service providers for the *fiducie*
26. Regulation and supervision of FIs	LC	• Measures for checking the fitness and propriety of senior managers do not cover all relevant management positions • The control measures do not cover BOs, other than those exercising control through their ownership of capital or voting rights • The frequency and intensity of controls on insurance brokers are not risk based
27. Powers of supervisors	C	• All criteria are met.
28. Regulation and supervision of DNFBPs	LC	• The conditions for issuing operating licenses for casinos in New Caledonia do not explicitly imply a check of honorability and probity • The control of the honorability of BOs of online gaming operators and business service providers does not consider forms of control other than those relating to capital control or voting rights • No fit and proper control over the BOs of legal persons is in place for real estate agencies, audit firms and certain types of legal structures for law firms.
29. Financial intelligence unit	LC	• The use of dedicated, secure and protected channels for domestic dissemination, and the conduct of strategic analysis, are not regulated by law. • The mechanism for appointing the Director of TRACFIN does not guarantee his/her operational independence.

30. Responsibilities of law enforcement and investigative authorities	C	• All criteria are met.
31. Powers of law enforcement and investigative authorities	C	• All criteria are met.
32. Cash couriers	LC	• The available sanctions are not very dissuasive
33. Statistics	LC	• The statistics on seized property are not categorised according to predicate offences. • The statistics on MLA do not include intra-EU MLA and do not include the processing and refusal rate, or processing time.
34. Guidance and feedback	C	• All criteria are met.
35. Sanctions	C	• All criteria are met.
36. International instruments	C	• All criteria are met.
37. Mutual legal assistance	C	• All criteria are met.
38. Mutual legal assistance: freezing and confiscation	C	• All criteria are met.
39. Extradition	C	• All criteria are met.
40. Other forms of international co-operation	LC	• There are minor shortcomings with regard to exchanges of information outside the EU. • A time limit for responses is not explicitly provided for in all cases by the law, but in principle, there is no impediment to a timely response.

Glossary of Acronyms

ACPR	Prudential Control and Resolution Authority
AFA	French Anti-Corruption Agency
AFD	French Development Agency
AGRASC	Agency for the management and recovery of seized and confiscated assets
AMF	Financial Market Authority
AML/CFT	Anti-money-laundering and combating the financing of terrorism
ANJ	National Gaming Authority
ARO	Asset Recovery Office
BCRE	Bureau for the coordination of external relations
BEPI	Office for International Mutual Assistance in Criminal Matters
BNDP	National asset database
BNI	Bearer negotiable instrument
BNLCCF	National anti-corruption and financial crime brigade
BNRDF	National brigade for combating tax crime
BO	Beneficial owner
C.comm.	Commercial Code
CARIN	Camden Asset Recovery Interagency
CARPA	Management fund for lawyers' fees
CAS	Strategic analysis unit of TRACFIN
CCJCC	Advisory commission for gaming circles and casinos
CCLCBFT	Advisory commission for the fight against money laundering and terrorist financing
CCPD	Police-customs cooperation center
CD	Customs Code
CDCS	Crisis and stabilisation centre
CEMAC	Central Africa Economic and Monetary Union
CeNAC	National criminal asset unit
CeRAC	Regional criminal asset unit
CGI	General Tax Code
CIF	Financial investment advisor
CIP	Crowdfunding investment advisor
CJIP	Judicial convention in the public interest
CMF	Monetary and Financial Code
CNAJMJ	National council of insolvency practitioners and judicial trustees
CNB	National bar council
CNCC	National association of statutory auditors
CNCJ	National association of court enforcement officers
CNIL	Data protection authority
CNRLT	National intelligence and counter-terrorism coordination
CNS	National Sanction Commission
COBAC	Banking commission of Central Africa
COLB	Advisory board for the fight against money laundering and terrorist financing
COSI	Systematic disclosures of information
CP	Criminal Code
CPP	Code of Criminal Procedure
CRPA	Code of Relations Between the Public and Government
CSI	Internal Security Code

CSN	Higher Council of notaries
CSOEC	Higher Council of the order of chartered accountants
DAB	Cash automatic distributor
DACG	Directorate of criminal affairs and pardons
DCIO	International cooperation division of TRACFIN
DCPJ	Central directorate of the French police criminal investigation department
DGCCRF	Competition, consumer affairs and fraud control authority
DGDDI	Directorate general of customs and excise
DGFiP	Directorate for public finance
DGGN	Directorate general of the National Gendarmerie
DGPN	Directorate general of the National Police
DGSI	Directorate general for internal security
DGT	French treasury department
DIPJ	Interregional directorate of the police criminal investigation department
DLPAJ	Directorate for civil liberties and legal affairs
DNEF	National directorate for tax investigations
DNFBP	Designated non-financial businesses and professions
DNRED	Directorate for customs investigation and intelligence)
DPMS	Dealers in precious metal and stones
DROM	Departments and regions of Overseas France
EAW	European Arrest Warrants
EC	Credit institutions
ECB	European Central Bank
EEA	European Economic Area
EFIPPP	European Financial Intelligence Public Private Partnership
EIO	European investigation order
EME	Electronic money institutions
EP	Payment institution
EU	European Union
FI	Financial institutions
FICOBA	Central national bank account file
FICOVIE	National capital bonds and life insurance policies record
FIU	Financial intelligence unit
FNIG	National file on persons prohibited from holding management functions
FRUP	Recognised French public-utility foundation
GABAC	Central Africa Task Force against Money Laundering
GDA	Registars for associations
GDP	Gross domestic product
GIE	Economic interest grouping
GIR	Interministerial investigation group)
GTC	Registars of the commercial courts
H3C	High council of statutory auditors
HATVP	High authority for transparency in public life
IEDOM	Issuing body for French Overseas Departments
IEOM	Currency-issuing bank for French Pacific Territories
IFP	Crowdfunding intermediary
ILR	International letter rogatory
INPI	National institute for industrial property
INSEE	National institute of statistics and economic studies
IOBSP	Intermediaries in banking transactions and payment services
IS	So-called “Islamic State”

JCPOA	Joint Comprehensive Plan of Action
JIRS	Specialised interregional courts
JIT	Joint investigation team
JOAFE	Official Gazette of Associations and Company Foundations
JUNALCO	National court in charge of the fight against organised crime
LPF	Livre des procédures fiscales (book of French tax procedures)
MEAE	Ministry for Europe and Foreign Affairs
MENAFATF	North Africa Financial Action Task Force
ML	Money laundering
MLA	Mutual legal assistance
MOD	Failure to comply with reporting requirements
NGO	Non-governmental organisation
NPO	Non-profit organisation
NRA	National Risk Analysis
OCBC	Office for the fight against trafficking in cultural goods
OCLCIFF	Central office for combating corruption, and financial and tax offences
OCRGDF	Central Office for Combating Serious Financial Crimes
OCT	Overseas countries and territories
OECD	Organisation for Economic Co-operation and Development
OFAST	Anti-drug office
OM	French Overseas Territories
ORIAS	Organisation responsible for registering insurance, banking and finance intermediaries
PEP	Politically exposed person
PF	Proliferation financing
PIAC	Criminal asset identification platform
PNAT	National anti-terrorism prosecutor's office
PNF	National financial prosecutor's office
PPN	Digital Criminal Procedure
QLB	Questionnaire on AML/CFT
RBA	Risk-based approach
RBO	Register of beneficial ownership
RCS	Trade and companies register
RDF	Registry of *fiducies*
RG AMF	AMF General Regulation
RNA	National register of associations
RNCS	National trade and companies register
RTE	Foreign trusts register
SARL	Limited-liability company
SAS	Simplified joint stock company
SBDU	French agency for dual-use goods
SCCJ	Central racing and gaming department
SCCOPOL	Central section for operational police cooperation
SCI	Real estate non commercial company
SDAT	Anti-terrorist sub-directorate
SEJF	Department of judicial financial inquiries
SF	Finance company
SGDSN	General secretariat for defence and national security
SGP	Asset management companies
SILCF	Anti-fraud information system
SIRASCO	Organised crime information, intelligence and strategic analysis unit

SNDJ	National Customs Judicial Service
SRA	Sectoral Risk Analysis
STR	Suspicious transaction report
TF	Terrorist financing
TFTP	Terrorist Finance Tracking Programme
TJ	Judicial transmission
TS	Spontaneous transmission
UCLAT	Counter-terrorism coordination unit
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolutions
VASP	Virtual asset service provider
VAT	Value-added tax
WAEMU	West Africa Economic and Monetary Union
WMD	Weapons of mass destruction

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Anti-money laundering and counter-terrorist financing measures - France

Fourth Round Mutual Evaluation Report

In this report: a summary of the anti-money laundering (AML) / counter-terrorist financing (CTF) measures in place in France as at the time of the on-site visit from 28 June to 28 July 2021.

The report analyses the level of effectiveness of France's AML/CTF system, the level of compliance with the FATF 40 Recommendations and provides recommendations on how their AML/CFT system could be strengthened.